

**CLAYTON PLANNING BOARD
REGULAR MEETING MINUTES
NOVEMBER 18, 2019**

The regular meeting of the Clayton Planning Board was called to order at 7:30 PM. Invocation was given and we had a Salute to the Flag.

SUNSHINE LAW

The public notice of this meeting pursuant to the Open Public Meeting Act of 1975 has been properly given in the following manner:

- A. Posting written notice on the Official Bulletin Board in the Municipal Building.
- B. Mailing written notice to the South Jersey Times and the Franklinville Sentinel.
- C. Filing written notices with the Clerk of the Borough of Clayton.

ROLL CALL

Ayes: Abate, Branco, Fox, Glennon, Miller, B. Saban, T. Saban, Thomas, Vondran

Absent: Bianco

APPROVAL OF MINUTES

M/Miller, S/Vondran- Approve the Minutes of the regular meeting of the Clayton Planning Board/Zoning Board held on November 18, 2019

Ayes: Branco, Fox, Glennon, Miller, B. Saban,

Abstain: Abate, T. Saban, Thomas, Vondran

OLD BUSINESS:

None.

NEW BUSINESS:

Matthew Pirollo – 110 Earl Ave., a/k/a Block 1814, Lot 15

Matthew Pirollo/M&M Real Property, LLC was sworn in by the solicitor and represented by Dale Keith, Esquire. Mr. Pirollo is looking to create 2 building lots along Filbert Street as they needed a variance for 100 feet. They are going to be widening Filbert Street which will leave them with 92 ½ feet when they need 100 feet so they are short. Mr. Pirollo tried to purchase 7 ½ feet of property from the neighbor so his property would comply with our Ordinance but the neighbor would not sell it.

Stan Bitgood, P.E., went over his letter dated November 8, 2019. Mr. Bitgood agrees with the proposed sub-division. There is an existing dwelling on the corner of Filbert St. That yard is also small and the right-of-way will be closer to the building. Most of the things requested were received. Stan doesn't think they need anything from NJDEP since it is not on a county road. There are no design waivers.

Variance is three feet from the dwelling proposed on Filbert St. That's a pre-existing condition. It will reduce 7 ½ feet. The application can be deemed complete with this. They will be used as residential lots. The applicant made corrections to the plan to

comply. The applicant is looking to build 1,000 – 1,100 sq. ft. ranchers which is what is existing there right now.

There is street widening needed with curb and sidewalk which will be part of site plan. If sold, condition of approval will construct road widening, curb, sidewalks, etc. and anything else needed. This will be a part of the sale and will be put in the deeds.

The drainage is across the lot on Filbert St. The easement granted to maintain run off control in the future. Applicant doesn't object to this. They were asked if there were any environmental constraints and they are not aware of any at this time. They did receive draft legal descriptions. The right-of-way dedication should be acquired right away. Applicant agrees with that. Stan Bitgood believes that the Tax Assessor has already agreed that the selected lot numbers are appropriate.

Off-street parking needs to be provided and shown on the site plan. The applicant will comply. The applicant most likely will construct both simultaneously but it is unknown at this time. It's probably more economical to do them both at the same time. Since the phasing has not been presented at this time it would have to be presented with the minor site plan approval. They agree to extend the existing driveway on Earl.

The applicant was asked if there were any specimen trees that would have to be protected on the site. They answered not that they are aware of. The applicant was told that all utilities have to be underground this includes the services running to the dwellings. Applicant agrees with that. Stan Bitgood advised that most things that are engineer related are site plan.

Mr. Pirollo advised the board that he has been involved in real estate for about 18 years and has his real estate license. He also worked for the Department of Justice. This is his first development and he would like to provide affordable homes. He added that he approached his neighbor on Earl Ave. and asked if he would sell eight to ten feet to give him depth on Filbert St. The neighbor told him he would not do this. The sub-committee suggested that he get something in writing marked showing that he made an attempt to get the footage required. This is marked as Exhibit A-1 and the original was submitted.

Paul Brier, P.P. appeared on behalf of Doug Akin. He went over Doug's letter dated November 6, 2019 and he skipped to page 3. He noted that public works provided in writing that water and sewer is available. The three foot variance should be part of this application and part of the lot.

Mr. Pirollo advised the board in regards to the buffer landscaping that he will take down the minimum lot of trees. He wants to leave it partially wooded. He will probably have shrubbing in the front and will agree to discuss further at site plan.

Variance is needed because of depth of lot. The use is not changing. The road widening took away the 100 feet. The house built will be consistent with what is there. They will need a bulk variance as the property is too small due to the road widening. It will just be

two single family homes. It will not be an apartment complex. They will add curb and sidewalks. Mr. Pirollo is looking to sell these homes and not rent. When he initially bought the property he went in to make sure that the work was up to code. He also took out permits for work that was done by the previous owner who did not get permits. Joe Abate suggested that he use clean fill dirt and not recycled fill as there are usually issues with it. Melissa Fox asked if they will be built before they have buyers or will they have buyers before they build them. Mr. Pirollo isn't sure. They could build both simultaneously but sell one and then sell the other.

Stan received updated legal descriptions and will review and make sure they comply.

MOTION TO OPEN TO THE PUBLIC:

M/ Vondran, S/ Fox

Ayes: Unanimous

Betty Ann Bess - 5646 Baltimore Ave. - She owns property within 200 feet of these lots. She asked if he should wait until he gets more information as to what he wants to do and then follow those procedures. They explained to her that they are following the steps. Right now, if you are going to build a house you have to have the right to build it. Right now they don't because of the shortage of property. That's why they are here proceeding with the first step to see if they get the approval to build. If not approved, they will not build. If this is approved, site plan will be the next step with more detailed information.

Benita Simpson - 112 Earl Ave. - The water currently collects in the area and still runs into her property. She has concerns that water will run on her property with this build up. She was advised that is a site plan issue. When he comes back for site plan, they will have to show how it will be managed.

Melissa Fox asked for clarification in regards to the drainage. Stan was looking for the commitment from the applicant that they will explicitly indicate how they are going to handle the drainage when they come before the board for site plan. Mr. Pirollo's attorney indicated that there are many ways that they can address it.

MOTION TO CLOSE TO THE PUBLIC:

M/ Vondran, S/ Branco

Ayes: Unanimous

MOTION TO APPROVE MINOR SUBDIVISION AND ALL VARIANCES

M/ Vondran, S/ Miller

Ayes: Abate, Branco, Fox, Glennon, Miller, B. Saban, T. Saban, Thomas, Vondran

DISCUSSION:

Darlene Vondran asked the Chairperson if they could move the discussion before the second application is heard. She is not feeling well and wanted to leave and she is not able to vote on the next application.

Brian Lozuke, Esquire briefly discussed the JIF Land Use Training with the board members. Over the years, JIF has seen a dramatic increase of litigation that they have been answered to cover. Brief discussion took place. An Affidavit was distributed for the board members to sign and forwarded to the Underwriting Manager for JIF. Joe Glennon asked about the training for the board members. The solicitor advised that is something different than signing this Affidavit as this is through JIF.

Stephen Booras – 123 W. Academy St., a/k/a Block 1404, Lots 28 & 29

Marla Gaglione, Esquire appeared on behalf of Dale Taylor, Esquire as he had a conflict. Ms. Gaglione was sworn in by the Solicitor along with Stephen Booras, Greg Simonds, P.E., and Tiffany Morrissey, P.P.

Ms. Gaglione spoke about the two application regarding Block 1404, Lot 28 and Block 1404, Lot 29. This is for a use variance to allow for the construction of a triplex which is three units on each lot. The lots are located in an RC High Density area. The third unit is not a permitted use. There is also a bulk variance for the 30' roadway frontage where there is only 11.64 provided.

Greg Simonds, P.E. from GS Engineering. The application is for a use variance for each lot. They are looking to build a triplex where a duplex is currently permitted. A common driveway is proposed from Academy Street that will be improved. It is currently a dirt roadway leading to the back of the development. It will be paved and provide access to lots 28 and 29. The driveway will also be used for lot 30 which will improve the function and safety of that property also. Mr. Simonds referenced them on the map. The driveway is proposed for 20' wide with curb, sidewalk and lighting on one side. The other side they propose extra pavement to allow for drainage to come across the driveway. Three unit buildings are proposed for each lot with parking, sidewalks, landscaping, buffering, and storm water management. A site plan submission will also be prepared for in accordance with the Borough Code. The site plan will also be submitted and reviewed for approval by this board.

We have been working on this project for several months and the plans have been revised a couple of times as requested. An additional 4' of easement area was obtained for driveway access. A sidewalk with lighting is proposed. He referenced the plan with the easement area on Lot 30. The applicant purchased additional easement area to make the driveway more functioning and safe. The Driveway Exhibit Plan dated 11/15/19 was entered as Exhibit A-1. He went over the plan with the members. The sidewalk is currently proposed on the left. Joe Abate asked if the land was purchased from lot 30. Mr. Simonds advised that there is a verbal agreement to obtain an additional easement for that property until they get the approval.

Stan briefly discussed the parking which will be addressed at site plan. Joe Glennon asked about the parking for lot 30. Mr. Simonds indicated that the applicant has agreed to provide paved parking for the neighbor at lot 30. It will be situated as shown on the plan along where the sidewalk is. The applicant will comply with all the recommendations by the board and their professionals conditioned upon the use variance

approval for Lots 28 & 29. They are asking for the variances and waivers as listed in the professionals letters and can go through them if you wish. Right now they are looking for the use variance approvals so they know they can move ahead with the site plan details and be protected with getting approval for the use. Melissa Fox asked how many residents and they were advised they will each be three bedroom units. The properties will be rentals. Joe Glennon asked about trash pick up. They will go down the driveway to the pick up area which is an enclosed area indicated on the plan. The receptacles will not be put at the roadway. They did not speak with public works about this yet and if they will not pick it up they will have a private trash company collect the trash. Joe Abate also asked about snow removal. He was advised that snow plows will have to come onto the property and push the snow to the rear. There will be a maintenance agreement in place.

Melissa Fox asked about changing from a duplex to a triplex and how it will affect the parking. There will be nine units (this includes the 3 units on lot 30) at seven vehicle trips per day. Trash and mail is expected to use it also. Street traffic can certainly handle the additional vehicles. They did have a conceptual review by the County and the access is under County jurisdiction. It will be up to the County to approve the access and the use and the driveway. They received a response from the County that sight triangles may be required and that a 20' wide drive aisle is required. Mr. Lozuke asked if they issued a report of action and he was advised that they have an older one from 2017. It does not include the additional easement on lot 30. This approval is also contingent upon the County approval as well. The municipality cannot exceed the County's sight triangle dimensions. Stan added that if the County doesn't require sight triangle the Borough would have the authority to do so.

Mr. Simonds added that the existing driveway access is going to be used for this project. There are the three units on lot 30 and past that there is a dwelling in the rear that used that driveway. In regards to lot 27, there is a driveway right next to it that provides a clear line of sight in that direction.

Melissa asked about all the traffic/parking back there with pedestrians. They advised that is why they are adding the bollard lights and the sidewalks to make it safer for the pedestrians. Stan added that possibly they could move the sidewalk to the other side and the applicant's engineer said they would look at it. If the sidewalk is moved, they will have the same proposed lighting there. They may need a waiver for the distance of the driveway and sidewalks and the property line. The sidewalks should be at least 2' from the property line. They are also increasing the easement on lot 30 from 15 ft. to 19 ft. It's a verbal agreement.

Tiffany Morrissey, P.P. has been before this board on several occasions. It's in the RC Zone where two duplexes would be permitted. They are proposing to add a third unit for each lot. It is a unique property and it doesn't have the required street frontages and is considered a flag lot. There are two separate lots on both sides with an easement. A variance is required for the minimum required street frontage but they do meet the 30'

minimum requirement by acquiring an easement from the neighboring lot. The driveway already exists and they are going to provide improvements to it.

In front of the property, Lot 27 is a duplex and lot 30 is a triplex. This property is 1.36 acres combined. Each property is oversized and the ordinance requires a minimum lot size per unit of 6,000 sq. ft. per unit. Lot 28 is 38,000 sq. ft. Lot 29, 19,300 sq. ft. They are under the density that is required. The municipality has a variety of housing stock. The majority of the homes in Clayton are single family one unit attached at 82.7%. Clayton has about 3.3% that has three to four units within them and there is an existing triplex in the area. They believe the property is oversized for the units.

They exceed the front and rear yard setbacks in addition to the side yard setbacks. The ordinance allows a building coverage of 30%. On Lot 28, the building coverage is 6.9% and on Lot 29 the building coverage is 13.7% which is substantially below what is allowed. The impervious coverage allowed by the ordinance is forty percent. Lot 28 has 23.6% which is proposed and Lot 29 is 37.5%. The positive criteria is that this is suited for this area. It also provides adequate light air and open space.

In regards to negative criteria, we will not be creating a substantial impairment of the Borough's zone plan or zoning ordinance nor do we create a substantial detriment to the public. They will be adding additional landscaping and maintaining all vegetation in the area as they are not pushing the units to the rear. The applicant is meeting the standards for all bulk standard requirements except for the street frontage requirement which is specifically related to this lot has only a stem. They actually improved this stem by acquiring the additional easement area.

The driveway is also going to get widened and improved in addition to sidewalks, curbing, and additional lighting. They are also able to improve the parking conditions for Lot 30. A maintenance plan will be provided through the site plan in regards to trash pick up, the plowing of snow, and the maintaining of the driveway. There will be additional traffic but it will be improved with the improvements that are being made to the driveway.

Paul Brier referenced letter dated October 8, 2019. They are still waiting for a current survey and deed. Stan Bitgood added that he did receive them but there are still issues with the legal description which will be corrected. Mr. Lozuke mentioned to Stan Bitgood that at the last meeting there was an issue discussed with Mr. Taylor about the tax map. Mr. Simonds indicated that the tax map is not an official document as it is not attached to the legal descriptions. The survey is the official document which has been signed and sealed by a licensed surveyor. In addition, the deeds and updated Deeds that will be prepared are also considered official documents.

It has been verified with the current survey and the new legal descriptions have to be submitted and recorded. They are asking that this be a condition of approval. They attempted to clarify this previously but it is still in the process and should be done shortly. They do have a current survey. The County tax map shows the larger lot as lot

29 but it should be lot 28. The updated survey was submitted to the board on October 9, 2019.

The corrected Deeds are being drafted right now. Stan Bitgood added that the mistake on the deeds goes back years ago. In 2002, the tax map showed it correctly. By 2019, it was shown as one large lot on the tax map with only one access and easement only which was incorrect. The title report also had errors in it. They were advised that corrections were needed. They have since had a survey done on October 7, 2019 which reflects the two lots as they had been described this evening. The approval should be granted upon condition of the documents being corrected and recorded. The applicant has no objection to that.

Ms. Gaglione added that they have attempted to correct this previously. There was a problem with the survey and legal description. Now they have the updated survey and a new legal description which is needed to file the new deeds.

A water stub has already been provided and obtained. All utilities will be provided underground. The architectural and elevation plans will be submitted at the site plan phase. The site photos can be conditioned upon approval and the applicant agrees to that. The engineer acknowledges that the easement is too narrow for street trees. There are no environmental constraints to their knowledge. Joe Abate asked if they could check in regards to buried oil tanks. They agree to that at site plan approval.

They believe access is suitable for emergency vehicles. They will submit to the Fire Official for review and approval at site plan submission. There is a turn around area provided in the rear of the property and separation between two of the buildings. Stan asked if they received a copy of the letter from the Fire Chief and Mr. Simonds answered that he did not. The letter requested that there be a fire hydrant at the end of the drive on the right side (rear of property) and they would also like to see some type of access road between the buildings so if they need to gain access behind the buildings.

In regards to lighting, they are proposing bollard lights for the pedestrian walkway along the driveway and building mounted lighting in the rear. Additional details for signage will be provided with site plan submission. It is anticipated that the unit numbers will be located on the front doors or to the right side of the doors of each unit. If needed, they will be reflective. The affordable housing will be addressed later with the site plan application. As discussed, new legal descriptions have been submitted and need to be reviewed and approved before they are filed.

Joe Glennon spoke about the property maintenance. Will the developer build and sell or develop and hold it. They will be developing and holding onto it. They are two separate lots and will be kept as two separate lots. Access and cross easements and maintenance agreements can be provided. In regards to lighting, there will be a landlord meter back on the properties. The landlord will take care of and pay it. Joe asked about the trash/recycling containers down to the curb. They will have private trash collection if necessary. They cannot bring the cans out to the street. The trash company cannot go

down the driveway so the applicant will have to provide private trash collection. The applicant does not object. Stan indicated this should be a condition of approval with details to be determined. Stan added there is no room to have the trash cans at the curb. Mr. Simonds indicated that they will submit to public works about trash collection with the site plan submission.

Joe Glennon added that he wants the developer to be successful and there will be extra costs. Why this lot? They responded that the lot was purchased for developing.

Sue Miller asked about the existing easement for Lot 30 to get to the driveway. They are proposing a new easement for Lot 30 and recording which will eliminate the existing one. Mr. Simonds indicated that Lots 28, 29, and 30 will access the same driveway.

Stan Bitgood referenced his letter dated October 10, 2019. Clearly they should keep these as two separate lots in case they decide to sell them at a later time. The easements will be reviewed. Applicant will comply with the driveway ordinance. The sidewalks, parking, and lighting will be provided in more detail upon site plan submission. A five foot sidewalk is not needed as four foot is fine.

Landscaping has been shown. The applicant agrees to provide a landscaping plan with the site plan submission. The lighting has to be thoroughly shielded and has to be all LED. They agree to comply. What happens if they can't provide a sight triangle from one of the neighbors. Stan said you will need to provide what the County requires and if they don't then you comply with what the Borough requires which is small. The board agrees to defer this to site plan. The applicant agrees to comply with storm water management rules with site plan submission.

Utilities were previously discussed and will be provided by the Borough. They advised that upon submission they will also apply for water/sewer approvals. Stan advised that they should either apply for water/sewer approval concurrently or get the water/sewer approval first.

MOTION TO OPEN TO THE PUBLIC

M/ Miller, S/ Fox

Ayes: Unanimous

Frank Keeney – 130 W. Academy St.

He lives directly across the street from where the driveway will be going. Traffic backs up daily on West Academy St. past his house. Now more traffic will be coming from that driveway. If a school bus has to stop and pick up kids from these properties, it's going to take time for the kids to walk down the driveway. He is a school bus driver and knows that kids aren't always ready and on time.

Tiffany Cuielli added that you are talking two extra units because if you had the duplexes there you would still have buses stopping to pick up kids. She doesn't think there is really an impact. They have the right to do the four they are asking to do the

additional two. They do have issues getting out of their driveway now. They briefly discussed turn around access. He also has concerns regarding the drainage off of the driveway, they still get water on it. It will be addressed at site plan and the engineers will assist.

Gilbert Hoffman – 137 W. Academy St.

He has lived in Clayton all of his life and raised his children in the property he still lives in now. This property will butt up against the back end of his property. He has lived here 35 years and the duplex next to him has been there since. They have had some continuing problems with them but he has not always complained since the duplex was there first. They did work some stuff out. The people who lived there moved out and new people moved in. He feels that people who don't own properties don't have investments in it. There has been other vandalism and stuff. He will want to retire soon and maybe sell his property. He doesn't think that these triplexes are going to help in selling his property.

He sees the police often stopping people. He walks often from his house up to Broad Street and up to 55 and back in the morning. He wears a lighted vest as people don't pay attention since they are on their phones. He has almost been hit a few times. He doesn't see how these additional 20 cars coming out of there are going to help the situation as no one is going to speed and no one is going to be on their phone. In regards to safety, there will be lighting along the driveway so people can see. It will be dusk to dawn lighting. The parking lot will also have some lighting. They also hear the trash trucks that go into the complex down the street. This will just be another added trash truck that they will have to hear and everything else that goes with it.

Margaret Hoffman – 137 W. Center St.

They will be residing next door to this. Part of the lot is commercial as Marty and Barb's used to be there on the corner. Everything else further down is residential. We just don't have homes there. It's becoming a commercial property. She thinks it will change and become a commercial neighborhood but the neighborhood is residential. We have been there 30 years and just paid off the mortgage. She doesn't have a problem with people developing. She doesn't feel that there is a real need for housing. She loves the neighborhood.

John Booras was sworn in. He understands the public's concerns. They own several properties in Clayton in which they have renovated. They have a rental on Belview Avenue and last year they had a tree removed when it was knocked down due to a snow storm. This year they removed a few more trees trying to be proactive so there were not issues. They even put the lady that lived next door in a hotel for a few days as they couldn't get the tree taken down right away.

There was another neighbor on Chestnut St. that asked if they could grade their property a little as they were doing work on the house next door. His brother, Stephen, used to live in Clayton and raised his kids here for eight years. They recently purchased a house on West Clinton which they are cleaning up now which had a mess out there.

When they purchased this particular lot, they were not intending to do what they are planning to do. After they looked at the size of it then they thought possibly they could have an investment here. A resident asked about when they looked at the property they should have known what they could do there. They responded that when the property was purchased the tax map showed one thing but there was an issue with the tax map. They bought the property off of the tax map. The one property recently purchased had squatters in the house who were not paying taxes. They do all the landscaping and grass cutting and maintaining of their properties also.

MOTION TO CLOSE TO THE PUBLIC

M/ Fox, S/ Miller

Ayes: Unanimous

MOTION TO APPROVE WITH ALL RESTRICTIONS DISCUSSED:

Ayes: Abate, Branco, Fox, Miller, Saban, Thomas

No: Glennon

Sue asked that since this is an odd shaped lot, a flag lot, with two lots back there to be developed. What would require a basin? The trigger would be the total disturbance. It would have been more problematic if it was one lot by itself. Brief discussion took place.

CORRESPONDENCE:

None.

RESOLUTIONS:

#09-2019 – Resolution Granting Use Variance and Minor Site Plan and Bulk Variance Relief to Center for Family Services – Block 1903, Lot 3

M/ Miller, S/ Fox

Ayes: Branco, Glennon, Miller, B. Saban, Thomas

Abstain: Abate, Fox, T. Saban

ADJOURNMENT

M/ Branco, S/ Thomas

Ayes: Unanimous

Submitted by,



Debbie Schlosser

Planning Board Secretary