

Call to Order:

The meeting was called to order at 7:00 p.m. by Chairman Salvadori who read the following statement: ‘Notice of this meeting was given as required by the Open Public Meetings Act in the Annual Notice of Meetings on January 19, 2019. In addition, separate notice for this evening’s public hearings was provided in writing and published in the newspaper. Be advised, no new item of business will be started after 10:30 p.m. and the meeting shall terminate no later than 11:00 p.m.’.

The Board saluted the flag.

Roll call: Present – Ms. Fox, Mr. Fritz, Mr. Kozak, Mr. McLaughlin, Mr. Rybicki, Mr. Sebastian, Mr. Salvadori. Absent – Mr. Cossaboon, (excused), Mr. Mercado, (excused). Also present – Mr. Coe, Solicitor, Mr. Kernan, Planner, Mr. Sander, Engineer, Mr. O’Reilly, Council Liaison, Mrs. Farrell, Secretary, Mrs. Orbaczewski, Clerk Transcriber.

Memorialization of Resolutions:

1. #35-19 – App. #19-25 – Kurt & Danielle Casalunovo – Side Yard Variance Approved

Motion by Mr. McLaughlin, seconded by Ms. Fox to adopt resolution #35-19. Roll call vote: Ayes – Mr. McLaughlin, Ms. Fox, Mr. Fritz, Mr. Kozak, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

2. #36-19 – App. #19-26 – Bruce Stewart – Use Variance Approved

Motion by Mr. Kozak, seconded by Mr. Fritz to adopt resolution #36-19. Roll call vote: Ayes – Mr. Kozak, Mr. Fritz, Ms. Fox, Mr. McLaughlin, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

Extension Request:

1. #465-SP – Redgil, LLC – Final Major Site Plan

The applicant is requesting a second one-year extension on his final major site plan approval for the construction of 336 apartment units located behind the existing Barclay Glen development on Berlin Cross Keys Road, also known as Block 101, Lots 2 & 53.

Present – David Thatcher, applicant’s attorney, Jeff Petrongolo, applicant.

Extension Request: (continued)

1. #465-SP – Redgil, LLC (continued)

Mr. Coe stated that the applicant is before the Board to request his second one-year extension. He was granted his first extension in December 2018. Mr. Thatcher introduced himself as the applicant's attorney. He concurred that his client is requesting his second one-year extension as the law allows for three one-year extensions. The reason for the extension request is that the applicant is still looking for a buyer to develop the site but under the current market conditions they have been unable to find a buyer. Mr. Kozak asked what is meant by the market conditions. Mr. Thatcher replied for this type of housing, apartment units, the market conditions are not favorable due to the build up of other apartment complexes in the area as well as incentives in other townships that make it more conducive to develop in those towns. They did have a prospective buyer when they originally received approvals but they have backed out.

Motion by Mr. McLaughlin, seconded by Mr. Fritz to grant the second one-year extension request which will be valid until December 2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Fritz, Ms. Fox, Mr. Sebastian, Mr. Kozak, Mr. Rybicki, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

Public Hearings:

1. #19-23 – Yuankai Yang – Use, Lot Area, Front Yard, and Rear Yard Variances

Present – Yuankai Yang, applicant, Ryan Onyx, applicant's translator.

The applicant is requesting use and bulk variances in order be permitted to locate a 12' x 32' mobile home on her existing vacant lot located at 312 Crystal Drive, also known as Block 603, Lot 12 in the R2 Zoning District.

Mr. Onyx and Ms. Yang were sworn in by Mr. Coe. Mr. Onyx stated that Ms. Yang is before the Board for permission to locate her single wide mobile home at 312 Crystal Lake Drive. Ms. Yang had received an approval from the Township last year but there were some issues with the septic location. Mr. Salvadori asked Mrs. Farrell if the application can be deemed complete. Mrs. Farrell replied that it can be deemed complete. Motion by Mr. McLaughlin, seconded by Mr. Fritz to deem application #19-23 complete. Voice vote; all ayes, motion passed.

Mr. Kozak asked if the applicant already contacted the Gloucester County Health Department. Ms. Yang replied she did get approval from them last year.

Public Hearings: (continued)

1. #19-23 – Yuankai Yang (continued)

Mr. Coe stated that there was a single wide mobile home located on this property previously and that mobile home was removed. Ms. Yang stated that she had to remove the mobile home because of the septic system. Mrs. Farrell explained that the Township previously owned the property through foreclosure. There was a mobile home on the property at that time and it was removed. Ms. Yang purchased the property at a Township land sale in 2016 with the intention of locating her mobile home on that property.

Mr. Kernan reviewed his report for the Board. He stated that in addition to the use, the applicant is also seeking front and rear yard setback variances. He stated that in the R-2 Zone, mobile home parks are conditionally permitted but single mobile homes are not permitted and as such a use variance is required. Also, in the R-2 Zone with septic, there is a one-acre requirement for a single-family home; this property does not meet that requirement and as such, a lot area variance is also required. The applicant is proposing a twenty-three-foot front yard setback where sixty feet is required and a twenty-one and twenty-seven-foot rear yard setback where seventy-five feet is required. Mr. Kernan commented on the fact that the applicant is installing a new septic design to meet the State standards and that this property previously contained a mobile home so he did not have any concern with the requested variances. Mr. Coe inquired as to the size of the previous mobile home and if the sizes are comparable. Mr. Kernan replied he did not know the size of the mobile home that was removed. Mr. Fritz stated it was a standard size mobile home but the one proposed seems to be smaller. Mrs. Farrell stated that the applicant does have Gloucester County Health Department approval as well as a lot grading waiver from the Township engineer.

Mr. Coe asked what hardship would be placed on the applicant if the Board denied the requested use variance. Mr. Onyx explained the question to Ms. Yang. Ms. Yang testified that she has been without a home for two years since she purchased the property due to all the issues that have come up. Mr. Coe asked if the reason she purchased the property was for her to personally live in the mobile home. Ms. Yang replied that she will live in the mobile home.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Coe reviewed the variances for the Board. The applicant requires a use variance to allow her single-wide mobile home 12' x 32', as well as lot area, front yard, and rear yard setback variances as stated. The applicant must obtain all outside agency approvals and any necessary permits required. Motion by Mr. McLaughlin, seconded by Mr. Fritz to approved the variances as stated. Roll call vote: Ayes – Mr. McLaughlin, Mr. Fritz, Ms. Fox, Mr. Sebastian, Mr. Kozak, Mr. Rybicki, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC – Use Variance

The applicant is seeking a density (d)5 variance in order construct a residential cluster development consisting of 16 single-family lots and one open space/stormwater management lot. The property is located on Blue Bell Road between The Arbours, section one development and the Lafayette Estates development, and is also known as Block 110.0301, Lot 21 in the RG-PR Zoning District.

Present – Rick Hoff, applicant’s attorney, Richard Clemson, applicant’s engineer, Leah Furey Bruder, applicant’s planner.

Mr. Coe announced that the application is before the Board on an order of remand from the Superior Court of New Jersey. The application was before the Board in August of 2018, the applicant was denied at that time for the density variance. The applicant commenced an action in Superior Court against the municipality and the Board. That matter was pending in Superior Court and ultimately the Superior Court issued an order remanding it back to the Board for a completely new hearing due to a failure of the Township’s recording device to properly record the proceedings and produce a verbatim record. This is a completely new hearing with new evidence and is not bound by any prior presentation.

Mr. Hoff introduced himself as the applicant’s attorney. He agreed with Mr. Coe as to how the matter is back before the Board. He stated that the application is for a density variance only. The zoning allows for cluster development but only if you can provide a yield of twenty units. The applicant has approximately 8.5 acres; if he had 8.8 acres, they would not need the density variance. But because they do not have the extra point three acres, they technically do not meet the requirements under a cluster development. The application is proposing sixteen lots. The concept plan that is shown is the same concept plan from August 2018. Mr. Hoff stated that they are not at the point of engineering the subdivision, so the proposal is for no more than sixteen lots; however, once they get to engineering, it could turn out that they lose a lot, but they will not increase the number above sixteen.

Mr. Hoff explained that a density variance is not a typical use variance. With a density variance, the applicant does not have to show that the property is particularly suited for the use because this property is zoned for residential use. Under the base zoning the applicant would be entitled to construct ten lots. What the Board has to determine is if the site is sufficient to accommodate the increased density. In addition, will the effect of constructing sixteen lots be any different than constructing ten lots. He stated that this parcel is not open space and it will be developed and was intended to be developed and they believe it should be developed similarly to the development that surrounds it.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

The best example of what surrounds it is Lafayette Estates to the south, and they took advantage of the very same clustering provision that this applicant is seeking. Lafayette Estates has nineteen lots, not twenty, and they needed a similar variance to the one the applicant is seeking. They actually received it from the Planning Board because that Board did not view it as a density variance. He did not understand the reason for that but they received approval from the Planning Board as opposed to the Zoning Board. This applicant believes he should be entitled to the same relief granted to Lafayette Estates.

Mr. Salvadori asked Mrs. Farrell if the application can be deemed complete. She replied it can be deemed complete. Motion by Mr. McLaughlin, seconded by Mr. Sebastian to deem application #18-07 complete. Voice vote; all ayes, motion passed. Mr. Coe stated he wanted to advise the Board on the legal standard. When a Zoning Board considers an application for this type of density variance, it is tested against a more relaxed standard. What that means is that an applicant that is seeking this type of variance does not need to show that the site is particularly suited for more intensive development. The applicant must show that the site will accommodate the problems associated with a greater density than what is permitted by the ordinance.

Mr. Clemson was sworn in by Mr. Coe. He testified to his credentials as a licensed professional engineer. The Board accepted Mr. Clemson as an expert in his field. The first exhibit was displayed for the Board which depicted the proposed concept of the development and was marked as Exhibit A-1. There was some commentary from the public present and Mr. Coe asked them to please cease from calling out or they would have to leave the room. Mr. Clemson stated the applicant is proposing a residential single-family development consisting of sixteen residential lots and one open space lot in the Regional Growth-Planned Residential Zone, on the easterly side of Blue Bell Road. The property is approximately 290 feet wide that extends in an east to west direction and is sandwiched between two existing residential developments, Lafayette Estates to the south and The Arbours, section one, to the north. Mr. Clemson displayed Exhibit A-2 that more clearly depicted the surrounding uses in relation to their property. He stated that all the development that has been developed around their site has been developed based on the cluster design. Exhibit A-4 was displayed which was an aerial photograph depicting the area out to Corkery Lane, Blue Bell Road, and the Black Horse Pike. All of the residential development depicted was all developed using the cluster standard with typical lot sizes of 10,000 square feet. The applicant is proposing to develop the property with the same cluster design as shown in the surrounding area which makes them consistent with all the other residential development around them.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

He pointed out that Lafayette Estates and The Arbours have higher densities than what they are proposing. The applicant would have a density of 1.86 units per acre; Lafayette Estates has a density of 2.19 units per acre and The Arbours, section one, has a density of 2.3 units per acre. Mr. Hoff commented that they have applied the cluster requirements in the design of the concept and stated they are just shy of the acreage that permits them to apply the cluster provisions. Mr. Clemson agreed. With regard to the bulk requirements, the applicant is proposing a twenty-five-foot front yard setback where forty feet is required. Mr. Clemson stated that the setback they are requesting is a typical front yard setback for a 10,000 square foot lot. One of the benefits that is achieved with the requested setback is that they can move the units closer to the street which provides more of a rear yard and more distance to the existing residential units to the north and south. All of the other bulk requirements are met with the concept plan shown.

A waiver will be required for the open space as with the cluster provisions, they need to set aside twenty-five percent of the gross acreage as open space. As presented on the plan, they show an open space lot that is 1.8 acres along with a buffer along Blue Bell Road of seventy-five feet which adds another half-acre. The total open space shown is 2.3 acres and they are required to provide 2.15 acres. They would be in excess except for the fact that the open space lot is a separate lot and the open space proposed along Blue Bell Road is to be set aside as a conservation easement that is part of the two individual residential lots that back up to Blue Bell Road. In this way the homeowners would be responsible for that area, which would be deed restricted, and ownership of the open space will not be an issue. The other open space/stormwater management lot is proposed to be dedicated to the Township.

The access to the site will be off of Tamarind Place and more specifically Mulberry Lane, which are located in the Arbours, section one, subdivision. Mulberry Lane is a stub road that is already existing because at the time the Arbours was approved and constructed, the connection to this property was anticipated. The width of Mulberry Lane will be extended into the proposed development. The proposed cartway inside the development will comply with RSIS standards. Mr. Clemson stated that the connections to public utilities, water and sewer, are already installed within Mulberry Lane and ready to be extended into this site. With regard to the stormwater and drainage, Mr. Clemson testified that the property naturally drains in an easterly direction from Blue Bell Road to the east. The proposed stormwater management basin is anticipated to be a combination infiltration and detention system at the extreme easterly end of the property. The stormwater management system will have to comply with the New Jersey stormwater management regulations as well as the regulations established by the Pinelands. Under the State regulations, they have to not only control, but reduce the stormwater runoff from the property by certain percentages based on the two, ten, and hundred-year storms.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

With regard to traffic impacts from the proposed sixteen homes, Mr. Clemson stated that there is an insignificant amount of trip traffic but based on industry standards, a single-family home averages about nine trips, and the sixteen proposed will generate an average of 144 trips per day. If the project is developed based on conventional zoning with ten lots and not the cluster zoning with sixteen lots, the number of trips a day will be reduced by fifty-four which is not a significant number and will not have a negative impact on the area. Parking inside this development will be provided with a two-car garage and driveway combination which will allow for three and half parking spaces and the requirement is to allow for two and half spaces. Parking will also be permitted on the street since a thirty-foot wide cartway is being proposed.

The site will be cleared no matter if they develop ten lots or sixteen lots on the property. Under the conventional zoning the minimum lot size is 27,600 square feet and there aren't any lots in the surrounding area that are that size. There are hundreds of homes all meeting the cluster standard of 10,000 square feet or even smaller. The applicant's proposed lots are slightly larger than the 10,000 square foot requirement. Mr. Hoff commented that the application before the Board is bifurcated; they are only seeking the density variance; they still have to engineer the site and provide a subdivision plan if the density variance is approved. Mr. Clemson stated that there is nothing in the concept of the site that would give him pause to say that the site could not be developed as proposed. Mr. Kozak asked how the water runoff is getting to the basin. Mr. Clemson stated that the storm sewer system has not been designed yet but there will be easements between proposed Lots 21.11 and 21.12 as well as an easement for access to the basin for maintenance. Mr. Kozak asked if the applicant is able to purchase an additional piece of property so they can comply with the 8.8 acres they need for the cluster provision. Mr. Hoff replied that there isn't any available property they can add to their lot.

Ms. Leah Furey-Bruder was sworn in by Mr. Coe. Ms. Furey-Bruder testified as to her credentials as a licensed professional planner. The Board accepted Ms. Furey-Bruder as an expert in her field. Mr. Hoff asked Ms. Furey-Bruder if she had an opportunity to review the positive criteria that would be served by granting the variance. Ms. Furey-Bruder replied that she did. She stated that this application is consistent with development to the north, south, and east; the west side contains property that is zoned for agriculture. Per the Pinelands, the permitted density in the regional growth areas range from two to six homes per acre with public sewer. These regional growth areas are designated for development and the zone allows for densities ranging from 1.25 units per acre to 2.25 units per acre; with increased densities requiring the purchase of Pineland Development Credits. PDC's are a tool the Pinelands uses to encourage additional development in the regional growth areas.

Public Hearings:(continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

The 2.25 density allowance would increase the number of units permitted in this site to nineteen units but since the proposal does not meet the required twenty units under the cluster provision, they would fall under the conventional development standard. As shown on Exhibit A-2, the proposal is consistent with the surrounding development and with the intent of the Township's Regional Growth Zoning District. The applicant must show the positive and negative criteria; however, they do not have to show the site is particularly suited because the use is already permitted. They must show the 8.595-acre tract can accommodate the sixteen units where 8.89 is required by the ordinance. They must also demonstrate that there will not be a significant detriment to the surrounding area that a conforming residential development would not have.

Since the development will function as an extension of the adjacent site, The Arbours, the intent of the twenty-unit standard will be met. The stub street of Mulberry Lane was constructed with the Arbours development and in such a way because development of this tract was anticipated and the continuation of that street was clearly intended and if it hadn't been for the economic downturn in 2007, the tract would have likely been developed already. The character of the area will be better preserved with the requested variance than it would at the conventional lot size standards. Ms. Furey-Bruder reviewed the positive criteria standards that is met by the proposal in the Municipal Land Use Law. She concluded that this proposed development provides an appropriate permitted use, in a suitable location, at an intensity and character consistent with the surrounding area. It provides an efficient layout and infill design of the site. It is also consistent with the Pinelands Comprehensive Management Plan. It also meets several goals and objectives listed in the Township's Master Plan where compatible residential development is encouraged in or adjacent to areas already utilized as such. The Township also allows density bonuses with the use of Pinelands Development Credits.

As to the negative criteria, Mr. Furey-Bruder stated that there will be no substantial detriment to the public good resulting from this proposal. The site is able to accommodate the proposed number of units as it will function as part of the adjacent neighborhood. There are surrounding property owners that want the property to remain in its current undeveloped condition, but the Board must consider the bigger picture. The Township has a plan for areas that are to remain undeveloped and rural in nature, areas that are targeted for preservation, and areas that are meant to be developed. The positive impacts are such that any perceived negative impacts are negligible. Stormwater will be managed and buffers preserved to the greatest extent possible. The proposal does not impair the intent or purpose of the Master Plan or zoning code in any way. In unique circumstances, zoning variances are required and appropriate to enable development that makes sense as this tract of land was always intended to be developed and to be part of that overall neighborhood.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

Mr. Kozak asked if LaFayette Estates has the same amount of land as the proposed site. Mr. Clemson replied that it's pretty much the same within a tenth or two of an acre. Mr. Kernan reviewed Ms. Pellegrini's report for the Board. He stated that the comments in the report talk about the variances testified to by Ms. Furey-Bruder and Mr. Clemson. He stated that in his opinion, the applicant is worthy of receiving the density variance in this situation. The three tenths of an acre that they are shy from meeting the cluster provision is negligible and he recalled that some years ago this site was proposed to have more units than what is proposed. It also showed the cul-de-sac much closer to Blue Bell Road and not much buffer. With regard to the open space requirement, if the applicant was able to take credit for the proposed seventy-five-foot buffer along Blue Bell Road, they would be over the required open space area. He stated that the applicant has provided proofs and evidence as to why the density variance should be granted. Mr. Kernan commented that it was his understanding that this property was purchased many years ago as part of the overall Arbours development which came in as a large planned residential development with a mix of uses. He stated that if this property had been included with the overall submission, the density would have probably conformed. He felt that the proposal does fit the intent of the zoning code and the Master Plan for the site in that zone.

Mr. Kernan commented on the bifurcation of the application. He stated that if the density variance along with the open space and front yard setback variances are approved, the applicant must come back with an engineered plan that would include lighting, drainage, landscaping, etc. Those plans will then be reviewed by the Board's planner and engineer. With regard to the front yard setback variance being requested, he felt that having more room in the rear yard is a better plan. Mr. Hoff confirmed that the variances the applicant is requesting are the ones Mr. Kernan stated. Mr. Kozak commented that if the site cannot accommodate the development because it's determined to be too wet or they can't manage the drainage, then they wouldn't be able to develop the site at all. Mr. Kernan agreed and stated that if the applicant cannot meet the New Jersey water standards, then they cannot develop the site. Mr. Sander stated that he will reserve his comments, if the variances are approved, for the subdivision review.

Motion passed to open the hearing to the public.

1. Merrill Pavlow, 1101 Lafayette Street, was sworn in by Mr. Coe. Ms. Pavlow stated her concern with the property being wet as her basement has flooded several times. She also commented that the developer or applicant contacted her originally about having a meeting at her home with the neighbors. She also spoke about a fire road and it being a private road listed in her deed. She and other neighbors take care of the fire road. She stated her disappointment that there was no record of the previous meeting. Mr. Coe replied that the court requires a verbatim record in a recording or transcript and unfortunately there isn't one.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

Ms. Pavlow also stated that her husband spoke to someone from the NJDEP who described where the wetlands are on the subject property. She was not in favor of the development. Mr. Sebastian commented that the development of the site will allow for access in case of an emergency between the properties. He also commented on Ms. Pavlow's statement about the runoff of water from this site onto their properties and stated that if the site is developed, it would probably alleviate the water runoff because they have to keep the runoff on their property. Mr. Kernan agreed with Mr. Sebastian's statement. He also stated that the applicant will have to map the wetlands and get approvals from the Pinelands and the State before coming back with their subdivision plan, if the variance is granted.

2. Denise Ciavardone, 1109 Lafayette Street, was sworn in by Mr. Coe. Ms. Ciavardone, stated that her deed indicates she has wetlands on her property and after it rains or there is a little bit of snow, the water behind her house is atrocious. She has spent over forty thousand dollars having her basement redone due to the flooding. She stated she did not want to see another house from her backyard as she can already see the houses on Tamarind. When she moved into her house fifteen years ago, she was assured the subject property was wetlands and could not be built on. She stated that Mr. Bowman has called her home and left messages. She also spoke about the fire road being included in her deed and didn't understand how they are getting around that issue. Mr. Salvadori asked where Ms. Ciavardone's property is in relation to the existing basin. She replied her property is the third house in from Blue Bell Road.

The Board took a brief recess.

3. Michelle Hudak, 1105 Lafayette Street, was sworn in by Mr. Coe. Ms. Hudak stated she is the second property in from Blue Bell Road. She commented that Mr. Bowman reached out to her after the last hearing. He wanted to meet with the neighbors concerning his proposal and asked to speak with Ms. Pavlow. The Township advised them not to speak to the applicant. She stated her concern with regard to the size of the proposed homes and the resale of her home. Mr. Kozak asked Ms. Pavlow if she spoke to the Mayor's office this year. Ms. Pavlow stated that after the last meeting, she was directed to the zoning office and the Mayor's office. She spoke with someone in the Mayor's office who said he was aware of the matter and that she would get a return call from Rosemary and was advised not to speak with Mr. Bowman anymore. Mr. Kozak asked if it was this year that she spoke with someone in the Mayor's office. Ms. Pavlow replied it was this year. Ms. Haduk also commented that Mr. Bowman stated that if they wouldn't agree to his proposal for eight houses, he would increase the number to sixteen and build them right in their backyards.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

4. Bruce Prichard, 1132 Tamarind Place, was sworn in by Mr. Coe. Mr. Prichard expressed his concern with drainage and stated his basement has flooded three times. He lives by the retention basin and it floods. He stated he walks on the subject property and it is always wet. He also expressed his concern with the wildlife that lives in the woods and stated he has seen several dead deer on that property and he had a dead deer on his property, as well. Mr. Prichard stated he was also told that the property in question was designated as wetlands.

5. Donald Krsnak, 1125 Lafayette Street, was sworn in by Mr. Coe. Mr. Krsnak stated that they will lose the buffer between the properties and he was also told by neighbors, real estate agents, and Township officials, that the subject property was wetlands and would not be developed. He commented on the resale value of their homes dropping if this development is built. Mr. Krsnak stated that the retention basin near his house is always wet and that he walks in the subject property and it is very wet. He commented on the number of houses already for sale in the Township. Mr. Rybicki asked Mr. Krsnak if he has any issues with water in his basement. Mr. Krsnak stated he does not have any issues with water in his basement. His property is the seventh house off of Blue Bell and his property sits higher up due to the slope of the ground.

6. Dee McClave, 1128 Tamarind Place, was sworn in by Mr. Coe. She commented on the fact that her development was finished in 2002 and the developer had plenty of time to build this site since then. Her basement has flooded two times and she does still get water in her basement. She commented on being a real estate agent and the fact that there are many homes in the town for sale or in foreclosure. She expressed her concern with the price point of the proposed homes in relation to the size and the size of their homes, and her taxes going up. She stated this proposed development is a bad idea and it will create a lot of issues. Mr. Coe had to address a member of the public about speaking out again and warned her if she interrupted the meeting again, she will be removed from the meeting. Mr. Kozak asked Ms. McClave if she agreed that if the taxes do go up it is because her property value will go up. He stated the only way for the taxes to go up is for the value of the property to increase. Ms. McClave agreed but stated her taxes will also increase which will probably create more foreclosures.

7. Donald Biggerstaff, 1113 Lafayette Street, was sworn in by Mr. Coe. Mr. Biggerstaff stated he is in agreement with the neighbors who have spoken and their concerns. He asked if the proposed cul-de-sacs will be as large as the ones in his development that allow the buses and trash trucks to maneuver around them. Mr. Kernan replied that it appears that the proposed cul-de-sac is smaller than the ones in Lafayette Estates but the applicant still has to engineer the plan; they are only here for the density variance. He stated if after the site is engineered, they cannot meet the RSIS standards, then they most likely will lose a lot. Mr. Biggerstaff also asked the depth of the lots that back up to Lafayette Street.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

8. Karen Booker, 1124 Tamarind Place, was sworn in by Mr. Coe. She stated she purchased her home in the Arbours because it had five bedrooms and with seven children plus her and her husband, she needed the space. She stated their yards are small and her children go into the applicant's property and play and if the development is built, they would be taking that area away from her children. She commented on the number of developments on Blue Bell Road already. Ms. Booker also stated she had a swimming pool installed and the installers hit water at five feet.

9. Jerry Marino, 1865 Forest Drive, was sworn in by Mr. Coe. Mr. Marino commented that the applicant has a right to build eight nice homes on the property. He stated that the development of the lot would probably solve a lot of the drainage issues and with eight lots there would be ample open space. Trying to double that number of lots and reducing the front yard setback to twenty-five feet is ludicrous. In all of the cluster developments in town there are problems with overcrowded streets and issues with parking. He commented on the fact that the applicant did not have a plan to scale with regard to the size of the roadways and cul-de-sacs and that more than likely the street and the cul-de-sacs would not be as large as in Lafayette Estates. He also stated that sixteen homes as opposed to eight home puts a burden on the schools. The applicant is supposed to prove what benefit there is for granting the variance. The benefit here is only for the builder. Mr. Marino indicated he had photographs to show the Board. Mr. Coe asked Mr. Marino to mark each photograph starting with P-1 and to give each photograph a description. Mr. Marino stated that P-4 is an example of a twenty-five-foot front yard setback on Forest Drive which will only allow for one car. P-3 depicted a street less than thirty-four foot-wide that allowed parking on both sides of the street but then the Township had to prohibit parking because school buses couldn't even drive down the street. The street depicted is Matisse Way. P-2 also depicted an area with a twenty-five-foot setback where only one car could fit. Mr. Marino did not know what area of the town was depicted in the photograph but they are all either Forest Drive or Matisse Way. P-1 was a depiction of a home on Renaissance Drive with a four-car driveway which is what the applicant should build. He suggested the Board table the meeting until the engineers had a chance to really look at the site. Mr. Marino stated the applicant has approval to build eight to ten homes and that is all they should be able to build.

10. Merrill Pavlow, 1101 Lafayette Street was reminded she is still under oath by Mr. Coe. She stated that if the applicant is going to build just to the tree line than that doesn't make it right on top of the existing homes. She stated the tree line will allow for approximately fifteen feet plus the twenty-five feet for their rear yards so it would give them 40 feet. She stated that is the objection is for them to take away the fire road area and tree line is too close their properties.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

11. Susan Whipple, 1123 Forest Drive, was sworn in by Mr. Coe. She stated that the property in question is small, more length, but narrow in width. She can't imagine how they are going to fit that many homes with a road that is wide enough. She commented that the applicant wants to come in a build as many homes as they can and make money and then leave. There isn't any reason for the Board to allow them to double the amount of homes they are allowed to build on the site. She hoped the Board took into consideration the residents that live there now. She commented on the public that were calling out because this is an emotional issue for them. Mr. Coe commented on that statement and stated that the Board takes all of the comments and testimony very seriously but they cannot allow, according to the law and the rules of the Board, any disruption of the proceedings. That can create legal problems and invalidate the proceedings.

Motion passed to close the hearing to the public.

Mr. Hoff asked if he could respond to the public's questions and concerns. He stated with regard to wetlands and encroachments on this property, they do not know of any. They are unaware of any wetland restrictions. They will need to submit to the Pinelands a wetlands delineation for the property. The engineer has looked at the geo maps for this property and they do not show any wetlands; however, the property will be surveyed and submitted to the Pinelands and they will be the ones to determine if there are any wetlands on the property. They will have to come back before the Board with a subdivision plan that includes all of that information. They are not asking for approvals on the site layout at this time but just the density variance, the front yard setback, and the open space. The front yard setback proposed was to address the majority of the comments heard before about the houses being too close to the existing homes; so, they moved the houses closer to the street and allowed for a larger rear yard to keep the houses further away from the existing homes. The design will conform to RSIS with regard to the roadway width and turning movements, etc.

There were comments concerning the applicant taking the matter to court after the hearing last year. Mr. Hoff stated the applicant has every right to seek the relief they believe they are entitled to have. They have come back and presented their proofs again with the only difference being Exhibit A-2. A-2 shows the project as it compares to the surrounding properties and it is clearly evident that this project is exactly like the surrounding properties. The property in question is wider than the property Lafayette Estates was built on; it is almost the same exact development. The applicant will have to show, as part of the subdivision, that they can control and reduce the water runoff on the site and how they will get it to the basin, because they cannot push water off their property onto other properties. The reality is this property is zoned for residential use and it is not some other developments open space.

Public Hearings: (continued)

2. #18-07 – WBA Arbours, Jr., LLC (continued)

Mr. Hoff pointed out that the property will be developed and they want to develop it to be in line with the surrounding neighborhoods as there aren't any 26,000 square foot lots in the area. He hasn't heard any testimony to indicate that they have not demonstrated the entitlement to the density variance. Mr. Hoff stated for the all the reasons stated and testimony on the record, they respectfully ask the Board to grant the density variance, the front yard setback variance, and the open space variance conditioned upon the applicant returning with a major subdivision application.

Members of the public spoke out and Mr. Salvadori informed them that the public portion has been closed. Mr. Coe explained the order of the meeting being that the applicant presents his application, the public speaks on the evidence and voices their objections, and the applicant has the opportunity for a very brief reply, otherwise the hearing can go on all night with back and forth and back and forth. He stated the members of the public had a full opportunity to state what they wanted to state without constraint or a time limit. The applicant then has the opportunity to give a brief reply or rebuttal to the comments from the public.

Mr. Coe reviewed the applicant's request for the Board. The applicant is seeking a density variance for up to sixteen lots, a front yard setback variance of twenty-five feet where forty feet is required, and an open space variance where 2.21 acres is required and 1.8 acres is proposed. Motion by Mr. McLaughlin, seconded by Mr. Sebastian to grant the density variance of up to sixteen residential lots subject to the following conditions: the applicant must return for major subdivision approval, maintenance of the escrow account, proof of all outside agency approvals including Pinelands and County approvals. Mr. Coe repeated the standard the Board should use to determine their vote; if they approve, it means they are satisfied that the applicant has provided sufficient evidence that the increased density can be accommodated on the property. He reminded them when talking about the density, it is not sixteen lots versus zero, it is sixteen versus ten. Mr. Fritz asked if the variances can be voted on separately. Roll call vote for the density variance only: Ayes – Mr. McLaughlin, Mr. Sebastian, Mr. Kozak, Mr. Salvadori. Nays – Ms. Fox, Mr. Fritz, Mr. Rybicki. Abstentions – Zero. 4 ayes, 3 nays, motion failed. Mr. Coe stated that the bulk variances are moot at this point and a vote should be taken as such. Motion by Mr. Kozak, seconded by Ms. Fox to deny the bulk variances. Roll call vote: Ayes – Mr. Kozak, Ms. Fox, Mr. Fritz, Mr. McLaughlin, Mr. Sebastian, Mr. Rybicki, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

Public Portion:

Motion passed to open the meeting to the public. There being none, motion passed to close the meeting to the public.

Approval of Minutes:

1. 10/29/19 regular meeting

Mr. Coe indicated that the approval of minutes will be deferred to the next meeting so he and the Board have an opportunity to review them thoroughly since they are eighteen pages long. Ms. Pavlow asked if she could have a copy of what transpired at tonight's meeting. Mr. Coe replied that that the resolution will be prepared and adopted for the next meeting and then they will be entitled to a copy.

Reports:

No Reports.

Adjournment:

The meeting was adjourned at 10:00 p.m.

These minutes are an extract from the meeting that was held on the above date and are not a verbatim account or to be construed as an official transcript of the proceedings.

Respectfully submitted by: Ninette Orbaczewski, Clerk Transcriber.