

**PLANNING BOARD  
BOROUGH OF DEMAREST**

**MINUTES**

**REGULAR MEETING**

**November 2nd 7:30 PM**

Chair Hayden opened the meeting at 7:30 pm with the following announcement:

Public Announcement of Meeting: The notice requirements of the Open Public Meetings Act of the State of New Jersey have been satisfied by the inclusion of the date, time and place of this public hearing meeting in the annual schedule and notice of regular meetings of this Board. Such annual schedule and notice of regular meetings are posted at the Borough Hall, was mailed to The Newark Star-Ledger and The Record and was filed with the Borough Clerk of Demarest on December 8, 2021.

**Roll Call**

Mr. Keane-present

Mr. Tabacchi-present

Councilwoman Fox-present

Mr. Alevrontas-present

Mr. Rifkind-present

Ms. Hayden -present

Mayor Schooler-present

Mayor Iannuzzi-present

Mr. Verp-present

**Professional Staff Present:**

Mr. Bern, Board attorney

Ms. Green Board Planner

Mr. Chelius, Assistant Engineer

Mr. Hubschman, Engineer

Mr. Abrahamsen, Applicant attorney

**Salute to the Flag**

**Applicant Attorney, Mr. Abrahamsen** opened the meeting representing the application for 95 County Road LLC. This application is the result of a Settlement Agreement for the Borough's obligation to build affordable housing. The Settlement Agreement is dated April 2019. As a result, the 95 County Road site has been re-zoned to permit a multi-family inclusionary townhouse development. The permitted use is for 6 market rate units and 2 affordable housing units. One unit is reserved for moderate income and one unit is reserved for low-income. The Affordable Housing units are rentals, and will provide Demarest with credits (2 regular and 2 bonus totaling 4) towards its Affordable Housing obligation. The applicant is seeking preliminary and final site plan approval of the application. The applicant's engineer, Mr. Hubschman will describe the site, the circulation plan and will address questions from the Board and the Public.

**Chair Hayden** announced there will not be a vote this evening. The focus of this meeting will revolve around the site, environmental constraints and drawings. The engineer, Mr. Hubschman will present the site plans to the Board members, and the Board members will have the opportunity to ask questions. After the expert testimony the meeting will then be opened to the public for questions regarding the testimony.

**Michael Hubschman** – Engineer, 263 S. Washington Ave., Bergenfield. Sworn; previously qualified.

- The property is the Avery Property, Block 145 - Lot 5 located in the R-MF Zone. 2.13 acres, 150 sq ft wide and 619 sq ft deep. The Site Plan was submitted to the board on 10/11/22.
- The application is to build a multi-family structure with a density of 8 units. 6 market rate units and 2 affordable housing (rental-only) units as a provision of the Settlement Agreement. One unit is designated for moderate income, and one unit is designated for low income.
- The site has “a lot of environmental restrictions on it”. “The Cresskill Brook is in the “rear of the site” and established as a wetlands trout production brook in 2020, which requires a 150-foot transition zone. (Mr. Hubschman)
- A 300 sq ft riparian zone also limits the site. Half the property is regulated.
- DEP approved. Fresh water wetland approval, NJDEP flood hazard area approval, an LOI (Letter of Interpretation, where the DEP agrees with our flood hazard line) and inspected for verification of permits and restricted areas.
- Proposing one road, 24 sq ft wide driveways and two car garages for each unit.
- First floor unit is a 3-bedroom Coah ADA unit. Handicapped accessible.
- Second floor has a two-bedroom unit. (the AH units share a garage.)
- Proposing a 268 sq ft road designated as a “multifamily court” in the RSIS, which complies with requirement of being under 300 sq ft.
- Sheet Two: Grading and drainage. Includes the three criteria (for DEP approval) quality, quantity and recharge criteria.
- Quantity is processed through a small-scale infiltration basin, green nature specific.
- The infiltration basin is approximately 800 square feet and 4 feet in depth. With a four feet high chain link fence around it. The basin is “well oversized” (for needs)
- Drainage time is 72 hours or less. 3 inches per hour; drains through the bottom of the basin, through outlet pipes. Sand is in the bottom of the basin. Maintenance is required for proper functioning.
- Briefly discussed a maintenance plan which is usually designed post approval of application.
- Second area has a Filterra unit which provides 80% TSS removal for water quality. (Total Suspended Solids)
- Second unit contains stone and organic media to filter the water, approved by DEP.
- Water is piped through the basin; this reduces the flow by 50%.
- 2 Year storm requires reducing flow by 50% reduction, 10 Year 75% Reduction, 100-year storm 80% reduction, based on current standard.
- Drainage will be piped back to the wetland area, and flow to the Cresskill Brook.
- There should be no run off on neighboring properties, all leaders are connected.
- Landscaping will end at the buildings; no landscaping in wetland property.
- Tree removal plan proposes to remove 28 trees. Proposed Tree Replacement plan that will require a waiver.
- 12 major trees, (vs. required 42 major) 62 evergreen trees-8 to 10 foot high. Extensive

landscaping, lawn covers, 321 shrubs.

- Irrigation plan is part of the landscaping plan.
- State regulations require a split rail fence along the transition area. DEP does not allow landscaping in the transition area. This is meant to be a passive/restricted area. Some activity is allowed but would require a permit, for example, a path.
- Lighting: 14 1/2 ft. high LED colonial lantern lighting, with 45-50 wattage.

**Question asked:** Will the increased run off flow to neighboring property? **Mr. Hubschman** replied that the runoff will be reduced due to the two filtration basins. Stated that the drainage runs toward the rear of the property. The plan proposes an 800 sq ft flush to the ground infiltration system, and a 4 ft. chain link fence, due to safety regulations. The system is composed of a sand element that drains through the bottom and requires an annual maintenance plan under direction and supervision of a contracted maintenance company managed by the HOA.

**Chair Hayden to Mr. Hubschman:** Why is this infiltration system so close to the neighboring property? Discussion proceeded to discuss moving the infiltration system

**Mr. Rifkind to Mr. Hubschman:** How will insects be controlled? **Mr. Hubschman:** By a private landscaper.

**Mr. Bern to Mr. Hubschman.** Re the wetlands/restricted area: Is there is a landscaping plan? (Re the rear yard)

**Mr. Hubschman to Mr. Bern.** Certain wetlands must be left alone. There are plans for perimeter planting.

**Councilwoman Fox to Mr. Hubschman.** Does the water drainage include run off from the driveways? And do you need a variance to put such a large infiltration system so close to the property line? **Mr. Hubschman to Councilwoman Fox,** “I don’t know, it wasn’t ruled out anywhere”.

**Ms. Green, Board Planner,** was asked to qualify the situation with her expertise. Ms. Green stated that there are setbacks for principal use for the zone where the property is located. In addition, there are setback requirements for inground basins.

**Councilwoman Fox** asked if Mr. Hubschman could bring the basin in 10 ft. **Mr. Hubschman** agreed that it is possible.

**Chair Hayden** stated that #18 on page 2 needs to be changed to “County Road” and gave feedback from **Town Departments: Jon Mcloughlin, Fire Chief** examined the site plans and stated that there should be a fire hydrant at the entrance to the property, and another in the middle of the property. His main concern was access to a water supply. The Engineer agreed to add the 2<sup>nd</sup> hydrant.

**Mr. Hubschman** stated a turnaround is not required, although the original plans did have a turnaround, it was eliminated when the transition area went from 50 feet to 150 feet due to DEP reclassification of the Cresskill Brook.

**The Ambulance Corps** suggested that it is crucial to eliminate parking spaces 4 & 5 to provide a turnaround area for Emergency vehicles. And noted that no is elevator provided in the building for carry out tenants. **Mr. Hubschman** stated that the staircase should be able to accommodate 2 emergency employees.

**Councilwoman Fox** suggested that external parking signs be installed to designate areas for Emergency Vehicles Only.

**Mr. Keane** asked if there was any obligation on behalf of the town regarding the sanitary sewerage

system or garbage removal. He expressed concern regarding the ingress and egress onto County Road. He questioned the execution of the plan to supervise the maintenance of the Filterra system and the secondary infiltration system. He stated that the peripheral screening trees must be maintained and replaced if they don't survive. He also questioned the plan for snow removal and snow piling.

**Chair Hayden** asked for a motion to open the meeting to the public for questions regarding Mr. Hubschman's testimony.

**Motioned by Mr. Schooler and Seconded by Mayor Iannuzzi**

### **Open to Public for Questions**

**Laura Santos** 9 Carlotta Way: A long term Demarest Resident has noticed a trend of increased water flooding her property from the Cresskill Brook due to erosion and general rain storms. This property is south of the new proposed multi-family building and sits much lower. She expressed concern of the water flow direction with the increased impervious coverage of the new building. She requested having a retaining wall built to prevent increased water run off onto her property. She noted that the soil removal may gravely impact the existing hemlock shrubs. She stated that Mayor Schooler previously had the brook drained every year.

**Ms. Hayden** asked about the condition of the Cresskill Brook, stating that she has heard there has been a lot of erosion and therefore the brook cannot contain water, the water just spills into the surrounding yards.

**David McLain** 9 Isabella Way: resident at this current address for 23 years; Demarest resident for 32 years. His current residence backs up to the woods. Shares the same flooding issues with surrounding neighboring properties. He has served on the Zoning boards for 25 years. His property is seriously impacted by an increasing trend of water pooling on his property and has impacted his enjoyment of his property. He questioned the complicated plan and ownership of the project. He asked who is the developer? He also asked if all 8 units are being built on less than an acre. According to his interpretation of the site plan, 36,945 sq ft is usable, and that the maximum density is 4 units per acre. **Response from Mr. Hubschman.** The total density according to the MLUL is on total property and has no deduction for wetlands and referred to a court case that occurred in Alpine, NJ. **Mr. Bern** "it's the overall acreage".

**Ms. Hayden** differentiated that 1.05 acres is buildable. And, that 1.07 is not. Eight units are on one acre.

**David McLain** expressed concern regarding the maintenance required for this proposed basin. Also questioned the proximity of the infiltration basin to the neighboring property. The Agreement and Ordinance states that the setback is 15 feet. Mr. McLain stressed the importance of the maintenance plan. **Mr. Hubschman** stated that there is a 150-foot riparian and transition area, due to restrictions of the wetlands area. Noted that details of fencing 12 inches to the property line. It was discussed that excavation will be right up to the neighbors property line. **Mr. Hubschman** stated, it will be moved back. **Chair Hayden** stated that the basin should be moved. **Mr. McLain** stated that the proposal is to flow the water into the basin, which will then flow into the Cresskill Brook. The Cresskill Brook used to flood only during major weather events, now it floods more frequently and with less severe weather events. **Mr. McLain** described the sequence of the water flow. Beginning with the water flowing to shared properties. And further stated that the water flow affects many properties downstream.

He asked if a plan that creates flooding for other properties is a reasonable (stormwater

management) plan. **Mr. Hubschman** stated that the drainage system is approved by the State (DEP), and that water doesn't just flow into surrounding properties. Further adding that the 1-year storm table percolates into the ground and two other orifices; there is a 6-inch pipe and a 5-inch pipe below the ground that captures the water to the basin which results in a 50% reduction.

**Mr. McLain** asked **Mr. Hubschman** if he has formulated a cost for the annual maintenance of the Filterra unit and the secondary basin. He said this is likely to be a big expense for the HOA.

**Mr. Hubschman** stated that there will be a document of costs for the maintenance per year prior to the development. **Chair Hayden** stated that perhaps **Mr. Hubschman** could give the Board a rough estimate by next month's meeting. **Mr. McLain** stated that the Settlement Agreement and the Ordinance states that there must be screening planted to neighboring properties.

**Mr. Hubschman** stated that the basin will be moved and properties will be screened properly.

**Mr. Bernstein:** 38 Van Horn Street. Asked if the town can get an opinion letter of Council that the sale of the two affordable units will not in any way cause the town to lose credits from the State.

**Chair Hayden** stated the 2 affordable rentals are deed restricted for 30 years and if the municipality would lose the credits, then the two affordable units should be deed restricted in perpetuity, so that the municipality does not have to build additional units to meet their affordable housing obligation.

**Mr. Bern** stated that HOAs never own these type of rental properties as it would be too much of a financial burden.

**Mr. Bernstein** stated that the Cresskill Brook is in bad condition; could the owners consider some sort of clean up, dredging or mitigation of the conditions.

**Mr. Abrahamsen** stated that they are responsible for whatever crosses this property but the DEP wants this property undisturbed.

**Mr. Bernstein** asked about the turnaround for emergency vehicles.

**Chair Hayden**, stated Fire chief, **John McLoughlin** is concerned about the water hook ups. Police Chief **Anthony Dimitriades** is concerned about the lack of a sufficient turn around area for Emergency vehicles. As well as landscaping as it affects site of view on County Road for vehicles exiting the property, and snow removal vehicles.

**Chair Hayden** suggested eliminating a unit or two of the proposed units as a way to create more space to address these issues. **Mr. Bernstein** questioned the frequency of the maintenance plan for the infiltration system. He also asked about the formula for establishing the amount of (property tax) reimbursement from the municipality to the HOA for the private services the HOA will pay for themselves: snow & trash removal. **Mr. Bern** stated there is a statutory formula. **Mr. Bernstein** about the asked who is responsible for the cost of energy service and maintenance of the streetlamps. **Mr. Bern** responded that the HOA is responsible, and they would pay the utility company.

**Mr. Bernstein** asked what is the time frame for water drainage? **Mr. Hubschman** responded that the infiltration system performs as a seepage pit. A one-year storm must drain in 72 hours. **Mr. Chelius, Board Assistant Engineer** – responded that the portion of the water that flows into the basin and into the wetlands is an overflow product of the system. **Mr. Bernstein** asked what happens to the water in the basin. **Mr. Chelius** stated that it absorbs into a sandy bottom. **Mr. Hubschman** stated that the schedule of maintenance is by an administrative agent through the Borough engineering office and will get more information on this subject for the next hearing in December. **Mr. Bern** stated that a manual must be compiled by the HOA, and in accordance with a private maintenance firm. **Mr. Bernstein** asked how the melting snow would be addressed since it will be piled up against the neighboring property. **Mr. Bern** asked if there were drains in the private road. **Mr. Hubschman** stated that his firm was going to review the east side of the property

and the turnaround area. **Mr. Bern** stated that they may have to eliminate two parking spaces. **Mr. Hubschman** stated that a bob cat could access the back area.

**Mr. Bernstein** asked if a traffic study had been done. This is a school zone. He was concerned about the ingress and egress on to County Road. The site plans denote 30 parking spaces for 8 units. **Mr. Chelius** stated that traffic studies for developments of this size usually show little impact but there are options such as a ‘No Left Turn’ during designated hours and days. (To accommodate school traffic)

**Mr. Pugh:** 64 Prospect Street – asked if the units have below grade basements or are they on grade?

**Chair Hayden** stated that the affordable housing units won’t have basements, and that the market rate units will have basements. **Mr. Pugh** asked if the electric service is underground or through the utility poles. **Mr. Hubschman** stated they are underground.

**Mr. Pugh** asked the about the elevations for the first floor and the flood elevations. **Mr. Hubschman** The first-floor elevation is 53 on the rear building. 53 ½ - 54 ½ on the front and the flood elevation is about 45.1. **Mr. Pugh to Mr. Hubschman:** Is the existing sanitary line capable of handling the complex. **Mr. Hubschman** response: Yes.

**Chair Hayden** asked if there were any further questions and asked for a motion to close the meeting to the public for questions for the Engineer.

**Motioned by Mr. Alevrontas and Seconded by Mr. Keane.**

**Mr. Abrahamsen** stated that he will bring the architect to the next meeting. He asked that the Board consents to an extension of time for the Planning Board to make a determination on this application.

**Chair Hayden** stated there will be no further notice.

**Mr. Abrahamsen** asked that this be announced.

**Chair Hayden** Announced the next meeting date of December 7, 2022.

**Chair Hayden** asked for a motion to open the meeting to the public for general comments.

**Motioned by Mr. Schooler and Seconded by Mr. Alevrontas**

### **Open to the Public for General Comments**

**Eileen Lewis** 32 Brookway: Resides at the back end of the proposed site plan and has lived in the Demarest for 27 years. Her residence is situated 150 feet from the Cresskill brook. She has not had water problems in the past unless there was a major hurricane. However, the hurricanes have become more frequent. With the brook overflowing more frequently, any increase in impervious surface from this proposed property will be detrimental to all residents downstream. She asked that this be taken into consideration.

### **Chair Hayden Closing Comments**

The issues expressed today about impervious coverage, density, and water, are the main concerns for the Board and for residents. I suggest the principals in the LLC consider limiting the number of units which will solve a lot of problems.

**Motion to Adjournment the hearing:**

**Motion: Mr. Schooler Seconded by Mr. Keane**

**Approval of Minutes and Resolution:**

May 4<sup>th</sup> minutes

Motion to approve: Mr. Rifkind Seconded by Mr. Alevrontas

All in favor: Alevrontas Fox Keane Iannuzzi Tabacchi Rifkind Schooler Hayden

September 7<sup>th</sup> Minutes

Motion to approve: Mr. Keane Seconded by Mr. Alevrontas

All in favor: Alevrontas Fox Keane Iannuzzi Tabacchi Rifkind Schooler Hayden

Approval of Denial Resolution for 48 Meadow Street with minor changes to the Resolution

Motion to approve: Mr. Fox Seconded by Mr. Rifkind

Mr. Schooler raised a point regarding the vote count as reflected in the 48 Meadow Street

Resolution: Mrs. Paster was absent, Mr. Schooler and Mr. Verp did not abstain, they are alternates and as such did not vote on the Resolution. All agreed on the changes.

Mrs. Fox amended her Motion to approve the Resolution to reflect the agreed upon changes in the roll call.

All in favor: Alevrontas Fox Keane Iannuzzi Tabacchi Rifkind Hayden Schooler

**Announcement by Mayor Iannuzzi:** Mrs. Paster has moved out of the Borough and therefore resigned as a member of the Planning Board. Steve Verp, currently an alternate, has agreed to fill Mrs. Paster's unexpired term and become a Class IV member of the Board.

**Brief update on Sign Subcommittee:** Working on definitions

**Brief mention of the August 3<sup>rd</sup> Meeting Tape:** re the presentation of the Reexamination Report to the Master Plan by Borough Planner Darlene Green: the tape can not be found.

**Update:** the machine was rebooted and the tape appeared in the recycling bin. The minutes from that meeting will be emailed to Board members after the December 7<sup>th</sup> hearing.

**Motion to Adjourn the meeting: Mrs. Fox Seconded by Mr. Keane**

All in favor: Alevrontas Fox Keane Iannuzzi Tabacchi Rifkind Hayden Schooler

Respectively submitted,

*Teresa Ferrentino*

Teresa Ferrentino  
Board Secretary