

**MINUTES OF THE BOROUGH OF NORTH CALDWELL PLANNING BOARD  
CONFERENCE MEETING HELD JULY 9, 2018**

Chairman Brower called the meeting to order at 7:50 p.m., lead the salute of the flag and requested a roll call:

**ROLL CALL**

PRESENT: Chairman Brower, Mr. Barba, Mr. Campbell, Mr. Rees, Dr. Spinelli, Mr. Fishbone, Mr. Zichelli, Mayor Alessi, Sandra Nathans

ABSENT: None

Others present: Mr. Dusinberre, Esq., Attorney

**ADEQUATE NOTICE** of this meeting of the Borough of North Caldwell Planning Board was given as follows: Notice was sent to The Progress and the Star Ledger and Notice was filed with the office of the Borough Clerk.

**APPROVAL OF MINUTES**

A motion was made by Mr. Campbell to approve the minutes of the April 16, 2018 Conference Meeting of the North Caldwell Planning Board and a second made by Ms. Nathans.

Upon roll call:

AYES: Chairman Brower, Mr. Campbell, Mr. Rees, Dr. Spinelli, Mr. Fishbone, Mr. Zichelli, Sandra Nathans

ABSENT:

ABSTAIN: Mr. Barba, Mayor Alessi

Chairman Brower explained to all in attendance the procedure to be followed for the hearing of applications before the Planning Board.

**APPLICATIONS**

**APPLICATION FOR PRELIMINARY MAJOR SUBDIVISION**

70 Grandview Avenue, LLC  
104 East Centre Street, Suite 202  
Nutley, NJ 07110  
Block 1903, Lot 2

Mr. Michael Rubin, Esq. 80 Bloomfield Avenue, Caldwell, New Jersey entered an appearance as Counsel on behalf of the applicant, 70 Grandview Avenue, LLC.

Mr. Rubin described the application as a request for preliminary major subdivision to create four single family lots with a cul-de-sac with two variances. Both variances are for proposed lot 2.02. One variance is for lot area and the other for lot width. Mr. Rubin advised he intended to call two witnesses, Mr. Charles (Chuck) Stewart, P.E. and Mr. J. Michael Petry, R.A., P.E., P.P.

Ms. Nathans requested and was provided clarification concerning the names of the applicants and the names of the property owners.

Mr. Charles Stewart, P.E. of GC Stewart Associates, Inc. 204 Eagle Rock Avenue, Roseland, New Jersey was presented as the first witness to be heard as a professional engineer. Mr. Stewart was sworn in by Mr. Dusinberre. Mr. Stewart provided a brief summary of his educational and professional history and noted he has previously been accepted by the Planning Board as a professional witness. Mr. Rubin requested he be accepted as a professional witness for this application. The Board agreed.

Mr. Stewart advised that he prepared the preliminary major subdivision plans for the applicant. He then described the subject property, his steep slope analysis, existing utilities in the area and each proposed lot. He further advised the new lots will be accessed by a cul-de-sac that will comply with the NJ Residential Site Improvement Standards (RSIS). Mr. Stewart noted that the property is the location of the former Hillside Gardens.

Mr. Stewart testified that each lot meets the R-1 Residence Zone (R-1 Zone) standard for lot area of 21,875 s.f. and proposed lot 2.02 is deficient only when the Borough steep slope

analysis is applied. He also noted that proposed lot 2.02 is deficient in width with a proposed width of 111.71' vs. a required width of 125'.

Mr. Stewart noted that the footprints of the conceptual houses designed for the development will have areas of 2,700 to 3,100 s.f. which will produce homes of 5,000 to 6,000 s.f. and all new structures will conform to the R-1 Zone bulk requirements.

Mr. Rubin asked Mr. Stewart why only preliminary approval is sought at this time. Mr. Stewart responded because the application requires 2 variances the applicant wanted to be assured these were granted prior to undertaking the effort to design the rest of the project. He noted that preliminary investigations were performed and the proposed development can be serviced by existing infrastructure.

Mr. Stewart advised that other development configurations were considered but each required a greater number of variances than the existing proposal.

Chairman Brower invited members of the Board and staff to question the witness.

Mr. Campbell noted that the common lot line between proposed lots 2.03 and 2.04 is only 101.55', therefore creating a lot depth variance for both lots for not meeting the minimum lot depth of 150'. Mr. Rubin advised the application is therefore amended to include both of these variances.

Mr. Rees asked if a 3 lot subdivision was considered that would not have variances. Mr. Stewart advised he did not consider this.

Mr. Barba inquired about lot sizes and noted that proposed lot 2.02 looks good and that the lot shapes and sizes presented are attractive.

Mr. Rubin noted that the lot sizes are consistent with the lots to the rear of the site.

Mr. Fishbone asked to whom the sewer easement runs. Mr. Stewart noted the exiting easement runs to the Borough.

Mr. Fishbone also noted that the area impacted by the depth variance for proposed lot 3.03 does not look like it can be built on.

Mr. Zichelli asked if there is adequate sight distance along Grandview Avenue from the proposed road, Mr. Stewart responded he parked on the site in the area of the new road and believes there will be adequate sight distance.

Mr. Brower noted that a proposed retaining wall on lot 2.03 will prohibit access to a section of this lot, making property maintenance difficult. Mr. Stewart responded that the final design will address this.

Mr. Dusinberre asked if there has been any communication with the County of Essex concerning this application. Mr. Stewart advised not yet.

Chairman Brower invited members of the public to question the witness.

Mr. Stephen Tilton of 23 Hamilton Drive West requested a copy of the site plan. Mr. Rubin provided him with a copy.

Mr. J. Michael Petry, R.A., P.E., P.P., 155 Passaic Avenue, Fairfield, New Jersey was presented as the next witness to be heard as a professional planner, engineer and architect. Mr. Petry was sworn in by Mr. Dusinberre. Mr. Petry provided a brief summary of his educational and professional history and noted he has previously been accepted by the Planning Board as a professional witness. Mr. Rubin requested he be accepted as a professional witness for this application. The Board agreed.

Mr. Petry testified that he designed the conceptual floor plans for the application and worked with Mr. Stewart on the site plan. He also has been engaged to provide planning testimony. He noted that the location of the cul-de-sac was explored and it was determined that the location as presented provides the best lot layout for the construction of reasonably sized homes. He also noted that although proposed lot 2.02 requires 2 variances, it is the easiest lot on which to design a house. He went on to briefly describe each proposed lot and conceptual house design.

Mr. Petry presented Exhibit A-1, an aerial photograph with lots and zoning, undated. Using the exhibit, Mr. Petry described the subject property and the proposed subdivision. He noted that all properties within 200' of the applicant's site are in the R-1 Zone and the proposed development is reflective of the neighborhood and returns the property to a residential use.

Mr. Petry also testified that the cul-de-sac will be more than 150' from the nearest cross streets, therefore meeting an RSIS requirement.

He further testified that each lot will meet the Borough lot size requirements and only the required lot size adjustment for steep slopes creates a lot size variance for lot 2.02. Mr. Petry testified that the property density, with steep slope adjustment is 4.5 lots and only 4 lots are requested. He further advised that despite the need for variances, lot 2.02 is the easiest lot to design a house for. Mr. Petry also testified that each proposed structure will conform to the bulk zoning standards for the R-1 Zone.

Mr. Petry testified that the average lot width and lot area of the 3 interior lots exceed the minimum zoning requirements. He also noted that proposed lot 2.02, the subject of an area variance due to steep slopes, has almost zero steep slopes on it.

Mr. Petry discussed the lot depth variance created by the common lot line between proposed lots 2.03 and 2.04. He noted this is caused by the irregular shape of the property and that the impacted areas of the two lots are outside of the building envelope.

Mr. Petry advised that the property was previously used for commercial use in a residential zone, the lot is irregularly shaped, contains several areas of manmade steep slopes and the density, even with steep slope adjustment permits 4.5 lots. The applicant seeks 4 lots with a cul-de-sac that will meet RSIS standards. The lots can accommodate single family homes appropriately sized for the neighborhood and the homes can be built without bulk requirement variances. Based upon these facts, Mr. Petry offered the opinion that the proposed development represents an appropriate population density that will be reflective of the neighborhood; this is a benefit under the Municipal Land Use Law (MLUL). The project also represents an appropriate location for single family use. Abutting lots are similar in size and the single family homes are similar in nature. The redevelopment of the property provides for a desirable visible environment especially when compared to the existing condition of the property. These are all benefits that support the application under the C(2) criteria.

Mr. Petry next evaluated the potential detriments of the application. The design adequately addresses steep slopes for both soil stabilization and stormwater management. The one lot (2.02) that is undersized due steep slopes has virtually no steep slopes on it. The inadequate width of proposed lot 2.02 is adequately balanced by its configuration. This lot is also located in the center of the subdivision and does not affect exiting lots in the area.

The lot depth variance for proposed lots 2.03 and 2.04 is caused by a line that abuts the most irregularly shaped section of the property and both lots can be adequately developed with reasonably sized homes. He offered the opinion that under the C(2) criteria, benefits of the application out way the detriments.

Mr. Petry further argued that a case can be made under the C(1) criteria due to the irregular shape of the parcel and that a good portion of the steep slopes are manmade, both conditions that are unique to the subject property.

He further opined that the application does not impair the integrity of the Borough zoning ordinance. The variances requested are internal to the development. The design provides for soil stability and adequate stormwater control. The application meets the negative criteria.

Chairman Brower invited members of the Board and staff to question the witness.

Mr. Campbell observed that the conceptual house on proposed lot 2.02 has a front facing garage, contrary to the R-1 Zoning standards. Mr. Petry acknowledged this and advised a correction will be made.

Mr. Barba asked about moving the conceptual home back on proposed lot 2.02 to meet the lot width requirement. Mr. Petry responded that lot width is measured at the front setback line, so moving the proposed house back could increase the lot width. He also said this would not be the best configuration for the lot.

The meeting was opened to the public to question Mr. Petry on his testimony.

Mr. Stephen Tilton of 23 Hamilton Drive West rose to be heard. Mr. Tilton asked a question concerning the configuration of proposed lot 2.04.

Mr. Dusinberre asked Mr. Petry to address the 2 waivers requested by the applicant. That is a waiver for submitting an Environmental Impact Statement (EIS) and a waiver from submission of a Tree Removal Plan.

Mr. Petry advised that a full Phase I environmental investigation was performed for the property and submitted. It is hoped this will satisfy the EIS requirement. Mr. Petry advised a Tree Removal Plan could be submitted at the time of final subdivision application.

Mr. Dusinberre asked Mr. Petry to point out and describe the long driveway on the property to the north of the site. Mr. Petry obliged.

Ms. Nathans asked if it is known how many soil and groundwater samples were taken for the Phase I study. Mr. Petry did not know.

Mr. Dusinberre asked if the applicant would accept a condition of approval that an expert be produced at the time of the final subdivision hearing to answer questions concerning the Phase I study. Mr. Rubin responded in the affirmative.

Mr. Barba noted the history of the Borough steep slope ordinance and does not believe it was meant for properties like the applicants.

Mr. Stephen Tilton of 23 Hamilton Drive West asked if there will be blasting. Mr. Petry responded he did not anticipate blasting will be required.

Mr. Rubin advised there were no further witnesses.

Chairman Brower opened the meeting for comments from the public.

Mr. Stephen Tilton of 23 Hamilton Drive West rose to be heard and was sworn in by Mr. Dusinberre. Mr. Tilton commended the applicant on the subdivision design. He did express concern with moving the sanitary sewer line and asked that consideration be given to the house design for lot 2.04. He also advised there are drainage issues in the area and asked that careful consideration be given when designing the drainage for the development.

No one else asked to be heard. Chairman Brower closed the public comments.

Mr. Rubin briefly summarized the application.

Several Board members expressed pleasure with the application and the improvement it can bring to the area.

Dr. Spinelli made a motion to approve the application for the following reasons:

1. All 4 proposed lots meet the R-1 Zone standard of 21,875 s.f.
2. The lot area variance requested for proposed lot 2.02 is only due to steep slopes.
3. Lot 2.02 is the easiest lot to build on and is the most desirable lot.
4. Lot 2.03 and 2.04 share a common lot line that creates a depth variance, but the areas affected are outside of the building envelopes for these lots.
5. Granting the application meets both the negative and positive criteria.
6. Granting the application is in keeping with good zoning and planning practices.
7. Granting the application will not present a hardship to the property, the property owner or the surrounding properties.
8. The application gives new life to a stagnant property.
9. The motion is for preliminary approval and does not include final soil erosion, tree removal, stormwater management or an environmental impact statement.

A second was made by Mr. Fishbone but with clarification that no variances are approved for the proposed houses.

Upon roll call:

AYES: Dr. Spinelli, Mr. Fishbone, Mayor Alessi, Mr. Campbell, Chairman Brower, Mr. Rees, Mr. Zichelli

### **CITIZENS TO BE HEARD**

Chairman Brower opened the meeting for citizens to be heard. There were no comments from the public.

### **ADJOURNMENT**

Chairman Brower requested a motion to adjourn at 9:20 pm. A motion was made by Ms. Nathans and seconded by Mr. Campbell. All members voted in the affirmative.



Frank Zichelli  
Planning Board Secretary