

## **SAYREVILLE PLANNING BOARD**

**MINUTES OF February 13, 2019**

The regular meeting of the Sayreville Planning Board was called to order by Thomas Tighe, Chairman and opened with a salute to the flag. The meeting was being conducted in accordance with the Open Public Meeting Law P.L. 1975, c231, Public Law, 1975.

Members of the Planning Board present were: Mr. Chodkiewicz, Councilman Dalina, Mr. Davis, Mr. Kelly, Ms. Lee, Mr. Macagnone, Ms. O'Leary and Chairman Tighe

Absent Members: Mr. Volosin and Ms. Mantilla

Also present were: Mr. Marc Rogoff, Attorney, Mr. Cornell, Engineer and Mr. Leoncavallo, Planner.

### **AT THIS TIME, THE MEETING WAS OPENED:**

**Chairman Tighe asked the Planning Board Secretary if the board meeting was being conducted under the Sunshine Law and if all publications were notified, the secretary had stated, yes.**

### **MEMORIALIZATION OF RESOLUTION:**

**Robert Downey II ~ Minor Subdivision**

**Blk 337, Lot 2.02**

**Atty: Mr. George W. Pressler, Esq.**

**Law office of George W. Pressler**

**322 Cranbury Road**

**East Brunswick, NJ 08816**

**Mr. Lee made a motion to accept and approve the above resolution, seconded by Mr.**

**Chodkiewicz; ROLL CALL:**

**YES – Mr. Chodkiewicz, Councilman Dalina, Mr. Kelly, Ms. Lee, Mr. Macagnone and Ms.**

**O'Leary**

**NO – none**

**ASBSTAIN – none**

**CPV Keasbey, LLC ~ Preliminary/Final Major Site Plan  
Raritan River, Borough of Sayreville  
Blk 257.01, Lots 3.01 & 5; Blk 62.011, Lot 20  
Blk 257, Lots 1.05, 1.06 & 7; Blk 256.01, Lot 1.05  
Atty: Mr. Robert W. Buckman, Jr. Esq.  
Archer & Greiner, PC  
One Centennial Square, Haddonfield, NJ 08033**

**Mr. Lee made a motion to accept and approve the above resolution, seconded by Mr. Chodkiewicz; ROLL CALL:**

**YES – Mr. Chodkiewicz, Councilman Dalina, Mr. Kelly, Ms. Lee, Mr. Macagnone and Ms. O’Leary**

**NO – none**

**ASBSTAIN – none**

**ACCEPTANCE OF MINUTES:**

**Mr. Tighe made a motion to accept the Minutes of January 16, 2019 meeting. Mr. Chodkiewicz made a motion to accept; seconded by Ms. O’Leary; ROLL CALL:**

**YES – Mr. Chodkiewicz, Councilman Dalina, Mr. Kelly, Ms. Lee, Mr. Macagnone and Ms. O’Leary**

**NO – none**

**ASBSTAIN – none**

**SITE PLANS/SUBDIVISION HEARINGS:**

**Ross/Muniz ~ Minor Subdivision**

**49 Deerfield Road**

**Blk 204.04, Lots 21 & 22**

**Atty: Mr. Michael P. Paige**

**368 Washington Road, Sayreville, NJ 08872**

**Michael Paige, Esq is the attorney for the applicant’s Ms. Christina Ross owner of Lot 21 and Ms. Donna Muniz owner of Lot 22. All publications and notice have been reviewed and are in order by Mr. Rogoff. The application is for a minor subdivision and minor site plan approval to subdivide the property into two (2) new lots and construct single family homes on both lots, variance for lot area and lot width. Three (3) witnesses will be called; both owners and Michael Geller, professional engineer and planner.**

**Mr. Rogoff has made part of the record the professional reports of CME Associates dated 2/13/219 and John Leoncavallo dated 2/11/19. Mr. Paige has accepted them and agrees. First Witness called Ms. Christina Ross was sworn in. She stated she was the owner of the property Blk 204.04, Lot 21 and she purchased the property on April of 2018. At the time of property, she was advised that the property in of its own and separate from Blk 204.04, Lot 22 and her intention & purpose was to build and improve the property. When she required to the Borough of Sayreville, she was advised she needed to subdivide the property, as why she has submitted an application looking for the board's approval for the subdivision.**

**Second witness call Ms. Donna Muniz was sworn in. She stated she was the owner of the property Blk 204.04, Lot 22 and she purchased the property of April of 2018. At the time of property, she was advised that the property in of its own and separate from Blk 204.04, Lot 21 and her intention & purpose was to build and improve the property. When she required to the Borough of Sayreville, she was advised she needed to subdivide the property, as why she has submitted an application looking for the board's approval for the subdivision.**

**Mr. Rogoff asked if the property previously owned by the same ownership. Mr. Paige's response was yes. He also asked, if his professional going to speak about a merger. Mr. Paige's response was yes.**

**Final witness called Mr. Michael Geller was sworn in; Engineer and Planner for Geller Sive and Company, LLC out of Adelpia (Howell Twp.), NJ. Mr. Geller has 44 years of experience in private and public sector and has testified numerous times in front of planning and zoning boards. Graduated from Stevens Institute of Technology in 1975. Mr. Macagnone accepted his credentials, seconded by Mr. Chodkiewicz, and all members in favor.**

**Mr. Rogoff asked Mr. Geller is he agrees to a terms and conditions to the professional reports. He agrees that the applicant will handle all conditions requested by CME Associates and John Leoncavallo. Mr. Geller has reviewed all reports; He submitted an Exhibit, mark A-1 into evidence of all lots within the 200' zone and other lots outside the direct area that are undersized. One correction on the exhibit A-1; 204.04, Lot 22 – the actual width 52.58. This property is identity as Blk 204.04, Lots 21 & 22; the address is 49 Deerfield Road; located on the southerly side, 250' west of University Place; R7 Zone; minimum required lot area is 7,500 SF and 75' width.**

**Lot 21 lot area is 5,423 SF – width 52.8'; Lot 22 lot area 5,519 SF – width 52.58'. Both non confirming. These lots were created by a subdivision in the early 1950s, Map of Deerfield**

**Park filed on April 27, 1954 map# 1881 file #617. Based on these lots being a common ownership, whether by a prior owner or the act of the Borough (undersize and common ownership) which is common, these lots are listed on tax record as a single entry. Lot 21 being the lead lot. Tax map shows two separate lots, but one lot in tax record. Consider as consolidated property, the lots would contain 10,942 SF width of 104.86'. Lot 21 has a poor condition 2 story single family dwelling on the subject property and is not conforming due to the setbacks on the side and front. The detach garage on the southeast is not conforming as well due to a side setback. Lot has a coverage of 21%. Lot 22 is occupied by a masonry garage is very close to the road; front and side set back do not conform. No environment issues; flood plain or wetlands on the subject property.**

**Referring to the Exhibit A-1; the area starts east of Lot 22; there are 22 lots that are developed with single family dwelling in the R7 zone; 19 are non-confirming of lot area and lot width and 3 are confirming to lot area but non confirming due to width requirements; Deerfield Road is the boundary of the R7 zone of the south and R10 zone of the north. Mr. Geller did not review the R10 zone.**

**Mr. Rogoff made note that this application has some legal issues, did anyone inform them that the line is not a real subdivision property line during their purchase and was merge by operational law, Mr. Geller did not know.**

**Mr. Geller continues to discuss each property on the Exhibit A-1 that notes a pattern of non-confirming lots. He mentions that the application will demolished the existing structures and construct 2 story single family homes with 4 bedrooms, other than lot area and widths; the application will conform to all the bulk and coverage requirements of the R7 zone, noted on concept grading plan. He continues to discuss the proposed dwellings will meet the front set back, side set back, building height requirements, coverage requirements; 2 car garage and 2 car driveway; they will also meet the 3.5 parking spaces.**

**Mr. Macagnone asked, to be the best of Mr. Geller's knowledge has there been any previous subdivisions in the past 10-15 years? Mr. Geller stated he did not believe so, since the lots are smaller in size. Mr. Macagnone noted the Exhibit A-1 with the other homes at least being 1,000 SF larger in area size, and some are close to confirming. So based on a planning prospective what are your thoughts? Mr. Geller stated, that there were thought back when the lots were subdivided, homes would have been built at that time. A case in Lacey that dealt with undersize lots, and as long as you met the setback, it was a typical practice that acceptable planning practice. Mr. Macagnone makes note that this lot is much smaller than the others in the R7 zone. Chairman Tighe asked Mr. Geller, how long did the previous owner owned the property? Mr. Geller stated that was not a question for him.**

**Mr. Geller discussing the relief of variance they are requesting; under the 1967 case Loechner v Campoli the merger doctrine established; which two undersize properties, under one ownership merged, but stated as 2 properties on the tax map. These lots were formed on the map of Deerfield Park; later the Borough of Sayreville formed R7 zone. The proposed subdivision does follow the existing line from 1954. Mr. Geller stated, if the lot was developed as a single lot; the lot area would be 10,942 SF and 104' width, which would not be consistent to the neighborhood and his opinion would stand out.**

**Mr. Chodkiewicz asked if he did any analysis on the R10 zone which is included with the 200' radius. Mr. Geller stated he did not, he did a drive by on Strek. Mr. Chodkiewicz would like to know how many within the R10 zone are conforming. Mr. Rogoff makes note that we need to discuss R7, in which the property resides in. And this application has nothing to do with the property across the street in the R10 zone.**

**Mr. Geller states this plan should be reviewed under the C2 criteria. Lot 21 is developed for residential, Lot 22 is not based on the garage dwelling on the property if you are looking at them separately. Second, the purpose of the active zoning; promotes the establishment of appropriate population density, development of lot 21 and lot 22 advance this purpose, adequate light, air and open space which meeting the height requirement and yard set backs on the Borough ordinances. Lastly, the demolishing of the existing dwellings would promote a desirable visual environment. In his conclusion, he feels the benefits of the application would out way the detriment of the public. He feels the public would look to have these lots developed.**

**Mr. Geller discusses CME Associates report, 2/13/19 technical review, general comments item 1 he makes mention that properties on this side of road do not have sidewalks and this property is on a slope, in which the waiver shall be granted. Item 2 – the applicant agrees; Item 3 – this has been addressed; Item 4 – they agree and will look at that further on the plot plan and provide an inspection of the wall, and if need there would be a reconstructed or repair if necessary. Item B and C – they agree to all these comments. Lastly, John Leoncavallo report dated 2/11/19 – they addressed planning consideration on item #1 and #2.**

**Mr. Chodkiewicz mentioned that it would have been nice to have Exhibit A-1 prior to the meeting for their review. He did not prepare this until this week, and if was a requirement, it should be placed on the checklist.**

**Ms. Lee is still stuck on how this property was sold as two separate properties and the title search did not identify this to the purchasers at that time. Mr. Rogoff noted this is not our function to determine this and we are looking at one lot. Chairman Tighe makes a mention**

that in 1954 these were two lots and in 2018 the tax record is one lot. He drove by the property and with the condition notes this is in need of redevelopment and discusses the Exhibit A-1. Mr. Rogoff makes mention that the lots were sold as independent lots; someone researched the lots and determined the lots were under common ownership and were merged under operation of law, sold to them separately, and the Borough of Sayreville told them they need a subdivision. The issue before the board is whether you approve to subdivide the lot. Mr. Macagnone states, the lot currently as it stands is conforming to the R7 zone and they are looking for 2 lots that are non-confirming to the zone, correct ~ Mr. Rogoff states ~ yes.

Mr. Geller provides 4 examples provided on Exhibit A-1, page 2 and mentions the specifications of other addresses in the area. Mr. Rogoff asks, if there are any other 10,000 SF lots in the zone, Mr. Geller states, no.

Chairman Tighe and Mr. Paige discuss the real estate issue on how these were sold to the applicants, separate title documents and deeds. The application is requesting the subdivision based on the 1954 property line and noted on the current tax map. Chairman Tighe stated in 25 years has never seen this. Mr. Rogoff makes mention this is not the planning board issue with regard to ownership. No further witnesses.

Mr. Macagnone opens the public portion, seconded by Ms. O'Leary ~ all members are in favor.

Marie Cook  
13 Amherst Place  
Parlin, NJ 08859

Ms. Cook is sworn in. She has owned the property since 1976. She wants to understand that the retaining wall was on record that was part of the applicant's property and if there is in need of repair or replacement if the retaining wall is compromised. Mr. Geller stated yes. She is fine with the construction, but only concern is the wall.

Frank Bello  
5 Keenan Street  
Sayreville, NJ 08872

Mr. Bello is sworn in. He is looking for a copy of the rendering of the homes. This was provided to him on the stand. His concern is the height of the proposed houses to the existing houses. The height will comply. Garage proposed at 112.5, basement is above the garage, the garage is constructed in the slope. The rest of the structure is 2 story start with

122.75. Mr. Geller states off of memory, the total height is 30' from garage floor to the top of ridge. The front is low, the back is high; 20' high to the ridge. Mr. Bello asked about the proposed dwelling roof peak to the neighbor existing. Mr. Geller did not look at that, but pretty much the same height, since most homes are 2 story or 1.5 capes. The garage is 10' below the grade. Mr. Bello speaks about how many stairs and the approx. foot calculation. All is noted on the rendering. Mr. Geller notes the plan and states is under the ordinance requirements. Mr. Bello asks Mr. Cornell if the height is similar to existing homes in the neighborhood, he does not have that information in front of him, but states that similar homes have the garages in the slope and are 2 story. Mr. Bello will come into the planning board office and review the professional reports and file.

Ms. Lee makes a motion to close the public portion, seconded by Mr. Chodkiewicz ~ all members are in favor.

Mr. Kelly makes a motion to accept and grant the application a subdivision and variances, seconded by Ms. O'Leary, Roll Call:

YES: Mr. Kelly, Ms. O'Leary and Chairman Tighe

NO: Mr. Chodkiewicz\*, Councilman Dalina\*, Mr. Davis\*, Ms. Lee\*, Mr. Macagnone\*\*

ABSTAIN: none

Application Denied.

\*with comments ~ reason of denying is based on the lot size. Majority of lot sizes are close to conforming and four properties are conforming out of the 22 lots. Lot 21 and Lot 22 would be the smallest in the area. To be in consist, we have denied subdivisions based on lot size. Members that denied the application also agreed with Mr. Chodkiewicz comments.

\*\* with comments ~ changing a conforming 1 lot to 2 non-conforming lots and being consistent with other applications based on lot size. He also refers to follow the Borough ordinances and not variances.

Marcus Burnett ~ Minor Subdivision

1 Frank Avenue

Blk 413.01, Lot 10

Atty: Mr. Lawrence B Sachs

8E Auer Court

East Brunswick, NJ 08816

Mr. Sachs is the attorney for the applicant. This application is located at Blk 413.01, Lot 10 at the corner of Frank Avenue and Eugene; Located in the R10 Zone. He has one witness, Mr. Sharif H. Aly from Amertech Engineering. The lot is .90 acres and they are

looking to subdivide into 3 conforming lots. They are not seeking any variances and this is not a merged lot. There is a pre-existing non-confirming in which they will discuss. Mr. Sachs has provided the office all publications, receipts and affidavits for review and Mr. Rogoff notes they in order and approved. The report of CME Associates and John Leoncavallo report have been reviewed and they will be complying with all comments.

Mr. Sharif H. Aly, P.E, P.P has been sworn in and works at Amertech Engineering, Inc. located at 757 Ridgewood Avenue, North Brunswick, NJ. Qualifications professional engineer and planner in NJ since 1989. Graduated from NJIT in 1985 and has been qualified previous by other boards. Mr. Macagnone accepts his credentials, seconded by Ms. Lee, all members are in favor.

Mr. Aly notes sheet 119, lot 10 and Blk 413.01 which is corner of Frank/Eugene Blvd. Intersection across the street is Adam Blvd. The house is known as 1 Frank Avenue. The existing home is facing Frank Avenue, along with a long driveway. The remainder of the lot is wooden, with frontage of Crossway Brook. Wetlands and flood hazard has been confirmed by NJDEP noted on the plan. The plan showing subdivision for 3 conforming lots. The subject lot is in the R10 Zone, 10,000 SF area lot. The existing variance is the front appears to be 76', and the second variance is the rear yard 10' – the back of the yard. Frank Avenue/Eugene has curbs, but no sidewalks. The proposed Lot 10.01, (existing home) 13,352 SF, Lot 10.02 – lot area of 10,532 SF and Lot 10.03 – lot area of 14,031 SF. The existing dwelling is one story with 3 BR, 1 car garage with proposed 2 car driveway. The two (2) new homes to be proposed will be one story, 4 BR, 2 car garage and 2 car driveway. Lot width preexisting all of the lots within 200' Frank/Eugene/Adam are all 75' frontage. The tax map became part of evidence A-1; noting the lot sizes in the area which are conforming to a minimum of 75' with a few that are larger. Majority of lot sizes are minimum of 10,000 SF. Per Mr. Aly, this is the only lot in the area that can be subdivided. Mr. Aly has agreed to all terms and conditions in the professional reports with the exception of A1 in regards to sidewalk. They will be requesting a waiver, due to Frank Avenue home do not have them. He also stated, Item A -2, 3, 4 – they comply; Item B 1-6 they will comply. Item C 1-11 – they will comply. Based on Mr. Leoncavallo's report has also been met.

Mr. Rogoff mentions the existing variances that never have been granted and need to obtain relief and the board has the right to review all of the deficiencies; including the existing. Variance Relief requiring - Lot width - Lot 10.01 (existing dwelling) fronts on Frank/Corner lot - required 100'/existing is 76.93'; Rear yard setback required 25'/existing is 10'.

Mr. Macagnone made a motion to open public, seconded by Ms. Lee ~ all in favor.



**Frances Knoell is sworn in. She lives at 4 Frank Avenue across the street. She would like to read a letter and is asking for the board what a bulk variance is; Mr. Rogoff provides Ms. Knoell the description of bulk variance and they have provided during their testimony. She is asking about the topography of the area. Mr. Aly notes it's a typical home construction. Some areas will be cut and some areas will be filled. She asks, how much fill is required, Mr. Aly states it varies and the average fill in the area on the common property line 3-4'- they do not have calculation based on earth work. Ms. Knoell requests to continue to read her letter about the several water conditions; surface and storm drain water/melting snow from Route 9 and Parkway; surface run off and melting snow of Frank Avenue/Eugene Blvd; during rain and melting snow both light and heavy cause a massive surge in the water table including extensive erosion of the creek and creek walls due to all the systems feeding into one area. Within the letter, she discusses concern of removal of trees, the proposed driveway and curbing will redirect the water into the Head start and Church making it a possible hazard and polluting the creek with oil, calcium and other materials. She had asked several questions about monitoring the ground reconstruction; where the soil will be coming from; will the ground be structurally sound to build on and will the buyers be notified about the creek and issues of erosion. Her concern comes from residing at this location for 51 years; provides a photograph noted as Exhibit -01 and letter Exhibit -02.**

**Ms. Lee makes a motion to close the public portion; seconded by Councilman Dalina ~ all members are in favor.**

**Mr. Sachs closes and thanks the neighbor for their concern and has indicated the letter from NJDEP and plan approval which is pending. Mr. Cornell has address 11 comments about soil erosion, which again they will comply.**

**Mr. Davis asked if there will be a retaining wall constructed; Mr. Aly states yes.**

**Mr. Macagnone makes a motion to approve the subdivision and the 2 variances on the existing property; seconded by Councilman Dalina, ROLL CALL:**

**YES: Mr. Chodkiewicz\*, Councilman Dalina, Mr. Davis, Mr. Kelly, Ms. Lee, Mr. Macagnone, Ms. O'Leary\*, Chairman Tighe**

**NO: none**

**ASTAIN: none**

**\*with comments, as long as all township and state requirements are followed and met.  
Application Approved**

**OLD BUSINESS/NEW BUSINESS/ADMINISTRATIVE MATTERS:**

**Our next meeting on February 20<sup>th</sup> will be canceled.**

**Chairman Tighe made a motion to adjourn, Mr. Chodkiewicz seconded.**

**Respectfully submitted,**

**Beth Magnani  
Planning Board Secretary**