

**Borough of Watchung  
Planning Board Meeting  
Minutes March 15, 2016**

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

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

Linnus (X) Herits (X)

The Chairwoman indicated that there was a quorum to conduct business and stated that this meeting was being held in compliance with N.J.S.A. 10:4-6 of the Open Public Meetings Act and proper notification of this meeting has been made.

Chairwoman Schaefer made motion to waive the reading and approve the minutes for the January 19<sup>th</sup> 2016 meeting. The motion was moved, seconded and carried on a voice vote. Mrs. Pennett did not vote. The chair made motion to waive the reading and approve the minutes for the February 23<sup>rd</sup>, 2016 meeting the motion was moved, seconded and carried on voice vote. Mayor Pote arrived at 7:32p.m.

The Secretary called application PB16-01 Cunha Minor sub-division 15 Birchwood Lane, Block 6909, Lots 25 and 28 lot line adjustment. Mr. Linnus swore in board engineer, Thomas Herits, Engineer.

Richard Kaplan, attorney for the applicant, summarized the reason for the application. The Cunha's own both lots 25 and 28. Their primary residence is on lot 25 and they rent out the property on lot 28. The Cunha's have an irregular shaped property. The property line is exactly on the corner of their house as it was originally pre-existing non-conforming prior to their addition in 2008. The back yard is limited. It is a triangular shape. The purpose of the application is to square out lot 25 to make it more aesthetically pleasing, and give it a more conforming backyard. The only proposed change is the driveway that goes from the rear of the house on lot 28 out to Oakwood Rd. is being modified slightly to accommodate the change in the lot line to have it conform to the zoning requirements.

Mr. Speeney read the site report into the record. Mrs. Cunha was sworn in and gave testimony of ownership of both lots 25 and 28. The purpose of this application is to even out my back yard and make it more appealing. The plans are to slide the existing driveway south on lot 28 so that it will be along the new property line in the same location.

Mr. Kaplan asked if there were plans to replace the fence. Mrs. Cunha said there were no plans to replace the fence. The gravel pathway my tenant put in for his 12 year old

daughter to walk and catch the bus on Birchwood. It's a small pathway. The Chair opened it up for questions from the Board. Mr. Haveson asked for clarification on whether the applicant wanted to improve the driveway on Lot 28. No, it's a stone driveway, what I plan on doing is removing what is there and moving it over using the same materials, stones. Mr. Boyd, asked if there would be any change in size of the new driveway. The applicant said no. Mayor Pote asked whether the area of egress onto Oakwood changes. Mrs. Cunha stated no. Madame Chair called for questions. Mr. Speeney asked if they had sought approval for the path way? Mr. Kaplan said there is no formal agreement or easement among neighbors along Birchwood. I understand why it was done, but did you get approval? Mrs. Cunha said she didn't know her tenant had done it. Mr. Speeney asked for the engineers input. Mr. Herits said they need to get a land disturbance permit and to make sure it's on her property. After discussion it was determined that the path was encroaching on Lot 24.02. Madame Chair determined that it was an engineering issue and we are bringing it up as a point of clarification. Mr. Herits said I don't think you need to remove it, I just think you need to obtain a Land Disturbance permit and ensure that it's on your property.

Mr. Haveson, can you please tell me what you are going to do with the fence? We will remove it and put some trees there. I have little ones so I left the fence up. Mr. Desnoyers: How old is the house? It was remodeled in 2002. We didn't change the foundation. It was pre-existing non-conforming. Mr. Herits said this isn't really a road, it's a right of way R.O.W. If you look at the tax map it shows 24 foot wide R.O.W. I'm not sure the front set-back is applicable. The other set-backs side and rear are applicable. Chairwoman Schaefer called for any other questions from the board, hearing none she opened it up to the public for questions.

Mr. Hehui Jin of 33 Birchwood Lane Lot 24.02 asked why the path is across his driveway. Mrs. Cunha said she would have her tenant remove the path. Mr. Jin said the pathway is hidden behind the trees. The slope is very steep, and the pathway is hidden which makes the driveway dangerous. It's hard to see. Mr. Linnus then swore in Mr. Jin. Mr. Jin submitted a picture of the pathway in relation to his driveway. Madame Chair asked if there were any other questions from Mr. Jin. Hearing none, she asked the board for questions. Mr. Boyd said so the conclusion is you are going to remove the path? Yes.

Mr. Kaplan called witness Mr. Leeland Titus, licensed professional engineer and planner 618 Somerset St. North Plainfield to be sworn in. Mr. Titus testified the lot line adjustment will increase lot 25 by approximately 6000 square feet and decrease Lot 28 by approximately feet. It's not a dedicated R.O.W. Similarly Lot 28 has no frontage. Their access to Oakwood Rd. is through an easement across the high tension wires. It's in the deeds. Mr. Speeney asked why it was not considered a flag lot. Mr. Titus said I don't know, a flag lot, according to your ordinance, needs to have a 25 foot strip, but there isn't. It's just an easement. I think the flag lot ordinances is more applicable to this lot with the 50 foot set-back. It meets all the requirements of the flag lot except

for the staff. Mr. Titus said they are maintaining the same access point. The driveway will go across the slope to maintain 10 percent slope.

Mr. Speeney said the ordinance is clear, it's a question of the way the properties are being configured with respect to the ordinance. So, our report asks that you address the issues and if a variance is needed, we wouldn't object. There are two variances needed. The pole is one variance and the driveway approaching the pole is the other. We were recommending

The first variance requested is to allow a 12 foot staff where 25 foot is required. The second variance is that the driveway should be 15 feet from the property line where XX feet is required. We need to have access to the property and it's the same access we have now without impacting the Master Plan or the properties in the area and the proposed driveway is in essentially the same location with relationship to the property line as the existing driveway. It benefits both Lots 25 and 28 with no negative impact on these lots or neighboring properties.

Mr. Haveson, asked, "Did you say there was going to be sharp drop from driveway onto Oakwood? No, if we went straight up the hill it would be steep. Instead we are coming across the slope as shown. The driveway is about 8 or 10%. Your ordinance has a maximum of 12%. Madame Chair Schaefer said the current driveway is steeper than the proposed. She called for any other questions from the board. Hearing none she called for questions from the public. Hearing none that portion was closed.

The applicant is willing to accept the "no further subdivision" restriction. Mr. Linnus stated that would appear in the deed so that future owners would know that. The Chair called for any further questions from the board, hearing none, she then opened it up to the public for comment. Hearing none the public portion was closed as well as the board's portion.

Madame Chair seeks a motion to approve the minor sub-division, lot line adjustment with the following conditions and variances: Applicant will remove the fence, no further sub-division, and remove the gravel path. Mr. Speeney moved to have the board attorney to draft a resolution in favor of this application to be memorialized at the next meeting. The motion was moved, seconded and carried on a call of the roll: (Yes)Mr. Boyd (yes)Mr. Desnoyers (yes)Mr. Haveson (yes)Mrs. Pennett (yes)Mayor Pote (yes)Mr. Speeney, (yes)Ms. Spingler, (yes)Chairwoman Schaefer. This application will be continued to April 19, no further notice required.

Mark Healey board planner prepared two draft documents, the Master Plan Amendment and Draft Zoning Ordinance. The summary of the Master Plan has three main things, 1. The Master Plan intends that the Quarry continue to operate until its usefulness is complete, 2. While the quarry is in operation, the Master Plan identifies minimizing potential impacts of the quarry as one of its main objectives and 3. The Master Plan

does not contemplate at this point having the Quarry zone extend to Bonnie Burn Rd. thus the need for this document. The proposed zoning ordinance describes the recommendations included in the ordinance. The buffering requirements are, 130 feet on Bonnie Burn Rd., 250 feet on Lot 6 (Colorado Café), 100 feet on Valley Rd., 30 feet on New Providence Rd. It provides specific buffer design requirements regarding trees and berms. It also requires site plan approval prior to the expansion of the quarry to ensure compliance with the ordinance. Madame Chair called for questions on the Master Plan. Mr. Speeney thanked Mr. Healey and asked that he include the positive impacts and advantages of this request on the benefits of the overlay zone. Such as meeting the water detention requirements for the Army Core of Engineers and the ability to get a more flexible roadway relative to businesses we might have based on the overlay zone.

Mr. Desnoyers asked Mr. Healey for the number of acres going to be zoned as quarry. Probably in the neighborhood of 30 that will be rezoned from residential to quarry. Mr. Desnoyers noted mining another 30 acres in Watchung is a significant impact. Mr. Healey responded, "that is why the board has spent a significant amount of time examining this issue." Mr. Boyd asked how many additional years of quarrying does 10 acres add to quarrying. Mr. Butler said, "I am not qualified to make that statement." Mr. Speeney said, I remember Mr. Weldon said another 25 years.

The Chair asked if there was discussion on the points Mr. Speeney brought up. Mr. Desnoyers asked for clarification on the Master Plan re-examination page 15 in relation open space areas at the top of the quarry that lie at current road grade. Mr. Healey said that's a summary of the Open Space Plan. Madame Chair added, that was all part of the entire concept when we met with the county. Mr. Desnoyers asked if it was still considered open space? No, this is just an open space report like the Master Plan is a plan of what our desires are for the future. Mr. Desnoyers, "so this is not open space inventory?" "No. Any other questions?" On page 5 & 6 of the amendment where the transitions are from 30 to 250 to 100 feet, Mayor Pote asked if there will there be a map showing the specifics? Yes, it will be in the land development ordinance. Mr. Herits asked if the Army Core of Engineers basin was supposed to be regional? Mr. Speeney said 50 acres was regional, but our engineer at the time said you could still do two things take care of the development responsibility and take care of Army Core's request with about 25 acres.

Mr. Healey summarized the ordinance changes. Pages 1&2 refer to the zoning designation of the properties that are affected. The first is changing the zone of the properties that front Bonnie Burn Rd. Lots 6-19 within the quarry zone. Block 7801 lots 4-9 along New Providence Rd. was already on the zoning map as quarry, but was not in the tax map. Another clarification is per the existing master plan and the zoning map, the entirety of Block 7601 and 7801 to be placed in the Office/Business Conference Overlay District excluding the businesses on lots 1, 2 & 3. Mr. Boyd, asked for the definition of edge of the roadway. Mr. Herits at the last meeting we said we were going

to use edge of pavement so as not to confuse with the R.O.W. The Chair said I think we should use edge of pavement for clarification as roadway. What is the difference between a maintenance roadway and an access road? Mr. Butler said the maintenance road is the road around the perimeter of the quarry. The access road would be a road where you could enter the quarry from a public street. Mr. Haveson asked should anything be in this ordinance with respect to the fire-house, because all the other properties will be gone. The firehouse lease is up in 2018. The Weldon's have had discussion about possibly helping the town relocate the firehouse. Mr. Butler suggested the fire house is there for lowering insurance rates. Mayor Pote said during Sandy it was manned ahead of time. Roadways were impassable, therefore there was OEM service on that side of town. Mr. Desnoyers asked if we had gotten input on this from the fire department. Mayor Pote said there is definitely a feeling that we need protection over there. Mr. Butler's point is well made about a modern fire truck not fitting in the existing structure. Madame Chair said they are on the record that they are not kicking us out and there are looking into other locations.

Mr. Haveson asked when Weldon plans to take down the houses? Mr. Butler did not know. In response to the Mayors question regarding the transition of the buffers around the intersections Mr. Healey said there would be a straight cut. My guess is that the quarrying itself would be a transition, but that the ordinance would allow for the setbacks. In summary, the buffer requirements are also building and parking set back requirements for all development. Mr. Desnoyers asked if there is a limit to the quarrying depth. No there is nothing in the municipal ordinance. They are licensed by the state requirements. Mr. Butler said the department of labor has no depth limitation on quarrying, but they do get involved with blasting and they take readings.

Mr. Speeney said in the Master Plan we should address the re-location of the firehouse. Mr. Healey said we will include the fact that the Borough continues to look for alternate locations and solutions to the firehouse location.

Mr. Herits asked if they intended on getting rid of parking lot for Colorado Café. Mr. Healey said the intention was to grandfather the existing parking on 7801 lot 4 NOT the Colorado Café lot. The clarification needs to be made on lot 4.

Mr. Healey summarized the buffering design standards in the quarry zone. The emphasis on the discussions was keeping the natural vegetation first then supplementing the existing forested areas and grade. Only using new landscaping and berms as a screen where there are gaps. Mrs. Pennett expressed concerns about tree replacement not being all evergreens and would prefer that the language be consistent with the tree replacement ordinance of the borough. Mr. Healey said the understanding would be to have a mix of deciduous and evergreen trees placed in a naturalistic way so that it blends as much as possible.

With respect to timeline, the Master Plan review is most important. The proposed

ordinance can follow the Master Plan by a month or two. The Chair asked Mrs. Pennett to look into finding trees that would provide a visual screen and also be consistent with the ordinance. The Master Plan is a general description and the ordinance is more specific. Mr. Linnus said, that is the proper procedure.

Regarding the site plan approval, Mr. Healy explained the proposed language is that they may quarry but once they got within X number feet of the buffer it would trigger a site plan review. The Chair asked Mr. Butler where they are right now. Mr. Butler said 325 feet. Mr. Haveson asked for clarification on what would trigger a site plan. Mr. Linnus said you get to judge the quality of the buffer. Mr. Healey suggested the board come up with a number of feet, so that once they quarry within that determined number of feet on Bonnie Burn, the board would address the quality of the buffer. Then all of these things we discussed would come into play. Madame Chair asked how long it takes them to dig. Mr. Butler said that Bob Weldon would need to answer that question. After discussion, the board agreed that an additional 100 feet added to the proposed buffers will be the number of feet to trigger a site plan review.

Mr. Butler asked Mrs. Pennett for a copy of the list of the preferred trees prior to the next meeting. Chairwoman Schaefer said at our next public meeting we will review the Master Plan.

Mayor Pote asked Mr. Butler if they (Weldon) had talked to the county with respect to any concerns as quarrying gets closer to Bonnie Burn Rd. Mr. Butler said, no Weldon sold Lot 2 and Lot 3 to the D.O.T. in lieu of a condemnation. That is a detention basin and it takes all the water that runs down Bonnie Burn Rd.

The board thanked Mr. Healey and the meeting adjourned at 10:05 p.m.

Respectfully Submitted,

*Maryann Amiano*

Maryann Amiano  
Planning Board Clerk