

PLANNING BOARD
BOROUGH OF BERNARDSVILLE
Minutes – March 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 7:32 pm.
2. **Roll Call:**
Present – Members Gardner, Graham, Horowitz, Kellogg, Macmillan, McQueen, Paluck, Simoff and Thompson.
Absent – None.
Board Professionals Present: Attorney Jolanta Maziarz, Planner John P. Szabo, Jr. and Engineer Robert Brightly.
3. **Minutes:** Review of draft 2/1/21 meeting minutes.
Upon review, a motion to approve the minutes as presented was made by Ms. Thompson and seconded by Ms. Kellogg.
Voice vote:
All eligible members voted in the affirmative.
4. **Communications:** The Board acknowledged and/or discussed the following documents:
 - A. 3/8/21 Introduced Ordinance #2021-1876 re Prohibition of marijuana sales with 3/9/21 public notice of pending ordinance (*re 8A*).
 - B. 1/22/21 BOA Atty. L. Rago letter to Atty. V. Bisogno re change in Board jurisdiction re prior BOA application #18-08 Claremont Manor.

Per the Board's inquiry, Mr. Szabo confirmed that it is due to the changes in downtown zoning that the change in Board jurisdiction is anticipated. However, if a sufficiently nonconforming building height is proposed, the application would remain with the Board of Adjustment for a "d6" variance. Mr. Mottola noted that a revised application has not been submitted by the applicant.
 - C. Board of Adjustment 2020 Annual Report..
5. **Business of Visitors not related to the agenda:** None.
6. **Old Business:**
 - A. Post-adoption review of Ordinance #2021-1872 re: Amended Stormwater Regulations.

Mr. Horowitz recalled that when the ordinance was previously referred for master plan consistency review, there was insufficient time for the Board to review it to the extent it thought necessary. A resolution was adopted that found the ordinance not inconsistent with the master plan and recommended to Council it be further studied. This was primarily due to the ambiguity the Board found with the definition of a "Major Development" and the inherent problems in the requirements for dry wells' maintenance, reporting and enforcement. The Board reviewed a

revised definition Ms. Thompson had prepared, which added to and rearranged the text of the adopted definition so as to convey that a major development can result from the cumulative impacts of multiple minor developments on the same tract. The Board further debated the definition until arriving at an agreed upon section arrangement. Mr. Brightly cautioned the Board about changing the language of the state definition. The Board felt that he and the Borough attorney should review the Board's proposed text.

Regarding the dry well regulations, Ms. Thompson asked if the Environmental Commission (EC) couldn't come up with some easily understandable language that could be inserted into tax bills that would alert homeowners to the need for maintaining drywells that may exist on their property. At issue is whether it is advisable for the Borough to regulate stormwater management on minor developments, and if so, to what extent. Under current Borough regulations an infiltration device must be installed for 1,000 S.F. or more of new impervious coverage and an annual maintenance report must be submitted to the Borough. These are not state regulations. The consensus held that whatever requirements the Borough imposes, they must be enforceable and currently they are not. Various levels of implementation and maintenance requirements were discussed. It was felt the EC could be instrumental in drafting comprehensible drywell awareness and maintenance procedures for distribution to home owners. The Borough should retain the right to intervene, at homeowners' expense, on one and two family residential properties where dry wells have not been maintained and have become problematic. Mr. Macmillan stated that the EC would be eager to work on creating an awareness/maintenance program for one and two family property owners. The Board agreed with Mr. Brightly's suggestion that the regulations for one and two family minor developments could be less rigorous than commercial minor developments. For example, under 12-29.3.a, only numbers 1. and 5. would apply to one and two family residential developments and numbers 1. through 5. would apply to all others. The Board also discussed the need for the recording of dry wells in deeds. Mr. Brightly agreed to re-draft section 12-29.3 to separate residential and commercial regulations and have it distributed prior to consideration at the 4/8/21 meeting.

B. Zone map revisions for the downtown core zone.

Mr. Horowitz and Mr. Szabo confirmed that the previously included residential lots south of Woodland Street had been removed from the final map that was attached to the adopted downtown ordinance.

7. New Business: Review of 3/11/21 Bills List w/ invoices:

Upon review, a motion to approve the invoices presented, in the amount of \$315.00, was made by Ms. Kellogg and seconded by Ms. Thompson.

Roll call vote:

All members voted in the affirmative.

8. Business of Visitors, second opportunity: None.

9. Board Reviews/Public Hearings/Pending Applications: The Board acknowledged the following matters and their respective schedules:

A. D26a Master plan consistency review of Ordinance #2021-1876; Introduced 3/8/21; Public hearing scheduled for 4/12/21; Planning Board review scheduled for 3/25/21.

B. Application #SP-235 – NEW CINGULAR WIRELESS PCS, LLC; Minor Non-Residential Site Plan & Conditional Use Approval w/ out Variances; 150 Morristown Road, B:62, L:4.03, Zone: D-G; Received 2/26/21, Pending completeness review.

10. Executive Session: None.

11. Adjournment: Chair Graham adjourned the meeting at 8:42 pm.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Frank Mottola', with a long horizontal stroke extending to the right.

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

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