

**PLANNING BOARD
BOROUGH OF DEMAREST**

MINUTES

REGULAR MEETING

January 4, 2023, 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 23, 2022.

Roll Call

Mr. Alevrontas-present
Mayor Bernstein-present
Ms. Jodi Brenner-present
Councilwoman Fox-present
Ms. Hayden-present
Mr. Keane-present

Mr. Parlamis-absent
Mr. Rifkind-present
Mayor Schooler-present
Mr. Tabacchi-present
Mr. Verp-present

Board’s Professional Staff Present:

Mr. Bern, Board attorney
Ms. Green Board Planner
Mr. Chelius, Assistant Engineer

Applicant’s Professional Staff Present:

Mr. Hubschman, Engineer
Mr. Abrahamsen, Attorney
Mr. Rapaport, Architect

Salute to the Flag

Announcement: The Borough Chamber was recently renamed in honor of Mayor Richard Schooler. A plaque will be placed over the entrance doorway. Congratulations Dick! Well deserved.

Nominations for Election & Appointments:

Chair, Hayden Vice-Chair, Brian Keane Board Attorney, Mr. Douglas Bern Board Engineer, Collier’s Engineering Board Planner, Ms. Darlene Green Board Secretary, Teresa Ferrentino	<p><u>Nomination:</u></p> Councilwoman Ms. Fox Mr. Alevrontas Mr. Verp Councilwoman Ms. Fox Councilwoman Ms. Fox Mr. Keane	<p><u>Seconded by:</u></p> Mayor Schooler Mayor Schooler Mr. Alevrontas Mr. Keane Mayor Bernstein Councilwoman Ms. Fox
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ROLL CALL TO ELECT/APPOINT:	YES	NO	ABSTAIN
Mr. Alevrontas	X		

Mayor Bernstein		X		
Ms. Fox, Councilwoman		X		
Ms. Hayden, Chairwoman		X		
Mr. Keane		X		
Mr. Rifkind				X
Mr. Tabacchi		X		
Mr. Verp		X		
Alternate #1 Mayor Schooler		X		
Alternate #2 Jodi Brenner		X		

The majority voted in the affirmative for the slate of nominees; electing the Chair & Vice Chair and appointing the Board’s professional staff.

Swearing in of new Board Members: Board attorney, Mr. Douglas Bern swore in the following Board members:

Jodi Brenner: sworn in as the new Alternate #2, a 1-year term, expiring December 31, 2023.

Mayor Bernstein: sworn in as a Class 1 member of the Planning Board, term corresponding to the Mayor’s official tenure.

Mr. Theodore Alevrontas: reappointed and sworn in as a Class 2 member of the Planning Board. Term also to correspond to his Environmental Commission term.

Hearing 95 County Road LLC Application

Applicant Attorney, Mr. Abrahamsen: was presented with missed meeting certificates for Mr. Steve Verp for reviewing the November 2, 2022 meeting, and Mayor Brian K. Bernstein for reviewing the December 7, 2022 meeting.

Applicant Attorney, Mr. Abrahamsen opened the meeting representing the application for 95 County Road LLC. He stated that his Engineer and Architect took into consideration the Planning Board members/neighbors’ comments and suggestions and revised their plans. Mr. Abrahamsen stated that six major revisions would be presented.

Mr. Abrahamsen called **Mr. Hubschman** to present the engineering revisions and the relocation of the drainage system. **Mr. Abrahamsen** asked **Mr. Hubschman** to state his name and address for the record, and he responded **Mr. Hubschman** – Engineer, 263 S. Washington Ave., Bergenfield. Sworn; previously qualified.

Mr. Hubschman stated that the plans were prepared 3/23/2022 and were revised as #6 on 12/21/2022.

The revised engineering plans presented by Mr. Hubschman included:

- Moving the small-scale infiltration basin 15 1/2 feet from the property line, on the West side.
- Revised the originally proposed split rail fence along the transition area to a four-foot black decorative aluminum fence, typically used for pools.
- Repositioning of building A.
- Added window rails to the rear basement windows.
- Eliminated window rails on the side.

- Revised the general landscaping plan. Removed a tree in front of the transformer.
- Added additional drainage systems – 4 seepage pits.

Mr. Hubschman, engineer stated that the tree in front of the transformer must be removed for street access for the electric company. He stated some trees are exempt for replacement or have a permit, as part of the site plan and wasn't certain if this was before or after the ordinance was written. **Councilwoman, Ms. Fox**, explained that she wrote the ordinance, and clarified that the intent is that you don't receive a permit unless you plan for mitigation. Once you have your plan it's already accomplished.

Mr. Hubschman stated four seepage pits were added to capture all of the roof run off, while increasing storage on site. Noted sheet 3 – Seepage pits. He stated the total storage on site is increased to 3,600 – (2 inches is required) - 4,795 cubic feet for building - A.

Mr. Rifkin, Board member, asked if a perk test was done, to determine how these seepage pits will drain. **Mr. Hubschman** stated that a perk test was not done, that they did several test kits, and that the soil is very good on this site. **Mr. Hubschman** stated Everything drains to the south east corner, runs through the infiltration basin, and then into the wetlands. **Mr. Keane, Board member** clarified that this would be the west corner. **Chair Hayden** asked if all seepage pits drain into the small infiltration system on the west side. **Mr. Hubschman:** correct and that the roof and pipe was changed to run around to the back and drain back into the infiltration basin which has more retention capacity. **Chair Hayden** asked for confirmation that ultimately everything will still drain to the rear of the yard. She asked if this would eliminate some of the water in the surrounding area. **Mr. Hubschman** stated that there will be a 20% reduction. **Chair Hayden** asked if the pipe extending out to the back can be shortened so that it would not extend so far into the rear of 95 County Road, and if doing so would alleviate some of the problems downstream? **Mr. Hubschman** stated as per the soil conservation service, it is a requirement to create a drainage ditch, which would not help downstream, since it would have the same flow. **Chair Hayden**, questioned why they were unable to move the infiltration system to where she suggested and why they could not orient the basin like a swimming pool. **Mr. Hubschman** stated that it was due to the averaging and confirmed the system is 15 ½ feet away from the property line. **Chair Hayden** asked if the addition of the seepage pits will alleviate any of the maintenance for the infiltration system, and reiterated that the cost for maintenance was estimated between \$1,000-\$2,000 per month. Totaling \$24,000 per year, divided by the market rate homeowners becoming a \$4,000 expense per year per unit, just for storm water maintenance.

Chair Hayden asked the Board members if they had any questions for the engineer.

Mr. Verp, to Mr. Hubschman: With respect to the retention pits do they control flow or retain the water, or simply slow the flow as it's processed through the drainage system?

Response: The whole system must reduce the rainwater problem. The current CFS (cubic feet per second) is 3. Developed were at .5 CFS. **Mr. Verp:** How does it help with dissipating the water and is it reduced by 20% ? **Mr. Hubschman** responded Yes; it has reduced the flow rate. The rate went down even more with the seepage pits, to almost .9 CFS – and that's more than 20%. The seepage pits hold almost a 100-year storm. He further explained that the water dissipates into the ground and that there is an overflow pipe at the top of the pits, and they will always fill up the basin. There is 2 ft. of stone. The seepage pits are 3 ft. in diameter and 3 ft. high. **Mr. Verp:** How many gallons would the pits hold? And how long would it take to flow through. **Response:** The rule is that they have to flow through in 72 hours. How quickly would

these dissipate, 36-48 inches would be about 18 hours. **Mr. Chelius, Board engineer** stated that this was a guess, that the plans only show the soil type and doesn't show percolation rates. He also asked which test pit is in the front and was an elevation done for that. **Mr. Hubschman** stated that he doesn't have that data.

Mayor Bernstein: asked if there were maintenance and inspection requirements for the seepage pits. **Mr. Hubschman:** stated that the basin and the two Filtara units have maintenance requirements. The seepage pits have minor inspections for sediment build up and collection from the roof leaders. If sediment is present, a vacuum truck would be needed for maintenance.

Councilwoman Fox: if the ground water is 7 or 8 feet, how are you going to put in basements? Are you going to put in sump pumps? And sump pumps add more water, where would the water be pumped to?

Mayor Bernstein: asked if they have a calculation where the sump pumps are required? **Mr. Hubschman:** stated that the contractor would have to address that. **Councilwoman Fox** asked if you can't have a basement below seven feet, what does that mean? **Mr. Hubschman:** stated that a special foundation would be required. A Board member asked what type of cost would this involve? **Mr. Hubschman:** stated that would be a question for the architect, and that the cost would be about double of a regular foundation.

Ms. Darlene Green, Board Planner – regarding sheet 8 – You have the tree removal plan drawn. The basin is shifted inward from the site. Do you really need to remove those trees? If the Geo grid didn't affect the root system, then they would stay. She further stated that there needs to be some planned clean-up and other minor items. And these should be conditions of approval. There are some discrepancies and some plan overlap. **Mayor Bernstein:** referred to the most westerly seepage pit, pointing out a bull's eye, a dotted line and a solid line. **Mr. Hubschman** explained that the solid line is the seepage pit, the dashed line indicates stone around the pit – the seepage pit is 6 ft. in diameter. The sidewalk is on top of the stone. **Mayor Bernstein:** asked how close this is to the foundation. **Mr. Hubschman** answered – 10 ft. and there isn't a basement.

Chair Hayden asked to open the meeting to the public for questions at this time.

Open to Public

Jean Nonemacher: 49 Meadow Street – Asked how close the seepage pits are to County Road, and if the seepage pits will cause further flooding. **Mr. Hubschman:** stated they are underground. She noted that the area has a very high-water retention rate. And if the new elevation of the development, in conjunction with the seepage pits will cause water to flow to County Road or the surrounding houses. **Mr. Hubschman, engineer** stated that there is minor grading in the front, it's pretty level and there's a pit toward County Road. The pit wall will not cause flooding toward County Road. She asked what the distance is from the center of the pit to County Road. **Mr. Hubschman:** answered 30-35 feet away.

Mrs. Laura Santos: 9 Carlotta Way – Doesn't agree that the problem is solved. She acknowledged that the roof leaders and the drainage system will aid the issues for building (A). She asked what is being done for the roof leaders and drainage against her property. **Mr. Hubschman:** answered that everything pitches away from her property, that the roof leaders are all piped to the rear. She suggested they eliminate 20% of the water for the second building. **Mr. Hubschman:** stated that seepage pits are not allowed in the transition area. **Mrs. Santos** referred to her neighbor's house, at 10 Carlotta Way which has a sump pump running 24 hours a day, which pumps into the Wetlands. She expressed concern that additional sump pumps will cause

additional problems.

Eileen Lewis: 32 Brook Way Asked if they have calculated the amount of drainage that would be added to the wetlands system which is already overtaxed. **Mr. Hubschman:** The new State requirements require us to reduce that. After development we are at .56 and we reduced the flow rate off the site, by the addition of the infiltration basin and other drainage systems. **Councilwoman Fox** stated that Ms. Lewis was asking about volume not speed. **Mr. Hubschman:** stated that the volume of the runoff would increase, but it's spread over a longer period. **Mrs. Lewis** stated that regardless of the flow rate – there is still more water. (produced by the increased impervious coverage)

Miss Laura Santos: Daughter of Mrs. Laura Santos: 9 Carlotta Way – stated that the amount of water is going to increase and will cause a larger problem.

Mr. Jimmy McCagna: 28 Brook Way - Asked who pays for the management of the seepage pits.

Chair Hayden stated that the HOA management pays for the maintenance. Mr. McCagna asked what happens if the HOA goes defunct? **Mr. Abrahamsen** stated that there would conditions in the Resolution of approval, in perpetuity. **Councilwoman Fox** stated previously that we are going to impose deed restrictions on the property themselves. If the HOA doesn't pay the properties themselves would be responsible, and the cost would be added to their taxes. If the town does the maintenance, then their taxes go up. **Mr. Abrahamsen:** stated that the Department of Community affairs must evaluate the estimated budget, and that there are safeguards. **Mr. Bern, Board, attorney** stated that there are reserves for placement that would be required in the budget. **Mrs. Santos** asked if the landscaping maintenance is not kept up, should the neighbors report the situation to the HOA? Or to the attention of the Borough of Demarest. **Mr. Abrahamsen:** stated that the town Zoning Officer would take care of that upon inspection. **Mr. Bern:** stated that it's code enforcement and the town has a right to impose liens.

Mr. Hubschman: discussed the rate of the current runoff. RSIS gives calculations for the rate. The existing rate was 3, and before the proposed seepage pits was 1.5. The system is designed for the 2-10-25 and 100-year storm. **Mayor Bernstein:** asked what the potential was for water to escape the infiltration systems and if tests have been performed. **Mr. Hubschman:** responded that several tests have been done 2 ft. above seasonal high ground for the 72-hour basin.

At this time a motion was made to close the meeting to the public for additional questions for the engineer.

Motion: Mr. Keane **Seconded by:** Mr. Tabacchi
All in favor

Mr. Bern: stated that **Mr. Uri Rappaport, architect** was previously sworn and that he is under oath regarding his testimony.

Mr. Uri Rapaport, architect – stated that the window wells need railings by code. The window wells on the side façade were removed. He referred to the ADA unit, (the first unit #1) which does not have a basement. There is also a notation regarding prohibited a storage area to be used

as a sleeping area. The kitchen and hallway meet the ADA requirements. **Chair Hayden** stated that the window wells had egress windows and questioned if the bath and kitchen are ADA accessible. **Ms. Darlene Green** clarified that we are talking about just this unit. She asked if the scale is conflicting. The circle must reside and not conflict with anything. The developer would have to convert the tub to a handicapped accessible shower. In addition, the plan must go through all the building sub codes requirements. The affordable housing units in a non-elevator service building must be ADA accessible for a range of households. The final plan set must be compliant. There is another shower in the same unit, although it's not handicapped accessible. **Chair Hayden** asked **Mr. Rapaport** if the bathroom was made a little larger, by stacking the washer and dryer. His response: Correct. **Ms. Green:** stated that it is permitted to have a stackable washer and dryer – although washers and dryers are not required in these units.

Chair Hayden referred to the market rate units, where there are thirty-five bedrooms in total, stating that potentially seventy people could reside in this 1 acre area. She stated that these units will be marketed as five-bedroom homes. She asked about the market price for the market units, and the answer was deflected by **Mr. Abrahamsen**, as not having knowledge of how they will be priced by a realtor. **Mr. Rapaport:** stated that some of the bedrooms are actually home offices and that older people, Seniors, want bedrooms on the first floor, and may want to downsize. And that these are not the final designs, some may want an elevator, a dressing room, and custom options. **Chair Hayden** stated that senior citizens are not going to downsize to these units. And that these designs must be substantially similar in scale and dimensions of the Virgona plan. **Mr. Rapaport** interjected: By style. **Chair Hayden** answered: No, it says – by dimensions, which is a total of three bedrooms in the market rate units. **Mr. Abrahamsen:** said the square footage is the same as the Virgona plan. **Mr. Chelius, Board engineer** stated the actual footprint is very similar. The newly proposed units are larger because of the floor area in the basement – the outside footprint is close. **Mr. Abrahamsen:** stated he wrote a letter this afternoon to the Board members. **Chair Hayden** stated that this letter was inappropriate, the tone was offensive, and the content was virtually incorrect. And moving on stated: To receive an approval, the plan must be substantially similar to the Virgona plan. Which is 23 bedrooms, not 35 bedrooms. This plan is not substantially similar.

Mr. Abrahamsen: stated that his clients are willing to accept a reasonable interpretation, which involves the Borough attorney who entered the Settlement agreement. And yes, the zoning ordinance and the specifications of the Virgona plan. **Chair Hayden** stated you need to agree to redo the plans for the market rate units with only three bedrooms and eliminate the basement in front building. These Virgona & Virgona plans do not indicate a basement at all in the first building. Additionally, according to the Virgona & Virgona plans there are basement windows on the exterior of the rear building of the market rate units but they are clearly not egress windows. Therefore, you cannot have bedrooms in the basements of the market rate units, so that eliminates twelve bedrooms. **Mr. Rapaport:** stated that the original Virgona plan shows a basement. **Chair Hayden** stated that there's no basement shown here. The rear has those windows, so there's a basement, but there are no bedrooms are permitted.

Mr. Abrahamsen: stated that his clients are willing to accept conditions regarding the basements. **Chair Hayden** stated that she would like to see the new plans. Which includes showing three bedrooms in the market rate units, no basement in the first building, and a floor plan for the rear building basement. But no bedrooms in the basements. She stated we have two applications for next month, and you would have to waive the time restraints until March 2023.

Mr. Abrahamsen asked if the members of the Board would accept agreed upon conditions as a basis for an approval tonight to decrease the delay. **Chair Hayden** stated that she doesn't want

to approve anything that we haven't seen. She stated that the plans must be revised, and there would be a list of conditions to take into consideration. **Mr. Bern** will compile the list. There are also landscaping conditions, and everything needs to be put together which is enough work to takes us into March. **Mayor Bernstein:** asked if we can have an affirmative waiver of time. **Chair Hayden** stated the date - March 1st, and asked if there were any further questions from the Board. **Mayor Bernstein** asked when we will receive the documents. **Mr. Bern** stated – 10 days prior. **Mr. Abrahamsen** stated that he would try to get the documents in earlier. **Councilwoman Fox** stated that it would be preferable if you compile a list of conditions that the Board members can review prior to the meeting.

As there were no further questions from the Board – the meeting was Open the Meeting to the public.

Motion: Councilwoman, Ms. Fox **Seconded by:** Mr. Verp
All in favor

Open to the Public for questions

Debra Longest: 19 Brook Way - My understanding is that the setback was changed, and we lost some land to allow for this project to be developed. **Councilwoman Fox** stated, the 300 feet was in the riparian zone. **Mrs. Longest** asked if the plans have been proportionally sized. **Chair Hayden** stated that the bulk requirements are still conforming, so is nothing objectionable with the minor shifting. **Mrs. Longest** stated that she does not have a basement at her home on Brook Way, however, some neighbors have basements that continuously flood. These proposed units should not have basements. She was asked if she gets water on her first floor. **Mrs. Longest** explained that the previous owners extended their family room, and the last flooding event resulted in four inches of water, and the carpet has been replaced twice. **Mr. Chelius** stated it is preferable to have not have basements in this type of area.

Mrs. Longest also suggested that the tub be removed in the ADA unit. She suggested installing an ADA approved shower, for better accessibility.

Mrs. Laura Santos: 9 Carlotta Way asked if the wetland property was going to be abandoned. **Mr. Abrahamsen** stated that the HOA owns the property and pays taxes on it. **Mrs. Santos** noted that the area needs to be trimmed and that there are foxes present. It was asked how this area will be maintained. **Mr. Hubschman** stated that the DEP does not want the area disturbed. **Mr. Abrahamsen** added that a state agency protects Wetland areas that need to be preserved. **Mr. Bern** stated that this will be spelled out as a condition and the HOA will submit their homeowner documents to the Board. Ultimately, the Department of Community affairs has to approve the budget, the maintenance plan, all administrative items, when they sell a percentage of units. These units will be built all at once, and not phased in. **Mrs. Santos** concluded with a plea to save a beautiful Chestnut tree located behind the barn, which is designated on the plans, as a Chestnut tree, which actually is a walnut tree. This tree in particular will be reviewed. It was noted that the Police Chief of Demarest questioned some of the trees in the ROW as potentially blocking the preferred line of site.

At this time Chair Hayden requested a summation or closing comments from Mr. Abrahamsen, and he declined stating all pertinent issues were discussed.

Mr. Bern stated that the application will be continue, that the applicant has waived the time restraints until March 1st to review the conditions. The hearing will be continued in this room – 7:30PM on March 1st. No further notice will be provided.

At this time the Board members were asked to remain to discuss new and old business.

Approval of Minutes: December 7th minutes

Motion to approve: Mayor Schooler Seconded by Councilwoman Fox

All in favor

New Business: The application for 127 Hardenburgh will be heard on 2/1/23. The application has been deemed complete by Mr. Craig Zimmerman. We will receive review reports from Ms. Green and the engineers.

The Demarest Middle School application will be heard, after – if time allows. This will be a courtesy review for an expansion of the gymnasium. The hard copies are expected to be distributed next week.

Motion to Adjourn the meeting: Mr. Keane Seconded by Mr. Tabacchi

All in favor: Alevrontas Bernstein Brenner Fox Hayden Keane Rifkind Schooler Tabacchi Verp

Respectively submitted,

Teresa Ferrentino

Teresa Ferrentino
Board Secretary