

BOROUGH OF WATCHUNG

BOARD OF ADJUSTMENT
DANIEL CRONHEIM, CHAIRMAN



**BOROUGH OF WATCHUNG
BOARD OF ADJUSTMENT
Regular Meeting
June 14, 2018**

**OFFICIAL MINUTES
ADOPTED JULY 12, 2018**

Chairman Cronheim called the Regular Meeting to order at 7:40 p.m. Board members present were Ms. Fechtner, Mr. Dallas, Mr. Brown and Mr. Bell. Also present were Steven Warner, Esq., Board Attorney, David Stires, P.E., Board Engineer, Ed Bennett, Zoning Official and Theresa Snyder, Board Clerk. There were 17 members from the public present.

Chairman Cronheim read the statement indicating the meeting was being conducted according to the Sunshine Law, the Municipal Land Use Law requirements, and the recording of the Minutes as required by law. He then led the flag salute to the American flag, and the Board members identified themselves for the record.

Approval of Minutes

On motion by Mr. Cronheim, seconded by Mr. Brown, the Board approved the minutes for the May 10, 2018, Regular Meeting.

Resolution

Resolution BA-R7
Case No.: BA 18-03; Figueiredo
Address: 111 Johnston Drive
Block: 45.01 Lot: 21
Approved 5/10/18

On motion by Chairman Cronheim, seconded by Mr. Kita, the Board adopted the Resolution based on the following roll call vote:

Roll Call:	Ayes:	Ms. Fechtner, Mr. Dallas, Mr. Brown, Mr. Bell and Chairman Cronheim
	Nays:	
	Not Eligible:	
	Abstain:	
	Absent:	Mr. Kita, Mr. Panzarella, Mr. Hunsinger and Mr. Lauerman

Resolution BA-R8; Target
Case No.: BA 18-04;
1515 us highway 22
Block: 5703 Lot: 2.06
Approved 5/10/18

On motion by Chairman Cronheim, seconded by Mr. Kita, the Board adopted the Resolution based on the following roll call vote:

Roll Call:	Ayes:	Ms. Fechtner, Mr. Dallas, Mr. Brown, Mr. Bell and Chairman Cronheim
	Nays:	
	Not Eligible:	
	Abstain:	
	Absent:	Mr. Kita, Mr. Panzarella, Mr. Hunsinger and Mr. Lauerman

Request

The Board unanimously voted to grant Cub Scout Pack 32 permission from the Board to display temporary yard signs.

Applications

Case No. BA 18-05; Biviano
50 Century Lane
Block 4301 Lot 2.02

Mr. Warner, Esq. swore in the professionals along with Mrs. Helen Biviano. Ms. Karen Luongo, AIA, gave her credentials and was accepted by the Board.

Ms. Luongo, AIA, displayed Exhibit A1 which showed the pool and surrounding area where the new pool house would be situated. Then she referenced the Site Plan which showed the 112,000 sq. ft. property located in the R-R Zone seeking to build a pool house in the front yard facing 50 Century Lane. In order to be in compliance in this area, the pool house would need to be placed in the steepest portion of the property. Placing the pool house toward the western portion of the pool, in the front yard, would be less intrusive to the land.

Mr. Warner, Esq. stated that Mr. Stires, P.E. would be recused from the application.

Ms. Luongo explained that although the pool house would be built in the front yard, it would be 212 ft. from Century Lane.

On question by Mr. Bennett, Ms. Luongo said there would not be any new fencing. The same type of fencing presently on the property would be used.

On recommendation by Mr. Warner, Esq., the applicant agreed to the conditions of not making it a livable space, nor a rental unit.

With there being no questions from the public, the public portion of the meeting was closed.

On motion by Ms. Fechtner, seconded by Mr. Bell, the Board voted to grant the variance with conditions based on the following roll call vote:

Roll Call:	Ayes:	Ms. Fechtner, Mr. Dallas, Mr. Brown, Mr. Bell and Chairman Cronheim
	Nays:	
	Not Eligible:	
	Abstain:	
	Absent:	Mr. Kita, Mr. Panzarella, Mr. Hunsinger and Mr. Lauerman

Case No. BA18-01; Wilderness Trails (RETS Partners, LLC)
833 Mountain Blvd.
Block: 201 Lot: 17 RR Zone

Mr. Donald Whitelaw, Esq., counsel for the applicant, summarized the status of the application. He explained that the applicant had revised the conceptual plans and had a meeting with Warren Township. The revised plans includes splitting the townhome portion in Watchung into two buildings and using the Warren portion as residential with the inclusion of townhomes. The Watchung portion of this area that was previously going to be used as a parking lot for the bank, will remain a parking lot, but will now be residential.

Mr. Whitelaw, Esq. proposed that his client was in compliance with Section 35 of the MLUL Statue because their property abuts a street. He presented a deed and document which shows Hauser Lane as an approved street by the Greenbrook Township Planning Board and an entity with which Mr. Berlant is a principal owner.

Mr. Warner, Esq. explained the variances needed for this application. The applicant needs variance for multi-family homes in a single family zone. They may still need variance for the parking lot although it is now proposed to be residential, and they need a density variance.

Mr. Cohen, Esq., attorney for the neighboring objectors, agreed the applicant's notice was sufficient and the Board has jurisdiction to continue to hear the case.

Mr. Berlant, still under oath, testified as a factual witness using the following exhibits:
Exhibit A-3 Map of Hauser Lane dated 1963
Exhibit A-4 Memorandum from tax Assessor dated August 20, 1986

Mr. Berlant explained that in 1963 Lot 4 was sub divided into Lots 4 & 4.01 to applicant Graham Hauser. The map identifies Hauser Lane. The properties were purchased by Mr. Berlant who got the subdivision plan and memo from Greenbrook Township.

On question by Mr. Warner, Esq., Mr. Whitelaw, Esq. used Exhibit A-4 to show that Greenbrook accepted Hauer's Lane as a road.

Chairman Cronheim assumed that the town accepted it as a practical solution to destroyed documents. Because of the representation on the tax map, the sub divided lots and street are valid.

Mr. John McDonough was accepted by the Board as a professional planner. He was sworn in and gave testimony.

Mr. Whitehall, Esq. explained that he was not looking for a vote that night, but would hope that the missing Board members would listen to the audio of the meeting and be eligible to vote at a later date.

Mr. McDonough ran the application through standards of the existing layout plan. He reviewed the plans the use variances needed. He used Exhibit A-5-Planning Exhibits for his presentation. He explained that it was a single lot with two tax I.Ds.

On question of Mr. Warner, Esq., Mr. McDonough clarified to the Board that it is not a lot line that separates the lots, but a municipal line that straddles the property. Mr. McDonough gave a brief overview of the existing property as it contains both commercial and residential portions. It is located in the R-R Zone in Watchung and is located at the intersection of three municipalities. The Use variance for multi-family is a good transition between commercial and single family use. The portion in Warren is in the BR-40 Zone- business residential which is a transitional zone. Mr. McDonough explained that the physical plan does satisfy Sec. 36 the adequacies of roadway to handle emergency vehicles.

Mr. Whitehall, Esq., agreed to the condition that if approved, the road must comply with the capacity of handling emergency vehicles.

Mr. Warner, Esq., suggested that a condition should the Board approve, would be that the applicant and additional purchaser would be obligated to continue the maintenance of the road.

On question by Mr. Cohen, Esq., Mr. Whitelaw, Esq. said they cannot build the project without improvement of Hauser Lane.

On question by the Board, Mr. McDonough, said the road will be a court and not infringe into what is considered wet lands. The best way to ensure adequate emergency vehicle access would be through the fire official.

Mr. McDonough went through the physical characteristics of the property. Because the property is linear, it lends itself to a linear design.

1. The applicant would make improvements to Hauser Lane. It would be a court and extend to the back of the physical property.
2. The detention basin would be in the south. The property gently slopes front to back.

3. The physical layout of the existing driveway will be taken away. They have a protected intersection.
4. All access will be from Hauser Lane.
5. There will be a parking lot in Watchung.
6. There would be a 24 ft. drive aisle with 14 parking spaces. The first building would be 4 units with 50% set aside for affordable housing. The next would be 5 units, 2 affordable, 3 market rate units. The total affordable component would be a 44% set aside. Typically, there should be up to a 15% set aside on rentals and 20% for sale units. There will be a total of 13 units between the Watchung portion and Warren portion.
7. The building mass lines up with the single family homes on Wildwood Terrace.
8. The applicant will build up berms toward the back of the property. They will create a green line.
9. A single family home on this property would be "pinched".
10. It is isolated from other parts of the neighborhood.

Mr. McDonough then put the application through the Medici Test.

1. The site's suitability
The physical characteristics of the land have a protected intersection, and it is a transitional location. It is on the extreme edge of town. The shape is exceptionally deep and is conducive to a linear design. There is an unmet need for affordable housing.
2. Land Use Laws
It provides new housing stock with an affordable housing component. Encourages a variety of use. It has a desirable visual aspect. It is an efficient use of land with redevelopment as a deterrent to sprawl.
3. Impacts
There is a logical access to the property. The site will function safely and efficiently. There will be buffering. The buildings would not be higher than other ones in the area.
4. Impact on Vision of the Area
It contains the paramount component of affordable housing. It is virtually its own neighborhood. It is not eroding the integrity of the district. It is very different from other homes. It is comparable zoning.

On question by Mr. Warner, Esq., Mr. McDonough said that it would be better zoning if Warren would allow the parking lot to be residential.

On question by the Board, Mr. McDonough said there were not necessarily wet lands, but the plan provides for a transition area. The site can handle the additional density. They are in compliance. The parking, utilities and public services can be accommodated. It makes better planning sense to split the buildings to break up the mass to provide adequate light and open space.

The Board took a recess from 9:23 p.m. till 9:42 p.m.

After the recess, Mr. Whitehall, Esq., clarified that the proposed plan would expand Hauser Lane. The road would be 20 ft. with an easement of 40 ft.

Mr. Cohen cross-examined Mr. McDonough. He asked questions about the density of the plan and if an area in one town can be added to an area in another town to create a bigger lot. He questioned if Mr. McDonough thought 13 units for 1 acre of land was high density. Mr. Cohen questioned if it was a builder's remedy which would be handled by the court, and asked if this was a high density application instead. He said affordable housing is not the number one reason for granting this variance. He said active commercial use would be less intense. They would be using most of the property for building on impervious coverage. The lot area is deficient. He asked if it was a better plan to put 9 units on a lot with 20,000 sq. ft. less than a single family home requirement. He inquired about the 40 ft. set back, and saw only a 20 ft. set back. He asked if there would be enough space for a berm to be constructed, and what percentage of trees would be saved.

Mr. McDonough noted Mr. Cohen's concerns and said that relief for a single family home would be similar to the relief sought on the proposed plan. It is not a builder's remedy. Mr. McDonough said it was a proper use of the land and the berms will be able to be built. He said that even with a single family home, trees would have to be removed in order to build. He said the proposed development would have no more impact than a single family home.

On question of Mr. Cohen, Esq., Mr. McDonough said there would be 33 parking spaces-7 garage spaces, 7 driveway spaces and 19 surface spaces.

Mr. Cohen, Esq. presented EXHIBIT O-1-Reexamination of Master Plan p. 5. He asked if there would be any lighting and would there be an area for people to be outside.

Chairman Cronheim ended the discussion because of the time, and the application was carried to the July 12th meeting without further notice.

Adjourn

The Board unanimously voted to adjourn the meeting at 11:07 p.m.

Respectfully Submitted,

Theresa Snyder

Theresa Snyder
Board Clerk