

WEST WINDSOR TOWNSHIP PLANNING BOARD
REGULAR MEETING
April 17, 2019

The regular meeting of the Planning Board was called to order at 7:08 pm on Wednesday, April 17, 2019 by Chair O'Brien in Meeting Room A of the Municipal Building.

STATEMENT OF ADEQUATE NOTICE

Pursuant to the Sunshine Law, a notice of this meeting's date, time, location and agenda was mailed to the news media, posted on the township bulletin board and filed with the municipal clerk on April 10, 2019.

ROLL CALL AND DECLARATION OF QUORUM

Sue Appelget
Linda Geevers
Curtis Hoberman
Michael Huey
Andrea Mandel
Hemant Marathe
Simon Pankove
Allen Schectel- Alt I
Michael Karp
Gene O'Brien

There were no public comments on non-agenda items.

CONSENT AGENDA:

January 23, 2019 minutes

Page 2, Resolutions Item b, fourth paragraph from the bottom, Mr. Huey requested the language be changed to "The ordinance as it is written does not create a safety concern for motorists because it complies with New Jersey highway safety standards".

Page 2, third paragraph from the bottom, change sentence to "Counsel Muller agreed to revise the resolution accordingly".

Ms. Appelget pointed out on page 3, seventh paragraph, second line, Lot should be Lot 20.

Page 4, eighth paragraph, Ms. Geevers requested "new" be added before "buildings".

Page 7, third paragraph, "is" should be "are".

Page 7, third paragraph from the bottom, Ms. Geevers requested that sentence be changed to "In response to Ms. Geevers request to provide electric charging stations, the applicant will put in conduits".

Page 9, #2 under Conditions, Ms. Appelget suggested adding the following language to the second sentence "if there is a request for change of use of that space".

Motion made by Mr. Huey to approve the January 23, 2019 minutes with changes. Seconded by Ms. Geevers. Motion approved by voice vote, with Mayor Marathe, Mr. Pankove and Mr. Hoberman abstaining.

February 27, 2019 minutes

Page 3, second paragraph, Ms. Mandel suggested that "occurred" be replaced with "obligations".

Motion made by Mr. Hoberman to approve the February 27, 2019 minutes with one change. Seconded by Ms. Mandel. Motion approved by voice vote, with Mr. Huey and Mr. Pankove abstaining.

March 6, 2019 minutes

Page 4, first paragraph under "Environmental Commission", "Sustainable NJ" should be "Sustainable Jersey" in two places in the paragraph.

Motion made by Mr. Hoberman to approve the March 6, 2019 minutes with changes. Seconded by Ms. Mandel. Motion approved by voice vote, with Mr. Huey, Mr. Schectel and Mr. Pankove abstaining.

LIAISON REPORTS:

a) Environmental Commission

Ms. Mandel reported that the Sustainable Jersey Certification is due June 3, 2019. Within a few weeks of turning in the application, feedback will be provided. The Commission will have until October to make corrections.

There will be a resolution at the April 29, 2019 Council meeting to help the commission with reinstating the Environmental Commission and the Green Team.

Green Fest was a big success. West Windsor Township had two tables. One displayed the township's accomplishments and the other was the Girl Scouts showing people how to recycle. There was a bin for the plastic bag collection project to support getting a bench for the township.

There will be an autonomous car summit held on Princeton University property, May 14 through May 16, 2019. The schedule is on-line.

b) Affordable Housing Committee

Mr. Schectel reported that the committee is looking at the ordinance concerning housing fees and using these fees to get affordable housing unit communities out of foreclosure.

Counsel Muller commented that several years ago under the Christie administration, there was an effort made to take Affordable Housing Trust Fund money that had not been spent by the municipality. West Windsor established a foreclosure program and put about \$100,000.00 in this account for the purpose of providing funds to help affordable housing communities in foreclosure.

Mr. Schectel said they also talked about recertification for affordable units. Ms. Geever asked if there is something in the statute that the township is responsible to recertify people in affordable housing.

Counsel Muller said there is no statute or code regulation making the township responsible. The Fair Share Housing Center takes the position that people in the units should stay even if they are no longer eligible.

Mr. Karp mentioned that in NYC they have yearly income checks for eligibility; and, if tenant is no longer eligible, the rent can be raised. The burden should be on the landlord to certify occupants.

Mr. Schectel feels that the rules should be enforced equally between owners and renters.

Mr. Karp replied that owners have restrictions when they sell.

Counsel Muller added that NJ laws are in favor of tenants, making it more complicated.

APPLICATION: PB 18-01 Pamela Schnitter

Chair O'Brien stated that this is a reconsideration of the Resolution of Memorialization. At the September 26, 2018 meeting, an application was heard for a subdivision presented on behalf of Pamela Schnitter. After lengthy deliberation and discussion, the application was approved with waivers and conditions. The Resolution of Memorialization was adopted at the January 23, 2019 meeting. Additional information has come forward so a motion to reconsider is in order. Counsel Muller prepared a modified Resolution of Memorialization. Ms. Appelget, Ms. Geevers, Mr. Huey, Ms. Mandel, Mr. Schectel and Chair O'Brien voted on the original resolution, so can vote on the motion to reconsider.

Mr. Huey made a motion to reconsider the action on January 23, 2019 adopting the Resolution of Memorialization of the action that was taken at the September 26, 2018 meeting. Seconded by Ms. Appelget. Motion approved by voice vote.

Mr. Guzik and Mr. Surtees were sworn in. Counsel Muller highlighted the points that will be reconsidered from the track change version.

Mr. Surtees explained that with regard to calculating FAR, the situation that exists on the property is that the property boundary line actually extends out into the physical roadway on North Mill Road. Ms. Schnitter has been paying taxes on the 20,000 square foot new lot A, where the physical roadway goes through her property.

Under the approval, Mr. Guzik's office requested that part of the physical roadway be dedicated in fee simple to the township. This would reduce the lot size and make it a non-conforming lot.

Mr. Guzik's office also requested an additional easement granted in favor of the township. That easement area would be calculated in the FAR.

There were several prospective purchasers of the new lot. The Zoning Board would require a deed variance and FAR variance for the size of the home they wanted to build.

Taking into consideration that the property owner has been paying taxes on the physical portion of the roadway going through her property, an easement for the property rather than fee simple dedication was suggested. The applicant could benefit from the 20,000 square foot lot and the FAR would be based on that, allowing a 2,600 square foot home on the lot.

Mr. Guzik agreed that whether by easement or fee dedication, it is just as useful to the township in achieving future improvements for the roadway or future sidewalk. Also, for planning and land use purposes, any new physical building that goes in has to honor and respect an easement area.

The proposed changes prepared by Counsel Muller take into consideration that none of the dedicated land will be fee simple.

Mr. Schectel asked, if by eliminating the portion that is paved, would there still be a problem with FAR. He is concerned with an easement on the street.

Mr. Surtees said that there is about 735 square feet of pavement. Eliminating the portion that is paved would drop the FAR below the level for which a 2,600 square foot home could be built.

Counsel Muller advised that in addition to the change from fee simple dedication to dedication by easement, there is a second change in the resolution concerning the Environmental Impact Statement.

Mr. Guzik explained that one of the standard checklist items is an Environmental Impact Assessment for any application that comes before the Board, including minor subdivisions. A lot of septic system areas were in place in the township. There is a need to know if buying a property is impacted by flood plain or wetlands, which could be detrimental to functioning of an on-site septic system. Those reports and assessments identify wetland areas and West Windsor is very pro-active about protecting their environmentally constrained areas.

When a waiver from providing an Environmental Impact Assessment is requested, the township engineering department checks all available records, including NJDEP mapping. They also make a site visit and look at surrounding land uses. As a result of this review, Mr. Guzik said there were no flags raised and he has no objection to concurring with the waiver request to waive this item until the building permits are sought.

Page 2, item 9, Chair O'Brien pointed out that the last word in the paragraph should be "Item 15", not "paragraph 15".

Mr. Guzik explained that an easement in lieu of fee simple dedication changes the determination of the lot area, because the definition requires excluding the area in the right-of-way. Therefore, the following changes should be made:

Page 4, third paragraph, the third sentence should be deleted.

Page 5, Item 17a, the second sentence no longer applies and should be deleted.

Page 5 and 6, Item 17b, the entire variance should be deleted.

Page 4, third paragraph, last sentence, should be changed to "each lot", not "entire lot" in the first reference to the lot.

Mr. Surtees stated that a variance is still needed for the lot with the existing home on it.

Chair O'Brien suggested that this matter be tabled until the language is finalized.

Ms. Schnitter, the applicant and Mr. Schoen, potential buyer, were sworn in. Ms. Schnitter said while she is eager to resolve this, deferring this will not create a hardship. Mr. Schoen was in agreement.

Mr. Pankove made a motion to table this matter until the next meeting, seconded by Mr. Huey. Motion unanimously approved by voice vote.

ORDINANCE REVIEW ON REFERRAL FROM TOWNSHIP COUNCIL: Ordinance 2019-15, Amend Use Conditions in the E-District (Affordable Housing)

Page 1, A (2), language in bold was added.

Add an "s" to "residence" in the first sentence in bold.

The last sentence in bold, should be changed to add "within West Windsor" after "in a location."

Ms. Appelget recused herself from this discussion.

Mr. Schectel made a motion to approve Ordinance 2019-15 subject to modifications, noting that this ordinance is consistent with the Master Plan. Seconded by Mr. Pankove. Motion approved, 9-0, by roll call vote.

With no other business before the Board, Chair O'Brien adjourned the meeting at 8:28 pm.

Respectfully submitted,

Terri Jany
Recording Secretary