

Township of Millburn
Minutes of the Planning Board
April 28, 2021

A special meeting of the Township of Millburn Planning Board was held on **Wednesday, April 28, 2021** via Zoom webinar at 7:30 PM.

Chairwoman Beth Zall opened the meeting by reading Section 5 of the Open Public Meetings Act.

The following members were present for the meeting:

Daniel Baer
Gaston Haupt
Jorge Mastropietro
Marc Matsil
Maggee Miggins
Joseph Steinberg
Sanjeev Vinayak
David Morrow, Alt. #1
Sriniv Vijay, Alt. #2
Miriam Salerno, Vice Chairwoman
Beth Zall, Chairwoman

Also present:

Edward Buzak, Board Attorney
Eric Fishman, Court Reporter
Martha Callahan, Township Engineer
Eileen Davitt, Board Secretary

APPROVAL OF MINUTES

There were no minutes for approval.

APPLICATIONS

APPL#20-007, 85 WOODLAND ROAD LLC, WOODLAND/CHATHAM ROADS, SHORT HILLS

*Maggee Miggins recused and left the meeting.

John Inglesino, Attorney for the applicant, stated his appearance. He asked if those participants who spoke at the last meeting will be given the opportunity to speak again.

Chairwoman Beth Zall indicated that no members of the public were sworn in at the last meeting. Any interested members of the public will be given their three minutes to speak tonight at the public comment portion of the meeting.

Board Attorney, Edward Buzak, stated that we are letting HPC present their report during the public comment portion of the meeting. The Board can take the information and use it as they see fit.

Daniel Baer felt the ordinance was very specific about this. It is up to the Planning Board to request input from the HPC on historic buildings and structures in designated districts. He stated that he did not read the report as he believed it had no bearing on the application.

Joseph Steinberg indicated that he initially had the same thoughts on the report, as expressed by Board member Dan Baer. However, Ord. #2470-16 contains section 803.2g which indicates that HPC responsibility among others, is to “advise and assist Township officers, employees, boards and other bodies... on all matters which have potential impact on the historic buildings, structures, objects, sites or districts in the Township or on the physical character and ambience of any portion of the Township.” Based on this section, he feels HPC has the right to advise the Planning Board on this matter.

Alison Canfield, HPC Chairwoman, appeared and was sworn. She stated that the HPC has the obligation to come before the Board and offer their input. This is an advisory opinion and not binding. However, it carries great legal weight. This development is in a historic neighborhood. The HPC is pro-development that is appropriate for the community and neighborhoods in which they are built.

John Inglesino, Attorney for the applicant, raised his objection to the testimony as he felt it was an objector’s case. Board Attorney, Edward Buzak, explained that the format was appropriate and the matter was allowed to proceed.

Margaret Hickey, Historic Preservation Architect, appeared and was sworn. She indicated that she prepared a report dated March 24, 2021, and submitted it to Ms. Canfield.

Ms. Hickey stated that her firm reviewed the design documents prepared by Minno-Wasko Architects at the request of the Historic Preservation Commission. They also reviewed the Planner’s review letter prepared by Paul Phillips dated September 8, 2020.

Ms. Hickey briefly described the proposed development, which would provide 62 residential apartments and 10,000 SF of medical office space. The building is designed to be four stories and the height of the building changes as its relationship with the natural grade changes. It is the opinion of Connelly & Hickey that size and scale of the development is out of scale and of no relation to the existing buildings in the neighborhood.

Ms. Hickey stated that the proposed development is located in a small commercial area adjacent to residential neighborhoods and serves as a transition from the Township’s

commercial/transportation center to a neighborhood of small homes to the south and the Cora Hartshorn Arboretum to the west. The residential neighborhood to the south reflects the early 20th century box-type Colonial and Tudor Revival residences.

Ms. Hickey stated that the proposed development takes details from a variety of architectural periods in an effort to make it appear more distinct. It is Mr. Hickey's opinion that the designers should choose one style in order to present a more cohesive design.

It is the opinion of Connelly & Hickey, as well as the HPC, that the architectural elements used in this design are not placed as they would have been historically. The mix of style elements makes it difficult to discern a particular architectural influence. The elements are cluttered with elements that do not work together. The proposed flat roof is uncommon and out of character with the neighborhood, negatively impacts the architectural character and should be reconsidered.

Applicant's Attorney, John Inglesino, asked Ms. Hickey if she read the settlement agreement. Ms. Hickey stated that she read it but focused mainly on architecture.

Chairwoman Beth Zall opened the meeting for public comment.

Dr. Elise Norton appeared and was sworn. She stated that she is an associate professor at Farleigh Dickenson University, specializing in avian ecology and conservation. She stated that the rooftop decks and non-bird safe windows are of concern. This is a major migratory route twice a year for birds. Almost 2.9 billion birds have been lost since 1970 and the primary cause is buildings and windows. The birds cannot detect glass since it is a flat surface. Artificial light is also a major concern and should be considered. There was no mention of this issue in the applicant's EIS.

Stephanie Nesser, 79 Stony Terrace, appeared and was sworn. She feels that the rooftop decks should be eliminated or, in the alternative, be reduced in size, with limited hours of operation.

John Fox, 102 Oakview Terrace, appeared and was sworn. He is concerned with the traffic issues. He stated that in 2020, Silverman prepared a traffic study indicating that this 62-unit development will generate less traffic than the current situation. He feels this study is faulty.

Lynne Ranieri, 94 Oakview Terrace, appeared and was sworn. She stated that she is concerned with the rooftop decks and their threat to the surrounding area.

Beatrix Shear, 101 Oakview Terrace, appeared and was sworn. She feels that the accessory structure as defined by Mr. Tobia at the last meeting was not accurate. The rooftop decks were not included in the concept plan and will be a substantially negative impact.

David Cosgrove, 99 Oakview Terrace, appeared and was sworn. He stated that the rooftop decks must be denied. There is sufficient indoor space for enjoyment of the tenants.

Allison Roth, 36 Woodland Road, appeared and was sworn. She is concerned with the impact this development will have on pedestrian safety.

Debra Neves, 65 Knollwood Terrace, appeared and was sworn. She stated that the Township should exercise their power and hold the developer to the concept plan. Now is the time to enforce certain design standards.

Tom Herberston, 76 Oakview Terrace, appeared and was sworn. He stated that the application is deficient and must be denied. The settlement agreement did not address or permit rooftop decks/ fire pits/ BBQ's. Deliveries have not been resolved and he believes the curb cut along Woodland Road is illegal.

Mary McNett, 9 Park Circle, appeared and was sworn. She stated that she is a former Township Committee and Zoning Board Member. She feels it is important to protect the character of established neighborhoods. She believes that the rooftop decks are found in urban areas where ground level recreation areas are minimal. She feels the Board should follow the Master Plan and reject the rooftop decks.

Jeffrey Feld, 11 Alexander Lane; Tom Hildner, 10 Exeter Road; and Eileen Schofield, 76 Oakview Terrace, appeared and were sworn. All expressed similar concerns with the rooftop deck and felt they should not be permitted.

Olga Ulitina, 2 Overlook Terrace; Jeanne Cosgrove, 99 Oakview Terrace; and Peter Van Sant, 322 Taylor Road South, appeared and were sworn. They expressed concerns with the proposed development and felt it was in conflict with the Master Plan. They encouraged the Board to maintain the character of the neighborhood by denying the application.

Muffin Muller, 5 Burnside Drive, appeared and was sworn. She encouraged the Board to deny the plan and respect the neighborhood's quality of life.

The public comment portion was closed.

Joseph Steinberg feels the rooftop decks must be eliminated. He does not feel they are customarily incidental to the units. He felt the application was poorly presented and a clear, concise plan was not presented.

Board Attorney, Edward Buzak, spoke to the public allegation that he did not address the accessory use issue. He stated that was false and that this Board was given a letter from him that gave them relevant information on accessory uses in order for them to make an informed decision.

Mr. Inglesino provided a summation and thanked the Board for the eight or so meetings that have been conducted on this application. He stated that he appreciates the ability to collaborate on issues of concern to ensure that this project will eventually be embraced by the

community. Mr. Inglesino stated that the application is for a mixed use development consisting of 62 rental apartments, of which 12 will be set aside for low-income and moderate income housing, and 10,000 SF of medical office space to be occupied by Summit Medical Group.

Mr. Inglesino stated that it was incumbent upon this board to view this application within the context it is brought, as an implementation of the Township's and this Board's obligation under its court-appointed settlement agreement with the applicant dated September 17, 2019. This Board is a party to this settlement and as stated in Article 3 of the agreement, "the parties agree that the property is suitable and developable" for this project and that this project is permitted. This is a conforming "as of right" development that was heavily negotiated through the court's appointed special master. Article 5 of the settlement agreement indicates that "the parties acknowledge that the aesthetic appearance appeal of the development from the adjoining streets and properties ... constitute significant areas of concern for the Township and the neighborhood". Mr. Inglesino continued saying "therefore it is an essential and significant element of this agreement that any development application presented to the Planning Board shall be consistent with the concept plan (Exhibit B) and consistent with the ordinance (Exhibit A) except for any reasonably *de minimus* bulk variances or waivers".

Mr. Inglesino stated that this settlement agreement is what governs. Exhibit B contains the architecture that was presented to this Board and was agreed to by this Board. Whether it is in character with the neighborhood is irrelevant and not a basis to deny the application.

Mr. Inglesino stated that pleas by some to change the project from what was agreed to are inappropriate and he feels improper for the Board to act upon. Mr. Inglesino urged the Board to comply with the settlement agreement.

Mr. Inglesino stated that the applicant voluntarily agreed to certain constraints of the rooftop deck, such as closing at 10:00 PM, only to be used by residents, reduce the size by 500 sq. feet and potentially pulling it back 13 feet from the southern part.

Mr. Inglesino respectfully requested that the Board approve the proposed development.

Beth Zall referenced Mr. Inglesino's offer to potentially reduce the size of the deck by 500 sq. feet. She requested that a revised plan showing that reduction as well as the railing or partition that was referenced be submitted prior to the next meeting.

The matter was carried to May 5, 2021.

ADJOURNMENT

A motion to adjourn was made by Sanjeev Vinayak, seconded by Beth Zall and carried with a unanimous voice vote. (11:06 PM)

Eileen Davitt
Board Secretary

Motion: BZ
Second: MS
Date Adopted: 7/7/21