

**MANALAPAN ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
Thursday, January 20, 2022
TOWNSHIP OF MANALAPAN
Manalapan, NJ 07726
PUBLIC MEETING~ HD OFFICE SUITES**

Open Public Meetings Act: Stephen Leviton

Roll Call: Janice Moench

In attendance at the meeting: Larry Cooper, Robert Gregowicz Robert DiTota, Terry Rosenthal, David Schertz, Adam Weiss, Basil Mantagas, Joshua Shalika, Joseph Iantosca Stephen Leviton

Absent from the meeting: None

Also, present John Miller, Zoning Board Attorney
Jennifer Beahm, Board Planner
Brian Boccanfuso, Board Engineer
Nancy DeFalco, Zoning Officer
Janice Moench, Recording Secretary

Board Attorney John Miller, Esq. administered the Oaths of Office for Basil Mantagas and Joshua Shalika.

MINUTES:

A Motion was made by Mr. Cooper, Seconded by Mr. Schertz, to approve the Minutes of **January 6, 2022** as written.

Yes: Cooper, Gregowicz, DiTota, Rosenthal, Schertz, Mantagas, Shalika, Leviton

No: None

Abstain: None

Absent: None

Not Eligible: Weiss, Mantagas

RESOLUTIONS:

A Motion was made by Mr. Gregowicz, Seconded by Mr. DiTota, to approve the Resolution of memorialization for **Application ZBE2147~Roccaro**

Yes: Gregowicz, DiTota, Rosenthal, Schertz, Shalika, Iantosca, Leviton

No: None

Abstain: None

Absent: None

Not Eligible: Cooper, Weiss, Mantagas

A Motion was made by Mr. Cooper, Seconded by Mr. Rosenthal to approve the Resolution of memorialization for **Application ZBE2119~Colyer**

Yes: Cooper, Gregowicz, DiTota, Rosenthal, Schertz, Shalika, Iantosca, Leviton

No: None

Abstain: None

Absent: None

Not Eligible: Weiss, Mantagas

Mr. Miller swore in the Board's professionals, Mr. Brian Boccanfuso and Ms. Jennifer Beahm.

PUBLIC HEARINGS:

Application No. ZBE2016

Applicant: Custom Homes of NJ. (*Hidden Hills Country Estates*)
Proposal: Nine single family lot subdivision
Request: Preliminary & Major Final Subdivision
Location: 101 & 107 Taylors Mills Rd.
Block/Lot: 19/28 & 30 and p/o lot 39.01
Zone: RE

John Giunco, Esq. of Giordano, Halleran & Ciesla, PC, was present on behalf of the Applicant. Mr. Giunco explained this application is for a nine single-family lot subdivision. The Applicant is seeking a D6 variance for the height of a principle structure along with Preliminary and Major Final subdivision approval. The property is locate on Taylors Mills Road. This is an assembly of a few different properties with different property owners. The Applicant is seeking approval for four of the lots to the rear that will require a D6 height variance. The property is located in the RE Zone and is 33 acres. The surrounding properties are located in the R40/20 Zone. The nine single-family lots vary in size from 1.4 acres to 12.4 acres with a minimum of three parking spaces per lot, landscaping, site improvements, storm water management, access roads and street lighting. The project is a permitted use in the RE Zone. The application does not require any bulk variance for the lot size and they are using the lot size averaging under the ordinance. The zone permits 35 feet in height, the application proposes a height of 39 feet, 11 inches for four of the nine proposed lots. The three design waivers requested for the site area a steep slope waiver, a cul-de-sac waiver and a sidewalk waiver for inside the development. Part of the project will seek to develop additional width along the frontage of an adjoining property owner's site along Taylors Mills Road to bring it to full width. Negotiations are ongoing with that property owner and have not been finalized. That property owner was present. The application proposes to complete the sidewalk system that begins east of the site at the intersection of Blair Lane and Taylors Mills Rd and continue it, west, until it reaches the existing sidewalk from the existing subdivision.

Ms. Beahm corrected Mr. Giunco that the lots range from 1.5 acres to 12.4 acres for the record. Mr. Giunco agreed he spoke incorrectly in earlier testimony stating the lot size was 1.4 acres

Chair Leviton explained, should the Board act favorably on the application, The Board would make the easement a condition of the approval. The agreement would be between the applicant and the lot owner of Lot 29 and Manalapan Township. Mr. Giunco agreed.

Chair Leviton noted for the record that Zoning Officer, Ms. DeFalco has entered the proceedings.

Mr. Giunco called his first witness Mr. Daniel W. Caruso, Professional Engineer. Mr. Miller swore in Mr. Caruso and the Board accepted his credentials.

Mr. Caruso referred to Exhibit A-3 Beacon Planning Aerial with Zoning overlay. Mr. Caruso explained the property is located at 101, 107 Taylors

Mills Rd and 543 Tennent Road in the RE zone. To the right is the Blair Lane subdivision and to the left is the Rockingham Court subdivision. Mr. Caruso further discussed the surrounding areas to be an R40/20 zone that has a minimum lot size of .92 acres and the RE zone that has a minimum lot size of .46 acres. The proposed subdivision is in the RE zone. Mr. Caruso referred to Exhibit A-1, Existing Conditions showing the topography and lots in the subdivision. The project is 33 existing acres. There is a brook to the rear and they are not proposing any activity to the brook area. The Applicant is utilizing the lot averaging of the RE zone. Seven of the lots had to be a minimum of 1.5 acres and two of the lots had to be 6 acres. The proposed site plan has six lots that are slightly larger than 1.5 acres and three lots greater than 6 acres. The lot setbacks and dimensions all meet the ordinance requirements. The only variance requested is the height variance where 35 feet is the maximum and the proposed is 39.11 feet for lots, four, five, six and seven at the rear of the site. Based on the existing topography, as you drive up the road to the proposed site there is an 80 percent grade to the top of the hill. At the top of the hill, looking back towards the back of the property, the property drops 20 feet to the rear of the site. Looking at the visual aesthetics of the larger homes, as you are looking over the back into the valley, the four larger homes would blend better at 39.11 feet than building the homes at the standard 35 feet. Mr. Caruso referred to the proposed utility plan submitted with the application. Sanitary sewer and water will serve the site. The public sewer will tie into an existing 24 inch main at the rear of the site. The new sewer will run through lot five onto the applicant's site and will run 100 ft short of Taylors Mills Road. Mr. Caruso explained there is no need to go any further due to the topography. Each of the proposed homes will connect into this line with public sewer. There will be public water to all nine homes.

Chair Leviton explained the Fire Bureau has recommended a fire hydrant be installed at the corner of Taylors Mills Road and Lot 1. Mr. Caruso stated the fire hydrant was not shown on the plan however, the plan will be updated to show the fire hydrant at the request of the Fire Bureau and the applicant will comply with requirement.

Mr. Caruso explained they are proposing a road by the name of Hidden Hills Drive into the site to a cul-de-sac. Also proposed is a storm sewer system that will run down the road to a proposed stormwater management facility in the rear of lot 5. All of the homes will tie into the system. Each home will have its own underground infiltrator tank and overflow will tie into the storm sewer system. There will be no overflow around the property. In addition, on the eastern site the water will be collected either at the house, in the street or behind the house in yard drains. Mr. Caruso goes into further detail regarding the stormwater management to ensure the residents there will be no drainage issues on the site. Mr. Caruso explained the final grading would be reviewed during plot plan to ensure there will be no issue with run-off to the neighbors. Mr. Caruso refers to the landscaping plan. Mr. Caruso explained the township requires street trees. The applicant is proposing landscaping around the detention basin. Each individual lot will have landscaping. The Applicant is requesting to provide that landscape design during plot plan review because each landscaping will be individual to the lot.

Mr. Giunco asked Mr. Caruso to review the disturbance of the slope. Mr. Caruso explained the different slope percentages. Mr. Caruso reviewed the photos of the existing conditions taken by Mr. Caruso marked as exhibit A4 to show areas that will be effected by the disturbance.

Mr. Caruso explained the streetlights would follow municipal standards. The Applicant will have to follow the electric company details. Mr. Caruso is in receipt of the details. They will find the particular model, pay for the lights, and install them.

Mr. Caruso then referred to the Proposed Taylor Mills Improvement sheet to show the installation of two additional inlets, widening the road, sidewalks and curbing to meet the existing subdivision curbing. The Blair lane side has not sidewalk just curbing on Taylors Mills Road. The Applicant is proposing to extend the sidewalk to the curb return from the Blair Lane site with a handicap ramp. Mr. Caruso confirmed in his perspective as a Civil Engineer, that the criteria associated with the request for waiver of the steep slope is satisfactory and meets the ordinance intent. With regard to the design of the project, he has received and reviewed the letters prepared by Mr. Boccanfuso at CME Associates, he takes no exception to the conditions and technical requirements.

Mr. Giunco called his next witness, Mr. John Rea, Traffic Engineer. Mr. Miller swore in Mr. Rea and the Board accepted his credentials. Mr. Rea prepared a study analysis along with a report of the site that was revised February 2021. The property will generate approximately 12 to 13 peak-hour traffic movements. The traffic movements will be exiting from Hidden Hills Drive out to Taylors Mills Road during morning and afternoon peak hours. Mr. Rea explained traffic engineers calculate levels of service. The traffic generated from the proposed subdivision will do so at a level of service "B" which is considered an acceptable condition. The average delay the motorist will between 12 and 15 seconds. The internal roads are designed in accordance with the New Jersey ("RSIS") Residential Site Improvement Standards. Manalapan Township only permits a cul-de-sac to be 1000 ft long and the proposed cul-de-sac is 1100 ft. The RSIS allows 24 single-family homes and there are only nine homes proposed. The RSIS does not speak to the length of the cul-de-sac, only the number of homes that can be provided. Being nine homes are proposed, the Applicant meets the RSIS standard.

Mr. Giunco, Esq. called his third and final witness, Professional Planner, Mr. Janiw.

Mr. John Miller swore in Mr. Andrew Janiw and the Board accepted his credentials. Mr. Janiw compiled a report with regard to the height variance and waivers requested. The proposed nine-lot subdivision is compliant with the exception of the waivers and the D6 height variance requested.

The Applicant is seeking the following:

- D6 height variance on lots four, five, six and seven. Permitted is 35 ft and 39 ft 11 inches is proposed
- A waiver with respect to the Steep Slope.
- A waiver for the cul-de-sac length. The ordinance requires 1000 ft and the proposed length is 1100 ft.
- A waiver for the sidewalk along Hidden Hills Way

Mr. Janiw explained the height variance would not become a factor with regard to any light, air or open space. The benefit from the height comes from the grading of the property. Mr. Janiw explained in further detail how the benefits of granting the variance relief outweighs any detriment. There is no detriment with regard to the height variance request being it is diminis and all of the setback requirements are met. The proposed subdivision would provide a positive welfare to the community and the subdivision in its entirety is in line with the master plan and the zone

plan. The three waivers requested are minor and will not have any negative impact to the surrounding neighborhood.

Mr. Giunco stated he had no further witnesses. Chair Leviton requested feedback from the Board professionals.

Board Engineer Mr. Brian Boccanfuso, explained based upon his review of the application and plans submitted, sidewalks were shown on both sides of the cul-de-sac. Therefore, no sidewalk waiver would be required. Mr. Boccanfuso also asked for feedback on the testimony previous from Mr. Janiw where he referred to Taylors Mills Road as a "rural road". Mr. Boccanfuso explained he would categorize this road as a neighborhood street type.

Mr. Giunco responded that they Applicant is requesting the sidewalk waiver. Mr. Janiw replied with reference to the type of roadway. The roadway exceeds the standards for a rural roadway required by the RSIS. The roadway it is wider in width and includes curbing. Mr. Janiw gave further detailed information as to the request for the sidewalk waiver.

Mr. Boccanfuso asked Mr. Janiw if he had a site plan to show where the sidewalks are proposed and where they would stop because that has not been submitted to the Board to date.

Mr. Caruso explained if there were to be no sidewalks on Hidden Hills Drive the Taylors Mills Road widening would still have sidewalks and terminate at the radius point where handicap ramps would be constructed.

Mr. Boccanfuso confirmed with Mr. Caruso that there are no sidewalks proposed along Hidden Hills Drive. This was not something Mr. Boccanfuso was aware of until the meeting. Mr. Boccanfuso explained the Manalapan Township ordinance calls for all streets within the municipality to have sidewalks. Mr. Boccanfuso further explained the Applicant would be required to obtain a sidewalk waiver that would be for payment in lieu of sidewalks. The Applicant will be responsible to pay the cost of the sidewalks to the township pedestrian sidewalk fund. Mr. Boccanfuso made it clear he is not in support of the complete elimination of the sidewalks on the Hidden Hills Road. It is not safe.

The Board Planner, Ms. Beahm explained she was under the impression the proposal included sidewalk on at least one side. Ms. Beahm is not in favor of zero sidewalks and is in agreement with Mr. Boccanfuso it is unsafe. Ms. Beahm further explained the sidewalk issue was new to the professionals.

Mr. Giunco explained that his client is not present due to illness however; a member of his team will be reaching out to him to discuss the matter further. Mr. Giunco explained he did not agree that zero sidewalks would create an unsafe condition.

Ms. Beahm explained it is not practical to approve a subdivision without sidewalks and she felt strongly this was something that should have been brought to the professionals prior to the meeting.

Mr. Giunco explained his client would like to propose sidewalks on one side of the Hidden Hills Rd and loop it around the cul-de-sac.

Mr. Boccanfuso and Ms. Beahm agreed that one side of the sidewalk would suffice. Mr. Boccanfuso confirmed with Mr. Rea that the roadway

would allow for parking on both sides of the street. Mr. Boccanfuso has no issue to the design waiver for the cul-de-sac. Mr. Boccanfuso confirmed with Mr. Caruso that there would be road widening on Taylors Mills Road. He also recommended roadway resurfacing upon completion of construction as a condition of the approval should the Board act favorably. Mr. Boccanfuso discussed the landscaping with Mr. Caruso and confirmed there were no waivers required.

Mr. Boccanfuso and Mr. Caruso discussed the Storm Water Management design in more detail. Mr. Boccanfuso discussed the proposed easement along the front of the property. The proposal includes the conveyance of an easement from the existing property owner to the developer. If an agreement were unobtainable, the Applicant would be back before the Board because all of the improvements are linked to the easement. Once that agreement is reached, it is subject to the approval of the Township Committee. Mr. Boccanfuso concluded his questions.

Chair Leviton referenced the Environmental report where it states the following contingencies:

Deeds for individual residential properties should include a restrictive covenant requiring that the homeowners, separately or jointly, be responsible for all common lands and retention basins in the development.

And the following recommendations:

Incorporate a rain garden into at least a portion of the drainage basin, which will help to remove nonpoint source pollution from the stormwater and increase habitat area.

Chair Leviton asked who would be responsible for the upkeep of the system and identifying should it fail. Mr. Boccanfuso explained CME produced three reports for this application and in the first report; it was asked what party would be responsible for the ownership and maintenance of the basin. Subsequent to that, CME received a response letter stating an (“HOA”) Homeowners Association would be established and responsible. Mr. Boccanfuso said he was unsure if the HOA would also be responsible for the drainage, pipes and drywells.

Ms. Beahm expressed a major concern with regard to the HOA. She stated in her experience when there are less than 25 lots the HOA is unable to take on the financial responsibility and ultimately it ends up on the township. Mr. Giunco testified the applicant was making an effort to comply with the new stormwater management regulations. Ms. Beahm stated that the new stormwater management regulations are not being met by this application.

Chair Leviton asked Ms. Beahm if there were new stormwater management regulations that this application has not met. Ms. Beahm explained this application predated the new stormwater management regulations. Under the time of the decision rule for the new stormwater management, this application was already pending before the Zoning Board.

Mr. Giunco explained the new regulations “talk about” transferring the maintenance and cost of the stormwater management facilities from the municipality to the individual homeowner. Chair Leviton asked how to make this work. Ms. Beahm suggested the applicant to be responsible to provide a bond for a durational maintenance cost for twenty years. The bond will ensure the cost would be provided should or when the HOA

defaults. This will ensure the fees will not fall on the taxpayers. Ms. Beahm explained this application is before the Zoning Board for variance relief. The applicant must show there is no negative impact to the surrounding land uses.

Chair Leviton asked Mr. Miller it was possible to have the bond as a condition of the resolution. Mr. Miller advised the Board should hear the applicant's response to the bond suggestion.

Mr. Giunco explained the Applicant's position was to create an HOA or post a bond. Mr. Giunco further testified his client was prepared to post a bond or sum of money for the township to have in hand, if they were to incur any expenses. Ms. Beahm explained in the event there is an issue with the basin, if the HOA should not materialize, the township will have the funds to maintain and rectify the situation that would not be at the expense of the taxpayer.

Chair Leviton asked Mr. Boccanfuso if the proposal included an island in the center of Hidden Hills Drive. Mr. Boccanfuso explained there is no island proposed, because the RSIS does not require it at this level. Chair Leviton addressed the comments made by the Fire Bureau and Health Department with the Mr. Caruso.

Ms. Beahm asked Mr. Janiw if the grading is the reason for the increased height that requires a height variance. Mr. Janiw testified the grading is a factor in terms of creating a level area in the area of the property that drops. There are some inconsistencies. Ms. Beahm explained her concern is the architectural submitted shows the elevation at 39.11 irrespective of the grade. It does not take into consideration the grade at all. The only thing shown is the height of the building. Mr. Janiw agreed the architectural rendering does not show the grading. Ms. Beahm explained the rendering shows the image from the rear of the home to be almost 40 feet and nothing to do with the average grade. Based on this rendering, submitted by the applicant the roof pitch can be changed to be in compliance and not require any variance relief. Mr. Janiw agreed the exhibit did not show the grading and he asked to consider his testimony only. Ms. Beahm explained, based on the exhibit, the height is almost 40 ft irrespective of the grading. The testimony is not supported by what the applicant has submitted. Ms. Beahm testified she could not provide the Board with her professional opinion based on what was submitted. Ms. Beahm suggested the Applicant carry to another date and have the architect provide another rendering as to exactly what is going on at the site. Chair Leviton was in support of this decision.

The Applicant agreed to carry the Application and come back to the Board with an architectural exhibit and floor plans that better support the variance requested.

Chair Leviton opened the meeting to the Board for comments and questions.

Mr. Rosenthal agreed that the Applicant should return with revised plans. Mr. Cooper stated he also agreed for the Applicant to return. Mr. Cooper expressed he was not in favor of no sidewalks. Mr. Cooper asked about oil tank remediation. Mr. Giunco testified the Applicant would remove any oil tanks and work with the Health Department and Board Engineer to remedy the situation.

The Board, professionals and Mr. Giunco discussed the potential bond in detail.

Mr. Schertz asked who would hold the bond for the basin. Mr. Giunco confirmed the municipality would hold the bond. Mr. Schertz asked about proposed fencing around the basin for safety reasons. Mr. Gregowicz asked for something in writing with regard to the bond or HOA prior to the approval. Mr. Giunco explained it was agreed upon as a condition of the resolution. Therefore, if it not submitted, the plans would not be signed and nothing would get built. Mr. DiTota and Mr. Mantagas agreed the Applicant should return with revised architectural. Mr. Weiss expressed concerns on the application for the height variance requested and the sidewalks. Mr. Weiss asked what a long-term bond would look like for an estimate. Ms. Beahm suggested CME put together an estimate. Mr. Rosenthal asked if the HOA would be include lawn maintenance and snow removal. Ms. Beahm explained the bond would be to maintain the basin. Ms. Beahm explained it the road would be public the town would be responsible for snow removal. Each homeowner would be responsible for the maintenance of their own property. Mr. Iantosca expressed concern about the sidewalks or lack of thereof. Furthermore, he asked for the future renderings to show side-by-side pictures of the homes on the height. Mr. Shalika asked the reason behind the lack of sidewalks. Mr. Giunco explained as a developer, his client thought it would provide for a more aesthetically pleasing site being the adjoining subdivisions were the same. Mr. Giunco will discuss the sidewalks with his client. Mr. Shalika also mentioned he echoed the same concerns of the other Board members.

Ms. Moench provided a date of March 17, 2022 for the application to return to the Board.

Ms. Moench explained if the Applicant would need more time to perfect the revisions, there was availability in April as well. Mr. Giunco said the March 17, 2022 date would work best for his team.

Mr. Miller explained to the public the Hidden Hills application would be carried and heard at the March 17, 2022 Zoning Board meeting. The meeting will be held virtually at 7:30 pm. Members of the public that received written notice will not receive another public notice. Once the deliberations are completed at the March 17, 2022 meeting, the public will have the opportunity to ask any Board member a question and/or cross examine any witness. The file can be reviewed at town hall with Board secretary.

Chair Leviton opened the meeting to the public for questions or comments regarding any non-agenda items. Chair Leviton closed public

ADJOURNMENT:

A Motion was offered by Mr. Weiss to adjourn the meeting at 10:20 PM. All were in favor and none opposed.

Respectfully Submitted,

Janice Moench
Recording Secretary

A RECORDING OF THE ZONING BOARD OF ADJUSTMENT IS AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.