

**MINUTES OF THE
SPRING LAKE PLANNING BOARD
MARCH 13, 2013**

The regular meeting of the Spring Lake Planning Board was held on the above date at 7:00 PM in the Municipal Building, 423 Warren Avenue, Spring Lake, NJ.

Chairman Nicholas Sapnar called the meeting to order, led everyone in the Pledge of Allegiance to the Flag and announced that this meeting is being held in accordance with the Open Public Meetings Act and adequate notice has been published and posted per Chapter 231 P.L. 1975.

The Board Secretary called the roll for attendance. Present were Joseph Rizzo, Larry Iannaccone, Walter Judge, Priscilla Reilly, Melissa Smith Goldstein, Matthew Sagui, Kathleen Scotto and Chairman Nicholas Sapnar.

Motion by Judge, seconded by Reilly, that the minutes of the February 13, 2013 meeting be adopted. On roll call Board Members Rizzo, Iannaccone, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None No. Motion carried.

Board Attorney McGill read the resolutions to be adopted.

Resolution #14-2013 110 Lorraine, LLC

Motion by Judge, seconded by Reilly, that Resolution #14-2013 110 Lorraine Avenue, LLC, that the minor subdivision be approved. On roll call Board Members Rizzo, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None No. Motion carried.

Amended Ordinance No. 2013-001 Review

The Board discussed the proposed Amended Ordinance No. 2013-001 an Ordinance Amending and Supplementing Sections of Chapter 225, Land Development of the Borough Code.

Councilwoman Reilly recused herself.

Mr. McGill explained that this ordinance was returned to the Planning Board for review for consistency with the Master Plan. He added that certain changes were made after it was discussed with the Borough Attorney and Engineer. The ordinance was amended to make it clear that on undersized lots, a developer or owner could build provided that no new variances were being created. This ordinance is consistent with the Master Plan.

Mr. Iannaccone asked what the affect of these changes are on an approved subdivision. Mr. McGill explained that this ordinance will not merge subdivisions which were previously approved.

Chairman Sapnar stated that he understands that the lots were subdivided and are treated as two separate lots. Mr. McGill agreed.

Chairman Sapnar stated that if there is an existing nonconforming lot and the homeowner would like to put up a fence for example that would not need a variance. Mr. McGill agreed and stated that they could take down the structure and put up a new one as long as they do so within the setback.

Motion by Sapnar, seconded by Judge, that Mr. McGill write a letter, that the Planning Board agrees the ordinance is consistent and to proceed with the adoption of this ordinance. On roll call Board Members Rizzo, Iannaccone, Judge, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None voted no. Motion carried.

Councilwoman Reilly returned.

Ordinance No. 2013-003 Review

The Board discussed the proposed Ordinance No. 2013-003 an Ordinance Amending and Supplementing Sections of Chapter 225, Land Development of the Borough Code.

Mr. McGill explained that this is also a consistency review; this ordinance amends our existing ordinance to provide for the construction and elevating of houses two feet above what the flood maps eventually will become. There is also a forty two foot height limit for existing houses. He explained that this ordinance is also consistent with the Master Plan.

Chairman Sapnar added that it allows thirty two feet from the finished first floor to the peak so that the homes are not larger than forty two feet high.

Mr. Iannaccone asked why the ordinance changed from four feet to two feet. Mrs. Reilly explained that the changed is based on the new flood maps.

Mr. Iannaccone stated if the height is limited to thirty two feet from finished floor to peak, will that be enough room for two and a half story house. Chairman Sapnar answered that it may not be.

Mrs. Reilly explained that the Borough went along with the advisory flood maps but added a little above that. She added that FEMA will not pay for anything that is destroyed in a basement level; all of the utilities have to be at or above the first floor.

Mr. McGill explained that the way the ordinance is written, he doesn't believe that there is a forty two foot limitation on new dwellings it is simply controlled by the flood map plus thirty two feet. He added that an existing home can get elevated up to forty two feet. The ordinance can always be adjusted in the future.

Jessica Ressa, 400 Shore Road asked why residents are being limited in regards to raising their houses only two feet above the ABFE (Advisory Base Flood Elevation). Mrs. Reilly explained that this was determined by Mr. Avakian, Mr. Zahorsky and Mr. Ratz.

Mr. Judge agrees with Ms. Ressa, if a resident can raise their house and still stay under the forty two feet why is the town not letting them.

Chairman Sapnar asked is there a difference in flood insurance if a house is raised three or four feet instead of the two feet. Lyle Marlowe, 110 Pennsylvania Avenue explained that the lowest flood

insurance rate will be at ABFE plus two feet which would be approximately three thousand dollars a year; if you add any more feet the insurance rate does not get any lower.

Mrs. Reilly explained that in order for our residents to apply for funding and grants, this ordinance has to be passed.

Mr. McGill explained that there will be a public hearing on this at the next Council meeting March 26, 2013. Mr. McGill stated that the Board should have a letter written stating that the ordinance is consistent with the Master Plan and make the suggestion that consideration should be given to allow property owners to build above two feet over the ABFE.

Motion by Sapnar, seconded by Judge, that Mr. McGill write a letter to the Council, that the Planning Board agrees that ordinance is consistent and to proceed with the adoption of this ordinance. On roll call Board Members Rizzo, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. Iannaccone voted no. Motion carried.

**CAL#2-2013 NATIONAL LAND HOLDINGS, LLC
315 PITNEY AVENUE
BLOCK 126, LOT 11**

Mrs. Reilly recused herself.

Mr. Rubino, applicant's attorney had the exhibits marked into evidence.

Mr. Rubino explained that National Land Holdings, LLC application is a fully conforming subdivision. He received Mr. Hilla's letter which discussed the possibility of changing the subdivision around so that both lots face Glenwood Avenue. He added that the Borough Council has introduced an ordinance that affects corner lots, in effect it took away their flexibility. He wanted to file under the time of application law. Mr. Rubino explained that the subdivision currently would not need any variances and if they change the subdivision around variances would be needed.

Dan Matthews, applicant explained the dimensions of the new subdivision, they are not square lots. By having the houses face Glenwood Avenue the new homes will be consistent with the rest of the block. He explained that the interior lot is 77.5 feet by 100 feet and the corner lot is approximately 99 feet on by 112 feet.

Chairman Sapnar asked why Mr. Matthews would not have the interior lot be 75 feet and leave the rest for the exterior lot. Mr. Matthews answered that could be done.

Mr. McGill explained that the applicant would have to come back and with new plans and also re-notice for the variances.

Mr. Sagui asked about the house of the corner of Pitney and Glenwood, will the side of the house that faces Pitney architecturally have some aesthetics. Mr. Matthews answered yes and they are also putting big trees up.

Mr. Judge asked when the application comes back in front of the Board, can the Board hold them to the development plan for the structures. Mr. McGill answered yes.

Mr. McGill asked Mr. Rubino if there will be architectural plans at the next meeting. Mr. Rubino answered that they would like to build a generic house however they would agree to the footprint.

Comments:

Priscilla Reilly, 5 Glenwood Avenue stated that there are no sidewalks on that area of Glenwood Avenue. There is very limited parking there and she suggested to have the driveway on Pitney Avenue. Mr. Matthews answered no because of the grade difference along Pitney Avenue. Mrs. Reilly added that there is a pole right at the end of the proposed driveway.

Mr. Matthews stated that he would meet with Mrs. Reilly to discuss her concerns.

Mr. Judge asked if the plans can detail the elevation that faces Pitney Avenue.

Chairman Sapnar explained the applicant will have revised plans submitted and this case will be carried to April 10, 2013 and re-noticing is required.

Mrs. Reilly returned.

**CAL#1-2013 BUILIONE
100 JERSEY AVENUE
BLOCK 79, LOT 19**

Mr. Sagui recused himself.

Mr. Rubino, applicant's attorney had the exhibits marked into evidence.

Mr. Rubino reviewed the variances for the fence height and areaways.

Todd Builione, homeowner was sworn in. Mr. Builione explained that he purchased the property three and a half years ago. He explained that he met with Chris Rice before he even purchased the property to make sure that the new home would be built in conformance. The areaways were a genuine mistake. He explained that the house is a two story house with a finished basement, which includes two bedrooms, and an entertainment area. If the fence height were to be lowered the neighbor's fence would be visible since their fence is five feet.

Mr. Rubino explained that the entire fence is in conformance except for a small portion on the western side of the house, the fence is five feet high and four feet is permitted. Mr. Rubino explained that there was originally a different landscape architect, a new landscape architect took over and he called Mr. Zahorsky and was told that the fence could be five feet high. The new landscape architect did not realize that the backyard setback begins at the back of the house. When both Mr. Builione and the landscape architect discussed the fence, Mr. Builione suggested that they move the fence without thinking that it would be a violation.

There were no questions from the Board or audience.

Christopher Rice, Professional architect was sworn in and accepted by the Board. Mr. Rice discussed that there are two types of areaways, there are some that are just metal and curved. These particular ones are egress wells. The three on the east side of the house which stick out, they are required by building code and cannot be any smaller. Mr. Rice explained that he designed the home and the plans went to Mr. Zahorsky, Mr. Zahorsky hand wrote a note on the plans that went to Mr. Ratz. He added that his office thought that the plans were approved. When Mr. Ratz received the plans he simply reviewed the egress well that met code and it was approved. The house was built and done, when the surveyor picked up on the mistake. These area wells are at grade, they are very well built to code and they have to be there.

Mr. Judge stated that they only have to be there if there are bedrooms in the basement. Mr. Rice stated that even if there were no bedrooms they would have to be there, they have to be in any sleeping area.

Mr. McGill stated that the house could have been built so that the area ways do not encroach into the setback.

Mr. Rice explained that the area wells along the west side are on the driveway and they are not egress wells so they are smaller.

Chairman Sapnar asked when the house was designed the architectural plans showed the egress wells. Mr. Rice answered yes. Chairman Sapnar then asked on the site plan, the egress wells were shown at two feet. Mr. Rice answered yes.

Mr. Rubino explained that there were two plans submitted, Mr. Rice's plans showing the larger egress wells which meet the building code and Mr. Carpenter's plans which showed them at two feet which conforms to the ordinance.

Mr. Sapnar stated that he is unsure why the architectural plans and the site plans were never put together to match each other. Mr. Rubino explained that Mr. Zahorsky called Mr. Rice and discussed the difference in the plans. Mr. Rice explained that he speaks with Mr. Zahorsky many times a week and these particular plans were drawn up approximately two years ago.

Mr. Rice explained that these area wells were very expensive to build and would be just as difficult to remove, also the basement bedrooms would have to be removed as well.

Mr. Rubino showed the Board the architectural plans showing Mr. Zahorsky's note and signature.

Chairman Sapnar asked if anyone saw the note on the plans. Mr. Rubino answered that he cannot say that no one saw it; however the builder received a approved set of plans and built the house. There were no questions from the audience.

Mr. Carpenter, Professional Engineer and Planner was sworn in and accepted by the Board. Mr. Carpenter explained that he normally does not receive basement plans when preparing a site plan; a plot

plan is worked off of the first floor plan. He added that he was very aware that the area walls should be two feet and they conform to the ordinance. He had no idea that the basement was going to have bedrooms. Mr. Carpenter added that normally he would bring his plans to Mr. Rice's office and Mr. Rice would then bring the plans to the Borough.

Mr. Rice explained that the plans go directly to the building department once it is approved by zoning.

Chairman Sapnar asked was the note on the approved plans once it left the building department. Mr. Rice explained that he is unsure because the builder would have received the plans. Mr. Rubino answered that the plans that had the note on them would have been received by the builder.

Mr. Carpenter explained that the area wells encroach in the front and side yard setbacks however they are not visible. Mr. Carpenter explained that the house is elevated approximately three feet higher than the sidewalk also the window wells have landscape around them.

Mr. Carpenter explained that there is pool on the property and by State regulations there must be a fence at least four feet high surrounding a pool. The Borough allows five feet in the rear yard and four feet in the side yard setback. He added that the adjacent dwelling along the west side has a five foot stockade fence which is in their rear yard. The grade along the property line is going up approximately six inches and the fence is not uniform.

Mr. Rizzo asked if there are any issues with the flood plain. Mr. Carpenter answered no.

There were no questions from the audience.

Edward Dearborn, applicants' builder was sworn in and accepted by the Board. Mr. Dearborn explained that he was notified by the building department that the plans were ready to be picked up. He added that the plans he received did have Mr. Zahorsky's note and it was an oversight by them.

Mr. Judge asked Mr. Rice what Mr. Zahorsky should do in a case like this one, should he have denied the plans. Mr. Rice answered that is one way to do that. Mr. Judge asked what standard practice is; is this typical that Mr. Zahorsky would just hand write on the plans and then forward them on to the building department. Mr. Rice explained that he is not sure that there was error on Mr. Zahorsky's part, he thinks there may be an issue with the system in which goes directly from zoning to construction, which happens in every town.

Mr. Rizzo stated that it is hard to blame anyone in particular.

Chairman Sapnar stated that when someone receives a set of stamped plans from the building department one would think they would see everything on the plans.

Mr. Rizzo explained that very few houses have bedroom in the basement.

There were no questions from the audience.

Comments:

Matthew Sagui, 17 Washington Avenue stated that he wished more people who purchased property in town would take the care and attention when building homes in town. He added that it is a beautiful house and a huge improvement to our neighborhood. He added that having egress is very important and more people are putting bedrooms in the basement and he would be strongly in favor of this application.

Motion by Judge, seconded by Reilly, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Judge, seconded by Reilly that the Board come out of caucus. On roll call all Board Members voted Aye. None No. Motion carried.

Motion by Judge, seconded by Rizzo, that the variance application be approved. On roll call Board Members Rizzo, Iannaccone, Judge, Reilly, Goldstein, Scotto, and Sapnar voted Aye. None voted no. Motion carried.

Mr. Sagui returned.

**CAL#3-2013 PURE VENTURES, LLC
1200 THIRD AVENUE
BLOCK 75, LOT 16**

Mr. Rubino, applicants' attorney explained that Pure Ventures, LLC entered into a lease hoping to be able to rent a premise at 1200 Third Avenue. He explained that the Ms. Flynn and her partner have a fitness center; they presently operate one in Westfield. He added that when they applied for a zoning permit Mr. Zahorsky had questions about parking and did not want to issue a permit.

Mr. McGill explained that fitness is a personal service use which is permitted and Mr. Zahorsky had an issue with previous approved parking which was approximately 19 spaces based on different uses. There is no real parking number that can be considered since at certain times this use would create parking to be over 19 spaces.

Elizabeth Flynn, owner of Pure Barre in Westfield, explained that they are looking to expand the business. She added that Pure Barre is a ballet bar based work out; the classes are fifty five minute classes. She discussed the classes that take place in Westfield.

Mrs. Reilly asked if they are open on Saturday and Sunday as well. Ms. Flynn answered that Saturday and Sunday are am classes only.

Ms. Flynn explained that between the hours of 11 a.m. to 4 p.m. the classes are not large at the Westfield center. Also the hours are not set for this location yet. Also, eighteen students would be the maximum amount, one teacher and one receptionist. Ms. Flynn explained that classes can be bought individually, by month or by package.

Chairman Sapnar stated that in the summer time Spring Lake becomes very busy and there is a possibility that more people would like to attend classes, there is no way for the Board to monitor

parking. Ms. Flynn explained that she would like to add a few day classes, they generally are not that busy and if the approval depended on it she would not have them.

Ray Carpenter, Professional Engineer and Planner is sworn and accepted by the Board. He explained that the use is a little more intense than what was previously approved. However, there is adequate parking in this area, it is a good mix for the town to bring in business. Usually fitness centers are not very busy during the middle of the day.

Mr. McGill stated that in Mr. Hilla's letter, the existing retail use has a parking burden of six spaces and this use could have a parking burden of eleven spaces. He added that the Board should look at this application as an increase of five spaces. This particular use does not have a parking requirement and just because there is a parking requirement does not mean that all of the parking would be accommodated. The parking downtown has a shared use.

There were no questions from the audience.

Chairman Sapnar suggested that there be no classes during the day or if classes hinder other business that the Board would be able to re-evaluate. Mr. Rubino stated that they could stipulate that between 11 a.m. and 4 p.m. there will be no classes greater than 10 people.

Mr. McGill explained that the parking issues is not attributed to any certain busy, what needs to be done is a review based on this particular use with a set amount of parking spaces. Mr. Rubino added that they would like to obtain an approval now based on the parking instead of coming in again in the future.

Mr. Rizzo stated that Pure Barre already has a business and know how many people will be able to fit into each class and they are not a normal gym where they try to pack in as many people as possible.

Comments:

Richard Clayton explained that when the Business Improvement District heard about Pure Barre they automatically checked out what type of business this was. It seems to be a perfect match for Spring Lake. All of the businesses in town are in favor of this business opening. Parking is not an issue, empty spaces are the problem. When the parking is empty that means that there is no business in town.

Chairman Sapnar asked what Mr. Clayton's thoughts are for the summertime. Mr. Clayton explained that it is two months out of the year and the town does not awaken until 10 a.m. or 11 a.m.

Mrs. Scotto asked that if the classes were at fifteen people during the day would there be any problems. Mr. Clayton answered no, businesses feed off of other businesses. Mrs. Scotto thinks that the Board will be doing this business a disservice by limiting the numbers.

Mr. Sagui asked if it would help to limit classes only during the summer months. Mr. Clayton explained that during the summer it depends on the day however, downtown would not start to be busy until noon and at that time there still are plenty of spaces open.

Mrs. Reilly stated that if it is a cloudy day people may want to go downtown and attend a class then go into other stores, maybe classes should not be limited.

Mr. Judge stated that at this time there is not place that is open to get a coffee or newspaper, maybe this business would help businesses in general.

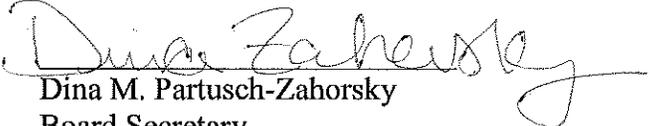
Motion by Judge, seconded by Sagui, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Judge, seconded by Reilly that the Board come out of caucus. On roll call all Board Members voted Aye. None No. Motion carried.

Motion by Sapnar, seconded by Judge, that the parking variance application be approved. On roll call Board Members Rizzo, Iannaccone, Judge, Reilly, Goldstein, Scotto, and Sapnar voted Aye. None voted no. Motion carried.

Motion by Sapnar, seconded by Judge, that the meeting be adjourned. On roll call all Board Members voted Aye. None No. Motion carried. Time: 9:45 P.M.

Respectfully submitted:


Dina M. Partusch-Zahorsky
Board Secretary

RESOLUTION NO. 14 - 2013
(Calendar No 15 - 2012)

**RESOLUTION OF THE PLANNING BOARD OF THE
BOROUGH OF SPRING LAKE, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY.**

WHEREAS, 110 Lorraine, LLC., (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for minor subdivision approval in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-37, regarding property located at 110 Lorraine Avenue, Spring Lake, New Jersey, and known as Block 139, Lots 10, 11 and 12 on the Borough of Spring Lake Tax Map, and

WHEREAS, a public hearing was held at the regularly scheduled meeting of February 13, 2013, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

WHEREAS, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

WHEREAS, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in the R-1 Zone. The parcel is comprised of Lots 10, 11 and 12 and is of irregular shape. The parcel has 291 feet of frontage on Lorraine Avenue and totals 37,658 square feet in area. The applicant is proposing to consolidate the three existing lots and to subdivide the parcel into two new lots to be known as Lot 10.01 and Lot 10.02. Lot 10.01 will be located generally to the northwest of Lot 10.02. Lot 10.01 is proposed to have 19,079 square feet in total area and to have 149.47 of frontage on Lorraine Avenue. Lot 10.02 is proposed to have 18,579 square feet in total area and have 141.53 feet of frontage on Lorraine Avenue. The applicant is proposing to raze and remove all existing structures and walkways on the parcel. Both lots are said to be conforming to the Borough's bulk ordinances and appear to be so. No variances have been requested by the applicant and none are granted herein by the

Board.

2. The applicant has provided plans entitled "Minor Subdivision Plat, Lorraine Avenue" dated August 23, 2012, last revised December 12, 2012, which are signed by Robert C. Burdick, P.E. These plans more specifically detail the proposal of the applicant and were relied upon by the Board in consideration of this application.

3. The applicant was advised at the hearing that the side yard setback ordinance, Ordinance 225-12D, was recently amended to require that the side yard setbacks reflect a distance of 15% of the width of the property for each setback and reflect an aggregate side yard setback of 35% of the width of the lot. The applicant stipulated that the application would be so amended and the conforming side yard setbacks would be so displayed on amended plans to reflect the distances required by the Borough's current ordinances. The Board specifically conditions approval of this application on said amendment being made by the applicant, which act shall be the subject of review and approval by the Board Engineer.

4. The Board finds that the subdivision approval may be granted subject to the conditions found herein. The applicant shall be required to demolish and remove all structures and walkways prior to perfecting the subdivision because the subdivision is granted on the presumption that the land shall be devoid of structures. The proposal otherwise appears to be in conformity with the bulk requirements of the Borough's zoning ordinances.

5. The application as proposed is in keeping with sound planning and zoning and does not present any detriment to the public good nor does it impair the intent and purpose of the zoning plan.

WHEREAS, The Board has determined that the approval requested by the Applicant can be granted.

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Spring Lake on this 13th day of March, 2013, that the application be and is hereby granted subject to the following conditions.

1. That all existing taxes, water and sewer assessments be paid current as a condition of perfecting the subdivision.
2. That all legal fees or engineering fees, inspection fees, or performance bond set by the Board Engineer shall be paid by the applicant prior to the issuance of a building permit.
3. That a copy of this Resolution be given to any subsequent owner of either of the new lots.
4. That all structures on the property shall be demolished and removed as a condition of perfecting the subdivision.
5. That the plans shall be amended to show the required side yard setbacks as established under Borough Ordinance 225-12D, and as referenced in Paragraph Three above.
6. That the applicant shall submit revised plans to the Board Engineer reflecting the changes required under Condition Four and Paragraph Three referenced above for the Engineer's review and approval. Such approval shall be required prior to the perfection of this subdivision.

CERTIFICATION

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on March 13, 2013.



DINA PARTUSCH