

**Borough of Watchung
Planning Board Meeting
November 17th, 2015 Minutes**

Chairman Schaefer called the meeting to order at 7:30 p.m. Salute to the flag. The Chair called for a roll call. Present at the call of the roll were:

(X)Chairman Schaefer (X)Mr. Boyd (X)Mr. Desnoyers (X)Mr. Ellis (X)Mr. Haveson
(X)Councilwoman Joren (A)Mrs. Pennett (X)Mayor Pote (X)Mr. Speeney
(X)Mr. Hartmann (X)Ms. Spingler.

Linnus (X) Herits (X)

The Chair indicated that there was a quorum and that notice had been given. We have two resolutions to memorialize then we will be going into an executive session to listen to Marcia Shiffman regarding our fair share plan and the matrix. The Chair seeks a motion to authorize Mr. Linnus to provide legal services to the Planning Board regarding the pending litigation declaratory judgment along with our affordable housing plan not to exceed \$1500. The motion was moved by Mr. Boyd, seconded by Mr. Ellis then Chairwoman Schaefer called for a roll: Mr. Boyd [yes], Mr. Desnoyers [yes], Mr. Ellis [yes], Mr. Haveson [yes], Councilwoman Joren [yes], Mayor Pote [yes], Mr. Speeney [yes], Mr. Hartmann [yes], Ms. Spingler [yes], Chairwoman Schaefer [yes].

Mr. Linnus explained the Board would be going into a closed Executive Session to discuss the pending litigation in the matter of Borough of Watchung's compliance with the third round housing element and fair share plan. This qualifies as an exception to the Open Public Meetings Act. The Chair seeks a motion to go into Executive session, it was moved by Mayor Pote, seconded by Mr. Boyd and carried on a voice vote. The motion passed.

When the Board returned from executive session the regular meeting started with Weldon Quarry. The Chair summarized their two site visits. First stop was Colorado Café. We are happy that we are seeing a lot of the foliage staying. Next stop was the Firehouse. A few members felt that the set-back should be pushed further back specifically an additional 60 feet. The second group said perhaps working a berm built into the terrain behind the firehouse and then your road behind it. A little more than 130 feet, we are not exactly sure but pushing that parameter a little more to the back of the firehouse. The Chair stated for the record that personally she doesn't think that moving lines up and back and forward doesn't help you nor does it help us. We are going to try to keep the lines as straight as we can to make it easier on all parties it was asked if flags could be placed. Mr. Butler asked who would agree on where the flags should be placed. Chairwoman Schaefer said she is giving an approximate but doesn't know the exact measurements. As we were heading toward the firehouse certain members who want it further back, but the consensus seemed to be that we could place the berm into the hillside behind the firehouse. Mr. Butler asked if just the firehouse would have the berm? The Chair said, no everything would remain the same

as proposed but the berm, for measurement sake, would be placed behind the firehouse. Mr. Butler asked, so the 130 feet would start behind the firehouse? The Chair said I don't know how far that is behind the firehouse. I don't know where the 130 feet comes to on the firehouse. My idea of where the berm is placed may be a little bit further than 130 feet. Mr. Hartmann added. We looked at it from a couple of different perspectives. The point is we want flags at various places back there so we can see what that would really look like with various options. And then people could go out in groups or individually and can see where the flags are so you get a sense of it. You can then imagine that distance tree to un-tree, berm and so forth. The Chair said when they went toward the contemporary home (Lot 13) the consensus of the second group was that the berm would potentially be where the garages are right now. They would like to move it back another 20 feet from that point, which would make it **approximately** 150 feet. With the final lot the consensus for both groups seemed to be it was fine. The Chair asked Mr. Hartmann if he would like to share his thoughts on the Lot 13. Mr. Hartman said, in connection with the concept of the berms, there are a series of ridge lines back there that are further back than 130 feet but seem like natural breaks and when we walked those, some of us thought about working with those ridges and then putting berms in places where there was no ridge. One of which was behind Lot 13. The first group felt that, that would be a good place for a berm(s) as opposed to some of the other places where you have a natural ridge line and you don't need a berm.

Mr. Healey said that he agreed with the dialogue regarding working around the natural features that exist and it makes a lot more sense keeping the natural ridge lines than to take it down and put a berm in its place. His general recommendation would be to put these concepts in the form of standards that would go in the zoning ordinance. As of right now, the Board is being specific regarding layout with respect to ridge lines etc. With standards in place, when you receive the application you have something to measure against. The Chair said that what everybody was trying to achieve was to build into the natural grade while preserving as many trees as possible. Mr. Healey added, there is a need for some flexibility that the Board may want to employ when you get an actual application. The overall recommendation is you may want to strike a balance, even though you want to be specific, you can only go so far with the ordinance. He said then the board can request what type of information needs to be provided, such as showing the natural grade, location of trees, which ridges lines will be kept and where they are going to fill in, etc. Ms. Joren asked for steps on the procedure as the Planning Board is going to make a recommendation to the Council about the proposal. Who is going to create the ordinance and what happens to that ordinance? Does it come back to the council as an ordinance? Or does it come back to the council as a recommendation? Mr. Linnus said we are under a mandate from the Borough Council to review Weldon's request for re-zoning, but to make it clear, either Body can prepare a draft ordinance for Council to review. Council is the Legislative Body so they would be adopting the ordinance. If the Council prepares the ordinance, it comes to the Planning Board for review before going back to the Council for adoption.

The Laws and Ordinances Committee would review it before going to Council.

Mr. Healey's understanding is that based on Weldon's re-zoning request, the Planning Board has been asked to prepare a draft zoning ordinance for the Council's consideration. Along with that you want an explanatory cover letter, explaining all of the different things you considered, such as site visits, meetings, and reasons why its 30 feet here, 250 feet there. Mr. Hartmann asked what happens after the ordinance gets passed and before Weldon digs, do they have to come back to the Planning Board for site plan? Mr. Linnus said, yes. The Planning Board then decides whether it complies with the zoning ordinance or not. In which case they would have to request a variance and prove their entitlement to a variance. Mr. Hartmann said what if they request something that doesn't require a variance are we required to approve it? Mr. Linnus said, generally speaking, yes. If someone submits a conforming site plan, it's very difficult to generate a legal denial. Mr. Butler said for the record that the Planning Board is not a rubber stamp for site plan. In his experience he has given builders difficulty with conforming site plans.

Chairwoman Schaefer said I think we will have them flag the 130 feet and work from there. Mr. Ellis said we're not talking about the whole site, maybe 200 – 300 yards along Bonnie Burn. The Chair said specifically Lot 9.02 (Firehouse) down to Lot 13 (Fragner house).

Mr. Butler asked if in some cases do you see a situation where we agree upon a setback and there will be no berm in that particular area. The Chair said if the terrain shows for that, absolutely. He then asked would you prefer to keep the trees rather than add the berm as a buffer like Mr. Hartmann suggests? Mayor Pote said, I think the answer is yes. We are looking for flexibility. We're looking at being reasonable and practical. The markers is an excellent idea. Mr. Weldon is right, in my opinion, that the more specific we can be so that we can submit something to the Mayor and Council that is closer to the finished product rather than go back and forth. I think this is great progression so far.

After discussion, the Chair summarized the next steps would be that Weldon would set up the flags, the Planning Board would provide public notice for a Work Session in the field. Mr. Butler agreed.

Mr. Weldon gave testimony on A-9 is an aerial map photograph with line of site profiles and A-10 is the actual line of site profiles with the elevations. Based on the discussion, why is the berm important to the Planning Board? Chairwoman Schaefer said it was important to use the current terrain and if the terrain wasn't sufficient enough to hide the site of the quarry from the residents, then we wanted to place that berm there to accomplish that. Mr. Weldon stated the reason his company would like to build the berm is for a visual buffer. To us it was important that the berm have a visual buffer for the road and the neighbors, so that's how we came up with 130 feet. We are buffering

the site of the quarry at 130 feet.

Mr. Healey and Chairwoman Schaefer concurred that you don't need a berm if the topography goes up higher than the proposed berm and we are willing to have you eliminate the berm in certain areas. Mr. Weldon said from his point of trying to take advantage of being able to quarry as much as possible, we were trying to get to 130 feet protecting the visual. At 130 feet all the way through it does just that. The Chair restated Mr. Healey's recommendation, regarding not moving the set-back line in and out. There's only about a 400 yard area that you need to go out and look at.

Mr. Speeney asked where the 5 foot Right of Way on Bonnie Burn Rd begins. Mr. Herits said buffers start at the property line, so it appears they used the edge of pavement on some of your exhibits, but the buffer actually should start where your property line is, which might be 5 or 10 feet off the edge of pavement.

Ms. Joren asked what the height of top of the ridge was on Valley Road. Chairwoman Schaefer said approximately 100 feet. Tom Herits said he would get a topography map.

Chairwoman Schaefer said once the flags are out we can schedule a work session and go from there. Are we all in agreement on that? Absolutely. The Chair opened it up to the public, hearing none, the public portion was closed. She then opened it up to the board for questions, comments, and discussion. Mr. Speeney said that if the Board can agree on the standards and set-backs no one has objected to re-zoning. I think that is an important point. The Chair thanked Mr. Butler and Mr. Weldon. Meeting was adjourned at 9:30p.m.

Respectfully Submitted,

Maryann Amiano

Maryann Amiano
Planning Board Clerk