

AUGUST 24, 2020 PLANNING BOARD MINUTES

Joe Abate - I'd like to call to order the Borough of Clayton Combined Zoning & Planning Board Meeting of August 24, 2020. I would like to have the Flag Salute please stand. I pledge allegiance to the flag of the United States of America, and to the Republic of which it stands one Nation, Under God, Indivisible, with Liberty and Justice for all.

Joe Abate - Sunshine Law - 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, and C. filing written notices or to clerk of the Borough of Clayton.

Roll call - Debbie Schlosser, Board Secretary

| | |
|------------|----------------------|
| Abate - | Here |
| Bianco - | Absent |
| Branco - | Here |
| Fox - | Here |
| Glennon - | Absent |
| Miller - | Here |
| B. Saban - | Joined meeting later |
| T. Saban - | Here |
| Thomas - | Here |
| Vondran - | Here |
| Culver - | Here |

Joe Abate - I'd like to have a motion to approve the minutes of the regular meeting of the planning board held on July 27, 2020.

M/ Miller, S/ T. Saban

Roll Call - Debbie Schlosser, Board Secretary

| | |
|------------|---------|
| Abate - | Yes. |
| Branco - | Abstain |
| Fox - | Abstain |
| Miller - | Yes |
| B. Saban - | |
| T. Saban - | Yes |
| Thomas - | Yes |
| Vondran - | Abstain |
| Culver - | Abstain |

Joe Abate - Under old business, I see none. Under new business, we have Russell Cox - 19 Maple Street, a/k/a Block 705 Lot 9, a bulk variance.
Is Russ Cox logged in?

Russ Cox - Yes.

Joe Abate - Ms. Purvin do you want to swear him in?

Susan Purvin, Esq. - Mr. Cox raise your right hand. Do you swear or affirm that the testimony you are about to give is true and correct to the best of your knowledge, information and belief?

Russ Cox - I do.

Joe Abate - Mr. Cox, what is the reason you're before the planning board today?

Russ Cox - I'm looking to asphalt over my existing stone driveway. It's 10 feet from my basement door to my neighbor's property. So I'm looking to asphalt an area that's 59 feet by 10 feet and that puts me right on the property line.

Joe Abate - Is your neighbor here or logged on?

Russ Cox - No, she didn't log on.

Joe Abate - Ms. Purvin maybe you can explain the ordinances on this driveway.

Susan Purvin, Esq. - It appears here that your Ordinance says it has to be three feet from the property line. So it looks like he's asking to extend his driveway past that provision of your ordinance hence the variance to get it up to the property line.

Joe Abate - I personally don't have a problem with what you're doing. I'm not your neighbor and your neighbor is not here to express her opinion. If I were to approve this, the only thing I would ask is that you pitch that driveway away from your neighbor's property, so water runoff on it does not go onto her property. Do you agree to that?

Russ Cox - Yes, that's fine.

Melissa Fox - Mr. Chair, I have a question. I'm not sure if you can speak to it or maybe our legal counsel can provide some more understanding on this. What is the reason for the ordinance specifying the three feet from the property line? Is there anyone who can speak to that?

Stan Bitgood, P.E. - Clayton, like most other towns around, does specify distance, in this case, three feet. It's just standard practice to ensure that each development, be it a driveway or similar, doesn't actually encroach on the neighbor's yard. It leaves room for verification of the property line, it leaves room for a fence, if fences are permitted. It then typically allows an adjustment to meet grade along the property line. I hope that answers the question.

Melissa Fox - It does. So is it safe to say that the buffer, so to speak, will allow for, to your point, if the neighbor is putting a fence up, or some sort of landscaping up on their property, that there would be somewhat of a gap in a distance to allow for safety.

Stan Bitgood, P.E. – Any improvements on the adjacent lot, like a fence, would have to be 100% inside the adjacent lot. It just rules out that a common fence, put up in agreement, between two neighbors on the property line. I believe you received a JPEG photo, which shows the adjacent lot. So at least for the front portion of it, it looks like it would be readily sloped toward his house and away from the neighbor without any ponding on the neighbor's yard, which is good.

Melissa Fox - Thank you so much, Stan. Mr. Cox is there any other property on that street that has similar driveway dimensions.

Russ Cox - I'm requesting 59 feet by 10 feet.

Melissa Fox - So are there other properties on the street as far as you're aware that have that same sort of configuration?

Russ Cox - Yes.

Darlene A Vondran - Melissa, I can confirm that there are other properties on that street that have the same type of thing, where it goes up to the property line. There is no buffer zone up to the property line.

Melissa Fox - Ok, thanks for that information.

Steve Branco - So I'm on google maps and I'm looking at the property. Is that currently the property line, where the stone driveway ends and the grass begins?

Russ Cox - Yes

Steve Branco - There's no way to move it to the right towards the house, looks like you have a stone wall?

Russ Cox - Correct. There's a stone wall, and then there's the basement doors that prevent me to go any further towards my house.

Tony Saban = Well, if I may, I have a couple of questions. Russ, do you know of any neighbors verbally that have expressed some reservations about what you're looking to do?

Russ Cox - No, not at all.

Tony Saban - Obviously, the one neighbor that planned to come here tonight and didn't make it, I would say if you get wind of that it might be in your best interest to get that in writing. Not everybody's very computer savvy so that might be something that you could maybe submit at a later date. I know you sent your notices otherwise you wouldn't be in front of the board.

Russ Cox - Yeah, I had her sign the walking list.

Tony Saban - No more questions and Barb is here with me now.

Barb Saban - Hello.

Joe Abate - Anybody else, any members have any other questions? Maybe we can go to our professional, Mr. Bitgood, and get his opinion.

Susan Purvin, Esq. - Mr. Bitgood could you raise your right hand? Do you swear or affirm the testimony you are about to give is true and correct, and to the best of your knowledge, information, and belief.

Stan Bitgood, P.E. - Yes.

Susan Purvin, Esq. - Thank you.

Stan Bitgood, P.E. - So reviewing the survey that was submitted. The stone driveway does appear to be tight to the property line on the left side. There is a wider set back to the building than the property line on the right side which would be enough to locate a driveway. That's 10 feet wide and I believe the applicant is requesting a 10 foot wide driveway. However, they would probably disturb a large maple tree that would require a complete driveway and apron which probably isn't the best thing for the street or the neighborhood. If there are no objections from the adjacent lot, I don't know if the neighborhood really benefits from having the driveway put on the opposite side. There have been no grading provided. Normally, we would require a grading plan application which could have been done as part of this application, but I don't believe we've received any grading.

Debbie Schlosser, Board Secretary - They were told they didn't need grading because it's not over 600 square feet.

Stan Bitgood – P.E. - But if you go to the planning board, and you get approval for a variance, the Board can require a grading plan regardless.

Debbie Schlosser, PB Secretary - Rose told them they didn't have to.

Stan Bitgood, P.E. - They can do a site plan at this point and requiring a grading plan, prepared by a professional engineer, could help us ensure that two things happen. One that it does, in fact, slope away from the adjacent lot. Two, your borough engineer gets a chance to inspect it and verify that it is correct when it's finished. Otherwise, I don't really have any technical questions. There is one design waiver for the three foot setback. I would point out that the existing front setback to the building is also substandard. It's 23.5 feet where 25 foot is required by the RC Code district. But otherwise, I have no other comments. If you have questions, I'll try to answer them.

Joe Abate - Mr. Cox are you willing to get a grading plan for this or do you think that's not necessary?

Russ Cox - I don't believe it's necessary due to the fact that the property adjacent to me is up on a slight hill. My property the water runs down there now with stone, asphalt is just going to make it flow smoother down to the same location which is to the street. Her property, like I said, it has a hill out front and even, if I didn't put any kind of slip away from her property it would never puddle on her lot.

Joe Abate - Does anyone have any questions?

Sue Miller - I do. Russ, the house next door they have no apron and no driveway at all, right?

Russ Cox - That's correct.

Sue Miller - So there would be no real opportunity for them to want the same thing and then really cause any kind of drainage issues, I would think, because they just, they physically don't have any space at all. I don't think to even have a driveway.

Russ Cox - Their dwelling is two feet pretty much off my property.

Sue Miller - Yeah, it's really narrow in there.

Joe Abate - So you don't think the grading plan Sue is feasible for this?

Sue Miller - I guess I just would be more concerned if there was the opportunity for the neighbors to say oh I want to do that too and then potentially really have some runoff issues between the two of them. But there's not going to ever be that opportunity just because there's just no ground there for the neighbor to do anything. They don't even have an apron.

Joe Abate - Well, thank you, Sue. Does anyone else have any comments they want to make?

Melissa Fox - I have no comments.

Joe Abate - Tony Saban requested maybe a letter from your neighbor stating that she has no issues with the driveway.

Darlene A Vondran - She did sign a letter.

Joe Abate - She did?

Darlene A Vondran - That's what Mr. Cox said.

Russ Cox - She signed the walking list with her notification of this meeting.

Melissa Fox - She signed something saying that she was notified but we don't have anything regarding how she would feel that this would affect her property.

Russ Cox - I don't have any document. No, I do not.

Joe Abate - Tony do you want to repeat that question you had earlier?

Tony Saban – Perhaps a letter from the neighbor/neighbors that you think might have an objection to this. They may or may not be computer savvy so we can at least get their opinions here. You don't want any issues later down the line.

Joe Abate - Mr. Cox are you willing to do that?

Russ Cox - Yes.

Joe Abate - Ok, then we'll make that part of the Resolution.

Bill Culver – In all fairness to Russ. He has done everything he has to do and notified all of his neighbors. If they are objecting, whether they are internet savvy or not, they would be here tonight to voice their opinion. I don't see a necessity to make him jump through additional hoops than what's required.

Joe Abate – I don't think a letter which he can compose and she can sign and date so we don't have to go back in the future that she didn't think this was a fair hearing for her.

Russ Cox – Joe, she does work from home all day. So she's in these types of meetings all day. It's also my wife's best friend from high school.

Joe Abate – Ok, I didn't know if she was an elderly lady who wasn't maybe computer savvy and didn't want to get the short end of the stick here.

Russ Cox - She's going to take advantage of walking up an asphalt driveway of mine instead of the stone driveway to get to her house so she has no problem.

Joe Abate – Ok.

Stan Bitgood, P.E. – The applicant has mentioned the walking list having been signed. Has that been submitted because I don't believe I have a copy.

Debbie Schlosser, Board Secretary - I have a copy of it he dropped it off to me today. It was the 200' list that some of the people signed next to their names.

Stan Bitgood, P.E. - That's the documentation of notice of the meeting? Is that what that is?

Debbie Schlosser, Board Secretary - He had them sign the 200 foot list advising that they received notice of the meeting. Rose told him he could hand deliver them and they could sign the 200' list. I have a copy and I can send it to you tomorrow when I get to work.

Stan Bitgood, P.E. - Very good. No that's fine it just needs to be in the file. I wanted to confirm that that's equivalent to the certified that are usually done. It is legal to do it that way I agree.

Debbie Schlosser, Board Secretary – Some he sent by certified mail and some he walked around and had them sign the 200 foot list.

Joe Abate - Ok, is everything correct Ms. Purvin with the law with this?

Susan Purvin, Esq. - That would be fine, as long as the neighbor is one of the ones who actually signed the list that you have because I don't have a copy of that list either.

Joe Abate - Ok, Debbie so the neighbor's signature is on that list?

Debbie Schlosser, Board Secretary – Yes.

Joe Abate - Alright, does anybody else have any other comments they want to make?

Melissa Fox - The only thing that I would say is I'm not doubting anyone's honesty it's nice to have that as part of the package. It just feels like we're making a decision to make a decision based on you don't have a grading plan, we don't meet its needs to do it, we don't have the notification from the neighbor, and we don't have the neighbor here. I just feel like there's a lot of missing pieces for me. I don't doubt that it was done. It would have been great to actually see a copy of that since we don't have her here.

Joe Abate - I agree. Ms. Fox makes a good point. Ms. Purvin what do you have to say about that.

Susan Purvin, Esq. -- You could either table it until your next meeting and make certain that she has notice and you have the documentation in your file for all of you to see. Or if someone could get her on the line while the meeting is still going on that might eliminate the issue of having to have him do a signed letter from her.

Russ Cox - I can get her on the line.

Joe Abate - Ok, that would be I think, the solution that we're looking for.

Susan Purvin, Esq. - It doesn't, however, resolve your grading plan. Your engineer, Mr. Bitgood, is saying he recommends the grading plan. If you want to require that as part of any resolution that's granted.

Bill Culver - I've been on the other side of this board for a similar thing. I requested a variance and it was a different time so everyone could appear in person. I did the notice and I mailed the letters. I did everything that is required by law or zoning regulation to make my appearance before the board. I notified everybody and I went before the board. We had one meeting and I presented my information. I was under the requirement for the square footage of a grading plan. I notified all my neighbors. One neighbor showed up and said something that wasn't in code or something like that but he didn't really address an opposition to it and everything was approved. So all this stuff like adding additional things for someone to go to the board, I believe that would require action by council to change the rules for the town and not just have us as members of the

planning board to arbitrarily change things. Mr. Cox has done everything that is required by the rules and regulations. Since he has done it we should be able to say ok you can go ahead and do this.

Melissa Fox – Stan Bitgood, our engineer, is saying that a grading plan can and should be requested. I don't think that this is anything that would require, unless I'm mistaken, a visit to council for a vote.

Bill Culver - They need to be over 600 square feet to be required to do a grading plan. This development is under 600 square feet. He is not exceeding that so I don't think he should have the additional burden on him.

Stan Bitgood, P.E. – Mr. Chairman, I believe that as a variance having been requested and justify it to the extent the applicant has justified it. You have every right, as a board, to require a grading plan or any other really mitigating, or protective measures that the Board feels is appropriate. It's not the situation where a grading plan could have been submitted because of the variance needed. Although, it may end up being less than the 600 square foot, that doesn't apply. It's a grading plan, just as any site plan requires a grading plan.

Joe Abate - Thank you, Mr. Bitgood. I'd like to hear from Mr. Cox's neighbor if you can possibly get your neighbor online to see if she thinks a grading plan would be necessary for that driveway.

Russ Cox - She's connecting now. She's just logging in. The only thing with the grading plan, if you actually physically look at the driveway, you know, there's no doubt where the water would go. It's very clear. It's not like a slight slope it's a pretty decent slope.

Joe Abate - Well, I also like to hear from your neighbor just to verify what you're saying.

Russ Cox - Absolutely.

Sue Miller - Can I ask you one other question. I'm trying to think of your street. I know you are a one off of the corner and the corner lot faces Delsea is there a storm drain right there? I believe there is, I'm trying to remember.

Russ Cox - It's at the end of the street on Maple and Pearl.

Sue Miller - Yeah, that's what I thought. So, do you have pretty good drainage there in your street. If you have a major storm or anything like that, does the street flood?

Russ Cox – No, I have never had any flooding issues.

Sue Miller - So whatever infrastructure is there, in terms of culver's or collection points or whatever storm drains they seem to be functioning well.

Russ Cox – Yes. My neighbor has joined the meeting. Jen?

Susan Purvin, Esq. – Do you want to take testimony from Ms. Meyer . I will swear her in.

Joe Abate – Yes, swear her in.

Susan Purvin, Esq. - Even though we can't see you, can you please raise your right hand?

Jennifer Meyer - Yes.

Susan Purvin, Esq. - Do you swear or affirm that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief?

Jennifer Meyer – I do.

Susan Purvin, Esq. - Ok, thank you.

Joe Abate – Ms. Meyer, we are questioning the drainage. Do you have any objections to a paved driveway next to your property and would it impede your property at all with drainage?

Jennifer Meyer - No. No problem and it won't impede.

Joe Abate - Anyone else have any questions for Miss Meyer?

Steve Branco- I don't know for Ms. Meyer but at some point maybe the property will be sold and the new property owner may be stuck with a drainage issue. Hopefully they're not stuck with one but we don't know that.

Susan Purvin, Esq. - That's what requiring that grading plan may help with eliminating that future problem.

Russ Cox - I just ask you to come and look at the property. It's right across from Borough Hall you can clearly see.

Darlene Vondran - I did look at the property it all goes downhill.

Russ Cox - Thank you.

Joe Abate – Who was just speaking, Darlene?

Darlene Vondran - Yes.

Joe Abate - I can't hear you too well. Can you speak up a little bit.

Darlene Vondran - It all sort of drains downhill and drains down to the collection basin or whatever you want to call it. I did take a look at it. And I, personally, have no problem with it.

Joe Abate - Ok. Anybody else have their opinions or have any questions for Mr. Cox or Ms. Meyer?

Joe Abate - Hearing none, I would like to make a motion to approve the bulk variance for Russell Cox 19 Maple Street a/k/a Block 705, Lot 9.

M/ Vondran, S/ Miller

Roll call – Debbie Schlosser, Board Secretary

| | |
|------------|-----|
| Abate - | Yes |
| Branco - | Yes |
| Fox - | No |
| Miller - | Yes |
| B. Saban - | Yes |
| T. Saban - | Yes |
| Thomas - | Yes |
| Vondran - | Yes |
| Culver - | Yes |

Joe Abate – Thank you. Thank you Mr. Cox and have your driveway done properly.

Russ Cox - Thank you very much and thank you for your time.

Joe Abate – I would like to open the meeting to the public for any other concerns, if anyone is logged on and wants to have any comments, you can log on now.

Motion to Open

M/ Vondran, S, B. Saban

Ayes: Unanimous

Motion to Close

M/ B. Saban, S/ Fox

Ayes: All approved.

Joe Abate – Correspondence – None.

Discussion – None.

There are no resolutions to grant tonight.

Motion to adjourn.

M/ Vondran, S/ Thomas

Ayes: Unanimous

Joe Abate – Thank you.

Next, meeting, September 28th, 2020.

