

**BOROUGH OF HAMBURG  
LAND USE BOARD MEETING MINUTES OF FEBRUARY 10, 2020**

The Borough of Hamburg Land Use Board meeting was called to order at 7:05 p.m. by Chairman Thomas Watts in accordance with the Open Public Meeting Act, with regard to notices.

Mr. Watts invited all those present to participate in the flag salute.

Mr. Watts read the Statement of Certification: This meeting is in compliance with the Open Public Meetings Act, Public Law 1975, Chapter 231, Sections 4 and 13, as advertised by Annual Notice.

The Oath of Allegiance is administered to Emily Banta (Class IV, Alternate 2 Member) by Attorney Rizzuto.

Those in attendance were George Alakpa, Emily Banta, John Haig (7:07 p.m.), Dan Hall, Guy Harby, Richard Krasnomowitz, Glenn David Roberts, Jeannette Tempe, Sam Villagomez and Thomas Watts. Absent: Mayor Marino. Board professionals in attendance: Annemarie Rizzuto, Esq., Board Attorney and Ken Nelson, Board Planner.

**MINUTES:**

Tempe made a motion to approve the minutes of Minutes of January 13, 2020, second by Villagomez with all others in favor.

**BILLS/VOUCHERS:**

Tempe made a motion to approve the bills/vouchers for payment, seconded by Harby with all others in favor: Alakpa, Hall, Harby, Krasnomowitz, Roberts, Tempe, Villagomez and Watts.

- a. Weiner Law Group - \$542.40 – Land Use Board General
- b. Weiner Law Group - \$153.00 – Vallila escrow #188
- c. Weiner Law Group - \$136.00 – 55 Gingerbread Castle Road escrow #190
- d. Mott MacDonald - \$289.00 – Vallila escrow #188
- e. Mott MacDonald - \$411.00 – 55 Gingerbread Castle Road escrow #190
- f. Nelson Consulting Group - \$312.50 – Falcon Ridge HOA escrow #191
- g. Nelson Consulting Group - \$612.50 – Land Use Board General

**CORRESPONDENCE:**

- a. 2/2/2020 Correspondence from Board Secretary requesting additional escrow from James Vallila.
- b. 2/2/2020 Correspondence from Board Secretary requesting additional escrow from Comet Management
- c. 2/2/2020 Correspondence from Board Secretary to Bernd Hefe, Esq.

There were no comments from the Board on the correspondence.

**RESOLUTION:** Falcon Ridge Condominium Association, Application No. LU 19-04,  
Falcon Ridge Way South (Block 24 Lots 1 and 12)

A motion was made by Krasnomowitz, second by Harby to memorialize the resolution approving Amended Preliminary and Final Site Plan Approval for Refuse Center.

Haig arrives at the meeting at 7:07 p.m. Krasnomowitz leaves the meeting at 7:07p.m.

**NEW/UNFINISHED BUSINESS:**

- A. 55 Gingerbread Castle Rd., LLC**  
**55 Gingerbread Castle Road (Block 11 Lot 31)**  
**Application No. LU 19-02**  
Amended Application for "D" Use Variance for the pre-existing non-conforming use and Preliminary and Final Site Plan approval

Attorney O'Neill agrees to extend the time for decision to March 10, 2020.

Kenneth Fox, President, Senior Architect of Fox Architectural Design attests to his credentials and is qualified by the Board with all members in favor.

Mr. Fox discusses Sheet A1 which is the proposed floor plan and layout of each floor dated July 31, 2019. Sheet A2 (revision date November 26, 2019) shows the storage for residents. The prior application was for six units. This property was previously used as a multifamily with four units. The applicant is proposing five residential units, a two-story garage and five storage units to be used by the residents. A sprinkler system has been installed throughout the building. The revision date for Sheet A2 is November 26, 2019. Exhibit A5 includes four photographs of the property taken by Fox Architecture labeled one through four showing the historic detailing to be added to the front, north side of existing structure; the west side of structure; and the southeast side of the structure adjacent to the river showing the garage.

The meeting is opened to the public at 7:27 p.m.

Kim Alossi of Bluffs Court indicates that she testified at prior meeting. She questions when the siding will be added. Fox responds that it will be done during construction. Mr. O'Neill adds that if approved, construction will begin immediately.

At 7:29 p.m., Laurence Huczko of 21 Bluffs Court questions whether there will be a wall around the perimeter. Mr. Fox responds that the engineer will address that question.

John DePinto was previously sworn in at the prior meeting. He is a realtor and speaking on his own behalf. He questions whether the building will be handicapped accessible. Mr. Fox responds that there will be no vertical access. Code does not require it. The bathrooms will be handicapped accessible for 20% of the building. Mr. DePinto questions the roofing materials. Mr. Fox indicates that the roofing will be consistent. Attorney Rizzuto states that the Board cannot require specific colors.

Mr. Nelson discusses the prior application for six units and the applicant's reduction to five units with one unit including three bedrooms. Mr. Fox responds that one additional bedroom in one unit does not equate to one additional unit. Mr. Nelson requests clarification on the existing garage. Mr. Fox indicates that the applicant intends to demolish the existing garage and build another within the footprint.

Board discussion continues about the garage which will be built on a slab and the proposed utilities which will include central air. The applicant's engineer will address Banta's gas utility hookup inquiry as well as the question from Mr. Huczko regarding the proposed material for the driveway.

At 7:33 p.m., the meeting is closed to the public,

At 7:38 p.m. Mr. Fox is dismissed and the applicant's engineer, Kenneth Dykstra qualifies to his credentials and continues prior testimony. He discusses Exhibit A6 dated February 10, 2020 which is entitled Site Layout as revised November 26, 2019 which is a colorized version of the previous plan. The gray area is new and depicts offsite which is shown to demonstrate the positioning of the property. Mr. Dykstra discusses the two-story garage, five storage units, seven newly paved parking spaces and three parking spaces on the river side. The parking lot is located twenty feet from the Bluffs development entrance. A six-foot retaining wall is proposed with a four-foot high fence installed on top as a buffer. The parking lot will not be visible from Bluffs Drive. Trees will be removed for safety reasons and there will be no parking permitted in front of the building. All parking will be located on site. Sidewalks will be installed for access to storage units which creates a minor increase in impervious coverage.

Attorney O'Neill addresses landscaping. The applicant is willing to provide a landscape plan as a condition of approval. Tempe questions the distance from the parking lot to the river. Mr. Dykstra indicates it is ninety feet from the river. The parking area could be expanded. Haig questions whether curbing is proposed. Mr. Dykstra indicates that it is currently proposed only on the west side of the building.

Mr. Dykstra discusses the lighting for the building. No poles are being proposed since this is a residential area. All lighting will be located on the building. Haig questions the proposed paving. Mr. Dykstra indicates the proposed paving will be at the entrance then gravel. He discusses the applicant's intention to connect to the Borough's municipal water and sewer utilities. Attorney Rizzuto indicates that a condition of approval would be that the applicant will seek other governmental approvals. Each proposed unit will have separate meters for utilities.

Board discussion continues on the driveway and parking lot. Mr. Dykstra indicates that the parking lot could be widened slightly on the river side. One handicapped space is required and one is proposed.

Watts questions egress. Mr. Fox indicates that one unit on the ground floor has an additional egress. The other units have one means for egress which is from the front. Fire escapes are not required since the sprinkler system was installed. The proposed canopy shown on the plan will be removed since no door is proposed in that area.

At 8:05 p.m. a motion is made by Haig, second by Tempe to open to the public with all in favor. Members of the public continue questioning Mr. Dykstra. Mr. Huczko of Bluffs Court question the wall and the paving. Attorney Rizzuto indicates paving could be a condition of approval.

Ms. Alossio discusses her concerns about the existing bridge and the additional traffic created by this dwelling. She questions where Mr. Dykstra resides. Mr. Dykstra indicates the bridge is located on a county road and there is no plan to upgrade it. The traffic caused by the proposed use of this property will be minimal. Attorney O'Neill objects to Ms. Alossio's question about Mr. Dykstra's residence since it is irrelevant. Ms. Alossio questions whether there was a traffic counter performed. Mr. Dykstra is not familiar with whether or not that had been done. Mr. Nelson indicates that a traffic study is not required with a project of this size.

Mr. DePinto questions whether the final plans will depict the proposed lighting, landscaping, tree removal, retaining wall and fencing. Attorney Rizzuto indicates plans will show all of those and the landscaping plan will be discussed with Mr. Nelson. The Board professionals review the plans. Mr. DePinto questions how the proposed wall will be designed to withstand the erosion of the land. Mr. Dykstra indicates that the geogrid supports the soil and the vinyl fencing will be installed on the retaining wall. The wall will be located thirty-five feet from Bluffs Drive. Attorney Rizzuto questions the dimensions of the wall. Mr. Dykstra indicates the wall will be two feet wide. The grade as excavated will be six feet, the wall will be six feet and the fence will be six feet for a total of ten feet above ground level.

Banta questions the drainage. Dykstra indicates that the drainage will be to the river. No stormwater management plan is required for this project.

Mr. Huczko questions when the project will be completed. Mr. Dykstra estimates six months after resolution is approved or by the end of 2020.

A motion is made to close to the public at 8:23 p.m. by Watts, second by Tempe with all in favor.

The site plan is discussed. Sheet 1 shows the pre-existing conditions and proposed conditions which Mr. Dykstra reads. Non-conformities are identified including the front yard setback. Impervious coverage will be increased based on the extension of the proposed sidewalk, however there are no standards in the Industrial Zone. Attorney Rizzuto indicates that no variance is required for the height of the structure. The only variance the applicant is seeking is forty-five feet rear yard setback where fifty feet is required. Mr. Dykstra finishes testimony at 8:28 p.m. at which time Mr. O'Neill requests a recess to 8:35 p.m.

All reconvene at 8:38 p.m.

At 8:38 p.m. David Karlebach, Professional Planner testifies to his credentials and continues his testimony from the prior meeting. The building dates back to 1860. It is pre-existing non-conforming multifamily residence located in the Industrial Zone. The building had four residential units. The initial application was for six units and twelve parking spaces. The D1 variance is for the multi-unit residential dwelling in the Industrial Zone. A "c" variance is required for the storage building and the rear yard setback. The property is not readily adaptable for an Industrial Use. At 8:43 p.m. Alakpa returns to the dais. The applicant is

proposing new, safe, livable, code compliant housing. The appearance will be upgraded. The height has been raised and will now be compliant for a living space. The landscape will be upgraded. The property will be connected to Borough municipal utilities. The septic will be removed which is an environmental improvement. The property creates housing opportunities. The parking will be on-site and include a handicapped parking space. The building is currently in disrepair. The applicant is proposing a productive use of the property. The lot is secluded with existing buffering. The history of the property as a multifamily has been tested and had been pre-existing non-conforming for decades. He discusses the 2018 Master Plan Reexamination Report which proposed a R-1 Zone rather than the Industrial Zone. The Industrial Zone was also discussed in the 1979 Master Plan Reexamination Report. Residential zoning for this property is appropriate. The proposed five units are less disruptive than an Industrial Use. The property promotes a diverse housing opportunity. Mr. Nelson addresses Mr. Karlebach's reference to the Master Plan Reexamination Report clarifying that the governing body has not taken action with respect the zoning. Offices are not permitted within the zone. Mr. Karlebach indicates the residential use continues to be appropriate.

At 8:53 p.m. the meeting is opened to the public and closed at 8:54 p.m. Mr. Nelson indicates that the issues in his report have been addressed.

At 8:56 p.m. the meeting is opened to the public. Ms. Alossio questions how long it has been since this structure was a four-family dwelling. Haig responds five or more years ago and that parking at that time was in front of the building.

At 8:57 p.m. a motion is made by Tempe, second by Haig to close the meeting to the public.

Attorney O'Neill summarizes the proposed improvements and the conditions of approval including: landscape plan will be provided, parking lots will be paved and curbing will be installed, the driveway width will be increased, a concrete sidewalk will be installed and indicating that the sprinkler system is throughout the building pursuant to code. Attorney Rizzuto restates that the applicant is seeking Preliminary and Final Site Plan approval with a D1 variance for use and a "c" variance for the rear yard setback.

Harby questions the time to completion. Attorney O'Neill states as soon as possible but by the end of the year. The county needs to provide approval for the bridge. \*\*

A motion is made by Haig, second by Harby to approve Preliminary and Final Site Plan with D1 Use variance and "c" variance for the rear yard setback with all in favor including Alakpa, Haig, hall, Harby, Tempe, Villagomez, Watts and Roberts.

### **PROFESSIONALS REPORTS:**

Mr. Nelson discusses the recent meeting of the ordinance subcommittee. The next meeting will be held on March 2nd. He expects to have a report for review by the Board by the beginning of the summer.

**EXECUTIVE SESSION:**

A motion is made by Haig, second by Tempe with all others in favor to enter Executive Session at 9:02 p.m. in order to discuss pending litigation, specifically North Jersey Advertising & Hamburg Outdoor, LLC v. Borough of Hamburg Land Use Board, Docket No. SSX-L-000572-19) which is entitled to attorney-client privilege under the Open Public Meetings Act. Minutes will be kept but will not be made public.

A motion is made by Haig, second by Alakpa to exit the Executive Session and resume the regular meeting at 9:30 p.m. with all Board members in favor.

**ADJOURN:**

A motion is made at 9:30 p.m. by Haig, second by Alakpa to adjourn the meeting with all others in favor.

Respectfully submitted,

A handwritten signature in cursive script that reads "Wendy Brick".

Wendy Brick  
Secretary to the Land Use Board