

PLANNING BOARD
BOROUGH OF BERNARDSVILLE
Minutes – June 11, 2020
VIRTUAL ONLINE PUBLIC MEETING

1. **Statement of Adequate Meeting Notice:** Read by Chairman Graham at 7:37 pm.

2. **Roll Call:**

Present – Members Gardner, Graham, Horowitz, Kellogg, Macmillan, McQueen, Simoff and Thompson.

Absent – Ms. Paluck.

Board Professionals present: Attorney Jolanta Maziarz, Planner John P. Szabo, and Alternate Board Engineer Christian Kastrud.

Other participants present: Keith Covington P.P., Principal, Common Ground Urban Design+Planning and Downtown Redevelopment Subcommittee members Bonnie Sellers and Sam Maddaluna.

3. **Minutes:** Review draft minutes of 5/14/20 meeting:

Upon review, the need for one typo correction was noted. As agreed to by the Board, Chairman Graham declared the minutes approved as corrected.

4. **Communications:** The following documents distributed to the Board were acknowledged and/or discussed:

A. 6/9/20 Email by C. McQueen re completion urgency of PB downtown zoning review.

Mr. McQueen commented on the completion of the downtown draft ordinances being part of the ongoing multiple interrelated downtown revitalization efforts and asked that they be completed by the end of the next meeting. He agreed with Chairman Graham that the proposed downtown zoning needs to be reconciled with that being proposed in the former Audi site redevelopment plan that has been sent for Planning Board review. The Board will determine the need for a special meeting based on the progress it makes reviewing the draft ordinance tonight.

B. 6/8/20 Council Resolution #20-164 Endorsing and Adopting a Complete Streets Policy. Per Ms. Gardner's request, Ms. Maziarz will provide the Board with a digital copy of the Complete Streets Design Guide. Mr. McQueen stated that the primary purpose of the Council-adopted resolution is to open the way for state grants.

C. 6/9/20 Council referral of Redevelopment Plan and Ordinance #2020-1844 for 40A review re 65 Morristown Road, Block 125 Lot 13 (*re 8A – scheduled for 6/25/20*).

D. 6/9/20 Council referral of introduced Ordinance #2020-1843 for D26 review re permitted uses in the I-Industrial zone (*re 8B – scheduled for 6/25/20*).

5. **Business of Visitors not related to agenda:** None.

6. **Old Business:** Continued review of draft Downtown Zoning Ordinance:

Mr. Szabo facilitated the discussion beginning on page 18 at subsection **12-12.19 Downtown Zone Standards – a) Downtown Core Sub-district (D-C) 10. Building Articulation.**

Substantive comments by the Board, its professionals and other participants, not including wordsmithing, included the following:

Mr. Szabo will develop criteria for establishing primary and secondary streets as referenced in **12-12.19. 10.** and the need for application of building articulation. These will apply to all of the downtown zone districts. He confirmed that the definition provided for "Articulation" on page 4 is adequate. In **11.i.** add "**window**" after the word "**Maximum**".

Upon completing its review of subsection **12-12.19 a) Downtown Core Sub-district (D-C)**, and due to the similarity in form, the Board agreed with Mr. Szabo's suggestion that he use this section as a template and apply the Board's comments to the other three downtown zone district subsections, **b) Downtown Corridor Sub-district (D-Co)**, **c) Downtown Gateway Sub-district (D-G)** and **d) Downtown Claremont Road Sub-district (D-Cl)**. The maximum driveway width permitted in the (D-Cl) zone was increased to 24' in subsection **13.iii.** Under **12-12.35 Lighting**, Mr. Szabo will review subsection **3.** and assure that it is consistent with the draft sign ordinance. He will also determine a means of integrating the architectural illustrations into the e-code. Perhaps a link to an online guide book to accompany the codified zoning and sign ordinances will be satisfactory. Mr. Szabo will rewrite subsection **12-12.21 b)** to require the frequency of shade tree plantings in parking lots to be based upon a fixed number of spaces in a linear run. He will also look at snow removal at parking lot tree islands. In subsection **12-12.22**, reference the Borough's stormwater management ordinance. Mr. Szabo will collaborate with Mr. Horowitz to collate all of the Board's comments and produce a final draft for the Board's recommendation to the Council by the July 9th meeting. Ms. Thompson offered to proofread the final draft.

7. **New Business: Application #655 STIDWORTHY** – Preliminary and Final Major Subdivision, 42 Garibaldi Street, B:112, L:11 and 9 Liberty Road, B:112, L:11.01; Deemed substantially complete 2/24/20; Waiver requests, completeness determination & public hearing.

Appearing on behalf of the application were Attorney Frederick Zelley, Project Engineer David Fantina, applicant Gary T. Stidworthy and his brother Jeff Stidworthy. Mr. Fantina was sworn and qualified and both Stidworthys were sworn for testimony.

Mr. Zelley introduced the application stating that the two subject lots have been owned by the applicants' family for approximately 100 years. They were originally one lot that was subdivided in the early 1980s. Gary and Amy Stidworthy occupy the home on lot 11.01. The home on the original lot 11 is occupied by a contract purchaser that will obtain the property once the subdivision has been finalized. Both existing homes are to remain. The subdivision is fully conforming except for a setback variance required for the existing home on lot 11.

Mr. Fantina testified either directly or in response to questions from the Board, the Board's professionals or Mr. Zelley: The combined area of the two existing lots is approximately 1.6 acres. The application proposes subdividing lot 11 into five lots and adjusting the lot line between lot 11 and 11.01. Due to a recent zoning change by the Borough, both of the subject properties are now located in the R-5 zone, which has a minimum lot size requirement of 5,000 S.F. All of the proposed lots will have at least double that area. There are no natural site constraints such as wetlands, flood plains or steep slopes. Mr. Fantina is not aware of any conditions that would impede the subdivision as proposed. With existing frontage on three streets, the lots will have access to public utilities and no public improvements are needed. The existing home on the

remainder lot 11 requires a front yard setback variance for 15.45' where 30' is required. The lot line adjustment for lot 11.01 is proposed to retain existing shrubbery along its border with lot 11. The four new lots will be sold off to a single or individual developers. No stormwater drainage systems are presently proposed for the new lots but will ultimately have to be designed and installed by the developer(s) of each lot in accordance with each lot's development plan. The lot layout plans shown are only conceptual. As requested by Mr. Kastrud, the applicant will provide soil test results to confirm that dry wells will function properly on all of the lots. Tree removals will also be dependent on each lot's development plan and will have to be applied for simultaneously with building permits. (Mr. Zelley said that the owner of existing lot 12, directly to the north of proposed lot 11.03, is aware that part of his driveway encroaches onto the Stidworthy property and the encroachment may in the future be removed by lot 11.03's developer. The applicant will accept as a condition of approval that the encroachment be removed.) Mr. Fantina stated that the driveway would remain usable after removal of the encroachment. Jeff Stidworthy affirmed that he recently met with the owner of lot 12 and discussed the encroachment issue. He said that lot 12 will not be significantly impacted as the driveway will still be 8' to 10' wide at the house. Existing sheds on lot 11.05 must be removed before the final subdivision plat is filed with the county. The combined total of new impervious coverage for the six-lot project must not exceed a quarter of an acre for it to remain a minor stormwater permit. Assuming no new impervious coverage on the remaining two original lots, the four new lots will have to be limited to approximately 2,700 S.F. each, whereas under R5 zoning they would each be allowed 5,250 S.F. of impervious coverage. The applicant stipulated to deed restricting the amount of impervious specifically allowed on each lot. Deed restriction language will be submitted for approval to the Board and Borough Attorneys. This will not comprise a prohibition on new lot development over a quarter of an acre total. It only limits the total amount of coverage allowed for the project to remain classified as a minor stormwater permit. The applicant agreed to add to the plans the location of the nearest fire hydrant.

Responding to Mr. Kastrud's 3/12/20 report, the applicant stated no objection to and stipulated compliance with comments **#4 through #7, #9 and #13 through #21**; an exception to comment **#8** on the need to provide sidewalks was granted as there are currently none in the neighborhood; re **#10**, tree removal permits will be applied for at the time of construction on each lot in accordance with the specific development proposed; re **#11**, the developer(s) will be required to replace damaged or diseased trees within the Borough R.O.W.; re **#12** sight triangles at the existing driveways will be added to the final plat and existing shrubbery will be removed if required. Gary Stidworthy affirmed that the two existing lots are connected to the public sanitary sewer system and old septic systems have been abandoned. Regarding Chairman Graham's comments on metes and bounds property descriptions, Mr. Fantina has discussed the matter with the surveyor who assured him that true north is not applicable to this project. All has been based on New Jersey's State Plane Coordinate System. The new deeds will rely on current property surveys.

Mr. Fantina stated they have no issues with the Environmental Commission's 5/26/20 report. Regarding his 2/24/20 report, Mr. Szabo affirmed that all of his comments have already been addressed in the foregoing discussions with the Board and that he has no planning issues with the application. He said it is consistent with the newly changed zoning and noted the single technical variance required for a front yard setback due to the location of the existing residence that will remain on lot 11. There were no comments in the zoning officer's 11/18/19 report that needed to be addressed. As it was not formally done at the onset of the hearing, Mr. Zelley requested that Ms. Maziarz indicate in the resolution that the application was deemed complete and that the requested waivers were granted.

There were no questions for any of the witnesses by members of the public.

Ms. Maziarz summarized the testimony provided and the stipulations made by the applicant that will be stated as conditions in a resolution should the Board approve the application. Upon discussion, the applicant agreed with the Board's requirement that one new "street tree" per lot be planted in the borough R.O.W. The Board stipulated approval of the lot line adjustment between existing lots 11 and 11.01 as requested in the application.

There were no comments on the application by members of the public and no further discussion by the Board. A motion to approve the application as conditioned was made by Ms. Thompson and seconded by Ms. Gardner.

Roll call vote

All in favor: Members Gardner, Graham, Horowitz, Kellogg, Macmillan, McQueen, Simoff and Thompson.

Those opposed: None.

8. **Board Reviews/Public Hearings/Pending Applications:** The Board acknowledged the following pending reviews and their scheduled dates.

A. PB 40A Master plan consistency review of Redevelopment Plan and Ordinance #2020-1844 re 65 Morristown Road, Block 125 Lot 13; *Presentation of plan by Topology and Board review scheduled for 6/25/20.*

B. PB D26 Master plan consistency review of Ordinance #2020-1843 re permitted uses in the I-Industrial zone; *Scheduled for 6/25/20 review.*

9. **Emergent Matters:** None.

10. **Executive Session:** None.

11. **Business of Visitors, second opportunity:** None.

12. **Adjournment:** The meeting was adjourned by Chairman Graham at 11:08 pm.

Respectfully submitted,



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

Keywords: Stidworthy-subdivision-Zelley-downtown-zoning-ordinance-articulation-parking.