

PLANNING BOARD
BOROUGH OF BERNARDSVILLE
Minutes – March 16, 2023
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 Canose, Gardner, Graham, Horowitz, Kellogg, McQueen and Simoff.

Absent – Members Macmillan and Thompson.

Board Professionals Present: Attorney Christopher Sobieski for Mr. Warner and Planner John Szabo (until 8:11 pm).

3. **Minutes:** Review draft minutes of 2/23/23 meeting.

Upon review, a motion to approve the minutes as presented was made by Mr. Horowitz and seconded by Ms. Gardner.

Voice vote:

All eligible members voted in the affirmative.

4. **Communications:** The following correspondence was acknowledged by the Chair:

A. 3/14/23 A. Suriano email transmittal of intro'd Ord. #2023-1957 re: Density Limits in Downtown Zone w/ Ordinance #2023-1957 (*discussed under 7A*).

B. 3/13/23 Council resolution #23-85 re: Designated redeveloper of 65 Morristown Rd. (*information only – no action required or taken by the Board*).

C. 3/10/23 Brandstetter Carol, Inc. professional services proposal (*discussed under 7B*).

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

6. **Old Business:** Workshop review of 7/28/22 draft "Parks and Recreation Master Plan" w/ Patrick Hoagland, ASLA of Brandstetter Carroll, Inc.; First draft reviewed 5/26/22; Revised plan rec'd 7/28/22.

It was announced that the workshop review of the 7/28/22 draft "Parks and Recreation Master Plan" w/ Patrick Hoagland, ASLA of Brandstetter Carroll, Inc., that was scheduled for this evening will be rescheduled upon approval of a service contract with the firm. The date of a public hearing for master plan inclusion also remains to be determined (*discussed under 7B*).

7. **New Business:**

A. D26 Master Plan Consistency Review Intro'd Ord. #2023-1957 re: Density Limits in Downtown Zone.

Mr. Szabo stated the Board's role and options in reviewing the proposed ordinance for consistency with the master plan. In his opinion as Board planner the ordinance is not inconsistent with the master plan. He noted that the Board had previously found the current downtown zoning ordinance is not inconsistent and the proposed ordinance supports and enhances what has already been adopted. As a performance based code, the downtown zone currently has no density limit and relies upon other zoning constraints to control how many dwelling units can be built on any lot. Based on expressed concerns that there should be a fixed limit on density, the proposed ordinance sets a maximum density of 35 dwelling units to an acre throughout the downtown zone and all its sub-districts, except for designated redevelopment areas. Mr. Szabo said that the density number was set based on contextual factors such as the size of the town, what currently exists, what has already been built, developments that have been recently approved and the densities planned for redevelopment zones, which he cited. Thirty-five appears to be a middle area appropriate to the downtown. It is necessary to strike a balance that will allow for sufficient incentive to promote redevelopment but not to allow overbuilding. Setting a lower density number may result in being inconsistent with the master plan, because it will discourage the kind of development the borough is seeking. Impetus for downtown revitalization derived from the perception that the downtown was not as vibrant, active or attractive as it needs to be. Mr. Szabo pointed out that the development controls that are already in place for the downtown will still remain. The proposed density limit, which is meant to work in conjunction with those controls, is proposed only for the downtown zone and its sub-districts, not elsewhere in town. Any application that would propose to exceed the permitted density would require a "d5" variance and would have to be heard by the Board of Adjustment. Nothing would prevent tweaking the density limit if it became apparent in the future that a higher or lower number would be more suitable going forward.

Responding to Ms. Gardner, Mr. Szabo said that no studies or comparisons of densities in other like-sized towns were made as Bernardsville has its own physical context and is unique as a community. A town's objectives and master plan must also come into consideration. He said there was also some urgency to put the regulation in place before another development application is filed.

Responding to Mr. Horowitz, Mr. Szabo said that he did not perform a full scale market analysis to determine the feasibility of 35-unit developments. The main issue is whether or not a proposed development fits on a site subject to the zoning controls already in place and the land use Board's judgement as to whether the development works. Mr. Szabo expressed concern that requiring a lower density may discourage developer from coming in and doing the kinds of things the Borough is trying to promote with its downtown ordinance and master plan. The idea is to incentivize development without allowing for overbuilding.

Mr. McQueen noted ongoing discussions at Council regarding density and parking. He felt that the proposed ordinance is a good first step that can continue to be refined as needed and informed by future applications. Mr. Szabo agreed, noting that the number may need to be raised or lowered. Things commonly happen that aren't originally contemplated, but he added that ordinances are living, breathing documents that are commonly amended.

Mr. Szabo responded to Mr. Simoff stating that there was no thought of reducing densities within the downtown zone for parts of sub-districts that are located farther away from the town's center. While that is something that can be studied in the future, for the moment the thought was to

maintain density consistency throughout the four sub-districts and put in place an absolute limit on residential development.

To Ms. Kellogg's concern regarding micro apartments in mixed use developments, Mr. Szabo replied that the density limit would apply regardless of the size of the units proposed and that other zoning controls, such as parking requirements, setbacks, lot coverage, etc. remain in place and will continue to apply.

Mr. Horowitz and Chair Graham pointed out grammatical inconsistencies in Section 2 of the ordinance that need to be corrected at the Council level. Mr. Szabo thought that such corrections could be made without having to reintroduce the ordinance.

The Board Chair declined to open discussion of the ordinance to the public as it is not mandatory. Mr. Sobieski noted that the public will have an opportunity to comment on the ordinance when the Council holds the public hearing for its adoption.

A motion to find ordinance 2023-1957 not inconsistent with the master plan, with grammatical corrections, and adopt Planning Board resolution #2023-10 was made by Mr. Horowitz and seconded by Ms. Gardner.

Roll call vote:

All members voted in the affirmative.

B. Review of 3/16/23 Bills List w/ Invoices:

Upon review a motion to pay the listed invoices in the amount of **\$3,845.00** was made by Ms. Gardner and seconded by Ms. Kellogg.

Roll call vote:

All members voted in the affirmative.

C. Consideration of 3/10/23 Brandstetter Carol, Inc. professional services proposal.

Chair Graham summarized the professional services proposal received from Patrick Hoagland of Brandstetter Carol, Inc. for his participation in the review and public hearing presentation of the 2022 Parks and Recreation Master Plan. The 3/10/23 proposal had a not-to-exceed fee of \$7,000. Subsequent information received from Mr. Hoagland stated a cost of \$150 per binder bound copy of the adopted plan. For comparative purposes Mr. Mottola stated the hourly rates charged by the Board's professionals as requested by Ms. Kellogg. Upon thorough discussion, the Board agreed that the fee proposal was more than needed to be expended for the envisioned work and wanted to limit costs. The Board decided it wished to offer a counter proposal of \$2,000 for preparation and attendance at two Planning Board meetings, not to exceed 3.5 hours each, and allow a \$500 cap on deliverables that would include three bound hard copies of the adopted Parks and Recreation Plan, their shipping cost, and a PDF copy of the plan. If additional time is required to amend the plan after the public hearing, the Board would request a separate proposal from Mr. Hoagland. Mr. Mottola will contact Mr. Hoagland regarding the forgoing and determine dates for when the workshop and public hearing meetings can be scheduled.

8. Board Reviews/Public Hearings/Pending Applications: The Board acknowledge the following matters and their current status:

A. Application #SP-245 – WEBBER – Conforming Conditional Use for Home Professional Office; 2 Mullens Lane, B:63, L:13; Received 1/6/23; Pending submittal of a new survey.

B. Application #SP-246 – FEST, LLC. – Addition & Renovation to Existing Mixed Use Bldg.; 12 Mine Brook Road, B: 99, L: 2, Zone: D-C; Received 2/6/23; Mr. Mottola informed the Board that a required survey had been delivered this week and that the application will be distributed for reviews shortly.

9. Business of Visitors – second opportunity:

Aaron Duff, 51 Crestview Dr.: Expressed regret that the Board did not take any public comments during its master plan consistency review of the downtown density ordinance earlier in the meeting. Mayor Canose responded that there will be an opportunity for public input during the public hearing that will be held by the Council on March 27th.

10. Executive Session: None.

11. Adjournment: Chair Graham adjourned the meeting at 8:43 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'FM', with a large loop at the start and a horizontal stroke at the end.

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

Keywords: #2023-1957-downtown-density-parks-recreation-Brandstetter-Carol-Hoagland-contract