

**TOWNSHIP OF ROCKAWAY  
PLANNING BOARD**

**MINUTES FOR REGULAR MEETING  
MAY 20, 2019**

***(NOTE: Prior to commencement of the meeting, Ms. Smith addressed the Board with her constituents' concern that the Planning Board had not given sufficient notice of the 5/20/19 meeting and therefore was in violation of the Open Public Meetings Act, and she feared for the Township's vulnerability to another lawsuit. Mr. Dimin addressed her concerns about insufficient notice of the meeting and determined that it not a legitimate concern. Her comments were duly noted, and the meeting continued.)***

This meeting of the Rockaway Township Planning Board was called to order by Chairman Jack Elko at 7:30pm in the Council Meeting Room of the Rockaway Township Municipal Building, 65 Mount Hope Road, Rockaway Township, New Jersey.

Announcement was made that this meeting was being held pursuant to the New Jersey Open Public Meetings Act, that notice had been properly posted and filed with the Municipal Clerk of the Township of Rockaway, mailed to all those persons requesting notification, and provided in writing to The Citizen and the Daily Record on 1/9/19 by E-mail.

**ATTENDANCE:** Present: Ms. Smith, Capt. Scherr, Mr. Washington, Mr. Tahan, Mrs. Hantman, Mayor Puzio and Chairman Elko. Also present: Mrs. Ferrante, Mr. Snieckus (Burgis), Mr. Black (Dewberry), Mr. Babcock (Fire Marshal), Mr. Dimin, and the writer. Absent: Mr. Romaine, Mr. Barilla, Mr. Quinn, and Mr. Burgis.

**APPROVAL OF MINUTES:** Chairman Elko reviewed the minutes of the April 15, 2019 regular meeting. Chairman Elko noted that, on the last page, the date of the next meeting was misstated. Mrs. Hantman moved the minutes, seconded by Mayor Puzio. The approval of the minutes was unanimous.

**CORRESPONDENCE:** There was no correspondence other than Board mail.

**OPEN TO THE PUBLIC:** No comments other than the agenda item.

***(NOTE: Ms. Smith recused herself from voting on the following public hearing.)***

**PUBLIC HEARING: PB#2385, Fox View Realty, LLC, Amended Preliminary & Final Site Plan (Block 11503, Lot 10.01).** Larry Wiener, attorney for the applicant Fox View Realty, described the application. He introduced Zahman Glick, 1650 Eastern Parkway, Brooklyn, NY, representing the owners of the property. Mr. Dimin determined that Mr. Glick was a partner in the ownership group. Mr. Glick described their business plan which centered on rehabilitating abandoned or rundown multifamily buildings. Their goal, he said, was the improve the area where they do their renovations.

Mr. Glick noted that the original project included two buildings, but their plan only included one. He noted they had already begun cleaning up the building and removing debris and broken windows. He described their plan to include 41 units and one common use unit. There were no questions from the Board.

**PUBLIC QUESTIONS: Gloria Stahl, 3110 Franklin Drive, Fox Hills,** complained that the members of the public could not hear the proceedings.

**Marian Oxenhorn, 2210 Johnson Drive, Fox Hills,** asked if there was any screening planned between Fox View and the last buildings at Fox Hills. Mr. Dimin assured her that a professional would address this issue.

**Aleck Musat, 28 Hillside,** asked their plans for the entrance and exit. Mr. Dimin again assured him that a professional would address this issue.

**Stacy Gregg, 40 Sunrise Rd,** asked if Mr. Glick's group was interested in building another building (on the site). Mr. Glick said they did not. She asked the timetable for completion of the project. Mr. Glick's replied "within 12 months." She asked if there was any bonding to proceed with the project. Mr. Dimin said that outside the Board's purview.

There were no further questions from the public of this witness.

Mr. Wiener introduced Kenneth Fox, 546 Route 10, Ledgewood, who is the architect who reviewed the existing building, made recommendations, and then came up with the appropriate plan to implement his clients' vision of the site. Mr. Fox introduced Exh. A-1, 5/20/19, "Series of 12 Photographs of the Site as per the Board submission. Photo A-5 is a colorized version." Mr. Fox gave an overview of the existing building, general layouts, history of the Leben Care vision, and a description of the improvements planned. Mr. Dimin determined that Mr. Fox had signed the original drawings, prepared by Barton and Associates.

Mr. Fox noted that trash would be collected in the garage level and moved outside for pickup, thus eliminating the need for dumpsters. He noted that building permits were issued for the original project (Leben Care), but there are certain upgrades to the energy codes, that requires their working with the Building Department for compliance. Mr. Wiener asked Mr. Fox if he was familiar with the buildings at Fox Hills and whether he felt Fox View's building was compatible. Mr. Fox said he had driven through Fox Hills and felt that the buildings were of similar design and size and will fit in the neighborhood.

Mr. Dimin noted that this was an amended site plan application; variances were credited to Leben Care. There are currently two requested variances relating to minimum buffers. Questions regarding external elements are deferred to the applicant's engineer. However, they confirm that there are no 3-bedroom units in the application, since this information impacts required number of parking spaces.

Mr. Fox reviewed requested waivers, including dimensions of parking spaces width of one-way driveway, minimum illumination levels, and average foot-candles.

Fire Marshal Babcock asked Mr. Fox if the building had an atrium and if he was aware of the fire safety requirements that an atrium imposes. Mr. Fox replied that he had not yet done a building code review, but it was his intent to comply with all fire safety regulations. F.M. Babcock asked if he planned to have this building the same as the existing Fox Hills buildings and to comply with the statutory requirements that Fox Hills has met. Mr. Fox and Mr. Dimin replied that many standards have actually increased, i.e., fire suppression, etc., and they plan to meet all code requirements.

Mrs. Ferrante asked Mr. Fox if they are working with the DCA (Department of Community Affairs). Mr. Fox said that have had one meeting and plan others. Mr. Dimin commented that the DCA must approve all multi-unit plans.

Mr. Tahan asked, since these buildings were 9-10 years old, has an engineer certified that the are structurally sound. Mr. Fox replied that it is their intention to do so. Mayor Puzio reminded interested parties that plans will be updated to meet all current requirements.

Chairman Elko, referring to the proposed recreation space previously called the clubhouse, asked if that was what it was going to be. Mr. Fox replied that it is a common recreational space for the property owners. Mr. Wiener said that, at a meeting with the condo association, they learned that there would be a kitchenette and two handicapped accessible lavatories, but the use of the remaining space would be decided by the property owners. Mr. Dimin noted that the building department will determine other issues. There will be no showers; and, in the event that deep-frying took place, fire suppression systems were in place.

Mr. Sneickus counted 57 parking spaces on the plan. Mr. Fox said that three of those spaces may be converted to two handicapped spaces, so the total would become 56. There were no further questions from the Board.

**PUBLIC QUESTIONS:** Aleck Musat, 28 Hillside, asked and confirmed that this is a 55-and-over building.

**David Bishop, 2304 Johnson Drive, Fox Hills**, asked about the common area and whether anything had been discussed about irrigation. The engineer would discuss this. He then asked about the attic of the building and how it would be subdivided. Mr. Fox said there was no attic, but the engineer would discuss this. The building would be in compliance with the building codes.

**Stacy Gregg, 40 Sunrise**, noted that Fox Hills has had problems with their roof. She expressed concern that this building might also have problems with their roof and atrium. Mr. Fox assured her once again that they would comply with all building codes.

**Gloria Stahl, 3110 Franklin Lane, Fox Hills**, noted that they (Fox Hills POA) has a specific agreement that the new owners have to strictly abide by. Mr. Fox didn't disagree. Mr. Dimin noted that the Board doesn't get into what they will do with the property, other than compliance with all building codes. There were no further questions from the public.

Mr. Wiener introduced Eric Keller, 54 Horsehill Road, Cedar Knolls, a licensed P.E./Planner in NJ. He noted that his company has worked on this site for 21 years, and he has worked on it for 19 of those years. He also worked on Fox Ridge. Mr. Keller then reviewed the size and location of the Fox View property, as well as the rights-of-way changes made in 2006. Mr. Keller introduced Exh. A-2, 5/20/19, "Fox View Site Plan Rendering dated 5/20/19." He noted that the site contains two wells maintained by the Township utility and a treatment facility. These improvements began during Fox Hills' construction, 2003-2007. There is also a detention basin on the property.

Mr. Keller pointed out that this is an amended site plan because they are going back to site plan approvals granted in 2003, when the site plan included two buildings. Mr. Dimin gave a brief overview of the Leben Care plan. In 2012 there was a contract for a redevelopment of the site as a nursing care facility by the owners of Merry Heart Nursing Home. Their application was denied DEP approval due to their access on Mt. Hope Road. SAR 1 and Fox Hills now have an agreement that includes access to the site via Constitution Boulevard to Mt. Hope Avenue. That access agreement provides for 84 units; they are only building 41. He noted that this right of access is their only connection with Fox Hills. Fox View's emergency access is through Hillside Road, and was *only for fire, rescue and police use*.

Mr. Keller noted that they are in compliance with regard to parking spaces. He also noted that the RSIS allows for 9x18' parking spaces, which supersedes the ordinance requirement of 9x20'. He noted that the most notable change since 2003 is in the area of environmental regulations. Mr. Keller said they had a "good" meeting with the DEP, and he expects to be issued permits for each of the zones. He noted that stormwater regulations have also changed. He explained in technical detail the new requirements and how they have met them. He also noted that they have removed a row of parking spaces on the east side of the driveway to provide extra width for garage doors (16' rather than 12'). Their impervious coverage is 9.8%, where 50% is allowed under code.

Mr. Keller discussed traffic volume and patterns generated by an age-restricted building. He expects 8 trips/morning and 11 trips/afternoon, and they will be using the existing traffic signal. He noted that lighting design would be similar in nature to what was approved, with the upgrade to LED lighting under current standards. Mr. Sneickus and Mr. Keller discussed footcandle levels. He was reminded of the need to reapply for several permits in this regard.

Mr. Wiener asked Mr. Keller to calculate the distance between the last Fox Hills building and the Fox View building. After some measurement, it was determined that there was over 800' between them. Mr. Sneickus asked for a discussion of setbacks, with which Mr. Keller complied. He also determined that the building was ADA compliant. Mrs. Ferrante asked if they were using ramps. Mr. Keller said the did not need ramps.

Mr. Sneickus asked if they planned any crosswalks. Mr. Keller said they would require some crosswalks, but were open to Township requirements. Mr. Sneickus confirmed that trash would be collected in the garage and taken outside for pickup, and no dumpsters were needed. There is no additional signage. Other than landscaping proposed for around the building, no other disturbance was expected. Mr. Keller offered that any area disturbed would be revegetated. Mr. Dimin asked how long it might take them to obtain DEP permits. Mr. Keller estimated 4 months out.

Mr. Black reviewed his letter dated 5/15/19, and Mr. Keller said the would comply with all items listed therein. Mr. Black added that they would require a Developer's Agreement; Mr. Keller agreed.

Fire Marshal Babcock questioned whether the two emergency accesses—Constitution Blvd and Hillside Road—were accessible now. Mr. Keller noted that the Constitution and Hillside access roads were graveled, and water mains exist in the roadway. F.M. Babcock was not comfortable with that reply, and Mr. Keller reminded him that they were in compliance with Township code requirements. He noted that they cannot improve those roads until they receive DEP permits. The roads aren't improved, but they are gated.

Mrs. Ferrante asked if there is currently an easement for the wells across the property. Mr. Dimin said that, in 2006 when Leben Care was planned, there was an easement granted for water and sewer. Mrs. Ferrante said they would need a formal easement for accessibility. Mr. Dimin said they can make it a requirement in the resolution. She noted that the condo units were for purchase. She asked if they were going to be individual lots. Mr. Dimin said each unit would be deeded for tax purposes, which was described in the requirements of the condo association.

Mrs. Hantman noted that Mr. Keller said there would be two handicap parking spaces at the garage area and two in the parking lot. She asked if he felt that four spaces were sufficient. Mr. Dimin said this was a marketing tool; there could be more. Mrs. Hantman asked what the requirements were for OR1EH facilities. Mr. Keller said that they would comply with any Federal requirement; however, where

hospitals and such require higher numbers of handicap spaces, buildings in the OR1EH zone do not. If the homeowners want more handicap spaces, they will comply. Mr. Dimin asked if parking spaces would be assigned. Mr. Keller said they did not plan to, but the association is free to make that decision.

Mr. Washington noted that the proposed building at Fox View was quite far from Mt. Hope Avenue. He asked what other forms of transportation would be provided besides cars. Mr. Dimin noted that that decision was not within the purview of the Board. Mr. Washington and Mayor Puzio both asked whether the updated lighting would contain LED-compatible fixtures. Mr. Keller said they would be used since LEDs are much more controllable. There were no further questions from the Board.

**PUBLIC QUESTIONS:** **Frank Vadillo**, 30 Sunrise Rd, asked if all of the construction changes made in the last 20 years will be included. Mr. Keller said that was a building department issue, and they would comply with the current building standards. He asked if there would be any blasting required. Mr. Keller said there would not. He asked about the water connection, asking if it would be coming from Constitution. Mr. Keller said no, and he confirmed that there would be no more construction on Hillside.

**Stacy Gregg**, 40 Sunrise Rd, asked the same question about the water connection, noting that the water loop extends to Mt. Hope Road through Hillside and Sunrise. Mr. Dimin reminded her that this project is separate from the Merry Heart application. Mr. Keller noted that the use was changed by ordinance from “Assisted Living” to OR1EH. She then discussed the condition and accessibility of the emergency gate. She asked what emergency vehicles would be using the gate, and then she went into asking why the emergency access wasn’t through the RT Municipal parking lot. Mr. Dimin assured her that this was not an option.

**Jonathan Schmidt**, Gloucester City, continued the topic of the location of a secondary, or emergency access to Fox View, expressing his concern that, should either of the access roads (via Mt. Hope Avenue or Sunrise Rd) be blocked, response times of emergency vehicles would be at risk. He asked if the plan could be approved without the access road. Mr. Dimin replied “yes” since the emergency access had already been approved. Chairman Elko noted that, in the event of a fire at Fox View, access was already in place from Mt. Hope Avenue via Constitution Blvd and from Mt. Hope Road via Hillside. There were no further public questions.

*(NOTE: A 5-minute break was taken at this time.)*

**PUBLIC STATEMENTS:** **Stacy Gregg**, 40 Sunrise Rd, said she was in favor of this application. She commented that she would have like to have sewers, but they got their water. Mr. Dimin said it was unfortunate, but that was not within the purview of the Board.

Mrs. Hantman made a motion to close the public hearing, seconded by Chairman Elko. Mayor Puzio made a motion to approve application with conditions as set forth, subject to approvals from all agencies involved as stated during the public hearing. Mrs. Hantman seconded the motion. Roll call: Capt. Scherr, yes; Mr. Washington, yes; Mr. Tahan, yes; Mrs. Hantman, yes; Mayor Puzio, yes; and Chairman Elko, yes.

**PUBLIC COMMENT:** Jonathan Schmidt, Gloucester City, NJ, demanded to know why the Board did not make a motion and perform a roll call vote after Ms. Smith claimed that the Board was in violation of Open Public Meetings Act requirements about public notices being made in two publications. Mr. Schmidt made repeated his accusation to the Board Chairman. Chairman Elko replied that he (and the Board) took the recommendation of counsel to proceed, as he would in the future. Mr. Schmidt again demanded to know why the meeting was only posted in The Citizen. Mayor Puzio said they will look into the process.

*(Editorial Comment: The 2019 Reorganization provided for and approved publication of meetings in both The Citizen and The Daily Record, as per OPRA.)*

Stacy Gregg, 40 Sunrise Rd, reminded the Board that she was told by Mr. Dimin that she could not videotape the meeting in the spirit of “transparency.” Mr. Dimin said he would not address the topic again.

**RESOLUTION: PB#23050, Pondview Estates Amended Site Plan (Block 11501, Lots 41, 45 & 47; Block 10502, Lot 2).** Mr. Dimin reviewed the resolution approved at the 4/15/19 meeting. Of the voting members, approval was unanimous. Resolution is memorialized.

**RESOLUTION:** Mr. Dimin read the **Resolution for Payment for Professional Services from Escrow Accounts**. Mrs. Hantman made a motion to approve, seconded by Capt. Scherr, with unanimous approval.

Mrs. Hantman made a motion to close the regular meeting at 10:05pm, seconded by Mayor Puzio. The next regular meeting is scheduled for 6/17/19, at 7:30pm in the municipal courtroom.

Respectfully submitted,

*Joyce M. Lyasko*

Joyce M. Lyasko, Recorder