

**ORADELL PLANNING BOARD  
REGULAR MEETING  
MAY 4<sup>th</sup>, 2021**

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

**ROLL CALL**

Mr. Larson Absent  
Mr. Derian Present  
Mr. Scalcione Present  
Mr. Carnevale Present  
Mrs. Didio Present  
Mr. Baumann Present  
Mr. Tankard Absent  
Mr. Dressel Absent  
Mr. Plucinski Present  
Mr. Cohen Present  
Mr. Kang Present

**Also Present:**

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

**Approval of Planning Board Meeting Minutes:**

March 2, 2021, Minutes of Regular meeting

Motion to approve the March minutes was made by Mayor Didio, second by Mr. Carnevale  
All in favor.

**Correspondence:**

4/22/2021 - Email sent to Stephen A. Depken, Land Use Administrator from Laura Lyons, Borough Administrator regarding the Local Government Ethics Law Financial Disclosure Statement Filing Deadline Update which has been extended to May 31, 2021.

5/4/2021 - Email sent to Stephen A. Depken, Land Use Administrator from R. Scott King, Board Attorney regarding Resolution for CAL # S118-21, Soil Moving, 906 Lotus Avenue, Block 607, Lot 8.

5/4/2021 - Email sent to Stephen A. Depken, Land Use Administrator from R. Scott King, Board Attorney regarding Resolution for CAL # S119-21, Soil Moving, 378 Loretta Drive, Block 1403, Lot 1

**Committee Reports:**

**Subdivision, Site Drainage & Soil Moving**

**Resolutions:**

CAL# S118-21 – Soil Moving – David Michael 906 Lotus Ave, Block 607, Lot 8

Mr. Carnevale asked if any members of the Board had questions regarding resolution # S118-21. In response to this Mayor Didio asked that Mr. King highlight the changes made to the proposed resolution. Mr. King stated that there was a minor change requested by the applicant's attorney and engineer. The requested change provided clarification that the removed dead or diseased trees were declared so by the property owner and not the engineer. Mr. Plucinski stated that based on the applicant's presentation he believed that only 5 of the 30 trees were to be removed. Mr. Atkinson responded stating that 5 of the trees needed to be removed in connection with the proposed work while the others were diseased. Mr. King stated that the other change to the resolution related to the conditions of approval. The addition of the word "his" clarified that the

recommendations referred to are that of the Borough Engineer. Mr. Atkinson confirmed that the calculations of the March 25<sup>th</sup> revised plans submitted by the applicant were found to be acceptable. Mr. Cohen responded stating that the engineer for the applicant indicated that the calculations were “over done” he asked Mr. Atkinson if that was true. Mr. Atkinson stated that the calculations presented by the applicant’s engineer were based on 3 inches of rainfall as opposed to the standard 2 inches, therefore the calculations were found to be acceptable. Mr. Carnevale sought confirmation regarding impervious coverage referenced in the resolution. Mr. King responded stating that he discussed the figures with Mr. Atkinson. Mr. Atkinson explained that the figures represent the increased impervious coverage on the property. Mr. Carnevale was pleased with the explanation and made a motion to approve the resolution second by Mr. Baumann. All in favor.

CAL# S119–21 – Soil Moving – Nile Candan 378 Loretta Dr, Block 1403, Lot 1

Mr. Carnevale asked if any members of the Board had questions regarding resolution # S119–21. No questions were posed and Mr. Carnevale made a motion to approve the resolution second by Mayor Didio. All in favor.

**Business Buildings & Signage**

**Signage Review**

The Lab Burger Co. 235 Kinderkamack Road

Mr. Kang asked that Mr. Depken provide an update on the status of the application, Mr. Depken stated that the application was presented and two approvals were granted by the sign committee. Mr. Depken went on to state that a sample of the sign was provided to the committee members, and that all borough code requirements were met.

**Regional Planning Coordination**

Mayor Didio provided an update to the Board regarding the Oradell Avenue bridge project. She stated the comment period for the purpose and needs statement for the project had closed. She noted the second and final meeting for the first phase of the project will take place later in the year upon team review of the various concepts for the bridge. Mayor Didio claimed that there are 4 phases to the project, the purpose and needs statement and the concept development report are part of the first phase called local concept development, which is followed by local preliminary engineering design and then construction. Mayor Didio encouraged that the Board and public visit [www.oradellavenuebridge.com](http://www.oradellavenuebridge.com) which allows one to follow the application by receiving information about upcoming events, opportunities for public comment, and project updates. Mr. Derian added that he viewed the website and he noticed an area where you can enter comments or suggestions.

**Zoning**

None

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

None

**Historical Preservation**

Mr. Plucinski noted that Bob McDonald will be returning to the Borough Council working session on May 11, 2021 to continue the discussion regarding a Historical Commission. Mr. Derin asked if there are any updates about the train station to which Mayor Didio responded that there are 2 grant applications pending. Mr. Plucinski asked Mayor Didio a question regarding the grant amounts and Mayor Didio responded that she does not have the exact amounts at hand.

### **Old Business:**

Mr. Depken confirmed that a recording secretary has been appointed and will be starting mid-May. Mayor Dido moved on to reference the soil moving resolution which was approved earlier in the meeting and the fact that Borough did not have any ordinance regarding tree removal on private property. In response to the lack of a tree ordinance, Mayor Dido stated that she has created a subcommittee which includes herself, Mr. Carnevale, and Miriam Yu that is working to prepare a draft ordinance to present to council. Mr. Plucinski asked if a check and balance will be established against a homeowner's declaration that trees are diseased so they do not have an undeniable right to clear cut a property. Mayor Dido stated that the process will be dependent upon the ordinance that will be adopted. Mr. Carnevale added that some towns have an ordinance as well as a permit requirement. Mr. King also noted that some municipalities require the replacement of trees whether they are dead or healthy. Mr. Plucinski asked if any of the ordinances that have been reviewed as an example require a third party which can confirm the health of the tree before it is removed. Mr. King responded that some municipalities have arborists, consultants, or a shade tree committee. Mr. King noted that other municipalities have the requirement that trees be replaced whether they are healthy or not, but emphasized that problems may arise if there exists a great discrepancy in size for the replacement tree. Mr. Plucinski agreed with this notion and added that water absorption may be problematic. Mr. Depken asked that Mr. Carnevale be aware that the Building Department receives many calls regarding neighborly disputes of trees overhanging. Mayor Dido stated that the ordinance will not force individuals to take down diseased trees, and that the ordinance applies to homeowners who plan to take down trees. Mr. Cohen added that it is more about the preservation of trees than the removal of them. Mr. Carnevale asked that Mr. King provide examples of tree ordinances in other municipalities that can be reviewed.

### **New Business**

#### **Mandatory Department of Environmental Protection, Stormwater Training requirements**

Mr. Derian asked that Mr. Depken highlight what the mandatory stormwater training entails. Mr. Depken stated that he emailed the information from the Department of Environmental Protection and that everyone who has been on the Board took the mandatory training course. Mr. Depken stated that he was told if members are reappointed, they must take the course again but he said that he will look into that fact. Mr. Depken reminded the Board that the course is informative and it will help them be more versed in their understandings of soil moving applications. Mr. Plucinski asked if the subject matter will change significantly which prompts the requirement of taking the course again to which Mr. Depken responds that he does not know. Mr. Atkinson stated that as an engineer he must take the course every 5 years.

#### **Review of Proposed Ordinance #21-5**

Mr. Derian stated that the settlement agreement was executed on January 26, 2021 between White Beeches Community Club and the Borough of Oradell, the ordinance was passed on first reading by the Mayor and Council at the April 27, 2021 meeting and will be further considered for final passage at a public hearing on June 22, 2021. Mayor Dido stated that she had to recuse herself from the matter at the Mayor and Council meeting because her husband was a member of White Beeches, and asked Mr. King how she should proceed as a member of the Planning Board. Mr. King recommended that Mayor Dido shut down her camera and microphone. Mr. Derian asked Mr. King to state the Planning Board's role and their legal obligation to review the ordinance at this time. Mr. King stated that it is the Planning Board's duty to review the proposed ordinance and determine if it is consistent with the Master Plan. Mr. Derian asked that Mr. Carnevale provide background about the ordinance. Mr. Carnevale reminds the Board that it was working on the reexamination of the Master Plan along with the agreement with Fair Share Housing to finalize the Borough of Oradell's obligation to support affordable housing. Mr. Carnevale stated that one of the areas in the Borough of Oradell which was designated for affordable housing was White Beeches as an overlay zone and the underlying zoning was for conservation and recreation. Mr. Carnevale stated that if the golf course were to cease to exist that land would be available as affordable housing. In the midst of reexamination of the Master Plan and agreement with Fair

Share Housing, White Beeches came before the Planning Board seeking to subdivide a small portion of their property. The Planning Board soon discovered that White Beeches intended to sell that land for construction. Mr. Carnevale continued by stating that the Brough Council adjusted their ordinance which resulted in a negotiation with White Beeches whereby the Borough would allow for up to 3 residential housing units and not multifamily housing. The negotiation with White Beeches required the agreement with Fair Share Housing to be updated to ensure all three parties understood what transpired. The ordinance reflects the update that White Beeches now has 2 parcels one being the 1.5 acres which was subdivided and could be sold to build up to the three residential homes. Mr. Plucinski asked if Fair Share Housing had a problem with the settlement, to which Mr. Carnevale responded no, because an agreement was reached with Fair Share. Mr. King stated for clarification the ordinance refers to lot .01 as the larger parcel that hosts the majority of the golf course and .02 is the smaller parcel that was subdivided. Mr. Derian commented stating that when the Master Plan was established in 2018, he was under the assumption that the overlay zone of White Beeches would only be enacted if the club ceased to exist completely. Mr. Derian then stated that he felt as if the affordable housing portion is inconsistent because it is specific to a very small portion of the overall zone. He went on to provide his concern for the fact that the ordinance seeks an exception of lot width in the R2 zone minimizing it to 75 feet opposed to the 100 feet required. Mr. Cohen stated that Mr. Derian provided a fair assessment of the inconsistencies that will arise. Mr. King responded reminding Mr. Cohen and Mr. Derian that although frontage will be reduced to 75 feet the total area of each lot has not been reduced and will remain 12,000 feet. Mr. Derian referred to the Master Plan stating that it does not provide for 75-foot frontage in the R2 Zone. Mr. King responded stating that the creation of the new R2A provides for a 75-foot frontage while all other requirements will be consistent with the R2 zone. Mr. Carnevale commented that when the bulk requirements for the overlay zone were established the clustering of buildings was considered in an attempt to make space. Mr. Carnevale stated that despite White Beeches subdividing the 1.5 acres there are still over 50 acres in the original lot and because of where the 1.5 acres exists it was appropriate to allow for the 75-foot width. Mr. Carnevale recommended that the Board members read through the ordinance and the Planning board can collectively respond to the Mayor and Council. Mr. King reminded the Board that there are 35 days from the issuance of the ordinance to respond and the next scheduled Planning Board meeting will take place beyond the 35 days. Mr. Carnevale asked the other members of the Board if they had an opportunity to review the ordinance. Mr. Kang responded that he had not reviewed the ordinance and requested more time to review the document. Mr. King reminds the Board some inconsistency from the Master Plan is permitted so long as it does not substantially undermine same. Mr. Derian asked the Board members if they would like to call a vote to which Mr. Plucinski responded yes. Mr. Derian made a motion to call vote to indicate that the proposed ordinance #21-5 is inconsistent within the 2018 Master Plan which was seconded by Mr. Cohen. All present members voted no indicating that the proposed ordinance #21-5 is not inconsistent with the 2018 Master Plan aside from Mr. Kang who abstained and Mayor Didio who recused herself. Mr. Carnevale made motion to call vote to indicate that the proposed ordinance #21-5 be deemed consistent with the 2018 Master Plan which was seconded by Mr. Baumann. All present members voted yes indicating that the proposed ordinance #21-5 is consistent with the 2018 Master Plan aside from Mr. Kang who abstained and Mayor Didio who recused herself.

### **Open to Public**

Anne Sullivan of 505 Birchtree Lane commended the Mayor and Council for the establishment of a tree policy, and underscored the importance of identifying the company who will be doing the work safely and effectively. Ms. Sullivan asked a question regarding the May 4, 2021 email sent to Mr. Depken in connection with the soil moving application at 906 Lotus Avenue, and stated that same was not uploaded to the Borough's website. Mr. King clarified that the item she was referring to was listed in the correspondence portion of the agenda. Ms. Sullivan asked if she as a member of the public would have access to such emails to which Mr. Depken responded that she may file and OPRA request but the email correspondence is not something that would be kept on file or on

the website. Mr. King also confirmed that resolutions are not made available to the public until the Board takes a final vote because they are part of the deliberative process. Ms. Sullivan conveyed her frustration that the most recent plans submitted by the applicant were not made available on the website which made it difficult for her to follow the discussion. Ms. Sullivan claimed that the public should have access to relevant documents before meetings. Mr. Depken responded by saying that due to COVID-19 more information has been uploaded to the website such as PDF documents provided by the applicants. Mr. Depken stated that in the case of this soil moving application, the plans were revised quickly and were forwarded via hard copy but PDF's were requested and never received. Ms. Sullivan noted that the previous meeting was held on April 6, 2021 and the revisions had taken place in March. Mr. Depken confirmed that the PDF's were uploaded to the website when he received same. Mr. King asked that Mr. Atkinson confirm that the revisions to the plans were revisions to the drainage calculations and that the site plan did not change. Mr. Atkinson responded that there were revisions to the calculations in accordance with his review letter, he noted that there were minor revisions to the site grading but the site plan did not change.

Sam Tripsas of 327 Maple Avenue commented regarding the proposed tree ordinance in relation to trees on one's property being trimmed without their consent. Mr. Tripsas encouraged that the Planning Board take a stance on border trees in the proposed ordinance.

Paul Latsounas of 50 Beverly Road asked Mr. King if Fair Share Housing had gained anything from the negotiations with White Beeches or simply approved of the subdivision. Mr. Derian reminded Mr. Latsounas that Mr. King is the attorney for the Planning Board only, therefore he was not involved with the negotiations between White Beeches, Fair Share, and the Borough. Mr. Carnevale stepped in to provide more insight, he stated that the Borough is working to provide special needs housing which gave Fair Share confidence in the Borough's dedication to provide affordable housing, therefore they were satisfied with the overall agreement between the Borough and White Beeches. Mr. Latsounas then referred to his OPRA request for documents relating to the Master Plan Charette in 2017. Mr. Derian responded by stating that an agreement was not met regarding the final document for the Master Plan until January of 2019, and that a great deal of deliberation took place up until that point. Mr. Latsounas conveyed his frustration that he had to wait over a month to receive the documents he requested in his OPRA request. Mr. Latsounas moved on to reference the tree ordinance, Mr. Derian interjected by stating that the Planning Board has no role in establishing the tree ordinance. Mayor Didio responded to Mr. Latsounas by stating that she only brought up the proposed tree ordinance under old business to let the Board know that herself and the Borough Council became aware of the fact that there is no tree ordinance in place as a result of the soil moving resolution which was approved earlier in the meeting.

Sam Tripsas of 327 Maple Avenue asked who would one call if trees were being cut on your property line without your consent. Mayor Didio referred this question to the Board attorney due to the fact that it is a dispute between neighbors. Mr. King responded stating that the laws are established regarding the rights of property owners and neighbors to remove branches. Mr. King suggested that Mr. Tripsas refer to his attorney. Mr. Depken stated that he has received many calls regarding this matter and it is a civil matter between the neighbors and their attorneys as the Borough has no jurisdiction.

Motion to close public comment was made by Mayor Didio and second by Mr. Baumann.

### **Adjournment**

Motion to adjourn the meeting was made by Mr. Cohen and second by Mayor Didio.  
All in favor.