

RUMSON PLANNING BOARD
JUNE 2, 2014
MINUTES

Vice Chairman Casazza called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance.

The Roll was called with the following members present: Casazza, Lospinuso, Rubin, Williams, Clark, Shanley, Hewitt, Gaynor, White, Ekdahl, Baret. Also present: Michael Steib (Board Attorney), Fred Andre (Zoning Officer), Bonnie Heard (T&M Assoc.), State Shorthand Services.

The requirements of the Open Public Meetings Act were stated as met.

Chairman Lospinuso arrived at this time.

Approval of Minutes

Mrs. White moved to approve the minutes from the April meeting, and Councilman Rubin seconded.

Roll Call Vote: Ayes – Rubin, Lospinuso, Clark, Shanley, Williams, Hewitt, Gaynor, Ekdahl, White
Nays – None

Motion carried.

Aaron T. Finch, 64 Waterman Ave.

Mr. Steib explained the applicant's request for a 60-day extension for the minor subdivision approval.

Ms. Heard stated there have been no significant changes that would affect this approval. Councilman

Rubin moved to approve the extension, and Mr. Clark seconded.

Roll Call Vote: Ayes – Lospinuso, Casazza, Rubin, Williams, Clark, Shanley, Hewitt, Gaynor, White,
Ekdahl, Baret

Nays – None

Motion carried.

Edgewood Development, LLC, 9 Edgewood Road & 2 Orchard Lane (Continued Application)

Richard Stone, applicant's attorney, reviewed that the objectors had presented their witness, and he will be cross examining him this evening. Mr. Steck, planner, is still under oath from the last meeting. He has done some additional work for this meeting. He had previously testified that the subdivision was not to the benefit of the municipality because it creates two substandard lots in the R-3 Zone. This application deals with lots in the R-3 and R-1 Zones, and the zone sizes were reviewed by Mr. Stone. It is Mr. Steck's opinion that the applicant had not provided information to satisfy either the C-1 or C-2 requirements for granting the variances. Mr. Stone does not think there was any reference in his testimony to the C-2 standards. Mr. Steck stated he responded to the applicant's proof; however, Mr. Stone thinks Mr. Steck testified in response to testimony from witnesses as to the benefits outweighing the detriments in this case.

With regard to some irregularities dealing with lot shape circle, Mr. Steck had said that the applicant emphasized that the irregular shape of Lot #4 supported the substandard circular dimension. He felt that if the lot had a regular shape, the lot would have less frontage, so the irregular shape did not support the variance requested. He researched the lots surrounding the R-3 lots, and he looked at the tax maps. He was aware that some were substandard as to the circle, although they appeared to have the proper size. Also, he thinks these lots may have predated the need for a circle requirement under the ordinance. He did not research to see if any of these lots sought relief from this requirement.

Mr. Stone reviewed that several of the lots along Edgewood (north side) cannot support the circle requirement, but Mr. Steck again emphasized that someone driving down Edgewood Road would not sense the depth of the lots or be aware of the transition from the R-1 to R-3 zones. The applicant's proposal is for a lot that will appear to be substandard in width, in his opinion. Mr. Stone noted that the lots provide a uniform size, except for the circle requirement.

Mr. Steck pointed out that there is also the issue of the steep slope between two of the lots. Mr. Stone distributed copies of the resolution from 10/21/03 (A-12), and Mr. Steib noted that there was another exhibit received since the last meeting (O-2). Mr. Stone asked Mr. Steck if he has seen this resolution, and he said he has not, although Mr. Stone thought it would have been helpful if he had done his research on this document also. He noted that this resolution describes the corner lot as a rectangular lot, and an approval was received for variances to replace the house on the property, although no new nonconformities were created with this approval, according to Mr. Steck. A circle variance was approved, although it was a pre-existing condition.

Another resolution was distributed by Mr. Stone (A-13). Mr. Brodsky, objector's attorney, said he does not see the relevance of bringing unrelated resolutions to the Board's attention, which all refer to existing conditions, whereas the subject application creates the necessity of the lot circle variance. He thinks it is apples and oranges. Mr. Steib understands Mr. Brodsky's point; however, the exhibits could be relevant as to the character of the neighborhood. Mr. Stone said they felt it was necessary to look at these other lots and similar applications to address the neighborhood's character. Mr. Brodsky said he had no objection to the Board reviewing these resolutions.

Mr. Stone proceeded to present other resolutions (A-15) citing the existence and approval of irregular lots, which included variances. He asked Mr. Steck to comment on the existing lots under this application which straddle the R-1 and R-3 zones. He asked if there was an attempt by the Master Plan to create conforming lots, and Mr. Steck said this was correct. At times, lines do get contorted to provide a conforming lot. Mr. Stone pointed out the dividing line between the two R-3 lots, which has a jagged line in the middle. A circle could not be provided if the line was straight. Mr. Stone noted that conforming homes could be built on both lots, except for the lot circle requirement. Mr. Steck stated he feels there is also an issue with the steep slope on the existing lots. Mr. Stone thinks they can address the issue with a retaining wall and grading.

The R-1 Zone was addressed, with a minimum lot size of 1.5 acres. This lot had a prior application which requested a number of variances, which were granted. Mr. Stone pointed out that their current plan increases the lot size and makes it conforming, which is a good thing, according to Mr. Steck. A deed restriction was noted in connection with this prior approval, and the history of this restriction was discussed and explained. This element of the application caused some debate as to whether the deed restriction would be removed if this application was approved. This was not a substantial reason as to why Mr. Steck would oppose the application, and is a minor aspect of the application in his opinion. The focus is what is happening in the R-1 Zone and the existence of an insufficient circle on the one lot and also because they are counting area in the roadway, which he thinks should be excluded.

Mr. Stone asked if the three conforming lots would not be a benefit to the neighborhood, and Mr. Steck said he did not think it was a significant benefit due to the narrowness of the lot, which will appear substantially narrower than any other lot along Edgewood Road. Mr. Stone again noted that all of these lots were consistent and the lot owners were granted relief from some requirements. Mr. Steck thinks this predated ordinances as to circle requirements.

Mr. Brodsky asked Mr. Steck if the lots depicted on A-11, as mentioned in the resolution marked this evening, had conditions that were existing at the time. Mr. Steck said the conditions were existing at the time and none involved subdivision or forming a new lot or lot width. A lot circle diameter would not be necessary if there was not an application for a subdivision.

With regard to the benefits of the application as to alleviating certain nonconforming conditions, Mr. Steck said this could be achieved if a single new home were proposed for Lot #4. The proposed subdivision line between the two smaller lots gives the applicant the ability to claim that the minimum acreage was met; however, if the lot line was straight, a conforming lot could not be achieved.

Terrence Sheridan, 15 Edgewood Road, asked about Mr. Steck’s statement regarding the curvature of the road, and Mr. Steck presented another exhibit (O-3), which is a reproduction of the subdivision of the north portion of Lot #4 where the property lines are shown, and the shape of lot proposed 4.02 is shown as if it were a rectangle shape. He reviewed that the applicant had said the curve was a hardship, and it is his contention that it is just the opposite, because the frontage would only be 110’ with a rectangle shape, which would require another variance. The arch is actually an advantage to the application, in his opinion.

Jerry Sussin, 20 Edgewood Road, asked about the width of Lot 33, and Mr. Steck responded to the widths of the nearby lots:

- #33 242.25’
- #34 227.67’
- #35 227.67’
- #36 370’+

Ms. Sussin also questioned the width of the lots across the Road, and Mr. Steck also provided these widths:

- Lot 8.01 280’
- Lot 7.01 227.67’
- Lot 6 227.67’

It was noted that a 125’ lot width is provided for each lot in the proposed subdivision, and Mr. Stone said this is permitted by the zoning ordinance.

Richard Jones, 37 Navesink Ave., asked if there was any land to purchase to make the lot more conforming; however, this was not applicable in this case.

There were no other questions for Mr. Steck from the public.

Dr. Lospinuso asked Mr. Steck to clarify the difference between the width versus the depth, as it pertains to the lot circle requirement, and Mr. Steck said it was his opinion that the visual presentation is more important than the rear yard. The view of the lot as it presents itself is more important than what appears in the rear yard. The lots nearby all appear to be conforming, and the applicant has ignored the fact that the lots have a substandard depth. He would have put the circle at the front property line, which is what the ordinance requires.

Mr. Casazza asked about the intent of an ordinance as to width, and Mr. Steck said that because of the curve in the road, there will be a dramatic difference visually, since this lot will be more prominent in visibility than the others on the street.

Chairman Lospinuso noted that the street view shows landscaping and not the side of a house, although there will eventually be a house. Mr. Steck feels this house will be more prominent because of the bend in the road. He again stated his opinion that the curve in the road is not a hardship.

Ms. Baret questioned the negative/positive criteria, and Mr. Steck explained this issue as it pertains to the Board's consideration.

Mr. Stone raised the aesthetics with Mr. Steck, asking if you would see the newly-proposed home or the landscaping, and Mr. Steck said the landscaping would be seen, but he does not think this will affect people's impression of the lot, since it is half the width of others on the street. Mr. Stone noted that the zone requires $\frac{3}{4}$ acre lots, and these lots comply. Mr. Steck again stated that the lots nearby are substantially wider than the proposed lots.

A short recess was taken at this time (8:50 p.m.).

John Lembeck, 41 Washington Ave.

Mr. Steib announced that this application will be carried to the next meeting, with no further notice required (July 7). Mark Aikens, applicant's attorney, stipulated that they would waive any time restrictions under the Land Use Law.

Edgewood Development LLC (Continued)

Mr. Brodsky called Mr. Dave Cranmer for testimony. Mr. Cranmer, licensed engineer and professional planner, was sworn in, and the Board accepted his qualifications. He described his review of the application for his clients at 10 Edgewood Road. He gave his opinion as to the adverse affects to their property by this application. He has submitted an independent report regarding the storm water management plan submitted. His first exhibit (O-4) shows a copy of the Monmouth County GIS imagery, including contour lines and the water shed that passes through the property. The applicant's conclusion that no adverse effect would be felt by neighborhood properties was discussed, with Mr. Cranmer reviewing the requirements for this area. The recharge system proposed could be reasonable; however, in this case the drainage is affected by a natural area that functions as a retention basin (low point), which, in his opinion, means that if it were eliminated, as proposed by the applicant's drainage plan, the runoff would be tripled with a 2-year storm event.

Flooding conditions on Edgewood Road were noted, and the design would not be effective for storm events. Another adverse impact would be felt due to the existing swale, which carries the runoff to the low point. The existing home is one the top of the hill, and Mr. Cranmer noted the difference in the contour between the lots, which will affect the impact on water flow between the homes on the lots. From an engineering perspective, it is his opinion that there will be an adverse effect on the surrounding properties, due to the steep slopes and low area.

The storm water management study included a soil test, which he also reviewed. The recharge basins proposed do not function as designed. The soil tests were done at various locations throughout the site. He believes overflow runoff will go to Edgewood and affect all the properties downstream from this property. Also, the drainage study did not include driveway runoff into the drainage system. It is his view that there would be a likelihood that an adverse impact will occur on Edgewood road as a result of this development.

Mr. Brodsky asked if the analysis would change if the proposal was for a single home, as opposed to two homes. Mr. Cranmer said the regrading was caused by the proposal for the second home. One home

could be constructed and not disturb the low point area, where water pools temporarily. There are no wetlands on the site. It is his conclusion that the drainage does not adequately contain all the water that runs onto this property.

Mr. Stone asked if there was presently a storm water management system on the site, and Mr. Cranmer said there was not, to his knowledge. He agreed with the topographical mapping in the Nilson report, and he did not take any test borings himself. This proposal does present a storm water management plan, where none currently exists. Mr. Cranmer noted that ground water recharge is an acceptable type of storm water management. The borough engineer has not commented on the proposed plan, to his knowledge. Approval of the plan by T&M Assoc. would be a condition of any approval, and Mr. Cranmer said this was correct.

Mr. Brodsky questioned Mr. Cranmer regarding the existing drainage on the site, and Mr. Cranmer expressed concern regarding the approval of the drainage plan by T&M Assoc. outside of the public view. If the application is approved as proposed, it is his opinion that the properties down the street will be adversely impacted by the plan. Mr. Stone asked if the review of the storm water management plan by the borough engineer would be acceptable, and Mr. Cranmer said he would have preferred that it would have been reviewed prior to the public hearing, after which the public could have discussed the details. He acknowledged that the Board engineer could have a different opinion than his.

Mr. Leckstein asked if a house was built on Lot 4, would it exacerbate any water issues, and Mr. Cranmer said it would have a negative impact on the properties.

Ms. Baret asked about the existing and future contours of the lot and the existing and proposed storm water management, applicable to the impact a second home would have on the water movement on the lots. Mr. Cranmer mentioned the regrading that will also affect the water on the site. Chairman Lospinuso asked if there was mitigation for this, and Mr. Cranmer said there could be.

Terry Sheridan asked about the classification of the application, and Ms. Heard explained the definition under the ordinance. She noted that the storm water report has not been seen by T&M as yet, and she again clarified the differences between a minor subdivision and a major development. Mr. Cranmer also looked at this definition, further explaining the application at hand as a minor subdivision.

Brett Lawrence, 20 Edgewood Road, asked what would be involved to mitigate the problems mentioned by Mr. Cranmer, and he said there are ways to mitigate the storm water, but he thinks it would be very expensive and difficult, due to the steep slope on the site. He reported on possible mitigation techniques that could be accomplished, many of which could impact the aesthetics of the site.

Mr. Stone again noted that the storm water management plan would need to be reviewed and approved by the borough engineer. Also, Mr. Cranmer's mitigation testimony is speculative.

Richard Jones asked if there was a preferred method of storm water management, and Mr. Cranmer mentioned many options for developers, depending on the property.

Peter Coleman, 132 Buena Vista Ave., Fair Haven, asked for clarification of Mr. Cranmer's statement regarding a 2-year storm event.

Mary Sheridan, 15 Edgewood, asked what recourse the neighbors have if the system fails. Ms. Heard said the building official handles this. The applicant would be made to comply with the approved plan. Mr.

Steib advised that, per ordinance, the homeowner would be required to maintain the system, and the construction official would be the person to contact if noncompliance does occur.

Mayor Ekdahl commented on a recent drainage issue on Edgewood Road, which the borough addressed within the past few months. Issues can be resolved.

Allison Coffin, planner, still under oath from the last meeting, was called again for testimony. She presented an exhibit (A-16) which includes six photos of Edgewood Dr. taken this past Friday. She explained the views shown in the photos, noting that the curve in the road serves to camouflage the front of the lot, as seen driving east and west. She disagrees with Mr. Steck's testimony and believes that due to the unique location on the dog leg, it would provide less of a visual impact.

Mr. Brodsky asked if the photos would look different in the winter time, and she said they would.

No photos were taken showing the depth of the properties. Her opinion is that the visual camouflage is because of the bend in the road and not because of the existing landscaping, as suggested by Mr. Brodsky.

A neighbor at 18 Edgewood Road asked Ms. Coffin about her location while taking the photos.

There were no other questions for Ms. Coffin.

Due to the late hour, the application will be carried to the next meeting with no further notice required.

There being no further business and no need for an executive session, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 10:30 p.m.

The next meeting will be **Monday, July 7, 2014.**

Respectfully submitted,
Patricia Murphy
Clerk