

**MINUTES OF THE VERONA  
PLANNING BOARD MEETING**

**Tuesday, October 22, 2024**

**PRESENT:**

Chairperson Pearson	Mr. Lilley
Mayor Tamburro	Ms. Parker
Mr. O’Sullivan	Mr. DeOld
Vice Chair Freschi	Mr. Mascera, Planning Board Attorney
Mr. Hyndman	Ms. Miesch, Board Secretary

Absent from the meeting: Mr. Camuti; Councilman Roman; Mr. Katzeff; Mr. Ten Kate, Engineer.

**CALL TO ORDER** - The meeting was called to order at 7:35 PM by Chairperson Pearson.

**PLEDGE OF ALLEGIANCE**

**OPEN PUBLIC MEETINGS Act Statement** is read by Kathleen Miesch, Board Secretary

**APPROVAL OF MINUTES:**

Chair Pearson asks for a motion to approve minutes from the Regular meeting held on July 25, 2024. Mayor Tamburro moves the minutes as presented; seconded by Mr. DeOld. Chair Pearson asks for all in favor; all commissioners in attendance voted in favor, no abstentions or no votes. **Minutes Pass.**

**CONSISTENCY DETERMINATION**

Ordinance 2024-35; Amending §150-Zoning, Article 25: Verona Stormwater Controls and Requirements of the Township Code. Updated to Stormwater Ordinance – determine that it is not inconsistent with the Master Plan. An entire section on solids and floatables that was inadvertently left out. It was added back in and as a result many section numbers and interior section references had to be tweaked to match up with the section’s insertion; definitions added; points of clarification; Chair Pearson asks Board if there are any questions or comments; Mr. Hyndman asks if these are model ordinances. Chair Pearson responds yes and explains the minor corrections. Chair Pearson makes a motion that the amendments to §150-Zoning, Article 25: Verona Stormwater Controls and Requirements are not inconsistent with the Master Plan; seconded by Mr. Freschi. Chair Pearson asks for a roll call vote:

<b><u>Votes in the Affirmative</u></b>	<b><u>Absent Members</u></b>	<b><u>Abstain</u></b>
Chairperson Pearson	Mr. Camuti;	
Mayor Tamburro	Councilman Roman;	
Mr. O’Sullivan	Mr. Katzeff	
Vice Chair Freschi		
Mr. Hyndman		
Mr. Lilley		
Ms. Parker		
Mr. DeOld		
Ms. Parker		

**Motion Passes.** Chair Pearson asks for a memo be sent to the Clerk, Jennifer Kiernan so that it can be placed on the Council’s November 12<sup>th</sup> 2024 agenda for second reading.

**PUBLIC PARTICIPATION:** Chair Pearson opens the public participation portion of the meeting. Seeing none, the Chair closes public portion.

## RESOLUTIONS

### SUBCOMMITTEE UPDATES

#### MASTER PLAN SUBCOMMITTEE

Chair Pearson states that the Verona Affordable Housing numbers for the new round is 173. The Township hired DMR to handle the Affordable Housing element of the Master Plan which would be standard for the Planning Board to oversee. The bid was for \$63,000. The Chair advises that the Master Plan Subcommittee needs to meet with the Planners ASAP. Deputy Manager O'Sullivan offered that the administration has their first meeting with DMS on October 23<sup>rd</sup> 2024. The scheduling of the subcommittee meeting will be discussed and coordinated.

Chair adds that the Planning Board was very instrumental in drafting the Master Plan with H2M and would like DMR to understand the subcommittee's involvement.

Deputy Manager O'Sullivan states that DMR is aware of all involvement and that the meeting is with both DMR and H2M.

Chair asks for Mr. Hyndman's input. Mr. Hyndman as a discussion point are we going with the DCA number, as the last time the data that DMR used was inaccurate, there is an argument that Verona should calculate their own number based on the DCA formula. The Chair offers that the Construction Official worked with someone in his office to clean up the information. Chair discusses the inaccuracies and that the inaccurate data was used by DMR. Deputy Manager O'Sullivan states that the strategy discussed at this meeting is in-line with what is intended to be discussed and pursued.

Deputy Manager O'Sullivan & Mayor Tamburro offer that there was an RFP that went out as part of the professional services RFP. Mayor Tamburro continues that DMR has been renewed via the annual RFP as the Affordable Housing Planners during that last few years. The Resolution that was passed for the \$63,000. Was for the contract on the Affordable Housing work but were previously chosen as the Affordable Housing Planners.

Chair Pearson asks that Deputy Manager O'Sullivan email her, Kathleen Miesch and Caitlin Kester after the meeting with the Planners to set up a Master Plan Subcommittee meeting inclusive of San Chavan from H2M.

### NEW BUSINESS

#### **Case 2024-01: 176 Grove Avenue, Block 1403, Lot 90, R-60 Zoning District**

Applicant proposes to subdivide the property located at: 176 Grove Avenue, Block 1403, Lot 90 into two lots. The existing multiple family dwelling will be retained and potentially the subdivided lot will be developed with a new single family dwelling.

**Ms. Julie Parker recuses herself as she is a property owner within 200 feet of 176 Grove Avenue, Block 1403, Lot 90 and leaves the dais.**

Alan G. Trembulak, Esq., Montclair Real Estate Law Group, 363 Bloomfield Avenue, Montclair, NJ appearing on behalf of the applicants John and Michelle Lamkin.

Mr. Trembulak describes the property: 42,000 square feet of lot area, 100 feet wide; over 400 feet deep;

- Proposing to subdivide the property into two lots – the proposed new lot would be a flag lot with 20 feet of frontage on Grove Avenue leading to a larger space in the rear of the lot which could potentially have a single family dwelling;
- If approved the two new lots would be 16300 square feet and 25457 square feet;
- Applied for site plan approval and two variances:
  - lot width variance due to the flag lot: code requires a 60 foot lot width at the street line and proposed is 20 feet;
  - Impervious lot coverage – allowed 40% and the front lot would have 41% coverage. If the Board is not comfortable with the 41%, the applicants can make some revisions to bring that into compliance by removing a shed.

- Mr. Trembulak offers details of the adjoining property, 170 Grove Avenue, are very similarly sized property with three principle structures.
- The applicant, John Lamkin, 14 Frawnee Road, Short Hills, NJ is sworn in by Board Attorney Mascera.
- Mr. Trembulak has Mr. Lamkin testify to
  - the ownership of the property;
  - existing dwelling is a two family dwelling
  - the Lamkin do not live at the property and is an investment property
  - no definitive plan on new home or of he would sell;
  - tree removal – one would need to be removed
    - Chair Pearson asks for details on the tree removal; 20 to 30 feet from the garage
  - explained the previous removal was done through township code and would go through the proper procedure
- Chair Pearson asks if the applicant is aware that the tree'd section in rear of the property is a Rank 3 for endangered species in the State of NJ, area in the rear of the property. Mr. Trembulak states that not one of those trees would be removed.
- Chair Pearson asks if the applicant has somewhat of a plan for a house. Mr. Lamkin states he is looking at the house that is being constructed next door and that a house could be constructed the same size with no tree removal.
- Mr. Trembulak verifies for Mr. Hyndman that the applicant is only at the Board for a subdivision and no trees and no new dwelling – correct.
- Deputy Mayor O'Sullivan asks about the hashed out area of the property on the survey. Board Attorney Mascera identifies the area as gore. A gore is an area that through the years got left off of a deed and it is not definitive as to who the owner of that area is. Chair Pearson offers that the gore exists where the endangered species lives. Board Attorney adds that the applicant is using the lesser, conservative property line and does not include the gore.
- Chair Pearson adds for the record that the property at 170 Grove Avenue has had three dwellings on it for possibly 100 years; Mr. Trembulak states that his point was to show that what they are asking for is not out of character for the neighborhood.
- Chair asks if the Board has any questions for Mr. Lamkin – seeing none.

Mr. Trembulak brings up the applicant's Planner:

- Mr. Matthew Flynn, of John McDonough Associates, 101 Gibraltar Drive, Suite 1A, Morris Plains. NJ – Sworn in by Board Attorney Mascera
- Mr. Matthew Flynn provides his educational background – Board accepts Mr. Flynn's qualifications a Professional Planner;

**Exhibit A1** – Planning Exhibits for Jonathan Lamkin - 2 page exhibit showing property and surrounding area;

- Planner reviews the property size and proposed two lots:
  - Sheet 1 – explains the existing lots; neighboring lots; refers to 170 Grove Ave lot for comparison of the intensity of the land use; refers to lot 87 to show light, air and open space.
  - Sheet 2 – drone picture of lot and adjoining lot; reviews tree to be removed;
- Reviews the statutory criteria for the variances; MLUL rules and regulations of Zoning; refers to the adjoining lots;
- Flag Lots: three criteria Boards use to deny flag lots are
  - Access – 20 feet proposed enough room
  - Privacy – huge lot – eventually building a dwelling will not impact privacy

- Character – not
- Not requesting a use or density variances
- Master Plan- not to disrupt neighborhood pattern
- Other flag lots in town;
- Given the property itself, surrounding area, generous lot size; no negative impact to the Zone,

Questions from the Board for Planner:

- Mayor Tamburro asks about the access plan should a dwelling be built on the rear portion of the flag lot...would the proposed driveway on the “pole” of the flag lot or shared driveway.
- Planner states there are no plans on paper but there would not be a shared driveway; Mayor Tamburro continues that there would be several trees that would need to remove for that driveway to happen and tree removal is a concern. Emergency services access is also a concern – Firetruck, a ladder truck, could not access a dwelling in the proposed rear lot.
- Mr. Trembulak respectfully disagrees. They would make the driveway as wide as needed.
- Mayor Tamburro states it would take the entire width which would not be permitted by zoning code. Zoning Officer states that a driveway would need to be 1 foot off of the property line.
- Planner Flynn - addresses the tree removal that he is confident that there is adequate space for replacement if trees need to be removed; suggests an emergency access easement with the existing lot.
- Mayor Tamburro has a concern with approving the subdivision without knowing what is proposed as far as a dwelling;
- Board Attorney Mascera states that there can be conditions i.e. easement, etc.
- Mr. Trembulak adds that they would offer a condition of approval by the Fire Department.
- Chair Pearson discuss the length of proposed driveway at 216 feet. Driveways are normally 10 feet wide; 2100 square feet of new impervious coverage just for driveway; while there are no plans for a dwelling the applicants have referred several times to a new bigger house;
- Stormwater Management would be triggered just by the driveway; will most likely be a major development – cannot put any stormwater mitigation in the rear of the property – what has been mapped out by DEP.
- Mr. Trembulak – states that the Engineer mentioned nothing about Stormwater but they would have to comply with any regulations, stormwater, and reviewed and approved. The Planner adds that if the property winds up to be not developable that is the property owner’s risk. He continues to state that the driveway would only take up to 5% of the impervious where 40% is allowable – Chair interjects that Stormwater has nothing to do with that and asks that Chapter 150-25 7 and 9. You will need to mitigate with green infrastructure.
- Mr. Hyndman asks if you could eliminate the width variance by having a private right of way;
- Mr. Trembulak and Mr. Hyndman discuss;
- Mr. Lilley asks Board Attorney if it is appropriate to ask where everything would go i.e. where the trees are, where the driveway would go ... Board Attorney you could ask but they do not have an obligation.
- Chair Pearson asks if you have an idea in which direction the house would face ... Mr. Lamkin states it would face toward Grove Avenue. Mr. Trembulak adds as the one on 170 Grove does. Chair Pearson states that it does not mean it sets precedence.
- Planner Flynn adds that it is the distinction between precedence and compatibility.
- Chair asks if the Board has any further questions.
- Vice Chair Freschi asks for confirmation that the grade of the property slopes from the rear towards the street – correct. Mitigation and sewer lines would need to go along the driveway.
- Chair asks about electricity, tension wires – plans to go underground, etc.

- Mr. Trembulak – states that there are no definitive plans for a house.
- Planner Flynn states that the application is for a flag lot and not the dwelling. Chair Pearson adds that it is an argument against flag lots. Mr. Trembulak states there is no plans for a dwelling as of yet.
- Chair Pearson and Mr. Trembulak discuss the application versus the details of a dwelling;
- Chair asks if the Board has any further questions for the Planner. Mr. Hyndman revisits the driveway as a rite of way. Chair Pearson provides detail on what would need to happen stormwater management wise.
- Five minute recess.
- Chair asks if the Board has any further questions for the Planner – seeing none; does any member of the public have a question for the Planner – seeing none.
- Chair asks if the public has any questions for the property owner. Mr. Lamkin comes back to the table and is reminded he is still under oath;
- Chair Pearson were there any discussions with the property owners to merge any property – no.
- Chair Pearson confirms that the front house is a two family dwelling; yes. Mr. Trembulak states that any proposed dwelling would be a single family dwelling;
- Chair asks if the public has any questions for the property owner. Seeing none;
- Mr. Trembulak will hold final statement until public statements are complete;
- **Public Statement:**
- **Markian Selecky** – property owner of 170 Grove Avenue. States that he had discussions with Mr. Lamkin about dead trees. He and his wife owned the property since early 2000s. It is a legally pre-existing, non-conforming property. Noting that the rear of the property is the only open space in that area of town and connects to the West Essex rail trail. Area is zoned as a single family residential requiring 60 foot frontage. The property already has a multi-family non-conforming house. If the subdivision is granted the front unit should be converted back to a single family unit. The front house on 170 Grove had to be converted back to a single family upon his purchase in 2000. Pre-existing non-conforming shows the burden on the applicant. Believe there is basis and case law that a subdivision is a significant modification of pre-existing use and would require a variance to continue. The proposed subdivision with a request of 41% impervious coverable should be carefully evaluated especially with adding an additional dwelling unit. Not understanding why stormwater management would not be required when looking at the subdivision. He had to do reduce impervious coverage with their recent work to stay within the regulatory requirement. Speaks of 20 foot curb cut and must be submitted to the County. Believes the subdivision should be configured to create two lots that comply with current regulations. NJDEP shows rear of property to be a rank 3, state threatened species of the wood turtle. Request the applicant do an assessment in the spring when wood turtles are not hibernating. Bringing back in the only open space in that area of town and connects to the West Essex rail trail, the hill top and beyond – approach in holistic ways Keeping with town’s Master Plan and goals ... continues to discuss open space and conservation; requests applicant seeks input from the Environmental Commission before approving.
- Chair Pearson asks if anyone else from the public has a comment or statement – seeing none.
- Board Attorney Mascera states that a jurisdictional issue has arisen. Reducing the size of a lot with a non-conforming 2 family house where it is not permitted. The Board of Adjustment would have jurisdiction per New Jersey Zoning & Land Use 24-14.1 Razberry’s, Inc. v Kingwood Tp.
- Mr. Trembulak – explored with client removing the non-conformity – not going to do that. They will probably revise the plans.
- Board Attorney Mascera – puts on record that the application initially came in as a one family.
- Mr. Trembulak – will file a new application.

**ADJOURNMENT:**

- Mayor Tamburro makes a motion to adjourn; Chair Pearson seconds.
- There was a unanimous agreement to adjourn the meeting at 9:26 PM.

Respectfully submitted,



**Kathleen Miesch**  
Verona Township  
Secretary – Planning Board

*PLEASE NOTE: Meeting minutes are a summation of the hearing. If you are interested in a verbatim transcript from this or any proceeding, please contact the Board Office at 973-857-4773*