

PLANNING BOARD
BOROUGH OF BERNARDSVILLE
Minutes – July 22, 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, Paluck, Simoff and Thompson.
Absent – Members Macmillan and McQueen.
Board Professionals Present: Attorney John Kaplan and Planner John P. Szabo, Jr.
3. **Minutes:** Review of draft 6/24/21 meeting minutes.
Upon review, several typographical corrections were noted. A motion to approve the minutes as corrected was made by Ms. Kellogg and seconded by Ms. Gardner.
Voice vote:
All eligible members voted in the affirmative except for Mr. Simoff who abstained.
4. **Communications:** 7/1/21 A. Suriano email transmittal of introduced Ordinance #2021-1888 re revised stormwater regulations; amends Ord. #2021-1872 (re 7B).
5. **Business of Visitors not related to agenda:** None.
6. **Old Business:** None.
7. **New Business:**
 - A. Application #657 Dello Russo + Grof, Minor Subdivision / Lot Line Adjustment without Variances; 22 & 26 Garibaldi Street, B:112, L: 13 & 14, Zone: R-5;
Received 5/21/21; Deemed complete 6/23/21; *Heard this evening.*
Appearing on behalf of the application were attorney Susan Rubright, engineer Stephen Parker and co-owner Anthony Dello Russo, Jr.
Ms. Rubright introduced the minor subdivision/lot line adjustment application describing the two subject lots and the zone in which they are located. The applicants propose to transfer a 12' x 150' (1,800 S.F.) strip of land from lot 13 to lot 14. After which, lot 13 will have 11,283.75 S.F and lot 14 will have 9,300 S.F., both in excess of the 5,000 S.F. lot size required for the zone. Existing nonconforming conditions, which exist on both lots, will remain unchanged. New deeds will be prepared for the Board's professionals to review upon approval of the application.
Mr. Parker, together with Mr. Szabo, was sworn by Mr. Kaplan, who affirmed that the applicant's notice was reviewed by his office and found to be adequate. Mr. Parker stated that the application is simply a lot line adjustment that conveys property from one lot to an adjacent lot. No changes or improvements are proposed to the properties or the structures thereon. The purpose of the lot line adjustment is to make the two properties closer to the same size, and consequently more

conforming to the zone requirement. Both lots have deficient front yard setbacks. The drawings will be revised to show the setbacks dimensioned to the front porches instead of the building proper. The accessory detached garages located in the rear yards both violate the side yard setbacks. In reviewing the Board's professionals' and agencies' reports, Mr. Parker stipulated they would comply with all requested drawing revisions called out in Mr. Price's and Mr. Brightly's reports. The other reports either required no revisions or had no comment on the application. He said that each lot's utility lines will not be interfered with and will remain separate to each lot.

Responding to a question regarding ownership of the lots, Ms. Rubright stated that Mr. Grof is an heir to Albert Latino, the prior owner of lot 13, who recently passed away. While there may in the future be a desire to redevelop one or both of the properties, that is not currently the purpose of this application.

Mr. Dello Russo was sworn and testified that the existing walkway that connects the deck on lot 13 to the patio on lot 14 is intended to remain. A cross easement is not presently needed.

Chair Graham commented that the owner should check for any existing drywells on the properties and indicate same on the drawings if any are located.

There were no questions or comments on the application from members of the public.

Mr. Kaplan recapped the conditional stipulations should the application be approved. Ms. Rubright reiterated that she will submit draft copies of the deeds for review by Mr. Kaplan and Mr. Brightly, and subsequently for signature by the Board chair and secretary.

A motion to approve the application as conditioned was made by Mr. Simoff and seconded by Ms. Thompson.

Roll call vote:

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

Those opposed: None. Those abstaining: None.

B. D26a Master plan consistency review of introduced ordinance #2021-1888 – re revised stormwater regulations; amends Ord. #2021-1872.

Upon review, the Board did not find the proposed ordinance to be inconsistent with the master plan however, it questioned the feasibility of the proposed ordinance's regulations for minor stormwater developments with respect to: how the timing of the three year reporting period is determined; is the start of the three year period the same for each property owner or based on the installation date; how do residents determine whether an inch of rain has fallen; how are inspections enforced; is the ordinance at all enforceable for minor applications as drafted; should regulations for minor applications exclude testing and reporting; does the Borough have the capacity to perform inspections that property owners choose not to and is the \$250 fee adequate.

As recapped by the Chair, Board's recommendations consisted of:

Reiterating the Board's prior recommendation that the reporting and compliance requirements for a "Minor Development", as defined in the Ordinance, should be eliminated as they could be cumbersome and over-burdensome on residents that are required to install stormwater management systems, and those that currently have a stormwater management system on their property, whether the property owner is aware of having such a system or not.

Regarding Section **12-29.3(a)1**, the Board found the term "present owner" to be vague and recommends that it be clarified.

Regarding revised Section **12-29.3(a)2**, the Board found the phrase "major storm exceeding 1 inch of rainfall" not to be determinative, as the Ordinance provides no indication as to who determines, or how it is determined, that a one-inch rainfall event has occurred.

Regarding Section **12-29.3(a)3**, the Board found the phrase "every 3rd year" to be vague, since the Ordinance provides no indication as to when counting of the three-year period should commence.

Regarding revised Section **12-29.3(a)4**, the Board found that the phrase "20 days after a final notice" to be too vague, since there is no indication within the Ordinance as to when the final notices will be sent out or received by property owners.

Regarding revised Section **12-29.3(a)5**, the Board recommends the Ordinance indicate where the applicant for a qualifying development obtains a SWM O&M Manual, and whether or not the Borough intends to be the author of the Manual.

Mr. Kaplan will write up these recommendations as a rider to the Board's draft D26 review resolution, **#2021-12**, and forward them to Mr. Mottola for his distribution to Board members and their comments back to Mr. Kaplan. Upon completion, Mr. Kaplan will send a final resolution and rider to Mr. Mottola for his formal transmittal to the Council.

A motion to adopt Planning Board resolution **#2021-12** as amended and as to be appended, was made by Mr. Horowitz and seconded by Ms. Thompson.

Roll call vote:

All members voted in the affirmative.

C. Review 7/22/21 Bills List w/ Invoices:

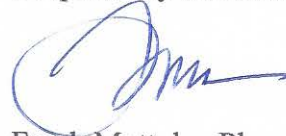
Upon review a motion to pay the listed invoices in the amount of **\$1,387.50** was made by Ms. Thompson and seconded by Ms. Gardner.

Roll call vote:

All members voted in the affirmative.

- 8. Upcoming Board Reviews/Public Hearings/Pending Applications:** None.
- 9. Business of Visitors, second opportunity:** None.
- 10. Executive Session:** None.
- 11. Adjournment:** Chair Graham adjourned the meeting at 9:03 pm.

Respectfully submitted,



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

Keywords: Dello Russo-Grof-Rubright-Parker-subdivision-Garibaldi-stormwater-ordinance-1888