

**Bradley Beach Planning Board
Regular Meeting Minutes
Thursday, October 26, 2017 at 6:30 PM**

Meeting is called to order by Chairman Psiuk. The Board and the public recite the Pledge of Allegiance.

Open public meeting announcement is made by the Board Secretary.

Roll Call:

Present: William Psiuk, Rafael Albanir, Norman Goldfarb, Marc Rosenthal, Douglas Jung, Meredith DeMarco, Paul Williams

Absent: John Weber, George Waterman, Jane DeNoble, and Alan Gubitosi

Also Present: Mark Steinberg, Esq. – Attorney to the Board, Gerald Freda, PE, PP, CME – Board Engineer, and Jennifer Beahm, PP, AICP – Board Planner.

Approval of Meeting Minutes:

Regular Meeting Minutes of August 24, 2017 – All in Favor

Chair Psiuk indicates before we move onto the next minutes there was a question in reference to a standard driveway apron detail and I just wanted to clarify there is an ordinance that specifies that and its Section 450-41 A2 and A6 which I could pass on to the Board Members. I have asked our Engineer Jerry Freda to come up with a drawing of it which I just gave to everyone. So basically it spells it out in the ordinance it is a 10 foot maximum at the driveway and 12 foot at the curb cut. It has to have a 6" x 6" #10 x 10 wire mesh and there is a detail. I was thinking about Main Street as far as some of the businesses and the heavy trucks that go on those particular driveways and we have another one that it states as per Ordinance requirements except for the fact that there they could have a driveway or apron anywhere from 12 feet to 24 feet but everything else stays the same. This was given to Zoning Officer for his records and for distribution as necessary.

Paul Williams makes a comment with regard to the R/T zone discussion it says Jennifer Beahm discusses townhouses and condos as there are none currently in the zone and it will not impact anyone. There are townhouses to clarify.

Mr. Jung states there are some townhouses on Beach Avenue – Jennifer Beahm indicates she will double check, but she believes they are condos – Block 24, Lot 6 will double check. Townhouses and condos are not used interchangeable.

Regular Meeting Minutes of September 28, 2017 – All in Favor

Resolutions Memorialized:

Frank A. Morris – Minor Subdivision – 200 Bradley Boulevard – Block 77, Lot 5. A discussion takes place with regard to the measurement of the lot with regard to lot lines and depth, area, etc. Chair Psiuk votes no for memorialization and indicates his objection to the application and his belief a variance is needed. Jennifer Beahm describes definitions of lot depth. A discussion takes place and the Board does not agree to memorialize; however, the remainder of the Board present and eligible votes to memorialize and motion passes.

Applications Under Consideration: NONE.

Superior Court Matter:

Patruno v. Bradley Beach Planning Board (217 McCabe Avenue)

Mark Steinberg, Esq. discusses the current litigation. Judge Thornton indicated she would remand the application back to the Board for Amended Resolution with additional findings of fact; although there has been no order officially issued, it could have been dropped by the change in law clerks. This is being conducted in anticipation of said order. These findings of fact will be placed in a new Resolution of Denial and memorialized at a later meeting which can then be presented to the Judge.

Signed certifications received from Chair Psiuk, Ms. DeMarco, and Mr. Williams, everyone else present was at the original hearings.

Mark Steinberg discusses c.1. and c.2. variances and their differences.

The current proposal and prior denial are discussed. The list of variances per the August 15, 2017 Leon S. Avakian Memo are reviewed which contains 14 variances being requested.

These are all really c.2. variances because although the land is a narrow piece, you can develop it in accordance with other ordinance standards and other permitted uses in that zone. You cannot develop for townhouses. Some of these variances would go away if the number of units or the size of the units were decreased and that is something that the applicant chose not to do.

Since the original application was made, the Borough has adopted an ordinance which may eliminate 2 of the variances which were required at the time of application. Including the front yard setback and maybe the rear yard setback by pushing the building up by using the average vs. the 25 foot front setback rule.

Chair Psiuk – So technically we do not put into consideration average front yard? Mark Steinberg – indicates that if the only 2 variances holding up this application were the front and rear yard setback then I would say ok there is some case law in 2016 that sort of may say that

we should consider this under changed circumstances but I don't think those were the major variances, they were not the major variances for the denial in his opinion. Number of units, size of the units, and the inability to work the off-street parking underneath and the engineering were probably the main criteria for the denial as I heard it from you.

The Leon S. Avakian memo is reviewed in detail item by item in reverse order and discussed.

Norman Goldfarb – opinion that you are not providing anything here if you make them move this parking because it does not work - parking has to work – otherwise pie in the sky kind of thing – it has got to work – if the turn around the width does not work it is not going to work - what are they offering the Borough?...nothing it doesn't work. It does not meet the c.2.

Chair Psiuk – There is no benefit to no landscaping. Jennifer Beahm indicates she is sure something could be placed in the 5 foot area.

Chair Psiuk – No benefit to not have an ADA spot – Benefit of granting variance does not outweigh the detriment.

Minimum distance between drive and property line discussed with regard to conflicts of people pulling in and out at the same time. Another impact on neighboring homes and safety issue.

Reduced copies of August 10, 2016 plan are distributed to the Board to review.

Driveway width variance discussed as well as total number of units.

Is new building a trade off? – It is indicated No – this is a detriment to the town and the neighborhood with the amount of relief that is being requested.

It is indicated that even with the front yard and rear yard setback issue it wouldn't make a difference because the other issues would still be there.

Jennifer Beahm questions whether the relief discussed would fall into the c.2. category which is a self-created circumstance versus a c.1. which is a hardship issue. It is indicated they are all self-created.

Mark Steinberg, Esq. indicates the applicant's position is you permit townhouses in that zone so because of the narrowness or shape of the property they were c.1.'s, I totally disagree with that which may be an issue for the Judge to decide but you can't if you have a certain size piece of property and you are permitted to use it in certain ways you could get something on there and not need all of these variances and maybe no variances. You can't say well I want to put the biggest thing permitted under the zone on this property and therefore I need c.1.'s

I think that we have found and I have submitted our determination to the judge that the majority of these if not all of them are c.2. variances and the Board has to decide whether or not the

benefits outweigh the detriments and what you are telling us that basically in its total stating the width, the size, the problems its creating that you don't feel there is a benefit.

We had requested during the course of the meeting that the units be downsized and try to meet some of the variances and at that point it was said "no" and it was said that all of these variances were self-inflicted because of the size of the building and number of units. The number of units would make a whole lot go away.

Mark Steinberg, Esq. will amend the resolution which reflects the discussions that have taken place and reasons put forth with regard to the c.2. criteria.

Martin Arbus, Esq. – Attorney for the Applicant – present but cannot speak.

Mark Steinberg, Esq. – explains no additional or new testimony can be provided; this is just for the Board to expand on what has already been decided and memorialized by this Board and determine the c.1. and c.2 criteria.

Mr. Arbus asks for Resolution to be memorialized November 9th. It is indicated it may not be ready for November 9th and may take place at our December meeting.

****BOARD TAKES A RECESS – Roll Call is taken and all members previously present remain****

Chair Psiuk questions Mr. Steinberg if there is an issue since our Reorganization – the Planner has been hired by Leon S. Avakian so is there a conflict of interest since the Engineer and Planner are from the same company? Meredith DeMarco said she asked at her training class and they indicated it is not a conflict.

Mark Steinberg, Esq. indicates he will look into it, but it is not an unusual circumstance.

The Mayor and Council have asked for bits and pieces as we review the proposed changes including: #1 – Elimination of the R-T Residential Transition Zone, #2 – Curb Cuts, #3 – Lot Size, and #4 – Garage Apartments for their next meeting.

Chair Psiuk indicates with the garage apartments, we have stated there would be no action – one of the Council Members indicated to maybe consider allowing on 75 x 100 lots but no longer on 50 x 100 lots as we had discussed – Chair Psiuk indicated the Board says no.

Jennifer Beahm will write up for next meeting of 11/14/17 with regard to these 4 items.

Chair Psiuk indicates he received an email from Board Members who are absent regarding FAR & Graduated Housing Plan and would like to honor their request to move these discussion items to November 9th meeting so they may participate in discussion.

It is agreed that the Master Plan Discussion Items in Ms. Beahm's Memo dated August 15, 2017 originally scheduled for discussion tonight be carried to our next meeting of November 9, 2017.

Jen would prefer the entire complement of the Board and agrees.

The next Council meeting is actually November 21st

Lauren Egbert – Questions the increase in minimum lot size – it is indicated it was requested by Councilman Bonnell to consider and the Board said no.

Norman Goldfarb corrects Mr. Psiuk that it was Mr. Bonnell's request not "THEY"

F.A.R. is explained by Ms. Beahm to the public.

Lauren Egbert – requests that some of the relief that has been granted be reviewed so we can revise our ordinances to eliminate some of these applicants from needing a variance.

Henry - 209 Third Avenue questioned whether or not it is ironic that we are discussing eliminating the 50 x 100 lot with a cottage and then next there is the condo unit with the 14 variances that would be surely over building the property so he thanks the Board for standing up for original decisions on turning that down.

WITH NO FURTHER BUSINESS BEFORE THE BOARD A MOTION TO ADJOURN WAS OFFERED BY CHAIR PSIUK, MOVED AND SECONDED BY NORMAN GOLDFARB, ALL IN FAVOR. MEETING CLOSED AT 7:54 PM.

NEXT SCHEDULED MEETING WILL BE A REGULAR MEETING ON THURSDAY, NOVEMBER 9, 2017 AT 6:30 PM HERE IN THE MUNICIPAL COMPLEX MEETING ROOM.

Minutes submitted by Kristie Armour, Board Secretary