

ZONING BOARD OF ADJUSTMENT

MINUTES OF THE MEETING

JULY 10, 2013

CALL TO ORDER: This is a regularly scheduled meeting of the Board of Adjustment of the Borough of Franklin Lakes. In compliance with the Open Public Meetings Law, Notification of this Meeting has been sent to our Official Newspapers and Notice has been posted on the bulletin board at the Borough Hall. I direct that this announcement be entered into the Minutes of the meeting.

ROLL CALL:

Present: Mr. DiFlora, Mrs. Gerber, Mr. Messaros, Mr. Bavagnoli, Mr. Badenhausen, Mr. Frankel, Ms. Schoenberg, Board Attorney Davies, Board Engineer Tiberi

Absent: Mr. Khoury, Mr. Toronto

ORAL COMMUNICATIONS

Charles Schaeffer, 927 Scioto Drive, stated that deer have been a problem on his property for some time. He recently received a notice of violation of the fence ordinance from Mr. Dressler who indicated that the fence was too high. Mr. Schaeffer said that he is trying to protect his expensive rose garden from the deer infestation and a 5 foot fence is too low. He is considering a 7 ft. to 8 ft. high fence which has moveable posts and is a mixture of plastic and wire and he questioned other options that would be acceptable to the town. Mr. Schaeffer indicated that he did not have a permit for a fence.

Mr. DiFlora questioned what actually constitutes a fence and requested to see a sample of the wire proposed by Mr. Schaefer. He added that a determination could depend on the distance from the fence to the property line and he suggested that drawings be submitted. Mr. Schaeffer was advised to submit an application for a variance.

Stephen Cytryn, attorney for Vander Platt Funeral Home, referred to the resolution for the funeral home which is scheduled to be memorialized this evening. He wanted to address any questions arising from the resolution and to point out a potential date error in the resolution. The resolution refers to the date of a letter from Boswell Engineering approving revised drawings which should be corrected to read July 5, 2013. Mr. Davies indicated his agreement with Mr. Cytryn.

No one else came forward with questions or comments of the Board this evening.

NEW BUSINESS

Cal.#2013-8 Application of AB JC Investments, LLC (Applicant) Estate of Frank E. Weidanz & Yvonne M. Weidanz (Owners), 724 Franklin Avenue, Block 1424.01, Lot 2, Use Variance which is in violation of the following Section of the Ordinance:

TYPE REQUIRED EXISTING PROPOSED VARIANCE CODE

Use Variance Multi-Family Dwellings are not permitted in the Residential Zone.
Code Section 300-107

DATE DEEMED COMPLETE: June 4, 2013

DETERMINATION DATE: 10-2-13

Robert Kasuba, attorney for the applicant, introduced himself and stated that this is a bifurcated application with the applicant initially focusing on the use variance portion of the application. Two apartment buildings totaling 24 residential units are proposed with 5 units being made available as affordable housing units to be deed restricted in accordance with the Council on Affordable Housing (COAH). The applicant's planner Joe Burgis will make a presentation at the next meeting which will focus on the need for affordable housing both state wide and in this region. Mr. Kasuba introduced Joe Commorata of AB JC Investments who presented an overview of the project including the design of the site. There will also be testimony by the engineer, landscape architect and traffic engineer for this project.

Joseph Commorata, 711 Carriage Lane, Franklin Lakes, N.J., was sworn by Mr. Davies. Mr. Commorata said that he has lived in Franklin Lakes for forty years and has subdivided and developed 70 acres of property in the Borough. Mr. Commorata offered various exhibits containing photos, drawings and

brochures containing details of the properties he has developed. This photographic array was marked as Exhibits A-1 through A-12 by Mr. Davies.

Mr. Davies marked Exhibit A-13, survey by David Hals, Block 1424.01 – Lot 2, 724 Franklin Avenue, Franklin Lakes. Mr. Commorata described the site as 3.214 acres consisting of 1.29 acres of wetlands, 0.345 acres of modified transitional areas and 1.579 acres of uplands. The site is next to Twinbrooks Nursery on Franklin Avenue which is a commercial business open seven days a week. There is a Citgo gas station and the VFW/commuter parking lot located across from the site as shown in Exhibit A-14, which are a series of photos taken by Mr. Commorata in May 2012. He indicated that this property could be considered as a transitional zone. The style of the homes could be described as a two-story, shingle, beach house style which will blend in well with the existing homes on Shirley Avenue. Exhibit A-15 is an artist's rendition of Franklin Lakes Manor which will consist of two buildings containing 24 units with 20% of the units set aside for affordable housing. The plan would include the planting of Norway Spruce, Douglas Fir and Colorado Spruce to create an island of ingress and egress that will also include a decorative wood fence. Mr. Commorata said that this location is ideal for people who want to be able to access the business area on foot. Mr. Commorata referred to Exhibit A-16 the Zoning Map of the Borough of Franklin Lakes prepared by Boswell Engineering. He added that this project would be the first multi-family project undertaken by his company. Mr. Commorata noted Exhibit A-18: Zoning Comparison Table for Forgione – Mill Pond, 724 Franklin Avenue, Revision. He used this information to arrive at the density of the proposed site which he has calculated to be a net density of 15.2 per acre.

Mr. DiFlora questioned the siding and Mr. Commorata said it is typically referred to as “stone water line” and they don't intend to use cedar shake siding for this development. Mr. Bavagnoli referred to Mr. Commorata's statement that the development would benefit the town and the school system in Franklin Lakes and asked how the town will benefit. Mr. Commorata said that he will provide more details at the next meeting. In response to a question by Mr. Badenhansen, Mr. Commorata said that at this time he hasn't decided whether the units will be sold or leased. The architectural plan will show that the affordable units don't contain upgrades, however, the outside of these units will be identical to the other units. The front unit will have a square footage just in excess of 1,523 and the rear unit will be just over 9,000 square feet.

Mr. DiFlora commented that the parking is not depicted on the rendering. Mr. Kasuba asked that the architectural plans entitled “Proposed Residential multi-Family Community for Franklin Lakes Manor, Franklin Lakes, New Jersey, “dated May 17, 2013, prepared by Thomas J. Brennan Architects be marked as Exhibit A-19. Mr. Commorata said that Exhibit A-19 is a perspective or a vision which will give a sense of what the development would look like. Mr. DiFlora pointed out that aspects of the perspective are not accurate particularly the parking which he finds to be deceiving. Mr. Commorata responded to other questions from the Board and said that they have an LOI delineating the wetlands. He added that they manage and maintain all of their buildings. Mr. Kasuba indicated that the affordable units will be “integrated within the development” to the extent reasonable as per COAH regulations. The applicant plans to locate the units in Building No. 1 but will work with the Board on this.

A motion was made and seconded to open the public portion of the meeting for questions exclusively of Mr. Commorata, all ayes. Robert Jaekel, 532 Shirley Avenue, wanted the Board to know that his neighborhood is not in favor of the project. No one else from the public came forward at this time and a motion was made and seconded to close the public portion of the meeting, all ayes. Mr. Davies asked Mr. Commorata if he had indicated that the neighborhood was in favor of this project and Mr. Commorata said that Mr. Jaekel must have misunderstood his statement. There had been a previous application that was supported by many in the neighborhood; however, he did not solicit opinions from neighborhood residents regarding this proposal. Mr. Kasuba said that, for clarification, the Board will receive a copy of the transcripts from the Court Reporter who is here tonight.

Mr. Davies swore engineer, David Hals, who stated that his office is located at 9 Post Road, Oakland, New Jersey. Mr. Davies marked Exhibit A-20: Layout Plan, Block 1424.01, Lot 2, 724 Franklin Avenue for AB JC Investments, LLC, Borough of Franklin Lakes, Bergen County, N.J., April 5, 2013 through June 21, 2013; and, Exhibit A-21: Sheets 1 through 4, last revision date June 21, 2013 originally dated April 5, 2013. Mr. Hals said that he would initially testify relative to Exhibit A-13 which is the survey of subject property. The property is a 3.214 acre parcel located on the eastern side of Franklin Avenue. He stated that the wetlands are shown in the lighter green and are considered to be intermediate resource wetlands or an offset transition area and the appropriate permits will be obtained concerning this area. Mr. Hals described the existing conditions on the property adding that Twinbrooks Nursery is located to the south, two single

family dwellings and the Citgo gas station are located across the street. Franklin Avenue is a County road with sidewalks to the north of the site. Mr. Hals stated that the proposal has the smaller building located towards the front of the site with the larger building to the rear. There is a driveway leading onto Franklin Avenue with an island to separate traffic. Parking is located on either side of the driveway and the development is designed in accordance with the Residential Site Improvement Standards (RSIS) resulting in 46 parking spaces sized at 9 foot by 18 foot with 24 foot aisle width. The trash collection area is located at the end of the parking row and sidewalks will be provided. There are freshwater wetlands. This is a permitable proposal and there will be deed restrictions on portions of the property. Mr. Hals said that the proposal meets the setback requirements. Every effort has been made to minimize the massing and footprint of the buildings as it affects the Shirley Avenue neighborhood and the parking area will be effectively screened and augmented by fencing as needed. Heavy landscape screening is proposed along the north boundary line and the front of the development including the parking area and will be offset through screening. Appropriate sidewalks will connect to Shirley Avenue. All utilities will be accessed from Franklin Avenue and all buildings will have the appropriate sprinklers. The development will tie into the recently installed sanitary sewer system. Mr. Hals described three different detention systems for the development and the storm drainage system which will be required to meet various standards. Mr. Hals said that the density of the property is 7.68 units per acre or 19 market rate units with 5 affordable units. The lighting design has not been completed but will be compliant with the ordinance and appropriately shielded from residents on Shirley Avenue.

Mr. DiFlora questioned the finished grade on the property and Mr. Hals said that when the project is completed he anticipates the grade to be approximately 3 feet higher than the existing grade. Upon questioning by Mrs. Gerber, Mr. Hals stated that there will be noise produced on this site that is different from a site with single family homes.

Mr. Hals commented on the items contained in the letter from Boswell Engineering dated July 8, 2013. When asked about coverage, Mr. Hals said that the coverage is not driven by number of units and the architecture of the building could be changed to reduce coverage. Mr. DiFlora asked if the project could be developed in a way that would comply with the required 20% rather than the 24.68% proposed. Mr. Hals said that this would be very difficult to do without reducing the size of the buildings and the parking spaces. Mr. Kasuba said that they will explore this possibility. Mr. DiFlora asked for details about a standalone generator and a pump station and the applicant will look into this also. Mr. Hals stated that the County has not seen this proposal and he added that no wetlands are being touched and there are no flood water courses involved. Mr. Kasuba pointed out that the RSIS pre-empts any Borough requirements regarding the size of parking spaces and he will provide supporting correspondence.

Mr. Hals stated that the application could not comply with the recently adopted ordinance regarding berm height and a variance will be necessary. They will supply information on this variance request. Mr. Hals noted that landscaping has been moved further away from Building No. 2 to provide better access for fire apparatus and a fire hydrant has been added to the island. Fire zones have been stripped in accordance with the Fire Department. Street scape improvements on Franklin Avenue can be matched as deemed necessary by the Board.

A motion was made and seconded to open the public portion of the meeting for questions of the testimony of Mr. Hals, all ayes. Robert Jaekel, 532 Shirley Avenue questioned the sewer system and Mr. Hals responded saying that the owners of the development are responsible for the pipes to the point where the pipes hook up with the system on Franklin Avenue. Mr. Jaekel said that the area on Shirley Avenue floods when there is heavy rain and he asked about the design of the proposed retention system. Mr. Hals stated that the stormwater retention system is designed to meet the requirements of Stormwater Management meaning that the rate of runoff has to stay the same or be reduced from what exists at this time. This development will not aggravate or worsen the existing situation because a system will be designed to capture and release water at a slower rate. At the time of site plan approval, Mr. Hals will provide his calculations which will demonstrate that a gravity system offsite will not make the situation any worse than currently exists. No one else from the public came forward at this time and a motion was made and seconded to close the public portion of the meeting, all ayes.

A motion was made and seconded to carry this application to the meeting of August 1, 2013.

Roll Call Vote

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Badenhausen, Mr. Messaros, Mr. Bavagnoli,
Mr. Frankel, Mrs. Schoenberg

Nays: None

RESOLUTIONS

KRANTZ, BLOCK 2511, LOT 5

Mr. Frankel made a motion to memorialize the resolution as modified, seconded by Mr. Bavagnoli.

Roll Call Vote

Ayes: Mrs. Gerber, Mr. Badenhausen, Mr. Messaros, Mr. Bavagnoli,, Mr. Frankel

Nays: None

VANDER PLAAT – VERMEULEN, INC. (FUNERAL HOME), Block 3103.01, Lot 4

Mr. Frankel made a motion to memorialize the resolution, seconded by Mrs. Schoenberg.

Roll Call Vote

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Badenhausen, Mr. Messaros, Mr. Bavagnoli, Mr. Frankel,
Ms. Schoenberg

Nays: None

MONTANO, BLOCK 1512, LOT 7

Mr. Frankel made a motion to memorialize the resolution, seconded by Mrs. Schoenberg.

Roll Call Vote

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Messaros, Mr. Bavagnoli, Mr. Frankel, Ms. Schoenberg,
Mr. Badenhausen

Nays: None

MINUTES

The Minutes of June 6, 2013 were presented for approval. Mrs. Gerber made a motion to approve the minutes, as presented, seconded by Mr. Frankel.

Roll Call Vote

Ayes Mrs. Gerber, Mr. Messaros, Mr. Bavagnoli, Mr. Frankel, Mr. Badenhausen

Nays: None

The Meeting was adjourned at 11:18 P.M.