

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD MEETING MINUTES

THURSDAY, MARCH 23, 2017

Mr. Virgona called the meeting to order at 7:39 p.m. The following statement was read:
Pursuant to The Open Public Meetings Act P.L. 1975, Chapter 231, proper notice of this meeting has been provided by fax and mail to The Record and The Ridgewood News on December 16, 2016 at which time the date, time place and purpose of the meeting was set forth and notice was posted on the official bulletin board in the Borough Hall.

PLEDGE OF ALLEGIANCE

Present: Mr. Virgona, Mayor Minichetti, Councilman DeBerardine, Mr. Preusch, Mr. Donato, Mr. Jacobs, Mr. Richardi, Ms. Miller, Mr. Koski

Absent: Mr. Polizzi, Mr. Bakal, Mr. Jacobs, Mr. Bonjuklian, Mr. LaBarbiera

Also Present: Mark Madaio, Esq., Planning Board Attorney
Kevin Boswell, P.E., Boswell Engineering/Borough Engineer
Nicole Ogrosso, P.E., Boswell Engineering for Eileen Boland, P.E., Board/Borough Engineer

APPROVAL OF MINUTES: A motion to adopt the minutes of the February 8, 2017 meeting by Councilman DeBerardine seconded by Mr. Richardi was unanimously approved by all Members present.

CORRESPONDENCE: After reviewing correspondence listed on the Agenda, Mr. Virgona announced the following:

1. The application of **Mattiace – 368 Lake Street – Block 1205 – Lot 8** is carried to the Wednesday, May 10, 2017 Public Hearing without further noticing required.
2. **The Wednesday, April 12, 2017 Planning Board Meeting has been canceled** due to lack of quorum. The next meeting is scheduled Wednesday, April 27, 2017.

RESOLUTION (*Memorialization*)

1. Variance **Application of Michael Park** ***APPROVED***
19 Echo Ridge Road – Block 917 – Lot 5
(Front Yard Setback/*New Front Covered Porch/Steps/Portico*)

Mr. Madaio reviewed the Resolution. A motion to adopt the Resolution as presented by Councilman DeBerardine seconded by Mr. Richardi.

Roll Call: **Ayes: 5** Councilman DeBerardine, Mr. Richardi, Mayor Minichetti, Mr. Koski, Mr. Virgona

PUBLIC HEARING

1. Variance Application of **Timothy & Vanessa Ford**
11 Sparrowbush Road – Block 102 – Lot 9
(Easterly Side Yard Setback/*HVAC Units*)

Timothy Ford, duly sworn by Mr. Madaio, advised in April 2016 the Planning Board granted several variances to permit the expansion of the current garage, raise the roof line, construct a second story addition and relocate the existing HVAC unit on the property located at the northeast corner of Sparrowbush Road and Cobblestone Drive. Since that time it was determined the proposed re-location of the HVAC units next to the patio at the rear of the house was a poor location.

The following exhibits were submitted and identified: **A-1:** *Proposed Air Conditioner Relocation Plan, dated February 22, 2017 prepared by Fox Architectural Design, PC.* **A-2:** *Aerial Photograph of Adjacent Dwellings.* **B-1:** *Boswell Engineering Review Letter dated March 16, 2017.*

Mr. Ford testified he is requesting relief to relocate the HVAC unit behind the (2) existing non-conforming units having a 24.3 ft. side yard setback vs. the 35 ft. required.

In response to comments from the Board, Mr. Ford testified the Board has previously approved a variance to locate the unit having an 8.2 ft. front yard setback measured from Cobblestone Drive vs. 50 ft. required. The proposed new location will be set back 24 ft. vs. 35 ft. required, lessening the impact onto Cobblestone Drive.

A motion to open the Hearing to Members of the Public by Councilman DeBerardine seconded by Mr. Richardi. Upon no one appearing to provide comment, Mr. Virgona closed that portion of the Hearing.

A motion to approve the application as presented by Mr. Preusch seconded by Councilman DeBerardine.

Roll Call

Ayes: 8 Mr. Preusch, Councilman DeBerardine, Mayor Minichetti, Mr. Donato, Mr. Richardi, Ms. Miller, Mr. Koski, Mr. Virgona

2. Application of **156 Carlough Road LLC**
156 Carlough Road – Block 501 – Lot 6
(Stipulation of Settlement Agreement/*Revised Minor Subdivision Plan*)

Bruce Whitaker, Esq., representing the applicant, stated he is here to explain the terms of the Agreement that is proposed to settle the lawsuit entered by the Borough against the DEP pertaining to the property located at 156 Carlough Road – Block 501 – Lot 6. Mr. Whitaker advised if the Board approves these terms than all Parties execute the Settlement and it is filed with the Court and the litigation is dismissed.

Mayor Minichetti explained following the issuance of a permit issued by the DEP to fill in isolated wetland areas and transition areas and the subsequent soil moving permit issued by the Borough, inconsistencies were noted in the application documents submitted to the DEP and to the Borough by the former owner of the property. The Borough initiated a lawsuit against the DEP due to these inconsistencies. The applicant had originally proposed a (3) conforming lot subdivision. The settlement agreement limits the proposed subdivision to (2) lots, with the applicant agreeing to eliminate the barn, demolish the existing house, and complying with all the requirements of the Borough's subdivision ordinance.

Mr. Whitaker stated by the Board concurring with this already settled case, under the guidelines of "Whispering Woods" v. Middletown Township, 220 N.J. Super 161 (Law Division, 1987) the Board is implementing the terms of granting a subdivision.

Daniel LaMothe, P.E., Lapatka Associates, duly sworn by Mr. Madaio, reviewed the existing conditions and the proposed Plan to subdivide the property into (2) single family lots. Mr. LaMothe testified proposed Lot 6.01 is conforming, meeting all bulk requirements, but requires a (3) ft. height variance due to the 10 ft. grade drop in the front yard. Proposed Lot 6.02 is to be accessed through a 40 ft. flag lot for purposes of installing a shared driveway. Variances are required for the 40 ft. property frontage vs. 150 ft. required and for the minimum 150 ft. diameter circle tangent to the right-of-way.

In response to comments from the Board, Mr. LaMothe testified both proposed Lots exceed the required minimum lot size. Lot 6.01 contains 43,594 s.f.; Lot 6.02 contains 90,204 s.f. Test holes have demonstrated (5) bedroom homes can be supported on both Lots.

In response to additional comments, Mr. LaMothe testified development of both Lots will comply with all drainage standards and septic requirements.

Mr. Whitaker advised as part of the (2) lot subdivision agreement, it is stipulated the property cannot be subdivided again. The easement off the driveway of Lot 6.02 is to access Lot 6.01 with only one egress off Carlough Road.

Mr. LaMothe testified the issue regarding proposed Lot 6.02 not conforming to the 150 ft. diameter circle tangent to the right-of way has been reflected on a revised plan, eliminating a variance.

In response to comments from the Board regarding adequate drainage across the north side of the property, Mr. LaMothe testified a swale, additional landscaping and a detention basin are proposed at the base of the driveway to reduce runoff from the north side where wetlands accrue water. The wetlands will remain, with seepage pits collecting water. Mr. LaMothe testified additional drainage plans will be submitted to Boswell Engineering for review and approval.

In response to comments from the Board, Mr. Whitaker advised the proposed seepage pit located south of the driveway has not been fully designed. The stipulation is all drainage plans are to meet the Borough's engineering requirements. The soil test for the septic locations were witnessed by The Board of Health; formal septic applications will be submitted for approval.

Ms. Ogrosso advised all issues outlined in the March 15, 2017 Boswell Engineering review letter have been addressed satisfactorily.

A motion by Councilman DeBerardine seconded by Mr. Richardi to open the Hearing to Members

of the public regarding testimony provided by Mr. LaMothe.

Seth Chapler, 64 Sparrowbush Road, questioned why the Board is possibly granting subdivision approval without the public being able to discuss the details. In response, Mr. Madaio advised the litigation is settled, the purpose of Whispering Woods, is the Board affirming the settlement agreement which would in effect grant a subdivision.

Cecily Palludan, 154 Carlough Road, expressed concern regarding drainage and questioned the measures being taken to eliminate a year round water issue negatively impacting her property. In response, Mr. LaMothe advised a 1 ft. deep swale was proposed with a landscaped buffer around it.

In response to comments from the Board regarding ability of the proposed swale adequately accommodating water runoff onto Ms. Palludan's property, Mr. LaMothe testified a riprap channel could be installed on the other side.

Board Members discussed the width of the easement and questioned if it would be possible to widen the driveway to provide room for cars and service vehicles to pass. In response, Mr. Whitaker advised no parking is proposed in the access easement.

Jamie Levine, 162 Carlough Road, questioned if emergency services have reviewed the Plan.

Cecily Palludan, 154 Carlough Road, in response to Ms. Palludan's request, Mr. LaMothe described a seepage pit and its' function, advising the applicant is obligated to control all new improvements on the property; ponding and wetlands will still be present. Mr. Virgona explained, wetlands are very restricted and not to be disturbed without special permits.

Seth Chapler, 64 Sparrowbush Road, questioned if Lapatka Associates was aware of a drainage system on Glen Carl Road. In response, Mr. LaMothe advised Lapatka Associates has not analyzed Glen Carl Road.

Seth Chapler, 64 Sparrowbush Road, questioned if the map reflects the remaining wetlands. In response, Mr. LaMothe testified the map depicted what was allowed to be filled in and was taken from the approved wetlands plan. Mr. Chapler provided additional comments regarding drainage issues.

Eric Halpern, 23 Golfview Road, questioned the capacity of the seepage pit given the high water table. In response, Mr. LaMothe testified the seepage pit will be a designed retention system. In response to additional comments, Mr. LaMothe testified test holes have been performed calculating the water table.

Ms. Ogrosso advised she has not reviewed the well testing results; however the drainage issues can be worked out. Mr. Madaio advised there are no options if not doable; permits will not be issued.

Jamie Levine, 162 Carlough Road, provided comment regarding an existing drainage pipe located on the property. In response, Mr. LaMothe testified it will be investigated and analyzed.

Andrea Buckingham, LA, duly sworn by Mr. Madaio, testified to speaking with Matt Koski, Shade Tree Commission Site Plan Review Chairman, regarding the proposed landscaping plan. Mr. Buckingham provided an overview of the plan mitigating what was removed. A continuous buffer of

evergreen shrubs and trees are proposed along the south side of the flag lot; plants that withstand shade are proposed on the north side that include cherry laurel, native plants and various evergreens. Upsized trees having a 2 ½ - 3 ½ inch caliper were added the lot buffer areas, the swale and driveway. All trees and plantings can tolerate shade and water issues.

Mr. Koski suggested planting several additional shade trees having a 3 ½ inch caliper.

A motion by Mr. Preusch seconded by Councilman DeBerardine to open the Hearing to Members of the public for questions regarding testimony provided by Ms. Buckingham.

Cecily Palludan, 154 Carlough Road, expressed concern with additional water runoff downhill and questioned if the proposed landscaping would be deer proof. In response, Ms. Buckingham testified the proposed trees tolerate wetland; however no landscaping is completely deer proof.

In response to comments from the Board, Ms. Buckingham testified evergreen shrubs are to be planted along the buffer.

Seth Chapler, 64 Sparrowbush Road, questioned if any consideration had been given for planting on the opposite side of the property. In response, Ms. Buckingham testified each lot will have an individual landscape plan.

Christopher Canzani, Canzani Architects, advised although not qualified to provide professional testimony, reviewed the proposed dwelling elevations for clarification only.

Mr. Whitaker advised he had nothing further to present.

Board Members reviewed the requested variances.

A motion to open the Hearing to Members of the public by Mr. Preusch seconded by Councilman DeBerardine.

Cecily Palludan, 154 Carlough Road duly sworn by Mr. Madaio, provided photographs of her property depicting water issues and also expressed concern about the environment and eco system.

Seth Chapler, 64 Sparrowbush Road, providing comments regarding the history of the application dating to 2009, stating his objection to an open retention system; the new elevations being higher than what is existing; and that the wetlands are not being restored. In response, Mr. Madaio advised, provided an application meets the zoning code and drainage requirements, there is nothing to prevent any house from being enlarged.

Mr. Whitaker stated for the Record, regarding wetlands delineation, etc., well before the Settlement Agreement process began; the applicant's Engineers and Boswell Engineering figured it out and it was put on the Plan that is before the Board. In reference to Subdivision approval, the approach requested is approval of the Settlement Agreement. After the Settlement Agreement is approved, the applicant cannot get a subdivision perfected without meeting all the conditions of the Borough, which means the lots cannot be created and the builder cannot construct the homes.

Sheryl Romano, 420 West Saddle River Road, duly sworn by Mr. Madaio, voiced her objections to the requested variances. In response, Mr. Madaio advised the design is based on the settlement and cannot be changed.

Janine Yatko, 12 Robin Ridge Road, duly sworn by Mr. Madaio, citing a property that had just received approval to connect into the Mahwah sewerage system, questioned if there were plans for the subject property to tie into the Ramsey or Mahwah public sewerage system. In response to additional comments, Mr. Madaio advised any connection would have to be approved by the Boroughs of Mahwah, Upper Saddle River and the DEP, and cannot be mandated, nor can they be made to go through someone else's property.

Timothy Nolan, 150 Carlough Road, duly sworn by Mr. Madaio, commented on existing water issues and expressed concern with the volume of water running off from the subject property.

In response to comments from the Board, Mr. Whitaker advised during settlement discussions, the removal of trees in that area was permitted and will not be replaced.

With no further comments from the Board or public, Mr. Virgona closed that portion of the Hearing.

A motion by Councilman DeBerardine to approve the preparation of a Draft Resolution for the Board's review. Discussion followed. Councilman DeBerardine withdrew the motion pending receipt of revised plans and drainage calculations.

Mr. Virgona announced the matter is carried to the Thursday, April 27, 2017 meeting.

3. Application of **Salamon Rozenberg** *(P. Hearing continued from January 26, 2017)*
4 Overbrook Road – Block 1011 – Lot 6
(Side Yard Setback/Pool & Fence Location)

Bruce Whitaker, Esq., representing the applicant, advised this application has been revised since last appearing before the Board January 26, 2017. New Notice has been published in The Record and property owners located within 200 ft. have been re-noticed.

The following documents were submitted and identified: **A-1:** *Plot Plan – Alternate 2 Pool – prepared by Weissman Engineering, last revised February 3, 2017*; **A-2:** *Revised Pool Location/Patio Design prepared by Landscape Perceptions, dated February 24, 2017*. **A-3:** *Google Earth Map*; **B-1:** *Boswell Engineering review letter dated March 6, 2017*.

Robert Weissman, P.E., remaining under oath, reviewed revisions to the plan that now locate the proposed pool and patio to the side yard requiring (2) variances. Mr. Weissman, referring to the Boswell Engineering Review Letter dated March 6, 2017, testified the applicant has outlined in detail the applicable Permit-by-Rule activity in a letter to the DEP.

Mr. Weissman provided an overview of the property via Google Earth Map and reviewed the (2) requested variances: The location of the proposed pool is within the side yard vs. the rear yard permitted; and the proposed pool safety fence is located forward of the rear building line.

In response to comments from the Board, Mr. Weissman testified the fence could be moved back so it clears a seepage pit. All other aspects of the application are conforming.

A motion by Mr. Richardi seconded by Mr. Donato to open the Hearing to Members of the public regarding the testimony provided by Mr. Weissman. No one appeared to provide comment.

Joshua Hampton, LA, remaining under oath, testified to preparing the Landscaping Plan, last revised February 24, 2017. Mr. Hampton testified a full screening of evergreens is proposed to be planted along the western property line and along Overbrook Road.

In response to comments from the Board, Mr. Hampton testified planting is permitted in the riparian buffer zone as it is a pre-disturbed area where a pool, patio and enhanced buffers are permitted. Access to provide maintenance to the heavily planted, grass and patio area will be provided through a double gate off the driveway. Shifting of the fence toward the rear property line will not affect the planting plan. The distance from the pool to the house is 23 ft.; the planting bed along the house is 8ft; the patio is 15 ft.

A motion to open the Hearing to Members of the public regarding the testimony provided by Mr. Hampton. With no one appearing to provide comment, Mr. Virgona closed the Hearing.

A motion by Mr. Donato seconded by Mr. Richardi to approve the application as discussed.

Roll Call

Ayes: 8 Mr. Donato, Mr. Richardi, Mayor Minichetti, Councilman DeBerardine, Mr. Preusch, Ms. Miller, Mr. Koski, Mr. Virgona

PUBLIC COMMENT

A motion by Councilman DeBerardine seconded by Ms. Miller to open the Meeting to Members of the public. No one appeared to provide comment.

ADJOURNMENT

A motion to adjourn by Mr. Donato seconded by Mr. Richardi was unanimously approved by all Members present. Meeting adjourned at 10:00 p.m.

Respectfully submitted,

Linda Marmora
Clerk

