

**ORADELL PLANNING BOARD  
REGULAR MEETING  
MAY 1, 2018**

Notice of this meeting was published in official newspapers, prominently posted in Town Hall, and filed with the Clerk in accordance with the Open Public Meetings Act.

**ROLL CALL**

Mr. Larson	Present
Mrs. Taitel	Absent
Mr. Scalcione	Absent
Mr. Carnevale	Present
Mrs. Didio	Present
Mrs. Kirkpatrick	Present
Mr. Derian	Present
Mr. Pastore	Absent
Mr. Plucinski	Present
Mr. Dressel	Present
Mr. Lombardo	Present

**Also Present:**

Mr. Depken, Construction Official  
Mr. King, Esq., Board Attorney  
Mr. Atkinson, Board Engineer

The newest member of the board, John Lombardo was sworn in as the second alternate position by Mr. King.

**Correspondence:**

4-6-18 Letter from David Atkinson, P.E., Neglia Engineering Representative to Stephen A. Depken, re 680 Orchard St., Block 716, Lot 24.

4-13-18 Email from David R. Atkinson to Stephen Depken re 680 Orchard St., Engineering Review.

4-17-18 Letter from David Atkinson, P.E., Neglia Engineering Representative to Stephen A. Depken, re 319 Grove St., Block 1206, Lot 9.

4-19-18 Email from Cindy Kirkpatrick to Stephen Depken re proposed ordinance referred to Planning Board for review.

The New Jersey Planner March/April 2018 Vol. 79, No. 2

**Committee Reports**

**Subdivisions, Site Drainage & Soil Moving**

**New Application:**

**S-106-18**  
**Block 1206, Lot 9**

**Lisa Ballerini**  
**319 Grove Street**

**SOIL MOVING**

The homeowner, Ms. Ballerini and the engineer for the project, Michael J. Hubschman, were sworn in by Mr. King. Mr. Larson stated that the board has been presented with a bunch of materials including letters from the board planner and asked for a description of the project from the property owner. Ms. Ballerini explained that they purchased an old colonial home at 319 Grove street that they want to demo and build a new colonial in keeping with the neighborhood and imitating the rest of the houses with a porch, shutters, siding, etc. She stated that renovating did not make financial sense, so they want to demo the structure and build a new home for their family. Mr. Larson asked Mr. Atkinson to summarize the outstanding items from his review letter. Mr. Atkinson stated that from a zoning perspective, the proposed improvements for the new house does conform to the existing bulk requirements. He explained that it should be noted that there are a couple of existing non-conformities to the property which would not change and not be affected as part of this project. He stated that the first is the existing lot width of the property as the code for that zone requires 100-foot lot width and this is currently at 75-foot width which is not to change. He explained that the house does conform with side yard setbacks and total lot coverage. He stated that the other 2 existing non-conformities relate to the square footage for the garage and the offset from the setback for the garage. Mr. Carnevale asked for clarification regarding the note: each item with a status of non-conforming would require a new variance. He asked if this applies to the existing non-conformities. Mr. Atkinson stated that it would be beneficial to grant the applicant those variances. He explained that there was some back and forth with their engineer on a number of different items and they addressed pretty much all of the outstanding items from Neglia's letter. He stated that he did ask for some testimony related to trees being removed from the property and if there were any landscape / lighting improvements being proposed to the property. Mrs. Didio asked the board attorney for clarification regarding the renewal of an existing non-conformity and if this is within the power of the Planning Board or if this is grandfathered by the fact that they are existing. Mr. King stated that it is a grandfathering of an existing non-conformity. Mrs. Didio explained that she does not think the Planning Board would have the authority to grant a non-conformity of this sort as it is a Zoning Board issue and this would be unfair to the applicant. Mr. King stated that the preexisting garage is grandfathered and the lot width of 75 feet is also grandfathered as well. Mrs. Didio explained that she just wanted to clarify this as it could have opened another issue. Mr. Depken stated that the Planning Board is permitted to review and decide variances, except for a D variance. He explained that these non-conformities are C variances. Mr. Atkinson stated that assuming the board looks favorably on this application, the applicant would need to abide by certain requirements such as the proposal of a seepage pit to offset the impervious coverage on the lot. He explained that one of the conditions is that testing needs to be performed to confirm that the soil is conducive for groundwater recharge because if a pit was put into the yard and the ground would not accommodate it then it does not make sense to install it so this matter would need to be revisited in that event. He stated that instead of the property owner taking on the burden to do this, they would look to have that verified ahead of time. Mr. Larson asked for clarification on if this has not yet been done. Mr. Atkinson confirmed that this has not been done yet and it is typically not done until a project is approved by the Planning Board and obtaining their permits from the Building Department. He stated that this is a construction related item which does not need to be addressed at this time. He explained that to note on the record, the

applicant did obtain their Soil Conservation District Permit from Bergen County Soil so they have addressed that particular item already. Mr. Carnevale asked as a general question if an item remains applicable, would there be testimony tonight for that item. Mr. Atkinson stated that some are construction related items and for example #5 and #6 note testimony and state: this comment remains applicable until the Board has taken action. Mr. Larson explained that Mr. Atkinson had touched on a number of things and they would now turn to the applicant and their engineer.

Mr. Hubschman stated that the property is located at 319 Grove Street and the existing dwelling is the same location as the proposed dwelling but is a little narrower. He explained that there is not a lot of soil being moved, they are basically digging half of the foundation and the rest of the elevation is the same. He explained that they are cutting 239 cubic yards of soil which include the 2 rear seepage pits and filling 59 cubic yards which is some of the existing foundation in front for a total of 298 cubic yards of soil being moved. He stated that they would export 180 cubic yards and there is no grading since the property is flat. He explained that the driveway would be cut down and is remaining and the garage is remaining. He stated that there is one tree proposed to be removed on the south side of the house. He explained that it looks like the Borough did take down a street tree in the front of the property recently because there is a stump there. He stated that the landscaping and lighting would be typical and nothing outlandish. He explained that there would be lights around house and a small light on the driveway. He presented into evidence the site plan and marked this as A1. He stated that in regards to the 2 proposed rear seepage pits, the test pit would be done right after demolition and they would call Mr. Atkinson's office. He explained that he was asked how the driveway is being cut back since the garage is at the back of the property. He stated that the previous owners had expanded the rear driveway area and they are cutting this back for 3 cars in order to meet the impervious coverage. Mr. Depken asked if the garage would be used for cars and storage. Mr. Hubschman stated yes. Mrs. Kirkpatrick asked for confirmation that the lighting would not infringe upon the neighbors. Mr. Hubschman stated that typical lights over the doorways are being proposed and there would be no pool or flood lights. Mr. Larson asked if there were any further questions for the applicant. Mr. Derian asked if the applicant has no issues with the board engineer's comments or the grading. Ms. Ballerini stated that they have no problems and has worked with Neglia Engineering before as she is a contactor. She explained that she is very familiar with all the due diligence that has to be done while doing the site work on the house. She stated that she has not determined yet if she would plant any additional trees after the construction was complete, she indicated that she wants to minimize what is being taken down and she is not opposed to planting. Mr. Larson explained that for clarification, the site plan, in the general notes detailed that no trees are to be removed. Mr. Hubschman stated that there is one tree to be removed and he would add this to the plan. He explained that there was comment from the board engineer to add the total soil moving to the plan and this would be completed. Mrs. Dido asked how large the tree is that is being removed. Mr. Hubschman stated that the tree is about a 15-inch diameter. Mr. Carnevale asked Mr. Atkinson if he is good with what had been covered and if there was nothing else to be heard through testimony to ensure his recommendations are carried out. Mr. Atkinson stated that this is correct. Mr. Larson asked Mr. Atkinson if he would suggest a revision and resubmission of the soil moving. Mr. Atkinson stated yes and that the record should reflect the same as what is on the plan and what is on the application so there is no confusion. Mr. Hubschman said he would submit this. Mr. Larson asked if there were any

further questions from the board. Mr. King asked if there had been a final determination as to where the soil would be relocated to. Ms. Ballerini stated that she has uses a number of licensed facilities in NJ and this would be addressed closer to the time of excavation. Mr. Atkinson explained that that should also be noted on their soil moving application. Mrs. Dido stated that the Borough has the right of first refusal on any clean fill. Ms. Ballerini explained that she would contact Mr. Depken at the time for excavation to see if the Borough wants the soil. Mr. Larson asked if any members of the board had any further comments or questions.

Motion to approve with conditions was made by Mr. Carnevale, seconded by Mrs. Didio.

ROLL CALL:

All in favor.

**S-107-18**  
**Block 716, Lot 24**

**John Verrier**  
**680 Orchard Street**

**SOIL MOVING**

Mr. Carnevale stated that he is a close friend of the applicant. Mr. King advised that he should recuse himself.

Mr. Larson asked for the applicant to give an overview of their application. Mr. Verrier stated that he has owned his home at 680 Orchard Street for 20 years and is looking to install a pool. The representative from Aquatic Pools, Mr. Pellegrino explained that they are simply trying to install an inground pool and because the soil movement is more than 100 cubic yards, he needs to come before the Planning Board. Mr. Atkinson stated that he had done a zoning analysis and everything conforms to the current requirements. He noted for the record that the soil movement is for 162 cubic yards. He stated that the outstanding items are construction related which need to be addressed to make sure the contractor and homeowner are fully aware of the conditions which need to be met so there is no impact to the neighbors as far as run off and soil impact. He explained that he is looking for testimony regarding the fencing around the pool, acknowledgement of the type of fencing to be used and testimony for the type of lighting so that it meets the Borough's requirements to ensure there is no hindrance to the neighbors. He stated that the other items to note include the proposed groundwater recharge system and need to confirm the soil does allow the recharge into the ground. He explained that during construction there would need to be testing done. He stated that he does not see anything from Bergen County Soil Conservation in their packet and the applicant must verify if this is needed. Mr. Larson asked for the applicant to speak on the fencing and lighting plans. Mr. Pellegrino stated that the aluminum fencing would be 54 inches high to satisfy the pool code, the proposed lighting is 2 lights inside the pool and there would be a short 18 inch to 20 inch retaining wall with low voltage down lit pathway lighting. He explained that in regards to the seepage test, he believes that Neglia Engineering would be on site to make sure the perc test works. Mr. Larson asked for clarification on if the proposed retaining wall would be inside the pool fence. Mr. Pellegrino stated that this is correct. Mr. Larson asked if the site plan referenced the proposed grate within the patio and if the drainage was recommended by Mr. Atkinson. Mr. Pellegrino stated that after submitting the first site plan, Mr. Atkinson asked them to address the issue with the larger area of the patio and to put a drain in there. Mrs. Kirkpatrick asked Mr. Depken questions regarding fencing around the pool and if it is the homeowner's responsibility to fix the

fence as soon as possible if it becomes damaged. Mr. Depken stated yes, that with a pool it needs to have a pool barrier code compliant fence and when they go out for final inspection, they need to comply with this and it is up to the property owner to maintain this fence at all times. Mrs. Didio asked if the 54-inch high fence is within the pool barrier code. Mr. Depken stated yes. Mr. Larson asked about the site plan providing protective coverage to the Dogwood tree in the front yard but not to the 18-inch Maple tree by the construction access. Mr. Pellegrino stated that to do this it would block the sidewalk. Mr. Atkinson stated that they would need to protect the side that vehicles would be passing but not to block the sidewalk. Mr. Pellegrino explained that this would not be a problem. Mr. King asked Mr. Atkinson questions regarding the application not referencing the kind of soil being removed and asked if this needed to be amended to include if this is topsoil, subsoil, gravel or sand. Mr. Atkinson stated they would have to submit this information. Mr. King explained that his application was cut off on the top and asked if there is an explanation or description of where the soil is being moved too. Mr. Pellegrino stated that at this time they do not have a site. Mr. King explained that they would also have to amend this and that the Borough has the right of first refusal for the clean fill. Mrs. Didio confirmed that only one tree is being removed which is a 36-inch Oak. She asked if any new trees would be planted. Mr. Verrier stated that there would be landscaping of bushes and flowers but no large trees. He explained that the Oak has to be removed as it was damaged in the last storm as were many other trees in town. Mrs. Didio stated that there were 48 trees damaged to be exact. Mr. Larson explained that subject to the remaining open conditions and discussions tonight, asked if there was a motion for approval for this soil moving application.

Motion to approve with conditions placed was made by Mrs. Didio, seconded by Mr. Derian.

**ROLL CALL:**

All in favor.

**Resolutions:**

None

**Business, Buildings & Signage**

**New Application:**

None

**Resolutions:**

None

**Signs:**

Mr. Plucinski stated that Sovereign Bank had requested to change their sign so he and Mr. Depken would discuss this matter after the meeting.

**Regional Planning Coordination**

Mrs. Didio stated that the Pascack Valley Mayor's Dinner is coming up on May 9<sup>th</sup> and both Mr. Jim Colt and Mr. Adam Strobel from the Bergen County Parks Department would be at the dinner to give an update on where they are with the Master Plan for the Bergen County Parks along with other information. Mrs. Didio explained that she hopes to report back on what she hears at this meeting at the next Planning Board's meeting. She stated that the representatives from the County Parks Department had responded that they should be able to give an update on the Waterworks property as well as the Master Plan for the entire Bergen County Park system.

### **Zoning**

Mr. Larson stated that the Mayor and Council, pursuant to NJ statute, had referred to the Planning Board a proposed ordinance which has a land use component to it. He explained that he had asked Mr. Derian, as chairman of the Master Plan Subcommittee, to review this proposed ordinance along with reviewing the existing Master Plan and to report back to the Planning Board with a report as to the consistency or inconsistency of this proposed ordinance to the Master Plan. He stated that the Master Plan Subcommittee would review this and report back at the next Planning Board meeting on June 4<sup>th</sup>. He explained that there is a 35-day time period in which to provide comments. Mr. King stated that he has spoken to the Borough Attorney, Mr. Oddo and would be sending a formal letter to memorialize the formal start date would begin today and the 35-day time period would not expire until after the June 4<sup>th</sup> meeting. He explained that his report would be prepared immediately following the June 4<sup>th</sup> meeting and be submitted to the Mayor and Council.

### **Historical Preservation**

Nothing to report

### **Master Plan, Open Space, Environmental & Circulation Systems**

Mr. Derian stated that there was a 5<sup>th</sup> public meeting on April 25<sup>th</sup> where residents had made comments on the first draft of the Master Plan. He explained that as a result, the Master Plan Subcommittee would be meeting within the next few days to review their notes and discuss possible changes to the first draft document. He stated that within the next two weeks the Master Plan Subcommittee would finalize any changes to the Master Plan document and publish a revised document to the Planning Board along with a copy placed on the Borough's website for the public to review. He explained that they would also post a separate document highlighting the material changed between the first and second document. He stated that the intention is to have the Master Plan's final version ready for the June 4<sup>th</sup> meeting for a possible vote.

Mrs. Didio stated that she would like to make a comment regarding the proposed ordinance in order to give a little bit of context. She explained that this ordinance was recommended by the Board of Health and it is in reaction to the potential legalization of marijuana in the State by the Legislature and the Governor. She stated that the ordinance is designed to prohibit the sale of recreational marijuana and the paraphernalia that facilitates its use. She explained that they are not looking to outlaw medical marijuana. She explained that she wanted to put this into context for Mr. Derian as he does his review. She stated that she would advise Mr. Derian to reach out to the Oradell Board of Health if he has any questions as they were very involved in getting this

ordinance proposed. She explained that they had looked at other ordinances which have been passed in other municipalities as well as their research on the issue.

Mr. Carnevale stated that he has a question and comment on the Master Plan. He explained that if the objective is to put the final plan before the Planning Board on June 4<sup>th</sup>, he feels that what might be lacking is there has not been a session where the Planning Board has made comments or statements on their position publicly regarding the plan. He stated that from a transparency standpoint, they should have this dialogue across the Planning Board so that when they do put this final plan up for a vote, everybody would know where everyone stands and then take the vote. Mr. Derian stated that this has been discussed. He explained that the initial thought was they would be sharing the revised document with the Planning Board and if any of the members had input in terms of something they wanted changed and or clarified then the subcommittee would consider this as previously done between the publishing of the first draft and the final first draft. He stated that in terms of stating a member's position before the vote, the subcommittee had thought the format of the final meeting would begin as an open mic for Planning Board members to discuss their views and then after this there would be a vote as to whether they should vote on the matter. Mr. Carnevale explained that there is potential, based upon discussions which occur that evening, that there may be a consensus not vote on the plan. Mr. Larson asked Mr. King about the extent that if they put this matter on the agenda, are they obligated to take action or do they have the right to defer. Mr. King stated that any action the board does take would be a tentative action and they have the right to table the matter especially depending on the response of the public. He explained that he thought it was obvious at the last special meeting that the public was not aware of the elements in the existing Master Plan that are not being revised and would remain in effect. He stated that it is in the best interest of the board, to make this better known to the public and more importantly to make reference to the fact that the elements that are not changing have been reviewed and it was specifically determined that there would not be any changes to those elements because they do not want to have a future applicant come in and say the board had not reviewed those elements and because of that they are no longer valid. He explained that they should make some reference to those elements such as: the housing element, the historic preservation element and any elements that are not specifically being changed by this Master Plan in order to show that they had been reviewed and there has been a determination that nothing was changed. Mrs. Didio asked Mr. King if he thought it would be helpful in that regard to have a statement in the actual document which says this right in the front of the document. Mr. King stated that this should be there as it would be referred to in future applications. Mr. Carnevale asked if everyone had a chance to look at the previous documentation as it is very thoughtful and covers a lot of important areas as well. He stated that it would be fine if some of those sections continue to be a part of the plan. Mr. Larson explained that the existing Master Plan contains non-obligatory elements which are not included in the current draft the board is reviewing and there was discussion at the last meeting on whether those remain in effect or they are superseded by the fact they say nothing about them in the current plan. Mr. King stated that they remain in effect and they need to communicate this and make it abundantly clear so that they are not subject to any other interpretation as they continue to be in effect. He explained that they would have to review the existing Master Plan from 1998. Mr. Depken stated that the existing Master Plan is posted on the Borough's website in the Planning Board section. Mr. Larson explained that he would like to thank the Mayor for her suggestion at the last meeting as they had received a number of thoughtful emails and they

would encourage residents who would like to communicate their thoughts with emails by May 11<sup>th</sup> as this is when the email address would remain active until. Mrs. Didio asked in regard to the emails if whether those are public and can be shared with the public or do the emails become public record by virtue of the fact that they are addressed. She asked if the emails could be requested through OPRA. Mr. King stated that he has not found out the answer for this but he would follow up on that matter and issue a letter to the board. Mr. Plucinski requested that since he would be out of the country for the June 4<sup>th</sup> meeting that they would not take a vote that evening as he would like to be in attendance for the vote. Mr. Larson stated that his fears that there may not be a session in which the entirety of the Planning Board is all in attendance. He explained that as they can see from tonight, things come up and people are unable to attend. Mr. Plucinski asked why the plan has to be voted on at the June 4<sup>th</sup> meeting and he is just voicing his request. Mrs. Didio stated that it was just discussed that this may not be, as it depends on what happens. She explained that she would be away for the meeting in July and she thinks that the board would always have somebody who would like to vote on it but may not be present so they would have to proceed.

#### **By-laws**

Nothing to report.

#### **New Business**

Mr. Larson stated that he thinks the board would keep the July 3rd meeting as planned but would make a definitive determination at the June 4<sup>th</sup> meeting. Mr. Depken asked if there would be any further special meetings. Mr. Larson stated that the Master Plan Subcommittee is meeting this week and while there is no current intention for another special meeting, they would reserve the right to change this following the subcommittee meeting.

#### **Old Business**

None

Mr. Larson opened the meeting to the public.

Sam Tripsas at 327 Maple Avenue stated that he has a comment on the emails the board is receiving from the public and thanked the Mayor for bringing the matter up. He explained that the emails are public record would it be the decision to release those as they are public record as is any emails sent to the Borough are. Mr. King stated that he has to double check as there is a concern about releasing people's names and if they publish them, they need to be published in the proper fashion. Mr. Tripsas asked if the names could be redacted. Mr. Derian stated that this has not been discussed by the subcommittee as they have not met since the last meeting. He explained that they had indicated during the last meeting that they are concerned about people's privacy or the individual being comfortable about stating their opinion publicly when they thought they could state their opinion non-publicly. He stated that they would discuss this and most likely would have the names redacted so something may be requested through OPRA but this is out of their control and discuss this at the subcommittee meeting. Mr. Tripsas explained that the special meeting was an excellent forum and the board got a consensus of how people felt and the public cannot get this if they do not see those emails. He stated that the board discussed



not having another public meeting. Mrs. Didio stated that the June 4<sup>th</sup> meeting is a public meeting. Mr. Tripsas asked when the changes to the draft are posted would the public have another chance to comment on them. Mr. Larson stated that the residents are certainly invited to attend the June 4<sup>th</sup> meeting and they would have an open floor. Mr. Tripsas explained that the special meeting was excellent and a lot of people turned out for it. Mr. Larson stated that he would like to thank OPTV again as he has had a surprising number of people come up to him over the past 6 - 7 days who have claimed to have sat through the entirety of a 3-hour meeting on the television. He explained that he would like to thank them for providing a way for people who could not attend with the opportunity to participate.

Mr. Larson closed the meeting to the public.

Motion to adjourn was made by Mr. Larson



---

Secretary