

**MINUTES OF THE TOWNSHIP OF MENDHAM PLANNING BOARD
REGULAR MEETING HELD SEPTEMBER 15, 2021
VIA ZOOM**

The remote meeting via zoom was called to order by Chairman Giordano at 7:36 p.m. who asked for a roll call. Upon roll call:

ROLL CALL

PRESENT: Mr. Baio, Mr. Monaghan, Mr. D’Emidio, Ms. DeMeo, Mr. Johnson, Mr. Perri, Mr. Mayer, Mr. Maglione, Chairman Giordano

ABSENT:

Others present: Mr. Edward Buzak, Mr. Ryan Conklin, Mr. Dennis Keenan

SALUTE TO THE FLAG

ADEQUATE NOTICE of this meeting of the Mendham Township Planning Board was given as follows: Notice was sent to the Daily Record and the Observer Tribune on January 6, 2021 and Notice was filed with the Township Clerk on January 6, 2021

This meeting is a quasi-judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Board may legally consider in reaching a decision and decorum and civility appropriate to a quasi-judicial hearing will be maintained at all time.

MINUTES

Mr. D’Emidio made a motion to approve the minutes to the June 16, 2021 and the July 21, 2021 Regular meetings with some minor revisions to the July 21, 2021 minutes that Ms. Foley noted. The motion was seconded by Mr. Monaghan, and the minutes were approved as amended.

Chairman Giordano raised a quasi-administrative issue that he wished to discuss. He requested that all of the members of the Planning Board and Professionals ignore and delete any emails or correspondence from any outside source in connection to an application that comes before the Planning Board. He emphasized that all aspects of an application must be conducted at an open hearing.

Mr. Baio entered the meeting at 7:38 pm

RESOLUTION – PB 21-05

APPLICATION – PB- 21-01 – cont’d

Pinnacle Ventures, LLC
22 Saint John’s Drive
Block 100, Lot 17.03

Mr. Buzak presented the draft blacklined Resolution PB 21-05 to the Board on screen share. He stated that the resolution was distributed to the Board and Professionals and reflects the Professionals’ revisions as well as the revisions made by Mr. Malman, attorney for the applicant, and his team after the resolution was transmitted to him as well. Mr. Buzak stated that the

resolution was also transmitted to Mr. Roger Thomas, the attorney representing Peapack/Gladstone, who also had some comments and that these comments are reflected in the draft resolution. Ms. Foley stated that the Resolution should reflect that it is not Resolution PB 21-02-1 but should read Resolution PB 21-05.

Mr. Mayer stated that after reading the resolution his one major concern pertains to the trees being removed before the roadway and demolition are completed. He stated that this is an injustice to Mendham Township and the neighbors in Peapack/Gladstone and that should the developer abandon this project that this could be paralleled to another site in the Township that came before the Planning Board a few years ago whereby all the trees were removed and the developer abandoned the project. He wished that other members of the Board consider his concern regarding this issue and that the resolution should clarify that the sub base on the roadway be completely done along with the demolition of the buildings but that the DEP restriction for tree removal should not be used as an excuse to remove the trees. Mr. Mayer stated that other than this concern he is satisfied with all the other items and revisions in the resolution.

Mr. Baio stated that expediting this proposal had more to do with repaving the road than tree removal, although the tree removal is connected to the bat restriction by the DEP. Mr. Mayer opined that this restriction is being used as a convenient and creative way to remove the trees ahead of schedule and that there is no definitive schedule for the project anyway.

Mr. Maglione stated that he is not concerned about the sequencing of events with regards to the project and that he would assume that a bond is posted to ensure the replacement of trees. However, he stated that he hopes that the Board reconsiders and denies the application and does not vote in favor of the resolution. He went on to discuss the intensity of the steep slope disturbance with regards to the application and that this development is a good example of why the application should not be approved because of the amount of disturbance being created. According to the applicant's engineer, there will be 10- to 20-foot-high retaining walls, which is not very appealing and that there will be structures which could be as high as 40 feet tall. He opined that the development in his view was poorly planned and that there are many other uses for the property. Mr. Maglione reiterated that the 44-unit townhouse project is inappropriate and that some other use would serve the Township much better. He also opined that by leaving the structures up while paving the road puts the fire department in greater peril and that the structures should be razed first in order to mitigate the impact a fire would have on the firefighters. These are volunteers and that the Fire Department does not have equipment that can handle a blaze that these structures can generate. He opined that the demolition can work concurrently with the road but that the top priority is demolishing the structures first with an eye towards the safety of the fire fighters from all the Fire Departments in the area.

Mr. Buzak continued with the review of the revisions to the resolution page by page (red changes are the professionals' revisions with the blue and green revisions being the applicant's revisions), and as he reviewed his revisions several major concerns, changes and clarifications were raised along the way, which are noted below.

- Page 7 - St. Johns Drive section – it was clarified that the sub base was amended to 4 inches with a top coat of 2 1/2 inches at the request of Peapack.
- Page 7 – St. John's Drive section - The applicant will consult adjoining residents along St. John's Drive to identify drainage issues etc. as revised.
- Page 9 – Emergency Access - There are RSIS standards required for the hammerhead at the end of the northerly emergency road.

- Page 9, Number 8 - Sanitary Sewer section – Insert that the HOA for the applicant has responsibility for maintaining the treatment plant and discharge groundwater system along with the roads.
- Page 18 – Demolition section. Working hours allowed should be 7:00 am to 3:30 pm. There is a Township ordinance outlining work hour restrictions on weekdays and weekends.
- Page 21, Number 21 – Township Fire Department section. Fire Department recommendations set forth in their review letters of March 7, 2021 and March 17, 2021 were incorporated into this section.
- Discussion ensued with regards to the sequence of the tree removal, the repaving of the road and the demolition of the structures along with the timing of when this would be done. Mr. Malman stated that the road would be done first followed by the demolition. There is a DEP restriction on the trees from April to November so this must also be considered and that all of the necessary bonds will be in place to protect the town. Mr. Malman opined that it is too onerous to say that the trees cannot be removed until the road is repaved. Mr. Keenan inquired as to whether the road can be repaved before the trees are removed, and Mr. Malman responded that many of the trees are on the Mendham Township parcel, which has nothing to do with St. John’s Drive improvements. Mr. Keenan opined that before the structures are demolished and the earthwork and bulk soil movement can be begin on the property, he would envision that the trees would need to be removed since the trees will be in the way. Mr. Malman stated that it would be too restrictive to allow for only a limited window to remove trees by waiting for the road to be repaved. There was some further discussion regarding this sequence, and Mr. Malman stated that he does not know the schedule for the project at this time with regards to the repaving of St. John’s Drive since there are many factors involved – plans prepared, meetings with neighbors, consulting with Mr. Keenan etc. Mr. Mayer opined that with so much that is unknown that using the bat restriction as an excuse to remove the trees before the road or demolition is finished is arguable. Mr. Malman reiterated that the restriction on the tree removal is too difficult to tie into the road construction given the limited window available. Mr. Mayer continued his argument stating that the immediate removal of the trees is unnecessary.
- After Mr. Buzak read verbatim Number 18 – Demolition section, Mr. D’Emidio opined that at this point the road should be repaved first per the agreement with Peapack/Gladstone and that this cannot be altered. He further discussed the events that need to occur before the road is repaved and that the road may not get repaved until Spring. Also, there may be a 5 – 6-month period of demolition, which may then bring the project to November, 2022. Mr. D’Emidio opined that Mr. Mayer’s point regarding the tree removal is valid and that there is no schedule at this time by the applicant as a point of reference.
- Chairman Giordano asked that Item H in the resolution be modified from “regardless of the status of the completion of the 4-inch base etc.” to “subsequent to the completion of the 4-inch base etc.” This language will ensure a greater investment by the applicant in the project along with the repaving of the 4-inch sub base on St. John’s Drive. He went on to say that it will also allow the applicant to remove the necessary trees in order to demolish the structures but to ensure that the road is done first per the agreement with Peapack/Gladstone. There was discussion regarding allowing the necessary tree removal as approved by the Township Engineer since the project would require some flexibility. This would be a compromise, which would limit the tree removal of all the trees upfront to

what is only necessary in order to allow the project to move forward with the bulk of the trees not allowed to be removed until the period from November 15th to April 1st 2022. Chairman Giordano suggested that this be added to the language in Item H and after further discussion between the Board members, Mr. Buzak clarified what the Board concluded:

1. Base course of St. John's Drive completed first.
2. Demolition and necessary tree removal related to demolition would not take place until after the road is completed.
3. Tree removal after demolition would be tied to the DEP window of November 15th to April 1st.
4. Caveat to allow the engineer to allow for tree removal during the allowed window even though the roadway is not completed in order to allow for demolition.

Mr. Maglione left the meeting 7:20 pm.

Mr. Malman suggested a restoration bond be posted by the applicant since the concern by the Board is that the construction will start, trees will be removed and then the developer will abandon the project. This is the issue. Chairman Giordano responded that approximately 200 trees will be removed and that if the Board would entertain the concept of a bond that it would have to be a large enough bond to completely replace fully mature trees that have been removed.

Mr. Buzak also clarified that the applicant always has the right to return to the Board and request a modification to a condition in the resolution.

Mr. Buzak completed his review of the resolution. He also confirmed for Mr. Monaghan that the future HOA will be solely responsible for the maintenance etc. of the sanitary sewer system and that it will be put both in the Findings and Fact in Paragraph 8 and in a new Condition Z, which will be added to include this as well.

Chairman Giordano stated that the Board consider the modifications and the HOA specification that was discussed. Also, the language that was discussed thus far will be added, which restricts the tree removal not simply to the DEP window allowed but also to those trees that are approved by Mr. Keenan, the Township engineer, to necessitate the demolition of the structures and subject to the applicant posting a restoration bond that is acceptable. He reiterated that the Board is seeking to ensure that the developer does pursue the project.

Mr. Buzak referred to Item Z and that this would include not only the sanitary sewer system but other systems such as the onsite water treatment system as well. The condition would be broader to include these other systems.

Ms. DeMeo stated that Item (8) is unclear as read and should be clarified. Mr. Buzak stated that it will be corrected by removing the word "provide" in the first sentence.

Mr. Malman asked that the condition concerning the road, demolition and trees be clarified. Chairman Giordano responded that the road will be undertaken first and that the trees can be removed for the roadwork and demolition within the DEP window with Mr. Keenan's approval. Mr. Malman expressed his concern that if the demolition is done in March, then the project cannot

proceed until November because of the DEP restrictions. It was concluded after further discussion that the resolution will include that Mr. Keenan is allowed to approve the removal of any trees which are necessary for demolition and/or electric utilities, natural gas, communication utilities, water treatment, and the sanitary sewer system. This would not include stormwater basins. This ensures further investment by the owner to continue with the project.

Chairman Giordano stated that the revised Pinnacle Ventures resolution will be sent to the Boards' professionals and Mr. Malman and will be placed on the agenda for the September 29, 2021 Special Meeting for a Board vote.

Mr. Buzak stated that Resolution PB 21-05 will be carried to the September 29, 2021 Special meeting at 7:00 pm via zoom without further notice.

DISCUSSION ITEM

ORDINANCE NO. 15-2021

Zoning Change for Block 147, Lots 42.01 – 42.16
Lawrence Farmland, LLC

Mr. Conklin stated that in 2020 there was a request for a rezoning for this area of the Township, which is located in the southeasterly corner of Mendham Township off of Hardscrabble Road and that Lawrence Farmland was a subdivision that was approved in 2003. It contains 16 lots and is in an R-10 zone. The Township Committee considered the request and has opted to present the Planning Board with an ordinance for a zoning change. Mr. Conklin went on to say that Mendham Township underwent a Master Plan Land Use and Housing Element amendment last year and that part of the Master Plan recommendations were to conduct an analysis to identify zone boundaries that can possibly be rezoned in compliance with the intent and content of the Land Use Plan. After reviewing the proposed ordinance, it was determined that the ordinance was consistent with the goals and objectives as well as the recommendations to the Master Plan. The zone request is to change the zone from an R-10 zone to an R-5 zone and that the subdivision is basically surrounded by a neighboring R-5 zone. He opined that to rezone the subject property to an R-5 zone is not inconsistent with the Master Plan.

Mr. Buzak explained that the developer would need to come back to the Planning Board with a new application and that the motion should be that the Ordinance is not inconsistent with the Master Plan as opposed to being consistent with the Master Plan. Mr. Mayer commented that he is in favor of the zone change from an R-10 zone to an R-5 zone since it still offers a lot of land in one lot, and he opined that the subject property would be a very nice development. This would also provide an opportunity for people to move into Mendham Township. Chairman Giordano clarified that the Board is limited in its determination of whether the zone change is not inconsistent with the Master Plan or if it is inconsistent with the Master Plan. The Board has no other authority. Mr. Mayer went on to say that the last ground water report and the reports from 1994 and 1996 should be reviewed and considered in order to determine whether there are any issues with regards to ground water and nitrate dilution. Mr. Conklin stated that after his review he determined that there would only be approximately an additional ten units as a result of the 5-acre zone change and as a result, the change would not necessarily double the units on the site. He went on to say that during the recent Master Plan analysis that this was one of the sites identified for further examination with regards to the possibility of rezoning. Mr. Conklin reiterated that it was determined that the zone change is not inconsistent with the Master Plan.

Mr. D'Emidio made a motion that Ordinance 15-2021 is not inconsistent with the Master Plan, and it was seconded by Mr. Monaghan. Upon roll call:

AYES: Mr. Baio, Mr. Monaghan, Mr. D'Emidio, Ms. DeMeo, Mr. Johnson, Mr. Perri, Chairman Giordano

Ms. Foley will draft a memo to the Township Committee stating that Ordinance 15-2021 is not inconsistent with the Master Plan.

Chairman Giordano made a motion to open the meeting to the public, and it was seconded. All agreed.

Mr. Brian Cort of 55 Tingley Road referred to Ordinance 15-2021 and that there was a rather large piece of property in his vicinity and that he wished to better understand the process of rezoning and subdividing a piece of property. He pointed out that in the Ordinance the road name is stated as Cold Hill Road but that it should be Hardscrabble Road as noted earlier. Mr. Cort stated that the Ordinance should correctly reflect the correct road name. Chairman Giordano explained that the actual change in terms of the Ordinance is done by the Township Committee and not by the Planning Board and that the Planning Board is only allowed to advise the Township Committee as to whether their Ordinance is inconsistent with the Master Plan or not inconsistent with the Master Plan. He also clarified that the zone change would create perhaps another ten lots and that this would trigger an application to the Planning Board as a subdivision.

Chairman Giordano made a motion to close the meeting to the public, and it was seconded. All agreed.

Chairman Giordano made a motion to adjourn the meeting. A motion was made, and it was seconded. All agreed.

The meeting adjourned at 8:04 pm.

Respectively Submitted,

Beth Foley
Planning Board Secretary