

JACKSON TOWNSHIP PLANNING BOARD MEETING

Monday, August 7th, 2023

The August 7th, 2023 special meeting of the Jackson Township Planning Board was called to order at 7:00 p.m. by Board Chairman Mr. Herman with a salute to the flag by all present. The Planning Board attorney Me. Shea read the Open Public Meetings Act Statement noting that adequate notice has been provided and advertised in the manner prescribed by law.

Roll Call:

Mr. Burnstein

Mr. Riker

Mr. Sullivan

Mr. Haring

Mr. Wall-Administrator

Dr. Campbell

Mr. Herman

Absent: Mr. Bressi, Ms. DeMarzo, Mr. Flemming, Mr. Heller

Also Present is Robert Shea Planning Board Attorney, Ernie Peters, Board Planner, Doug Klee, Board Engineer, Anthony Jacob IT Department, Laura Morrison Planning Board Secretary, and Irina Darrar Planning Board Recording Secretary.

Motion to approve a voucher for August 7th, 2023 Planning Board recording secretary Irina Darrar Mr. Sullivan/ Riker All in favor among present.

Resolutions

RESOLUTION NO. 2023 – 22

RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF JACKSON, COUNTY OF OCEAN, STATE OF NEW JERSEY GRANTING AMENDED PRELIMINARY MAJOR SUBDIVISION APPROVAL FOR THE CONSTRUCTION OF 465 RESIDENTIAL TOWNHOME UNITS INCLUDING A CLUBHOUSE AND VARIOUS RECREATION AMENITIES, AND FINAL MAJOR SUBDIVISION APPROVAL FOR SECTION 2 OF THE JACKSON WOODS SOUTHEAST DEVELOPMENT CONSISTING OF 279 RESIDENTIAL TOWNHOME UNITS FOR JACKSON DEVELOPMENT COMPANY, LLC, BLOCK 4101, LOT 20.02

Motion to approve Riker/Sullivan Yes: Burnstein, Haring, Riker, Sullivan, Wall, Campbell, Herman.

Changes to the agenda:

Block 19501 Lot 25 Whitesville Homes, LLC was carried to the October 16th, 2023 meeting. Motion Riker/ Sullivan is all in favor of the present

Block: 6501; Lot: 42.02 – My Address, LLC was carried to October 16th, 2023. Motion Riker/Sullivan is all in favor of the present.

Applications:

Application Block 2603, Lot 29, 30, 31, James R. Johnson Jr.

Mr. Klee stated that the application is for preliminary and final major site plan approval. The applicant is proposing the construction of a 235,000 sq. foot mixed-use building involving 22,500 sq. feet of office space and 212,500 sq. feet of warehouse floor area. The project is compliant with ordinance standards, except for the right-of-way setback to Patterson Road, 20 feet is required and 15 feet is proposed. Also, there are some sign variances, that the applicant needs to support. The application is impacted by the conservation overlay zone. Some testimony is needed for the letter of interpretation from the DEP. The site is also impacted by a 300-foot riparian buffer. The project will connect to the public water and on-site septic system. Mr. Klee needs testimony about the site utilization and operation, specifically the days and hours of the operation if it's planned to be 24/7. The applicant has provided a traffic impact statement, we need some testimony as well. The applicant needs to provide testimony as far as compliance with those requirements from fire prevention. The parking is compliant with the Ordinance standards.

Mr. Peters stated that his office has a report dated July 31st. The project is in the LM-Commercial office light industrial zone, where warehouse and office use are permitted. Me. Peters stated that the first issue that came up after speaking with Mr. Macfarlane appeared to be a survey overlap between the two parcels. It's not small, it's on the order of 30 feet and that obviously could impact one or the other of the properties. It certainly can impact the yield of the site. The project is in a conservative overlay zone.

Mr. Pfeffer on behalf of the applicant stated that the application is for a warehouse and office of approximately 235,000 sq. feet. The property is a permitted use. The applicant is seeking a few minimum variances, as well as a couple of design waivers.

Mr. Graham Macfarlane was sworn in, as a professional planner and engineer, a principal for PDS. He stated that the site is located on Patterson Road, Block 2603, and Lot 29, 30, and 31. The A-1 exhibit is an aerial map showing the subject premises. The property is about 15.8 acres, West Commodore Blvd sits to the South. The property received two prior approvals going back to possibly 2005 and 2008. One was for a subdivision, one was for a site plan proposing several buildings. Some of the work was completed by the applicant. The property did receive a determination from the DEP in 2017 that it did not have any Wetlands or freshwater wetland buffers, that had expired, so the applicant re-applied for that and the DEP again confirmed in November of 2022, that the property does not have any freshwater Wetlands or wetlands buffers that affect the parcel. Exhibit A-6 shows the boundaries of the parcel. This is a boundary survey. There on the plans is a reference to physical overlap, it is about 30 feet. It is important to understand that this is a physical overlap, it's a physical encroachment, not a deed overlap. There is no information to show that there's any disagreement or any deed overlap. A-2 is a site plan sheet that shows the proposed building. The plan proposes two driveways, one located close to Commodore Blvd, this will be for the truck entrance. All the loading docks are located on the

south side of the building, 17 spaces are identified right now so the building could be utilized for one, or two tenants, or up to 17 tenants based on market demand. The second driveway further North, which is full ingress and egress, is intended for the general public. There is full circulation fully around the building. The applicant has a system of stormwater management that includes a rain garden up front, two rain gardens in the back, and then primarily a detention basin. Mr. Macfarlane stated that for Patterson Road, the applicant is proposing to improve the half-width of Patterson Road, 15 feet wide along its entire frontage, and also proposing a curb along the entire frontage. The applicant is not proposing sidewalks along the site frontage, so the applicant will be obligated to contribute to the Pedestrian safety fund. Public water will be provided by extension from W. Commodore Blvd. The sewer is not available on the site. So two septic disposal fields will be provided, one up in the corner and one back in that corner for the building. Mr. Macfarlane stated that he does have 4 variances requested with the application. There is a site identification sign. The Ordinance only allows 30 sq. feet of signage. The applicant has a sign area of 75 feet, Mr. Macfarlane stated that this is more appropriate for the site, so he is proposing a 75 square feet sign. He is requesting one sign for each tenant on the building where the ordinance does not permit that. Mr. Macfarlane said there is another variance at the corner where this radius comes along Patterson Road, ordinance requires a 20-foot setback from the right-of-way line to the parking areas, where the applicant has 16 feet on one corner and 17 feet on the other corner. There are a couple of waivers on, the sidewalk along Paterson Road, Mr. Macfarlane believes that it is technically classified as a waiver. A-3 is a landscaping plan for the project. The applicant has proposed street trees along Patterson Road according to Ordinance requirements. The landscaping around trash dumpsters is required per township ordinances, the applicant doesn't see any real benefit of providing landscaping around those trash dumpsters, and the applicant is seeking a waiver for providing the landscaping around those dumpsters. Two driveways proposed where only one is permitted are classified as a waiver. A-4 Exhibit shows the Architectural floor plan. It shows 17 units in total. A-5 is an architectural rendering of the building, like a 3D view. Mr. Macfarlane stated that Mr. Peter's letter questioned the impervious coverage and building coverage, just to confirm there are no Wetlands on-site. The local Ordinance clearly states that Wetlands are supposed to be excluded from the land calculation. Since there are no Wetlands on the site, the calculation is correct as presented. The applicant does have 255 parking spaces proposed, where 255 is required to comply with the parking requirements. Mr. Macfarlane stated that Mr. Peters does comment on additional landscaping, and the applicant agrees to comply. To Mr. Klee's letter, confirmation on the LOI from the DEP on Wetlands. Mr. MacFarlane said he has not seen any comments from the environmental commission.

Mr. Klee asked in regards to the variance for the parking area setback to Patterson Road, is the site so tight, that the applicant cannot find 5 feet?

Mr. Macfarlane stated that he could do, it if he had to do it.

Mr. Klee asked the applicant if it was going to be a 24/7 hours of operation.

Mr. Alfieri stated that he does not know who the tenants are, so asking for 24/7.

Mr. Peters stated that Mr. Macfarlane indicated that the applicant is not proposing any improvements, he asked if anyone has done any study to say that Patterson Road at least along the applicant's frontage can handle the tractor-trailers and the amount that the applicant is proposing.

Mr. MacFarlane indicated that the applicant is widening the road 15 feet, a half width along the site frontage, and providing curbing.

Mr. Peters asked Mr. Macfarlane about the dumpsters, is it possible to move them back, so they are not a target for a tractor-trailer to drive into? Peter's not happy dumpsters are in the drive aisle.

Mr. Macfarlane stated that he tried to spread them out along the building and probably the applicant will need to add a couple more dumpsters, maybe some curb around the dumpsters to make it safer would be willing to put bollards.

Dr. Campbell stated that she had her usual question. She would like to see solar above office areas.

Mr. Macfarlane states that A-5 rendering shows that solar can be provided since there is a flat roof, it can be solar-ready.

Dr. Campbell stated that on Patterson Road she does not see any architectural elevation, but it's a road, and people still live there, it should be somehow attractive.

Mr. MacFarlane stated that if the Board makes it a condition of the approval, his client will agree to provide something a little more attractive than a blank slate along Paterson Road.

Dr. Campbell asked if there would be any electrical chargers.

Mr. Macfarlane stated that it would be 6 electric chargers.

Scott Kennel was sworn in, McDonough and Ray Associates, located at 1431 Lakewood Drive, Manasquan New Jersey, a traffic expert. He stated that his firm prepared a traffic impact study dated February 21, 2023. The traffic study, it is summarizes the investigation that was conducted by inventory and exiting traffic conditions in the area as well as conducted manual turning movement traffic counts at the intersection of Patterson Road and West Commodore Blvd. on June 8, 2022, during morning peak hours the traffic date was recorded from 7 to 10 am and from 2 to 6 PM. It was determined that the peak hours occur from 8 to 9 AM with approximately 500 vehicles processed through the intersection and in the afternoon the peak hour was 3 to 4 PM will approximately 540 vehicles processed through that intersection. The next task was to determine how much traffic would be regenerated and consulting the Institute of Transportation Engineering's trip generation manual, Mr. Kennel estimated approximately 85 trips would be generated during the morning and afternoon peak hours, taking into consideration the office use and warehouse use on site. The next task was to determine the future traffic volumes and consistency with Ocean County Planning Board protocol and review the Department of Transportation's background traffic growth data. Traffic growth was approximately 10 %, which also included site-specific traffic along with several other developments along West

Commodore. Mr. Kennel stated that the analysis shows the intersection will operate at a good level of service, level service C for the morning and afternoon peak hours.

Dr. Campbell asked if there would be a sign for trucks only, and cars only.

Mr. Kennel said that is what is intended.

Public Comments open.

Kim Reale, 547 West Commodore Blvd. was sworn in. She asked if there was a traffic light proposed on Patterson Road.

Mr. Kennel said there is no traffic light proposed on the road. He stated that the analysis indicates that the intersection can operate with stop sign controls.

Resident Deborah Jones, 722 Hyson Road was sworn in. She has a question about the traffic study done. What times were they done?

Mr. Kennel stated that the traffic counts were done during the morning period and conducted over three hours from 7 to 10 AM and from 2 to 6 PM.

She also wants to know what improvements are coming to West Commodore Blvd.

Mr. Kennel stated that the intersection will be widened, so there will be a dedicated left turn lane on every approach.

Motion to close public comments. Motion Riker/Sullivan All in favor among present.

Motion to approve the application Burnstein/Riker Yes: Burstein, Riker, Haring, Wall, Sullivan, Campbell, Herman.

Terence Wall left the meeting at 8:06 p.m.

Application Block 4101, Lots various, Jackson Woods Southeast Section One

Mr. Klee stated that an application is to amend a prior subdivision approval of the Jackson Woods Southeast section one. The overall project has some history. Mr. Klee said that a portion of this project previously was approved, the maps were files, and the lots were created, the applicant is now coming and seeking to amend that approval and it requires 2 variances. One was approved, required to have 15 percent open space, and 15 percent was approved and now the applicant is requesting 14.9 percent. The applicant is also asking to increase the approved Bailey height to 35.5 feet versus the 35 feet that was approved. There are no engineering issues.

Mr. Peters stated that this office has a report date of July 31, 2023. The property is located in the PMURD Zone, the planned mix-use Residential development zone, where townhomes currently being constructed are permitted use. The applicant is here to propose lot line adjustments which Mr. Peters believes that is to create greater depths for the residential lots to ensure that decks for the proposed townhomes would not encroach into the rear yards. They are requesting C variance relief for the maximum building height and the minimum open space requirement. Mr. Peters thinks that the Board needs to make a determination as to whether they're asking for one height

variance or variances for specific lots. Mr. Peters believes that 24 units sit on separate lots. He does not know if the Board has to grant variances for each lot or a variance for building heights, but we'll get through that based on the testimony of the applicant.

Ron Shimanowitz on behalf of the applicant. J21SSE LLC He stated that the applicant is seeking from the Board tonight amended preliminary major subdivision approval and amended final major subdivision approval as well as the bulk variances that the Board professionals referred to, all with regard to the Jackson Woods Southeast development. 465 townhomes. The first approval granted by this Board was a preliminary on this entire development, plus final approval for section one. The applicant then came for final approval on section two. At that time the applicant dealt with the deck issue and increased the depths of lots. Mr. Shimanowitz stated that the Board adopted a Resolution memorializing the approval of the extension of the lots to accommodate the decks with regards to section 2 because the applicant happened to be coming in for the final, The applicant kind of killed two birds with one stone. Tonight the applicant is coming back to section one to do the same thing bump out the lots, to give a little more depth. The bump out is anywhere from half a foot to a maximum of about 10 feet. There are also a couple of variances, one is about the open space, and the other is the building height.

Jenna Gannon, the vice president of operations for DR Hordon was sworn in.

Mr. Shimanowitz asked Mrs. Gannon to summarize how the applicant got to this point.

Mrs. Gannon stated that at Jackson 21, they have 3 different products that they are building. Two of the three are two-story townhomes. The third product is a three-story townhome and that is where the applicant came into a dilemma with the 3-story being approximately six, seven, eight inches over the height requirements. Although we are large builders, we are humans and we made a mistake and had an oversight. Mrs. Gannon stated that when the applicant discovered that they were not in compliance, they went to the Architect and then redrew our roof trusses, where we went from a 7 12 roof pitch to a 5 12 roof pitch to be in compliance. Going forward the applicant corrected the problem, but 36 buildings are over the height permitted by the Ordinance. So now there are 24 homeowners out of those 36 that are living in a home that the applicant is speaking now, they are also having the deck issue. The approved site plans show that patios go beyond the setback line.

Mr. Riker asked to confirm that the applicant had an Architect designing those buildings.

Mrs. Gannon said correct.

Mr. Riker stated you have building permits, approved for 35. Mr. Riker asked if it was wrong when you ordered the trusses. Or when it got built or was it wrong when it was designed?

Mrs. Gannon stated it was wrong when it was designed.

Mr. Riker stated that the applicant has several buildings that nobody was paying attention to. Mr. Riker stated that he recalls adjusting lot lines a few months ago, and the Resolution was just done. What is going on in that field that nobody's paying attention? Mr. Riker asked why the trusses could not be taken off and done the right way.

Mrs. Gannon said that at this point when it was discovered they were either mid-construction or completed.

Mr. Riker wants to know how many of the units are occupied.

Mrs. Gannon said 24.

Mr. Riker stated that he would reach out to the Building Department about how the CO was issued when the applicant didn't do the foundation verification, the lot lines are messed up and the roof is too high. Mr. Riker wants to know what are the solutions, other than to come here and to ask the Board to bend the rules on the roof.

Mr. Simanowitz said it was an honest error.

Mr. Riker said it is your problem, not our problem.

Mark Lescavage a senior project manager at Collier's Engineering and Design was sworn in. Practicing civil engineering and planning for 30 years.

Mr. Simanowitz states that Mr. Lescavage will testify as a professional planner and engineer.

Mr. Lescavage stated that this application is for amended preliminary and final approval. The two major issues that the applicant identified are the building height and the other the lot line changes to accommodate the decks. He stated that in April when the applicant came in final for section two they did the same thing with section two as being presented here in section one to move the lot lines to accommodate the decks. In the original approval, the applicant showed patios and not second-floor decks. The intent was to meet the Ordinance which allows the patios and terrace to encroach into a side or rear yard, as long as that does not exceed 100 square feet. The Ordinance requires that the decks once they are not on the lower level of the house they have to remain within the setback, regardless of the size. The applicant met with the zoning officer, this was prior to the April approval for section 2. He indicated that there were some prior interpretations through the Zoning Board of Adjustment to that case and the applicant went back and looked at the whole project. Mr. Lescavage said he wanted to change the lot lines to accommodate this change, not only for those units that are in question with the variances but the other 465 units to be able to have the same opportunity should they want to have the same size decks. He stated that as Mrs. Gannon said on the Architect plans there were submitted there were a number of options shown when they submitted for zoning permits, The applicant did not submit them but understood that there were a couple of options, one option was the roof pitch.

Mr. Shimanowitz stated that if it is okay, Mr. Lescavage will continue with the planning part testimony.

Mr. Lescavage stated that from the planning analysis, the first thing he looked at was the bulk variance for the unencumbered open space. It is 17.67 acres required where 17.52 acres are proposed. It is less than 1% deficiency in the required area. He believes that this deviation fits into what the applicant calls a flexible C or C2 variance. He said he does not see anything substantial determinant to the zoning Ordinance based on this less than 1% deficiency.

Mr. Riker wanted to clarify. He said heard a discussion about patios that was submitted and approved. Mr. Riker wants to clarify that Mr. Lascavege talks about the second-floor decks. Where they were ever part of the application indicated on the plans?

Said he believes they were not in the original approval.

Mr. Riker wanted to know why the applicant was selling something that was not approved. How is this possible?

Mr. Lescavage stated that he could not speak to the plot plans, but they did submit for zoning permits with the unit that they built.

Mr. Riker said it was never part of the Resolution.

Mr. Lescavage said that he did the testimony of the original approvals at the preliminary subdivision, The applicant showed representation of what was intended to be built, but we did not give full Architectural plans.

Mr. Herman asked if there was an adequate recreation space for a large number of children.

Mr. Shimanowitz said we do.

Mr. Herman stated that you're adding to that your positive criteria, providing adequate light on open space and using that as one of the positive criteria to enlarge the backyard by minimizing the recreational open space you are adding 6 inches and that's one of your positive criteria.

Mr. Lescavage stated that he believes the applicant is balancing the open space in a manner that is better for the residents in that development.

Mr. Peters stated that Mr. Shimanowitz has been involved in this project for a long time. Has this client or previous client ever considered asking for variance relief from those standards to the best of your knowledge?

Mr. Shimanowitz said he did not represent them through the entire process.

Mr. Peters asked the time when Mr. Shimanowitz represented, did they had asked for this sort of variance relief.

Mr. Shimanowitz said he does not recall.

Mr. Peters stated that the reason why the applicant is asking for the variance is because something got built incorrectly. He said this is a hardship created by the developer and one of the alternatives for the remainder of the project is you can build a smaller unit. Mr. Peters assumed that there's enough land out there, that someone could build a unit that fits on the lot without asking for additional variance relief, correct?

Mr. Burnstein stated that there is a simple solution to this issue, to lower the open space, They're seeking to change the usage and in this development, we have a higher density of children and development I drove out there full of strollers. He suggested coming back with the amended

places to lower the number of units and add more open space and maybe the Board will agree to reconsider the mistakes that you guys made.

Dr. Campbell suggested coming back with the amended layout. Where the applicant has given some back, instead of trying to take something away.

Mr. Shea suggested to the applicant to take a 5, 10 minute break, maybe consulting with the client or we can carry the meeting to another night.

Mr. Shimanowitz said that Mr. Shea's suggestion was very good. He would like to do both. He would like to spend a minute or two with his client, after he does, the applicant might need to come back to the Board.

The meeting resumed at 9:12 p.m.

Mr. Shimanowitz stated that the applicant is proposing to add to the project a pocket park and, he said he will give a little more details on this since there is a concern, particularly from Mr. Riker, which we understand about the decks, there's a way that we can just simply eliminate the decks, so we don't have that discrepancy between the plan that was originally approved and that which is being proposed, but I'm going to ask both of my witnesses to expand on that little bit.

Mrs. Gannon stated that on the three-story product right now, they have currently 24 decks that are built, however aside from those, the applicant has not built any other decks. They would not continue with the decks on the three-story product.

Mr. Burnstein wanted to confirm that only some of the units have decks and some of the other residents who already bought their homes are not going to get their decks. I just want to make sure I'm clear.

Mr. Lescavage articulated what Mrs. Gannon said. The Nash units moving ahead would not have the second-floor deck. So the applicant would not modify the lot lines for those units and they would modify their architecture so they do not have second-floor decks, which would eliminate the need for having the lot line adjustment and therefore eliminate the variance for the unencumbered space that is what we are proposing to take it off the table, that is one item. The second item w for having the building height issue, is the applicant offering a pocket park as an amelioration of that variance.

Mr. Shea advised the applicant to sit down and negotiate with the interested parties so the next meeting everyone will be clear about what is happening.

Dr. Campbell stated that she has a problem with a community that will have a portion of the community will have decks and now another portion of the community will not have decks, which does not sound fair to her. She advised me to get together with the community and find out what they want.

Mr. Herman stated that hopefully when the applicant comes back everyone will be on the same page, the residents that currently live there, the developer, and the builder.

Mr. Riker stated that the bigger issue at least for him on this Board professionally is the obfuscation of the errors. He stated that it's not his intent to screw three-quarters of the development out of a deck and he does not want to be in a position where any action in this Board dictates who gets a deck and who does not. It is suggested to take a small building wipe it off the mat and give it to the community as a real park.

Mr. Shea stated he was going to request a re-notice. Suggested sending via e-mail the applicant a list of available dates when the applicant can come back.

Mr. Shimanowitz stated that would be fine.

Mr. Shea stated all testimony is still open.

Mr. Herman stated that the application will be put on for the next meeting, and if it needs to be carried out, then the Board will make a motion to carry it.

Motion to adjourn the meeting Burnstein/Riker Yes: all in favor among present.

Respectfully submitted by

Irina Darrar

Planning Board Recording Secretary