

**PLANNING BOARD
BOROUGH OF BERNARDSVILLE
Minutes – December 12, 2019
PUBLIC MEETING**

- 1. Statement of Adequate Meeting Notice:** Read by Chairman Graham at 7:29 PM.
- 2. Roll Call:**

Present – Members Gardner, Graham, Horowitz, Kellogg, O'Dea, Paluck, Sellers and Simoff Thompson.

Absent – None.

Board Professionals present: Board Attorney Ms. Wolfe and Board Engineer Mr. Brightly.

Also present: Mr. Joseph DeMarco, Esq., Bernardsville special redevelopment counsel; Mr. Phillip Abramson, P.P., Esq., principal of Topology and Mr. Chris Colley, P.P. of Topology.
- 3. Minutes:** None.
- 4. Communications:** The following were acknowledged and/or discussed by the Board:
 - A.** December 2019 NJDEP Multi-Permit Application by JCP&L for vegetative and utility infrastructure maintenance and repair and replacement activities.
 - B** 12/10/19 NJDEP Freshwater Wetlands/Flood Hazard Area Permits Application by Borough of Bernardsville for Lloyd Road drainage improvements.
 - C.** 12/11/19 (updated) memo re Maple St. zone line adjustment by John Szabo, Jr. PP (*re* #6).
 - D.** 12/10/19 Letter from Stephen F. Hehl, Esq. re Quimby Lane PI (*re* #7A).
 - E.** 12/12/19 Letter from Robert E. Dunn, Esq. re Quimby Lane PI (*re* #7A).
- 5. Business of visitors not related to agenda:** None.
- 6. Old Business:** Review updated memo re Maple St. zone line adjustment by John Szabo, Jr. PP. Upon review, the Board affirmed that Mr. Szabo's report memo had to be revised in accordance with its comments at the last meeting. A motion to endorse Mr. Szabo's recommendations to the governing body regarding a zone line adjustment on Maple Street was made by Ms. Thompson and seconded by Ms. Kellogg.

Voice vote:
All members voted in the affirmative.
- 7. New Business:**
 - A.** PUBLIC HEARING: Preliminary Investigation (P.I.) of multi-tract Quimby Village sites as a non-condemnation area in need of redevelopment; B:70, L:1~6, 6.01~6.08; B:71, L:4, 5, 5.01, 6~13; B:98 L:1; B:124 L:1; and B:144, L:1.

Mr. Phillip Abramson was sworn and qualified and Board Engineer Brightly was sworn. Board Secretary Mottola confirmed for the record that proper notice of the hearing had been served to the public, neighboring municipalities and county and state agencies as required by the state redevelopment law. He further confirmed that copies of the study were made available to the public as per the statute.

Mr. Abramson testified either directly or in response to questions by the Board, the Board's professionals or the public. The P.I. redevelopment study prepared by his firm was explained with the aid of a Power Point presentation, which was marked as **Exhibit B-1**. Topology was retained by the Borough in October to prepare the P.I. study. They worked with the downtown revitalization committee to formulate ideas for the area and issued a RFP to test market interest in the project. He stressed that this is a "non-condemnation redevelopment area", meaning that the Borough does not intend to use the power of eminent domain to take properties for redevelopment. The purpose of this hearing is for the Planning Board to determine whether the study area qualifies as "an area in need of redevelopment" under the criteria established under the state redevelopment law. He listed all of the methods and documentary evidence Topology used to study the subject properties. The key areas of town that were included in the study, the specific number of lots and the number of property owners were identified. Milestones in the history of the community and prior master plan and revitalization studies undertaken by the Borough were highlighted. He said the redevelopment process opens a tool kit to the community that provides financial and zoning incentives not otherwise available for affecting desirable positive changes. A *YouTube* video of a flood event in Bernardsville from 8/22/13 was played and referenced as a hazardous condition that redevelopment can address. He stated that the same area has flooded five times since 1985. The zoning currently in place was identified, as were the statutory criteria that qualify the area as in need of redevelopment. Specifically, criterion B, D, E and/or H under the redevelopment statute were cited as applicable and each was explained in detail. Mr. Abramson listed each of the individual properties in the study area and applied to each, one or more of the above qualifying criterion. He cited a Princeton appellate court case that found surface parking lots in downtown areas to be evidence of obsolescence, faulty arrangement and an antiquated use of land. Citing the NJ Flood Hazard Control Act, he highlighted the properties in the flood hazard area, pointing out that the buildings therein are not current with the Act's regulations. Based on the foregoing, he opined that the study area qualifies as a non-condemnation area in need of redevelopment and that redevelopment of properties that are a part of the affordable housing overlay (AHO) zone, would not impair the Borough's affordable housing agreement with the state courts.

The Board discussed with Mr. Abramson conditions in the flood hazard area, parking in the downtown and the relative costs of surface vs structured parking. Mr. DeMarco commented that new redevelopment zoning could be used to solve long standing Borough problems, such as parking and flooding. Although redevelopment plans set consistent standards for an entire area, the actual development of that area can be done in pieces over time. Mr. Abramson explained the redevelopment process, how non-condemnation areas work and how after Planning Boards' findings are sent to governing bodies, they can be accepted, rejected or modified. He agreed it may be challenging for prospective developers to meet DEP regulations for lands approximate to the area stream, but there are numerous options for creating a redevelopment plan. Public hearings of the plan by the governing body are required after the Planning Board reviews it for master plan consistency. He pointed out that at this point in the process it is unknown what types of uses will be approved for the redevelopment area. The Planning Board must first find and the Council must first agree that the area is in need of redevelopment before it can commission the preparation of a redevelopment plan. Only after a redevelopment plan has been completed will zoning specifics become known. Chairman Graham reiterated that this is a non-condemnation redevelopment and that current property owners can choose whether or not to sell their properties/businesses, and for how much.

Members of the public that questioned Mr. Abramson:

Lisa E. Lomelo, Esq., 370 Chestnut St., Union, NJ., representing SCP Group, LLC and James Jackson, owner of Prestige Auto Repair at block 71, lot 13.

Janeene Chrisbacher, 12 Somerset Ave.

Dennis Reznick, 7 Page Hill Road, Bernardsville.

Robert E. Dunn, Esq., 33 Market St., Morristown, representing FMB Quimby, LLC, owner of the car wash.

Members of the public that commented on the PI study:

Susan Horowitz, 11 Laurel Ln., Bernardsville.

Robert E. Dunn, Esq., 33 Market St., Morristown, representing FMB Quimby, LLC, owner of the car wash.

Frank DiNapoli, Jr., 46 Maple Village Ct., Bernardsville (car wash owner).

Chairman Graham closed the public hearing at 10:17 pm. The Board reviewed the draft resolution prepared by the Board Attorney. It agreed with the study's conclusion that the subject properties qualify under the statutory criteria as an area in need of redevelopment. It further agreed that wherever "*commonly known as Quimby Village*" is used in the resolution to describe the subject properties, it should be changed to "*the study area*".

A motion to adopt the resolution as amended was made by Mr. Horowitz and seconded by Ms. Sellers.

Roll call vote:

All members voted in the affirmative, however, Ms. Kellogg, Mr. Simoff and Ms. Thompson asked that their affirmative votes be qualified with an objection to finding surface parking obsolete.

Those opposed: None.

B. Review of 12/12/19 Bills List:

A motion to pay invoices in the amount of **\$548.00** was made by Mr. O'Dea and seconded by Ms. Sellers.

Voice vote:

All members voted in the affirmative.

8. Evaluation Committee: Review of draft 12/12/19 committee report.

Upon review, a motion to approve the report as presented was made by Ms. Thompson and seconded by Ms. Gardner.

Voice vote:

All members voted in the affirmative.

9. Subdivision & Site Plan Review Committee: Review of draft 12/12/19 committee report.

Upon review, a motion to approve the report as presented was made by Ms. Thompson and seconded by Ms. Gardner.

Voice vote:

All members voted in the affirmative.

10. Business of Visitors, Second Opportunity: None.

11. Executive Session: Matters of ongoing and/or potential litigation.

Ms. Wolfe read the resolution to close the public meeting and reconvene in executive session. A motion to adopt the resolution and reconvene in executive session was made at 7:31 pm by Mr. O'Dea. Second Ms. Sellers.

Voice vote:

All members voted in the affirmative.

The Board and its professionals reconvened in the adjacent conference room.

It is anticipated that the matters discussed in closed session may be disclosed to the public upon determination of the Board that the public interest will no longer be served by such confidentiality.

The Board and its professionals reconvened in the main meeting hall.

Motion to close the executive session and reopen the public meeting at 7:45pm:

Ms. Thompson. Second: Mr. O'Dea.

Voice vote:

All members voted in the affirmative.

12. Emergent Matters: None.

13. Adjournment: Chairman Graham adjourned the meeting at 10:27 pm.

Respectfully submitted,



Frank Mottola, Planning & Zoning Boards
Administrative Officer & Recording Secretary

Key words: Maple-zone-line-redevelopment-study-Topology-Abramson-preliminary-investigation.