

Minutes of the Board of Adjustment of the  
Township Of Hanover  
January 17, 2019

Chairman Stanziale called the Meeting to order at 7:34 PM and The Open Public Meetings Act statement was read into the record:

Board Secretary, Kimberly A. Bongiorno, LUA, took the Roll Call.

In attendance were Members: Alwell, Caruso, Fomchenko, Giorgio, Hingos, Neidhardt, Walsh, and Chairman Stanziale

Absent was Member: Donaldson

Also present were Board Attorney, Michael Sullivan, Township Planner Blais Brancheau and Township Engineer, Gerardo Maceira, PE.

**Public Business Presented**

**I. CORRESPONDENCE**

1. Letters of Re-Appointment/Appointments

Benjamin Stanziale Four (4) Year Term Ending 12/31/22

Carol Fomchenko Four (4) Year Term Ending 12/31/22

Carol Giorgio Two (2) Year Term Ending 12/31/20

John Donaldson Two (2) Year Term Ending 12/31/20

**II. REORGANIZATION**

1. ELECTION OF CHAIRPERSON

A motion was made to nominate Member Benjamin Stanziale as Chairperson.

Moved by Member Walsh and seconded by Member Hingos.

Seeing and hearing no others the nominations were closed

Members Alwell, Caruso, Fomchenko, Hingos, Neidhardt, and Walsh were all in favor of Mr. Stanziale for Chairman for the 2019 term. Mr. Stanziale recused himself from the vote.

2. ELECTION OF VICE-CHAIRPERSON

A motion was made to nominate Member Walsh as Vice-Chairman.

Moved by Member Fomchenko and seconded by Member Neidhardt.

Hearing no others the nominations were closed.

Members Alwell, Caruso, Fomchenko, Hingos, Neidhardt, and Stanziale were all in favor of Mr. Walsh for Vice Chairman for the 2019 term. Mr. Walsh recused himself from the vote.

3. RESOLUTIONS

- a. Designation of Official Newspaper
- b. Designation of Board Attorney
- c. Appointment of Board Secretary
- d. Adoption of Schedule of Meetings Dates for the Year 2018
- e. Membership in the NJ Federation of Planning Officials for the Year 2019
- f. Designation of Completeness Official

The 2019 Reorganization Resolutions stated above were adopted as written. Moved by Member Walsh and seconded by Member Alwell.

Members Alwell, Caruso, Fomchenko, Hingos, Neidhardt, Walsh, and Chairman Stanziale were all in favor to adopt the above 2019 Reorganization Resolution as written.

**REGULAR MEETING OF BOARD OF ADJUSTMENT CALLED TO ORDER**

**I. RESOLUTIONS TO BE MEMORIALIZED**

- |    |                        |  |
|----|------------------------|--|
| 1) | <b>CASE NO.</b>        | 1783   |
|    | <b>APPLICANT/OWNER</b> | JEFFERSON PROPERTIES MANAGEMENT &<br>DEVELOPMENT LLC |
|    | <b>LOCATION:</b>       | 40 SOUTH JEFFERSON ROAD<br>WHIPPANY                  |
|    | <b>BLOCK: 2904</b>     | <b>LOT: 4</b>  |
|    |                        | <b>ZONE: I</b>                                       |

Applicant requested modifications of condition 10 of the resolution to extend the deadline for DEP approval. Extension granted to February 5, 2019.

A motion to memorialize the resolution was moved by Member Fomchenko and seconded by Member Caruso.



**Board decision due by: FEBRUARY 1, 2019**

Lawrence Calli – Attorney for the Applicant

- Engineer, architectural and planning testimony will be given this evening.
- The applicant was here a few years ago with a more ambitious project than this.
- It has been pared down a lot since then.
- Will only be asking for a “D” density variance tonight.
- The “C” bulk variances will be deferred to the site plan.

Mr. Sullivan

- Clarified the eligible members and what is being applied for this evening.

Mr. Brancheau and Mr. Maceira were sworn in by the Board Attorney.

John Inglessino, Esq.

- Sworn in by the Board Attorney.
- Represents the applicant in intervention with regards to the Mt. Laurel case.
- Gave an overview and context of the Mt. Laurel doctrine.
- Explained how affordable housing became what it is today.
- The New Jersey State Supreme Court determined that each developing municipality has a constitutional obligation to make for a reasonable opportunity to provide its fair share of low and moderate income housing.
- A council called the Council on Affordable Housing (COAH) was created and given the power to determine what each municipality’s fair share obligation was for certain periods of time.
- After some time COAH was stripped of its responsibilities and the decisions were then determined by the courts as to how much fair share housing each municipality was required to provide.
- The number eventually decided for Hanover Township of low and moderate income housing was 897 affordable units.
- Hanover Township has already claimed about 300 of those credits.
- Hanover Township’s numbers are the second largest of any municipality in Morris County.
- Represents the applicant who was an intervener in the case.
- They proposed 220 units and they believe that the site would be able to accommodate them.
- The Township had some disagreements with that number.
- They reached an agreement with the Township for 129 units.
- From the applicants perspective that number was reached because they want to start moving forward with the project.
- Referred to the letters dated September 28, 2018 and October 23, 2018 from Fred Semrau.
- Exhibit A-4 – Letter from Fred Semrau dated September 28, 2018.
- Exhibit A-5 – Letter from Fred Semrau dated October 23, 2018.
- Read segments from the letters into the record.
- The letters represent the settlement between the parties.

- While it cannot be dictated that all units are rentals, all of the affordable units are rentals.
- They will be deed restricted as such.
- Because they are rentals the Township will get bonus credits towards its obligations.

Mr. Neidhardt

- Referred to exhibit A-4 and questioned if any steps were made.

Mr. Inglessino

- No because the Township has made it clear that they are going to deal with the settlements and nothing has changed since the arguments that Mr. Semrau made to the court.

Mr. Brancheau

- Is in agreement with what Mr. Inglessino testified to.
- Explained how the final agreement will be submitted to the court.
- Explained the delay in the final COAH settlement.
- The Town did not want to finalize any settlements until the court gave the okay.
- Explained the rezoning ordinance he is working on and the process.

Mr. Inglessino

- There are two interveners who have reached a deal with the town, this client and Alfieri, LLC.
- Explained the process of moving forward with the settlement with the town regarding affordable housing.

Mr. Walsh

- Asked what would happen if Fair Share happened to find the settlement not fair and rejected it?

Mr. Inglessino

- There are other options.
- You would then proceed to trial and there is a trial based on whether or not Hanover Township has fulfilled its obligation of moderate and low income housing.

Ms. Fomchenko

- Asked what would happen if they went to the court and they said that there was not enough affordable housing, would they have to come back to the Board?

Mr. Inglessino

- No, the applicant is here saying that they want to build 129 units and if this is approved that is the number they are sticking with.

Ms. Giorgio

- What if the court mandates more?

Mr. Inglessino

- The court will not mandate more on this project.
- The court looks at Hanover Township not a project in particular and tells the Township whether or not there are enough units.

Mr. Brancheau

- The court is concerned with the total obligation not each individual site.
- Affordable housing units are 15% of the total units.
- Anticipating the conclusion regarding COAH should be in the spring.

Mr. Brancheau and Mr. Inglessino had an open discussion on whether or not the applicant would comply with any conditions and came to the conclusion they would.

Ms. Giorgio

- Is the bonus for rentals a guarantee?

Mr. Brancheau

- It is, it's in the rules.
- Explained how the bonus credits worked.
- You get double the credit for rental units.

Chairman Stanziale

- Is there a way to get more than double credits?

Mr. Inglessino

- A double credit is the maximum COAH benefit.

Opened to the Public

Frederick Meola – 83 North Bel Air

- Questioned if this will always be a rental property and for how long.

Mr. Inglessino

- There is a deed restriction that requires them to be rental units for 25 to 30 years.

Mr. Brancheau

- Believes 30 years is the standard deed restriction, at least it is for all of the existing COAH units.
- Has seen it done however where longer restrictions are applied.

Closed to the Public

James Giurintano – Engineer for the Applicant

- Sworn in by the Board Attorney.
- Gave educational and professional background.
- Accepted by the Board.
- Gave overview of the layout of PQ and the location.
- There is currently a vacated building on the site.
- The site is bordered by the Whippany River.
- It fronts on Parsippany Road and Whippany Road.
- The Whippany Road side is completely wooded.
- Exhibit A-6 – Site Plan composite rendering.
- There will be 129 units of which 20 would be affordable.
- The total lot size is 11.7.acres.
- There would be 11 units per acre.
- Gave an overview of the building layout.
- There are 3 main apartment buildings with 84 units.
- Surrounding those units on the east, south, and west are stacked townhomes and one townhome.
- Described stacked townhome units.
- Described access and parking.
- There are two driveways coming out on Parsippany Road, both are full access.
- Parking stalls will be 9 ft. by 18 ft. and 24 ft. wide drive aisles.
- They comply with requirements for handicapped accessible parking.
- There are 254 parking stalls required and through the garages provided with townhomes, parking under the apartment units, and the surface parking they are proposing 277 parking spaces.
- Described the differences between the original plan and this modified plan.
- Received verification from the DEP for the flood hazard elevation, the flood way line, and the riparian area.
- The Whippany River is required to have a 150 ft. riparian area.
- Described what riparian buffers are.
- The previous plan had 12 units per acre, this one has 11.
- The previous plan had a building coverage of 11.1% and this one went up to 13.5% but it still complies with the 20% lot coverage rule.

- The total impervious coverage is going to be approximately 37% pending final design.
- The site as it exists today has 54% impervious coverage between the building and the pavement.
- The open space currently proposed for this project is 10.6%.

Mr. Walsh asked for clarification on a line on exhibit A-6 and Mr. Giurintano explained the line was the riparian buffer.

Mr. Giurintano

- The riparian area has nothing to do with the flood zone.
- The river walk is currently conceptual.
- They are looking to impact the minimum amount of vegetation.
- It would wrap around the back of the project.
- It will have to be reviewed and approved by the DEP.

Mr. Calli

- This will be a public river walk for future connectivity.

Mr. Giurintano

- The walk is currently in the concept phase so all of the details are not hashed out yet.

Ms. Giorgio

- Questioned if there was enough parking for this site.
- Does not feel that there is enough parking.

Mr. Giurintano

- They meet the RSIS standards and the Township ordinances for parking.

Mr. Calli

- Explained how parking metric works.
- They are exceeding the parking requirements.

Mr. Neidhardt

- Questioned information on trash enclosures.

Mr. Giurintano

- Showed where the dumpsters would be located.
- If more dumpsters are required it will be addressed at the site plan.

- There are extra parking spaces that could be sacrificed if necessary for a larger trash enclosure.

Mr. Brancheau

- Referred to his report of January 17, 2019.
- Questioned if they meet the Townships ordinances regarding storm water management and the flood hazard area and flood plains.

Mr. Giurintano

- They are not proposing any fill; they have retaining walls that keep them out of the flood hazard area.
- They are not currently proposing any improvements in the flood way or the flood hazard area with the exception of the river walk.
- The units are all above the flood hazard line and are all out of the flood hazard area.

Mr. Brancheau and Mr. Giurintano had an open discussion regarding flooding and the DEP.

The Board took a short break.

The Board is back on record after break.

Mr. Maceira

- Referred to the report dated January 17, 2019.
- Asked if there were any environmental contaminations on the site and how they will affect any aspects of this development.

Mr. Giurintano

- There will be a site remediation professional on this site monitoring cleanup if necessary.
- If there are any issues on the site they will be sure to deal with them properly.

The Board and Mr. Giurintano had an open discussion of the probability that a contamination would affect the density of the site.

Mr. Maceira

- Questioned storm water compliance.

Mr. Giurintano

- They will be reducing impervious coverage by 17% which would be handling the first factor of storm water management which is quantity.

Mr. Maceira

- Questioned if there would be any road widening or turning lanes added for entrance to the site.

Mr. Giurintano

- No, they will not be doing any of that.

Mr. Maceira

- Will the applicant work with the town for connectivity?

Mr. Giurintano

- Yes, they will.

Mr. Neidhardt

- Asked how the proposed height of the building compares to the height of the structure that is already there.

Mr. Giurintano

- Does not have an answer regarding the height of the current structure.

Mr. Neidhardt

- Questioned the height in a development nearby.

Mr. Maceira

- The elevation of the closest Oak Ridge building is 217.8 ft. above sea level and the proposed site is about 210 ft. above sea level.

Mr. Neidhardt

- Who will own the roads that are built as part of the site and who will maintain them?

Mr. Giurintano

- Everything built on the site will remain part of the lot so everything will be the responsibility of the applicant.

Opened to the public

Fred Meola – 83 North Belaire Avenue

- Questioned if it was stated that water quantity is not necessary because of the reduction in pavement?
- Thought that it was quality and they still had to meet quantity.

Mr. Giurintano

- That is correct.
- They are not proposing more than ¼ acre of new impervious therefore they would be exempt from water quality also.
- Quantity is realized and will show it through engineering calculation that will show that the land coverage will produce less runoff than the land cover in the existing condition without use of storm water detention which means they do not need to comply with the reduction requirements as set forth in the storm water management regulations.

Closed to the public

Dave Minno – Architect and Planner for the Applicant

- Gave an overview of educational and professional background.
- Accepted by the Board.
- Reviewed the numbers of what is being proposed.
- There will be 129 units.
- 44 stacked townhomes.
- 1 regular townhome unit.
- 84 apartments.
- Each building has 14 tuck under garages.
- COAH units – 20 units
  - o 4 One Bedroom
  - o 12 Two Bedroom
  - o 4 Three Bedroom
- Exhibit A-7 – colored rendering of stacked townhome unit.
- Described the floor plans of each of the stacked townhome unit styles.
- Pedestrian entries are on the front of the building.
- These units will have sprinkler systems.
- Exhibit A-8 – colored rendering of the front elevation.
- Described the proposed building shown in the exhibit.
- Exhibit A-9 – stacked townhome concept elevation.
- Described the elevations.
- The building heights are approximately 43 ft. tall.
- Exhibit A-10 – colorized floor plans for apartment units.
- Described the floor plans, access, storage units, and lofts.
- There are elevators as well as fire-exit stairwells.
- The top units have lofted areas.
- Exhibit A-11 – front elevation of the 28 unit building.

- Exhibit A-12 – side elevation of the 28 unit building.
- The height of the building will need a “C” variance because they are over the 45 ft. height limit.
- Exhibit A-13 – colorized zoning map.
- Planning testimony.
- Described the existing unoccupied building and the surrounding area.
- There is currently an outdated industrial building on the site that is approximately 170,000 sq. ft.
- The site is in the BP-2 zone.
- Discussed the BP-2 allowable uses.
- It permits service establishments, financial and banking businesses, various office uses, child care centers, and other uses.
- This zone also permits multi-family and single-family attached dwellings.
- Density variance is required because 8 units per acre are allowed and they are requesting 11 units per acre.
- The height variance will become a “C” variance.
- Nearly all other BP-2 bulk requirements will be met.
- 210 condominiums are located at Oakridge – they have a density of 12.03 dwelling units per acre.
- Described the surrounding uses.
- There is a neighborhood commercial uses to the south of the site which includes a Quick-Chek, Valley National Bank, a funeral home, Kinder Care child care center, and office buildings.
- The Bayer and Metlife corporate headquarters are located to the southwest of the site.
- The Our Lady of Mercy Church is located to the west of the site.
- Additional commercial uses are located northwest of the site.
- Two single family homes are located to the south of the proposed development.
- The Whippany River is located to the north and the east of the site.
- Planning rational for the record.
- Referred to density case law Grubbs v. Slothower.
- Even though it is increasing in density, it is consistent with the goals of the Municipal Land Use Law.
- Must show that the increase in density would not have a more detrimental effect on the neighborhood than construction of a project in a manner consistent with the zones restrictions.
- A minimal increase in density would be unlikely to cause substantial detriment per page 11 of the case.
- Reviewed the positive and negative criteria.
- The proposal of 11 units per acre on the site would enable redevelopment of a site that is sorely in need of redevelopment.
- More density means more affordable housing units for the Township which helps it meet its requirements.
- This project is strategically placed to provide housing for Bayer and Metlife employees.
- There are already a significant amount of natural and existing buffers on the site such as the Whippany River and existing corporations.
- Reviewed the 6 purposes of the municipal land use law this project promotes.

- Purpose A: To encourage municipal action to guide the appropriate use or development of all lands in this state in a manner that will promote public health, safety, morals, and general welfare.
  - Purpose C: To provide for adequate light, air, and open space.
  - Purpose E: To promote the establishment of the appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions, and preservation of the environment.
  - Purpose G: To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses.
  - Purpose I: To promote a desirable visual environment through creative development techniques and good civic design arrangements.
  - Purpose M: To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development to the more efficient use of land.
- Reviewed the negative criteria.
  - The current conditions of the site have a detrimental impact on the neighborhood.
  - The redevelopment of the site can only promote the public good.
  - The proposed 129 units are expected to add 10.4 children to the public school system, or approximately one per grade.
  - This low number cannot be deemed a substantial detriment.
  - The 129 units can be expected to make \$27,709,915 in tax retables.
  - That comes out to \$214,805 per unit.
  - This would nearly triple the assessment of the subject property.

Mr. Walsh

- Asked how they calculated the impact that would be had on the schools.

Mr. Minno

- Addressed how school impact calculations were gathered.
- It is based on a study by Rutgers University titled “Who Lives in New Jersey Housing” and it gives multipliers for the housing that is shown here particular to these uses.

Mr. Neidhardt

- Asked what the internal height of the loft area is.

Mr. Minno

- Internal height of the loft area is 8 ft.

Mr. Alwell

- Asked how the rental garages would impact the parking plan if they are not all rented out.

Mr. Minno

- The client will rent them at a competitive price with other garages in the region.
- Is sure the owner would ensure that they are rented.

Mr. Neidhardt

- Asked if the access from the garage was just to the outside or if it went to the storage area or some corridor area.

Mr. Giurintano

- Referred to exhibit A-10 to describe how there is access to the units from the garages in the multi-family units.
- There is no access between the garage and the storage area.

Mr. Walsh

- Under the computations of required parking, does the designation of some of the parking spots that you are using as part of your numbers that are rentals, does that get treated differently under the regulations of parking requirements?

Mr. Minno

- Under the RSIS they would be complying with the regulations.

Mr. Brancheau

- There is no regulatory difference between rented parking and free parking.

Opened to the public

Seeing and hearing none

Closed to the public

Opened to the public for statements

Seeing and hearing none

Closed to the public

Mr. Calli

- Gave summation.
- Believes that this is a good opportunity to revitalize the site.

- The reason they are here is for the density issue.
- There is an affordable housing component from this development and it is an asset for the town.
- The applicant started out with a much more ambitious project and pared it down to what is seen here.
- They believe that what they are proposing is perfect for the site.

Mr. Sullivan

- Confirmed with Mr. Calli that they wanted to move forward with a vote even though there were only 6 voting members present.

Mr. Walsh

- There were certain conditions with Mr. Brancheau in his report, and he would like to clarify that the applicant has no objections to them.
- Reviewed conditions.
- Compliance with the terms of the pending court settlement in whatever final judgement is issued by the court in the township affordable housing motion and there could be some non-density related issues that arise in that context.
- Will follow all of the rules related to affordable housing.
- There will be a subsequent site plan following this application.
- Items d & e on Mr. Brancheau's report.

Mr. Calli

- That is fully in line with what we have been talking about and we are fine with those conditions.

Mr. Sullivan

- Discussed with Mr. Brancheau which of the conditions from his report would more appropriate for the site plan application instead of this hearing?

Mr. Brancheau

- Items 1, 2, and 3 can be discussed at site plan.
- Item 4 has already been discussed and agreed to.

Mr. Maceira

- Nothing needs to be carried forth to the site plan from his report.

Mr. Sullivan

- Aside from E-4 of Mr. Brancheau's report the only other condition is that the affordable units will be rental units.

The Board Deliberated.

Ms. Fomchenko

- During site plan will we hear from a traffic engineer again?

Mr. Calli

- You will hear from our traffic witness again during site plan.

Mr. Walsh

- Was expecting to have reservations about this application but in light of the amendment to the Master Plan and the representations from the Board's Attorney he no longer has that opinion.
- Believes that the proposal is consistent with the Master Plan.
- Agrees that the negative criteria are outweighed by the positive.

Mr. Neidhardt

- Had the same reservations about rezoning by variance.
- Looking at the proposed changes to the Master Plan and the ordinance that is on the table now based on good faith negotiations from both parties, he is much more favorably disposed towards this project.

Mr. Sullivan

- The Planning Board did in October of 2018 amend the Land Use Element of the Master Plan to reflect the density of the subject property would be 11 dwelling units per acre.

Ms. Fomchenko

- Personally would have been happier with 10 units per acre but based on the testimony from tonight would lean toward approving this application.

A motion to approve the density variance with conditions was made by Member Walsh and seconded by Member Hingos.

Members Caruso, Fomchenko, Hingos, Neidhardt, Walsh, and Chairman Stanziale all voted in favor of approving the density variance with conditions.

**IV. ADJOURNMENT**

A motion to adjourn was moved by Member Neidhardt and seconded by Member Walsh, all members present in favor of adjourning.

Meeting Adjourned at 10:35 P.M.

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KIMBERLY A. BONGIORNO, LUA.  
BOARD SECRETARY  
BOARD OF ADJUSTMENT  
TOWNSHIP OF HANOVER  
COUNTY OF MORRIS  
STATE OF NEW JERSEY