

**HARDING TOWNSHIP
PLANNING BOARD SPECIAL MEETING MINUTES
AUGUST 11, 2020**

CALL TO ORDER AND STATEMENT OF COMPLIANCE-

The Planning Board Chair, Peter Saulnier, called the electronic meeting to order at 7:30 and announced that adequate notice of this meeting had been made to the Daily Record and Observer Tribune. Notice was posted on the Township web page and on the bulletin board in the Township Hall on Blue Mill Road in Harding, New Jersey, and filed with the Township Clerk.

ROLL CALL—Ms. Taglairino

The roll was called. The following were present:

Mr. Clew, Mr. Jones, Mr. Edgar, Mr. Dietz, Mr. Modi, Mr. Saulnier, Mr. Chipperson, Ms. Claytor, Mr. Bjorkedal, Mr. dePoortere and Mr. Newlin.

Mayor Yates was present.

Mr. Hall, the Board Attorney, Mr. Fox, the Board Engineer, Ms. Taglairino, Board Secretary and Ms. Mertz, the Board Planner were also in attendance.

SPECIAL MEETING

OLD BUSINESS

Application PB#03-20

L&T Affordable Housing Urban Renewal Corp.

700 Woodland Ave., B2/L16, AHO Zone

Applicant is seeking Site Plan approval and variances for a setback, minimum building separation and accessory structure in front of a principal structure.

Presenting:

Daniel Lagana, Attorney

Louis Riccio, L&T Attorney

Eric Rupnarian, Engineer

William Charleroy, Architect

Mr. Roselli, the Township Attorney was present.

- Mr. Hall and Mr. Roselli addressed Mr. Dietz's question regarding the Township Committee's participation in the application. Mr. Hall and Mr. Roselli found no conflict of issue.
- Mr. Rupnarian presented the revised proposed site plan with changes to the parking, residential building and the parking in front of the dumpster area. The applicant tried

reconfigurations to move the office building but found no solution that would not affect the ADA compliance.

- Mr. Rupnarian noted that he spoke with Mr. Fox and they there was an agreement to supply a stormwater management report.
- Mr. Dietz asked about the current use of the garage. Mr. Lagana notes that the primary use is for garbage and storage.
- Mr. Hall confirmed the shielded lighting on the new buildings.

Margaret Williams from Davenport Place asked about the dumpsters.

Debra Martin from 26 Davenport Place asked about the use and need of the office. She also commented on the traffic on the corner.

- Mr. Saulnier asked about a landscape plan. Mr. Fox will oversee the original prior existing Bosenberg landscape plan as per the resolution and.
- Mr. Rupnarian said there will be no removal of trees along Kitchell Road.
- Mr. Clew asked that the garbage area be landscaped.
- Mr. Fox reported that the parking, lighting, DEP, landscape, Stormwater and refuse enclosure have been addressed.
- Ms. Mertz asked for clarification for the refuse area and if it would include recycling.
- Mr. Fox addressed drainage, impervious coverage and tree removal questions for Morristown resident.
- Mr. Charleroy addressed the residence revisions, the lighting for the new buildings.
- Mr. Hall recited the terms of the conditions of approval.

Mr. Newlin made a motion to approve the Resolution PB #3-20 L&T Affordable Housing Urban Renewal Corporation. It was seconded by Mr. Clew. A roll call vote went as follows:

For: Mr. Chipperson, Mr. Clew, Mr. dePoortere, Mr. Newlin, Mr. Bjorkedal, Mr. Yates, Mr. Jones & Mr. Saulnier.

Against: None

Abstain: Mr. Dietz

OTHER BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 9:15

Respectfully Submitted by

Lori Taglairino

Lori Taglairino, Board Secretary

Amended Site Plan Approval & Grant of Variances
Application No. PB 3-20 – L&T Affordable Housing Urban Renewal Corporation
Prior Application No. PB 7-99 – Township of Harding
Kitchell Road & Woodland Avenue – Block 2, Lot 16
Adopted August 11, 2020

WHEREAS, by resolutions adopted on November 22, 1999, January 24, 2005 and March 14, 2005, the Harding Township Planning Board approved the application of the Township of Harding for initial and subsequent amended preliminary and final major site plan approval for development of a 24-unit affordable housing project known as The Farm at Harding on property located in an AH Affordable Housing Zone at the corner of Kitchell Road and Woodland Avenue and designated on the Township Tax Map as Block 2, Lot 16; and

WHEREAS, The Farm at Harding affordable housing development was subsequently constructed, and the Township received credit for the 24 affordable housing units from the Council on Affordable Housing in connection with the prior grant of substantive certification; and

WHEREAS, a proposal to construct 2 additional affordable housing units at The Farm at Harding was included in a proposed Housing Element and Fair Share Plan (“HEFSP”) endorsed in an agreement with Fair Share Housing Center that was approved by the Superior Court, formally adopted by the Planning Board, and ultimately was the subject of a Final Judgment of Compliance and Repose entered by the Superior Court on June 17, 2020 in a declaratory judgment action filed by the Township; and

WHEREAS, the Township entered into an agreement with L&T Affordable Housing Urban Renewal Corporation (“L&T Affordable Housing”), a non-profit entity affiliated with the Borough of Madison Housing Authority, for sale of The Farm at Harding property, subject to conditions requiring continued affordable housing restrictions and the construction of 4, rather than 2, additional affordable housing units, with conveyance of the property being contingent on receipt by L&T Affordable Housing of Planning Board approval for construction of 4 additional affordable housing units and related improvements; and

WHEREAS, L&T Affordable Housing filed an application with the Planning Board for amended site plan approval and related variance relief that was the subject of an initial public hearing at a virtual meeting on July 27, 2020, for which public notice and notice by applicant were given as provided by law; and

WHEREAS, the applicant subsequently submitted revised plans, and the Planning Board conducted a continued public hearing on the revised plans at a virtual special meeting on August 11, 2020, for which public notice was provided; and

WHEREAS, the Planning Board considered the testimony, evidence and public comments presented during the public hearing proceedings;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Planning Board, this 11th day of August 2020, that the application of L&T Affordable Housing Urban Renewal Corporation for amended site plan approval and related variance relief is hereby approved subject to certain conditions and based on findings and conclusions as follows:

Findings of Fact and Statement of Reasons

1. L&T Affordable Housing seeks amended site plan approval for limited modifications to a 24-unit affordable housing development on an 8.355-acre parcel located in an AH Affordable Housing Zone at the corner of Kitchell Road and Woodland Avenue and designated on the Township Tax Map as Lot 16 in Block 2, known as The Farm at Harding. This residential development was constructed pursuant to prior development approvals as set forth in resolutions adopted by the Planning Board on November 22, 1999, January 24, 2005 and March 14, 2005. The Planning Board incorporates by reference the findings and conclusions in those resolutions.

2. The present proposed modifications to The Farm at Harding affordable housing development include construction of a new building containing 4 additional affordable housing units, construction of a small office building opposite Kitchell Road to provide on-site management, installation of an enclosure for storage of solid waste and recyclables, and limited modifications to the driveway, parking, sidewalks and related site improvements. The proposed improvements were shown on site plans prepared by Goldenbaum Baill Engineering, initially dated June 26, 2020 and revised July 30, 2020, and on architectural plans prepared by William Charleroy, Architect, dated July 1, 2020, as superseded by plans dated July 30, 2020.

3. In addition to amended site plan approval, the proposed improvements require variance relief as follows:

- a. Variance relief from the 50’ setback requirement in Section 225-137(E) of the Land Use and Development Ordinance to allow minimum front setbacks of 30.1’ for the proposed on-site management office building and 37.4’ for the proposed solid waste/recycling enclosure.

- b. Variance relief from the general restriction against locating accessory structures in front of a principal structure in Section 225-116(D)(1) of the Land Use and Development Ordinance to authorize front yard locations for the proposed on-site management office building relative to Kitchell Road and the solid waste/recycling enclosure relative to Woodland Avenue.
 - c. Variance relief from the minimum parking space supply requirement of 63 spaces in Section 225-137(J) of the Land Use and Development Ordinance to permit 56 parking spaces and 2 banked parking spaces.
4. As initially proposed, the applicant sought Planning Board approval of minimum building separations of 12.5' on each side of the proposed new residential building. Section 225-137(G) of the Ordinance provides a minimum building separation standard of 20', but specifically permits Planning Board approval of a reduced separation where buildings are at an angle to one another, as in the present case. The revised plans submitted by the applicant after the initial hearing increased the proposed minimum separation to 20.5' on the right side and 18.4' on the left side, thus requiring Planning Board approval of only the minor reduced building separation on the left side.
5. Paul Fox, P.E., Township Engineer, commented on application completeness in a memorandum dated July 17, 2020 that was considered by the Planning Board at the start of proceedings at the meeting on July 27, 2020. Mr. Fox identified limited completeness deficiencies, as to which the Planning Board granted waivers and deemed the application to be complete, subject to compliance with recommendations in the Fox memorandum, including provision by the applicant during the public hearing of adequate testimony on the technically incomplete items.
6. Township Planner McKinley Mertz commented on the substance of the application in a memorandum dated July 24, 2020 and in a supplemental memorandum dated August 5, 2020. Township Planner Mertz participated in all public hearing proceedings.
7. Township Engineer Fox commented on the substance of the application in a memorandum dated July 24, 2020, and in a supplemental memorandum. The applicant's representatives agreed to comply with all comments.
8. The applicant was represented in proceedings before the Planning Board by Daniel Lagana, Esq. of the law firm of DeCotiis, Fitzpatrick, Cole & Giblin, LLP.
9. Attorney Martin Cabalar, Esq., of the Becker law firm, entered an appearance on behalf of the Moore Estate Condominium Association for the multifamily residential development on the opposite side of Kitchell Road in Morris Township at the initial hearing. Several neighbors asked questions and/or expressed concerns at the continued hearing.
10. Testimony in support of the application was provided by architect William Charleroy and engineer Eric Rupnarian, who explained the design, layout and function of the proposed improvements and the subsequent revisions to the proposal.
11. Background on The Farm at Harding and the recent affordable housing plan approval by the Superior Court was provided by Township Attorney Mark Roselli, Esq., who stated that although the court-approved Plan only provided for 2 additional affordable housing units at The Farm, the concept of adding 4 units had been considered previously. The Township will receive a current credit for 2 units and a future credit for the other 2 units, and it will be more economical to provide 2 additional affordable units in connection with the current development proposal.
12. Questions arose as to the rationale for and the proposed size of the on-site management office. Township Attorney Roselli stated that for many years the Township had been operating The Farm at Harding using off-site management, which had posed operational inefficiencies. Based on that experience, he expressed the view that an on-site management office would result in more efficient operations and better service for residents of The Farm.
13. Louis Riccio, administrator for L&T, testified that the proposed on-site office was expected to have only 1 primary occupant, but 2 separate office spaces were proposed in order to provide a separate private meeting space. He expressed the view that the size of the proposed office building was not excessive.
14. The applicants' professionals testified that it was not practical to shift the office building location further away from Kitchell Road in order to increase the setback due to construction design constraints linked to site topography and the location of the handicapped access ramp in relation to the parking and sidewalk. The applicant's representatives indicated that landscaped screening would be provided to mitigate any visual impact of the modest one story proposed building.
15. The parking situation was discussed, including clarification of calculation of the minimum requirement based on RSIS criteria. Engineer Rupnarian acknowledged that the figures on initial site plan sheet 4 inadvertently did not show the calculated minimum of 63 spaces (including 2 spaces for the propose management office). Further discussion resulted in a determination that all 63 parking spaces were not needed based on testimony that the parking supply had never been a problem on this property. This conclusion was confirmed by Township Engineer Fox, who testified that review of numerous aerial photographs

taken at different times and dates consistently indicated limited parking demand relative to supply.

16. The parking requirement calculation of 63 spaces was correctly shown on the revised plans, which indicated that the current supply would be increased from 51 to 56 spaces, along with the designation of 2 banked parking spaces that could be improved in the future if needed. Therefore, variance relief was sought to permit 5 fewer parking spaces.

17. The applicant's professionals testified that the solid waste/recycling enclosure was needed because that storage function currently is conducted in the service building that would be eliminated by construction of the proposed 4-unit residential building. The proposed location of the enclosure will allow direct access from the parking area. The proposed location would be near only one building, while possible alternate locations would be near two buildings. The initial plan required access across 2 parking spaces that would have to be restricted against parking during scheduled pick-up times. It was determined that these 2 parking spaces are not needed and should be eliminated to avoid potential operational conflict. This was shown on the revised plans. At the continued hearing, the applicant's engineer agreed to shift the location closer to the sidewalk in order to increase separation from the nearby residential building. He also stated that the enclosure would be screened by landscaping to be installed as approved by the Township Engineer.

18. As indicated above, the revised plans included a change to the configuration of the footprint of the proposed residential building that permitted increases in the proposed minimum building separations to 20.5' on the right side and 18.4' on the left side. The Planning Board concludes that the remaining minor deviation of 1.6' from the 20' building separation standard on the left side is reasonable and appropriate in this particular situation involving buildings that will be oriented at an angle to each other.

19. The stormwater management situation was discussed. Limited adjustments might be appropriate to address the minor increase in impervious lot coverage. The revised plans showed increased storage capacity, and the applicant's engineer agreed to provide updated stormwater management information for review by Township Engineer Fox, who indicated that compliance with applicable stormwater management requirements would be a condition of any approval.

20. Questions were raised as to outdoor lighting, and the applicant agreed that any outdoor lighting would be appropriately shielded to avoid any adverse impacts, subject to approval by the Township Engineer.

21. The Planning Board concludes that the proposed deviation from the applicable RSIS standards for the number of on-site parking spaces should be granted consistent with criteria in N.J.A.C. 5:21-3.1(g) for the following reasons:

- a. Given the very minor scope of the deviation from strict application of the minimum on-site parking supply standard, there will be no adverse impact on public health or safety.
- b. Testimony concerning existing conditions and activity over a number of years established that the proposed parking supply will be more than sufficient for this particular development.
- c. Granting relief will avoid the need for additional impervious lot coverage that might require additional stormwater management improvements.
- d. The proposed development will provide additional affordable housing, thus advancing a substantial public interest.

22. Based on the foregoing, variance relief from the 63 space minimum parking supply requirement in Section 225-137(J) of the Ordinance to allow 58 spaces (including 2 banked spaces) is appropriate pursuant to N.J.S.A. 40:55D-70(c)(2), since the requested variance relief would result in public benefits as stated above, and these public benefits would substantially outweigh any detriment.

23. Variance relief from the 50' minimum setback requirement is necessary due to the location of existing improvements on this property and the large area of freshwater wetlands and transitional areas that cannot be developed, thus leaving limited developable area notwithstanding the large lot size.

24. The deviations from the 50' minimum setback requirement will be confined to a modest one-story building and separate solid waste enclosure, and any visual impact of these improvements will be mitigated by landscaped screening that the applicant agreed to provide.

25. In the case of this specific property, the extensive environmentally constrained areas and the location of existing and proposed improvements, strict application of the zoning requirements would impose peculiar and exceptional practical difficulties on the applicant by precluding the proposed locations of the modest one-story building and solid waste enclosure as shown on the revised plans, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

26. For the same reasons, variance relief is also appropriate pursuant to N.J.S.A. 40:55D-70(c)(1) from the restriction against front yard locations in Section 225-116(D)(1) of the Ordinance to authorize front yard locations for the proposed on-site

management office building and solid waste/recycling enclosure as shown on the revised plans.

27. All of the requested variance relief may be granted without substantial detriment to the public good and without substantial impairment of the Township Master Plan and Zoning Ordinance.

28. Subject to compliance with all conditions in this Resolution, the application complies with the requirements for amended site plan approval.

Description of Amended Site Plan Approval

Approval is hereby granted for the application of L&T Affordable Housing Urban Renewal Corporation for amended site plan approval in accordance with site plans prepared by Goldenbaum Baill Engineering, dated June 26, 2020 and revised July 30, 2020, and revised architectural plans prepared by William Charleroy, Architect, dated July 30, 2020.

Description of Variances

1. Variance relief is hereby granted from the 50' minimum setback requirement in Section 225-137(E) of the Land Use and Development Ordinance to permit minimum front setbacks of 30.1' for the proposed on-site management office building and 37.4' for the proposed solid waste/recycling enclosure, as shown on the revised site plans and architectural plans.

2. Variance relief is hereby granted from the general restriction against locating accessory structures in front of a principal structure in Section 225-116(D)(1) of the Ordinance to authorize front yard locations for the proposed on-site management office building and solid waste/recycling enclosure, as shown on the revised plans.

3. Variance relief is hereby from the minimum parking space requirement of 63 spaces in Section 225-137(J) of the Ordinance based on RSIS criteria to permit 56 parking spaces and 2 banked parking spaces for the development as shown on the revised plans.

Development Approval Conditions

These approvals are granted subject to the following conditions:

1. Any outstanding property taxes, application fees and technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy.

2. The applicant shall obtain a building permit, Health Department approval and any other necessary approvals.

3. These approvals are based on and authorize only the specific improvements proposed by the applicant as set forth in the testimony, application and revised plans. New or amended approval may be required for any materially different improvements.

4. These approvals are granted subject to the following express conditions;

a. Submission of a landscape plan consistent with the previously approved landscape plan and showing reasonable screening of new proposed improvements and also showing any proposed outdoor lighting, which shall include appropriate shielding, subject to review and approval by the Township Engineer.

b. Review and approval of stormwater management plans by the Township Engineer.

c. Compliance with all recommendations in the comment memoranda issued by the Township Planner and Township Engineer.

5. In accordance with Section 225-35(C)(1) of the Ordinance, these variances shall expire unless the authorized construction is commenced within one year from the date of this resolution and is subsequently pursued in a reasonably diligent manner.

Vote on Resolution

For the Approval Resolution: Chipperson, Clew, DePoortere, Newlin, Bjorkedal, Yates, Jones & Saulnier.

Against the Approval Resolution: None.

Abstain: Dietz