

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
February 10, 2022

Call to order: **Call to Order by Mr. Waddington 7:34pm**

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

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.

Roll Call: **Present:** Mr. Waddington, Mr. James, Mr. Hagy, Councilman Robb, Mrs. Jones, Mrs. Gilson, Mrs. Wakeley
Absent: Mr. Hagarty, Mr. Ford, Mayor Green
Professionals: Solicitor: Mr. Sitzler, Engineer: Mr. Dougherty, and Zoning Officer Mrs. Keyek

There was a quorum

Correspondence: **New Jersey Planner Vol. 82, No. 6**
Letter from Jeffery Baron Esquire (reference Pine Hill Tavern)

Approval of Minutes: **Mr. Waddington:** In your packet are the minutes from January 13, 2022, meeting if you had a chance to read over the minutes, I will entertain a motion for approval.

Mrs. Wakeley: Make a motion for approval; seconded by Mr. Hagy

Mr. Waddington: I have a motion and a second, any questions

ALL MEMBERS PRESENT VOTED "AYE" MINUTES APPROVED

Resolution 2022-9:

Mr. Waddington: First on the Agenda tonight is resolution 2022-9 which is the resolution for the Application 2019-2 for a two-year extension for the Lakes at Pine Hill Block 131-01 Lots 37.04, 37.02 & 51 and Block 131.02 Lots 1-6. If you had a chance to read over the resolution, I will entertain a motion for approval.

Mr. James: I Move that we approve the resolution

Mr. Waddington: I have a motion; do I have a second

Mrs. Wakeley: Second

Mr. Waddington: I have a second roll call please

ROLL CALL ALL PRESENT "aye" Resolution 2022-9 APPROVED

Resolution 2022-10:

Mr. Waddington: Next resolution is 2022-10 which is authorizing Pine Hill Zoning Officer Karen Keyek to issue violation notice to the Pine Hill Tavern Inc. Block 42 Lots 85-92. If there are no questions on that resolution, I will entertain a motion for approval.

Mr. Hagy: Motion to approve

Mr. Waddington: I have a motion do I have a second

Mr. James: Second

Mr. Waddington: Having a second roll call please

ROLL CALL ALL PRESENT "aye" RESOLUTION 2022-10 APPROVED

Resolution 2022-11:

Mr. Waddington: Next resolution for approval is resolution 2022-11 Administrative approval to change approved Site Plan to modify the layout and the size of the building and parking lot for Block 131 Lot 34.01 that was approved on resolution 2017-10. And I believe that was the one for Carl Purcell's property out on Cross Keys Road. So, I will

entertain a motion if nobody has any questions on approving resolution 2022-11.

Councilman Robb: Make a motion to adopt

Mr. Waddington: I have a motion do I have a second

Mr. James: Second

Mr. Waddington: Roll call please

ROLL CALL ALL PRESENT “aye” RESOLUTION 2022-11 APPROVED

Old Business:

Mr. Waddington: Does anyone have anything under old business that they need to bring to the Board?

Mrs. Keyek: The Tavern was issued a violation notice at the Board’s request and I did get a response back and there is a letter that was distributed.

Mr. Sitzler: Just for the record Karen sent me a copy of the letter by email earlier. I guess that is when you first received it Karen?

Mrs. Keyek: Yes

Mr. Sitzler: From Mr. Baron and I would like to tell you what the letter says but as I read it, I don’t know what he is talking about in paragraph one where he says he is referencing a phone call, so I don’t know Karen if you had one or not or if somebody did but, unexplained and undisclosed “Violation Notice”. I have no idea what he is talking about because I reviewed the violation notice, Karen sent me a copy before she served it and it certainly explained nothing undisclosed and no rocket science to read what the violation was, then it goes on to talk about we don’t have a tree ordinance which we have acknowledged I think in a lot of discussions with our Engineer Hugh in the last meeting and that is sort of saying like he is only being summoned or a violation notice for the trees because we don’t have an ordinance well it is not having a Site Plan for clearing and removing stumps which violates the Soil Conservation District, the Site Plan ordinance because it was obviously and correct me if I’m wrong Karen when you went out with to put the stop work order didn’t they tell you they were clear cutting because they were going to expand their business with a parking lot.

Mrs. Keyek: Correct

Mr. Sitzler: Right, so they were doing a commercial business expansion without a Site Plan so I have no idea why he doesn't bring that up, but it is what it is I guess you can take from it what you want. At the end he says we are doing everything we can to comply. And almost says they were in the process of a Site Plan because he refers to it as in process and I don't think that comports with the facts as we know them which is that they came in to make an application according to Les and when they found out the potential cost expense they returned and never came back and this all took place in October so I will direct the Board to make your own conclusions when you read the letter. I think the important thing is that they are moving now, and they are apparently going to be coming in front of us to discuss what their plans are on why they did what they did.

Mr. Waddington: Yes, that is what I got from reading it at the end of it they were working on the process now.

Mr. Sitzler: But he does highlight, and we did discuss with Hugh, and it is probably a good idea to consider having some kind of tree ordinance in Pine Hill I don't know if you agree with that. I will tell you other towns many towns they do have some tree regulations for the removal of trees.

Mr. Dougherty: That is a perfect segue into new business Bill

Mr. James: I have one question on paragraph 3 that I have. It says "As you may be aware our client sought approval from the Borough to remove trees at the rear of the property and was advised that such tree removal was permitted."

Mr. Sitzler: I saw that too, thank you Mr. James for pointing that out. I don't know where that came from either Karen do you have any idea?

Mrs. Keyek: I think it came from Danelle's brother I think he is a co-owner of the Tavern now but don't hold me to that. He said am I allowed to cut some trees and I said you are allowed to cut some trees but there was no indication they were going to cut and clear the lot.

Mr. Sitzler: They didn't tell you what they were going to do they just talked about cutting some trees like someone in their yard that had a couple of diseased trees and were going to remove them?

Mrs. Keyek: Right

Mr. James: That is all I have, the fact that they made reference to it I wanted to find out what that was

Mrs. Keyek: In the first paragraph he does reference a conversation, he called me prior to writing the letter to see what we were looking for.

Mr. Sitzler: One would hope they would come in sooner than latter since the clear cutting of the trees was back in October

Mr. Waddington: Les can you add that to the communication list in the minutes that we received this.

Mr. Gallagher: Yes

Letter added to the agenda on the Borough Website and referenced at the top of the minutes above.

Mr. James: Can we also have this letter available when they come forth before the Board?

Mr. Gallagher: Yes

Mr. Luste: Mr. Chairman I have a question I guess for Hugh and Karen. When you observed the tree removal or when you saw the aftereffects the root structure was still on the property?

Mrs. Keyek: Yes

Mr. Luste: Did anyone count them or get an estimate

Mrs. Keyek: No

Mr. Dougherty: We have some photos, but they have not cleared the stumps so they could be looked at now Joe.

Mr. Luste: They are still there?

Mrs. Keyek: Yes, they are still there they didn't remove any stumps

Mr. Dougherty: The cease and desist from both the County Soil Conservation district as well as the Borough.

Mr. Luste: That may be something to include when we get the site plan to think about, compensatory according to existing legislation. It still talks about compensatory that word means you have to make up for something although we don't have any regulations, yet we will see when it comes in.

Mr. Waddington: Any other old business?

Mss. Errig: Excuse me am I allowed to speak

Mr. Gallagher: When we have open public session, yes

Mss. Errig: Okay I'll wait then

Mr. Sitzler: Unless it is on what we are discussing

Mss. Errig: It is

Mr. Sitzler: It is about what we are discussing?

Mss. Errig: Yes, we are the owners of the Pine Hill Tavern

Mr. Sitzler: You can come up them because we just discussed that. You just have to identify yourself.

Mss. Errig: My name is Danelle Errig I'm the owner of Pine Hill Tavern with my mother, Gail. As per that discussion I'm not sure what your name is in the orange

Mr. James: Felix James

Mss. Errig: Felix nice to meet your Felix. You mentioned one of the paragraphs about us coming to Pine Hill and asking permission. I came, we came to ask permission to ask if we were allowed to cut those trees down and they told us because it was less than an acre you are free to clear it. So, we cleared it and it was latterly the next day we had an anonymous tip from Camden County to shut down. So, we did come and get permission to clear out everything because it was less than an acre. That was our understanding that we could just get rid of everything, we even approached the Councilmembers whose property touches our property to see if they wanted to keep any of the trees that were along the fence line as privacy, so we were working with them trying to be reasonable. We do plan on putting a high privacy fence and an additional tree line to make it more privet, but we did ask for permission. I'm not sure if you have any other questions but we are in the works of coming to get our engineer and lawyer together to come to you guys to propose our plan because that is pretty much just going to be a parking lot there.

Mr. Sitzler: Mss. Errig, I'm sorry if I mispronounced your name I apologize. Does Mr. Baron know that you are here today and that you are commenting on this?

Mss. Errig: Yes

Mr. Sitzler: Okay

Mss. Errig: He didn't know I was commenting but I asked permission if he thought it would be okay if I came and he said it wouldn't hurt. I just wanted to clarify what we were told.

Mr. Sitzler: Who told you that one acre or less could be cleared

Mss. Errig: Well, we only deal with Karen and Jim Gallagher right now, so we have permit approvals going through and this whole thing with the outside dining and the tree removals that was directly between my brother and Karen and

Mr. Sitzler: Part of the problem here is why you were doing it not that you did it. That is the bigger issue and the reason as you just told us that we kind of knew as we got along that happened in October was that you were planning to expand and do different things with your commercial property and when you do a significant change and that would be a parking lot when you clear cut what ever the size of what ever size that is less than an acre of trees to build a parking lot if that is what you are doing you are required to do a site plan and you have to come in people just can't add on or change their whole commercial property because it can effect neighbors and you might have talked to neighbors but you don't know other effects that could happen.

Mss. Errig: Once we were aware of that after we got the violation, we got the appropriate lawyers and engineers, and we are working with Camden County to get the plans so we should hopefully maybe by the next meeting or the one after it at the latest.

Mr. Sitzler: Alright because we are hoping

Mss. Errig: Believe me us too

Mr. Sitzler: Because it happened back in October, and we were told that someone from Pine Hill Tavern came in to make an application a while back but then never returned.

Mss. Errig: Yah but we came in and that is when we started to gather information on what lawyer we wanted to obtain and what engineering company it took us a lot of money for us to invest in a future for our business, so we had a lot of decisions to make.

Mr. James: I want to thank you for that clarification because I just wanted to know who, what and why because it is very important.

Mss. Errig: I was not intending on speaking at all, but I just wanted to clarify for the record.

Mr. James: Thank you

Mss. Errig: That is all I have

Mr. Sitzler: Is there anyone else in the public that wants to comment on this, that is the Pine Hill Tavern situation?

Mr. Gallagher: If I could make a comment, the timetables for the engineers to review the application in order to be on the April meeting February 28th which is the last Monday of this month is the deadline for

turning in the application because it is already past the deadline for the March Meeting. So, after the 28th we are looking at the May meeting.

Ms. Errig: Okay I will let them know and we will set that goal

Mr. Waddington: Anything else under old business?

Mr. Waddington: New Business discussion on the retention basin fencing ordinance.

Mr. Luste opened with information that the Board was asked to make suggestions on amendments to the ordinances on the Detention Basin Fencing and Trees. After much discussion with the Board and professionals several ideas and comments were made on the draft for the detention basin fences to include some changes and some basic standards, so the fences are uniformed and how a shorter length of the distance between access areas. Mr. Dougherty made a statement that when the Boards comments and suggestions were presented and agreed upon the suggested amendment would then present to the Mayor and Council for their review. Mr. Sitzler also mentioned the Board and professionals should make sure it went along the guidelines of the Master plan and that the Mayor and Council had the final say and they could make more changes or send it back in full agreement. Mrs. Keyek also made comments that the property maintenance should be the same as the current ordinance as far as grass to be fair to all residents.

Mr. Dougherty informed the Board Members if they had any other comments on the Detention Basin to reach out to himself or Joe Luste because it will change again when they go to Council with the suggestions.

Mr. Waddington: Next is the Trees

Mr. Luste presented his draft for review of the amendments for the Tree Ordinance which is part of the landscaping Ordinance he also talked about the NJDEP compensatory replacement of trees was in their regulations on resiliency which was a sister or brother to sustainability and how trees in that particular scenario play a very important role in the environment. Discussion was then pursued by the Board and Professionals on any changes to the draft to help bring tree removal under control and be more consistent with the landscaping. Mr. Dougherty discussed the tree size suggested for compensatory replacement explaining the schedule suggestion for compensation and an alternative compensation to a tree escrow. It was then discussed whom would be responsible for the replanting of the trees if a tree escrow was established and how long would it take to get the trees replanted if the Borough Employees were the ones to plant the trees and where would the trees be planted. Mr. Luste informed the Board that this may also have to be reviewed by the Town Engineer since not all applicants will have to come before the Planning or Zoning Board of adjustments and there would also be some guidance to the Code Enforcement Officer. There was also discussion on what trees were indigenous to the area and Mr. Sitzler brought up the fact that there are certain trees Statewide there is a penalty to remove them, and he was not sure if that would be a factor in the amendment of the ordinance. The next step would be

for submission to Mayor and Council for their review and they would return their suggestions and the Board would give a final review but ultimately the Mayor and Council had the final say on any changes.

Mr. Waddington: Any other comments on the tree ordinance?

Mr. Dougherty: Again, if the Board has any other comments feel free to reach out to us.

Mr. Waddington: You don't need any further action from us tonight on that.

Mr. Dougherty: No

Mr. Hagy: Since the acquisition of Pine Valley or the joining of Pine Valley will this apply to that area as well?

Mr. Dougherty: Yes

Mrs. Wakeley brought up a question on what would determine who can and cannot take down trees on a private property that had extra lots and wanted to subdivide and sell. Discussion continued on how to determine where it would and would not apply. Mr. Dougherty mentioned that a determination would have to be made on clear cutting of trees and Mr. Sitzler added maybe it should be defined what size lot or a percentage of trees would be determined on what would define a clear cutting of trees. Mr. Dougherty mentioned that maybe single-family property should be exempt because it would become a problem of micromanaging the properties. Mrs. Keyek had an example of a current resident wishing to buy a wooded vacant lot next to him to adjoin and make his lot bigger to add a detached garage and would need to take down trees to do so.

Mr. Dougherty: There has been a lot of good input and they will tweak the Amendments and bring them back to the Board again and hopefully send to Mayor and Council.

Mr. Waddington: Thank you for the discussion and working on that. Our next meeting will be March 10th at 7:30. Does anybody else have anything under new business?

Mrs. Jones: Can I ask a question about the Pine Hill Tavern? What will happen to the retaining wall if they are going to flatten that property?

Mr. Sitzler: We are going to have to wait and see. They say they are working on a plan, and we will just have to wait, Hugh will review it and Joe will review it, so we don't know for sure until they come up with a plan.

Mrs. Wakeley: I have a question when people are in here are they allowed to record or video what is going on?

Mr. Sitzler: For this meeting like a Planning Board?

Mrs. Wakeley: Yes

Mr. Sitzler: I have not seen anything that says you can't, I know what the court rule on that is a Judge would have to have permission sometimes from the Supreme Court Highest Court Judge to allow videoing like a trial.

Mrs. Wakeley: I was wondering because she was in here recording.

Mr. Sitzler: to be honest with you on a Planning Board if someone was to come in here and just start, I don't know how we would catch them. We are a public record, so they are saving them some time from coming in and listening to the tape. They have a right to come in and listen to that tape so everything we say is a public record. They can do that, but the protocol should be that they should ask the Board Chairman and let them know that they are doing that. Rather than do it, what I would characterize as surreptitiously if that was what their intent was. But it shouldn't change anything because we are doing what we are doing, and it is recorded anyway.

Mr. Waddington: If nobody has anything under new business, I will entertain a motion to open the meeting to the public.

Open Floor to the Public: **Mr. James:** I move we open the meeting to the public.

Mr. Waddington: Having a motion do I have a second?

Mrs. Gilson: Second

Mr. Waddington: All in favor

All present "aye" the floor was open to the public.

Mr. Waddington: The meeting is now open to the public if you would please come and state your name. Seeing none I will entertain a motion to close.

Close Floor to the Public: **Mr. James:** Motion to close the meeting to the public

Mr. Waddington: Is there a second

Mrs. Gilson: Second

Mr. Waddington: All in favor

All present "aye" Floor closed to the public

Motion to Adjourn:

Mr. Waddington: Entertain a motion to adjourn

Mr. James: Motion to adjourn

Mr. Waddington: I have a motion is there a second

Mr. Hagy: second

Mr. Waddington: All in favor

All present "aye" meeting adjourned at 8:54 PM