

BOROUGH OF SPOTSWOOD
77 Summerhill Road
Spotswood, New Jersey

Planning Board
September 6, 2016
7:30 PM

The regular meeting of the Planning Board of the Borough of Spotswood was called to order by Chairman, John Meyer at the Spotswood Municipal Building, 77 Summerhill Road, Spotswood, NJ.

The notice requirements provided for in the "Open Public Meetings Act" have been satisfied. Notice of this meeting was properly given in the new schedule of meetings of the Spotswood Planning Board on January 4, 2016. The new schedule was transmitted to The Home News Tribune; it was filed with the Clerk of the Borough of Spotswood and posted in the Spotswood Municipal Building, 77 Summerhill Road, Spotswood, NJ.

Present were: John Meyer, Charles McCook, Business Administrator Dawn McDonald, Larry Kraemer, Jose Rivera, James Farley, James Kinneally, Esq., Bruce M. Koch, P.P., P.E, C.M.E.

Absent were: Mayor Nicholas Poliseno, Council President Curtis Stollen, Mark Koppel, Robert McNutt, Rich Williamson, Kellen Decker, Daniel Auciello

APPLICATIONS

Mr. Meyer reminds the Board that this matter is a continuation of a previously heard application.
(January 19, 2016)

Safwat Youssef
17 Adirondack Avenue
Block 65; Lots 13, 14 & 15

Lawrence Sachs, Esq. represents the applicant in this continuing matter. Mr. Sachs reminds the Board that Mr. Marc S. Leber, P.E., P.P., C.M.E., and Mr. George Toma, Architect for the applicant previously made a presentation at the January 19, 2016 hearing where two (2) major issues came up.

1. Concern about possible wetlands on the site
Regarding the approvals required of outside agencies, Mr. Koch feels that DEP approval should be received before the Board acts on this application. Mr. Leber stated that per public record information, no wetlands exist.¹

Since January, his client has obtained a letter of interpretation from the DEP which indicates that these are ordinary wetlands and there is no buffer required.

¹ Excerpt from January 19, 2016 Planning Board Minutes, Application of Safwat Youssef, 17 Adirondack Avenue, Block 65, Lots 13 & 14.

2. Borough-owned property located adjacent to this site; Block 65, Lot 15

Mr. Meyer questioned ownership of Lot 15. The property is owned by the Borough. To date, no attempt has been made by the applicant to purchase Lot 15. If the applicant were to purchase the lot, it would negate the need for the front yard variance. Mr. Sachs advised that the applicant will inquire as to the possible purchase of Lot 15.²

Subsequent to that meeting in January, Mr. Sachs approached the Business Administrator about acquiring Lot 15. If the Board acts favorably on this application, his client will be acquiring the property for the purchase price requested by the Borough. Revisions to the plans have been made to include Block 65, Lot 15.

Mr. Sachs advises that his Engineer, Mr. Marc S. Leber, P.E., P.P., C.M.E., (previously sworn in and accepted as an expert on January 19, 2016), is here this evening and will indicate what those changes are. Mr. Sachs also advises that he has received a report from Mr. Koch, P.E., P.P., C.M.E., Borough Engineer; they have reviewed the report and are prepared to respond to all questions and concerns Mr. Koch has.

Mr. Meyer asks Mr. Sachs to review for the Board, and any members of the audience not present at the January 19, 2016 meeting, the purpose of his clients application.

The purpose of this application is to obtain a minor subdivision in the R-10 single family zone. The property consists of three (3) lots totaling 26,600 sf (0.61 acres) with an existing 2-story frame dwelling on the northerly, which is to be demolished. The applicant is proposing a subdivision to create two (2) new building lots on which two (2) new single family homes are to be constructed, which are in a flood hazard zone.

The northerly lot, proposed Lot 13.01, would have a square footage of approximately 12,499.81 square feet. It complies with all of your bulk requirements. The only variance being sought for this lot is for the size of the garage. All other setbacks are met.

Lot 14.01, the southerly lot, will have a total area of about 14,101.08 square feet. Both lots will have detached garages. Mr. Leber will explain, based upon the fact that lots these are located in the flood zone, there are certain requirements with respect to the garages that we have to comply with. This particular lot, we are seeking a variance for the size of the garage, and the fact that it is in the front yard setback. In all respects, it satisfies your bulk requirements.

Mr. Kinneally reminds Mr. Leber that he is still sworn in to tell the truth.

Mr. Sachs reminds Mr. Leber that he was previously sworn in and gave testimony at the January 19, 2016, hearing regarding this particular project.

Mr. Meyer recommends that Mr. Leber turn the easel so members of the audience are able to view the drawing.

² Excerpt from January 19, 2016 Planning Board Minutes, Application of Safwat Youssef, 17 Adirondack Avenue, Block 65, Lots 13 & 14.

Mr. Leber describes the revisions to the plans, which now include Block 65, Lot 15, and refers to his exhibit. The exhibit is a copy of drawing sheet three (3) of the plan set; last revised August 8, 2016. Mr. Sachs states that the exhibit is A-2, and was included as part of their submission.

1. Lot 15, which is a borough-owned lot, has been added to the development. At the last hearing, they requested a front yard variance for a detached garage. By incorporating Lot 15, a 20' wide lot on Snowhill Street, they were able to move the garage further from Adirondack Avenue so that it is no longer in the front yard space, thereby eliminating the variance. By including that lot in the development, this lot got larger square footage wide which will then reduce the calculated building and lot coverage which still complies with the ordinance.
2. The applicant completed a freshwater wetlands investigation in the property and the wetlands line does not contain a buffer (transition area). The NJDEP issued a letter of interpretation, which states the wetlands line as delineated in the field is accurate as shown. In that letter they indicate what kind of buffer is associated. In this particular case, the wetland buffer is 0 feet. It is classified as what is known as an ordinary resource wetland, so there is no buffer.
3. The proposed detached garage on Lot 14.01 has been moved further from the street, thereby eliminating a variance condition.
4. The parking calculation on the cover sheet has been revised to be based on five (5) bedroom dwellings. This results in 3.0 spaces per unit. Two (2) will be garage spaces, the other a driveway space. There was a comment about the parking requirement. Because the architectural plans had a room on the first floor that could potentially be used as a bedroom, although it was not indicated as a bedroom, that perhaps we should be going with the five (5) bedroom standard and not the four (4) bedroom standard. So we increased the parking requirement to three (3) spaces per unit. By moving the garage on Lot 14.01 further west, we were able to increase the length of the driveway space, thereby complying with the three (3) space driveway requirement.
5. Sidewalks are proposed along Adirondack Avenue and a 5' wide sidewalk easement has been added to the plans. A metes and bounds description will be forwarded should the Board approve the application. The previous plan did not include sidewalks on Adirondack Avenue; this plan proposes sidewalk around the entire frontage as well as a 5' wide sidewalk easement to accommodate the sidewalk.
6. The existing ADA ramp at the corner has been labeled to be replaced with a conforming code compliant ramp.
7. All trees to be removed have been noted on Sheet 2. Additionally, on Sheet 3, note 12 has been added to require the replacement trees as per Borough Ordinance.
8. The existing water and gas mains have been added to Sheet 2.
9. The sawcut areas have been labeled on Sheet 3.
10. Note 13 has been added to Sheet 3 clarifying that existing utility connections shall be abandoned at the main, and not at the service point. The original plan was designed to reuse the existing utility connections that serve the house that is there now. That's not the case anymore, each house will have its own connection; the old connections will be removed.

11. The property is situated in an area that receives offsite flooding, but does not generate offsite flooding. Due to this, a flood hazard permit is required by the NJDEP. The applicant has begun the process of flood hazard permitting. The review of stormwater will be subject to the NJDEP.
12. Note 11 on the cover sheet has been revised to remove the conceptual footprint wording. The houses are not conceptual; they are actually the houses they intend to construct.
13. Note 14 on the cover sheet has been revised to clarify that all utility connections shall be new.
14. The applicant submitted an application to the NJDEP for a freshwater wetlands line verification. During the process, they had performed soil logs to establish the water table. The water table is greater than 24" below grade. The homes will be constructed on crawl spaces which are set at the existing ground elevation. Therefore, there will not be groundwater in the crawlspace areas. We were asked about the crawlspace elevations on the plans. The reason the houses have crawlspaces and not basements is because this is in fact located in the flood hazard area and within that area you cannot have a basement. There was a comment that no utilities shall be permitted in the crawlspace and which we will adhere to.
15. The plans depict the limits of the floodway as per the NJDEP. The base flood elevation of 29.1 results in the entire property being within the flood hazard area. The flood hazard area design flood elevation is $29.1 + 1.0 = 30.1$. Same is subject to review by the NJDEP as part of the flood hazard area permitting process.
16. A question was raised at the public hearing as to how the lots would drain. The proposed plan depicts driveway runoff predominately draining towards the street while the side and rear yards drain towards the wetlands in the back. This is similar to the existing conditions.
17. Regarding the EFMA flood zone line, the line depicted is the floodway limit. The flood zone comprises the entire property.
18. Additional construction details have been provided on Sheet 5 for the driveways, water service, and concrete aprons. Now we are proposing concrete aprons at the driveways to make the transition from the street to cross the new sidewalk.
19. Note 10 has been added to Sheet 3 regarding placement of cleanouts and water boxes.
20. Note 11 has been added to Sheet 3 regarding separation of water and sanitary sewer service lines. Additionally, the location of the proposed water service on Lot 13.01 has been shifted away from the sewer line. We had clarified the separation of the water and sewer service lines to provide a minimum 10' separation.
21. A minor subdivision map shall be provided, in accordance with the Map Filing Law, should the Board grant approval. We discussed at the last meeting that the subdivision would be filed by deed. In fact, that's not the case. We are going to provide a subdivision map, which is actually better.
22. Middlesex County Planning Board had issued a letter of no interest on January 26, 2016.
23. The applicant will obtain other required agency permits as applicable. The only agency permits we still have to apply for would be Freehold Soils for land disturbance, we need a "Wetlands General Permit" because there is an area shaded in the back which consists of 1,478 sq. ft. that would have to

be filled to accommodate the garage. And then finally a flood hazard permit from the State to permit the two (2) dwellings to be constructed.

The CME September 5, 2016 report was discussed. Under "Project Review" (item 2) there is an error in the last sentence of the third paragraph. There is no need for a variance for the garage being in the front yard setback, but they do need variances for the size of both of the garages.

Under "General Site Improvements", item #3 - Discussion took place regarding the Residential Site Improvement Standards (RSIS), and NJDEP Best Management Practices. Mr. Koch asked Mr. Leber if he had any testimony he would like to offer with regard to the storm sewer management. Mr. Leber explained that although this property is in a flood hazard area; it is not causing a flood but it is receiving flooding from other properties. Mr. Leber explains NJDEP regulations for Storm water management. This property is less than one acre so even if we disturbed 100% of the lot we would still not be required to provide storm water management. In this particular case, this is no requirement to detain any water. Mr. Leber added that the NJDEP will be reviewing during the Flood Hazard Permitting process. Mr. Leber reiterated points made in his report.

Mr. Meyer asks if there will be changes, depending on what the NJDEP says. Mr. Leber does not think so. Mr. Leber states that he believes that the NJDEP is going to look at this and because it is in a flood plain and it is going to receive flooding they would agree with the scenario that the front of these lots should drain towards the street and that the rear would continue out toward the wetlands.

Mr. Koch questions if there are changes then I believe they're asking the Board if they want to handle them between us administratively or if that matter must be revisited by the Board. If there is anything substantial, the Board may want to weigh in on that.

Discussion about the site being flat and the concern of standing water; unable to get the minimum 2% minimum slope on the lawns because you can't fill the site due to the flood zone.

Discussion about catch basin in front of proposed Lot 13.01; possible pipe entering from back of property, possibility of connecting roof leader drains.

Discussion about swale/possible hand-dug ditch on property that was used to bring water out of there. Mr. Koch asks Mr. Leber to double-check this and if that's the case, make some provision to not block that flow of water. It goes back twenty/twenty-five years ago, but it helped drain the back area which was creating a bit of a nuisance for folks that had property that backed up to it from Madison.

Item # 4, discussion about the number of bedrooms and adequate parking on the site pursuant to the RSIS for both dwellings.

Item # 5, Mr. Koch notes that on the plans there is mention about sidewalks in disrepair, but no mention of curbs. Requests Mr. Leber amend the plans to include curbs in disrepair as well. Mr. Leber agrees.

Item # 6, the applicant is providing a conforming handicap ramp at the corner of Snowhill Street and Adirondack Avenue. They are also providing a sight-triangle easement. A metes and bounds description for the easement should be submitted for review.

Item # 8, the applicant shall submit a drainage report, signed and sealed by a NJ licensed Professional Engineer, detailing the pre-development and post-development run-off and how it will be mitigated.

Item # 9, the applicant is not proposing a basement on either home but is proposing a crawl space on each with flood vents. No utilities shall be permitted in the crawl spaces, such as water heaters, etc. Mr. Koch requests that the bottom of the floor joists should be above the flood elevation also. Mr. George Toma, Architect (previously sworn in January 19, 2016) responds that they are and utility rooms are located on the first floor, per the drawings.

Item # 10, the applicant has obtained a NJDEP Freshwater Wetlands Letter of Interpretation Line Verification for Lots 13 and 14; applicant's engineer shall submit testimony concerning Lot 15.

Item # 11, the applicant shall obtain NJDEP approval for the construction in the flood zone.

Item #12, the applicant shall provide a plan demonstrating how the property will be graded to prevent and standing water on the site and to provide positive run-off.

Item # 13, profiles of the proposed driveways shall be provided to demonstrate that they will drain properly; want assurance that water won't stand there and it doesn't block the flow of water from one side to the other where the driveway crosses.

Items # 14 – 21, Minor Subdivision Surveyor Comments – agreed to by applicant.

Item # 22, Freehold Soil Conservation Service approval or waiver shall be obtained.

Item # 23, if the application is approved by the Board, the Resolution should include a condition indicating it is based upon the applicant purchasing Block 65, Lot 15 from the Borough, that the two (2) proposed homes will be for single-family dwellings only, and the two (2) proposed garages shall not be allowed to have garage doors installed or the openings to be closed in. Mr. Kinneally and Mr. Sachs agree that a Deed Restriction is acceptable; ensures that it will show up on a title search and any prospective purchaser is aware of the restrictions.

Item # 24, various notes on the plans that must be eliminated or revised; which are in conflict with one another. Mr. Koch and Mr. Leber will work on this to resolve.

Item # 25, copies of any easements, exceptions, deviations, or liens on the property should be presented to the Board.

Item # 26, applicant's escrow and application fees should be submitted, if not previously paid.

Mr. McCook questioned that the original proposal and Mr. Koch's original report showed one house having four (4) bedrooms and an office; the other house having a den (not sure how many bedrooms). Now the application says five (5) bedrooms and an office. Are we now up to six (6) bedrooms? Mr. Koch feels it is now an acknowledgement of the potential use of the additional rooms, but recommends the Architect respond for the record.

Mr. George Toma, Architect (previously sworn in January 19, 2016) responds; there was concern at the previous hearing about using the office on the first floor as a bedroom and the quest was to include additional parking as if it was five (5) bedrooms, although the drawing had indicated only four (4). By pushing the garage back, we accomplished the additional parking spaces just in case anyone who purchases the house uses the room as a bedroom. The houses are designated as four (4) bedrooms plus an office or den. Mr. Koch states that they could be five (5) bedrooms.

Mr. Kraemer questions the front runoff on both houses, as the other side of the street floods out. Will this create a problem that floods quicker? Mr. Koch advises that Mr. Leber had previously offered testimony regarding this issue and further explains stormwater runoff; time of concentration; the 48" pipe underneath the railroad behind the auto body. This is a delicate situation because we don't want to create a problem, but they have so far demonstrated the ability to get permits. If the NJDEP raises a question, Mr. Koch will work with Mr. Leber and advise the Board. It will be the Board's decision if the matter comes back before the Board to listen to what has occurred, decide if there is something else, or if the approval is null and void.

Mr. Rivera questions if the office listed in the plans will be a home office, or if it will be a commercial office. Mr. Sachs advises that it is a home office, strictly residential use.

Mr. Meyer makes a motion to open the matter to the public, seconded by Mr. Kraemer. All present were in favor, and the public portion of the meeting was opened.

Jeffrey Reinhard - 16 Madison Avenue (sworn in)

Concerned about flooding on Madison Avenue; that property has 3"-6" water all spring. The property where the Engineer marked with flags had standing water on it; which was present when the flags were placed. Water does not run off to the rear, right side of the property; it comes from there. When it rains, his property floods in the front near the fire hydrant, fills a little gully near his house back towards there. If it is filled in the back of these properties, the water will be pushed to his yard. Once the property floods, or after the snow melts, the water will sit there for two (2) to three (3) months.

Mr. Koch explains that there is a large wetlands area and network of streams that runs up in the middle zone. This is a very sensitive area environmentally, which is why there aren't houses there to a great extent; they are built around it but not reaching into it. There will likely be standing water on this lot as well as where Mr. Reinhard is describing. There will not be much change.

Mr. Reinhard is concerned about the flooding issue moving to his property once the house is built, top soil is put down and the elevation is raised. Mr. Koch says they can't. Mr. Reinhard mentions flooding concerns further up the street. Mr. Koch explains that was done without a permit and then subsequent to the house being built, a permit was obtained. Someone accidentally got a permit without going to the NJDEP. The NJDEP did grant a permit for the house to stay there, but that was not done beforehand. That is why the Board is asking for it in advance, to make sure the Board is aware of the situation. But now, they have to go back to the NJDEP, to a different Bureau, and they are not allowed to fill in the flood zone.

Mr. Meyer adds that nothing will happen until the NJDEP gives them the approval. Mr. Koch agrees. Mr. Meyer adds that there was an attempt to address the drainage many years ago, but it was not successful because of the NJDEP. Realize it is a localized issue, but it is in fact part of a global issue that they did attempt to resolve but the NJDEP would not allow them to.

Mr. Meyer states that it is the mission of the Planning Board, when they review plans, to not make a situation worse than it already is. Everybody has the right to use their property in accordance with all of the restrictions in place within the Borough, but it is the Planning Board's goal to not make it any worse on the neighbors. In most cases, with cooperation from the applicant, the Board can make it better. That is the goal of the Engineer also.

Mr. Reinhard mentions that years ago he was advised he was not permitted to put topsoil down. Mr. Koch agrees this is correct. Mr. Reinhard would like to know who he should contact if he notices topsoil being put down. He did contact the Borough about trees being removed; Mr. Koch advises the Borough does

not have an ordinance regarding tree removal (unhealthy trees). Mr. Reinhard inquires if there are regulations about removing trees in wetland areas. Mr. Koch states that the NJDEP does, and Mr. Reinhard should contact the NJDEP Enforcement Bureau for anything he sees happening in the wetland areas, and they should send someone out to investigate.

Mr. Meyer made a motion to close the public portion, seconded by Mr. Rivera. All present were in favor, and the public portion of the meeting was closed.

A motion to approve the application subject to the testimony that has been offered tonight, as well as at the previous hearing, and any of the requirements from the Board Engineer that have been discussed, was made by Mr. McCook and seconded by Mr. Kraemer. A roll call vote was taken and all members present agreed.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Meyer			X			
Mayor Poliseno						X
Mr. McCook	X		X			
Ms. McDonald			X			
Mr. Stollen						X
Mr. Koppell						X
Mr. Kraemer		X	X			
Mr. Rivera			X			
Mr. Farley			X			
Mr. Williamson						X
Ms. Decker						X
Mr. Auciello						X

Mr. Kinneally advised that he has taken notes of all of the conditions and will include them in the resolution. The matter will be memorialized at the next Planning Board Meeting. (October 4, 2016)

MINUTES – July 19, 2016

The minutes of July 19, 2016 were submitted to the Board for acceptance and/or amendment. Mr. McCook moved that the minutes be approved as submitted, Mr. Kraemer seconded the motion. All present were in agreement, and the minutes from July 19, 2016 were approved.

PAYMENT OF VOUCHERS

Vouchers were circulated to the Board. Mr. Rivera moved that the vouchers be approved for payment, Mr. Kraemer seconded the motion. All present were in favor, and the vouchers were approved for payment.

MEMORIALIZATION

None before the board.

OTHER BUSINESS

The board received a ‘thank you’ card from Sue Milko for the gift card. Mr. Meyer reminded the Board of the gift sent to Ms. Milko upon her retirement as Board Secretary.

Mr. McNutt has tendered his resignation from the Board, effective immediately, as he is moving out of the Borough and would not be eligible to serve.

Ms. McDonald advised that she spoke with Mayor Polisenio this evening, and he would like to make a recommendation and to appoint Mr. Farley (Alt # 2, term exp. 12/31/16) to a regular position to fill the seat vacated by Mr. McNutt. Mr. Farley has been faithfully coming to every meeting and we appreciate your diligence. Mr. Farley accepted. Ms. McDonald asked the Board for recommendations to fill Alt #2 seat; advised to forward any names to her or the Mayor.

Members discussed the next meeting date. As there are no matters scheduled for September 20th, all present agreed to cancel the September 20, 2016 meeting. Notice will be posted on the Borough website and bulletin boards. The next scheduled meeting date is Tuesday, October 4, 2016.

Ms. McDonald updates the Board about the application for a single-family home at 95 Harris Avenue. The seller of the property Ms. Bove backed out of the sale after she became aware that the builder, Big Sky, was planning to build a group home instead of a single-family home.

ADJOURNMENT

As there was no other business before the Board, Mr. Meyer moved that this meeting be adjourned. Ms. McDonald seconded the motion. All present were in favor, and the meeting was adjourned at 8:20 PM.

NEXT SCHEDULED MEETING

October 4, 2016 at 7:30 P.M.

Location: Court Room, 77 Summerhill Road, Spotswood, NJ

Respectfully submitted,

Kimm Zielinski

Kimm Zielinski
Board Secretary

Approved at meeting held on:
October 4, 2016