

RUMSON PLANNING BOARD

JULY 7, 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, Casazza, Baret, Clark, Shanley, White, Hewitt, Gaynor, Ekdahl. Also present: Michael Steib (Board Attorney), Fred Andre (Zoning Officer), State Shorthand Services.

Approval of Minutes

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

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

Nays – None

Motion carried.

Resolutions

1. **Aaron T. Finch, 64 Waterman Ave** – Mr. Steib presented a resolution of approval for a 60-day extension of a minor subdivision approval, commencing on 7/7/14 and concluding on 9/5/14. Mrs. White moved to adopt the resolution, and Mr. Shanley seconded.

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

Nays – None

Motion carried.

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

Richard Stone, attorney, appeared again on behalf of the applicants. He stated he had a rebuttal witness to testify, and Mr. Brodsky, objector's attorney, said he had no further witnesses.

Matthew Dubois, project engineer still under oath from a previous meeting, identified a new exhibit (A-17), which is another topography map of the site. He was asked by Mr. Stone to comment on the testimony of the objector's witness regarding the drainage. Mr. Dubois expressed his agreement with the testimony that any drainage issues could be mitigated. He has reviewed the O-4 exhibit, noting that their lots are not the only lots contributing storm water to the nearby lots. He compared his exhibit A-1 to their exhibit O-4, noting that there are three other properties also contributing to the run off in the area. They can accommodate the water on the lots after construction by regrading the front yard, making a new low part on the property to accommodate extra storage for the water to run past the house to the front along the curb, as it does now. This would have no negative impact on any other properties and could improve the drainage, in his opinion, providing twice the storage than what currently exists. He has not studied the 25-year storm, since it is not required. He studied and 2, 10, and 100 year storms. He does not think it matters if there are one or two houses, since the same grading would occur.

The drainage plan has not yet been submitted for approval. They will submit a final plan once they know what will be going on the lots. Their plan will not include retaining walls, which he stated would not be necessary. There will be underground drainage for roof runoff. The drainage structures will be maintained by the homeowner, and this could be enforced by the town, who would investigate any problems or complaints. If the system fails, the overflow would go out on to the lawn. If the facility

becomes clogged, it can be cleared easily. The 5,900 cubic feet for the required on-site storage of water would require fill to be removed from the front yard by trucks, taken to a suitable facility.

Mr. Dubois stated there will be standing water for a period of time (approximately 24 hours in the 100-year storm). He reviewed his testimony regarding drainage as it pertains to either having one house or two houses, noting this pertains to off-site storm water and not the individual houses.

Mr. Casazza asked about statements regarding the water flowing over the curb. Mr. Dubois said they had to maintain a certain amount of water on the property. The water currently flows over the curb, and they need to make sure that no additional water flows over the top than what currently occurs.

Mayor Ekdahl reviewed some water issues in the area at present, possibly stemming from other ongoing construction.

Mr. Casazza asked again about the fact that there would be no difference between having one house or two houses, and Mr. Dubois said this is because they do not know exactly what will be built on the lots as yet, and one house could be significantly bigger than two houses.

Ms. Baret questioned the value of the lots in the two zones, and Mr. Steib said the Board could not dictate any change in the zone, and the applicant is entitled to the lot lines as they occur in their application.

Mr. Gaynor asked about the maintenance of the septic system, and Mr. Dubois said this would also be the property owner's responsibility.

Mr. Stone again explained that once the applicant knows what is going to be built on the property, the drainage plan gets reviewed for approval, and if it is not approved, it would need to be modified. The town has control over the grading issue, and a performance bond is usually required to make sure they comply with the specifics of the plan, after which a maintenance bond may also be required to make sure it operates as designed. Mr. Steib said they could ask the applicant to provide a performance and maintenance bond. Mr. Stone said they would agree to this as a condition of approval.

Terry Sheridan, 15 Edgewood Road, asked about the maintenance of the system if it gets clogged, and Mr. Dubois said it would need to be corrected.

There were no other questions for Mr. Dubois. The Board took comments from the public at this time.

Ray Carman was sworn in and said they support the neighbors who oppose the application. He had lived on Edgewood Road for 33 years. He had proposed a subdivision in 2012, which was ultimately withdrawn, due to much opposition. He feels dividing the property in two will ruin the character of the neighborhood. He commented on the water issues on the property. Councilman Rubin asked if there were any variances associated with his application, and Mr. Carman said there were, although he thinks it was a better plan than this application.

Steve Cottrell, 21 Edgewood Road, was sworn in and expressed his opposition to the subdivision, due to the aesthetics and drainage problems in the area. He does not think it is in keeping with the Master Plan and will lower the property values. He asked the Board to decline approval. Chairman Lospinuso asked Mr. Cottrell about his opinion regarding the effect on the property values, and Mr. Cottrell further explained his opinion in this matter.

Brett Lawrence, 20 Edgewood Rd., was sworn in and offered his opinion on the character of the town, which has been maintained over a period of time. He thinks this subdivision will change the character of the street and neighborhood. He also thinks the flooding and water issues will be made worse with this application. He thinks the application is driven by profit, and he sees no hardship other than net profit, in his opinion. He is opposed to having two houses on Edgewood. He has no issue with eliminating the “bow tie” effect on the lots. He thinks there should only be one house on the lot.

Gerry Lawrence, 20 Edgewood Rd., was sworn in and read a statement agreeing with her husband’s prior comments that there is no hardship in this case, and she is opposed to having two houses on the lot. She echoed the statements of her husband, adding traffic issues that would affect the quality of life for the neighborhood. She also feels it presents a dangerous situation. She related a recent accident on the street and showed the Board photos of that event.

Mary Sheridan, 15 Edgewood Rd., was sworn in and expressed her objection to the subdivision and would be in favor of one home on the lot. She also feels this is a for-profit event. She thinks this will adversely affect the property values in the area and may set a precedent for others in the area.

Adam & Jennifer Cavese, 18 Edgewood Rd., were sworn in and testified as to the character of the street, stating that this subdivision will ruin the area. They strongly oppose the application.

Jim Palisade, 16 Edgewood Rd., expressed opposition to the project, expressing concern with the issue of density. The project lowers the standards and takes away from the character of the street, in his opinion.

Janet Kaiser, 14 Edgewood Rd., was sworn in and commented on the prior testimony regarding some standard lots mentioned by Mr. Stone. She is prepared to show slides and photos of the area. The photos were marked O-6, including eight sheets – 2 photos on each - with addresses and descriptions of the photos. Via the slide show, she showed the lots along the street and described the homes shown in the photos. She sees no compelling reason for the variances, and thinks it will be an eyesore on the street. It will not enhance the neighborhood and will be out of character with the neighborhood. She also expressed her opinion that a precedent may be set. She does not see the benefit and asked the Board to vote against the application.

Mr. Stone asked Mrs. Kaiser how large her property was, and she stated it is just over $\frac{3}{4}$ acre. Mr. Stone pointed out that the R-3 Zone required $\frac{3}{4}$ acres, and her property complies. He noted that each lot on Edgewood Rd. is a $\frac{3}{4}$ acre lot, except for a few. The proposed two lots in this application are both $\frac{3}{4}$ acre in size, according to the requirement of the R-3 Zone. Questions regarding variances were not appropriate, according to Mr. Steib. Mr. Stone noted other lots in the R-3 Zone with the same frontage as the two proposed lots. Mrs. Kaiser noted that the homes he is referring to are on Circle Drive and not on Edgewood Rd.

Burt Kaiser, 14 Edgewood Rd., was sworn in and also had a presentation for the Board, including photos (O-7), all supporting his objection to the application.

Jacqueline Gavia, 6 Edgewood Rd., was sworn in and expressed her objection to the subdivision. She thinks it will change the dynamic of the street and affect its character.

Peter Coleman, 132 Buena Vista Ave., Fair Haven, was sworn in and thinks serious water issues will occur with the development of two homes.

Richard Jones, 37 Navesink Ave., was sworn in and testified as to the water issues in the area, expressing his opinion that mitigation would not be applicable on these lots. He read from a prepared statement, expressing his opinion regarding the effect on the area, due to the increase in storm water. It was noted that the Mayor and Council are aware of water issues in this area and have addressed some of the issues already.

Kathryn Grabowy, 33 Circle Drive, was sworn in and described the street, noting the extensive water issues in the area, due to the lack of storm drains. She also commented on the lots on Edgewood Road, which have much larger lots, even though they are also in the R-3 Zone. She objects to the removal of the trees, as proposed, and is concerned that the disturbance will affect the water issues and runoff. She agrees this will change the character of the neighborhood and also agrees it may set a precedent for others.

Chairman Lospinuso asked Ms. Grabowy to explain her opinion as to why Circle Drive and Edgewood Road are different, and she proceeded to explain the differences in the shapes of the lots, which are predominately the same size at $\frac{3}{4}$ acres.

Terry Sheridan, 15 Edgewood Rd., was sworn in and stated no objection to the proposed lot on Orchard, but objects to the subdivision on Edgewood Road. He thinks the disturbance on the lots and the removal of the trees will not enhance the neighborhood.

John Conklin, 8 Brookside, was sworn in and expressed no objection to the application. Has has experience with these applications, since he has been a member of the Rumson Zoning Board for many years. He commented that the construction may cause additional water problems, as he has seen in the past. He thinks the drainage issues are the main issue. Dr. Lospinuso asked if he had a problem with the "bow tie" issue, and Mr. Conklin said he did not know about this, but he knows people do not like change. Chairman Lospinuso asked his opinion regarding Circle Dr., as compared to Edgewood Rd., and Mr. Conklin said he has no opinion on this. He is concerned about the water on the lots in question and the drainage, which he thinks will pose a problem.

Mr. Stone asked Mr. Conklin if the two proposed $\frac{3}{4}$ acre lots would be consistent with the others in the R-3 Zone, and Mr. Conklin said he was not familiar with the lots in question. Mr. Stone thinks the two lots at $\frac{3}{4}$ acres conform to the zone and are fully compliant, other than the lot circle variance.

A short recess was taken at this time (9:30 p.m.).

John Lembeck, 41 Washington Ave

Mr. Steib announced that this application will be carried to the 8/4/16 meeting with no further notice required.

Edgewood Development (Continued)

Mr. Leckstein, attorney for the Tate's, owners of Lot #3, said they were reluctant to either object or support the application, since all will be their neighbors. They are in favor of the subdivision on Orchard.

Mr. Steib reviewed that the original application requested that a restriction that had been passed on the "bow tie" from a prior subdivision be removed (that portion could not be built on for a residential home). The applicants have now withdrawn their application for this portion of the lot, so that restriction remains.

Mr. Brodsky, attorney representing other objectors from Edgewood Rd., thanked the Board for their time and attention to the matter. He reviewed the testimony from the last two hearings, noting again the

requirement for the variance for the circle requirement, which can be provided with the moving of the dividing line between the two lots. He noted that a normal, parallel dividing line would not allow them to meet the circle requirement. He also does not think they meet the C-1 or C-2 standards. He reviewed the testimony of his experts, including Mr. Steck, planner, and Mr. Cranmer, engineer. He does not think the applicant has shown any benefit with this application, and he believes the drainage and water issues will be made worse with this proposal. He feels the only benefits with this application are to the developer and not the neighborhood.

Mr. Stone also thanked the board for their time and effort. He agreed that the application should rise and fall on the law and testimony heard. He pointed out several issues regarding economics, as heard from Mr. Brodsky, and Mr. Stone noted this should not be an issue for approval by the Board. Also, he does not think a precedent would be set in the borough by the granting of this approval, since each application is presented on its own merits. He reviewed the experts' testimony and noted that the severing of the "bow tie" lots was acceptable to most people. This would be a benefit to this application, in that they can maintain two separate zones. He reviewed a prior application for the lots, at which time variances were granted. He pointed out that the restriction on the lot will be maintained with their application leaving an application on Edgewood Road. He does not think they are seeking maximum relief, in that they would have two lots that conform to the R-3 zone as to size, and the dividing line was minimally changed, in his opinion, and is not offensive. The testimony of Mr. Steck was reviewed, which included the need for a hardship in the C-1 variance; however, the C-2 variance does not require a hardship.

He summarized that they have two fully conforming lots on a street on which nearly all of the lots would require the lot circle variance, as they are seeking today. He thinks this is a diminimus application, moving the lot circle back 8'. He thinks they need to consider the entire neighborhood and not just Edgewood Road. He feels the Master Plan strives to bring conformity, and this application would provide fully conforming lots, except for the one lot circle variance. He reviewed the benefits and detriments, noting the conforming lot widths and the "bow tie" area separating the zones.

The drainage issue was mentioned, with Mr. Stone assuring everyone that the homes would comply with whatever requirements are determined necessary. Once the footprint is created, the engineer will be able to suggest mitigation to improve the water issues on the street, and the plans will be reviewed by the borough for approval. He believes the Board has an opportunity to gain control of this piece of property and can impose conditions of approval. He thinks the application can be approved, although he realizes that the residents on Edgewood Rd. are not happy with the application. He does not think this would be overdevelopment of the property, since both lots conform in size. He hopes the Board approves the application.

Mrs. Williams asked what the recourse would be for people who were not happy with the decision of the Board, and Mr. Steib explained the options, which would follow through the court system.

Councilman Rubin asked if the variance for the "bow tie" can be waived, and Mr. Steib said it could not.

Mr. Hewitt asked about the lot circle requirement, and Mr. Steib explained how this helps control development on a lot and the techniques used to apply this control. This lot could not provide the circle requirement as required by ordinance.

Mr. Casazza thinks the purpose of the zoning ordinance is conformity, and this variance would lose the conformity on the street, if approved. He does not think they would be accomplishing the intent of the

zoning ordinances. The angle of the curb allows them to say the frontage meets the requirement, but the intent of the law will not be accomplished.

Comments of the Board were heard at this time:

Mr. Clark thinks the “bow tie” is a good thing. The issue is lot 4.0 and the variances required. He thinks many of the same issues would arise if a single house were built as to flooding issues. The C-2 variance can be granted, unless it is shown to be substantially detrimental to the neighborhood, which he has a hard time with.

Mrs. White sees no problem with the “bow tie”. She is comfortable with the subdivision, but her concern is with the water issue, and two houses, driveways, etc., which will have more impervious surfaces, etc., adding to water problems. She does not think the drainage testimony will make that much of a difference. Also, she feels laws are put in place for a reason and for the protection of everybody and the character of the town. She does not think you can compare the houses that are already there and whether or not they can meet the circle requirement. She does not see a reason to grant the variance.

Mayor Ekdahl recalled that the circle requirement was thought to be a more efficient way to deal with placement of homes on a lot. In this case, they do not meet the circle requirement.

Councilman Rubin thinks it is a self-created hardship with the C-1 and the C-2 variances, and he thinks the detriments outweigh any benefits.

Ms. Baret said she has difficulty accepting the benefits of the C-2 variance, and she wishes they could separate the “bow tie” from the other portion of the application. She questioned the conformity of the R-3 Zone as compared to the existing neighborhood.

Mr. Hewitt feels there is more of a detriment than benefit, and the water issues are a problem. The lot circle requirement and the character of the neighborhood are both important.

Mr. Shanley chose to not comment and will abstain from voting due to personal reasons.

Mr. Gaynor thinks both councils presented good arguments. The lots seem to meet the R-3 requirements, except for the lot circle, which he has a hard time accepting. He thinks the proposal will change the look of the neighborhood.

Mr. Casazza said it is not an easy decision, but he thinks the lot circle is an important item, and the neighborhood will look different if the application is approved. He thinks the “bow tie” is a positive factor, but it is not enough to approve the variance.

Dr. Lospinuso said that the Board always takes into consideration the thoughts of the neighbors, and he knows no one likes change. There may be a benefit to the town with the “bow tie” aspect. He thinks the street scape issue has some merit, but this development may not provide the best thing for the street. He has a problem with the drainage, and he thinks this is a big issue in this case and something that may be brought before Mayor and council at a future date.

There being no further comments, Mr. Casazza moved to approve the application. Mr. Gaynor seconded.

Roll Call Vote: Ayes – None

Nays – Rubin, Ekdahl, White, Clark, Hewitt, Williams, Gaynor, Baret, Casazza
Abstain – Lospinuso, Shanley

The motion failed, and the application is denied.

There was no need for an executive session. Mr. Casazza will act as chairman for the August meeting, due to the recusal of some of the Board members on the Lembeck application.

The next meeting will be **Monday, August 4, 2014.**

Motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 11:00 p.m.

Respectfully submitted,
Patricia Murphy
Clerk