

RUMSON PLANNING BOARD
OCTOBER 5, 2015
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, Casazza, Clark, Shanley, Rubin, Baret, Williams, White, Ekdahl. Also present: Michael Steib (Board Attorney), Fred Andre (Zoning Officer), Bonnie Heard (T&M Assoc.), State Shorthand Services.

Approval of Minutes

Mr. Casazza moved to approve the minutes from the September meeting, with corrections, and Mrs. White seconded.

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

Nays – None

Abstain – Lospinuso

Motion carried.

Resolutions

1. **Rumson Clover LLC, 6 Clover Lane** – Approval for minor subdivision. Ms. Baret moved to adopt the resolution, and Councilman Rubin seconded.

Roll Call Vote: Ayes (Eligible) – Casazza, Rubin, White, Clark, Baret, Williams, Ekdahl

Nays – None

Motion carried.

2. **50 Rumson Road LLC, 50 and 54 Rumson Road** – Approval for minor subdivision. Mrs. White moved to adopt the resolution, and Mr. Casazza seconded.

Roll Call Vote: Ayes (Eligible) – Casazza, Rubin, White, Clark, Baret, Williams, Ekdahl, Shanley

Nays – None

Motion carried.

Nate & Mindy Kestenman, 114 Rumson Road

Mr. Steib explained that this is an informal review of a proposed minor subdivision. The process is nonbinding and for discussion purposes only.

Bob McGowan, attorney, appeared on behalf of the applicants, who would like to create two additional lots on their property. The property is affected by a view-shed easement, and they need to address this issue, although this Board does not have the authority to consider changing this. They feel their property is appropriate for this subdivision, and they believe relief can be approved by Borough Council from this view-shed easement, which was created by deed of easement to the Borough of Rumson, who would be the ones to deal with this issue. Based upon discussion this evening, they would go to the Borough Council first to address the easement issue and ask them to consider changing it to allow for two new residences on the property. The Planning Board's input will be important to address the issue.

The property is 8.33 acres in size, and a survey was distributed to the members of the Board for their information. They would like to create two oversized lots – each larger in area than what is required – leaving a substantial easement with a 200' setback to continue as the view-shed easement for the property. This would allow them to put in two new residences. Aerial maps were shown to the Board, along with the tax map. The properties along this side are consistently developed. The current view shed was shown on the tax map. Mr. McGowan noted that if it were not for the view-shed easement, no variances would be necessary or required for this application.

Chairman Lospinuso asked about the location of the existing driveway, and this was shown on the map. They would be utilizing this driveway to access the existing home and the new homes. The existing view shed is approximately 400' deep, and they are proposing to reduce this by 240' and still provide 200' for the reduced view shed.

Ray Deboer, Professional Planner, explained their exhibit and the original plan from 27 years ago. The tax map shows the easement for this property and one other view-shed easement across the street, which was imposed for a similar purpose. This plan, however, was not consistently applied up and down Rumson road. He further explained the subdivision formerly approved, noting that all the lots were conforming. The two additional lots currently being considered could have been approved at the time of the last subdivision and would have been consistent with the R-1 Zone. The final approved plan had 10 new building lots in the rear and the one larger estate in the front.

Chairman Lospinuso asked if the issue is the density or the view shed, and Mr. Deboer said the view shed is the issue and not the density.

Mr. Clark noted that this proposal produces a flag lot, and he asked if they could use Willow Brook Road.

Chairman Lospinuso asked about the buffers along Rumson Road, as explained by Mr. Deboer. Mr. Deboer said it is his opinion that there is no uniform setback for a scenic road, as they had considered imposing in prior years.

Mayor Ekdahl explained town's thinking for this scenic corridor, which was ultimately deemed to be overreaching. He thinks the view shed could be looked at from two ways – the view from the estate to the water, and the view of residences from people driving through Rumson. Putting two homes in front of the estate changes the intent of the view shed.

Mrs. White thinks this view shed is something that people notice going from any direction.

Mr. McGowan commented that there are a lot of hedges along Rumson Road that provide screening. They thought this one was so large that they wondered if it was necessary to have such a large buffer, thinking they could create something similar with less property and still have the same effect.

Councilman Rubin thinks their plan would violate the original intent of the view shed, as described by Mayor Ekdahl.

Mayor Ekdahl recalled that one of the tradeoffs of the original development was the establishment of this view shed, which gave the impression of the original estate.

Ms. Heard reviewed the original resolution that was to preserve the area in perpetuity.

Mr. McGowan said his impression from reading the resolution was that there was an attempt to create a view shed and corridor affect at the time, which was going on when they came in for their original application. He thinks it makes sense to develop the property if the size of the lots are appropriate, and they are still providing a 200' view shed easement. He pointed out that the other side of the road only provided for 100' of view shed easement.

Chairman Lospinuso thinks if this was developed as proposed, the Board would possibly see two other large estates east of this property that could also apply for a similar plan and set a precedent for this Board to possibly consider in the future.

Mr. McGowan does not know if these other properties would be subject to a view shed, and they would not likely be prohibited or subject to a view shed easement at all.

It was noted that the original subdivision for this property produced some tradeoffs, such as keeping the Rumson Road property intact. The Board would be put in a position in the future if another one of the large properties came in for a similar application and the Board abandoned this view shed. Mr. McGowan suggested the 200' view shed could be applied and preserved. Mayor Ekdahl explained that the 400' was chosen to protect the view of the estate.

Mrs. Williams asked if the Board or the town had the right to require a view shed, and Mr. Steib explained that it exists on the record. The Planning Board does not have the authority to remove an easement. Mr. McGowan thinks the Planning Board could consider allowing the 200' view shed, and then they could tell Borough Council of the board's findings and considerations.

Chairman Lospinuso stated there must have been some reasons for the 400' setback at the time. Mr. McGowan reviewed the original application and the way they arrived at the 11 subsequent lots that were approved. He noted that they are not asking for lots that are smaller than permitted, but they are proposing lots that are larger than required. He feels the issue today is could two more residences be allowed to reside in Rumson.

Mr. Steib reviewed that the applicant is requesting direction from the Board if they would be inclined to reduce the size of the view shed or not.

Mr. Clark commented that if the town agreed to their application, it would save the original house and lot. If they did not agree, they could keep the view shed, but destroy the house to provide a subdivision of the original lot.

Mr. Steib referred to past court cases that address similar conditions in other towns, and Mr. McGowan agrees that it is not clear how to achieve the relief they are seeking; however, he thinks Borough Council has the authority to insure that, if allowed, there could never be a change to this and restrictions could be imposed which he thinks would strengthen the easement. Once three lots are created with the 200' view shed, that is the most that could occur on this property, according to Mr. McGowan.

At this time, the Board took a straw poll to get the overall consensus:

- Mrs. Williams – She would have a hard time saying “yes” to this proposal;
- Mr. Shanley – He does not think they should change the deal that was made. He thinks this is one of the most unique properties in Rumson, providing a clear view of the water, and he thinks this should be maintained;
- Ms. Baret – She does not feel she has enough information at present, and she thinks it needs to go to Borough Council;

- Mr. Casazza – He thinks this was done to preserve the estate look in Rumson. His position would be to say “no” to the way they are presenting it at this time;
- Councilman Rubin – He thinks the deal was originally made with great consideration. He does not want to change a decision by the Planning Board that was very well considered;
- Mayor Ekdahl – This property was granted a very large subdivision, and some trading occurred to make it happen. It would be difficult to overturn a view shed that is granted to the public, and he does not think they have a right to do this;
- Mrs. White – This is a part of the beauty of Rumson, and this proposal would ruin the character of what is there now;
- Mr. Clark – He would say “No” because this was a part of the original negotiations between the owner and the town at that time.

Other Business

None

Mr. Andre said there is no new business for the Planning Board, and so there would be need for the November 2, 2015, meeting.

There was no need for an executive session.

The next meeting will be **Monday, December 7, 2015 (7:30 p.m.)**

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 8:30 p.m.

Respectfully submitted,
Patricia Murphy
Clerk