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RUMSON PLANNING BOARD
OCTOBER 6, 2014
MINUTES

Chairman Lospinuso 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: Lospinuso, Rubin, Williams, Clark, Shanley, Hewitt, White, Casazza, Baret. Also present: Michael Steib (Board Attorney), Fred Andre (Zoning Officer), Bonnie Heard (T&M Assoc.), State Shorthand Services.

Approval of Minutes

Mrs. White moved to approve the minutes from the September meeting, and Councilman Rubin seconded.
Roll Call Vote: Ayes – Lospinuso, Rubin, Williams, Clark, Shanley, Hewitt, White, Casazza, Baret
Nays – None

Motion carried.

Councilman Rubin reported that the subcommittee has been selected, as mentioned at the last meeting, regarding the review of state grants for strategic recovery following Super Storm Sandy.

Mercy Trust, 138 Bingham Ave. (Continued Minor Subdivision Application)

Brooks Von Arx, attorney, appeared again on behalf of the applicant. He reviewed their presentation from the prior meeting for this subdivision on Bingham Ave. He again explained that this property has been on the market for two years, with no successful buyer. They appeared with a proposal to make the property more marketable and still try and keep the ambiance on the property as it appears today by keeping some of the property along Bingham Ave. and providing a flag lot along the back. He thinks this would be a benefit to the town. The lots would have 350' along Bingham Ave., with 4.32 acres in the rear and 3.63 acres in the front. The front lot would retain the existing house, and the rear property would retain the gardener's cottage, tennis court, etc.

He thinks the Board had a general consensus to approve the subdivision, subject to a restriction against any future subdivisions of the property. He has discussed this with his client, who decided not to approve this restriction. They cannot know what will happen 10-20 years from now, and putting a restriction on the two lots now makes the marketing extremely difficult. He would like to try and explain why this restriction would not be necessary. He stated that they would be providing a lot that is nonconforming, so that nothing could happen with that lot, unless the owner came back before the Board for a variance for any changes. They would also have full control over the other lot, which also could not be subdivided without a variance, and would also need to come back before the board. Imposing a deed restriction for the future use of these lots would be counterproductive, in his opinion. He reminded the Board that studies show that this property could be subdivided into a greater density subdivision than what is being proposed. He asked the Board to consider his comments and discuss it amongst themselves.

The Board members again expressed their concern that the lots could be further subdivided. If the flag driveway becomes a street, it would allow for a subdivision in the rear. Mr. Von Arx does not think a sufficient lot area would occur to accomplish this. It was suggested that narrowing the flag pole area to less than 50' wide would mean that any future request for a subdivision would require a variance. Ms. Heard said this would be allowed.

Mr., Shanley thinks this is a good alternative, and Councilman Rubin stated he would drop his call for a deed restriction, so that a larger subdivision does not occur. He would be in favor of approving the application as is, incorporating the 49' wide access area.

Mr. Clark agrees that this is the best alternative to save the current house and prevent a larger subdivision.

Mrs. White also thinks it is the best solution.

Mrs. Williams raised the issue of setting a precedent for future development of this type. Mr. Steib noted that each property and application is looked at on its own merit, and he does not think approving one flag lot would be setting a precedent.

An informal vote of the members was taken at this time:

- Councilman Rubin Yes
- Mrs. White Yes
- Mr. Clark Yes
- Mrs. Williams Yes
- Mr. Shanley Yes
- Mr. Hewitt Yes
- Mr. Casazza Yes
- Ms. Baret Yes

The general consensus of the Board members was that they would approve the application, with the flag pole dimension at 49' wide.

The application will be carried to the 11/3/14 meeting, with no further notice required.

West End-KB, LLC, 59 West River Road - Minor Subdivision

Ms. Heard noted some incomplete items that need waivers. for which she has no objection. Mr. Casazza moved to grant the completeness waivers, and Councilman Rubin seconded.

Roll Call Vote: Ayes – Lospinuso, Rubin, White, Hewitt, Casazza, Baret, Clark, Shanley, Williams
Nays- None

Motion carried.

Jennifer Krimko, attorney, appeared on behalf of the applicant. The following exhibits have been received:

- A-1 Correspondence dated 7/10/14
- A-2 Application
- A-3 Minor Subdivision Application
- A-4 Proposed Minor Subdivision, dated 7/3/14, revised 9/9/15
- A-5 Engineer's review letter dated 10/2/14
- A-6 Engineer's letter dated 10/2/14

Ms. Krimko presented an aerial view of the property (marked A-7). She explained their plan for a minor subdivision to create the lots. No construction plans are included at this time. They can comply with all items in the T&M review letter.

Paul Grabowski, architect, was sworn in, and the Board accepted his qualifications. He will be designing the homes for the property. He described the size and location of the lots.

Dr. Lospinuso noticed that the location marked on the Google aerial map was incorrect, and the correct location was noted for the Board and the audience. Mr. Grabowski stated that the property is 21,720 sq. ft. in size and has a single-family home with a pool and pool house. They are proposing three lots with no variances required. They are not showing any homes, but stipulate that any homes would also conform to the ordinance requirements.

Ms. Krimko reviewed T&M's letter, noting that they can comply with all requirements, except for:

- Street trees along West River Rd. – they feel these would not be required, since many trees already exist in this area;
- Other tree issues, which they will be addressing going forward in this meeting.

Mr. Shanley asked if the proposed homes would require any variance, and Mr. Grabowski said they would not.

Mrs. Williams asked if they considered subdividing the property into two lots, and Ms. Krimko said they did not.

The fence along W. River Rd. is proposed to be retained, according to Mr. Grabowski. The fence along Third St. will not be retained at this point. The brick pillars along W. River Rd. will also be retained. Ms. Krimko does not think there is any ordinance that requires preservation of these structures. They are not proposing to take down the fence on W. River Rd., however, she cannot assure that a future owner would not want to change this. Mr. Shanley noted that the fence is historically significant, and he is thankful that they are keeping the part along W. River Rd.

Gail Meltesen, 4 Third St., was sworn in and said that the existing iron fence is shown on the current plan, which she was also delighted to see. She thinks the fence needs to stay in its current position, in order to help direct the runoff from Sugar Maple Estates, which runs toward River Road. She reported on the water runoff that occurs during a heavy rain, which is guided toward the street by this fence. Removing the fence would cause them to lose the protection from this runoff. This water problem has occurred since the Sugar Maple development.

Douglas Spencer, 15 Third St., was sworn in and questioned the size of the houses that could be built on each lot, without variances. Mr. Grabowski reported on the allowable square footage on the lots. Mr. Spencer asked if a deed restriction could be imposed to require the retention of the fence. It was noted that any construction would need to comply with both the borough engineer's and storm water management requirements.

Michael Kelly, 56 Winding Way, Little Silver – a principal in the West End-KB LLC Company – was sworn in and testified as to the tree issues. He noted that there are many trees along W. River Road. He did not think it made any sense to remove any of these existing trees to plant new ones. Also, they are proposing to remove and replace the dogwood trees outside the building envelope. The trees have been identified on the plan, and they have met with the borough tree expert regarding this issue. There is one shade tree in the driveway area that will be removed. It is currently hollow, and Mr. Brooks, Borough Forester, felt it should be removed. A photo of the tree was shown to the Board.

Ms., Baret asked Mr. Kelly if he was aware of any water issues, as described earlier, and he said this was the first he has heard it. He has owned the property for 5-6 months.

Mr. Casazza noted that the existing water condition was not generated by this property, but this development could make it worse. Mr. Steib said that the applicant must comply with the town's Storm Water Management standards, and the borough engineer will make sure this is followed. Mr. Kelly said they typically make a property better than what exists, although he is not an engineer. Ms. Krimko said they would have no objection to making sure that the runoff is not made worse by their development, and all ordinance and state requirements will be met.

Mr. Steib noted that any change in the wall would need to be included in a drainage plan.

Councilman Rubin asked Ms. Heard if these conditions could be controlled with proper engineering and grading, and she stated there are many different options that can be incorporated to make sure that the drainage is appropriate.

Mr. Kelly was asked how far they are in the development phase, since the Board usually sees a more complete plan. Mr. Kelly explained that the amount of impervious coverage is greater now than after they are finished.

Ms. Krimko understands the Board's concerns, and they are not disregarding grading and drainage, which will be addressed at the proper time. The ordinance does not require them to provide this at this time. Once the subdivision is approved, they will be making plans for construction, grading, drainage – all of which will be reviewed by the professionals.

Mr. Spencer questioned the maximum size allowed and if the 2,400 sq. ft. allowed would be enough for Rumson, and Mr. Kelly said it would be suitable for a family with two children.

Mrs. Meltesen asked Mr. Kelly about the iron fence, and she said she has spoken to him about the fence and the water. He recalled talking about the fence, but not the water problem.

William Brooks, Borough Forester, was sworn in and noted that there is a significant specimen tree on the one lot. He has spoken to Mr. Kelly, who will transplant it on the site. The shade tree to be removed will also be replaced after construction. The replacement of the dogwood is consistent with what the board has approved in the past. He will be overseeing the process and making sure that the other components of the tree ordinance are followed.

Sean Healy, 9 William St., was sworn in and commented on the fact that the plans do not include full plans for the Board's review. Mr. Steib explained that the applicant needs to provide a complete application per the check list, which has occurred. It was explained that any subdivision requires approval by the Board under the Municipal Land Use Law, as also explained by Ms. Krimko. She noted that they met all the requirements under the ordinance to create the lots only. No construction plans are being presented at this time

There were no other questions or comments from the public.

Ms. Krimko summarized that this is a conforming subdivision that met all the check list and design requirements to create three lots on the property, and they would seek an affirmative vote.

Mr. Casazza thinks it is a good subdivision that meets all the qualifications. He thinks the drainage needs to be closely addressed. He wants to specify that the engineer be extremely strict with the runoff issue, so that no negative affect occurs.

Mr. Shanley agrees.

Mr. Clark noted that it is an historic home that will be razed, which will change the character of the town, although there is no reason to deny the conforming application.

Chairman Lospinuso agrees with Mr. Clark's comments, but he thinks the builder will want to keep his good name and find ways to keep in mind the aesthetic value of the fence.

Councilman Rubin agrees and noted they need to comply with the process, which does not require them to see a grading plan for this application, since no construction is being proposed at this time. He agrees that the grading and drainage will be a challenge, but he thinks it can be accomplished. He thinks the applicant has presented a subdivision with no variance, and he sees no reason to deny it.

Mrs. White knows there is no reason not to approve it, but she is not happy with the change that will occur.

Ms. Baret would prefer to have a Storm Water Management review, but she understands that the plans do not require this at this time.

Gail Meltesen again came forward to say that T&M did not do a good job with the water issues at the Sugar Maple Development, in her opinion, and she does not have any confidence in them for this development.

Mr. Clark moved to approve the application to include all conditions in the T&M review letter with a recommendation that the drainage get special attention. Mr. Casazza seconded.

Roll Call Vote: Ayes – Lospinuso, Rubin, White, Hewitt, Casazza, Baret, Clark, Shanley, Williams
Nays- None

Motion carried.

At this time, Mr. Steib reported that Edgewood Development, whose application was denied by the board, has appealed the decision. This will be discussed at a future executive session.

Mr. Andre reported on upcoming November applications.

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 9:05 p.m.

The next meeting will be **Monday, November 3, 2014.**

Respectfully submitted,
Patricia Murphy
Clerk