

Agenda # 10/4/18

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

**Regular Meeting
August 21, 2018
OFFICIAL MINUTES
Adopted September 18, 2018**

Chairwoman Schaefer called the Regular Meeting to order at 7:28 p.m. Board members present were Mr. Desnoyers, Councilman Sopko, Ms. Pennett, Mr. Speeney, Ms. Spingler, Mr. D'Annunzio and Ms. Joren. Also present were Mr. Frank Linnus, Esq., Board Attorney, Tom Herits, Board Engineer, Ms. Shiffman, PP and Ms. Snyder, Board Clerk. There were 26 members from the public present.

Chairwoman Schaefer 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. She then led the flag salute to the American flag, and the Board members identified themselves for the record.

OATH OF OFFICE

Ms. Debra Joren took an Oath of Office as a Class IV; Alternate #1 Member for an unexpired 2 year term ending December 31, 2019.

APPROVAL OF MINUTES

On motion by Mr. Desnoyers, seconded by Ms. Spingler, the minutes for the July 17, 2018, Regular Meeting were accepted and carried on voice votes.

SHORT TERM RENTAL ORDINANCE

On motion by Mr. Desnoyers, seconded by Mr. Speeney, the Board approved Frank Linnus, Esq. to review the short term rental Ordinance not to exceed \$750.00 based on the following roll call vote:

Roll Call:	Ayes:	Mr. Desnoyers, Councilman Sopko, Ms. Pennett, Mr. Speeney, Ms. Spingler, Mr. D'Annunzio, Ms. Joren and Chairwoman Schaefer
	Nays:	
	Not Eligible:	
	Abstain:	
	Absent:	Mr. Ellis, Mayor Pote

(e) A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.²

Using a series of maps, Ms. Shiffman gave a description of the Study Area. She showed that the Study Area is surrounded by residential properties on 3 roads that abut to the subject property. She explained the sloping and topography noting that most of the site is under a 10% slope which conforms to the Borough Ordinance. The topography will not impede COAH obligations which accepts 15% sloping. She spoke about the wetlands on the subject property. A wetlands map approved by NJ DEP issued state open waters on the southern portion of the site. In July, 2018, the DEP issued a statement declaring the Study Area as having intermediate wetlands which require a 50' buffer. That is 28% of the site or 11.4 acres of wetlands and buffer which will not be disturbed.

Ms. Shiffman talked about the utilities for the Study Area. Although utilities are available to the site, it does not have access to sanitary sewer. As per her report, currently, "the Somerset County Wastewater Management Plan Map shows the site as being within the Middlesex County Utilities Authority service area as future sewer service area. It also abuts the Berkeley Heights Water Pollution Control Plan area."³ Mr. Herits, P.E. was mentioned in the report as to saying that the sewer would have to be served from Berkeley Heights. This would be an amendment to the wastewater management plan.

The Master Plan Re-examination Report discussed the extension of the sewer. Included in the discussion was the 2005 Re-examination Report where the Board was pursuing sewer connection with Berkeley Heights for the purpose of serving the ZV Tract.

Ms. Shiffman showed a Zoning Map of the subject property. Currently, it is located in the RML II Zone- one family residential zone. It allows for 40,000 sq. ft. lots because of a builder's remedy. There are conditions in the agreement to lot size and sewer. The title restrictions need to be lifted in order to be developed.

All four properties are contracted to construct inclusionary housing through BNE Real Estate Group. This is part of the Borough's plan and settlement agreement.

² Preliminary Investigation Report, Marcia Shiffman PP, AICP, LLA

³ Preliminary Investigation Report, Marcia Shiffman PP, AICP, LLA

Ms. Shiffman cited the following three criteria that this property meets:

- The existing house on Block 7402 Lot 19.01 from the tax assessor records should be torn down. This complies with Criteria (a).
- Three of the four lots have been vacant for over 10 years. In 1988 it was to be developed, but it never was. The Study Area has constraints on the land soil and 28% is wetlands/wetlands buffer. The soil constraints and the sewer restraints necessitate this as an area in need of re-development. This complies with Criteria (c).
- There are title restrictions on 2 of the 4 lots. This complies with Criteria (e).

It was Ms. Shiffman's recommendation to the Board that the Study Area does conform to the criteria; therefore, it is an area that is in need of re-development.

On question by Mr. Desnoyers regarding the 1 acre lot size requirements in the Borough, Ms. Shiffman said the titles must be lifted by the court.

Mr. Linnus, Esq. said that a 40,000 sq. ft. or 60,000 sq. ft. lot does not give COAH enough density.

On question by Mr. Speeney, Mr. Linnus, Esq. said the restrictions are removed at the time of the final settlement. It is part of the court order.

On question by Mr. Sopko, Ms. Shiffman said there was nothing specific in the Master Plan that talks about smart growth; therefore, she did not feel it necessary to use that criteria.

The meeting was open to the public.

On question by Mr. William Mentlik, 1227 Johnston Drive, regarding other places in the Borough, Ms. Shiffman stated there is no other available site. There was a site on East Drive that was deemed unacceptable. The vacant land inventory in the Borough had 9 contiguous properties but most were very small.

On question by Mr. Mentlik as to the consequences of not fulfilling the affordable housing mandate, Ms. Shiffman said if the Study Area is not used, another site must be chosen. There would be litigation for not fulfilling this obligation. The Borough has been attempting to meet this obligation.

Chairwoman Schaefer and Mr. Speeney explained there were other smaller sites, and previously there was established an overlay zone on the Liccardi Ford and Mt. Saint Mary properties.

On question by Mr. Mentlik, Mr. Herits, P.E., said there is a 25' to 50' buffer to the wetlands.

On question by Ms. Lynda Goldschein, 70 Sherwood concerning sanitary sewer, Mr. Herits, P.E., said it was possible that because there are two sanitary sewer plants that would service the area, one might refuse to serve the Study Area. He said there can be arrangements made to go from one service area to another.

Ms. Doris Fine, 1225 Johnston Drive, was sworn in. She asked if anyone performed an environmental impact study on the area. She said the state wetlands and state water dumps into FW2 protected waterway. One of the criteria is safety, and she was concerned about the safety of wetlands.

Ms. Shiffman said there was a detailed study by Ecco Science. The NJDEP gave a detailed environmental report.

Chairwoman Schaefer reminded the public that this was not a hearing on the application, and she encouraged Ms. Fine to attend if there is a site plan hearing.

Mr. Joel Cohen, 165 Hill Hollow, asked if anyone was aware that Habitat for Humanity will build all of the affordable housing.

On question by Mr. Stewart Fine, 1225 Johnston Drive, Ms. Shiffman said they were not looking at the property as individual lots, but the property in total meets the criteria. If the Borough combines the four lots, they can do a PILOT. The Mayor and Council develop the PILOT which is a reduction of county taxes. The primary reason for this study was to fulfill an obligation.

On question by Mr. Stewart, Chairwoman Schaefer answered that if BNE does not work out, the state can ask the Borough to tear down buildings, and the Borough is at the mercy of the courts.

Councilman Sopko said that's why it's called a builder's remedy because the builder decides the remedy.

On question by Mr. William Butler, Esq., 501 Lenox Avenue, Westfield, NJ 07090, representing Weldon Quarry, Mr. Herits, P.E. said that no one approached Berkley Heights about sanitary sewer. There was a prior verbal approval by Berkeley Heights

but nothing was ever in writing. That is why the area has not been serviced by them all these years.

Ms. Shiffman was sworn in.

On question by Mr. Bulter, Esq., Ms. Shiffman said the approvals for sanitary sewer could happen in tandem with other elements of this re-development and that Lot 5 would need a lot line change. The deed restrictions in regards to Oakwood Estates would have to be lifted. The other lots meet the criteria.

On question by Ms. Goldschein, Mr. Linnus, Esq., said there would be a negative impact on the Borough if this area is not voted to be re-developed.

Mr. Peter Zelenenki, 51 Mareu was sworn in. He gave testimony that the manhole on Bonnie Burn was put in 33 years ago, and Berkeley Heights will not allow anyone to tie into it.

Ms. Fine stated that daily runoff from this site has no where to go except the Greenbrook waterway. This area needs to be saved not redeveloped.

The public portion of the meeting was closed.

The Board discussed the expanding wetlands in the report and the process if the Borough Council approves the re-development plan. It will be back before the Board and the wetland report will be included.

On motion by Mr. Speeney, seconded by Ms. Spingler, the Board unanimously voted to recommend to the Mayor and Council that the Study Area is in need of non-condemnation re-development based on the following roll call vote:

Roll Call:	Ayes:	Mr. Desnoyers, Mr. Ellis, Councilman Sopko, Ms. Pennett, Mr. Speeney, Ms. Spingler, Mr. D'Annunzio, Ms. Joren and Chairwoman Schaefer
	Nays:	
	Not Eligible:	
	Abstain:	
	Absent:	Mayor Pote

A copy of Ms. Shiffman's report in on file in the Planning Board office.

DISCUSSION

Chairwoman Schaefer reminded the Board members that they are meeting on September 19th at the Sterling Diner for a luncheon with Mr. Haveson.

ADJOURN

On motion by Mr. Desnoyers, seconded by Ms. Pennett, the Board unanimously voted to adjourn the meeting at 9:30 p.m.

Respectfully Submitted,

Theresa Snyder

Theresa Snyder
Board Clerk