



**BOROUGH OF FOLSOM
PLANNING/ZONING
BOARD OF ADJUSTMENTS
MINUTES
July 21, 2021**

The meeting was called to order at 7:05 PM.

SALUTE TO THE FLAG

CERTIFICATION: Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act pursuant to Public Law 1975, Chapter 231. Said notice has been advertised in The Hammonton Gazette and Atlantic City Press and is posted on the bulletin board showing the time and place for the meeting.

ROLL CALL:

Members Present: Joe Pino, Glenn Smith, Dave Cappuccio, Michael Veneziani, Michael Sutts, Leslie Roberson

Members Absent: Joel Spiegel, Mayor Schenker, Jim Hoffman,

Others Present: Solicitor: Carol N. Goloff, Esquire
Board Engineer: Jen Heller for Vince Polistina, PE, PP
Board Secretary: Susan Carroll

APPROVAL OF MINUTES:

A motion was made by Mr. Veneziani and seconded by Mr. Cappuccio to approve the minutes of June 16, 2021. There was a roll call vote with 4 ayes and 2 abstentions.

Joe Pino	Abstain
Glenn Smith	Abstain
Dave Cappuccio	Yes
Michael Veneziani	Yes
Michael Sutts	Yes
Leslie Roberson	Yes

RESOLUTION 2021-5 - Lorraine Smith, of 1514 Mays Landing Rd. known as Block 1502 Lot 2 and located in the Village Residential (VR) Zone; and Briana, LLC of 1520 Mays Landing Rd. known as Block 1502 – Lot 30, located in the Forest 20 (F-20) Zone seeking a re-alignment of property lines, Variances and Waivers.

A Motion was made by Mr. Cappuccio and seconded by Mr. Sutts to Adopt the Resolution. A roll call vote was taken with 4 ayes and 2 abstentions.

Joe Pino	Abstain
Glenn Smith	Abstain
Dave Cappuccio	Yes
Michael Veneziani	Yes
Michael Sutts	Yes
Leslie Roberson	Yes

APPLICATION 02-PB-2021: Tom Puentes, 1321 Folsom, LLC, 400 W. 15th Street, Hammonton, N. J. seeking a Preliminary & Final Subdivision, and Variance(s), at 1321 Mays Landing Rd. also known as Block 701 – Lot 13 on the Official Tax Map of the Borough of Folsom and is located in the Village Residential Zoning District.

Mr. Stephen Nehmad of Nehmad Davis & Goldstein opened the floor. He had two witnesses. Solicitor Goloff swore in Mr. Rehmann of Adams, Rehmann & Heggan Associates, Certified Municipal Engineer, Civil Environmental Engineer licensed since 1973, and Mr. Robert Capoferri, 2561 Aqua Vista Blvd., Ft. Lauderdale, Fl. who was a partner of 1321 Folsom, LLC.

Exhibit A-1 was an Arial showing out bounds, surrounding Mays Landing Rd., and Conrail at the southern part of the property. The parcel was 8.69 acres in the VR Zoning District. The rear portion was cleared and the front had some trees.

Exhibit A-2 was a Subdivision prepared by Richard Sapio. There were four Lots labeled on the plan as A, B, C, & D. The Subdivision was in the Village Residential Zone and Borough Ordinance required 2 acre lots in this Zone. The lots were proposed to have acreage as follows: Lot A – 2.07 acres, Lot B – 2.13 acres, Lot C – 2.1 acres, and Lot D 2.4 acres.

One access driveway from Mays Landing Rd. was proposed. Lot (12) was subdivided out (of Lot 13) leaving 204 foot frontage along Mays Landing Rd. The Applicant intended to keep the access driveway as a rural lane to access the homes. The driveway will be paved and the Applicant proposed to post a bond. There will be no rain water discharge. Downspouts and recharge facilities were proposed for each home and will keep zero discharge of water.

Exhibit A-3 showed the driveways to the homes and onsite parking on the lots. The front of the lots will act as open space. A Homeowners Association will be established for common easement, covenants, and restrictions. The street and improvements will not be the responsibility of the Borough. It will be the Homeowners Association’s responsibility. What was seen when

driving passed will be the same as what was there currently. Storm water Calculations will not change.

The Lots will be created by a plat rather than by deed. There would be less than 50 traffic movements per day. The Applicant was not seeking to dedicate the street (driveway). There will be no maintenance for the Borough. It will be the property owner's responsibility for upkeep and maintenance. A swale on each side of the driveway was proposed. K-5 sand will be used if swales do not work. The storm water will infiltrate with gentle slopes. The water will not drain onto the neighboring lot – Lot 12.

All lots will meet the Lot width requirement. Lot C will become a flag lot. A Variance for lot width for Lot C was requested since it did not meet frontage requirement at the street only.

Discussion ensued between Mr. Nehmad and Mr. Rehmann in reference to the 57 ft. frontage on Mays Landing Road for proposed Lot C. In an abundance of caution, the Applicant applied for a C Variance relief for Lot C fronting along Mays Landing Road. It did not have frontage of 135 feet. In Mr. Raymond's opinion the width did not have to be 135 feet. The purpose of the rural lane was to move any development/new homes away from the existing home (Lot 12). The 57 ft. frontage had no purpose other than it buffered the adjacent lot (Lot 12) by an additional 50 feet from any noise or inconvenience with the road which for the number of trips per day using the roadway didn't see an issue.

The variance relief for the 57 ft. frontage along Mays Landing Rd. for lot C could be granted under C1 criteria for hardship or C2 criteria of the statute. The purposes of the act being advanced. It was Mr. Rehmann's opinion there would be a hardship associated with it if this had to be 135 feet. The configuration or geometry of the lot was created when parcel (Lot 12) was subdivided out (of Lot 13) which created the 203 feet (frontage). A majority of the lots along Mays Landing/Somers Point Road were all on smaller lots than 135 feet. It was within the character of the neighborhood. There was no other access to the site because of the Conrail site (in the rear of the property). There was development on both sides of the roadway. It would be a hardship to not grant the variance for the Use being proposed. The Applicant was making sure the people who may be affected by the granting of the hardship variance of lot width will not see anything, but will add almost 57 ft. more buffer.

The Board was authorized to grant the Variance under the C2 criteria. The purpose of the act would be advanced. The benefits substantially outweighed the detriments. Mr. Rehmann was familiar with of the purposes of the New Jersey Municipal Land Use and believed the granting of the Variance, if required, did not impact anyone in the sense that with the exception of a 16 ft. wide lane going back, nothing else happened in the area. It was the intent of the site improvement standards to encourage coordination of how the land was shaped to encourage the shaping of the land. It was the highest and best Use for this particular property without changing the character of the area and it would be resolved with the creation of a desirable visual environment through the development technique of creating of the private lane. It was in character to the area and it would not be detrimental to the existing residents along Mays Landing/Somers Point Road.

Negative Criteria: Variance could be granted without substantial detriment to the public good or substantially impairing the intent and purpose of the Zone plan. Mr. Rehmann did not believe there was any negative or substantial impact for the variance relief required for Lot C. There was no negative effect or substantial impact to the existing lot 12 adjacent to the area. When asked if there were any inimical, deleterious, harmful impact to any of the adjacent properties, Mr. Rehmann answered not in his opinion. It met the character of that portion of the Borough along Mays Landing Rd. which he called the historic portion of the Borough and believed there was no negative or substantial impact.

In Mr. Rehmann's opinion the plan met the requirements of Minor Subdivision Approval. He read Ms. Heller's memo (the Engineers Report), and was agreeable to the request that any minor revisions be submitted. There was a list of outside Approvals which may need Approval.

A performance guarantee was recommended to be put in place by Ms. Heller and it was something the Applicant would do subject to the Boards consideration of the Approval. Traditionally, Minor Subdivision did not put performance guarantees. The Applicant proposed to do a Performance Guarantee/Bond to make sure the street was not damaged while the homes were being built and to make sure there was a mechanism in place for the construction of the street. They would put it in when the homes were completed so they won't tear up the street while they were building.

The board questioned if protections were in place in the plan for the Housing Association for the proposed drainage for the sides of the road so that the owners of the lots can decide to shrub it differently or somehow effect the overall drainage.

Mr. Nehmad responded. A Declaration of Covenants and Restrictions will be submitted for the Borough and Borough Engineer's Review and Approval. The document will prohibit any homeowner from constructing anything in and along the adjacent right of way which would impair the intent of the storm water management system. The document can be filed with the subdivision file.

The Board questioned if the Drainage Calculations took into consideration other structures such as sheds which the individual homeowners might add and if it would threaten run off or neighboring properties.

It was Mr. Rehmann's understanding that Mr. Nehmad would put in the homeowners documents if any impervious coverage were added, the homeowner must recharge the run off from the impervious coverage. If a large garage were added, all the downspouts will go into a recharge, trench, box, or stones so none of the water will run overland into any other property. Mr. Nehmad also commented. If a swimming pool or something like that is put in or an impervious surface such as decking around a pool /in ground pool deck, the same thing. The lots were 2 acre lots. There was plenty of area, but it would be included in the guide.

The Board also questioned if the cul-de-sac was big enough for a fire truck to make a U turn. Mr. Rehmann responded, yes for utility trucks, but probably not for one pulling a pole. Fire rescue, and maintenance vehicles would be able. It would be the same size cul-de-sac if there

were a 15 ft. right of way coming into it. Mr. Nehmad commented it was the same size gradient required for emergency vehicles. It was 80 ft.

Witness Mr. Capoferri, thanked the Board for taking the time to hear this application. Robert Capoferri was one of the principals of the Limited Liability Company of the Applicant. He has been a partner with Tom Puentes on the property coming up on a year and a half. They were trying their best to clean up the property. He thought when it was done, the Borough will be very happy to see the eye sore gone. They took some chances not knowing what was under the ground. They did some preliminary testing. It showed the tanks were not leaking. He took the gamble and it paid off for them. They were not leaking at any time. It worked out well and he had the tanks removed by a licensed tank removal company. The Subdivision he was intending to create to convey the lots to family and friends. He intended to create the Right Of Way Street / concrete driveway by the creation of the Declaration of Easements, Covenants, and Restrictions. Mr. Nehmad's office was authorized to prepare it. After Mr. Capoferri authorizes it to be released, it will go to the Board, Council, and Engineer for review and approval before it is recorded. He intended to pave the street not just stone. He agreed to post a performance guarantee for the reasonable cost of paving the street and create a street.

There were no other witnesses.

There were no questions from the Board Members.

The meeting was opened to the public.

Solicitor Goloff swore in Loretta Blazer, 1450 Backline Rd. Ms. Blazer was concerned with the noise that has resulted when the wooded area in the front on Mays Landing Rd. was removed. All of the trees were removed. It resulted in the Mays Landing Road traffic noise funneling back to her property on Backline Rd. She could hear the trucks, motorcycles and everything. She was concerned the noise from the 4 homes being moved right in the middle of the field (Lot 13) would circle all around the field. She requested a whole buffer zone for the noise be created to the south. The lot was now an open field and all the noise circulates around. Putting the 4 homes plus the traffic would sound like they were right in her back yard.

Solicitor Goloff swore in John Blazer, 1450 Backline Rd. His was concerned with the swale being put on Mays Landing Rd. There was a pipe maintained by the County for the drainage because there was flooding when there is a lot of rain and snow. Mr. Blazer knew there was a wet spot in the field because he used to brush hog it and get stuck with the tractor all the time. He asked where the swale would be because his step mother had a sump pump. His concern was for the water laying there.

Solicitor Goloff swore in Toni Lagona, 1320 Mays Landing Rd. She testified the Applicants property at 1321 Mays Landing Rd. was her grandmother's property and it's been an eyesore. She thanked the committee. She tried putting the property for sale for the last 5 years, but couldn't get her mother to budge. Ms. Lagona was sorry but her mother couldn't let go of her mom and dad. When her mother became really sick, the Puentes' would run over and help take care of her. Ms. Lagona couldn't think of better neighbors than the Puentes's. When she

thought about the 3 houses around her, and the falling down thing (referring to the dilapidated house) and other things on Mays Landing Road that shouldn't be there, she would rather see new development. She thanked the Board for their patience with her mother. They (the Puentes) will be a welcome addition and a great family here. She was open to questions about the property and added there was a train so please buffer the whole thing.

There were no other comments from the public. The public portion of the meeting was closed.

The Applicant's Attorney responded to public comments. In response to the drainage concern the applicant will make application to the County Planning Department who had jurisdiction on two issues of traffic and storm water management. The County will review the Storm Water Management to ensure the storm water conveyances in and along the County right of way will not be blocked. Most of all run off on the adjacent properties will be less than (inaudible). Mr. Rehmann referred to Sheet L1. It was the Proposed Landscaping Plan. Trees will be planted along the boundaries of the property in order to try to mitigate noise. There will be landscaping around the homes to keep the noise level down.

Mr. Rehmann referred to A-1 noting there was a lot of tracks in here that somebody has been using dirt bikes – that will be cut in half. I don't know whether that will be as attractive.

The Applicant was willing to put in a few more plantings to mitigate noise at the Board's discretion, but thought it there was enough buffer. The development was for single family homes. Like kind development. The Applicant was not putting a Commercial Land Use or the state noise control act would be applied. The biggest ambient noise level was the train going by.

In response to public comment, the Chairman questioned if the county had taken some sort of action to relieve a drainage issue on a corner of the property. He asked if they were aware what it was. Mr. Rehmann replied, when the county gets done they were putting an inlet down on this street. Mays Landing Road. They were dumping the water on our property and what we have had to do because we recognize that is an issue, we have to provide for that in the swale and in the recharge areas designed on the plan. Ms. Heller has looked at them and if there is something that comes up as a result of that she and I could discuss if there was some enhancement that she would feel comfortable with, but he thought what they did was protected our neighbors. The issue has been taken into consideration with calculations and it was being addressed.

There were no other questions from the Board Members.

Mr. Nehmad added, we're trying to be creative and trying to be sensitive to not only our neighbors, but the neighborhood generally. It was a very, very creative development technique to see somebody want to do something like this. It creates a real nice feel. In his career he worked on maybe a dozen or two of them. It wasn't the norm. The norm was a big drainage basin. The street gets dedicated to the municipality. It's not nearly as sightly or good looking as this. This is the historic kind of rural areas part of the town. We were trying to keep that feel and respectfully ask for favorable consideration. He thanked the Chairman.

The Jen Heller commented regarding the driveway. The four single family lots proposed could have 4 driveways put in onto Mays Landing Road. The applicant was providing one driveway which would have a lesser impact on the traffic. Atlantic County will review the storm water and driveway because they had jurisdiction over it. She thought the impact onto the neighboring properties and Mays Landing Road was a good design. There would be more impervious coverage if four driveways were put in. There would be only one curb cut and one access. In that aspect it was a minimal impact. The application was for a minor development. Five or more lots was major. It will be filed by plat which meant the easements and any other restriction could be included on there. A deed notice will be done to create the Homeowners Association, to make the property owners aware that there is an Association, and that they are responsible for the maintenance of the road. The Borough will not have to accept the roadway. It will never be the Borough's responsibility. Other than the Variance for lot width it was a clean application, a good design. They just needed the Variance for the lot width to allow 57 feet for proposed Lot C which was only due to the configuration of the lot.

A Motion was made by Vice Chairman Smith and seconded by Mr. Cappuccio to approve the application for a minor subdivision for four lots with a Variance, if needed, for the frontage of 57 feet for Lot C. Lot C will have adequate frontage on the proposed driveway considering the buffering suggested along the lot line to the south of Exhibit A-1 with all the other Approvals set forth in the Engineers Report and understanding the Homeowners Association and all other conditions will be reviewed by the Solicitor and Ms. Heller.

Board Member Roberson questioned the noise complaint and if there was a time frame the noise was bothering them. Solicitor Goloff addressed the issue. She believed Ms. Blazer was indicating because of the vast open space right now, the noise bounces around and was concerned with the noise four houses makes without a buffer. Mr. Nehmad indicated the applicant was willing to discuss with Ms. Heller, what kind of plantings would buffer the noise. Once the construction is done, part of that construction will include some plantings that life will be buffered somewhat with plantings. The noise was not a matter of what time of day, but it was all the time. Mr. Nehmad was agreeable with supplementing plantings.

A roll call vote was taken with ayes all. .

Joe Pino	Yes
Glenn Smith	Yes
Dave Cappuccio	Yes
Michael Veneziani	Yes
Michael Sutts	Yes
Leslie Roberson	Yes

OTHER BUSINESS: CANNABIS ORDINANCE

Jen Heller opened the conversation. The governing body Adopted the Cannabis Ordinance and due to the timing of everything the State of New Jersey was forcing the Municipalities to have some sort of guidance/regulation of where the six Classes of Licenses would be allowed. The Borough of Folsom met and unfortunately there were some conflicts of differing opinions. By the time the meeting ended, it became something different at Council. Regardless, the governing

body had the final say on any Legislation. The Council Adopted to prohibit Classes 1 through 4 from being in any of the Residential Zones. They've restricted it to particular lots within the RDC. Not the lots closest to Penny Pot, but the lots closer to the Forest Commercial areas on the Black Horse Pike. Not anywhere near Collings Lakes. It was very limited. The lot had to front on the Black Horse Pike. It was very restrictive. This allowed the Borough to go back and revisit it. It could be amended at any time. The Board needed to determine the Ordinance's consistency with the Boroughs Master Plan tonight. When the Master Plan Re-examination was done cannabis was never a Permitted Use or ever considered. Every municipality was faced with this challenge. As far as consistency, the Council was only allowing the retail sales within the FCR. It had to be a lot that fronts on the Black Horse Pike in the FCR Zone. It was not permitted in the Village Residential, Rural Development, or Rural Development Commercial. The manufacturing, growing, cultivation, and distribution, was permitted in the Village Industrial, The Forest Commercial Sending, Forest Commercial Receiving, and in select Rural Development Commercial Zone Lots. The Borough was in the Pinelands. Anybody who is going to build one of these will be faced with Pinelands Commission rules on storm water and things like that. It was all indoor grow and was years away. The licensing was difficult to obtain and until somebody comes to the Borough of Folsom; the Borough still had the opportunity to set Rules and Standards specific to the zoning for that.

Mr. Cappuccio question if the Borough could say no and if one town put an Ordinance in that said they not going to do this.

Ms. Heller responded the Borough could say no and go back and revisit it. If you do nothing it becomes a permitted Use in all of the Commercial Districts for sales. That would be the entire Black Horse Pike, the RDC Zones even the ones against Penny Pot. The Commercial Zones where Retail is permitted, it would be a Permitted Use. The other Classes would be permitted in the Industrial Zone. The Borough selected a few lots where it would be permitted. The Borough did not have water or sewer. A lot of the land restrictions will prohibit building a structure here in Folsom.

Solicitor Goloff commented our job is very limited. The Board's job tonight was to look at the wording (of the Ordinance) and determine if what the Governing Body suggested was in line with the Planning point of view. The Board needed to determine if the Zones in which the Governing Body has deemed it appropriate to permit this activity, are appropriate in light of the Borough's Master Plan and the thought behind the Master Plan. It was not philosophical discussion about marijuana.

Vice-Chairman Smith was one of the original members on the Planning and Zoning Master Plan Committee. Chairman Pino asked him if he had any thoughts on where Council said verses what was. Mr. Smith answered, when the Master Plan Re-Exam began, the lots were too big, in the beginning that nobody would buy them, and the Sending was behind the Receiving. The way it was broke down, nobody could sell the property to bring any Commercial Use to the town for ratables. It was done to bring business and ratables . Whether it was a warehouse for Cisco; or a warehouse that was going to grow this in a building, put it in a truck, and take it to a dispensary in Egg Harbor Township. The vision was to make low visibility / high ratables. He wasn't concerned with what they did inside the building because it would be governed by everybody and their brother not the Borough of Folsom. We are saying there is a building or a lot where a

building could be built on that lot was our intention. Whether it was marijuana, a crane company, or trucking company. We just wanted ratables to offset taxes. That was why we did that.

Mr. Pino totally supported it from day one. He asked Mr. Smith if he felt based on where they are saying they want to do it there is no conflicts based on your experience from that committee. Mr. Smith did not see any conflict. It will be located about quarter mile up from 8th street (on the Black Horse Pk.) and will come down almost to where Charlie Arena was, but there were no lots past Schenker's father-in-laws old garage. It was really from there to a quarter mile from 8th street. Almost 9th Street. So 9th Street to 11th Street along the Black Horse Pike.

Mr. Pino asked if anyone else was on the committee from the Planning Board, but there was none. Jen Heller commented to keep in mind when the Master Plan was done cannabis and retail sales, growing, and things like that were never permitted. They were still federally banned, but whether someone is growing tomatoes inside of a building or growing cannabis; the Borough will get the assessed value of the property and the structures. People who want to do this business will have the backing because it was a capitol business. It can't be financed, it was basically paid for in cash and they have the time capitol. Certain taxes can be assessed on the different classes of licenses 2% on retail. The licensing can also be controlled. A renewal fee every year could be imposed. It was an opportunity to get some revenue. The projections needed to be figured out. Currently the State has no rules. The Borough took action and is one of the first towns to finalize an Ordinance. The location were targeted for the areas along the Black Horse Pike which is where the Borough wanted Commercial ratables. It has been kept away from the lots near Penny Pot. The few lots at the end of the RDC were not included. It has been kept away from the school in the Village Industrial. The town will benefit, but it was years away.

There was no other discussion.

A Motion was made by Vice-Chair Smith and seconded Chairman Pino that the Ordinance was consistent with the Master Plan. There was a roll call vote with ayes all.

Joe Pino	Yes
Glenn Smith	Yes
Dave Cappuccio	Yes
Michael Veneziani	Yes
Michael Sutts	Yes
Leslie Roberson	Yes

Chairman Pino formally thanked Ms. Roberson for joining the Board and appreciated her civic dedication.

Chairman Pino was reviewing the rules which were Adopted. There were three different committees in rules. The committees were ad hoc. They are formed when needed. He made a request for the Board Members to review the Board Rules for inconsistencies to clean them up.

There was no other business for the Board.

The next scheduled meeting is August 18, 2021 at 7:00 pm.

Meeting adjourned 8:39 pm. All in favor.

Respectfully Submitted,

Susan Carroll,
Board Secretary