

**Borough of Watchung
Board of Adjustment Meeting
October 25th, 2017**

Special Meeting

"Whispering Woods Public Hearing"

Minutes

Chairman Cronheim called the meeting to order at 7:49pm. Salute to the flag. The Chair called for a roll call. Present at the call of the roll were:

Fechtner (X) Hunsinger (X) Dallas (X) Brown (X) Kita (X) Panzarella (X)
Bell (X) Lauerman (X) Cronheim (X)

Salute to the flag.

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

Chairman Cronheim indicated that this was a special meeting.

Regular Business- The Chair asked for a motion to approve temporary signage for the Watchung PTO to advertise their Holiday Boutique. Mr. Hunsinger made a motion to approve, seconded by Mrs. Fechtner.

Fechtner (yes) Hunsinger (yes) Dallas (yes) Brown (yes) Kita (yes) Panzarella (yes)
Bell (yes) Lauerman (yes) Cronheim (yes) The motion was approved.

Board Attorney Steve Warner gave a history of the application BA15-21 Watchung Associates LLC for Watchung Mountain Villas at 708 Mountain Blvd. Block 301 Lots 32 and 3.01 siting the use variance granted in this bifurcated application, and the eventual denial in October of 2016 for site plan approval and variance relief. The applicant then filed appeal, and the board vigorously defending their decision. He explained that subsequently there were discussions, and consistent with Whispering Woods at Bam Hollow case, the board decided that they would agree to a settlement with the applicant, contingent on a properly noticed public hearing, public vote and written resolution. Resolution BA17-05 Authorizing settlement of litigation instituted by Watchung Associates, LLC against the Borough of Watchung Zoning Board of Adjustment Contingent on whispering Woods hearing adopted on 9/14/17.

Mr. Warner explained that his hearing is consistent with governing case law. Every settlement of Land Use litigation requires it to be contingent on a duly noticed public hearing for an opportunity for all parties to weigh in on the settlement, and for a decision to be rendered by the board, and a resolution of memorialization to be rendered subsequent thereto.

Joe Sordillo, Attorney for the Applicant of McElroy, Deutsch, Mulvaney & Carpenter, LLP (1300 Mount Kimble Avenue, Morristown, New Jersey 07962-2075) thanked the board for their hard work and effort in this application. He also thanked the applicant, the Borough and the Judge in this matter.

Mr. Sordillo said he has three witnesses. He said one of the variances has been eliminated in

this settlement proposal from the original application. Mr. Sordillo said that they met with the objectors and their attorney and believes that this settlement will satisfy the objectors. Mr. Sordillo called Mr. Joseph Jaworski, engineer for the applicant (Dynamic Engineering). Mr. Warner clarified that the objectors were the Williams' and their attorney Mr. Joel Cohen was present. Mr. Warner also clarified that the notice of mailing and publication were in order. Chairman Cronheim said that Mr. Jaworski was previously recognized as an expert in the field of engineering, and would not have to go through his expertise again. Mr. Warner swore in Mr. Jaworski. Mr. Jaworski explained he prepared the plans for the original application, as well as the current plans. He said his first exhibit is an aerial map dated 10/3/17 (Exhibit A-1) showing the property. The parcel is about 3 1/2 acres. The northern quarter of the site is in the R-R zone and the front 3/4 of the site is in the B-B zone. He submitted a site plan rendering dated 10/3/17 (Exhibit A-2) which depicts the current plan before the board. The current plan includes 25 units in five separate buildings, 21 of which will be market units, and four of which will be affordable units. The access will be a single driveway at the southwest side. The three driveways that are currently there will now only be one access, which will curve up to a cul-de-sac at the northern end of the site, and will also serve the residents to the north. Each unit has a parking garage, and each as a driveway. In addition, there will be 9 common spaces located just to the west of the main drive. Mr. Sordillo said that even though there are 25 units proposed, the number of footprints are now only 22, with four affordable units in one footprint. Another change is the footprint at the very northern end of the property. That was originally a three unit building, and now is only a 2 unit building. The most northwestern building originally had 6 units, and now has 5. Mr. Jaworski said by reducing the size of that building, they were able to shift that building over, and provide a larger buffer area to the neighbors to the west. Mr. Jaworski submitted a rendering of the site plan submitted 2 years ago dated 08/10/15 (Exhibit A-3). Mr. Jaworski said that by eliminating one unit in the most westerly building, the original setback was 27.7', and the current setback is now 48.8'. Mr. Jaworski said that the current plan does not depict landscaping, but in discussions with the neighbors to the west, it is agreed upon that the applicant will provide a evergreen buffer and a 3' burn along the western side. Mr. Jaworski presented a cross section of A-A dated 10/18/17 (Exhibit A-4) showing a single staggered line of evergreens on top of the 3' berm, 6'-7' at planting. They will be a combination of Evergreen and Spruce. The berm would be on top of a 4' wall. He said from the western most building, the grade would be approximately 7 1/2' high.

Mrs. Fechtner asked what would hold the dirt of the berm in place to prevent washout. Mr. Jaworski said they would be covered in grass.

Mr. Hunsinger asked who would be responsible for maintaining the trees and the landscaping. Mr. Jaworski said the applicant would be responsible, and/or the Homeowners Association.

Mr. Joe Cohen, Attorney for the Williams objectors testified that they have come to an agreement with the applicant due to the landscaping and addition of the berm, and the Williams' are satisfied with that addition.

Chairman Cronheim thanked all parties involved for working so hard to reach a resolution. He also thanked Mr. McDonald for all his hard work on this application.

Mr. Jaworski said the affordable units will be in the southernmost building, designated at unit 1. The original plan showed the driveway will be 30' wide coming into the site, which will reduce to 20' along the main stem of the road. The new plan will maintain the 24' roadway up through

the stem, with a sidewalk added on the westerly side of the road, and a concrete pad for a bus stop and the entrance on the westerly side.

The original plan showed a retaining wall along the northerly side at about 8' high. By eliminating one unit, there was more space to grade out, and that retaining wall will now be about 4' high. The landscaping to the north remains the same, only the height of the wall has been reduced, with evergreens at 6'-7' at planting.

The lot coverage in the R-R zone was 19.3% The R-R zone allows for 15%. The lot coverage in the R-R zone is now 14.7%. Impervious coverage in the R-R zone was 49.9%. It is now 45%. It went down but is still a variance where 25% allowed.

In the B-B zone, max lot coverage was 28.6% and is now 27.7% where max coverage in the B-B zone is 30%.

Impervious coverage in the B-B zone was 57.8% and is now 58% where 70% is allowed.

Parking calculations in the old plan required 67 spaces and 91 were provided. In the new plan, 70 spaces are required and 91 will still be provided. The previous plan had 7 common spaces and the new plan shows 9 common spaces.

Mr. Brown asked about the parking spaces in the affordable unit building. Mr. Jaworski said unit number one had 4 total spaces, with an additional large driveway on the other side of the building with another 4 spaces, which was designed for ADA access. No unit will be more than 35' in height as the height is measured by the Borough's ordinance. All the affordable units will be rentals. The applicant also manages and owns other affordable units in other towns.

Mr. Sordillo said that affordable units remain affordable for 30 years before they can become market units, and there is possibility of extending that time.

Mr. Jaworski said that the light poles will be shielded and 11 poles will be installed at 15' high.

Mr. Stires said that the sidewalks and the parking spaces should be ADA compliant and that should be a condition of approval. Mr. Sordillo agreed.

Speed limits in the site will be posted at 15 mph. There will be a total of 4 fire hydrants in the complex. The applicant has filed an application with the Somerset County Planning Board. There are agreements with all neighboring residents as far as easements, and all utility easements will be addressed. All waivers under RSIS will be obtained.

Chairman Cronheim asked for any questions of the public of the witness.

Denise Wilson of 726 Mountain Blvd asked Mr. Jaworski where the common green areas were.

Mr. Jaworski said there are no common green areas, just green space.

Mr. Sordillo said that parking spaces are 9' x 15'.

Mr. Warner swore in Board Engineer and Zoning officer.

Mr. Warner swore in Mark Marion, architect for the applicant. Mr. Marion said that the only major change in the plan for the buildings is that they changed the façade to hearty plank siding, with stone accents. A rendering was submitted more than 10 days before this hearing, and it showed the siding and stone accents on the buildings. All building plans contain an optional elevator, have full basements and have two-car garages. Some buildings have front entrance garages and some have side entrance garages. Mr. Marion said that the building to the far north of the site is meant to be a residence for one of the applicants. It is slightly larger at 3200 sq. ft. where the average unit has 2900 sq. ft., and has a 3-car garage. The garages

on the buildings closest to the Williams home and the Wilson home do not face the neighbors. The affordable building encompasses a 3 story living space. The affordable building as (1) one bedroom unit, (2) two bedroom units and (1) 3 bedroom unit which complies with the COAH regulations for bedroom distribution.

Mr. Marian presented two page document, the first, a color markup of the grading plan dated 10/3/17 (Exhibit 5) pages 7 & 8.

Mr. Bennett said that based on how the ordinance is written, the affordable unit footprint would be technically a 3 story building, and as such, would require a variance for number of stories.

Denise Wilson 726 Mountain Blvd. asked if elevators were big enough for the rescue squad to get stretchers in. Mr. Marion said that they were residential elevators, and they were not required to put in commercial elevators.

Mr. Sordillo introduced Planner for the applicant John McDonough who was sworn in. Mr. McDonough testified that the applicant reduced the number of footprints while still providing for (4) affordable units in one footprint. He explained the property was in a split zone. He reiterated that the variance relief for lot coverage was related to the R-R zone. Mr. McDonough said the applicant has demonstrated that the proposed development will service multiple purposes set forth in the MLUL, and that the benefits substantially outweigh the detriments. He said that the development advances the purposes set forth in the MLUL 40:55D-2 (a),(g),(e),(i) and (m), and promotes the general welfare of the public good. He said it promotes the establishment of appropriate population, densities sufficient space for residential development in an appropriate space, promotes a desirable visual environment. He felt it encourages the efficient use of land. He explained that the mix of market rate units and affordable units serve as a transition between the R-R zone and the B-B zone.

Mr. McDonough said if the property were located entirely in the B-B zone, the requested relief would not be necessary due to the fact that the maximum lot coverage in the B-B zone is 45%. He said that the wider driveway width would better regulate on-street parking. He explained that a recreation area was not necessary due to the fact that there were patios and decks included in the design of the structures and the proximity of public parks and ballfields.

Mr. McDonough said that the variance relief request for the 3 story affordable unit in his opinion was a beneficial use.

As for site plan exceptions, Mr. McDonough said the relief sought by the applicant was necessary to provide a sufficient number of affordable units which were a inherently beneficial use.

Mr. McDonough addressed negative criteria. He said that the development would not result in substantial detriment to the public good or substantial impairment to the zone plan, and that the development served as a transition lot between the residential and the commercial uses adjacent to it. He explained that the applicant has worked with the neighboring residents to find a satisfactory solution to their objections, which were addressed. He said the property will be well maintained because there will be a Homeowners Association to be responsible for it.

Hearing no more questions from the public for the witness, and no more questions from the board, the Chair closed this portion of the hearing, and opened up to comments from the public.

Denise Wilson 726 Mountain Blvd. asked what to expect. Mr. Bennett explained that if approved, they would have to follow all regular Borough approvals. Mr. Warner said that if this application was approved, it would be memorialized at the following meeting.

Inez Figuerias of 730 Mountain Blvd. was sworn in. She expressed concern about interruption in her water and or sewage service during construction. Anthony Paoella, applicant was sworn in. He explained that her service would not be interrupted because new sewer lines would be installed prior to the disturbance of the existing sewer lines.

Ed Williams of 740 Mountain Blvd was sworn in. He expressed concern about screening between his property and the development. He asked what would happen if any of the construction on the easements was prohibited by the utility company. Mr. Sordillo said if that became an issue, the applicant would have to appear back before this board, and that everyone within 200' would receive another notice of hearing. Mr. Stires said that this shouldn't become an issue.

Hearing no one else come forward from the public, Chairman Cronheim closed the public portion of the meeting.

Hearing no more comments from the board, Mr. Sordillo thanked the board for all their work, and hoped that the board will look favorably on this application.

The Chair asked for a motion to approve the settlement and the approval of the application, with all conditions stipulated.

Mr. Hunsinger made a motion to approve, seconded by Mr. Brown.

Mrs. Fechtner thanked the neighbors for their efforts.

Hearing nor more comments, the Chair asked the Clerk to call the roll. The roll call vote was as follows:

Fechtner (yes) Hunsinger (yes) Dallas (yes) Brown (yes) Kita (yes) Panzarella (yes)

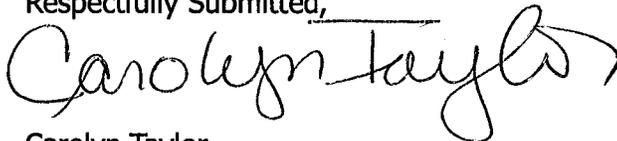
Cronheim (yes)

The motion carried.

Chairman Cronheim said he would like to close the meeting with thanking all parties involved. He thanked Mr. McDonald, Mr. Sordillo, Mr. Warner, Mr. Hunsinger. He wished the applicant well, and wished all parties success. Mr. Sordillo said that judge asked Mr. Sordillo to let him know the outcome of this hearing.

Chairman Cronheim adjourned the meeting at 10:55pm until the next meeting of November 9th, 2017

Respectfully Submitted,



Carolyn Taylor
Board of Adjustment Clerk