

MINUTES OF THE PLANNING BOARD MEETING
Thursday January 31, 2019

Present:

Chairman Lonergan
Vice Chairman Critchley
Ms. Jessica Pearson
Mr. Steven Neale
Mr. Tim Camuti
Mr. Greg Mascera, Planning Board Attorney
Jason Kasler, Township Planner

Mayor Ryan
Ms. Melissa Collins
Mr. Tom Freeman
Mr. Jim Kirby
Mr. Al DeOld
Ashley Neale, Planning Board Secretary

Meeting called to order at 7:32 P.M. by Chairman Lonergan.

Pledge of Allegiance:

Chairman Lonergan reads Open Public Meetings Act Statement.

Public Participation:

John Denton of 16 Glen Road. Asks when the second notice of the meeting was published in the paper. Ms. Neale states that it was published on January 10 and January 17.

Mr. Freeman states that he is going to recuse himself, due to personal investments that may have to do with the property.

New Business

Chairman Lonergan explains that the Board has been asked by the Township Council to determine if Block 303 Lot 4 would qualify as an Area in Need of Redevelopment. Mr. Mascera explains what the purpose of the meeting is. He states that the Board is only determining if this property meets, the criteria listed in the study prepared by Planner Jason Kasler. Once that is determined, the Township Council will then make the final decision to declare the property an Area in Need of Redevelopment.

Mr. Kasler introduces himself. Mr. Kasler states that he is a licensed Professional Planner with the State of New Jersey, and is certified by the American Institute of Certified Planners. Mr. Kasler explains that the Local Redevelopment Housing Law has eight criteria for a property to be considered an Area in Need of Redevelopment. Mr. Kasler explains in detail all eight criteria, lettered A through H, that can be viewed in his Plan or the Local Redevelopment Housing Law. Mr. Kasler gives an overview of the property, stating it consists of 5 acres and is in the R100, very low-density zone. He adds that it is currently being used as a private school, which is a non-conforming use. He continues with saying the property does not meet the Master Plan recommendation for that area, and does not meet required setbacks. He adds that from a planning point of view the property meets criteria "D" and "E", but only one criteria needs to be met in order to qualify as an Area in Need of Redevelopment.

Chairman Lonergan calls for a break to fix an issue with the recording system at 7:55pm. Chairman Lonergan calls the meeting back to order at 8:08pm.

Chairman Lonergan asks the Board if they have any questions for Mr. Kasler.

Ms. Pearson comments that steep slopes surround the property, and that development would have to be restricted due to the Townships Steep Slope Ordinance. She adds that she drove up there and the property is fully operational. Ms. Pearson asks if Mr. Kasler made any comparable since his report states that the property does not meet a 2 to 1 ratio for land and improvements. Mr. Kasler states that he would have if the ratio were closer in this instance, is 1 to 1.17. Mr. Kasler explains that the improvements over the land value should be a 2 to 1 ratio. Ms. Pearson asks how often residential areas are rezoned to still be residential areas. Mr. Mascera explains that it is done when needed, such as in Areas in Need of Rehabilitation. Mr. Mascera reads criteria "E" from the Redevelopment Law.

Ms. Collins asks about criteria "D", in regards to obsolete layout. The reports states that the layout is obsolete because it can only be used as a school. Ms. Collins asks how Mr. Kasler came to that conclusion. Mr. Kasler explains that because it is currently being used as a school it would require a lot of work to make change the use. Vice Chairman Critchley reads case law from the Municipal Land Use Law. Mr. Mascera explains that that case is saying that a property cannot be designated as an Area in Need of Redevelopment simply because a building is dilapidated. Ms. Critchley comments on how the criteria being used are extremely subjective. Chairman Lonergan adds that if subjective criteria are being used there should be extremely compelling evidence that he does not see yet. Mr. Kirby states that part of the property is located in Montclair; he asks if there is anything that would cause concern because of this. Mr. Kasler states that no plan would affect Montclair. Mr. Mascera adds that because Montclair is within 200 feet of the property they would get notice.

Mr. Mascera explains the owners of the property have intervened in land use litigation for the property. He briefly explains Fair Share Housing and how it effects municipalities. He adds that if the Board determined this to be an Area in Need of Redevelopment the municipality would have more control over design. He also briefly explains PILOT or tax abatement programs as incentives to builders. He states that this should not have anything to do with the decision to say it meets the criteria to qualify as an Area in Need of Redevelopment.

Mr. DeOld asks because criteria "E" states the site is underutilized, but there is a function school with 150 kids, is this premature. Mr. Kasler explains that the term underutilized is referring to the land to improvements ratio, and by that mathematical calculation, the property is considered underutilized.

Mr. Camuti asks if the Board should consider how this fits into the Master Plan. Mr. Kasler says that once the litigations were settles, the Board would then be given an Affordable Housing element of the Master Plan to review. Vice Chairman Critchley asks what precedent would be set if the property was determined to meet the criteria. Mr. Mascera states that no precedent would be set; each property is its own and would have to follow the same process.

Chairman Lonergan asks if the Board has any other questions, seeing none. He asks anyone from the public that would like to comment on topic.

Carol Thomas from 9 Balston Drive. Asks why the Town would prefer it to be called an Area in Need of Redevelopment and why it would be a Pilot. Mr. Mascera explains that the ultimate determination is made by the Township Council, and the Planning Board is simply determining if the criteria are met. He adds that the Township Council is not required to enter into a PILOT agreement just because a property is deemed an Area in Need of Redevelopment.

Larry Bovich from 86 Afterglow Avenue. Starts by saying he is an engineer, he drove by the property today and there is ample light and glass for the classrooms. States that he conducting his own study on how this would meet the Master Plan goals. Asks why the people who are affected by this determination cannot be more involved. He adds he would be supportive if a driveway was cut to Bloomfield Avenue. Mr. Mascera explains that would be a discussion for later, once the subject property was deemed an Area in Need of Redevelopment, there would be a Redevelopment Plan before the Board and the public could make comments for consideration. Mr. Bovich adds that he takes issue with Mr. Kasler saying that it could only be a school, he strongly disagrees.

Margaret Wager from 59 Afterglow Avenue. She thinks it is a great quiet street that she would like to keep that way. She states that the criteria is not met. She adds that she resents that the Board can speak about a development, but the public cannot. She feels the Board is looking outside the scope of just the subject property meeting the criteria.

John Denton from 16 Glen Road. Questions where Mr. Kasler got his ratio from, adds that the Smart Growth Website is now in Chinese. Mr. Mascera explains that it is a well-known ratio and is used in case law. Mr. Denton quotes from New York Supreme Court Case Gallenthin Realty Development versus the Borough of Paulsboro. Mr. Kasler explains that most planners use that ratio in all their reports. Mr. Denton adds that he conducted a search and he was unable to find any other narratives to support this ratio. Vice Chairman comments that since many planners use this ratio, it holds some merit; it was not pulled out of thin air. Mr. Denton argues that the Board should be looking at other criteria. Chairman Lonergan assures Mr. Denton that the Board would not use that as a catchall. Chairman Lonergan clarifies that the reason this topic is in front of the Board, is that the Township Council has asked the Board to review this study.

Chairman Lonergan calls for a 10-minute break at 9:18pm. Chairman Lonergan calls the meeting back to order at 9:28pm.

Jackie Quattrocchi from 44 Afterglow Way. Quotes from 2007 Supreme Court Case that said a property could not be included in a Redevelopment Plan simply because the property is not being used for its most optimal purpose. She feels that only the law should be followed and lawsuits should not be taken into consideration.

Kris Bromley from 31 Belleclaire Place. Concerned about the process. States there is concern on an email chain in the neighborhood that there is a memorandum about to be signed that 20 million dollar would go to Spectrum 360, 300 units and six stories are being built. She adds the neighborhood cannot support that. Mr. Mascera explains that anyone is welcome to address concerns at the Township Council meeting for the Redevelopment part. He adds that anyone can also attend the Fairness hearing to address concerns on the litigation for affordable housing.

Peter Polansky from 79 Afterglow Avenue. Wants to make sure the Board is fully informed of the consequences of a "Yes" or "No" vote.

Mayor Ryan asks if a future new owner could request the Board to relook if the property met the criteria to qualify as an Area in Need of Redevelopment. Mr. Mascera clarifies that the governing body would be the ones to start the process again.

Mr. Polansky reiterates the Mayor's questions and asks if this topic can be sent back to the Board in 6 months. Mr. Mascera explains that it could, if the governing body passes a Resolution.

Mary Bovich from 86 Afterglow Avenue. As she understands, the Board is required to determine if criteria is met and then make a recommendation to the Council. She states, we know there is a lawsuit, we know that Spectrum 360 wants to sell for 20 million dollars and move to Livingston. She adds the Russo, the developer, wants to develop and "targets towns that have an affordable housing issue." She asks if the residents would still have input. Mr. Mascera explain builders remedies lawsuits and redevelopment plans. He adds that is not what the Board is here to determine tonight.

Jim Ameen from 11 Cole Road. Lived in Verona 54 years. States it is clear that public in the room does not want this to pass. Appears clear to him that it has not be proven that it meets the criteria to qualify as an Area in Need of Redevelopment. Urges the Board to vote with good judgement, wants discussion to end and get to a vote.

Chairman Lonergan asks for a motion to determine if Block 303 Lot 4 meets the criteria to qualify as an Area in Need of Redevelopment. Mr. Kirby makes the motion, and Mayor Ryan seconds. Roll call is taken, votes are as follows:

Yes

Mr. Neale
Mr. Kirby
Mayor Ryan

No

Vice Chairman Critchley
Ms. Collins
Ms. Pearson
Chairman Lonergan

The motion fails.

Mr. Kirby brings up a house keeping issue. He states he attended a Board of Adjustment meeting, and would like to know if the Board of Adjustment understands and utilizes the Master Plan. Mr. Mascera states that they are supposed

to do so. He adds both Boards should consider the Master Plan when hearing applications and making decisions. Mr. Kasler adds that the Master Plan is the guiding document for Land Use decisions within a Township.

Adjourn

After a motion made by Vice Chairman Critchley and seconded by Mayor Ryan, there was a unanimous vote to adjourn at 9:55pm.

Respectfully submitted,

Ashley Neale
Planning Board Secretary

PLEASE NOTE: Meeting minutes are a summation of the hearing. If you are interested in a verbatim transcript from this or any proceeding, please contact the Planning Board office at 973-857-4805.