

**Borough of Florham Park
Planning Board
Work Session Meeting Minutes
November 23, 2020**

The Regular Work Session of the Borough of Florham Park Planning Board was called to order on Monday evening, November 23, 2020 at 6:30p.m. The meeting was conducted by virtual means utilizing the Zoom service in accordance with the "Senator Byron M. Baer Open Public Meetings Act" of 2020, which explicitly permits a public body to conduct a meeting electronically during a state of emergency.

Members Present:

Mr. Michael DeAngelis – Chairman
Mayor Mark Taylor
Mrs. Carmen Cefolo-Pane
Mr. John Buchholz
Mr. David Roberts
Mr. Jeffrey Noss
Mr. Sid Dvorkin
Mr. Joseph Guerin (1st Alt)
Mr. Jeffrey Hegan (2nd Alt)

Members Absent:

Mrs. Jane Margulies – Vice Chairman
Mr. Gary Feith

Also Present:

Mr. Michael Sgaramella, Borough Engineer
Ms. Katherine O’Kane, Borough Planner
Mr. John Wyciskala, Esq. Board Attorney

Statement of Adequate Notice:

Mr. DeAngelis issued the following statement:

“I hereby announce and state that adequate notice of this meeting was provided by the Secretary of this Board by preparing a notice, specifying the time, date and place of this meeting; posting such notice on the bulletin board in the Municipal Building; filing said notice with the Clerk of the Borough forwarding the notice to the Florham Park Eagle, and forwarding, by mail and fax, the said notice to all persons on the request list, and that said notice will be included in the minutes of this meeting. This action is in accordance with N.J.S.A. 10:4-6, et seq., “Open Public Meeting Act.”

Site Plan Waivers:

None

2021 Nominating Committee

Chairman Mike DeAngelis asked for volunteers to form the nominating committee for Chairman and Vice-Chairman of the Board for 2021. Joe Guerin and Dave Roberts volunteered.

On a motion duly made and seconded the meeting was adjourned at 6:35p.m.

November 23, 2020

Marlene Rawson
Board Secretary

Steve Azzolini, Esq. represented the applicant. He stated that all of his testimony is complete and he is open for any comments.

John Wyciskala, Esq. said that a petition by a number of Afton of Morris unit owners has been circulated to the Board members. He advised them that they can recognize the receipt of this petition but it is not admissible for evidence unless every signer is present tonight. The applicant is entitled to cross examine all signers.

Emily Weiner, Esq., attorney for an objector, was present at the hearing. She said that her planner was not able to attend tonight, but she has another planner with her. John McDonough, PP was sworn in.

Mr. McDonough said that he reviewed the plans. He noted that the landscape buffer in the rear should be more robust and better separation between the residential townhomes and the subject property is needed. The requirement of 150-foot setback to a residential use is proposed to be 65 feet. Mr. McDonough agrees that this requirement meets the criteria of a hardship. The 150-foot setback cannot be complied with. However, the neighborhood impacts should be further mitigated by a more robust buffer that includes additional plantings or a larger buffer to provide greater conformity with the negative criteria. A wider buffer would better satisfy the negative criteria. Although veterinary clinics are a permitted medical use, it may have noise, barking, and odor issues not normally associated with a typical medical facility. A thicker and larger buffer would help in this regard.

Mr. McDonough agrees that the applicant has met the standard of providing a desirable visual environment. But he also said that a lesser project would better mitigate the negative effect and help to balance positive and negative criteria as well as the hardship. In closing, he said that he does not feel that the buffer as presented does not adequately mitigate the negative impact enough.

Steve Azzolini responded to Mr. McDonough. He stated that the zone requires a 10-foot buffer for parking. They have met this requirement and do not need a variance for it. He noted that even if the setback buffer was larger, it would not prohibit them from placing the parking lot exactly where it is today. It was confirmed that there are no restrictions on hours of operation. The zone permits funeral homes, and a variety of uses that would be much more intense than this one is. Mr. McDonough agreed but thought that the clientele (animals) would warrant more sensitivity due to the nature of the nuisances.

Steve Azzolini said that the dog run area was originally an unscreened area, but they are screening it due to neighbor concerns. Mr. McDonough also agreed that a dog would probably not be visible in the 10-foot buffer. He still thought it should be bolstered for maximum screening. Steve Azzolini added that there is a non-confirming shed and garage currently on the property that are being removed. Mr. McDonough agreed that they are eliminating a non-compliant condition which is a benefit.

Steve Azzolini reviewed the numerous variances that the townhome development received with Mr. McDonough. He commented that variance for the 150-foot setback requirement was granted to them in connection with their proximity to the residential zone on Midwood Drive. He said that the previous Board planner interpreted the ordinance to mean to a residential zone and not use. Mr. McDonough agreed there is ambiguity in the ordinance.

Steve Azzolini noted that in a designated Borough multi-family zone, the setback requirement on the side and rear is 50 feet. This townhome development was granted a setback of only 13 feet off of this property. This is contributing to the buffer issue. Mr. McDonough said that if there is an opportunity for better screening, it should be done. Steve Azzolini clarified that the building is 74 feet from the property line.

Mark Taylor commented the Board agreed that deeper and thicker screening is needed, and also not installing a second fence. They should just add on to what is out there.

Mr. McDonough replied that he knows that this Board does a great job.

The meeting was opened to the public.

Jim Higley, 4 Hanover Road Unit C-3. He stated that the original plan called for 15 parking spaces which was deemed adequate. The revised plan now has 32 parking spaces. Why so many now? Why can't they reduce the parking and provide a bigger buffer?

Andrew Clarke, Engineer for the project, replied that the previous plan did not include the third property that the new plan has. The veterinary clinic has also been made slightly larger. Previously, they were providing 18 spaces and seeking a variance for the 22 required spaces. The new plan includes the parking requirement for the additional building and the larger veterinary clinic. They now meet the requirements overall and do not wish to seek relief.

Mr. Higley asked if the current parking plan will remain on the adjacent lot. Andrew Clarke replied that the parking arrangement will be restructured but will have the same number of spaces. He described the current and proposed parking plan.

Mr. Higley said that 32 parking spaces seems a lot for the traffic that is proposed. Andrew Clarke replied that they are required to meet the ordinance which is 25 spaces for the veterinary clinic and 7 spaces for the office building. Mr. Higley thought that the Board could grant a variance for parking. He commented that no one seems to have a problem granting variances.

Andrew Clarke stated that they are not asking for a variance. John Wyciskala said that just to be clear, no one has granted any variances and no decisions have been made yet.

Piero Gabucci, architect, remained sworn in. He said that they will look for larger specimens of arborvitae and stagger them for a denser buffer. If it is the right time of year, it may be possible to find taller material, like 7-8 feet. He will also provide additional plant material for a thicker buffer. He agreed to provide 6-8 foot specimens. Mr. Azzolini said that they will work with the Town Center Task Force and Borough Engineer on this and also the fencing and tying into it.

Emily Weiner commented that the townhome resolution called for 8-10 and if possible, 12-14 foot specimens at the time of planting and asked if they can be consistent with that.

Mark Taylor replied that he did not think that they complied with that height, however, it still looks very nice.

Katherine Sarmad interjected and said that it was required on the northern property line where it abuts the single family residential lots on Midwood Drive.

Mr. Azzolini stated that he is finished with all his witnesses and testimony.

The meeting was opened to the public for comments. Mr. DeAngelis said they will be limited to one minute.

Jim Higley. He was sworn in. He referred to the petition that was submitted and said that the residents have issues with the hours of operation. John Wyciskala responded that the petition is not admissible unless all signors are present and available for cross examination. However, it can be read by Mr. Higley.

Mr. Higley referred to the petition and stated that they have a right to peaceful enjoyment of their home. He reviewed the proposed hours of operation. He said that there will be numerous cars and noise on weekdays and weekends. This is what they would see if this is approved. It is not conducive to their peaceful enjoyment. He also said that he thinks that 32 parking spaces is excessive and there should be a variance asked for and granted for less in order to provide a bigger buffer.

He continued that the PB2 zone allows banks as a conditional use and Sunday hours are prohibited, probably to give some relief to residential areas. He asked why they can't have the same courtesy. He said that he and his wife visited the East Hanover office and witnessed 8 cars coming and going in one half hour. He said there were barking dogs and dogs relieving themselves in the parking area. This is what their reality will be.

He asked about onsite euthanasia and cremation. He said that their property value will diminish by this project with trees being removed and grass areas converted into a parking lot.

Steve Azzolini asked Mr. Higley if he would be concerned if this was an urgent care, medical building or a funeral home. Mr. Higley said he would be concerned with any use that produces a high amount of traffic. Steve Azzolini asked him if he was aware that the townhomes were 13 feet from the property line. He asked him if he knew what the permitted uses were. Mr. Higley replied that he had asked a government official if anything was pending that would impact the townhomes and there was not. He was not aware of all the permitted uses.

Melissa Dewhurst, 51 Beechwood Road. She was sworn in. She said that Florham Park is a great town to live in. The residents and the businesses are great. She received a lot of community support during a personal tragedy, including from Dr. Edelle. She is in support of Dr. Edelle's application. Dr. Edelle is a resident of Florham Park who is involved with the town, offering the free rabies clinic, sponsoring sports teams, etc. This is what we need in Florham Park.

Michael Yu, 4 Hanover Road, Unit A-3. He was sworn in. He and his wife are new residents and signed the petition. He supports what planner John McDonough stated and Jim Higley's comments. He feels there could be a meaningful compromise on parking and greenery. He said that the application does not affect him very much. But more restrictions would be good for his family and for future families.

Steve Azzolini asked Mr. Yu when he closed on the unit and if he knew about this application at that time. He asked if he contacted the Municipal Clerk's office for information as disclosed in the contract. Mr. Yu replied that he entered into the contract in August 2020. He did not know about this application. He did not contact the Clerk's office for more information.

Steve Azzolini continued that the rear yard of "A" building is residential. He confirmed with Mr. Yu that he is not able to see the subject property and asked how parking is a concern for him. Mr. Yu replied that it is not really a concern for him, but noise may be a concern.

Mark Taylor asked Mr. Azzolini if the developer had a duty to notify the homeowner that there is a pending application. Steve Azzolini replied that it is incumbent upon the buyer to search out any offsite conditions that would impact the value of their unit.

Emily Weiner stated that the timing may have been that the developer did not receive notice prior to their contract with Mr. Yu.

Shari Marchal, 109 Edgewood Drive. She was sworn in. She is a new dog owner and is very excited for Dr. Edelle and her business. This will not harm the town. She has a wonderful and thriving business and it is amazing to have this. Shari Marchal said is sympathetic to the townhomes but Columbia Turnpike is a main road and more businesses will potentially come on that road. She supports this application and said that Dr. Edelle is open to working with the townhomes to make a compromise. Her building design fits in nicely and fits into the small town feel.

Lynn Keogh, 54 Edgewood Drive. She was sworn in. She is in support of Dr. Edelle. She is a client of hers and has also adopted a dog recently. It will be very convenient to have her business in Florham Park. She understands the hesitance by the townhome residents but maybe there were unrealistic promises made. This is a busy section of town. In her opinion, this area was not going stay the way it is. The plans are beautiful and one level is better than a high building. She has a well-run business. It is always clean, and she never noticed any noise. She will do the best for this town.

Michael DeAngelis commented that the use and the clinic should be considered. We can also rely on Dr. Edelle's testimony on how it will be operated. But it may not always be owned by Dr. Edelle. Variances run with the land, and the next owner may not be as cooperative.

Robyn Tanne, 4 Hanover Road, Unit C-3. She was sworn in. The issue of cremation and euthanasia have not been answered. There has not been a response to their concerns about a seven day a week practice. Why are there no restrictions? Isn't there a day of rest? How can we be expected to live in the townhomes that were given a variance to be townhomes? It is hard to envision life with this. Certain uses should be taken into consideration on these light use lots. No one is commenting on the hours of operation. How can we enjoy life with those hours? Can we have a

variance for less parking spaces so there is a bigger buffer? She is against this use. This Board voted for a variance for the townhomes to be here.

John Wyciskala stated that the townhome use is a prohibited use. The PB zone is a commercial zone. It was the Zoning Board that gave relief to the developer, not this Board.

Mike DeAngelis said that the Board will deliberate after all comments. He likes to hear the public comment first.

Robyn Tanne said that Rich Stabile, the broker for the townhomes, claimed that they were not notified initially, even though Mr. Azzolini said notification was sent to them. They were only notified for the September meeting and had no knowledge beforehand. There are so many properties available in Florham Park and it baffles her why Dr. Edelle would choose this property where it will create adversarial issues. She knows that Mr. Azzolini has an interest in getting this passed. There are no residents near her East Hanover location. The townhomes were here and she made a choice to have neighbors.

Mark Taylor responded that he fielded many phone calls from Midwood Drive residents when the townhome project came before the Zoning Board. They did not want their view impacted and wanted mitigation as well. The owners of this property were legally noticed. He agrees that proper screening should be provided to the townhomes as well.

Katherine Sarmad clarified that the hours of operation only apply to conditional uses such as banks.

Steve Azzolini asked Robyn Tanne if she checked with the town as to permitted uses on the properties that she backed up to when she purchased her unit. He asked if she expected that this would not be developed at some point. Robyn Tanne replied that she did not check with the town, and assumed that only light uses would be there. She also witnessed that there were no cars on weekends. She assumed that there would only be similar light uses or more townhomes on these properties. She did not check the hours of operation that are permitted in a PB zone.

Dr. Megan Edelle said that regarding euthanasia and cremation, they euthanize but cremation is provided by an outside service that picks up the euthanized pets.

Mike DeAngelis asked about the parking and if all of the parking spaces were needed. He wondered if some spaces could be banked and the area used for more screening. He asked Mike Sgaramella if this was a possibility.

Mike Sgaramella responded that the layout and parking on the site would not change. Only a few landscaped peninsulas could possibly be added.

Steve Azzolini responded that they are providing what is required by the ordinance. To restrict parking would be prejudicial to his client. This is a permitted use and they are not asking for a variance for this. The setback in question does not affect the parking area. The objectors are complaining about the use. The parking is conforming and they are complying with the 10-foot buffer. They have made numerous concessions during the course of these hearings. They can't screen a townhome that is 13 feet from the property line and has height and setback variances. This is a permitted use in a PB zone. The coverage they are proposing is an improvement over what exists today.

Mike DeAngelis verified that there are no overnight stays. He asked what happens when a sick or injured animal requires overnight services. Megan Edelle responded that patients needing overnight care are referred to overnight facilities. This is how most general practices operate. Mike DeAngelis and Mr. Azzolini agreed that it will be a condition.

Mike DeAngelis asked if the hours of operation can be limited on Sundays. Megan Edelle replied that animals become sick seven days per week. They also must provide convenient appointment times for the working public. She added that initially they may not be open on Sundays but eventually they will have Sunday hours. She wants the capability to do that.

Dave Roberts confirmed the hours of operation in East Hanover. They are 7am-7pm, Monday through Friday, and 7am-4pm Saturday and Sunday.

Emily Weiner. She noted that that the East Hanover hours are an hour shorter than what is proposed here and asked why they need longer hours here. She asked if they can open later in the morning. Megan Edelle replied that they want the longer hours in this location due to client requests. Ms. Edelle stated that they must be open early in the morning for surgery drop-off and blood and urine testing that must be done first thing in the morning.

Mark Viegas, 104 Edgewood Drive. He was sworn in. He supports Megan Edelle and the new clinic. She is a highly professional individual. She lives in Florham Park and gives back to the community. The clinic will be an asset to the town. She has been a great help to him when he became a new dog owner. He attested that she does not have overnight services. When his dog needed to be monitored overnight, he was referred out to a covering facility. This will be a wonderful addition to the town.

Emily Weiner. She stated that no one is objecting to the clinic or to Dr. Edelle but the site is not right for this use. Planner John McDonough said that it does not meet the criteria to mitigate the variances. It is better suited somewhere else. The negative criteria are not there. It will be a burden to residents because these are their homes. We understand that this is a PB zone, but they expected a business that is open Monday-Friday, 9am to 5pm. This use is too intense and it is too large variance for the setback.

Jim Higley. He said that they stated that there would be nine persons there at one time and a maximum of 3 appointments per doctor per hour. He said that 32 parking spaces is excessive. If this is passed, they should minimize the traffic that will be in his back yard even if it requires a variance. It would be appreciated. There are plenty of variances for anything else. He also clarified that they are not anti-pet or anti-woman. He asked the neighbors on Edgewood if they would want this in their backyard. It would be better to be in a commercial area with commercial tenants in the area.

Mark Taylor responded that he did not like the characterization that Mr. Higley gave to variances. They are difficult decisions for Board and we have done a good job of planning. We do our best to mitigate new projects as best we can. He does not care for two variance comments he made.

There were no further public comments.

Steve Azzolini gave his summation. The applicant has undertaken a great project. Most of the single family homes in the area have converted to offices. But they are becoming less desirable. He gave a review of the initial application and stated that Ms. Edelle then purchased a third property in order to increase the setback to the rear property line and lessen the impact to the townhomes. They took into consideration all comments and concerns. It is a residential looking building. He said the lighting plan was revised, the dog area is now screened, there is additional landscaping, and the mechanicals has been moved to the ground. Ms. Edelle has shown an incredible willingness to work with everyone as illustrated by the revised plans.

He continued that the 150-foot setback was not flagged at the time of the initial application by the Board's first planner. It was likely interpreted to mean to a residential zone. In addition, at the time of the townhome application, the previous Board planner also interpreted the setback to be to a residential zone, not use.

Steve Azzolini said he also interpreted that be required to a residential zone and certainly not between uses that are in the same PB zone. He noted that if he changed his property to a residential use, it would cause the surrounding office uses to become non-conforming. This is because of the 150-foot setback requirement that would automatically surround his property if it became residential. He does not think that was what was intended.

He said that however, in this application they assumed that it is required and have met the legal justifications for that variance. The ordinance needs to be drafted better.

Steve Azzolini said that the townhome development was granted many significant variances involving use, height, setback and coverage. He was not concerned at that that time because he is a commercial use. The purchasers of the townhomes had to know that this is a commercial zone that they were 13 feet off of the property line. He does not think that the Zoning Board intended to negatively affect his property by granting these variances. The setback

requirement eliminates development of his property and other properties if strictly complied with. This application is 5% under what is allowed on building coverage. Screening is provided and there is no substantial detriment.

He stated that the objectors do not like this use, the hours, or the parking. There are no variances involved for any of that. Traffic cannot be a consideration because this is not a use variance and traffic is not relevant to a permitted use.

Steve Azzolini continued that the townhome development does not conform to bulk requirements in designated Borough multi-family zones where they would need to be 50 feet from the side and rear property line. His property cannot be penalized for the massive townhomes behind him. There are more intense uses that could be here such as funeral homes, and 24-hour urgent care facilities.

Steve Azzolini said that he understands their concerns but they purchased their property knowing it was 13 feet from the property line and what uses could be placed there. The applicant has met the positive and negative criteria and has made numerous changes to this plan. This fits into the neighborhood and is a permitted use in the PB zone.

Mike DeAngelis asked that they work with the plantings. He said that 6-8 feet specimens at planting time should be fine because the root balls are not as large. Larger specimens have very large root balls and could be trickier in his experience. He agrees that a staggered look will create density and is achievable with 6-8 foot plantings.

Dave Roberts asked if there can be signage that prohibits dogs going into the 10-foot buffer in the rear. Mr. Wyciskala agreed that signage was discussed and is appropriate in the area. He confirmed that trash pick-up is between 7am-6pm. These will be conditions of approval.

Mike DeAngelis brought up that a setback of 13 feet was granted to the townhomes. This project as proposed is not any closer to the property line than what exists today which is 75 feet.

James Higley had another question, and although the public comment is closed, Mike DeAngelis allowed the question.

James Higley. He asked Steve Azzolini if he objected to the townhome application at the time. Steve Azzolini replied that he is not a witness in this application. Mr. Higley said that Mr. Azzolini testified that we should have known what could be built but he did not object to the townhomes. Knowing that this would come up seems disingenuous.

Steve Azzolini replied that he did not testify to anything. The townhome resolution stated that the 150-foot setback is to a residential zone so there is a question on the applicability of the ordinance.

Mr. Higley responded that he did not mean to offend Mayor Taylor. He said five variances are being requested here. A parking variance for this does not seem to be much of an issue.

Mark Taylor replied that Mr. Higley was not there for the townhome application which went on for months. He reiterated that the Board does not give out variances like they are popcorn. The Board does a great job of deciding on the development of many properties on this municipality. He dislikes the characterization Mr. Higley made. The applicant is not asking for a parking variance. The Board can't grant a variance if they are not asking for it. This is their case, not the Board's.

Steve Azzolini clarified there are four variances being requested. They are improved coverage 63.9%, 150-foot setback, loading zone dimension, side yard (existing). The 10% landscaping variance was eliminated because they are now compliant.

The meeting was then closed to public comment.

John Buchholz stated that this is a small application and there has been four full meetings on it. We have taken our time to be thorough with this. The Board has requested changes that are in favor of the residents behind the applicant's property. The applicant has tried to help the residents and has made many major changes. Also, this is the first time since he has been here that an applicant has bought property to mitigate a condition to make this

work. They even changed the building design. This is a great use. There are many other businesses that could go here that would be much noisier. He thinks they have done a lot. He said that John McDonough's issue with the setback buffer is not enough. He is for this application.

Mark Taylor also said that it could be a funeral home, a religious institution, or an urgent care. A much more intense use could be there as of right. He said that the positive and negative criteria have been satisfied. He thanked the applicant for enhancing the project.

Mike DeAngelis asked if the hours of operation can be changed at some point. John Wyciskala replied that there are no town ordinances that prohibit or restrict hours of operation in this zone. These are only her proposed hours of operation.

Seeing no other comments, Mike DeAngelis asked for a motion on the application.

Mr. Guerin made a motion to approve the application, second by Mr. Dvorkin

Roll: Guerin, yes; Dvorkin, yes; DeAngelis, yes; Taylor, yes; Buchholz, yes; Roberts, yes; Noss, yes.

Ms. Edelle thanked the Board and stated that she will not let them down.

Carmen Cefolo-Pane said that the Fire Review Committee has given her a letter of recommendations and related safety items that should be routinely addressed during application proceedings. They want this shared with the Planning Board members.

Mike DeAngelis commented that he does not think he has ever gotten something like this from any municipal department. John Wyciskala said that he recommends that the Fire Review Committee continue to provide comment on each individual application.

Mayor Taylor replied that each application stands on its own merits and they would need to present comment about that. We can't set a standard for the Planning Board on that.

John Wyciskala said that the protocol is to forward the letter to Board Secretary Marlene Rawson for distribution it to the Board. He added that the memo should be discussed at a Board meeting, if necessary.

On a motion duly made and seconded the meeting was adjourned at 9:30p.m.

Marlene Rawson
Board Secretary

November 23, 2020