

**BOROUGH OF RARITAN**  
Virtual Land Use Board Meeting  
**MINUTES**  
August 26, 2020

**CALL TO ORDER & FLAG SALUTE**

The virtual meeting was called to order using Zoom at 6:32 p.m. The Board Secretary read the Open Public Meetings Act Notice into the record and provided an overview of virtual meeting protocol.

**ROLL CALL**

**Present**

Chairman Gausz  
Mayor Bray  
Councilman Patente  
Mr. Cunningham  
Ms. Thomas  
Ms. Carra  
Mr. DeCicco  
Mr. Delacruz  
Ms. Goetsch  
Ms. Sherwin  
Mr. Krajewski (arrived late)\*

**Also Present**

Frank Linnus, Board Attorney  
Larry Cohen, Esq., Special Counsel  
Angela Knowles, Board Planner  
Lou Gara, Construction/Zoning Official  
Stan Schrek, Board Engineer

**Absent**

Mr. Singara

**MINUTES**

- July 22, 2020 Minutes

**Motion** by Ms. Carra, **seconded** by Ms. Goetsch to approve by voice vote, as presented. Mr. Patente abstained.

- July 29, 2020

**Motion** by Ms. Thomas, **seconded** by Mr. Cunningham to approve by voice vote, as presented.

**RESOLUTION**

- **Approval of Settlement Agreement regarding Som-L-1039-10 (Raritan Orlando Drive Associates, LLC v. Raritan Borough Land Use Board and Borough of Raritan)**

Mr. Cohen provided an overview of the terms of the settlement agreement and history of the matter. He explained that the resolution authorizes execution of said settlement agreement which the Board acknowledged that they had previously received/reviewed.

**Motion** by Mr. Delacruz, **seconded** by Mayor Bray and unanimously carried to approve a resolution memorializing approval of a settlement agreement in the foregoing matter.

**Roll Call:**

Aye: Chairman Gausz, Mayor Bray, Mr. Cunningham, Ms. Carra, Mr. DeCicco, Mr. Delacruz, Ms. Goetsch, Ms. Sherwin, Councilman Patente  
Nay:  
Abstain: Ms. Thomas, Mr. DeCicco

\*Mr. Krajewski arrived at approximately 6:42.

Mr. Shrek began to experience technical difficulties and was disconnected at approximately 6:45. The Board concluded to hear the reports of the professionals and Subcommittees while they waited for Mr. Schrek to return.

**CONSTRUCTION/ZONING OFFICIAL REPORT**

Mr. Gara yielded to Ms. Knowles.

**PLANNER'S REPORT**

Ms. Knowles announced the official launch of the website [downtownraritan.com] in connection with the Economic Development Plan. She advised that they had reviewed an existing conditions report which would be posted on the website soon and spoke about an impending Facebook Live event with the Mayor which would serve to officially launch the project for Somerset Street.

**TRC**

Mr. Gausz announced that there had been no meetings and none scheduled.

**PEDESTRIAN BIKE/SAFETY**

Ms. Knowles confirmed that the Board would be putting the Circulation Plan Element on for public hearing in September.

**CANNIABIS**

Mr. Cunningham reported that there had been no forward movement on anything and offered that he could contact the Mayor for an update.

Mr. Linnus turned the meeting over to Larry Cohen, Esq. as Special Counsel in the Raritan Orlando Drive Associates matter. In the continued absence of Mr. Schrek, the Board was unable to move forward with the hearing. Mr. Linnus turned the Board's attention to the pending Patel application.

**APPLICATION**

- **Patel (Block 1, Lot 9.15) -16 Roderer Drive, Raritan NJ  
Bulk Variances**

Dave Stires, P.E. entered his appearance on behalf of the applicant. He advised that the applicant was requesting an adjournment due to a [newspaper] Notice deficiency. Mr. Linnus advised that they would need to re-notice the newspaper only as the 200' notice was proper.

**APPLICATION/HEARING**

- **Orlando Drive Associates (Block 116.02, Lots 3 & 4) - 21 Orlando Drive  
Final Site Plan Approval/Hearing concerning settlement of a lawsuit [SOM-L-1039-10]**

**Scheduled in accordance with the procedures established by the Courts of the State of New Jersey in the matter known as Whispering Woods. v. Middletown Township, 220 N.J.Super.161(Law Div. 1987).**

Nino Coviello (attorney for the applicant) confirmed he was present. Mr. Cohen spoke about voting eligibility among the Board members given the D[3] variance at hand.

Mayor Bray, Councilman Patente and Ms. Thomas recused.

Mr. Cohen provided an overview of protocol for the hearing and suggested Mr. Coviello mark the settlement agreement into testimony. Mr. Coviello consented.

Mr. Cohen explained that the hearing would be for an Amended Preliminary and Final Site Plan approval that contemplates construction of 42 apartments with no retail component [as previously planned] as well as two affordable housing units. He further explained that despite the agreement, the Board was not required to approve the application; but rather, they were required to listen to the proofs and apply the standards as they normally would in any other matter. He explained that if the proposal was accepted, it would be binding on the applicant unless an appeal were to be filed. He explained what would happen if the Board did not approve the application. Mr. Cohen entertained procedural questions.

**Nino Coviello, Esq.** entered his appearance on behalf of the applicant. The Board Administrator confirmed that there was a full complement of the Board. Mr. Coviello confirmed he was willing to proceed with the hearing with 8 voting members present. He called attention to the presence of a Court Stenographer, Diane Holmes.

Mr. Gara advised that Mr. Schrek was still trying to get back online.

Mr. Coviello provided extensive background information on the application, denial and ensuing appeal. He spoke at length to the variance relief which he explained proposes a deviation from a standard pertaining solely to a conditional use where mixed use is required to prevent more than one principal building on the property where only a multifamily residential use with no retail use is proposed. He explained that there were also variances granted in the earlier application such as parking space size and loading zone which were no longer being sought due to changes in stall size and elimination of the retail component.

Mr. Coviello advised that the owner of the subject property [Brian Carisone Plumbing & Heating] is also the contract purchaser of 20 Mill Street. That closing, he explained is subject to the approvals being sought this evening. He advised that applicant obtained a Flood Hazard permit from the NJDEP which is still valid and that the application involves an easement to the County for a public walkway along the Raritan River [approved by the County in 2019].

Mr. Coviello advised that he worked with Mr. Gara earlier in order to pre-mark several items into evidence. He reviewed the application materials that the Board should have, listing them as follows:

- Architectural drawings last revised to 5/25/20 (10 sheets)
- Amended preliminary & final site plan by Casey and Keller last revised to 7/21/20 (10 sheets)

Mr. Coviello offered that reference would also likely be made to the following items [submitted earlier]:

- Flood hazard permit (6/26/18)
- Letter from SCPB approving the easement for the walkway ( 2/6/19) together with final approved draft of the easement
- Turning Exhibit by Casey & Keller (4/30/20)
- Colored Site Plan rendering with additional details by Casey & Keller (4/30/20)
- Drainage report (last revised to 5/10/19) by Casey and Keller
- A colored landscape rendering (dated 4/30/20) by Casey and Keller
- Flood hazard map depicted on the site (dated 4/30/20) by Casey and Keller
- Stormwater Maintenance Manual (last revised to 5/13/19) by Casey and Keller; and
- Review memo of Stan Schrek (8/21/20)

He confirmed that the applicant was not in receipt of any other planning memoranda from the Board professionals. Mr. Coviello provided a witness list and advised that the Applicant [Elliot Liebowicz] would be present in the event of questions.

There was a brief general discussion about the marking of exhibits, to begin with A1. Mr. Coviello proceeded to mark the settlement agreement as **Exhibit A1** with a date of 8/26/20, as discussed.

The Board concluded to take a short break at approximately 7:02 in the continued absence of Mr. Schrek. They returned shortly thereafter but Mr. Shrek was still not online. They reviewed the balance of the agenda and concluded that all other agenda items required Mr. Schreck's presence.

#### **CONSTRUCTION/ZONING OFFICIAL REPORT**

**Mr. Gara provided an update of the following in the continued absence of Mr. Schrek:**

- Burlington Coat Factory (Preparing to open).
- Building on Route 202 housing Ivy Rehab, 711 and City MD Urgent care (Grand Opening scheduled).
- Block 81 (Proceeding with curbs and sidewalks then hopefully landscaping. Several units on the inside almost finished.)
- Janssen (Almost back to "full force" from prior to Covid shutdown. Applied for more permits).
- New homes (Permits received for new houses under construction; one on Second Ave. nearing completion, one on Canal Street).
- New businesses downtown changing hands (Working with someone potentially filing an application to move into Rant-a-Car store leftover by Angelone's Florist; not yet formalized).

Mr. Gara responded to questions from Mayor Bray about the storefront across Tropiano's. He advised that the same owners are going to open a cellular phone store and that the Sweet Creations store slated to be reopened as the same type of business.

Mr. Gara spoke about recent fires in town. He also spoke briefly about potential interest in the old Stop n Shop property and the Zeus property.

Upon conclusion of Mr. Gara's update, Mr. Cohen proceeded to speak about the proofs for deciding the D3 variance. He explained what the nature of the conditional use is and how it came to be part of

the current application. Ms. Knowles concurred with Cohen's assessment of the criteria.

Mr. Schrek returned at 7:06 and was briefed.

A discussion on completeness ensued. The Board accepted Mr. Coviello's representation that the taxes were current. There was discussion about the EIS waiver which Mr. Schrek indicated was granted previously. He confirmed that the previously discussed Flood Hazard Permit was in effect. Mr. Schrek recommended the the application be deemed complete.

**AS TO COMPLETENESS:**

**Motion** by Mr. DeCicco, **seconded** by Mr. Delacruz and unanimously carried to deem the application complete.

**Roll Call:**

Aye: Chairman Gausz, Mr. Cunningham, Ms. Carra, Mr. DeCicco, Mr. Delacruz, Ms. Goetsch, Ms. Sherwin, Mr. Krajewski

Nay:

Abstain:

**Architect Orazio Cifelli** entered his appearance on behalf of the applicant. He had connectivity issues at approximately 7:20 and was disconnected. Upon his return, he was sworn and qualified.

Making reference to plans dated June 25, 2020 (10 pages) which were marked into testimony as **Exhibit A2**, Mr. Cifelli provided architectural testimony and entertained questions from the Board regarding same. Discussion on refuse removal ensued. Mr. Coviello offered that the applicant would not object to having a private trash hauler work only during designated hours and would only place garbage out for removal for a minimal time prior to collection.

The Chairman solicited questions from the Board. Councilman Patente was advised by Mr. Coviello that his questions about outside parking and the Riverwalk easement would be discussed by the engineer in Site Plan testimony. Mr. Linnus questioned Councilman Patente's ability to participate in the hearing given his recusal. Mr. Cohen directed Councilman Patente to ask his questions during the open public question period only.

Chairman Gausz opened the floor to questions of the public. Speaking from the audience, Ms. Thomas complimented the applicant on the design and asked about refuse removal. Mr. Cohen and Mr. Coviello concurred that her question was more appropriate for the engineer.

**Michael Lanzafama, Engineer** of Casey & Keller was sworn and qualified. At the behest of Larry Cohen, Mr. Lanzafama confirmed that the site plan was exactly what was proposed at the time of Final approval. A colored rendering of the Site Plan was marked as **Exhibit A3**.

A colored rendering of Sheet 3 was marked into testimony as **Exhibit A4** and discussed. A discussion on stormwater runoff ensued. Mr. Lanzafama testified that water quality coming from surface parking lots would be addressed.

A colorized version of the landscaping plan identified as Sheet 6 was marked into testimony as **Exhibit**

**A5.** In addition to landscaping, lighting was discussed.

Mr. Lanzafama identified the Riverwalk and parking for same. Access to the parking area for the walkway was discussed. Ms. Knowles spoke about the relevance of the walkway as it relates to the TAP grant and the Circulation Plan Element. Mr. Lanzafama indicated that they would cooperate with the Town/County regarding same. Calling the proposal "fully compliant," he testified that the proposal meets all bulk requirements.

Mr. Lanzafama addressed Mr. Schrek's 8/21/20 review memo. Lot consolidation by way of deed upon approval of the application was discussed. The engineers briefly discussed the use of trench drains across the driveways and filtration elements in the collection system. Outside of those few items that required further discussion, Mr. Coviello indicated that the applicant would have no issue with accommodating Mr. Schrek's other requests.

Inside and outside agency approvals such as Police, Fire, EC, DEP and County were discussed. Mr. Gara confirmed that the EC reviewed the EIS from the preliminary approval, likely negating the need for any further review/comment. He indicated he would follow up with them.

Mr. Coviello asserted that there would not be a new traffic study submitted. Trash collection was discussed. At the behest of Mr. Cohen, Mr. Lanzafama identified the location of the receptacles and explained the process for removal. Mr. Lanzafama lost connectivity at 8:26. He returned at 8:32 and provided further engineering testimony/entertained further questions from the Board regarding same (refuse removal in particular).

Chairman Gausz opened the floor to questions of the public.

**Paul Malarcher** of 23 Hidden Pond Court commented that the proposal was attractive and better than what was there. Accessibility to the Riverwalk and the ramp in particular was discussed at length in response to questions from Mr. Malarcher. Mr. Lanzafama testified that a handicapped accessible sidewalk was going to be added to the sidewalk link to Orlando Drive.

Mr. Lanzafama provided planning testimony with respect to the D variance, citing Coventry Square Inc. vs. Westwood Zoning Board. He offered that the use is appropriate [particularly suited] for the zone and that the affordable housing component would aid in addressing the goals and objectives of the Master Plan as well as the MLUL. He asserted that the variance could be granted without substantial detriment to the public good or zoning plan/ordinance.

Mr. Cohen advised that the Fair Share Housing Center had no objection to the number of affordable housing units, as negotiated in the settlement agreement. He offered that gaining affordable units helps bring the Borough closer to achieving its obligations to the Fair Share Housing Center.

The Chairman opened the floor to questions of the witness regarding his Planning testimony at 8:55. There were none.

Mr. Coviello proffered a closing statement and Mr. Cohen provided an analysis of the Board's considerations for granting relief. In response to a question from Mr. Gara, Mr. Coviello confirmed

that the applicant would be ready to proceed with construction upon approval.

Mr. Cohen provided procedural information relative to the post approval process. He responded to a question from Mayor Bray about vacating the current tenant. Mr. Coviello affirmed that the contract requires delivery of the property vacant.

#### **AS TO THE D3 VARIANCE:**

**Motion** by Ms. Goetsch, **seconded** by Mr. Delacruz and unanimously carried to approve the variance, as requested.

#### **Roll Call:**

Aye: Chairman Gausz, Mr. Cunningham, Ms. Carra, Mr. DeCicco, Mr. Delacruz, Ms. Goetsch, Ms. Sherwin, Mr. Krajewski

Nay:

Abstain:

#### **AS TO PRELIMINARY & FINAL SITE PLAN:**

**Motion** by Mr. DeCicco, **seconded** by Ms. Sherwin and unanimously carried to approve the application for preliminary and final site plan, with conditions as discussed.

#### **Roll Call:**

Aye: Chairman Gausz, Mr. Cunningham, Ms. Carra, Mr. DeCicco, Mr. Delacruz, Ms. Goetsch, Ms. Sherwin, Mr. Krajewski

Nay:

Abstain:

Mr. Cohen left the meeting at 9:05. Ms. Thomas and Councilman Patente returned at 9:06. Mayor Bray did not appear to return.

#### **APPLICATION**

- **Pushpa Rawtani (Block 2, Lot 15) - 600 Route 28, Raritan NJ**  
**Minor Subdivision, Interpretation, Bulk Variance/s**

**John Sullivan, Esq.** entered his appearance on behalf of the applicant at approximately 9:07.

Mr. Linnus provided an overview of the application for an interpretation and minor subdivision, possibly with variances. He explained that if the Board agrees with the applicant's opinion that the property has two side yards in accordance with the definitions set forth in Section 207 of the ordinance, then no variance would be required.

The applicant's son **Ankit Rawtani**, [600 Route 28, Raritan] was sworn in.

Mr. Sullivan described the existing conditions of the triangle shaped lot.

**Exhibit A1** was identified as a Minor Subdivision Plan dated 2/5/20 [revised to 6/30/20] and marked into testimony. Mr. Sullivan explained that the subdivision proposed to divide the property into 2 lots (Existing Lot A and proposed Lot B) and reiterated how the result of the interpretation would impact the need for a rear yard variance. Mr. Sullivan offered that the ordinance does not contemplate a

triangular shaped lot and as such, explained that the application was submitted as conforming with no rear yard. He explained Mr. Schrek's view that the lot line furthest from Route 28 should be a rear lot line not a side line.

Mr. Schrek advised that there is no other property in town possessing two side yards and no rear. He offered that all properties abutting the property to the south/southeast are rear lot lines so any area behind the house, opposite Route 28 is definitely a rear yard. Ms. Knowles concurred, as did the Board Attorney.

The Board deliberated. Mr. Gausz, Mr. Cunningham and Mr. Delacruz agreed with Mr. Schrek's assessment/opinion.

**AS TO THE INTERPRETATION:**

**On a Motion** by Mr. Cunningham which was **seconded** by Mr. Delacruz and unanimously carried, the Board upheld Mr. Schrek's finding that the line depicted as a second sideyard on the plan is not a sideyard but rather, a rear yard, necessitating the need for bulk variance relief.

**Roll Call:**

Aye: Chairman Gausz, Mr. Cunningham, Ms. Thomas, Ms. Carra, Mr. DeCicco, Mr. Delacruz, Ms. Goetsch, Ms. Sherwin, Mr. Krajewski, Councilman Patente

Nay:

Abstain:

Ankit Rawtani described the current conditions on the lot, provided dimensional testimony and outlined the proposal. He spoke to the items in Mr. Schrek's 7/20/20 review letter pertaining to completeness and offered his willingness to comply generally. Mr. Rawtani testified that there were no deed restrictions on the property.

As to Item 6, Mr. Rawtani requested a waiver, citing prohibitive costs. He testified that development of the site would not affect any offsite structures within 200'. As to Item 7, Mr. Rawtani provided testimony as to his justification for not providing sight triangles. He testified that the pending DOT approval did not include any conversation about sight triangles. He also testified that depressed curbs are existing.

As to technical items in Section 3 of the letter, Mr. Rawtani testified that he would provide utility information including sanitary sewer information (public water/sewer proposed for both lots). He testified that stormwater management/grading would be addressed on the plans for building permits.

Screening of the parking areas was discussed. Mr. Rawtani indicated that he did not feel it was necessary to provide screening as the position of the driveway mitigated any potential impacts. Finally, Mr. Rawtani testified that he had received no response from multiple emails to internal agencies except the Fire Department who indicated that they had no interest in the application. The status of outside agency approvals such as DOT and SCPB were discussed.

Mr. Sullivan addressed Mr. Schrek's comments on the need for variance relief, offering that a hardship would apply.

Mr. Rawtani advised that the size of the proposed new house would be 40x70. The total square footage was discussed and he confirmed once he confirmed it would be two stories high. A discussion ensued on the applicant's ability/willingness to reduce the size of the home. Mr. Rawtani indicated that they wanted to maintain the size based upon lot size.

Chairman Gausz solicited questions from the Board.

Returning to completeness, Mr. Schrek advised that he would consent to the granting of waivers for the final plat details/stormwater details. He offered that it was objectionable for there to be pushback on the sight triangles and asserted that screening for the parking area was needed.

In response to questions from Mr. Patente, Mr. Rawtani confirmed that there would be a finished basement and that he was uncertain as to whether the new house would be retained by the family or sold.

Ms. Knowles suggested that reducing the size of the home would keep it in scale with neighboring homes. Mr. Rawtani offered that their intention was to show feasibility and that their construction approach would guide their decision on size.

Mr. Linnus offered that the Board needed to consider the variance request since they made a determination that the line in question is a rear lot line which would require a 35' setback rather than 22' sideyard setback. He suggested that if the Board were inclined to grant the variance then they should proceed with voting on the subdivision since the applicant was not receptive to reduce the size in order to make it conforming.

Ms. Thomas offered that she would not be comfortable approving the plan with the size of the proposed dwelling. Mr. Sullivan asked for confirmation that no variance was required for the combined side yard setback. Mr. Schrek confirmed.

Mr. Sullivan indicated that he was communicating with his client via text. Shortly thereafter, he advised that the applicant would reduce the size of the home making it a conforming subdivision and as such, negating the need for the rear yard setback variance.

A brief discussion ensued about moving the house more than 8' from the other lot. Mr. Schrek advised that 8' was permitted. The applicant confirmed that they would work with the Board Engineer on screening. Mr. Shrek stipulated that the rear yard setback would include all structures. Mr. Linnus and Mr. Gara concurred that any further intrusions would require variance relief.

The Chairman opened the floor to questions of the public. There were none.

#### **AS TO THE SUBDIVISION**

**Motion** by Ms. Thomas, **seconded** by Mr. Cunningham and unanimously carried to approve the application for Subdivision with conditions, as discussed.

#### **Roll Call:**

Aye: Chairman Gausz, Mr. Cunningham, Ms. Thomas, Ms. Carra, Mr. DeCicco, Mr. Delacruz,

Ms. Goetsch, Ms. Sherwin, Mr. Krajewski  
Nay:  
Abstain:

### CONCEPT PLAN

- 33 Second Street (Block 87, Lot 9)

Mr. Linnus spoke about the benefits/purpose of presenting a conceptual plan.

**Dave Stires, P.E.** provided an overview of the plan for a 16 unit apartment building with a 2 parking space per unit ratio. Mr. Stires related that the property had long been vacant and that the owners had been struggling with the use in recent years especially.

Mr. Gausz solicited comments from the Board.

Ms. Thomas asked whether the building would maintain the existing footprint. Mr. Stires indicated that it would.. Given her familiarity with the interior of the site, Ms. Thomas offered that 16 units seemed like too many unless they were studios or one bedroom apartments. She related that she would need to see a floor plan. Mr. Stires advised that they have a preliminary floor plan but that he did not know the square footage of the units. Ms. Thomas reiterated that she would need to see the floorplan.

Mr. Stires responded to a question from Ms. Sherwin as to whether they would keep the structure or tear it down. He then responded to questions from Mr. Patente about the size of the lot and whether they would be for sale or rent. Mr. Patente commented on the number of units per acre that this would average out to and how that was an increase from older projects.

Mr. Schrek offered that Mr. Stires made an effort to meet RSIS guidelines and reduce impervious coverage. He mentioned the connection to the municipal lot and suggested this would offset some parking. Mr. Schrek suggested that the application move to TRC as it appeared to be a good use of an existing vacant building which could potentially be classified as a transit oriented development given the location/walkability. Ms. Sherwin called this type of housing [converted schoolhouse] "highly desirable" based on personal experience.

Ms. Knowles spoke about the potential for providing additional public parking when needed and offered that the proposal seems to be in line with the Borough's objective of bringing more density to this part of town.

Mr. Linnus asked whether the applicant would consider providing some portion of units as affordable housing. The owner/developer of the site, **Joe Nasar** stated that it could be done, if required by the Town. Mr. Stires affirmed that there was "more than adequate" parking plus some for the municipal building. Ms. Knowles offered that there is not much opportunity to live around the downtown and that providing common areas is important.

Mr. Schrek concluded to set up a TRC with Mr. Stires to include the presentation of rough floor plans.

**GENERAL COMMENTS/DISCUSSION**

Mr. Gausz advised that he would be stepping down upon the sale of his home and that Ms. Thomas would likely take over.

Mr. Shrek responded to a question from Mr. Patente about the current average number of units per acre as it relates to an apparent increase in the average.

**PUBLIC COMMENT PERIOD**

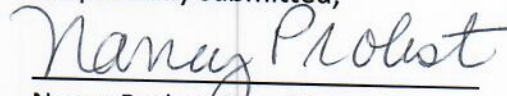
The Chairman opened the floor to questions/comments at 10:11.

Tom Brown [18 Elmer Street] commented on the density issue previously brought up by Councilman Patente. He expressed concern over the LaGrange Street project which he related would affect the people living on Elmer and as far as Codington/Reimer. Mr. Brown asserted that despite the developments being touted as improving quality of life, they actually threaten it due to density. He suggested that the problem continues despite there having been at least TRC meetings about it.

The Board Secretary asked about TRC membership given Rick Miller's resignation earlier in the year. Mr. Gausz advised that he would look into it.

**Motion** by Ms. Thomas, **seconded** by Mr. Delacruz to adjourn the meeting at 10:14.

Respectfully submitted,



Nancy Probst, Board Secretary

**APPROVED** 1/27/21