

**TOWNSHIP OF EVESHAM**

**Zoning Board**

**Minutes**

**6:30 pm**

**February 25, 2019**

**Municipal Building**

**Call to Order**

Chairman Parikh made the call to order at 6:38 pm

**Flag Salute**

**Statement of Conformance with Open Public Meetings Act**

Chairman Parikh made the statement of conformance with the Open Public Meeting Act and the Municipal Land Use Legislation

**Roll Call**

**Present:** Alperin, Davé, Lutner, Rodgers, Student, Wessner, Wilson, Thompson, Shah, Parikh

**Also Present:** Wieliczko, Loughney, Arcari, Fury-Bruder, Kinney, Boulton

**Absent:** Osno

**Continuation of Scheduled Matters**

**Meeting Minutes:**

January 28, 2018

Motion: Davé

Second: Thompson

Ayes: Davé, Lutner, Student, Wessner, Thompson, Rodgers

The meeting began with Board Member Student giving Regina Kinney, Administrative Officer, a beautiful farewell and best wishes for her retirement. He praised her commitment to the Board and the Township and all that she did for the many Boards before him. All the Board Members agreed and thanked her for all that she has done and wished her well.

**Resolutions**

ZB 19-05

Motion: Student

Second: Wessner

Ayes: Alperin, Davé, Lutner, Rodgers, Student, Wessner, Parikh

For Resolution ZB19-05, Board Solicitor advised that this Resolution only applies to the Zoning Board of Adjustment at the moment. It needs to be brought to the Planning Board for it to apply there as well. This Resolution will put an 11:00pm limit on the Zoning Board of Adjustment meetings with no new business started after 10:30pm

**Unfinished/New Business**

- 1. Tom Meisse ZB19-02 5-5-19**  
*35 Albany Road, Block 13.61, Lot 35, (MD Zone District)*  
*Applicant is proposing deck extension around pool as per Chapter 62-62. Must be a minimum of 15ft proposing 12 ½*

Witnesses sworn in:

- Tom and Jen Meisse, Homeowners

Board Solicitor:

- Applicant is seeking a variance for deck to join to an existing deck with an above ground pool; 15x23ft
- Existing deck and new deck will be 12 ½ft from north side yard property line where 15ft is required
- Applicant is seeking a bulk variance of 2 ½ft
- Condition of Approval will not alter any conditions on neighbor's property
- Agree as Condition of Approval that will not alter any drainage or cause negative impact on any neighboring property
- Extending deck to enhance the use of the pool and will not annoy anyone; will allow convenient access to the pool
- There is a shed that does not comply with Ordinances; however Applicant has agreed as a Condition of Approval that the shed will be moved so it will be 5ft from the property line

Board Comment:

- No comments

Public Comment:

- No comments

Board Solicitor Summary:

- Applicant is seeking a straightforward bulk variance request for an existing deck that would abut a new deck; new deck is going to be 12 ½ft from northern side yard where 15ft is required
- Request for bulk variance to allow an encroachment of 2 ½ft
- Applicant agrees as a Condition of Approval to move existing shed so it will be 5ft from the property line
- Applicant agrees as Condition of Approval it will not negatively alter the conditions of the neighboring properties or change grading

Motion to Approve ZB19-02

Motion: Alperin

Second: Wessner

Ayes: Alperin, Davé, Lutner, Rodgers, Student, Wessner, Parikh

**1. Franklin Gaskill ZB18-40 4-11-19**

*4 Rolling Pin Court, Block 35.11, Lot 35, (MD Zone District)*

*Applicant is proposing a 20'x42' in-ground pool. Side and rear yard setback of 8ft where 15ft is required per Chapter 62-62*

Witnesses sworn in:

- Frank Gaskill, Homeowner
- Robert Lang, Sr. Pool Designer, Swim Mor Pools

Board Solicitor Overview:

- Currently 6:52pm; notice was published and distributed to begin at 7:00pm, but will continue through that for purpose of expediency to get through and ask that the applicant remain afterwards in event that Public comes forth to comment
- Applicant agreed
- Seeking to install approximately 20x40 800 sq ft pool
- Concrete decking and filter pool system
- Seeking variances for pool and deck to be within 8ft of east rear yard property line and 8ft from south property line where 15ft is required
- Seeking due to shape of pool and where the house is situated on the lot
- Engineer review letter inquired as to ability to move the pool further to the east
- Mr. Gaskill added that for safety reasons and the windows are all on that side of the house so as to watch kids in the pool
- It is a cartridge filter system, no backwash to the street
- February 14, 2019 Review Letter from engineer; agree to all Conditions of Approval; will dispose of everything offsite including paver patio
- Applicant agrees that broken curbs etc. will be repaired at owners expense
- Applicant agrees to provide Township Engineer with calculations on drainage system and trench proposed
- Construction of infiltration trench will be acceptable to Township Engineer
- Grading will not cause surface water or overflow to neighboring properties
- Retaining wall of 1.5ft on northeast side of pool structure; will provide information to the Engineer and fix in a manner acceptable to the Engineer
- Swim Mor catch basins will take water over to infiltration trench
- Basins connected by perforated pipe 4 inch in diameter

William Loughney, Township Engineer Testimony:

- Review letter dated February 14, 2019
- Everything is acceptable; applicant agreed to everything

Board Solicitor:

- All neighbors have been notified within 200ft

Board Comment:

- Mr. Student inquired about the windows on the side of the property referred to in the Engineer's letter
- Mr. Gaskill advised that there are 2 windows on the other side but there is an addition that does not give enough visual to the pool area
- Mr. Student asked if the windows on patio to be removed were currently an egress entrance and exit
- Mr. Gaskill confirmed

Board Solicitor:

- The existing shed is in compliance; 5ft from the property line will be relocated
- Currently in place; Mr. Gaskill agreed as a Condition of Approval the shed will be 5ft from both property lines

Public Comment:

- No Comments

Board Solicitor:

- Applicant is seeking 2 bulk variances to install a 20x40 800 sq ft pool with concrete decking for a total surface area of 1460 sq ft
- Applicant has requested 2 bulk variances with regard to rear and side yard setback for 8ft instead of 15ft from east rear side and 8ft instead of 15ft from the south side property line
- Applicant detailed cartridge filter system; no backwash to any properties or street
- Applicant agreed to all Conditions of Approval noted in review letter
- Applicant agrees as Condition of Approval to move existing shed so it is 5ft from both side and rear yard property lines

Motion to Approve ZB18-40

Motion: Rodgers

Second: Alperin

Ayes: Alperin, Davé, Lutner, Rodgers, Wessner, Parikh

Nay: Student

Chairman Parikh requested a 5 minute break at 7:01pm. Meeting was called back to order at 7:13pm

Chairman Parikh

- Requested any Public Comment or objection on ZB18-40
- As no Public Comments, approved ZB18-40 and moved to next case

**3. Gerald, David & Estate of James Soboleski ZB18-37 4-16-19**

**Use Variance**

*465 N. Elmwood Road, Block 11.52, Lot 3, (LD Zone District)*

*Applicant is proposing a Use Variance (density) to allow the property to be developed with 42 SFD on 32.28 acres. Proposed density of 1.3 du/ac, where 1.0 du/ac is permitted.*

*Robert S. Baranowski, Attorney for Applicant*

- Exhibit A1 – Color Rendering of Variance Concept Plan, Dated 11/1/18
- Exhibit A2 – Color Rendering updated Density Exhibit Plan dated 10/18/15 prepared by Marathon Engineering; further updated to 11/16/18

Board Solicitor:

- Summary of procedural history of case
- Explained case at hand and the timeline for better understanding
- 56 homes were requested by the Applicant October 2015
- Denied by Board; landowners understood they could build 32 and application was denied
- June 2016, Soboleski filed a lawsuit to reverse the denial
- Arbitrary and capricious
- Subdivision Application for 56 homes
- Litigation at same time as Township Affordable Housing Obligation
- Dismiss without prejudice; authorize Board Chair to come back before the Board with a new application

- Requesting of Board, 42 square foot homes where 32 is permitted
- Court signed an order for a Conditional Settlement Agreement to meet the burden of proof as to why they should be granted 42 homes Density Use Variance
- Not application for preliminary and final subdivision approval
- That is what it will look like; this is about the number of properties approved and not what it will look like
- Component – initially they were going to put 42 homes there
- Board will make the determination
- As for the neighbors, this is a quasi-judicial procedure and questions or comments must be relevant to the case
- Must maintain decorum at all times and protect the integrity of the process
- No calling out; testimony will be heard after sworn in and signed in
- Burden of proof to warrant a density use variance be granted or denied
- Rules of order; 5 minutes per Board Member; no repetitive testimony out of respect to move the process along
- Density Use Variance; review letters; talk about the site plan when and if it develops
- Application is for a Density Use Variance
- Applicants agree as a Condition of Approval previously that any approval of the density use variance condition will be to come back before the Board to seek preliminary and final subdivision approval
- Proofs at end of night will be based on proofs and obligations as Zoning Board on a density use variance
- Mr. Lutner inquired if we have any written documents from the Applicant
- Board Solicitor advised that everyone should have the written application, rider (full description of application being sought), conditional settlement agreement (details history of case), a copy of consent order and informal site plan. In addition, all members have a copy of the updated variance plan, topography survey and updated traffic study
- 7 votes will be polled when necessary; 5 affirmative votes supermajority needed for density use variance

Robert Barinowski, Applicant Attorney:

- Prior application before the Board
- 56 lots (3 years ago) denied
- Decision appealed by Soboleski's at time of application
- Developer at the time has since been terminated
- Now under contract with Mipro Homes (Mike Procacci)
- Revised plan from 56 down to 42 lots
- Procacci can make a nice development with 42 lots
- Requesting a D5 Density Variance
- Stage at now is middle – Whispering Woods Hearing
- Density Variance Stage
- Would allow 10 additional lots on the grounds
- What would the layout look like in this proposed development
- Only in front of Zoning Board to determine if density proposed goes from 32 to 42 lots
- Originally LD zoning district

- 1990's zoned for LD (low density)
- Since 2014, wetlands letter received said could actually accommodate 42 lots as existing neighboring developments
- 1.3 proposed increase
- Review Letter received by Township Planner
- Coventry Square
- Increased density
- D5 Variance is more detrimental
- Demonstrate no more impact on neighborhood of 42 than 32 homes
- Township stands to benefit from additional 10 units
- Would generate increased development fee of 6% of equalized assessed value
- Increase of development fee on number of by right units; 1.5% of equalized assessed units
- Helping Township satisfy Affordable Housing requirements approved and entered into; already taken into account
- Subject to approval of Board of fully engineered subdivision plan
- Met with Village Green HOA
- All members of the public were free to ask questions
- Same with Reynards Run; met property managers to answer any questions
- Welcome comments and questions
- Focused on Density Variance; not subdivision application

Board Solicitor:

- Mr. Baranowski talked about the Density Variance; if denied tonight, owners can go back to court and reopen the case
- If granted, they will go forward with 42 proposed lots
- Up to 42 Residential lots; not guaranteed that 42 will work or fit
- Swore in witnesses
- Joe Mancini, Professional Planner, TriState Engineers
- Andrew Feranda, Professional Engineer, Shropshire
- Lance Landgraf, Professional Planner, L.B. Landgraf
- Michael Procacci, Builder/Owner, Mipro Homes

Joe Mancini, Professional Planner:

- Accepted as expert witness
- Exhibit A1; layout of lot sizes
- NW of intersection
- N. Elmwood and Geranium Drive, LD Zone
- South is MD Zone and MF housing
- Project proposes 42 single family lots and 3 Open Space Lots
- Wooded area to remain
- Farm area being preserved
- Building lots larger than what is required
- 15,000 square feet where 12,000 square feet is required
- Side entry garages; perimeter buffer easement
- 15 foot minimum; some are 20-30 feet easements that abut perimeter of site
- 150 foot north of Geranium limited amount of frontage

- Constrained where entrance should be
- Safe access point
- 50ft wide Right of Way; Cul de Sac
- Stormwater management consistent with drainage patterns
- Meet NJ DEP requirements
- Mr. Baranowski asked Mr. Mancini if he fully addressed all buffer and stormwater at time of approval
- Mr. Mancini confirmed

Andrew Feranda, Professional Engineer and Traffic Consultant:

- Accepted as expert witness
- December 22, 2016; provided Traffic Report
- Traffic model on 42 lots
- Count intersections of proposed site; am peak periods from 7-9am
- PM peak periods from 4-6pm (commuter peak)
- Extended due to schools in area at the highest hour
- 2pm-6pm extended to count all movements
- Left and right turns; record and look at volumes; use highest hour at morning and afternoon to model
- Left turn wait times
- Movements on Geranium Drive; delays in gap
- Determine time of each movement
- Grading System; A= very good (less than 10 seconds)
- B= good (10-15 seconds)
- C= fair (less than ½ minute)
- Left turn to Right graded as B
- Right turn to Left graded as A
- Modeled 2016 – 2019 site traffic
- Determined traffic movements in the future
- No changes after modeled to the service
- Through movements on N. Elmwood, no delay
- Analyze built traffic
- Project based on Institute of Traffic Engineers Trip Publication
- Reviews hundreds of trip generation
- Used residential portion based on proposed 42 units
- Get traffic expected to be generated from the site
- Peak hour/highest in am and in pm
- Total 39 trips expected
  1. 10 trips in and 29 trips out in am peak
- Total 48 total trips
  1. 30 trips in and 18 trips out in pm peak range (2-6pm)
- Adding traffic to the roadway modeled in and out turns again
- 150ft allows for enough distance between intersections; doesn't interfere with other driveway
- Geranium Drive level service = B
- Modeling doesn't change
- Driveway will operate at acceptable levels

- C delay roughly in 25 second range
- Acceptable level of service
- Volume on roadway very directional
- 60-70% of traffic is heading north
- 40% heading south
- 60-70% traffic in the pm is heading south and 40% north
- Allows traffic at lower volume making less critical movements
- Directional traffic allows gaps in roadway
- Density 42 units; 10 more than 32 permitted
- 32 homes = 28 trips in am and 34 trips in pm
- 39 minus 28 = 11 trips more by proposed site in the am
- 48 minus 34 = 14 trips difference in the pm
- Based on the numbers analyzed; permitted use shows absolutely no change in the level of service modeled
- 10 more units equals 1 more right turn in the am and 2 left turns into the site
- 6 more left turns leaving the site in the am and 1 more right turn leaving the site in the pm hour
- 14 more trips in the afternoon
- Mr. Baranowski confirmed that is 14 trips and 11 trips difference
- Impact on neighborhood is none; level of service remains the same
- By right definition – comparing 42 to 32 lots is no different
- Driveway location appropriately located within 170ft of frontage
- On outside of bend allows for appropriate amount of site distance
- Good site distance both directions
- Signage; speed limit warning sign westbound direction
- There is a concern about speeding on N. Elmwood
- Sign reads speed; notify drivers when exceeding the speed limit; good deterrent for speeders
- Mr. Parikh asked for clarification on level of service A, B and C and wanted to know why grading doesn't change when adding additional number of trips
- Left and right turn movements are graded and given a time delay
- Assigned a range to each of the movements
- More vehicles more delay per vehicles
- No impact on level of service
- Means going between 32 and 42 traffic intensity there would not be delays
- Mr. Student inquired if the survey was also done in 2015 and did traffic increase
- Yes and took into account the growth by percentage and added into
- Grow volume on roads “no built” traffic
- All additional development already baked into it
- One development was 50% and we assigned other 50%
- Mr. Student asked about the higher density, from 7-9am northbound higher % of traffic
- Mr. Feranda said yes and 70% would be making left turn queueing north turning
- 2 vehicles leaving the development
- Not concerned about Charlotte Court to Geranium because it is at acceptable levels
- 150ft separation

Lance Landgraf, Professional Planner:

- Accepted as expert witness
- Exhibit A2 presented
- 2015 and again in 2018 to justify the increase in density; density analysis on surrounding properties
- Cluster #1 (purple) larger area is Greenbrook Drive
- Greenbrook Drive density is 2.4 dwelling units per acre (Country Farms)
- Cluster #2 is Reynard Run is 8.3 dwelling units per acre (townhouses)
- Cluster #3 Crofton Chase Court is 1.1 DUA
- Cluster #4 Hibiscus Drive (green) is 2.5 DUA
- Across Elmwood is Cluster #5 1.6 unit per acre
- Light tan Cluster #6 is 2.9 DUA
- Cluster #7 .65 DUA (much less denser development)
- Behind Cluster #9 is Cluster #8 which matches our proposal is 1.3 DUA
- Cluster #9 north is .66 DUA
- Cluster #10 is 2.4 DUA
- Average is just over 2 DUA
- 1.3 DUA matches what we are proposing
- Center shows subject property 1.3 DUA
- Needs to be a 42 lot plan
- Increase number of trips didn't increase level of service
- Critical 32 to 42 didn't increase
- More cars yes, but doesn't change level of service
- No negative impact from permitted use of 32 to 42
- Country Square standards
- Set parameters
- Differentiating from permitted use; make sure there is no negative impact
- No negative impact, same level of service, meet criteria under the Country Square Standards
- Density is less than average in the area
- Well below 2.2
- Minimal density level is good fit; not as high not as low as .66
- Based on size of the property zoning designation
- Design of property is for larger lots
- Side entry garages very attractive
- Site can accommodate any issues from greater density
- Board Solicitor asked for clarification
- Can site accommodate greater density permitted by Ordinance
- Yes it can
- Traffic not negative
- Larger lot size not negative
- No impact to neighbors
- Residential mix
- Proposed increase serves purpose of the Master Plan
- Promotes character to the neighborhood
- Lot size is consistent or larger

- Provides balance of open space areas
- Requires 40% and 30% are provided
- Open space cannot be built on
- 10 units more would not create any significant impact
- C2 or standard use meeting requirements of air, light, open space
- Zoned for residential
- Sites large enough
- Streets large enough to handle additional traffic
- 6% affordable housing
- Negative criteria; only miss the mark on 1.3 dwelling units per acre
- Zoned for LD because thought it was zoned for wetlands
- Fits back into the Master Plan; allowable density
- Advanced purpose of Land Use Law
- No sub detriment to public good or zone

Board Comment:

- Mr. Alperin asked to explain the changes in the wetland delineation
- 2014 Marathon Engineering did the actual delineation
- Submitted plan for approval to NJ DEP
- Not environmentally restricted as originally thought
- Used old maps
- DEP geographic based solely on soil type
- Was reviewed and approved by DEP
- Mr. Wilson asked about the Open Space Requirement; 32.28 acres
- Requirement is a 40% total tract = 12.91 acres
- How much acreage is designated Open Space
- Just over 8.28 acres = 26%
- Mr. Student referred to the testimony of an increase of 30% will not negatively impact property
- Mr. Lindgraf answered yes, it will not negatively impact
- Mr. Student inquired about the large lot sizes to Mr. Wilson's point; no thought to reduce or decrease
- That is a Concept Plan; we'll be back to address the full subdivision; may not see larger lots
- Will adjust for additional Open Space at time of subdivision application
- Plan presented at time of subdivision then would be consistent with this plan
- Board Solicitor advised that if the application is approved Applicant would need to make requests for variances if they do not meet the 40% requirement
- If goes forward, will ask applicant to agree as a Condition of Approval to give good faith consideration to the recommendation of all of our Professionals on the review letters
- Mr. Parikh asked 32 vs 42 units – what is the open space % of 32 units, now at 26%
- Mr. Mancini advised that they haven't done a concept plan for 32 units so doesn't know the answer

- Mr. Alperin asked the Board Solicitor; if the variances requested today “up to 42 homes” was granted or approved or Board prefers 40%, can the developer still build on 42 sites
- Board Solicitor advised that the Board does not “want” anything; Board either approves or denies an application
- Does the Board have the right to restrict the number of sites
- Board Solicitor added Board has the right if a density use variance is granted
- If Board approves “up to 42 homes” tonight, the Applicant is not bound by that just because we granted the Density Variance
- Applicant hasn’t met the Burden of Proof on that issue
- Mr. Baranowski added that tonight’s meeting is a D5 Variance
- An Open Space variance if requested would be reviewed on its own merits
- Mr. Rodgers asked for an explanation on the COA payment due from the Applicant; an estimated price point
- Mr. Procacci explained the potential range of value of the proposed homes
- Up to \$620-\$640K with starting price around \$560-\$575K
- Build (3) 4,000 square foot homes
- Desirable with side entry garages
- Mr. Rodgers advised that this would be a significant amount of tax revenue
- Mr. Procacci agreed that 10 homes at 6% and 32 homes subject to 1.5%
- Equalized assessed value; farm assessed tax value
- 40 lots at Hayverhill with only 3 left to sell; presently building
- 20 lots at the Sanctuary; presently building

Leah Fury-Bruder, Township Planner:

- Review letter dated 12-13-18
- History has been provided regarding how we arrived here tonight
- Evolved over the years
- From zoning perspective, LD (low density) zoning district
- Exhibit A2 in midst of residential area that has evolved
- Master Plan study here and Sharp Road
- West side was recommended to remain as it was
- Not in sewer service area
- 10,000 ft view shown as substantially wetlands
- Planning standpoint was to leave in LD zone
- 56 lots was too much for the site as originally proposed
- With more density developed single family homes around it; had to preserve areas
- 1.3 units per acre is better accommodated on the site
- Suggested to the Applicant at that time; application was denied and they went to court
- Not to put affordable housing on the site but work out the plan
- Mandatory development fee for Trust fund; support and develop
- \$600K house = more money
- \$9,000K payment at 1.5% per unit
- Density increase gets assessed at 6%; \$36,000 per unit
- 32 units = \$9,000
- 10 units = \$36,000

- \$638K to Trust fund
- Land use planning standpoint; worked with the Applicant to come back to the Zoning Board
- Took into account small open space lot; beautiful landscaping
- Focus on non-compliance with open space
- 12,000 sq ft lots tradeoff
- Downside 100ft lot arrived at the concept plan
- Deeper than would be required
- 200ft deep instead of 120ft deep
- Open area still there; just depends on whether private or public
- Wet basin maybe with a fountain will look nice
- Recommendations if approved; design and engineering requests to determine if approved
- Mr. Student asked about Lot 4 that was mentioned; new ownership, has anything happened since
- 180ft frontage triangular lot; applicant tried to acquire to move driveway off Geranium Drive
- Mr. Baranowski addressed the status and advised the owner will not sell and has no interest or reason to sell
- Property will be dwarfed and will be out of luck in the future
- Prior application made in 2015; attempted to purchase and was addressed back then

William Loughney, Township Engineer Testimony:

- Review letter dated 12-12-18
- Majority of comments for future review
- Thoroughly covered Open Space
- Filled in wetlands area; putting home next to it
- Stability of soil
- Higher ground
- Further design needs to consider basements
- Applicant agreed as Condition of Approval to give good faith consideration to the recommendations of the Board's Professional as contained in the review letters regarding subdivision plans
- Applicant replied yes

Board Comment:

- No comments

Stacey Arcari, Township Traffic Engineer:

- Review letter dated 12-17-18
- Applicant is requesting a 30ft cartway
- Residential street in accordance with standards
- Can be tweaked; driving subdivision process
- Parking for 42 single family homes appears significant
- Parking provided with garages and driveways
- Shouldn't be problem accommodating residents
- Significant parking available

- Postal service requirements; boxes instead of individual post boxes
- Driveway based on the curve into the development
- Best possible location on Geranium; adequate site distance
- Vertical curve no issue
- Applicant will provide documentation and professional site distance will not pose a problem
- Proposed vs permitted trips
- 1 trip every 5-6 minutes in the am
- 1 additional trip every 4-5 minutes in the pm
- Stormwater comments are deferred to Township Engineer
- Good faith consideration to all recommendations and comments

Board Comment:

- Mr. Lutner inquired about acquiring Lot 4 not being a possibility; is there a way to relocate Beagle Club trail
- Mr. Baranowski advised this was not a public road or mapped road and it was not a feasible alternative for the Applicant
- Mr. Lutner expressed remaining concerned about the flow of traffic and 150ft
- Mr. Baranowski advised of the enforcement of the speed limit and signs posted; trying to address
- Preemptively want to be good neighbors and trying to address the speed issue

Public Comment:

Alan Lyons, 9 Hibiscus sworn in

- Pre Board of Trustees of Village Greens
- Represent residents of Village Greens
- Expressed thanks to Mr. Baranowski; very cordial meeting
- Concerns about amount of traffic and not the homes being built
- Disagree with the Traffic Engineer's numbers
- Past couple years; new development on N. Elmwood
- Was an old country road
- Church Road to the south; 2 lane highway
- 35 mile/hour speed limit
- Widens out
- People go faster
- Geranium Drive curves and drops down
- Cars speed up
- Residents on Geranium are afraid to make left turn
- Speed of traffic at bend in road
- Afraid on Hibiscus; turn just above
- Can't see cars coming
- Making left requires me to speed up in order to make the turn
- Traffic pattern has increased significantly
- Backed up from traffic light
- Have to wait for someone to let me out
- 32 or 42 being built here with 2-3 garages is increase
- Concerned about Village Green and above Soboleski is Beagle Club

- If that is ever to sell, how many houses will be put there
- Traffic increase is a huge concern

Robert Bankard, 25 Lavender Court, sworn in

- 10 additional homes; 2 cars each is 20 more cars
- 2 people working to maintain the home
- Geranium curves and rises
- Site line is limited
- No factor built in for weather
- Snow and rain out of Geranium
- Sitting on Geranium traffic is coming out of 3 different places
- Residents are old
- Trustee of Village Green
- This is a risk to my people here and another 300 that aren't here this evening
- Real concern
- Don't be tainted by additional revenue stream they may bring

Gene Freedman, 10 Sunflower Court, sworn in

- Board of Trustees
- Spent whole evening discussing 32-42 home variance
- All planners and engineers testimony was heard
- We are asking the wrong question
- Board found reason to deny 56 homes
- Instead of 56; going to 42
- Cutting back 14 homes
- Why does 42 obviate the denied concerns initially
- Board Solicitor advised that this is a quasi-judicial hearing, Board may not respond
- Understood, however suggest that Board consider objections to the 56 homes and whether they are still relevant to the 42 homes

Sam Rizzo, 136 Crown Prince, sworn in

- Just moved in 2 months ago
- Dead center to border where construction will take place
- Considering density now; will it impede on our personal property
- Better understanding for buffer; natural fence separating or natural vegetation
- Want to make sure it's handled properly and not an eyesore
- Spread out; concerned about density
- Mr. Baranowski responded that all issues will be addressed when public is finished giving testimony

Barbara Natello, 3 Geranium Drive, sworn in

- New resident of Village Green and NJ since September
- Attracted to it
- Village Green established over 14 years ago; firmly established neighborhood
- Would have driven right by if I knew all of this development was going up
- Saved Green Land signs are more attractive

- Preserve it in its natural state; why doesn't the Township purchase it
- Strongly oppose this variance
- Traffic study; did you consider a future need for another bus stop or parents driving to and from all other locations with kids
- Is population density in immediate area improved status
- How will the increase in taxes help the Village Green community
- Will the increase in taxes decrease the Village Green taxes due to increased money going to the Township

Fran Hahn, 5 Jonquil Place, sworn in

- Hope Zoning Board will take to heart what everyone has said
- Information from Traffic Consultants
- Studies and Reality are 2 different things
- Those who live off Elmwood know that the study doesn't represent what is lived every day
- At traffic light, pattern is very difficult; even before the speed sign
- Can't make a left on Geranium
- People behind don't care
- Major thoroughfare morning and night
- Don't begrudge new developers
- Township should try to think of a way to use that land; especially environmentally
- We can work together
- Lived here 13 years now
- Still can be pleasant place to live here if limit to 32 and not 42
- Easier to get on and off Elmwood
- Become such a challenge to try taking other routes to get in and out of our own development
- Not fair to residents
- Hope variance is not approved for 42 homes

Greg Busch, 111 Foxhill Drive, sworn in

- Good points about studies
- How long has speed sign been there; haven't noticed
- Aside from financial; what is benefit provided here
- Board Solicitor advised there is nothing philosophical about it; necessary proofs, set forth in Land Use Law; we don't get to approve or deny; Burdens of Proof in a quasi-judicial hearing
- Ok then it's the same schedule of thought; philosophical is a poor choice of words
- Heard negatives
- Open space
- Traffic report, average "C"
- What is the benefit of 42 vs 32
- Didn't hear enough to justify it

John O'Donnel, 115 Foxhill Drive, sworn in

- Density; 32 to 42
- A lot more land

- Very rainy season
- Test should be done now on the monsoon we've had
- Retest regarding drainage and floods
- Expensive things happen during rainy season; additional children
- Schooling; closed Evans
- Crowding
- Wildlife is also effected

Steve Sobocinski, 3 Chateau Circle, sworn in

- Member of Environmental Commission since 1997
- This site is next to the Beagle Club
- Have to keep percentage as high as possible
- Property owner has right to build
- Greenway here; Cheyennes Farm thru Country Farms
- Snip off 10 homes and make it smaller to preserve Open Space and Recreation Plan

Dom Erickson, 123 Cottonwood Drive, sworn in

- Not a lawyer but afraid of precedent it may set if Beagle Club sells
- Drainpipe Elmwood back to creek
- 2 ½ feet deep; 6 feet wide during heavy rain
- Already experiencing erosion
- Township came out to look at it
- Property is deteriorating
- This development is higher than ours
- Surface run off will erode property line along the pipe
- Problem is getting worse
- Drains clog up
- Can't see on the Exhibit
- Somebody needs to responsible for the runoff

Robert Bankard, 25 Lavender Court, already sworn in

- Ask experts with respect to run off and drains toward N. Elmwood to address
- Village Green must maintain waterways
- Runs into wetlands
- Are intentions to run a line into wetlands behind Village Green

Alan Lyons, 9 Hibiscus, already sworn in

- Invited Police and Fire to talk to the community about time it takes to get equipment over to Village Green side of township
- Board Solicitor advised that testimony and hearsay from Fire Marshal cannot be put on record

Jeff Baron, Fact Witness, sworn in

- Represent Mipro Homes and Mr. Procacci
- No professional testimony tonight; factual perspective
- 1985-2005 Solicitor for the Zoning Board
- A lot of wetlands on this property

- Can't run sewer or water through wetlands; always intended to
- Sewer was approved by County and State
- Population brought greater densities; builders
- Vision the Township had at the time
- Sharp Road was just a street; another vision of the Township
- There would be density there
- Open Space corner of Sharp and Evesboro
- Subsequently sold as appropriate place for development
- Way of the world
- Once you live somewhere you want to protect it
- Not a profit mongering developer
- Always planned if sewer and water were available
- Historic perspective; much lesser density here

Board Solicitor:

- Board must assess his credibility based on years of involvement; do not have to accept testimony

Applicant Attorney:

- Asked Mr. Mancini to address questions and comments from the public
- Buffer/Ordinance; 15ft buffer around entire site intended
- Sensitive to residents to the south
- Forgoing shade trees for denser evergreen for year round buffering
- Rear yard setback is 20ft
- Concept Plan is 40ft from back of home to property line with buffering between lots
- Required to meet Ordinance and NJ DEP
- Reducing rate of runoff etc. mimic existing drainage characteristics; percentage is less
- Anticipate site would diminish amount of runoff
- Very little towards Elmwood
- Not proposing any stormpipes under Elmwood or on other side
- Mr. Bankard asked about a drainage basin
- Property rises; water coming down slope toward Village Green
- Board Solicitor advised that there was testimony already provided; doesn't have to agree but was already offered
- Traffic impacts did not address daily basis; work with peak hours because they represent maximum hours per day
- 7:30-8:30am highest volume
- 4-6pm in the afternoon; chose 2-6pm but peak occurred 5-6pm
- Most conservative way to analyze
- Modeling takes peak and adds traffic in
- Other hours of day operate significantly better than at peak
- Used roadways many times for this analysis
- Traffic can be significant at certain times of the day
- Not peaking in both directions
- So directional in north than to the south
- Averages delay
- Same methods and procedures used before every Board; accepted in the industry

- 11 additional trips in the am hour; 14 additional trips in the pm hour
- One vehicle additional over 6 minutes added to the traffic
- School bus traffic; worked out with school board; will accommodate for trucks, school buses and emergency vehicles

Lance Landgraf, Professional Planner:

- Responded to concern about positive reasons not provided for 32 vs 42
- Application D5 variance is before the Board
- Proofs required have been met
- Outlining how we met our burden; typical framework
- Promotes and satisfies positive criteria

Applicant Attorney Summary:

- Heard testimony and overview
- Applicant addressed all density criteria
- 3-4 years history; 56 units originally
- After further review; dropped to 42
- Took into consideration; more suitable than previous proposal
- No impacts
- Additional affordable housing funds
- Everything needed to satisfy criteria
- Within statutory power to grant

Board Comment:

- Mr. Student asked Board Solicitor whether purchasing Open Space was option
- Board Solicitor advised that it was quasi-judicial and not germane to Zoning Board to make decision
- Beagle Club somewhat relevant
- School capacity; enrollment not before the Zoning Board or proofs relied upon to grant or deny
- Condition of Approval to provide fully engineered acceptable plans
- Intention to build “up to 42” but not more than
- Mr. Alperin asked Township Planner if the Township Master Plan was revised since Mr. Baron’s testimony
- LD was affirmed/determined for this general area then
- Mr. Alperin asked why when it was revised last, was Village Green there with higher densities but the map remained as LD; in planning process why wasn’t density revised
- Mr. Alperin asked what is density for single home properties on Sharp Road
- Township Planner advised 2 units per acre are permitted
- Came out to less with basins; 1.5 per acre
- Winding Brook (wetlands around) is 2.3 units per acre
- Industrial zoning along Sharp historically
- Zoning created for residential usage
- Elmwood had moratorium on sewer
- Lifted in late 1990’s; zoning opened up and development took place
- 2011– last looked at area
- LD not applied to west side

- Desire to preserve Beagle Club; preserved Open Space
- Balance competing demands

Board Solicitor Summary:

- Application for D5 Density Variance up to 42 homes where 32 are permitted
- Applicant provided testimony of expert witnesses and 1 factual witness in support of density variance
- Represented site will accommodate any issues of 42 homes as opposed to 32 as permitted
- No detriment
- Addressed positive and negative criteria and special reasons in support of this application
- Agreed to Conditions of Approval in good faith consideration the recommendations of all Board Professionals with regard to density concept variance plan; marked as Exhibit A1
- Applicant also agreed as Condition of Approval that the approval for density variance at 42 is subject to preliminary and final subdivision approval with fully engineered plans acceptable to the Professionals and the Board
- Board members assess credibility of witnesses
- Not based on philosophies; not on current conditions of road
- Permitted to have 32 single family homes
- Proposing 10 additional homes
- Recommend Board articulate basis for vote

Motion to Approve or Deny D5 Variance ZB18-37

Motion: Wessner

Second: Rodgers (applicant and professionals have met their burden of proof)

Ayes: Alperin, Davé, Lutner, Rodgers, Student, Wessner, Parikh

- Mr. Alperin pointed out that he agreed with Mr. Rodgers that the Applicant met the requirements, but the proof is in the site review, urging our Professional Staff to take into serious consideration the need for Open Space when the discussions take place with the Applicant
- Mr. Lutner commented that the reality is the density that is being requested is not going to change what is occurring on N. Elmwood Road. If the Applicant had come to the Township with a plan for 32 homes, I don't believe we would be having this conversation. We have had the ability to go through this application and consider the impact this development would have on the community and the existing developments there are much higher density developments. When the initial application was brought in, it was for 56 homes and the Applicant decided to go to court. I would expect that if we deny it again, we would end up in court.

**Resolutions**

ZB 18-39

Motion: Davé

Second: Rodgers

Ayes: Davé, Lutner, Rodgers, Shah

**Communications/Organization**

Next Meeting: March 18, 2019

**Meeting adjourned at 10:31 pm**