

BOROUGH OF RARITAN
Land Use Board Meeting
MINUTES
July 28, 2021

CALL TO ORDER & FLAG SALUTE

The meeting was called to order at 6:35 p.m. in the Borough of Raritan Municipal Building. Ms. Thomas read the open public meetings statement into the record.

ROLL CALL

Present

Debra Thomas
Mr. Cunningham
Mr. DeCicco
Ms. Goetsch
Ms. Windrem
Mr. Brown
Ms. Sherwin

Also Present

Larry Cohen, Board Attorney
Stan Schrek, Board Engineer
Angela Knowles, Board Planner
Lou Gara, Construction/Zoning Official

Absent

Mayor Bray
Councilman Carra
Mr. Delacruz
Mr. Sinagra
Mr. Krajewski

MINUTES

April 28, 2021

Motion by Mr. Cunningham, **seconded** by Mr. Brown to approve the Minutes as presented, by voice vote. Mr. Decicco abstained.

May 26, 2021

Motion by Mr. DeCicco, **seconded** by Ms. Goetsch to approve the Minutes as presented, by voice vote. Ms. Sherwin abstained.

June 23, 2021

Ms. Probst advised that the Minutes that were distributed were revised to reflect Mr. Brown's vote of "no" on the CGR application. Mr. Cohen spoke about the content of the Minutes in response to a comment from Mr. Brown about the public comment portion in particular. **Motion** by Mr. Cunningham, **seconded** by Mr. DeCicco to approve the Minutes of **June 23, 2021** by voice vote, with one modification as discussed. Ms. Carra abstained.

RESOLUTION

The resolution for **CGR, LLC & 93 West Somerset Street, LLC (5 First Street & 93 West Somerset Street -Block 85 Lot 15 & Block 103 Lot 2)** was tabled. There was a brief discussion about the condition of the property.

ENGINEERING REPORT

The demo at 20 Mill Street was discussed. With respect to **Block 81**, Mr. Schrek advised that the performance bond would be released soon since work is coming to a close and that there would be a ribbon cutting ceremony on 8/5. He related that progress on the pedestrian walkway has been made with NJ Transit and that the builder is ready to make the connection. In response to a question from Mr. Brown, Mr. Schrek advised that the decision of whether to eliminate the one way street was one to be made by Council.

With respect to **LaGrange Street**, Mr. Schrek advised that an area in need of redevelopment had been done and spoke about the redevelopment plan. The vacation of Reimer Street was discussed.

CONSTRUCTION OFFICIAL REPORT

Mr. Gara provided updates/information on the following projects:

Block 81 (Temporary CO issued; final approval forthcoming).

Orlando Drive Apartments (Construction to commence in the Spring).

Johnson & Johnson (Close to completion).

Labcorp (Progressing).

Angelone's Florist (New tenants on site).

Shop n Stop property (Received zoning application only).

TRC MEETING UPDATE

Chairwoman Thomas advised that there were no TRC meetings scheduled and that none had been held.

AD HOC COMMITTEE (Cannabis Dispensaries)

Mr. Cunningham advised that there had been no activity.

PEDESTRIAN BIKE & SAFETY

Ms. Knowles advised that there was nothing new to report. Mr. Schrek suggested that this committee would be a good venue for discussion of the bike path.

DISCUSSION/MISCELLANEOUS

- **Area in Need of Redevelopment Study (Raritan Crossing LLC/"Larken")
Block 116.01, Lots 25,26.01,27&27.01 and Block 112, Lot 3**

The Board Attorney provided an overview of the redevelopment process including how a determination as to whether an area meets statutory criteria is made.

Referencing her report dated 6/26/21, Ms. Knowles provided an overview of the study area, including a total of five parcels which she identified and spoke about both individually and collectively. She discussed existing conditions and reviewed the eight criteria used to determine whether an area meets the requirements, one of which is smart growth which cannot stand alone. She spoke about Section 3 of the statute as it relates to proximal properties.

Referencing page 20, Ms. Knowles called attention to the summary of findings. She advised that while the structures were not found to be in poor condition, they would/could fall under criteria given their arrangement/obsolete layout and design. She pointed out difficult circulation patterns and topography that makes the area less pedestrian friendly, referring to two properties in the rear (25 and 26.01) that are the equivalent of one big parking lot which equates to excessive land coverage.

Ms. Knowles offered that both Criteria (h) and Section 3 were applicable because of location (walking distance to downtown). Mr. Schrek asked whether criteria b/d might be applicable but Ms. Knowles explained that she wasn't sure the properties were vacant long enough to be considered underperforming.

Mr. Cunningham reminded that the back parking lot had been designated for employees. Ms. Knowles offered that Grantez Place still appeared to be on the tax map as a road. Ms. Thomas reminded that the Board was very concerned about circulation when the development was considered, thus the right turn only limitation.

Mr. Brown asked whether the dollar store and medical facility were going to be demolished. Mr. Shrek advised that he was not sure.

Mr. Cohen advised that redevelopment law provides for condemnation and non condemnation of properties within a redevelopment area. He clarified that this proposal falls under the latter while the next one the Board would discuss will include condemnation. Rehabilitation and next steps were discussed.

Mr. Brown asked whether the intent was to access Glaser Ave. and open it the neighborhood behind it. Ms. Knowles advised that the intent is to connect as many residential neighborhoods to commercial properties as possible. She explained that she would have to look at a design concept/did not know the intent of the developer.

Mr. Brown asked whether a concept plan had been presented. Mr. Schrek advised that while they had seen a sketch, he wound up coming in with redevelopment so that is why they are now looking at it as an area in need. Mr. Cohen clarified that the project was not at the point of design and explained the process again.

Mr. Brown asked whether it was unreasonable to expect information given to governing body would be passed on to the Planning Board so that they could make a "legitimate evaluation." Mr. Cohen offered that while it would be reasonable to expect, the Board should be focusing on whether the area is in need of redevelopment rather than what goes there. He advised that a concept plan would follow.

Similarities to Block 81 were discussed. Ms. Thomas reminded that the project is not at the point of public hearing. She offered that she would not be in favor unless the whole property was being discussed because of the circulation issues. Mr. Cunningham offered that Block 81 was a blighted area that needed redevelopment where this is a "vital business" owned by someone who received approval for upgrades along with part of the road. He questioned the order of the process and asked why they would change the designation of the property before deciding what to do with it.

Ms. Thomas explained that declaring an area in need of redevelopment presents an opportunity to have input in what the Borough want in contrast to a development application. Mr. Schrek added that it makes it collaboration between the developer and the Borough that allows the town to consider changes that incorporate the Town's vision rather than having to entertain a use variance application.

Mr. Cunningham asked about financial benefits to the developer. Mr. Cohen spoke about tax exemptions. Mr. Brown offered that he already owns them and now wants a tax break which led to a discussion about same.

The Board Attorney clarified that the Board is statutorily charged with designating the area as one in need of redevelopment (or not) and that the ultimate decision of whether to adopt the plan rests with the governing body. Mr. Cunningham acknowledged that he understood. Mr. Schrek reiterated that it gives the Borough control.

Mr. Brown asked whether they would be in a position to say they want to redevelop it but not for a specific use (another apartment building). Mr. Cohen explained that is a decision for Council and again explained what the Board's focus should be. Ms. Knowles clarified that the Board could not dictate what it would be used for.

Ms. Knowles responded to a question from Ms. Goetsch about only having to meet one criteria and which one that is. Mr. Cohen explained the public hearing would serve as the venue for dissent among property owners. Ms. Knowles confirmed that the Shop n Stop property is not included in the study area. She and Mr. Schrek outlined same. She responded to a question from Ms. Sherwin about how this could impact that property.

Mr. Brown asked about the number of accidents occurring on the site. He suggested that this might be an indicator that things such as overcrowding and faulty arrangement/design really exist. Ms. Knowles advised that she did not have data on this. Comparing it to a dangerous traffic pattern she observed near Duke Farms, Ms. Thomas offered that the potential for a problem is also meaningful as sometimes statistics might not provide a full picture.

Mr. Brown asked what benefit there would be to having shops eliminated. Ms. Knowles offered that sometimes existing tenants in redevelopment areas are offered spaces in new buildings. Mr. Thomas asserted that this is not the case as he learned in speaking to some of the existing tenants.

Ms. Sherwin made a comment about code compliance. Mr. Brown made a comment about the vaping store. Mr. Cohen again reiterated that the focus should be on whether the area meets the criteria for redevelopment. Mr. Brown asked about a presentation from the developer. Mr. Cohen reiterated that the focus should be on the criteria; not personal preferences.

Mr. Decicco asked whether the Board could recommend that Council look at Shop n Stop too. Mr. Cohen advised that they could and that it could be done by way of including it in the annual report. Mr. Decicco offered that it should be recommended "together." Mr. Cohen explained that while the Board could recommend that the property be considered, a study could only be undertaken by order of the Council; he reiterated however, that it was unrelated to the instant matter.

Ms. Carra asked Mr. Schrek whether the footprint has to be the same. Mr. Schrek advised that the bulk requirements are determined in the redevelopment plan. Mr. Cohen explained that the footprint can be different. There was a discussion about flooding on the site behind the building. Mr. Cunningham asserted that it does flood. Mr. Schrek indicated that although he did not recall any issue with this in the 2017 review, they could look into the storm water design criteria.

Mr. Cohen suggested that the date for a public hearing should be set. He advised that the redevelopment plan should go on website and that copies of it would need to be available for the asking. He confirmed that any affected property would be Noticed. Ms. Thomas asked about anticipated attendance for purposes of quorum in August. Ms. Sherwin indicated that she would not be present. Mr. Cohen confirmed that his office would handle the public notice requirement.

At the behest of Susan Rubright, Larry Cohen again confirmed that his office would be handling the public notice for the matter. Ms. Rubright left at 7:56.

Motion by Ms. Carra, **seconded** by Mr. Cunningham and unanimously carried to hold a public hearing on the matter at the August Board meeting, as discussed.

ROLL CALL:

Aye: Ms. Thomas, Mr. Cunningham, Ms. Carra, Mr. Decicco, Ms. Goetsch, Mr. Brown, Ms. Sherwin, Ms. Windrem

Nay:

Abstain:

- **Area in Need of Redevelopment Study ("Zeus"/Orlando Heights)**

Block 116, Lots 13&14 and Block 108, Lots 1, 2& 4-9

Ms. Knowles provided an overview of the report and pointed out that this study includes the possibility of condemnation. She identified the Zeus property, Skylands Energy and FEMA flood area in particular.

With respect to the large commercial buildings, she advised that while Zeus is vacant, there appear to be trucks parked overnight. She spoke about access to the two structures on the site and described the buildings as dilapidated/not in good condition, structurally or aesthetically. Ms. Knowles advised that the Skylands property is occupied and appears to have several parking areas located along Mill Street which are striped. Citing faulty arrangement in terms of access, Ms. Knowles related that it is a difficult site to maneuver. She related that the building is in good condition, the garage in the rear is fair and that there are some areas of overgrowth [vegetation].

Block 109, Lot 1 was identified as a brick structure in “good condition” with two retail units on the ground floor and apartments that appear to be vacant upstairs. Mr. Brown offered that they are not vacant. Referring to page 8, Ms. Knowles explained that there is also a two story house at the rear (18 Thompson St.). **8 East Somerset Street** was identified as home to the lamp repair shop and said to be in “good condition.” Ms. Knowles identified access and parking.

Block 108, Lot 4 was identified as a two story mixed use building in good condition with well maintained grounds, accommodating a Laundromat and apartments on the second floor. **Block 108, Lot 5 (6 Thompson Street)** was identified as a well maintained multifamily house in good condition and no off street parking as a garage on the site has no street access. **Block 108, Lot 6 (10 Thompson Street)** was identified as a 2&1/2 story multifamily house in good condition. Ms. Knowles identified the parking area for this lot.

Block 108, Lot 7 was identified as a well maintained two story home in good condition. Ms. Knowles identified access. **Block 108, Lot 8 (14 Thompson Street)** was identified as a two story, single family house in good condition. **Block 108, Lot 9** was identified as a well maintained mixed use building in good condition with retail on the first floor and a residential component on the second floor. Ms. Knowles identified parking.

Mr. Cunningham asked why residential homes were being identified/why they were looking at private residences for a “blighted area.” Ms. Knowles explained that this is what Council asked for. She suggested that as the residential properties do not meet the criteria, they may have a project in mind that requires additional land. She offered that it might be part of the discussion since the Borough would want to see connectivity to Somerset Street for any development on the Zeus site.

Ms. Knowles explained that the individual properties meet a lot of criteria under redevelopment law and that while the residential properties don’t meet the first seven criteria, Section 3 and criteria (h) could apply because of proximity to an area that does meet several of the criteria.

In response to a question from Mr. Cunningham, Ms. Knowles confirmed that the project could be subject to eminent domain. Ms. Thomas related that she was confused because she thought initially they would not be including the houses, then heard it would not be done with condemnation and then heard something about St. Josephs.

Mr. Cohen reiterated that this project was different from the other one as that one would likely be developed “as one whole property.” He explained that if the entire area is designated as an area in need of redevelopment that it does not mean that it is one project or that it has to be redeveloped all together/at the same time. He spoke at length about the condemnation aspect, explaining that just because it exists in the plan does not mean any properties would necessarily be condemned. He went on to explain that the Board

could make a determination, as Ms. Knowles pointed out, that a lot of the houses are not in need of redevelopment.

Mr. Brown asserted that maybe they should not be included then. Mr. Cohen asserted that they are included because Council asked them to be. Ms. Thomas asked whether the houses could be excluded in the Board's recommendation if they endorsed the plan otherwise. Referencing page 19 of the report, Mr. Cohen offered that some may be found to not meet the criteria.

Mr. Cunningham asked whether Council can accept, reject or overrule the Board's determination which led Mr. Cohen to provide an explanation of the how the process works. He asserted that it was not "all or nothing." Mr. Cunningham referenced redevelopment procedure #5 as to acceptance, rejection or modification of the recommendation. Ms. Knowles read aloud from the Local Redevelopment Housing Law Redevelopment Procedures. Mr. Brown clarified that the Board may reject part of the plan.

Mr. Brown asked Ms. Knowles whether some of the properties could be taken out of her conclusion based on Mr. Cohen's comments. Mr. Schrek asserted that criteria (h) applies to the residences since they fall into a larger plan. Mr. Knowles offered that she could revise it in order to make it more clear as her intent was to say that the individual properties meet the criteria 1,b,d and h while the residential properties only meet h. There was a brief discussion about the smart grown criteria/Section 3. Mr. Cohen offered that there is not much difference between the two. Mr. Brown asserted that since there are no homes in Raritan that don't meet Section 3, everyone is at risk.

Mr. Cohen explained that the Board is not deciding who would be condemned by eminent domain and reiterated that just because they have the right does not mean it will be used. He shared his personal experience with condemnation elsewhere.

Mr. DeCicco asserted that eminent domain should be "taken off table." Mr. Cohen explained that it's the Board's determination as to finding the area to be in need of redevelopment. Mr. DeCicco commented that there is no need for it and Cohen reiterated that it is part of the plan because Council asked for it to be. Further discussion ensued. Mr. Brown suggested that Council is trying to get the Board to make their decision so they can blame it on them.

Ms. Sherwin asked about the criteria. Ms. Knowles indicated that she has to revise it. Mr. Brown asked whether the commercial properties could be handled one way and the residences as rehabilitation instead. Mr. Knowles explained that in the downtown redevelopment project, that process recommends all of the downtown be designated a rehabilitation area so whether or not these residential properties are considered in need, they will be captured in that anyway should the Borough proceed with the rehab designation.

Ms. Goetsch asked whether the homes were mainly rentals and/or owner occupied. Ms. Knowles related that most are multifamily but she was not sure about who inhabited them. Mr. Gara related that he could provide information on this going forward.

Ms. Carra asked how the houses came in to play when the developer wanted to buy Zeus and the Laundromat. Mr. Shrek advised that the Board was told by Council to consider them. Speculation on how this happened ensued in the absence of a plan and in the absence of the sitting members of Council.

The likelihood of condemnation and impact of the designation on resale was discussed. Mr. Brown likened it to the houses on Third Street as they related to Block 81. Ms. Thomas asked whether they could recommend the houses but without eminent domain. Mr. Cohen offered that they either do or do not meet the criteria. Mr. Cunningham offered that they meet it in proximity only. Mr. Cohen reiterated that they have to decide this

because it's what the plan recommends. Calling it a problem, Mr. Cunningham suggested that they are included because someone must have put forth a proposal. Ms. Thomas suggested that if the houses are just going to be used to improve circulation for the Zeus site then a streetscape should just be done instead.

Ms. Sherwin asked what the "practical difference" would be. Mr. Cohen explained that if no eminent domain, then it's up to developer to negotiate with property owners and if they don't want to sell, then it won't be redeveloped. He offered that in order to send it to the Board, Council must have made a decision that condemnation may be needed in order to facilitate some conceptual plan that they have in mind. He suggested that the Board ask Council why they have suggested / requested that this area be studied with the right of condemnation.

Ms. Thomas offered that it needs to be discussed prior to public hearing and agreed that it would be prudent to hear it in September. She offered that while they want to see development of the Zeus property, they need to advocate what is right for all. She asked for a motion on the public hearing in an attempt to get more information. Mr. Cohen suggested that the Board communicate with Council as to why they included the request for condemnation. This led to a discussion about whether Block 81 had any eminent domain.

Mr. Brown suggested that he would like to hear from Council's committee that was formed to work with the developer which he related is comprised of CM Giraldi, CM Orozco and CM Carra in order to find out exactly what is intended so that the Board can make "reasonable decisions." He related that he was told by one of the councilmen that this committee exists and asked why that was not conveyed to the Board.

Addressing Ms. Knowles, Mr. Cohen offered that with respect to the smart growth criteria in particular, the Board should know what kind of redevelopment plan the Council is looking at because whether or not a property fits depends upon the type of development. Ms. Knowles related that given the nature of the downtown, "pretty much every property" could meet the smart growth criteria regardless of whether or not there is a project associated with the redevelopment study because of location.

An extensive discussion ensued as to the extent of the question and timing of the response from Council to the inquiry from the Board. Mr. Cohen suggested that the Board vote on sending the request to Council this evening in the interest of holding the public hearing in September. He clarified that the request would be to know why condemnation was included in this study. Ms. Thomas asserted that more information was needed prior to public hearing. Mr. Brown asked whether they could ask to address the commercial and residential aspects separately. Mr. Cohen suggested that they might want to know why they asked to include a residential component that appears to not meet most of the criteria.

Ms. Sherwin asked whether there is an obligation to approve the plan if it meets the criteria. Mr. Knowles explained that a redevelopment project has to meet the standards of the redevelopment plan which sets forth the zoning. Mr. Cohen added that it gives them the right to potential tax benefits. Mr. Brown mentioned the potential impact on home sales. Mr. Cohen related that sometimes owners wind up getting more than what the property is worth.

Mr. Cohen suggested that when the Board has a hearing, they have to make it clear that condemnation power is with Council; not the Planning Board. He clarified that if the Board determines that a property is in need to redevelopment because it meets certain criteria, it does not mean they are voting for the property to be condemned.

Addressing Ms. Knowles, Mr. Brown advised that with respect to value, 6 Thompson was completely gutted and rebuilt in 2018. He advised that 8 E. Somerset belongs to Rosemary Fort (sp) who resides in the downstairs area and has been bedridden for 20 years. He suggested that because it is a small town, everyone needs to be

aware of things like this in making decision.

Mr. Cohen responded to a question from Ms. Sherwin about Notice to property owners. Mr. Cunningham questioned the frequency of the tax amount shown on page 20 (quarterly v. yearly).

Further discussion ensued on how to handle the inquiry to Council. Mr. Cohen indicated that he would relay the Board's questions about the right of condemnation and why the residences were include to Jeff Lehrer in the hopes of getting a response by August. Ms. Thomas asked that this be listed as a discussion item for August in anticipation of a public meeting in September.

Motion by Ms. Windrem, **seconded** by Mr. Cunningham and unanimously carried to authorize Mr. Cohen to correspond with the Borough Attorney and to schedule a public hearing on the matter at the September Board meeting, as discussed.

ROLL CALL:

Aye: Ms. Thomas, Mr. Cunningham, Ms. Carra, Mr. Decicco, Ms. Goetsch, Mr. Brown, Ms. Sherwin, Ms. Windrem

Nay:

Abstain:

Ms. Knowles advised that they are awaiting the final redevelopment plan for the downtown revitalization project. She encouraged everyone to check out downtownraritan.com which has all of the documents that were produced throughout the project.

Ms. Knowles explained that the rehab plan is essentially a redevelopment plan. She explained that once finalized, the next step would be to adopt the plan as part of the Master Plan so it becomes a working document that the Board can use to prioritize projects and use for planning purposes as it identified a few redevelopment zones. She reviewed the components of the plan and responded to questions about moving it forward. Ms. Thomas suggested that they could begin looking at ordinance changes. Mr. Cohen related that this would fall under master plan review which requires funding. Ms. Thomas offered that red tape could kill momentum. Mr. Brown offered discussion about bike racks in June as an example.

Addressing Mr. Schrek, Mr. Brown offered that funds would be needed if they are going to encourage people to rehab/upgrade their properties. Mr. Schrek advised that the bike racks were covered in the TAP grant. Ms. Knowles explained that the whole process that had taken place was the master plan review as they are handing the Borough the element for the master plan to review, discuss, bring to public hearing and adopt as an amendment to the master plan. She suggested that it could happen in the next few months. Implementation was discussed. She spoke about the working group that came out of the process and offered that this group of volunteers together with the economic development committee would have a huge part in implementation with marketing to potential new businesses and supporting existing ones.

Ms. Thomas opened the floor to comment.

Tying it in to the downtown redevelopment plan which he remarked has not yet been adopted, **Paul Malarcher** of 23 Hidden Pond Court suggested that considering whether Thompson St. is an area in need is putting the cart before the horse.

Councilman Mike Patente asked the Chairwoman to consider having comments after each "situation." Ms. Thomas explained that comments were limited because a public hearing where comments will be heard is imminent. Comments about meeting protocol were exchanged.

Mr. Patente related that there were many applications for variances at the mall and most of them included an agreement that Glaser Ave. would not be impacted by traffic. He questioned why the Board is now talking about possibly having road traffic on Glaser Ave. He offered that smart growth includes multiple family dwellings and added that a lot of those applications include redevelopment of multiple family dwellings that are already there. He expressed concern about how it could be rebuilt any differently without going through the houses next to it, if demolished. Ms. Knowles responded.

Mr. Patente asked what the basis for condemnation was in the Zeus matter. Ms. Knowles explained that they are hoping to get clarification on this. Mr. Schrek offered that Mr. Patente is on the Council that voted to send it down. Mr. Patente indicated that he had no information on it. He then asked about different scenarios for how the Board could handle the matter. Mr. Cohen explained that because of the condemnation aspect, the Board would be making an inquiry to Council and then deciding how to address it. Mr. Patente related that he does not like any condemnation and hopes a lot of residents participate in the public hearing. Mr. Cohen asserted that it is his body [Council] that requested it.

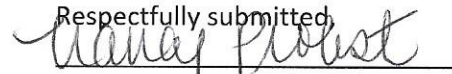
Mr. Cohen explained how the process would work in response to a question from Paul Malarcher as to what the mechanism for recommending to Council that a study of the Shop n Stop property be undertaken.

PUBLIC COMMENT

Ms. Thomas opened the floor to public comment. There was none.

ADJOURNMENT

Motion by Mr. Cunningham, seconded by Ms. Sherwin and unanimously carried to adjourn at 9:14.

Respectfully submitted,


Nancy Probst, Board Secretary

APPROVED 8/25/21