

**CALL TO ORDER: AT 7:03 P.M. by Chairman Loury**  
**OPEN PUBLIC MEETING LAW STATEMENT OF COMPLIANCE**

**ROLL CALL:** Chairman Loury, Mayor William Chegwidde, Peter Rathjens, Brian Bosworth, Christopher Fleischman, Barbara Chiappa, Roshan Patel, Michelle Anne Molde

**EXCUSED:** Councilwoman Paola Vasquez, Marc Harris, Lawrence Biehler

**OTHERS PRESENT:** Alan Zakin, Board Attorney; Christopher Borinski, Board Engineer; Jessica Caldwell Dykstra, Board Planner, and Desi Ruffo, Board Secretary

Motion by C. Fleischman and seconded by Barbara Chiappa to approve the bills as presented.

YEA - 8      NAY - 0      ABSENT - 3      ABSTAIN - 0

Motion by P. Rathjens and seconded by C. Fleischman to approve the reorganization meeting minutes from January 9, 2024 as presented.

YEA - 7      NAY - 0      ABSENT - 3      ABSTAIN - 1

Motion by B. Chiappa and seconded by P. Rathjens to approve the meeting minutes from January 9, 2024 as presented.

YEA - 7      NAY - 0      ABSENT - 3      ABSTAIN - 1

**OLD BUSINESS:**

**1. Extension of Approval: 170 No. Main/Ashour Investment (Block: 301, Lot: 1)**

The property owner of 170 No. Main/Ashour Investment was present during the meeting.

**Michael J. Lipari, ESQ. (Legal Representative: Mandelbaum Barrett PC, Roseland New Jersey)**

The applicant is seeking a one-year extension due to attempts by the applicant to gain approval from outside agencies, more specifically from NJDEP. This property is a very challenging site with many constraints, contamination and environmental issues that the applicant has been diligently working through. The applicant has received conditional approval from NJDEP for the remedial action work plan. There are some outstanding issues; the project engineer Fred Stewart of Stewart Surveying and Engineering will further explain those issues.

*A. Zakin:* The applicant is seeking an extension; this discussion is to clarify that the standard to approve the extension is being met by the applicant. According to the municipal land use law if there is a delay due to an outside agency requesting more information, by law the board must approve the extension. The applicant is required to outline their plan and the intended timeline to the board engineer.

**Alfred "Fred" Stewart, Licensed Engineer (Stewart Surveying & Engineering, Kenil New Jersey) Was duly sworn**

The flood hazard permit has been applied for. A meeting with NJDEP is scheduled to take place within the next two weeks. There are two areas that cause flooding around or near this parcel and they are the Washington Pond and Rockaway River; the Washington Pond flood elevation was used as part of the application submittal, however there has been some turnover at NJDEP and the new individual involved has requested that the Rockaway River flood elevation be used instead. The applicant is going through the proper motions to have NJDEP agree with the flood elevations used on the application. Within the next couple of months there should be a resolution from NJDEP.

*P. Rathjens:* Can this be resolved within the next year? Was the testing resolved?

*A. Stewart:* Yes, the NJDEP flood hazard standards have changed in the last year, but we hope to resolve the elevation issue within the next month. The applicant is working with an Environmental Consultant to create a Remedial Action work plan which was conditionally approved by the NJDEP subject to additional filings.

*Chairman Loury:* No remediation work should be done unless the board's experts are in agreement.

*C. Borinski:* The EPA has jurisdiction over the site and has a partnership with NJDEP; the EPA has approved the project, while the NJDEP has some concerns with some materials that exceed the site remediation standards and recently issued a conditional approval which is pending the final plan of the remediation. The applicant has proposed to cap the material on-site, which is standard remediation procedure. NJDEP changed the flood hazard rules and raised the elevations; there is a new case manager at the NJDEP, these changes are adding to some of the delays. The flood hazard permit has a 90-day review period; NJDEP can have the applicant request a one-time 30-day extension. There will most likely be a 120-day review period. Once the application is deemed complete by NJDEP, it will take approximately 3 to 4 months to issue an approval. After the construction is completed, monitoring wells will be installed.

*P. Rathjens:* requested that quarterly updates to the board continue by the Board Engineer.

*Chairman Loury:* thanked the applicant for cleaning and maintaining the property, and asked for a condition to comply with property maintenance ordinance.

*A. Zakin:* reminded that the applicant must comply with the 58 conditions from the prior February 9, 2021 approval.

Motion by P. Rathjens and seconded by B. Bosworth to extend the application for 1-year retroactive to February 9, 2024 with the conditions from the prior February 9, 2021 approval, conditions regarding property maintenance from January 17, 2023 letter and the February 17, 2023 extension letter.

YEA - 8      NAY - 0      ABSENT - 3      ABSTAIN - 0

## **2. Non-material Revision of the Resolution –**

### **Re: Affordable Housing Compliance: Morris Woods/K. Hovnanian**

Non-material amendment to condition #17 of the existing resolution, regarding the phasing and timing of the affordable housing.

#### **John Caniglia, ESQ. (Area Counsel at K. Hovnanian)**

There are 36 units in phase-1; some units were closed at the end of January. All of the units are either closed or under-contract. One of the conditions of approval was that C.O.'s cannot be issued on any units in phase-2 on the South side until the affordable housing project that is located off-site is completed. The 11-unit apartment building project that is the second component of affordable housing has encountered some delays in financing. They have recently received a grant from the DCA; the site has been cleared and graded. The request of the applicant is for some partial relief from the restriction on the ability to receive C.O.'s on the units in phase-2. There are 49 homes in phase-2.

*P. Rathjens:* Is the DCA aware of the timeline for the 11-unit apartment?

*Mayor Chegwidden:* A call can be placed to the Director.

*B. Bosworth:* asked the Board Planner to clarify the affordable housing component.

*J. Dykstra:* The 4 affordable units for the group home are completed; the applicant is required to complete 17-units. Proof of funding was forwarded to our office and that was the threshold in making the decision as they have provided financing of the 11-unit apartment; the applicant is providing a cash payment to the Borough to cover the compliance for the two affordable housing units.

*P. Rathjens:* asked about the status of sales for phase-2.

*J. Caniglia:* Sales have not been open for any units in phase-2, because of the restriction on getting C.O.'s.

*Mayor Chegwidden:* There is a high demand for affordable housing, so we certainly want these built.

*A. Zakin:* The applicant believes there's an order that is most efficient and would change the numbers slightly.

*J. Caniglia:* The buildings contain 4, 5 or 6-units. For the first release we propose, buildings: 1 through 4 which totals 18-units. The second release of buildings 5 through 7, which totals 15-units. At the end of the second release there would be a total of 33-units. The third release of buildings 8 through 10 would be a total of 16-units.

**John Crimi, (Contracted Applicant, Kenil New Jersey) Was duly sworn**

The footings of the 11-unit affordable project are completed and it is expected that the foundation will be poured by this time next week. According to the owner of Nouvelle, it is expected that the project will be completed by September. The first resident in the group home is a resident of Wharton. Nouvelle is a for-profit construction company; Pillar is the non-profit managing the property.

*A. Zakin:* Nouvelle applied to affordable housing and manages the construction for the non-profit that will run the property, which is PillarCare Continuum.

*Mayor Chegwidde:* asked if there can be a right-of-way to allow the Borough to access the water tower. John Crimi and John Caniglia agreed to allow the Borough on the property to access the water tower.

*J. Caniglia:* The Borough will be granted an easement to access the entire site.

*J. Dykstra:* There is also an existing easement to the trails.

*P. Rathjens:* asked who will manage the water.

*J. Dykstra:* The board will be receiving deed restrictions. The property is two parcels, but managed by the same owner.

*P. Rathjens:* asked for an estimated completion date of the affordable housing.

*J. Crimi:* I was told September, 2024.

Discussion between the board members and professionals regarding the verbiage and inclusion of the building numbers and unit totals occurred.

*A. Zakin:* The existing condition #17 regarding the phasing of the affordable housing in phase-II will be amended so that 1/3 of the phase-II units are allowed to be built after the foundation is complete for the 11-unit affordable housing structure. Then 18-units from buildings 14, 13, 10 and 9 may receive their C.O. The second release of 15- units is allowed and may receive their C.O. - buildings 8, 11 and 12 are planned as the second stage of phase-II, once the façade including the windows and roof of the affordable housing structure are complete. The final 16-units of phase-II will be allowed and may receive their C.O.; buildings 6, 15, 16, and 17 are planned as the third and final stage of phase-II, once the C.O. is issued for the affordable housing structure.

Motion by B. Chiappa and seconded by C. Fleischman to approve the modification of the existing condition #17 regarding the affordable housing requirement for phase-2.

YEA – 8                      NAY – 0                      ABSENT – 3                      ABSTAIN - 0

**NEW BUSINESS:**

1. Motion by B. Chiappa and seconded by C. Fleischman to retroactively continue the application of ARC Development Group, LLC.: 50 Fern Avenue (Block: 1202, Lot: 20); Board Attorney Zakin provided the Board with legal and factual information to support the motion.

YEA - 7                      NAY - 0                      ABSENT - 4                      ABSTAIN – 0

**2. Application: ARC Development Group, LLC: 50 Fern Avenue (Block: 1202, Lot: 20)**

**Remo A. Caputo, Esq. (Applicant’s Legal Representative, Denville New Jersey)**

The applicant is proposing to convert an existing single-family residence on a pre-existing non-conforming undersized lot into a three-family residence. This property is 4,876 sq. ft. and is located in the RM-75. Medium Density one- and two-family zone, which requires 15,000 sq. ft. existing on the property, is an oversized 6,237 sq. ft. single family structure and an attached three-car garage. Each unit will be provided with (2) off-street parking spaces. Unit-1 will consist of 1,423 sq. ft. with 3-bedrooms, Unit 2 is proposed as 1,562 sq. ft. with 3-bedrooms, and unit 3 is proposed as 975 sq. ft. with 3-bedrooms.

**Sahaj Patel, (Applicant and Managing Member of ARC Development, Wharton New Jersey) Was duly sworn (Submitted Exhibit A-1 Colored Outdoor Façade Rendering - Exterior Design Option A)**

This property was purchased as a single-family about a year ago. ARC Development owns and operates 30 properties throughout the state which consist of primarily 2 to 6 units. An interior demolition permit was issued for the property; the plaster walls and debris have been removed. The proposed use of the site is a 3-family with each unit containing 3-bedrooms. The first unit is accessed from the front of the property with an open concept floor plan; each unit will have a laundry room. The second-floor unit accessed from the front staircase is the same floor plan and the first unit. The third unit will also be located on the second-floor and will be accessed from Church Street. The proposed material is vinyl siding and TimberTex roof.

*P. Rathjens:* asked if the parking will be open or closed and what the proposed type of pavement is.

*S. Patel:* The parking will be open, similar to a canopy. Asphalt is proposed for the area.

*Chairman Loury:* All six parking spaces must be consistent in appearance. Each unit has one egress and ingress, is the building required to be sprinklered?

*S. Patel:* This building is not required to be sprinklered.

*R. Caputo:* The applicant confirmed with Kevin Lewthwaite a second means of egress is required only if the second floor is 16 feet above grade.

*A. Zakin:* As a standard condition Police and Fire will be required to approve the plans; the applicant agreed to the condition.

*C. Fleishman:* asked if the wall shown on the plans is existing or proposed.

*S. Patel:* The wall is existing.

*R. Caputo:* The original plans submitted provided a concern for stacking, the applicant has proposed these plans so that the possibility for stacking would be minimized and also to allow for the required amount of off-street parking.

*Chairman Loury:* requested as a condition of approval that no unit can be accessed from another unit; the applicant agreed to the condition.

*S. Patel:* The lights are floodlights and will only be added to the front and side of the property. The entryway will have a recessed light.

*Chairman Loury:* reminded the applicant that all lighting must comply with the borough's lighting ordinance.

*B. Bosworth:* asked for the applicant to confirm the square footage of the units as there are some discrepancies.

*S. Patel:* The correct square footage is shown on the plans, Unit 3 is 1,189 sq. ft., Unit 2 is 1,643 sq. ft. and Unit 1 is 1,516 sq. ft. To prevent stacking, the proposed square footage was reduced and parking was added.

*J. Dykstra:* Asked for the applicant to explain the proposed materials.

*S. Patel:* The roof will be replaced with new TimberTex roofing material and any plywood, if necessary. The proposed windows will be light vinyl with black aluminum, the siding will either be vinyl clamped or vertical board and batten siding. The entryways are required to be 90-minute fire rated and the front doors are proposed to be black with black or white trim.

*J. Dykstra:* requested a copy of the proposed materials list with colors from the applicant, as a condition of approval which will be reviewed as part of resolution compliance; the applicant agreed to the condition.

*Chairman Loury:* asked about the exterior lighting in the soffits shown on the exhibits.

Discussion regarding the proposed siding between the board members, board professionals and the applicant occurred. (**Exhibit A-2 Colored Alternate Façade: Exterior Design Option C was submitted**) It was agreed by all parties that the exterior of the property will be the following: (Option C) the vertical siding without the black trim corners for the front of the property and (Option A) with the center accent and shutters for the side of the property.

*C. Borinski:* requested as a condition of approval that the existing retaining wall be repaired. Asked about the plans for the existing chain-link fence; asked if any rooftop units are proposed and asked how the basement is accessed.

*S. Patel:* confirmed the chain-link fence will be removed. There is a BILCO basement door proposed next to the door of unit 3, there are two access doors existing, one in the garage and one in the kitchen. The plan as requested by the code enforcement official is to not have the basement accessible by the tenants. There are no rooftop units proposed.

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CLOSED TO THE PUBLIC

**Paul W. Anderson, Licensed Engineer & Planner (Anderson Consulting Services, Boonton Township New Jersey)**

*Was duly sworn (Submitted Exhibit A-3 Three Photos of the Existing Exterior)* This area consists of predominately one- and two-family dwellings. The proposed modifications allow for improvements to the nonconformities. The applicant is increasing the side-yard setback on the Church Street side to 18.7 feet. The impervious coverage was reduced from 77.35 sq. ft. to 72.45 sq. ft.; the building coverage was also reduced from 63.8 sq. ft. to 51.1 sq. ft. The proposed parking meets the ordinance requirements. The feedback from the professionals was to eliminate the concern for stacking and to provide on-site parking; those two goals have been achieved with this submission. This property is ideally suited for a three-family use as it's unusually large; it is two to three times larger than the neighboring properties. This property is currently vacant in need of significant repair; by bringing the property up to code it eliminates the structural concerns. The visual improvements and having residents living in the structure will help the neighborhood. There is no loss of street parking; there is no significant detriment to the neighboring properties with this application. This application directly addresses the goal of the Master Plan by improving property maintenance and increasing the appearance and safety of the neighborhood.

*Chairman Loury:* Are the units going to be air conditioned?

*S. Patel:* Yes, the units will have central air conditioning.

*P. Rathjens:* asked if this property is located in the redevelopment area.

*J. Dykstra:* confirmed the property is not in the redevelopment area.

*P. Rathjens:* What is prohibiting the cars from pulling into the neighbor's driveway?

*P. Anderson:* A wall is a good idea to prevent the headlights from shining into the neighbor's property and preventing the cars from going onto the neighbor's driveway.

*Chairman Loury:* requested for the half wall or solid fence under the carport to shield headlights as a condition of approval as well as a wheel stop to the green space.

*B. Bosworth:* asked if the applicant would consider reducing Unit 3 to a 2-bedroom due to the size of the proposed bedrooms.

*S. Patel:* agreed to reduce Unit 3 from a 3-bedroom to a 2-bedroom.

*C. Borinski:* recommended a condition that each unit has its own water shut-off valve and water meter.

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A. *Zakin*: This application is proposing a D-1 Variance for a three-family unit with some C-Variations that were mostly pre-existing. The conditions of approval will be as follows: no unit will be accessible from another unit; all exterior lighting will be downward facing and will comply with the borough ordinance; the front of the property will be Option C without the black trim corners and the side will be Option A with the center accent and shutters, a new rendering will be provided by the applicant that will show this change; the existing retaining wall will be repaired; the existing chain link fence will be removed; a half wall for screening will be added under the carport; a vinyl fence will be installed around the green space to screen headlights per approval of the board professionals; a wheel stop will be installed to prevent cars from driving **onto green space and backyard**; each unit will have its own water shut-off valve and water meter; Unit-3 will be reduced to a 2-bedroom.

Motion by P. Rathjens and seconded by B. Chiappa to approve the application with the conditions mentioned.

YEA - 7      NAY - 0      ABSENT - 4      ABSTAIN - 0

**ADJOURNMENT AT 9:49 P.M.**

**Respectfully submitted,**



**Desi Ruffo**  
**Planning Board Secretary**