

**Borough of Florham Park  
Planning Board  
Work Session Meeting Minutes  
November 9, 2020**

The Regular Work Session of the Borough of Florham Park Planning Board was called to order on Monday evening, November 9, 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  
Mr. David Roberts  
Mr. Jeffrey Noss  
Mr. Sid Dvorkin  
Mr. Joseph Guerin (1<sup>st</sup> Alt)

**Members Absent:**

Mrs. Carmen Cefolo-Pane  
Mrs. Jane Margulies – Vice Chairman  
Mr. Gary Feith  
Mr. John Buchholz  
Mr. Jeffrey Hegan (2<sup>nd</sup> Alt)

**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:**

Board Engineer Mike Sgaramella gave a brief summary of administratively approved site plan waivers. They included a generator installation at the Troy Corporation, change in ownership of the office building known as LSREF4 Turtle, LLC, and a rebranding of the Wyndham Hotel to Sonesta.

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

November 9, 2020

Marlene Rawson  
Board Secretary



John Wyciskala, Esq. announced that a letter from Emily Weiner, Esq. was submitted that challenged the adequacy of the notice for this application. The notice was reviewed by John Wyciskala and his colleague and it has been determined that the notice is sufficient.

Steve Azzolini, Esq. attorney for the applicant, noted that he posted legal notice initially for the application and then again when the application and plans were revised for the September 28, 2020 meeting. He stated that his professionals are present and available for any questions of which he has no objection to.

Steve Azzolini stated that certain changes that were made to the plan since the last meeting in response to neighbor's concerns on landscaping, lighting, roof top mechanicals and the dog area. The property at 132 Columbia Turnpike is now part of the application. He stated that the Town Center Task Force had no further comments on the landscaping plan, other than compliance with their guidelines. He also said that the Keenan Hughes, Planner and the Board Planner Katherine Sarmad reviewed and discussed the issue of the 150-foot setback requirement.

Piero Gabucci, architect, remained sworn in. He said that the outside dog area has been reduced in size in order to accommodate the mechanical units that have been relocated from the roof to the ground. The area is heavily screened. The dog area now has an eight-foot screen that will look like it is part of the building rather than a fence.

New colored renderings of the building were submitted. The building is one story high with a metal roof. The townhouse development is shown at the rear. The rear view depicts the view from the townhome terraces looking onto the subject property. The dog run is shown and it is heavily screened.

Upon questioning, Piero Gabucci stated that it is very difficult to see into the dog run area with these changes.

There has been a substantial amount of landscaping along the rear that includes an increase in height of tall growing evergreens for maximum screening. The lighting that will be used is a more modern fixture that effectively controls light spillage. There are no rooftop mechanicals proposed so that variance request is removed.

Mike Sgaramella asked that all changes to the site data box and architectural drawings be incorporated into the final plan set. Regarding fencing in the dog area, he stated that the maximum height for a fence in this zone is seven feet, but the Planning Board is able to approve a higher fence for screening purposes without the need for a variance.

Piero Gabucci said that the proposed rear property line fence is a solid, six-foot fence, but they are willing to go to seven feet if requested.

Piero Gabucci noted that the arborvitae that will be planted will be larger specimens at planting time. They will look for plants that are at least five feet. There was some discussion on the types of arborvitae that would be most appropriate.

The meeting was opened to the public.

Robin Tanne, 4 Hanover Road, Unit C-3. She said that she is not fully understanding the buffer issue. She asked about the fencing that is proposed, and noted that there is already a fence in the area that was installed by the townhome complex. She thought that back to back fencing could be unsightly.

Mayor Taylor replied that they are trying to provide the best screening possible for her. Steve Azzolini added that the fence can be removed if that is what is preferred as long as they can tie into the existing fence for the length of the subject property. Steve Azzolini said that the Planner will speak to the 150-foot buffer issue.

Piero Gabucci commented that they can just install landscape screening by the townhouse fence. However, if that fence is removed, they want the right to install a new fence. In addition to screening, it is needed for safety purposes.

Mayor Taylor reminded Ms. Tanne that it is not her decision about the fence, it is the Townhome Association. Katherine Sarmad added that there are grade changes in that area and a retaining wall, and we should know what is out there before agreeing to anything.

Emily Weiner, Esq. attorney for NRIA, who is the developer of the Afton of Morris townhomes. She confirmed that the building design is one story. She asked why the roof is high pitched. She asked if larger plantings can be used along the rear property line. She asked why the entrance is in the rear of the building.

Piero Gabucci replied that the building is under the allowed building height. The roof was designed for functionality and esthetics. He said that extra-large shrubs are hard to find. It is not beneficial nor recommended to plant very large shrubs because they are not as hardy. Five to six feet is a good compromise. He said that the entrance is in the rear because the parking lot is in the rear and for proper functioning of the business.

Amanda Quinn, 76 Hillside Avenue. She commented that she is here in support of Dr. Edelle and for having the convenience of a veterinary service in Florham Park. She thinks it is great to have a woman owned company and that should be supported.

Mike DeAngelis appreciated the comments, however, he said that this is the time for questions of each witness. General comments are reserved when all testimony has been completed.

Andrew Clarke, Engineer for the project remained sworn in. He said that they will comply with the most recent comment memo for Mike Sgaramella. Placement of the mechanical units on the ground rather than the roof will result in a very modest increase to the improved coverage. The increase is approximately 48 square feet. This will bring the total increase from 63.7% (19,124sf) to 63.9% (19,172sf). The ground mounted units will have no impact on storm water management.

A-10: three photos of rear of townhome property

Andrew Clarke described the photos of the townhome fence area. He said there is a landscaping block wall because of the slight grade change. A six-foot fence is installed on the top of the wall. He said the applicant's proposed seven-foot fence will project up an additional foot. He believes that if installed, it should match what is already out there for esthetic purposes.

Mayor Taylor agreed that back to back fences are not attractive and they should only add on to what is already there in order to fence the entire back of the property.

John Buchholz pointed out that the retaining wall is a 2'8" block so the fence will actually project higher. He also agrees that two fences are not desirable. He also said that the fence color should match.

Dr. Megan Edelle, applicant, was sworn in. She commented that she must be able to tie into what is out there for security purposes. They would need permission from the developer of the townhomes.

John Wyciskala stated that the existing fence was likely a condition of approval for the townhome development and must be maintained. Mike DeAngelis thought that the Board should approve a fence and bank it, just in case.

Mayor Taylor asked again about larger plants. Steve Azzolini replied that his experts advised that extra-large plants are not healthy. A planting size of 5-6 feet is best and they grow very quickly. John Wyciskala stated that his professional should offer the testimony. Architect Piero Gabucci added that it is hard to find 6 foot plants but they will look. It depends on the season.

Katherine Sarmad stated that her colleague, Mike Mistretta was present at the initial hearing for this application. He is also a licensed landscape architect. She consulted with him on the species of plants to be considered. He recommended Dark American arborvitae as a better option. They are good for space issues and they grow fast. They should be screened with hollies in front of them to keep the deer away.

The meeting was opened to the public.

Emily Weiner, Esq. She said that if the Board approves this application, there should be a requirement to maintain the landscaping.

Mike Sgaramella replied that it is a typical condition of site plan approval to maintain and replace and landscaping as needed.

Melissa Dewhurst. She has a statement to make. Mike DeAngelis asked that she hold her statements to the end.

Keenan Hughes, Planner for the Applicant was sworn in. He stated that he evaluated the application, and variance implications, and he reviewed the plans, Borough Master Plan. The property is in the PB-2 zone and it is a permitted use in the zone. With the exception of the townhomes in the rear, the site is surrounded by medical uses and professional uses. The variances are the following:

Improved lot coverage – 63.9% where 60% is permitted

Setback buffer to a residential use in a PB zone – 74 feet where 150 feet is required (building to property line)

Loading space dimensions– 10ft x 30ft where 14ft x 30ft is required

Side yard – 10.9ft where 15ft is required (existing condition on building to be retained)

The side yard setback to the east is existing and non-conforming. The building (132) is remaining and there are no changes proposed. To become conforming, a partial demolition of the building would be necessary. This is a C-1 hardship variance.

The setback to a residential use is not clearly defined in the ordinance and is open to interpretation. Mr. Hughes' opinion is that it was intended to say "zone", not "use". The recent use variance approval for the townhome development in the rear severely limits the development of this property and adjacent properties. HSBC Bank is 80 feet, the dental office at 140 Columbia is 90 feet, and the medical building at 128 Columbia Turnpike is less than 150 feet. They are all in violation of this ordinance.

Because of this Zoning Board approval, a radius around the townhome has been created and is severely limited in terms of development. It impairs the purpose of this zone.

The Afton Village Townhomes also had a number of variances that were granted. It was a use variance that also had a 150-foot setback requirement to a residential use on Midwood Drive. They provided 32.8 feet where 150 feet was required. They had a buffer requirement of 30 feet and provided 9.3 feet. The building height variance (D) was granted that permitted a three story 39.5-foot height where only two stories and 35 feet are permitted. There was 23.35% building coverage approved where 10% is allowed. The side yard setback and decks are 13 feet from the property line where 15 feet is required. It is important to be aware of the background of this project.

The 150-foot setback cannot be physically met. The entire depth of the property is 150 feet. Imposing this requirement this would completely eliminate any development potential of the property. The setback that is provided meets the intent of the ordinance to provide adequate buffer. The provided setback is 74 feet and 87 feet to the decks of the home. It will not have a substantial impact to the neighbors. The architecture appears residential and conforming to the ordinance and compatible with the surrounding area. The 74 feet is a reasonable amount to have to the property line. The required 150-foot setback is impossible to provide and this meets the C-1 and C-2 criteria.

The improved coverage variance meets the criteria of a C-2 variance. This is a high quality facility offering a full suite of services. It will allow the site to accommodate parking and circulation and otherwise function properly. The 3.9% deviation amounts to 1,100 square feet. It is being mitigated by drywells and perimeter landscaping and interior landscaped islands that do not currently exist.

The loading zone is adequate to serve the needs of the business. It is not delivery intensive and there is no need for a full size loading area that would encroach on width of the driveway. This is a C-2 variance.

In summary, the plan is appropriate and well designed and will serve the Florham Park community in a zone that is intended for this use. There is no detriment to the public good and will advance the general welfare. It is permitted and compatible with the zone. The zone is intended for this type of use.

The fence, landscaping and building design has a residential appearance which is consistent with the zone and creates a desirable visual environment. The landscaping will enhance the site. There are no environmental impacts. The daily operation has no noise or nuisances associated with it. It is consistent with esthetic character of the area. There is no substantial detriment to the Master Plan or the Zoning Ordinance.

The setback buffer requirement which was created by the townhome development, would eliminate development potential of this property and others along this corridor. The setback provided to the property line is 74 feet and will provide adequate separation. The townhome development was permitted to be 13 feet from the property line.

The PB zone is a transitional zone in the 2015 Master Plan where medical and dental offices are explicitly permitted. Granting the variances would not substantially impair the Master Plan or Zone Ordinance. These variances meet the C-1 and C-2 criteria.

Keenan Hughes added that townhomes in established multi-family zones in the Borough have a side yard setback requirement of 50 feet. The side yard setback variance for the townhome development that abuts this property was allowed to be 13 feet which is substantially less than what is required in the Borough's multi-family zones. Although it is a side yard, it is really the rear of the townhomes that encroaches into the setback in this regard.

Katherine Sarmad commented that she has conferred with Keenan Hughes on the setback issue and on whether it applies. She concurred that there are other sites that have been adversely impacted by the townhome approval. The interpretation was applied differently during the townhouse development hearings. The former planner for Florham Park represented the Board and she was not part of those hearings. The setback was interpreted to be to a residential zone during those hearings.

The intent of the ordinance is to provide a buffer between residential and commercial uses as the properties along commercial corridors began to turn over from residential to commercial. She stated that the ordinance should be made clearer as far as to who it applies to and how it affects properties as well as the setback itself. The townhome use was not contemplated and was not foreseen in the Master Plan and Zoning Code. However, she believes that we should be conservative and apply the variance and she agrees that Mr. Keenan's variance proofs are satisfactory.

The meeting was opened to the public.

Emily Weiner, Esq. She appreciated the history of the townhome hearings. She asked Keenan Hughes if the 150 setback is to reduce any impact on a residence. She asked Keenan Hughes whether a smaller building would change his testimony. She asked him if he considered that this is not a regular medical use when he testified about the purposes of land use law with regard to sound pollution, light pollution and odor.

Keenan Hughes replied that the purpose of the setback is to ensure adequate transition from an adjacent residential zone to a PB zone. He did not evaluate a smaller building size and cannot offer any opinion on that. He stands by his testimony that this is not an intensive use and will not have any significant adverse impacts. It is an indoor facility other than a small dog area which is adequately screened. This is a permitted use in the zone.

Robin Tanne. She stated that the setback from the bank property only affects the view of one unit. She lives behind the parking lot. She does not agree with the comparative statement that was made.

Keenan Hughes responded that he was not comparing but was stating the impact on the development potential by imposing a 150-foot setback on those various properties.

Mark Taylor stated that the townhomes and the HSBC bank were once owned by the same owner. The original plan called for an office building instead of the townhomes.

Robin Tanne. She felt that the variance for the 150-foot setback to Midwood Drive properties that the townhomes received may be fine because it is a normal view. It is grass to grass which is a totally different thing. Her view at the present time is a typical residential view, although she admitted that she does not have the best view. She overlooks mature trees and a few unsightly sheds, but the difference is they are light use businesses. She believes

this proposal will be in intensive use with cars coming and going every day. She believes that the town planners thought that the 150 buffer would be helpful to the residents that overlook this property.

John Wyciskala said that Ms. Tanne is offering comments and this is the time for questions only.

Mark Taylor said that the townhomes were constructed long after these professional uses were in existence in this zone. Many significant variances were granted to build the townhomes.

Katherine Sarmad again reiterated that the ordinance provision is very vague and unclear and must be revisited. The subject property is only 150 feet deep with a 150-foot setback requirement. It is a standard that is impossible to meet.

Steve Azzolini stated that he has concluded all testimony. Mike DeAngelis stated that this is the time for any comments.

Jeffrey Noss asked if the actual name of the business is the Veterinary Center of Morris County or the Veterinary Center of Florham Park.

Megan Edelle responded that it will be the Veterinary Center of Morris County at Florham Park.

The meeting was opened to the public.

Emily Weiner. She asked if the facility is an emergency clinic, and why a two story building was not considered. She asked if she is expanding her East Hanover location. She asked how disposal of the pet waste is handled.

Megan Edelle replied that they are a regular clinic, not an emergency clinic. Appointments are needed. This will serve as a satellite office to her East Hanover office and she has a number of clients that come from Florham Park. A two story building is not an appropriate design for her business. The doctors and staff must be in close proximity to the patients and treatment areas for any questions and issues that arise.

Megan Edelle continued that in addition to East Hanover, they will have surgeries in this location. But there are no overnight stays, no boarding or grooming services. The pet waste is placed in a sealed container in the dog area. The sealed bag is emptied into the dumpster on trash pick-up days. It is not considered medical waste. When asked, she said she does not know the trash pick-up schedule this time.

Robin Tanne. She stated that she moved to her townhouse in April 2020. She was already familiar with Florham Park and gave examples and reasons about why she enjoys living here. She and her husband met here and chose the townhouse development because of the proximity to the downtown amenities. She said that she currently has a pleasant view from her deck, although not bucolic.

Robin Tanne said that the current use of the subject property is very light. It has few cars and little action on the weekends. She assumed that when the variance was granted for the townhomes, the Board would take the townhomes into consideration when deciding what would be placed in these older homes that allow commercial. A veterinary clinic is not what she envisioned. The hours of operation are offensive to the peaceful enjoyment of a residential life. The proposed use will have hours of operation that are all day, every day.

Robin Tanne spoke about the issue of dog waste. She does not think that it will be in a sealed container and emptied once a week. She also understands that the required buffer limits what can be built but it should be taken into consideration that what is proposed is only 50% of what it should be.

Robin Tanne appreciated the changes that were made. It was stated that there are no overnight boarding and grooming. She asked how the prohibited activities like overnight boarding and grooming will be enforced.

John Wyciskala said that if the application is approved, it will be in the conditions of approval in the resolution. If the applicant wanted to modify those conditions, she would have to come back to the Board.

In response to Megan Edelle's testimony of a residential neighbor next door to her current location, Robin Tanne said that she visited the East Hanover site and said that the residential home that is next door is a broken down home in a commercialized area. It does not look like it was lived in for years.

Megan Edelle responded that it is a residence. The homeowner lived there the entire time that the veterinary center has been there. However, the homeowner passed away a few months ago.

Robin Tanne said that she, the other homeowners, and the builder, from our perspective, this is an undesirable....

Steve Azzolini interjected and said that she is not an attorney and cannot represent the opinions of others. John Wyciskala concurred with that.

In closing, Ms. Tanne hopes that another entity will come into the space that will not be detrimental to their peaceful lifestyle.

Emily Weiner. She asked if there is anything to prevent animals from relieving themselves in the buffer.

Megan Edelle responded that she can't 100% prohibit that, but there can be signs in the area that prohibit it, and there is a gate that leads to the designated dog area.

Emily Weiner stated that she has two expert witnesses that she wants to testify. They are John Leoncavallo, who is a professional planner and her client Rich Stabile who will speak as a real estate expert.

Steve Azzolini stated that he reserves the right to have his planner respond. Steve Azzolini also objected because Mr. Leoncavallo is not on video and the witness must be on camera in order to testify as per DCA.

Break.

Rich Stabile was sworn in. He is with ReMax and is working with NRIA and representing them on the Afton of Morris. He is also on the Condominium Association of the townhomes. He will testify as to the impact of this application and the valuation issue. Mr. Wyciskala stated that he is not an appraiser so he cannot testify to the valuation. He is a broker and selling the units.

Steve Azzolini stated that Rich Stabile has a financial interest as a broker, and has a vested interest. That disqualifies him from being an expert.

John Wyciskala agreed and he will be treated as a fact witness only.

Rich Stabile gave a summary of the Afton of Morris townhomes and the approval from the Board of Adjustment by a use change. He stated that with that approval, they have rights that were granted. He said that Steve Azzolini should have appealed the decision at the time if he thought that it affected him. He said the Zoning Board thought it should be a residential use. Once the Board invokes changes, you invoke changes to other people's property.

John Wyciskala stated that he is a fact witness only, not an expert witness. He should be only testifying about facts. Ms. Weiner asked him about the impact to the townhomes.

Rich Stabile replied that this will have a major impact on the value of the townhomes. It depreciates the concept of what the zoning called for when they did this. Mr. Wyciskala corrected him and said that this was not a zone change, but a use variance in a commercial zone. Rich Stabile went on to say that once the action is done, its done and they expected protections from the zoning around them.

Mark Taylor objected to his testimony because he is not licensed.

Ms. Weiner asked Mr. Stabile what his role is. He replied that he is selling the units. They have a sales price based on the appraisal and market analysis.

Ms. Weiner asked if this use will impact the sales price and potential enjoyment of the units. Mr. Stabile replied that it would dramatically impact it and wondered if Robin Tanne would have bought there if she knew this.

Mike DeAngelis asked Mr. Stabile if he told them that there is a 150-foot buffer and that nothing would be built on this property. Mr. Stabile responded that he did not tell them that. He told them that it is a commercial zone. But now it is a medical use.

John Wyciskala reminded him that this is a permitted use.

Rich Stabile said that we now have a residential use and we should enjoy the rights that it brings. Now it is trying to be taken away. He said that he bought 10-foot arborvitae and someone said that you can't find any over 5-6 feet. Mr. Wyciskala said for him to move on with his factual testimony. Rich Stabile said that the residential use has rights and this should not be a medical use. Mr. Wyciskala said this is the Planning Board and they have the power to grant bulk variances which is what is being requested.

Mark Taylor said that the townhomes, while they are beautiful, are the cause of this problem. Rich Stabile said that no one expects cars to be parked on property line. John Wyciskala said that there is no prohibition for the parking lot. Rich Stabile said that it is a bad idea for this to be a medical use and to grant the bulk variance for the setback. The residents will now have cars almost on their property line.

Katherine Sarmad stated that the 150-foot setback is measured from the structure, and not the parking lot. Mr. Stabile disagreed about a setback variance for parking and Ms. Sarmad explained that plans had been revised.

Because Mr. Stabile is talking about rights of the townhome property and in order to put things in perspective, Katherine Sarmad went through the variances that were granted for the townhome development by the Board of Adjustment in 2015. They are the following:

- Use variance for multi-unit townhomes – D
- Height variance in excess of 10% of the permitted height of 35 feet- D
- Three stories where two stories are permitted
- Side-yard setback of 13 feet where 15 feet is required
- Building coverage of 20.74% where 10% is permitted
- Buffer of 9.3 feet where 30 feet is required
- 32-foot buffer where 150 feet are required (to single family homes on Midwood).

Mike DeAngelis asked Mr. Stabile if he informs buyers about this pending application. He asked if he lowered the price of the units.

Rich Stabile responded that he only found out about this application at the last meeting. He said that he tells interested buyers about the application and lets them know that the information is on the town website. He has reduced the price to try to get buyers. He has received one deposit since then. He admits that it may not be because of this project, but he feels that a veterinary clinic makes it hard.

Mark Taylor stated that notice was given in advance of the application. Steve Azzolini agreed and added that an official 200-foot list was received from the Tax Assessor and everyone was noticed initially and for the second hearing. Hanover Road Capital LLC was listed and was sent multiple notices. It is not his issue that Mr. Stable did not get the notice.

Steve Azzolini asked Rich Stabile to review the status of the units.

Rich Stabile said that there are 16 units in total. He has four sold and three are under contract. That includes two (B-Building), two (C-building), one under contract in C building. The C building has two sold and one under contract, leaving two unsold. The C building is the building that is closest to the subject property.

Steve Azzolini noted that offsite conditions must be disclosed in real estate transactions buyers are encouraged to check with the municipality. This application was filed in May 2020. Mr. Stabile said he told all buyers to check with the town but he does not know if they did so or not.

Steve Azzolini said that Rich Stable has only a financial and monetary interest in this. Rich responded that he is interested in the people too. Steve Azzolini asked him what his commission is and the price of the units. Mr. Stabile said his commission is 3% if he sells it on his own. The listing price of the units is \$839K-\$924K.

Mike DeAngelis said that if he cares about the people, then it should be in the contract. It is obvious that the townhouse property is 13 feet away from a property that has businesses on it and it should be made transparent on what could possibly go in there.

Rich Stabile said that there is a difference between what is there now and what is being proposed. He did not think that this use could come in. He said that this is an overreach of intent and the parking is close.

Mr. Wyciskala said there is planning testimony to get to by Ms. Weiner. Ms. Weiner thanked Mr. Stabile and said she has no more questions for him.

Mike DeAngelis said that we cannot hear anymore testimony and recommended carrying the hearing to the next meeting.

Steve Azzolini asked Ms. Weiner if she is waiving the jurisdiction notice or if she is continuing her objection. Ms. Weiner said it has been determined that at notice is sufficient by the Board professionals but she can't speak for her client. It is up to Mr. Azzolini as to whether he wants to re-notice.

Mr. Guerin made a motion to carry the application to the November 23, 2020 meeting without further notice, second Mr. Roberts.

Roll: On a roll call vote all members present and eligible voted to carry the application.

On a motion duly made and seconded the meeting was adjourned at 9:45p.m.

Marlene Rawson  
Board Secretary

November 9, 2020