

Thursday, October 15, 2020
Minutes of Combined Land Use Meeting
Chairman Eric Hafer Presiding
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OPEN MEETING – Chairman Hafer announced that adequate notice of this meeting was given by emailing the Courier Post and The Retrospect on January 7, 2020 and posting on the Bulletin Board in the Borough Hall.

FLAG SALUTE – Chairman Hafer lead the meeting in the Pledge of Allegiance and flag salute.

ROLL CALL – recorded as present were Mr. Hafer, Mr. Kane, Mrs. Ierley, Ms. Nasuti, Mr. Ierley, Mayor Barbera, and Councilman Redstreak; Mr. Weidler and Mr. O’Keefe arrived at 7:04 pm; Mr. Lippincott and Mr. Weiss, were absent; Land Use Board Solicitor Greg DeMichele was present

OLD BUSINESS

- Extension for Dream Tile, Tariq Mazhar, One White Horse Pike – Minor Site Plan – Mr. Mazhar emailed to request an extension – motion to extend to November 19, 2020 meeting by Mr. Ierley was seconded by Ms. Nasuti with Mr. Hafer, Mr. Kane, Mrs. Ierley, Ms. Nasuti and Mr. Ierley in favor, none opposed and no abstentions.
- Approval of Minutes – September 14, 2020 – the motion by Ms. Nasuti, was seconded by Mrs. Ierley with with Mr. Hafer, Mr. Kane, Mrs. Ierley, Ms. Nasuti, Mr. Ierley, Councilman Redstreak and Mayor Barbera in favor, none opposed and no abstentions.

NEW BUSINESS

- C Variance/addition – Douglas DelPidio – 118 Broadway, Laurel Springs, NJ 08021 – Mr. Hafer recused himself and left the building as his firm was architect on this project. Mr. DelPidio and Project Architect Jeff Mayberry were sworn in by Solicitor DeMichele – Mr. DelPidio said that he is trying to add an addition onto his house. He said that his home is currently positioned at 5 foot off of the property line on the side and that he wants to align the addition to that, and that the setback for the rear currently requires 25 feet, but he is asking for a 15 foot set back from the rear property line. He stated the reason for the addition is for his mom, and he would like it to be handicapped accessible at ground level. Solicitor DeMichele reminded that there should be no comment from the public until the application has been presented and then the meeting would be opened to the public. Solicitor DeMichele marked the plans as A1. Mr. Kane asked for questions from the Board. Councilman Redstreak asked if he were aware that he could not use separate utility meters. Councilman Redstreak said one of the reasons the Board is concerned about setbacks is water runoff from the roof. He asked if there would be any issues to the neighbors behind or to the right with runoff from the new addition, to which Mr. DelPidio said he did not believe so, he said obviously he would want that not to happen, that Broadway is high and he does not get water in his basement. Solicitor DeMichele reminded that they have to let the applicant speak, comments from the public will be allowed to speak. Mr. DelPidio said obviously that would have to be something that the engineer would have to take care of. Councilman Redstreak asked about the desire to build this for his mother, and wondered if he could build it as a one bedroom addition rather than a two bedroom addition to avoid the rear property set back problem, to which Mr. DelPidio said that his mother is only 65 and is not at the age where she has to live here yet, so he is trying to not cramp his style. Councilman Redstreak asked if he understood he can never rent the property, to which Mr. DelPidio responded yes. Mayor Barbera asked if there was any thought of making an entrance from the existing house, and this sits as an independent unit with no access to the existing home, to which Mr. DelPidio said that it was because it is at ground level and the elevation of the existing home two steps above there was no connection made between the addition. Mayor Barbera

asked if the terrace on the roof was planned for now or something for the future. Mr. DelPidio responded that it is a flat roof with thoughts of putting deck on top of it, as something that could be utilized someday. Ms. Nasuti asked about lot coverage as they are utilizing both lots, to which Mr. DelPidio said that it was a problem he bought into, and discovered he had to pay the tax bills separately, but could not separate it if he wanted to because of the pool and garage. Ms. Nasuti clarified that the house itself is on one lot, to which Mr. DelPidio concurred. Ms. Nasuti said that with this arrangement he is using over the 50% lot coverage allowance, and would need a variance for lot coverage as well, to which Mr. DelPidio said he does not know why it is two lots because there is no way to split it. Ms. Nasuti asked if there was a way to merge the two lots, to which Mr. DelPidio said it would make his life easier. Mr. Mayberry confirmed that they are looking at it as one lot, but Ms. Nasuti said that as it is now it is far beyond lot coverage allowance, to which he agreed. With regard to the side yard setback of five feet now, Ms. Nasuti confirmed from Mr. DelPidio that it was existing that way when Mr. DelPidio bought it. Mr. Mayberry said they were asking for five feet, but the addition would actually be 6 feet. She said the Code requires 7 feet, but said it seemed to her that it is expanding a non-conforming structure. So, she reiterated she saw three variances for lot coverage, side yard set back and rear yard back. Mr. Mayberry said that they would prefer to create one lot, to which Ms. Nasuti confirmed that would have to be done by deed. Ms. Nasuti confirmed two bedrooms, kitchen with dining area a living room and a utility room with water heater, air conditioner unit electric circuit and a washer and dryer. She confirmed that there would be one occupant and that they would be family and no nonrelated persons would ever live in that property. She confirmed that there would be one meter for the whole property. There was conversation about the switches, but that everything is coming out of the original house and will all run off the existing sewer line and everything will tie into the house. She commented that it could be separated, and there was discussion that the existing house used to be apartments upstairs and that has been eliminated. There was discussion about the access from the existing house, and that the adjoining wall is in the existing family room. Mr. DelPidio said it is not in plans currently because they are trying to not take space for the three-step elevation. Mr. DelPidio said he had made application to the Board before for the fence. The pool was already present when purchase when he purchased the property and didn't know it was two separate lots until a taxation issue arose. Ms. Nasuti confirmed that the mortgage has them together. Mayor Barbera asked if he would be amenable to a deed restriction with regard to it only being used by relatives of the principal owner, to which Mr. DelPidio responded yes, and Mayor Barbera said they would have to accomplish the deed requirements before construction could begin, saying he did not know how long it takes to have deed changes like these recorded.

However, it would be something that would protect the integrity of the plans, to which Mr. DelPidio said he had no problem doing that. Mr. Kane confirmed that the application was for the side and rear yard setback, and asked why the zoning was changed from the time the original home was built, to which Mr. Redstreak commented because of stormwater runoff and being a town with natural springs and now older basements that get water in them. Saying runoff from other people's home end up in other people's basement, alluding to a previous problem with an addition on Park Avenue, and a drain that had to end up being installed to catch the water. There was additional conversation about that development and the subsequent problem and fix. Mr. Kane was trying to recollect other situations where these types of additions occurred. Ms. Nasuti asked about another addition of this type and what was the basis for approval, to which it was responded direct access to house, one-bedroom, direct access to outside, but no setback issues. Solicitor DeMichele said this application has to be viewed as an addition the use of terminology of in-law suite or however worded or described is irrelevant as is concerns about access to the addition, these are not things

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that change the interpretation of the law. Ms. Nasuti said that there was some discussion that precedent had been set by approving a previous application, to which Solicitor DeMichele said that has to be viewed as different and separate question than previous application. You must view this separately as long as it is the same family, regardless of what they use that addition for, it has to be taken as an application for an addition. With regard to it being in a single-family zone, Solicitor DeMichele said that the applicant under oath has said the addition is limited to a single family. Therefore, the determination must be made on the application for side yard setback and rear yard setback. He is advising the Board cannot get hung up on terminology of in-law suite. Therefore, you have to make a determination based on the application. Mayor Barbera clarified that Solicitor DeMichele is advising that if the presumption that if an addition is being made for family it should be approved, unless there is something extraordinary about it. If you are putting on an addition that is to house family members under New Jersey law the board is more or less forced to find in the applicants favor, unless they could find other reasons to not approve it. This isn't treated as an addition to a house it is treated as an addition for a family member. to which Solicitor DeMichele concurred, saying the decision of the Board must be about the setbacks; they are asking for a variance for the setbacks. Mayor Barbera said you could look at it differently if this was just an addition to a house just to make it bigger, then the board would be looking at it and saying buy a new house, but if the Board is under the onus of taking the presumption that an addition is for a family member should be approved unless the Board can find good cause not to approve it, that is a little different judgement. Mr. Kane asked about previous additions that have been granted, is it possible that in the future is possible for all other people in town to come and say they want to put an addition and need a variance is that possible to accommodate. Mr. Kane said he had been taught that if the Board is granting variances over and over again, then you need to change the ordinance. If this passes and more people want something similar to this application with these setbacks, is it conceivable that if the Board is setting itself up to set a precedent? To which Solicitor DeMichele said sure that precedent relies on decisions that the Board make, If you are approving Application A and Application B is substantially similar, they could ask why the board decided to approve or deny it, they could ask why.

Mr. lerley said that years ago in putting an addition put on a house, the contractor did, along with the paperwork, a survey of runoff to be certain that there was enough land absorb the water, so no water would runoff the property, is that not being done here? He wondered if there was a state or county law on that, to which Councilman Redstreak responded Stormwater regulation. In that was there would be no guess about whether the water is going to runoff and land somewhere mysteriously. He asked if there shouldn't be some sort of documentation or survey from someone who knows this, to which Mr. DelPidio, who responded that there is an existing structure where he wants to put this addition. It has no gutters, but obviously the runoff is a concern, and it could be properly dealt with by an engineer. He said this application only included a phase 1 drawing to show there was enough porous land. The second one is a lot more expense. Mr. Mayberry confirmed that there is enough porous. Ms. Nasuti asked if this is just a preliminary approval regarding the variances, and he will submit further? Mr. Mayberry said the porous land language is in the Borough Zoning Code, as far as runoff it is not part of this presentation. Ms. Nasuti asked if they could submit it, to which Mr. Mayberry said that when they go for building permits, they could add that into it. Ms. Nasuti responded that they would not have to come back to the Board to get those permits. There was no further comment from the Board.

Vice Chairman Kane opened the meeting to the Public. Solicitor DeMichele gave guidance on how the public portion should be proceed, saying questions and comments must be directed to the Board not to the

applicant. There was conversation about the use of the mike and the difficulty with the recording due to masks and social distancing.

- Dorothea Cummings – 115 Washington said she lives directly behind the property in question. She said she had learned about variance, but learned nothing on how to oppose a variance, saying she had been kind of snookered by a variance that they did not contend. When she went to Borough Hall and viewed the plans, she was horrified by when she saw them because she realized that this was a big structure coming up to 7 and half feet from her property line. She said she does not know what her rights are, and her own fault in not getting the information, but she got as much as she could. If this variance is passed will this structure be built? To which it was responded that it would be a good possibility. If the answer is no, it more of process, then she'll learn more about the process. But if the structure is going to built acceptance variance maybe the addition will be built if the variance is passed. Solicitor DeMichele said the Board can not tell you what is going to happen. So, she said they are not going to tell what the process is. Since you can't guarantee me that passing the variance won't mean that the place is built, then she will say she is strongly opposed not only to the variance also to the entire structure, and she has many reason. First is that she is 83 years old and her husband who is 87 live right behind that building, so when he hears of a 55 year old mom who is actually younger than most of my children is going to be living there, because she needs a mother in law place she is kind of confused. It seems that it should be 20 or 30 years before she needs that kind of space. She also said she was surprised to see the extent of this. The application that she viewed said that it was to build a in law suite addition so she thought it was the space between where the garage is, and also the house has had a history of having two apartments in it. She was surprised and said this isn't an addition this is an entire independent structure. This is a house. She alluded to her son in a neighboring town buying a little house 700 square feet. This is over 900 square feet. This is not a mother-in-law suite. She asked herself what her understanding of a mother-in-law suite. Her understanding is what she knows from friends and other people and what she knows is that a mother-in-law suite from personal experience a room a bathroom and an area to make some tea and so forth. This building is a house, a small house. She wanted to express because in building a fence the owner raised the level of the land. They now have water in their backyard. Because they try to back neighbors, they weren't going to mention it. You live with a little water in your backyard. They got a letter saying were going to build a fence, which upon calling town hall she said she found out it was a decorative fence. The fence installed is ten feet high, the ground was built up and now they have water. So, she is vehemently opposed to this. She asked other people, her neighbors, what do you think when they are going to build a mother-in-law suite. It's warm fuzzy, a wonderful son taking care of his mom. That's what she thought, but didn't want to depend on my personal experience, so she went on line to see what is the definition of a mother-in-law suite which is part of a building or addition that is usually small, so the definition on line was just about the definition she thought of herself. Then she looked at plans for mother-in-law suites, most were 300 to 500 square feet, not over 900. She asked her two next door neighbors, who had no idea, if when you say something is going to be a mother-in-law suite, they expect a structure this big. So, in addition to this huge fence that are behind us they will now have this big chunk. She doesn't know if the people on the side know about it, but they were surprised. It is a big major decision. In fact that it is going to affect them, with runoff and if he mother moved out or died unexpectedly, or married again and is living in a mansion, the structure is left here, and is big enough for a mother with a couple of kids to move into. So, it is not just the question of a mother in law suite but the question of additional kids going to the school and more income to pay for the kids. So, there are lots and lots of things that she has against this building. One of which is for a mother in law suite why do you need all this space? She is requesting that a decision on this variance be delayed until she and others in the neighborhood can

know more about it. She said that in the past the house has been used, and fairly recently, as two apartments. She alluded to an outside stairway, and a door to the upstairs. She assumed that where the mother in law apartment would go. So, she informed all the other neighbors who might have assumed, like she, that they were talking about a tiny space. Mr. Kane, saying that he thought she had made her point, and asked if there was one more sentence she would like to offer and Solicitor DeMichele clarified said that the decision on the variance would be made tonight as far as the variance. What she is saying is that the community has not had enough time to even reject the variance, because of the way it was written up. Solicitor DeMichele clarified that the applicant had given proper notice of the hearing, which she said did know that, but she is pointed to the language of the request, because it mentioned mother-in-law suite that she finds that deceptive, to which Solicitor DeMichele responded that it is not his intention to argue with her, but is trying to give information that as far as what he had said a couple of minutes ago that the terminology of in-law suite is irrelevant, it is an addition. Mrs. Cummings responded that her contention is that it is not an addition it is a separate building as large as some small houses. Mr. Kane said that there is no question that she is against the application. She said that she is not just against it, she is requesting that a decision not be made for a month, to which Mr. Kane said that there had to be a decision tonight either yes or no, with all due respect to her. The Board has to listen to the rest of the people from the public.

- Marian Macko – 121 Washington Avenue – referred to a newer “Victorian” house that was built on Washington Avenue, and water runoff problems from that for years, so imagine what adding this development will bring. The drainage on the whole street never makes it to the corner it just pools in front of her house. They end up losing their inground pool because of sink holes and concrete cracking damage was beyond what they could repair. She also spoke of tree issues, and somehow Washington Avenue gets fixed for two blocks and their block basically get snowed with no letter no explanation nothing on the website. Now we are proposing more issues. The ground is so much higher, their properties drop down the property is much higher up. The water issue is what she is frustrated with. She put thousands of dollars into her basement when water comes in like a water fall in the window this is after putting in French drains and new roof and new gutters and still can’t stop the ground water from coming in. Mr. Kane confirmed that it is a water issue, to which she added that she has to question size of addition. She referenced setting a precedent, what would stop her from building the same for her parents. She asked about how to get information about whether the street will ever be completed. There was clarification of where on Washington Avenue she lives. Councilman Redstreak said that he would be in touch with her.
- Richard Macko – 121 Washington Avenue – said he has a few issues, one is the water, and referred again to the “Victorian” more newly built on Washington. Their house is directly behind the applicant’s home but to the right, saying there are five homes behind on Washington Avenue. The “Victorian” was built about 15 years ago, and he had to spend about \$7,000 having his basement waterproofed after than project, and the engineer on that project did not take it into account and this project needs to take it into account. The existing structure already has a suite on the back of the house with a separate staircase going up to the second floor and offered to show photos from his phone, to which Solicitor DeMichele appreciated what he was saying, but picture from his phone cannot legally be made part of the record as it is not a tangible document nor can be marked as an exhibit, he sure the board appreciates what they are showing him, but it cannot be made part of the record. He suggested the applicant be asked about the staircase. He referred to the fence installation set up on a cement slab four feet above the ground and he thinks this is part of the issue with water that has no where to go except their back yards.

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- Donna Caccia – 111 Washington Avenue – she lives behind the pool area of the house. She said she has known the applicant since he was born, but since they built the “Victorian” house next to her, they dug the basement and put the dirt back into the yard. Any time there is a substantial rain it goes into her basement, so that is from that angle. So, she has a water issue, and her mulch always ended up in the Mackos’ pool, so they ended up filling it in. She said that this would be another home being put in the back yard, and if that’s allowed, she’s going to build a home and let her kids live in him. She said she knows and loves the applicant’s family, but she believes it could be done another way. She thinks it’s too big and it’s going to mess up the water runoff. You can’t just cover up all the land in New Jersey where is the water going to go.
- Doug DelPidio – wanted to clarify that the set back in the rear is 25 he is asking for 15 feet, not the seven that was mentioned. He did have an in-law-suite upstairs, but that was eliminated it is now three bedrooms. The staircase is narrow, so he left the outdoor stairs to get things in and out. If the requested setbacks are not approved, he will probably just build wider. He cleaned up the property since he owned it, he will continue to do that. He is not going to rent it out. He will make it as beautiful as possible. He wants to eliminate the structure that is where he is proposing to build, he doesn’t like the way that portion of his property looks he which is why he would like to make the improvements there.
- Councilman Redstreak confirmed that if Mr. DelPidio is not granted these setbacks, he would overcome and adapt with the design, to which he responded yeah, but it makes more sense to go the long way, but it seems that the neighbors’ concerns are the square footage, and unfortunately that is not going to change.
- Miriam Macko – 121 Washington Avenue – asked about the sewerage lines, to which Councilman Redstreak said it would be two separate units billed because of two separate kitchens, but they cannot have two separate sewer lines as it is a residential district, and it is not allowed. Mr. DelPidio said it is cheaper also to have only one set of the assorted utilities. There was additional discussion of how the utilities work in the residential area. She mentioned that there is only one storm drain, which was followed by a clarification of storm sewers versus sanitary sewers, and how most house gutters run onto porous property, not storm drains, and further discussion of runoff.
- Mayor Barbera – seems that some of this problem exists already with runoff from the other property, and if that could be remedied by providing some relief with the water problem in addition to putting up an addition and seeing what happens. If there are no plans made to address
- Donna Caccia – 111 Washington – clarified for Mr. DelPidio where the newer house is and how long ago it was built, and there was additional conversation of when that house was built and that it’s been about 15 years ago. She did complain about it to the Borough back then to complain, but didn’t realize she could sue the Borough, but they’ve just tried to deal with the water. That is a separate issue from this application. His would take up more space, less place for the water to go and her yard can’t take any more water.
- Vice Chair Kane said that as he understands it the stumbling block is the water issue and the plan submitted does not address it. Mr. Mayberry asked about getting a civil engineer to make sure the water drains off into the street. There was discussion that once the water is in the street, the storm sewers will take it.
- Mayor Barbera clarified that the building would be 15 feet from the rear line not 7, saying that 25 is required but he is proposing 15 feet.

- Ms. Nasuti asked that instead of a representation that something is going to be okay, could the Board be given something formal before they approve anything? Something formal from an engineer? Mr. Mayberry said they would be willing to put together a plan and discussed if it would be okay to put the water in the street, or whether it had to be kept on site. They will develop a plan by a civil engineer explain what is happening with the water. Ms. Nasuti wanted them to address the concerns of the people living behind, to which Mr. Mayberry he can't address what is coming from this "Victorian" house, but he can make sure they don't add to it, to which Ms. Nasuti confirmed that they would address the water that is coming from this addition.
- Miriam Macko, 121 Washington Avenue – discussed the water runoff from the County Broadway road project during rainstorms there is overflow. Councilman Redstreak said that is something that they will have to work out to remove the water to the street.
- Doug DelPidio – 118 Broadway – stated he understands they had difficulty with the "Victorian" house, but he will do everything to make sure the water goes out to Broadway and not effect the neighbors behind.
- Dorothea Cummings - 115 Washington – they have not had as much problem with water, but complained about the fence put on top cement block and dirt put in and they feel that is part of the problem, and if they have to do the same with the new construction it's just going to continue to push the problem down the block. How are they going to confirm that they are not going to use it as a rental property? That is her major concern. Mayor Barbera said that they can put deed restrictions on properties. If this is approved, they can put a deed a restriction that it could be used as an apartment or sold with the idea that it could be used as an apartment. The applicant is agreeable to the deed restriction if they approve it.
- Mr. O'Keefe – said that if the Board says no to this, and not allow him to build deep then he will build wide.
- Richard Macko – 121 Broadway asked who guarantees that this can't be done. Mayor Barbera said a copy of recorded deed would need to be seen before construction started. Commented that if he builds sideways it is still 900 square feet of grass being turned into a building.
- Donna Caccia – 111 Washington – asked if he could make the addition smaller for the lot coverage, it seems like too much stuff and not enough ground on that lot, and wondered if wide would be better and leave grass back there. Asked if he could put the addition somewhere else.
- Vice Chair Kane asked if this voted yes, it can be conditioned upon a formal engineering plan for water runoff and deed restriction Solicitor DeMichele said if the application goes to the motion, there can be the condition of a deed restriction that it can't be rented out taking testimony from applicant that he is agreeable to that. To make motion deed restriction in place and the addition cannot be used as a rental property. Mr. DelPidio said that he wants to be a good neighbor and would be agreeable to getting an engineering plan to make sure that the water runoffs the property toward Broadway and all would be submitted to the Board before construction permits could be applied for. Additionally, there is the motion would condition that there would be merging of the two lots. There was discussion of whether there should be conditions set on accessing the main house from the addition. Mr. DelPidio and Mr. Mayberry said it would have to be redesigned to allow for the difference in elevation. Ms. Nasuti said the motion would not

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include anything regarding access to the existing house. Solicitor DeMichele reminded that the application must be viewed as an addition terminology that otherwise is not relevant to the Board's decision and the matter before the board is variance relief from the side yard setback and rear yard setback.

- The motion to approve the application for a C variance allowing a 5-foot side yard and 15-foot rear yard setback for an addition to the existing house, subject to the requirement that the applicant file and provide the Board with a copy of a recorded Deed which (1) merges Lots 11 and 12, Block 11, and (2) restricts the use of the building to a single-family dwelling; and subject to future application to the Board prior to construction of an engineering plan demonstrating appropriate stormwater runoff and grading satisfactory to the Board by Ms. Nasuti was seconded by Mr. O'Keefe, with Mr. Kane, Mr. Weidler, Mr. O'Keefe, Mrs. lerley, Ms. Nasuti and Mr. lerley in favor, none opposed and no abstentions.
- Mayor Barbera asked Mr. DelPidio had any idea of how long before he would come back with this, to which Mr. DelPidio said he's going to have to file the deeds and restrictions but as far as construction it would be six months to a year, and if he was aware that he had to accomplish all this and come back to the Board, he had no specific date in mind to begin construction. Ms. Nasuti reminded about the engineering report, to which Mr. DelPidio, said he would have to do all that before he could go for permits, and if he' being asked when he would go for permits, it would be a while.

CORRESPONDENCE – none

PUBLIC PORTION – Chairman Kane opened the meeting to the public for questions or comment, hearing none he closed the meeting to the public.

ANNOUNCEMENT - The next meeting of the Laurel Springs Planning Board is scheduled for Thursday, November 19, 2020 at 7:00 p.m. in the Laurel Springs Recreation Center.

ADJOURNMENT – the motion to adjourn by Councilman Redstreak at 8:45 pm, was seconded by Mrs. lerley

Respectfully submitted,

Dawn T. Amadio, Secretary