

Agenda
1/16/20

BOROUGH OF WATCHUNG
PLANNING BOARD
TRACEE SCHAEFER, CHAIRWOMAN

Regular Meeting
November 19, 2019

OFFICIAL MINUTES & TRANSCRIPT
Adopted December 17, 2019

Chairwoman Schaefer called the Regular Meeting to order at 7:30 p.m. Board members present were Councilman Sopko, Ms. Pennett, Mr. Speeney, Mr. Pote, Ms. Spingler, Ms. Joren and Mr. Fiorilla. Also present were Frank Linnus, Esq., Board Attorney, Mr. Herits, Board Engineer and Theresa Snyder, Board Clerk. There were 28 members from the public present.

Chairwomen 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 had been made. She then led the flag salute to the American flag, and the Board members identified themselves for the record.

APPROVAL OF MINUTES

On motion by Ms. Spingler, seconded by Ms. Pennett, the Regular Meeting minutes for October 15, 2019 were accepted and carried on voice votes.

NEW APPLICATIONS

CASE NO.: PB 19-02; THE LEARNING EXPERIENCE
100 UNION AVENUE
BLOCK: 7801 LOT: 1
BB ZONE

Ms. Diane Stolbach, Esq., of Javerbaum, Wurgaft, having a business address of 370 Chesnut Street, Union, NJ 07083, entered her appearance on behalf of the applicant. She had a written request from the applicant to adjourn the application with further notice to the December 17th meeting. She also agreed to grant the Board an extension to act through February 28, 2020.

CONTINUED APPLICATIONS

CASE NO.: PB 19-01; BONNIE BURN/BNE
BONNIE BURN ROAD REDEVELOPMENT
BLOCK: 7402/7403 LOT: 19.01 19.02 5 & 10
BBRA Zone

C.M + C, JD 12/18/19

BOROUGH OF WATCHUNG
PLANNING BOARD
TRACEE SCHAEFER, CHAIRWOMAN

(The contents of this discussion is recorded in the attached transcript.)

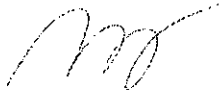
DISCUSSION

Chairwoman Schaefer did inform the Board that there was a request that the meetings be video taped. She asked Board members to consider this, and the topic will be further discussed at the re-org meeting in January.

ADJOURN

The Board unanimously voted to adjourn the meeting 7:50 p.m.

Respectfully Submitted,



Theresa Snyder
Board Clerk

In The Matter Of:

In Re: Bonnie Burn Urban Redevelopment

Transcript of Proceedings

November 19, 2019



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<p>1 BOROUGH OF WATCHUNG PLANNING BOARD 2 November 19, 2019 3 7:31 p.m. 4 CASE NO.: PB 19-01; BONNIE 5 BURN/BNE BONNIE BURN ROAD 6 REDEVELOPMENT, BLOCK 7402/ 7 7403 LOT: 19.01 19.02 5 & 8 10 BBRRA Zone 9 10 STENOGRAPHIC 11 TRANSCRIPT OF 12 PROCEEDINGS 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>BEFORE:</p> <p>CHAIRWOMAN TRACEE SCHAEFER COUNCILMAN GEORGE SOPKO BOARD MEMBER KAREN PENNETT BOARD MEMBER STEPHEN POTE BOARD MEMBER ELLEN SPINGLER BOARD MEMBER DEBRA JOREN BOARD MEMBER PAUL FIORILLA</p> <p>BOARD ATTORNEY FRANCES LINNUS, ESQ. BOARD ENGINEER THOMAS HERITS, PE BOARD SECRETARY THERESA SNYDER</p>	<p>1 advised at that meeting that they would be placed 2 second on the agenda, and we were not aware of 3 how much time would be available for them to make 4 their presentation at tonight's meeting. 5 So the applicant went home. The 6 attorney went home and they decided they would 7 rather request a special meeting. They requested 8 that the Board conduct a special meeting on 9 December -- and it worked out to be December 3rd, 10 and everything was in order to have a meeting on 11 December 3rd until November 12th. On November 12 12th, everything changed. 13 There was an objector to the 14 application. Weldon has objected. Their 15 attorney, Mr. Butler, appeared at the October 16 15th meeting and indicated at that time that he 17 was going to go to the Board of Adjustment for an 18 interpretation, a legal interpretation, regarding 19 whether this board has jurisdiction to handle 20 that particular application. 21 So on November 12th he filed that 22 application with the Board of Adjustment. At 23 that point, it did not appear that it would be a 24 good idea to continue the meeting to a special 25 meeting on December 3rd, and, therefore, that</p>
Page 2	Page 4
<p>1 (At 7:30 p.m., previous Agenda 2 matters were heard.) 3 CHAIRWOMAN SCHAEFER: Okay. 4 Continuing on with our applications, this is a 5 continued application, case number PB 19-01, 6 Bonnie Burn/BNE Bonnie Burn Road Redevelopment, 7 Block 7402 and 7403, Lot 19.01, 19.02, Lot 5 and 8 10. It is the BBRRA zone. And, Frank. 9 MR. LINNUS: Okay. Before we 10 proceed with this particular application, the 11 attorney's applicant from Day, Pitney, that would 12 be Kate Coffey, wrote a letter dated November 18, 13 2019 requesting among other things a 14 postponement, an adjournment to the December 17, 15 2019 meeting. 16 Before we get to that letter, let me 17 give the board and members of the public a little 18 background on this particular application. The 19 first public hearing on the application was heard 20 on October 15th. That was the first public 21 hearing, and it was to be continued to tonight. 22 We advised the applicant at that point that there 23 would have been two matters on the agenda, The 24 Learning Experience and the BNE application. 25 The applicant's attorney was also</p>	<p>1 meeting has been cancelled. The reason for the 2 cancellation of the meeting is they're going to 3 the Board of Adjustment for this, what we call, a 4 jurisdictional issue on December 12th, and our 5 next regular meeting is December 17th. 6 So the difference between December 7 3rd and December 17th is basically insignificant. 8 It would be not appropriate, not proper. It 9 saves economy of time. It doesn't get everybody 10 brought out in terms of their experts, both for 11 the objectors, the applicant, the public, for a 12 duplication of the proceedings. 13 So, bearing that in mind, the 14 applicant's attorney issued a letter dated 15 November 18. She indicated that she realizes 16 that the issue is going to the Board of 17 Adjustment. She also indicates that on the basis 18 of a case called DePetro v. The Township of Wayne 19 Planning Board, that does not require that we 20 postpone the hearing on the application, and 21 she's right. It doesn't require that we postpone 22 the hearing on the application. They can proceed 23 because there is no stay. There is no judge 24 saying that we cannot proceed. 25 However, in the interests of the</p>

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1 economy of time, in the interests of public
 2 policy, the Chair has decided that the meeting on
 3 December 3rd should be cancelled, and we will
 4 reconvene back here on December 17th.
 5 And now I'll read the best of the
 6 last portion of her letter. She says, "We
 7 consent to the adjournment of the above-captioned
 8 application to the Planning board's December
 9 17th, 2019 meeting. Please make an announcement
 10 at the November 19th meeting that this
 11 application is being carried to the December
 12 17th, 2019 hearing with no further notice."
 13 So that's why we're here tonight.
 14 That's why the meeting's been cancelled for
 15 December 3rd, and that's why it's being postponed
 16 to December 17th.
 17 CHAIRWOMAN SCHAEFER: And, in making 00:06
 18 that statement, I encourage, and I'm very happy
 19 to see people are out, because the last meeting
 20 we only had two residents that had shown up. And
 21 I encourage you, please, go home, tell your
 22 neighbors, tell your friends. This is an
 23 important issue that we do not want to bury. So
 24 please come prepared December 17th.
 25 Unfortunately, there will be no

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1 further notice because they are not required to
 2 do that. Stay tuned on the Borough website. If
 3 there's any changes in meetings, meeting dates,
 4 it will be posted on the Borough website, but I
 5 do encourage you all to come back.
 6 And how we've been handling it is
 7 that we do have the applicant making their case
 8 with their witnesses, and then the Board does
 9 have the ability to question. Our experts have
 10 ability to question, as does anyone who's
 11 opposing primarily with an attorney.
 12 The audience, the public is then
 13 able to ask questions of that particular witness.
 14 At the end of the entire proceeding, you will
 15 then be able to make your public comments, but
 16 that's kind of the gist of where we're going.
 17 But I do encourage everybody to please come back.
 18 We don't want to delay this. This
 19 was not our intention, but as our Board attorney
 20 made the statement, one of the opposers, Mr.
 21 Butler, for Weldon, did indeed go to the Board of
 22 Adjustment, and we don't want to waste anybody's
 23 time. And that's not the purpose for us to be
 24 here. We want to be able to move forward, move
 25 forward concisely.

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1 I know the timing has -- is not the
 2 best because of the holidays and so forth, but
 3 we're also as a Board bound to certain time
 4 limits that we can hear things. We can always
 5 extend, like we just did with the previous
 6 application, but we are still bound within
 7 certain time elements. So, please, I just
 8 encourage you to come back.
 9 MALE AUDIENCE MEMBER: Can I ask
 10 you, what time on the 17th? I'm sorry.
 11 CHAIRPERSON SCHAEFER: It will be
 12 7:30, same time, same place, just different date.
 13 MALE AUDIENCE MEMBER: Okay.
 14 CHAIRPERSON SCHAEFER: It's always
 15 the third Tuesday --
 16 MALE AUDIENCE MEMBER: Oh.
 17 CHAIRPERSON SCHAEFER: -- of every
 18 month, and the reason why we had scheduled a
 19 special meeting was because our agenda was pretty
 20 booked with this other application. And it
 21 wasn't a simple application where we could hear
 22 it in one hour, because we kind of have a
 23 bewitching hour for this board and it's usually
 24 around 10:00. Okay. Can't get a lot
 25 accomplished with two big applications in a short

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1 period of time.
 2 And I made the statement at our last
 3 meeting that Learning Experience was going to go
 4 first on the agenda, and if there was time we
 5 would then continue on with BNE, but we knew that
 6 there probably wouldn't be. And we actually even
 7 made the statement if they wanted to do a special
 8 meeting, we would be open to it.
 9 The special meeting was arranged
 10 between our Board members and the experts and the
 11 applicants and the opposers. So we had every
 12 intention of moving forward because only because
 13 of our agenda being full.
 14 But now, due to what has happened
 15 with the Board of Adjustment, that is why we are
 16 cancelling the December 3rd meeting. That's it.
 17 Mr. Fiorilla.
 18 MR. FIORILLA: Does the status of
 19 the application on the December 17th meeting
 20 depend on what the Board of Adjustment does at
 21 their meeting?
 22 MR. LINNUS: Yes, yes.
 23 MR. FIORILLA: And how so? I'm just 00:10
 24 curious.
 25 MR. LINNUS: Okay. There's a Mr.

<p style="text-align: right;">Page 9</p> <p>1 Butler on behalf of Weldon is taking the position 2 that there's an ordinance conflict. He believes 3 that the steep slope ordinance applies to this 4 particular application. If the Board of 5 adjustment agrees with him, then it creates a 6 potential density variance. And if it's a 7 density variance, we cannot handle the case at 8 all. It doesn't mean that the Board of 9 Adjustment will handle the case because it's in a 10 redevelopment area, but that's a whole other 11 story. 12 MR. FIORILLA: Right. So it's 13 possible that it might not be on the agenda on 14 December 17th either depending on what happens? 15 CHAIRWOMAN SCHAEFER: Correct. 16 MR. LINNUS: That is entirely 17 correct. 18 CHAIRWOMAN SCHAEFER: And that's why 00:11 19 I made the statement, please go on the Watchung 20 website and pay attention to the agendas. 21 Because I don't know what's going to happen at 22 the Board of Adjustment meeting. 23 Right now, all I can say to you is 24 they are on the agenda for December 17th -- 25 SECRETARY SNYDER: 12th.</p>	<p style="text-align: right;">Page 11</p> <p>1 CHAIRPERSON SCHAEFER: Mr. Speeney. 2 MR. SPEENEY: Yeah, if the Board of 3 Adjustment rules in a way that the applicant 4 comes back to the Planning Board on the 17th, and 5 we also have The Learning Experience on the 17th, 6 we're in the same situation. 7 CHAIRPERSON SCHAEFER: Well, that's 8 what I just said before, that Learning Experience 9 will still be heard first. If we have time we 10 will continue to BNE. But, again, please be 11 prepared that if BNE is coming in front of us, 12 Bonnie Burn is coming in front of us, there might 13 be that possibility because of another 14 application that it will be pushed off to our 15 January meeting. 16 FEMALE AUDIENCE MEMBER: Is there a 17 decision that is reached at a certain point by 18 you? 19 CHAIRPERSON SCHAEFER: You know 20 what -- 21 FEMALE AUDIENCE MEMBER: And do the 22 residents have any -- 23 CHAIRPERSON SCHAEFER: One second. 24 FEMALE VOICE: You know, do -- 25 MR. LINNUS: Right. Theresa, I</p>
<p style="text-align: right;">Page 10</p> <p>1 MR. LINNUS: 12th. 2 3 CHAIRPERSON SCHAEFER: 12th. I'm so 00:11 4 sorry. 5 MR. LINNUS: It's okay. 6 CHAIRPERSON SCHAEFER: No, no, no. 7 They're on our agenda for December 17th, but that 8 can change based on what happens at the Board of 9 Adjustment meeting. Okay. 10 Mr. Fiorilla, you had another 11 question? 12 MR. FIORILLA: No, that's okay. 13 Thank you. 14 CHAIRPERSON SCHAEFER: You sure? 15 MR. FIORILLA: Well, I mean, I'm 16 curious as to, you know, what the Board of 17 Adjustment is going to rule, but that's probably 18 a question for them, not for our board. 19 MR. LINNUS: That is a question for 20 them. 21 MR. FIORILLA: Yeah. 22 MR. LINNUS: That's correct. 23 CHAIRPERSON SCHAEFER: Yeah. That 24 we have no idea. 25 MR. SPEENEY: Chair?</p>	<p style="text-align: right;">Page 12</p> <p>1 think -- what's the time limit for the Board 2 currently to act on the BNE application? 3 SECRETARY SNYDER: Currently, we, 4 the Board, has time to act until February 7th, 5 2020 for the BNE application. 6 MALE AUDIENCE MEMBER: And then it 7 expires? 8 CHAIRPERSON SCHAEFER: No. That's 9 where we then can extend. Like we did tonight on 10 The Learning Experience, they actually expired 11 December, in December. So we extended it out for 12 the application to the end of February. If we 13 need to extend it again, we would. Same thing 14 holds true for Bonnie Burn. 15 MALE AUDIENCE MEMBER: Okay. It can 00:13 16 go on endlessly then. It's not going to, but it 17 could? 18 SECRETARY SNYDER: Do they need to 19 come up? 20 CHAIRPERSON SCHAEFER: No. 21 MALE AUDIENCE MEMBER: There's no 22 time element. 23 CHAIRPERSON SCHAEFER: No. We're 24 just deciding, do you need to come up here to the 25 microphone. That's all we're talking about it.</p>

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1 MR. LINNUS: Yeah. You can't make
2 any substantive comments on the application, but
3 you can certainly ask questions --
4 CHAIRPERSON SCHAEFER: So we --
5 MR. LINNUS: -- procedure.
6 CHAIRPERSON SCHAEFER: We're going
7 to ask everybody to come up with a question.
8 They don't need to come up?
9 MR. LINNUS: If anybody has a
10 procedural question.
11 Yeah, we can't get involved in the
12 substantive aspects of the Bonnie Burn
13 application.
14 CHAIRPERSON SCHAEFER: So, yes, it
15 could continue on forever. It's not going to
16 happen, but please know there are times that we
17 may need to extend it out, and I'll be honest, we
18 probably will because it's a pretty intense
19 application.
20 MALE AUDIENCE MEMBER: Right.
21 CHAIRPERSON SCHAEFER: And there's a 00:14
22 lot of layers to it and there's a lot of
23 witnesses to it, you know, experts, if you will,
24 and testimony; but you can be prepared then at
25 our January meeting, we probably will extend it

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1 out.
2 MALE AUDIENCE MEMBER: Okay.
3 MR. LINNUS: And, again, right now,
4 the time within which the Board has to act is the
5 February date that we just gave you.
6 As we get closer to February, if the
7 application is still alive, then the Board would
8 request that the applicant grant further time.
9 CHAIRPERSON SCHAEFER: Any other
10 questions?
11 MALE AUDIENCE MEMBER: Yeah. The
12 impact of Weldon being in the mix here, is Weldon
13 quarry part of Watchung?
14 CHAIRPERSON SCHAEFER: Yes.
15 MALE AUDIENCE MEMBER: It is, okay.
16 CHAIRPERSON SCHAEFER: Weldon quarry 00:15
17 is part of Watchung. Mr. Weldon has an attorney,
18 Mr. Butler, who has been around forever. He's a
19 wonderful man. And he's objecting to it. And so
20 as soon as -- he can object for any reason, and
21 he has decided in representing Mr. Weldon, Weldon
22 quarry to go in front of the Board of Adjustment.
23 What the Board of Adjustment does,
24 we cannot answer that because we are not that
25 board.

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1 FEMALE AUDIENCE MEMBER: Can we
2 participate? I'm so sorry for the interruption.
3 But can we participate in the meeting for the
4 Board of Adjustment?
5 CHAIRPERSON SCHAEFER: They're only
6 questions. I'm going to keep this low key.
7 The Board of Adjustment you can go
8 to. I don't know how that board technically
9 works.
10 MR. LINNUS: That will be up to the
11 Board attorney. My sense of it is, you probably
12 won't have a public hearing on the legal issue.
13 At this point it's a legal issue, and the legal
14 issue as I understand it is: Does the steep
15 slope ordinance apply to this particular
16 application? So that's a legal issue.
17 CHAIRPERSON SCHAEFER: At this board 00:16
18 you have every right to ask every question of
19 every expert that comes up and provides
20 testimony.
21 MR. LINNUS: But the meeting is
22 absolutely open to the public. It is a public
23 meeting.
24 FEMALE AUDIENCE MEMBER: Okay.
25 CHAIRPERSON SCHAEFER: And, like our 00:16

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1 attorney said, it's going to be up to that board
2 how they handle it, and I can't speak for them.
3 Any other questions?
4 Because we are open, and we're not
5 here to try to hide anything or make this more
6 than it needs to be. We're here to work together
7 and make sure that everybody is -- you know, we
8 all live in Watchung and this is an important
9 aspect of our town.
10 I've lived here my entire life -- and 00:17
11 I know my attorney's going to be really angry,
12 but it's like -- this is me, and it's important.
13 And that's why I encourage, please get everybody
14 out here. I can't tell you that it will change
15 the events, but we need voices. We need your
16 voices. That's important. Okay.
17 MALE AUDIENCE MEMBER: All right.
18 Thank you.
19 CHAIRPERSON SCHAEFER: See, he's
20 already reprimanding me, so. Okay, on to the
21 next.
22 (Time noted at 7:49 p.m.)
23
24
25

1 CERTIFICATE

2

3 I CERTIFY that the foregoing is a
4 true and accurate transcript of the testimony as
5 taken by and before me stenographically at the
6 time and place aforementioned.

7

8 I FURTHER CERTIFY that I am neither
9 attorney for nor counsel to any of the parties;
10 parties of any of the attorneys in this action;
11 and that I am not financially interested in the
12 outcome of this case.

13

14

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16

17 RENEE RUSSO, CCR, CRCR, RPR, CRR
18 Certificate No. XI00143700

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C E R T I F I C A T E

I CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken by and before me stenographically at the time and place aforementioned.

I FURTHER CERTIFY that I am neither attorney for nor counsel to any of the parties; parties of any of the attorneys in this action; and that I am not financially interested in the outcome of this case.

Renée Russo, CCR, CRCR, RPR, CRR

RENEE RUSSO, CCR, CRCR, RPR, CRR

Certificate No. XI00143700

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