

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
January 13, 2022

Call to order: **Call to Order by Mr. Michael Hagarty 7:30pm**

Pledge of the Flag: **Led by Mr. Hagarty**

Sunshine Law: This is a regularly scheduled meeting of the Pine Hill Planning and Zoning Board. This meeting has been duly advertised and is in full compliance with the Sunshine Law.

Swearing in of New/

Reappointed Members:

Class III Member: Councilman John Robb expires 12/31/22
Class IV Member: Scott Ford expires 12/31/25
Class IV Member: Robert Hagy expires 12/31/25
Alternate #2: Erica Wakeley expires 12/31/23

Members sworn in by Solicitor; Mr. Sitzler

Roll Call:

Present: Mr. Hagarty, Mr. Waddington, Mr. James, Mr. Ford, Mr. Hagy, Mayor Green, Councilman Robb, Mrs. Jones, Mrs. Gilson, Mrs. Wakeley

Professionals: Solicitor: Mr. Sitzler, Engineer: Mr. Dougherty, Zoning Officer: Mrs. Keyek

Election of Chairman:

Motion made by; Mayor Green to nominate Mr. Michael Hagarty as Chairman for 2022: Seconded by; Mr. Waddington
No other nominations made;
Roll Call: Mr. Hagarty Abstained all others "aye"; motion carried

Election of Vice Chairman:

Motion made by; Mayor Green to nominate Mr. Kevin Waddington as Vice Chairman for 2022: Seconded by; Mr. Hagy
No other nominations made; Roll Call: Mr. Waddington abstained; all others "aye"; motion carried

Election of 2nd Vice Chairman: Motion made by; Mr. Waddington to nominate Mr. Scott Ford as 2nd Vice Chairman for 2022; Seconded by; Mr. Hagy
No other nominations made; Roll call: Mr. Ford abstained.
All others “aye”; motion carried

Appointment of Board Secretary: Motion made by; Mr. Waddington to appoint Mr. Les Gallagher Jr. as Secretary for 2022; Seconded by; Mr. James
No other nominations for appointment made;
Roll Call all “aye”; motion carried

Meeting Dates and Official News Paper: **Mr. Hagarty:** Next, we have Resolution 2022-5: resolution establishing meeting dates and the official newspaper for the Planning and Zoning Board. Is there a motion to approve?

Mr. Waddington: Motion to accept seconded by Mr. Ford

Roll Call: All “aye” Motion carried

Meeting dates for 2021 will be: February 10th, March 10th, April 14th, May 12th, June 09th, July 14th, August 11th, September 08th, October 13th November 10th, December 08th

And Courier Post as the official News Paper

Solicitor: **Mr. Hagarty:** Next, we have Resolution 2022-6: resolution consenting to the appointment of Mr. William E. Sitzler, Esquire as the Planning and Zoning Board Solicitor

Mrs. Wakeley: Make a motion; seconded by Mr. James

Roll Call: All “aye” Motion Carried

Engineer: **Mr. Hagarty:** Next, we have Resolution 2022-7: resolution consenting to the appointment of Mr. Hugh Dougherty, P.E.C.M.E. from Pennoni & Associates as Planning and Zoning Engineer

Mr. Ford: Motion to approve seconded by Mr. James

Roll Call: All “aye” Motion Carried

Planner: **Mr. Hagarty:** Next, we have Resolution 2022-8; resolution consenting to the appointment of Mr. Joseph Luste, P.P. Ph.D. from Pennoni & Associates as Planning and Zoning Planner and Application Process Reviewer

Mr. Ford Make a motion; seconded by Mr. Waddington

Roll Call: All “aye” Motion Carried

Resolution 2021-18:

Mr. Hagarty: The next resolution before us is 2021-18 Borough of Pine Hill Minor Subdivision for property owned by Arthur and Maryanne Seifert located at Block 75 Lot 13 also known as 9 West Fourth Ave.

Mr. Ford: Motion to approve; seconded by Mr. James

Roll Call: Mayor Green and Councilman abstained: all others “aye”
Resolution Passed

Correspondence:

NONE

Approval of Minutes:

Mr. Hagarty: We have the approval of the minutes of December 09, 2021 does anybody have any questions on those minutes. If you had a chance to review, I will entertain a motion to approve

Councilman Robb: Motion to approve seconded by Mr. Waddington

Mr. Hagarty: Roll Call: All members present “aye” minutes approved

Application Extension:

Mr. Hagarty: The next matter before us is an application extension. A two-year extension request for application 2019-2; The Lakes at Pine Hill, Berlin Cross Keys Road; Block 131.01 Lots 37.04, 37.02-37 & 51 Block 131.02 Lots 1-6 Amended Final Major Subdivision.

Mr. Washburn: Good evening I’m Robert Washburn; I’m of Council of the Law firm of Flaster-Greenberg in Cherry Hill, NJ. I represent the Applicant which is AB Woodcrest Fields LLC. A private entity for the Lakes at Pine Hill which is on Berlin Cross Keys Road at Main Avenue. We had applied for an Amended Preliminary and Final Subdivision

Approval to build eighty-five (85) Townhouses on the property and that was approved by this board by Resolution 2019-13 on September 12th, 2019. As part of that Resolution the Board granted an extended approval and the approvals were extended until May 6th, 2022. In order to coordinate the approvals that were granted with the deadline that NJDEP had imposed for the site remediation. The Board in that

Resolution recognized that the approvals granted by the Board were tolled under section 21 of the Municipal Land Use Law since we were unable and prohibited from starting construction until the completion of the remediation. I think most of the members know that the applicant is an affiliate of AMBOY Bank, Amboy Bank took this back in foreclosure after all these buried drums were found and in doing so lost a lot of money. Amboy Bank then undertook the remediation and has already sent a couple million dollars on the remediation and Amboy would like nothing better than to finish this, sell it to a developer so we can recoup some of our expenditures. I don't think there is any way we are going to be made whole, but we could at least get back some of our investment. Unfortunately, the COVID-19 pandemic brought remediation activities to a halt and in recognition of that DEP extended the remediation deadline from May 2022 to May 6th of 2024. So, we are here this evening requesting that the Board tonight take the same action that it took in 2019 and extend the approval to the new DEP remediation deadline which is May 6th, 2024. All of the other terms and conditions of the 2019 resolution remain entirely acceptable the remain in place with no problem with anything in the 2019 resolution we really are only asking for a date extension to keep the approvals valid and coordinated with the end of the deadline with remediation. That is really all I have; I can answer questions.

Mr. Hagarty: Anybody have any questions?

Mr. James: Did you say the first request was in 2020 or 2019?

Mr. Washburn: The Current deadline?

Mr. James: No, when was the Resolution granted originally

Mr. Washburn: The Resolution was September 2019

Mr. James: Okay

Mr. Sitzler: Mr. James and Mr. Washburn this property has a series of resolutions and a series of approvals where changes were made, and they were piggybacked with most every resolution the current one is granting an extension the previous one had changes and only the changes that were ever approved were approved in any resolution. Mr. Washburn from day one all of the issues that were not challenged still remain even from the original resolution.

Mr. Washburn: Absolutely

Mr. Sitzler: Even from the original resolution so in otherwards the resolution he is referring to each one in succession always has unless it has been changed by this Board on this resolution all of the terms and conditions of approvals will remain.

Mr. Washburn: That is perfectly acceptable

Mr. James: No, I was just trying to ascertain the month and time it was granted before that's all

Mr. Hagarty: Any other questions anybody has?

Mr. Sitzler: This is a no brainer I'm surprised that Legislature did not pass an emergency law and give an extension like they did six years ago. There is no doubt that if the DEP is having this problem and they couldn't do the work it makes perfect good sense to consider extending this since the DEP did.

Mr. Hagarty: Any Questions any comments? Seeing none I will entertain a motion to extend the remediation deadline to May 6th, 2024, for this applicant which would then coincide with the deadline that the extension that has been given by the New Jersey DEP.

Mayor Green: I will make that motion, seconded by Mr. Waddington

Mr. Hagarty: Roll call please

Roll call: All present "aye" Extension was approved

Old Business:

Mr. Hagarty: Old Business does anybody have any old business

Mayor Green: Before we get into old business, I assume everybody else has this, but I have a letter in my packet from Pennoni dealing with Administrative Approval. It is not on the agenda, but it is in my packet, so I don't know.

Mr. Dougherty: Right, I was going to talk about that in New Business. I did have a conversation with Les before the meeting but if you want to deal with that now we can.

Mr. Hagarty: Sure

Mr. Dougherty: So, it is Carl Pursell property he's got that piece of property that has six buildings with two lots and there was a site plan and one of the buildings he is downsizing he is making it a little bit smaller and creating less of a footprint from 19,200 SF to 16,800 SF but

the footprint is basically the same. When you reduce the building the parking requirement was less as well, so we reduced the number of parking spaces but nothing else changes like the circulation does not change the basin doesn't change the inlets don't change. In fact, by reducing the footprint and reducing the parking you reduce the impervious coverage so in theory the basin would work better, it was designed for the bigger impervious and now it is less. We could run this through as an amended site plan and the Board would take the same action I saw it as such a minor change that the Board could

entertain it as an administrative approval because nothing else on the site changes so I wrote the letter December 21st with that in mind that there is no, and I did look at the plans to see that base is there and the only thing if the Board does entertain the administrative approval, Les has the most up to date plans they can get us 10 sets of plans for circulation for Karen and the different offices that would need it. If the Board entertains it as an administrative approval that would be fine the only other course of action would be an amended site plan. A lot of times what would happen actually in the field, lets say he started construction on the original plans and somewhere mid through the tenant says I really don't need that big of a building he could almost make a field change and then come back to Les with an as built plan and say hay we made the building a little bit smaller, we reduced the number of parking spaces and Remington and Vernick approved it as a field change so that would work as well but they brought it to us before hand to just let the Board know we are proceeding with a slightly smaller footprint so it is such a minor change we would not have to go through the whole review process because nothing changed technically because it is a less intensive use.

Mr. Hagarty: Does anybody have any questions for Mr. Dougherty? I don't see a problem personally with that, so I guess we need a motion.

Mr. Sitzler: The rule the law, and Hugh correct me if you disagree with this. If the Board feels that this is a minor and not a significant site plan change and our Engineer already thinks this is a minor change you can do it in this fashion without making, otherwise you would have to drag in Mr. Pursell and his professionals with a site plan just to do an amended site plan just to maintain the same footprint slightly smaller with fewer spaces so if you feel this is not a significant change to that site plan then you can do this administratively and you don't have to have them come in for a formal amended site plan to accomplish this change. My only question is do I do a resolution to memorialize this even though it is done administratively and the only reason I say this is that is because of so there would be a public record if somewhere down the road if there is a question why it doesn't fit on the site plan they can see. Everything is going to be final, correct? Hugh the final approval plan and everything is going to be.

Mr. Dougherty: The subdivision plan has already been created so there wouldn't be any additional filing with the County but with Les' office.

Mr. Sitzler: That is what I mean with our office

Mr. Dougherty: Yes, and I did anticipate Bill, some sort of resolution from the Board, that is my recommendation if we proceed if you proceed as an administrative approval. Rather than me make that decision I thought I would leave it up to the Board so if you see it the same way I see it then a resolution would memorialize that and there would be no crises going forward.

Mr. Sitzler: It would be a very short resolution just memorializing that you agree to that.

Mr. Hagarty: Any questions anybody has? So, for right now I guess we would take a motion to consider this as an administrative approval and then next month it would be a formal resolution on it?

Mr. Sitzler: Yes, it would be a very short one. It is just going to say if I can give you an idea all of the terms and conditions are going to be the same except for this. And the Board did take administrative action finding there was not a significant change that would require a formal amended site plan.

Mr. Hagarty: Pursuant to all of this discussion with respect to 121 Berlin-Cross Keys Road, Block 131 Lot 34 I will entertain a motion that as has been discussed this is to be considered an administrative review approval on this particular application.

Mr. Waddington: I'll make that motion; seconded by Mr. James

Mr. Hagarty: Roll call please

Roll call: All present "aye", Administrative Review approved.

Mr. Hagarty: Is there any other old business that anyone wishes to discuss?

Mayor Green: Yes, we pushed it off last month because of the Holiday but Pine Hill Tavern, I don't believe there has been anything from them.

Mr. Hagarty: Karen anything?

Mrs. Keyek: I have nothing

Mr. Gallagher: Nothing at all not even a phone call

Mayor Green: I know the stop work order has been four or five months at this point.

Mr. Dougherty: The record shows October

Mr. Sitzler: Karen they are complying with that?

Mrs. Keyek: Yes, they are

Mr. Sitzler: Have you seen anything going on out there?

Mayor Green: No but they cut all of the trees down

Mrs. Keyek: Right but since the stop work order there has been nothing, other than the solar panels going on the roof of the bar itself.

Mr. Sitzler: So, the trees itself cutting them down that would be a violation?

Mayor Green: It was, that is what they got the stop work order for.

Mr. Sitzler: So is the Board

Mayor Green: They haven't filed anything this was unanticipated

Mr. Sitzler: Normally we would hold penalty based on our ordinances only when they come before the Board and ask for something that is not approved, we have always done that. That is part of the process to save them from going to Municipal Court and facing potential fines and penalties. We try to get an explanation on why they did it and why they didn't get an approval and what can be done to the Board's satisfaction to remedy the problem. Hugh, I don't know if you mentioned plantings.

Mr. Dougherty: Well, they cleared the trees, and we have no idea why but obviously they need to go to the next step and have a site plan, so they need to have a site plan.

Mr. Sitzler: The question is how long do you leave this open without them being charged with the Ordinance violation before you file

Mayor Green: That is what I mean four months is more than enough, they haven't even tried to contact us.

Mr. Sitzler: The Board can authorize our

Mayor Green: What is the process at that point?

Mr. Sitzler: The resolution would be because we put a stop work order with the idea that they would come before the Board for an after the fact explanation and or approval and they haven't, and it has been four months since you authorized the Construction Officials to take what ever action is appropriate for any violations of our ordinances which could include the trees at a minimum. I don't know what else they may have done.

Mrs. Keyek: That is basically it

Mr. Sitzler: Then when they get to Municipal Court, and they get a lawyer they will try to bounce it back to us them because the Judge will likely because most Municipal Court Judges don't want to take on a Zoning Issue and they will order them here or they will have to face a trial in Municipal Court and if they are found guilty face whatever fines or cost that will be imposed.

Mayor Green: Those fines and cost would be what to replace all of these trees? Some of these trees were thirty feet tall.

Mr. Sitzler: I don't know what power the Municipal Court Judge would have in that fashion that is why they really don't want to handle it, but we have power to do this they call it equitable because fining them does not bring the trees back. The Municipal Court Judge only have the authority to fine them for doing it.

Mayor Green: We can issue daily fines until the issue is corrected, correct?

Mr. Sitzler: I theory yes, they can be technically facing daily fines for it, I don't know how you would remediate something that you can't, other then planting new trees because the trees are gone.

Mr. Dougherty: Right, one of the issues is that we don't really have a compensation plan in place and that is one of the things that Joe, Robert and I are working on to have a tree compensation ordinance. But our ordinance does say if you clear the property clear trees you do have to as part of the site plan it is sort of subjective what land scaping you would need like buffer, landscape and that sort of thing but there is no description if you took down this tree of this caliper you have to replace it with this tree of this caliper so we would like to get there at some point but right now it would be subjective. We are saying you cut down a tree, and it would be permitted to cut down trees for a reason, but he just cut down trees and we don't know what his planning it would be in conjunction with a site plan that we would approve it and then have landscaping.

Mr. Sitzler: Many towns they have an ordinance when you try to cut down a tree that is more than so many calipers you have to go and get approval from a Municipal Official and if it is in excess of, I had to do this on my property they were diseased and one had already fallen down because they were Swamp Maples and the inspector came out and looked at my trees and approved to take them out but we don't have that in Pine Hill

Mr. Dougherty: No, we don't have that

Mr. Sitzler: So, no one can take a tree of certain caliper down with out having at least having someone coming out from the Borough to say okay you can take that down.

Mr. Dougherty: No, we don't have that at the moment

Mrs. Jones: From my understanding they were going to make a parking lot on that ground.

Mayor Green: That is all hear say at this point

Mr. Dougherty: They would need a site plan and come before us. It is possible they were looking to do site improvements but that is why you have to come before the Board because you cut down these trees we don't know why he cut them down but obviously if there is going to be some development you have to come before the Board but since they have stopped doing anything they really have to come back to the Board because there is landscaping criteria associated with the site plan once they get here.

Mrs. Keyek: So, hypothetically we don't know if they say you know what we changed our mind then what?

Mayor Green: They are going to wind up before the Board, you just can't clear cut property for the heck of it

Mr. Dougherty: They were also in violation of the Soil Conservation District

Mayor Green: They still are

Mr. Gallagher: Not only did they cut the trees they pulled like three or four stumps out and now all that ground is bare

Mr. Dougherty: I haven't touched base with Greg McGee, but he called me when it happened and asked if had a site plan and I told him no and he issued his stop work so I don't know what his process is at the moment, and I haven't been out since October

Mayor Green: Nothing has changed out there

Mr. Dougherty: So, he should have stabilization techniques in place he should have a silt fence he should have seed

Mr. Sitzler: To your knowledge does the soil conservation rely on Municipal enforcement?

Mayor Green: Yes

Mr. Sitzler: If that is the case that would be a Court violation too then. If they require us as a Municipality to enforce their laws, then that would be something that can possibly be brought to court too in addition to whatever other of our ordinance that may have been violated. It is clear that they didn't get a site plan to do that and I'm not talking about cutting down a tree like in someone's yard

Mayor Green: We are talking about forty some trees possibly

Mrs. Keyek: So, am I issuing a violation notice first or am I writing a court ticket

Mr. Sitzler: If you haven't done it yet issue a violation notice. Follow the normal Process and assuming they don't respond issue the ticket because if they respond to you Karen the direction is they need to come here

Mrs. Keyek: Right

Mayor Green: What is that timeline? They have an application they picked one up six months, nine months ago I don't know

Mr. Gallagher: They came in with the filled-out form which they took back and two checks the application fee and the

Mr. Sitzler: Is this the one where you said since they were a corporation, they had to get a lawyer

Mayor Green: Yes

Mr. Gallagher: Right and they said these checks our lawyer and engineer and I said no you have to get your own lawyer and engineer. And they took the checks and application and walked out the door and they only had one application they didn't have twenty that is required.

Mrs. Keyek: So, when I issue the violation notice on there is an abate by date. What date should I put on there.

Mr. Sitzler: What is the normal period?

Mrs. Keyek: Normally it is ten days

Mr. Sitzler: Then ten days

Mr. Hagarty: Now Bill, Karen is going to take that step do we need to take any action at this stage

Mr. Sitzler: I think the Board should do a resolution authorizing her as a Construction Officer to take action as appropriate for any violation against the ordinance and for the Camden County Soil Conservation District and to put them on the record of us waiting for them to appear before the Board to discuss why they did what they did when they haven't filed even with COVID four months is enough time.

Mr. Hagarty: At least enough to come in and get the application

Mr. Sitzler: Or at least respond to us

Mr. Hagarty: Any other questions anybody have on this? Seeing none I'm going to entertain a motion to allow Construction Official to take any actions necessary to enforce the Borough Ordinances for any violations that have occurred including non-conformance with the County Soil Conservation District and as we have discussed here in the last five minutes or so on the record that while they stopped in and initially engaged in some dialog about following through with the process there has been no dialog or action here over the last four months so for that reason I'm going to entertain a motion to approve taking this action.

Mr. Waddington: I will make that motion

Mr. Hagarty: Is there a second

Mr. James: Second

Mr. Hagarty: Roll Call

Mr. Gallagher: This roll call is to authorize the Zoning Officer to issue a violation notice to the Pine Hill Tavern.

Roll call all present "aye:

Mr. Gallagher: By my calculations tomorrow is the 14th which is a Friday so I think the 25th which is a Monday and the first business day within ten days because the 10th day would fall on Sunday.

Mrs. Keyek: I have other business tomorrow so it will probably go out on Tuesday, it will be dated Tuesday.

Mr. Hagarty: Thank You Karen

Mr. Hagarty: Any other Old Business? Seeing none

New Business: **Mr. Hagarty:** I will entertain New Business

Mr. Dougherty: Mr. Chairman I do have, on new business I just wanted to point out Joe couldn't be here tonight he wanted to wish everybody a happy new year and he was happy for the reappointment as well. I talked in December about the ordinances the tree replacement ordinance and the also the basin fencing and Joe would like to have that on the agenda for February if possible he has put a draft together he is going to share that with Les and let the Board look at it between now and the February meeting so he would have some kind of discussion at that point as opposed to just hit you with it at either this meeting or the February meeting and not have seen it before so the thought was to get you a circulated draft of the basin fencing and the tree replacement ordinance and then we could have some substantial comments in February but knowing that the goal of this would be ultimately presenting this to Council to adopt this into their ordinance so, at that point we would most likely turn that over to the Borough Engineer and the Borough Attorney to formalize it in an Ordinance and have the Council adopt and then it comes back to us latter on after Council approves it to verify it is consistent with the ordinance and the Master Plan. So, there is a procedure after this it is not going to be over in February it has basically just started. It is something that Joe has been working on at the mayor's direction so they

would either have to adopt a new ordinance or tweak an existing ordinance for basin fencing and replacement trees.

Mr. Hagarty: Any questions for Mr. Dougherty? How about any other new business I know our next meeting is February 10th at 7:30 other than that any other new business anybody wishes to discuss

Mr. Sitzler: Les, do we have any other applications pending?

Mr. Gallagher: We do not

Open Floor to the Public: **Mr. Hagarty:** I will entertain a motion to open the floor to the public to discuss any matters.

Mr. James: So, moved, seconded by Mr. Waddington

Mr. Hagarty: All in favor

All present "aye"

Close Floor to the Public: **Mr. Waddington:** Make a motion to close, seconded by Mr. James

Mr. Hagarty: All in Favor

All Present "aye"

Motion to Adjourn: **Mr. Hagarty:** I will entertain a motion to adjourn this meeting

Mr. Ford: Motion to adjourn, seconded by Mrs. Wakeley

Mr. Hagarty: All in Favor

All present "aye" meeting adjourned at 8:19