

**PLANNING BOARD**  
**BOROUGH OF BERNARDSVILLE**  
**Minutes – February 11, 2021**  
**VIRTUAL ONLINE MEETING**

1. **O.P.M.A. Statement:** A statement of adequate meeting notice and adherence to the state mandated emergency remote meetings protocols, as set forth on this meeting's web-posted agenda, was read by Chair, Robert Graham, at 7:36 pm.
2. **Roll Call:**  
Present – Members Gardner, Graham, Horowitz, Kellogg, McQueen and Thompson.  
Absent – Members Macmillan, Paluck and Simoff.  
Board Professionals Present: Attorney Amanda Wolfe, Planner John P. Szabo, Jr. and Engineer Robert Brightly.
3. **Minutes:** Review of draft 1/14/21 meeting minutes.  
Upon review, a motion to approve the minutes with a corrected typo and a revision regarding the O.P.M.A. statement was made by Ms. Thompson and seconded by Ms. Kellogg.  
Voice vote:  
All eligible members voted in the affirmative.
4. **Communications:** 2/8/21 Introduced ordinance #2021-1872 re Stormwater Management w/ 2/9/21 public notice of pending ordinance (see 7A).
5. **Business of Visitors not related to the agenda:** None.
6. **Old Business:**  
Per Mr. Horowitz's request, Mr. Szabo agreed to check the status of a zoning map correction regarding several residential properties incorrectly shown in the new downtown core zone.
7. **New Business:**  
**A. D26a Master plan consistency review of Ordinance #2021-1872.**  
This ordinance provides for NJDEP mandated amendments to the Borough's stormwater management regulations as currently exist in chapter 12, section 29 of the Borough's land use regulations. Mr. Szabo opined that finding the ordinance not inconsistent with the master plan is correct and in fact, certain goals of the master plan are advanced by its provisions. Mr. Brightly noted that the state amended its stormwater regulations in 2020 and gave municipalities until March of this year to amend their ordinances to be in compliance. He said he prepared this ordinance for the Borough, taking most of it from the online sample ordinance. He summarized the changes in the state regulations and pointed to the definition of "major development" and the need to meet the requirements using "green infrastructure" as the more significant of changes. A change to the minor development rules requires the annual measurement of a dry well's water level. The requirement to submit an annual report is already in the ordinance but the requirement to record a dry well maintenance notice in the deed is not. Per Mr. McQueen, the enforceability of

the ordinance is under discussion by the Council. Ms. Thompson expressed concern over the vagueness of the ordinance definition of a major development, as it is not clear that multiple developments refers to the same property. Mr. Brightly said the language was copied verbatim from the state's model ordinance. The Board felt that the language does not adequately convey the additive nature of multiple developments on the same lot, which over time can transform a minor development into a major. Given the time constraint by which an amended ordinance must be adopted, the Board decided not to recommend any specific language revisions to the Council but rather state in its findings resolution that the ordinance language should be further reviewed.

Johanna Wissinger, representing the Environmental Commission (EC), relayed the EC's stormwater concerns over continuous impervious surface buildouts on properties and tree removals contributing to increased runoff and impacts to neighbors. The use of dry wells to mitigate runoff is sensible but they are worthless if not maintained. It is fair and reasonable to put the responsibility on property owners to maintain their stormwater mechanisms in exchange for increasing impervious coverage. She expressed that the Planning Board is in a position to make such recommendations to the Mayor and Council. The EC is prepared to re-engage with the Planning Board as it moves forward in addressing the climate change aspects of the master plan as now required.

The Board discussed various aspects of stormwater management and control mechanisms including: possibly amending storm water permitting to better monitor incremental growth, especially when property owners do not require Board approvals to expand their developments; the limits to homeowners' abilities to take required measurements for reporting purposes; the consequences of dry well failures on adjoining properties; tying changes of property ownership to mandatory inspections of stormwater facilities, possibly instituting a Continued Certificate of Occupancy (CC/O) requirement; adding a map requirement to stormwater maintenance manuals.

At the Board's request, Mr. Brightly then emailed members a copy of the Borough's sample dry well maintenance manual via Mr. Mottola. In view of the time constraint for amending the ordinance before the state imposed enactment deadline, the Board recommended that the Council adopt the ordinance as written and revisit its language at a later date with the Board's assistance. Ms. Wolfe will draft a resolution to that effect. Mr. Horowitz asked that the topic of stormwater management be placed on the next meeting agenda.

A motion to find the ordinance not inconsistent with the master plan and to adopt the discussed resolution was made by Mr. Horowitz and seconded by Mr. McQueen.

Roll call vote:

All members voted in the affirmative.

**B. Review 2/11/21 Bills List w/ invoices:**

After addressing an invoice query by Ms. Gardner, a motion to approve the invoices as presented, in the amount of \$1,295.00, was made by Ms. Thompson and seconded by Ms. Gardner.

Roll call vote:

All members voted in the affirmative.

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



**9. Board Reviews/Public Hearings/*Pending Applications*:**

Mr. Szabo explained that the recently passed state law that mandates amending master plans to address climate change relative to land use planning, only applies when a master plan is being amended or reexamined but has no fixed deadline. Board attorney Warner had issued a limited distribution memo on the matter, which Mr. Szabo then emailed to the Board via Mr. Mottola.

**10. Executive Session:** None.

**11. Adjournment:** Chair Graham adjourned the meeting at 9:20 pm.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'F. Mottola', with a large, stylized initial 'F'.

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

Keywords: introduced-ordinance-#2021-1872-NJDEP-stormwater-management-D26-master-plan