

BOROUGH OF OLD TAPPAN
PLANNING BOARD REGULAR MEETING
October 9, 2019
MINUTES
Meeting commenced at 7:31 p.m.

In compliance with the Open Public Meeting Law, notification of this meeting has been sent to
our official newspapers and other
Publications circulated in the Borough of Old Tappan,
And notice posted on the bulletin board at Borough Hall
As well as on the (www.oldtappan.net) web site.

It was duly noted that Fire Exits were located at the Main Entrance to the
Council Chambers and in the rear of the Council Chambers.

Roll Call:

	Present	Absent
Chair, Weidmann	X	
Vice Chair, Mamary	X	
Mr. Maggio	X	
Ms. Nilsson	X	
Mr. Keil		X
Mr. Alessi	X	
Police Chief Shine	X	
Councilman Gallagher	X	
Borough Administrator Haverilla	X	
Alternate #1, Mr. Eller	X	
Alternate #2, Ms. Louloudis	X	
Alternate #3, Mr. Boyce	X	
Alternate #4, Mr. Scozzafava	X	
Also Present:		
Diane Frohlich, Board Secretary	X	
Mr. Regan, Esq.		X (1)
Mr. Skrable, Borough Engineer	X	
Mr. Szabo, Borough Planner		X (2)

(1) Mr. Regan was unable to attend. Mr. Tim Wiss was there in his place.

(2) Mr. Szabo was unable to attend. Mr. Tom Behrens was there in his place.

Mr. Robert Scozzafava is sworn in as an Alternate after the resignation of Mr. Murphy. Mr. Tim Wiss does the swearing in.

PUBLIC OPPORTUNITY TO SPEAK ON NON-AGENDA ITEMS

Motion to open the meeting to the public – Mr. Alessi

Second – Ms. Haverilla

One voice vote, all in favor, none opposed, the motion carried.

No one from the public wished to speak.

Motion to Close to the Public – Mr. Alessi

Second – Ms. Haverilla

One voice vote, all in favor, none opposed, the motion carried.

ENVIRONMENTAL COMMISSION REPORT

Mr. Keil was not present so there was no Environmental Commission Report.

COUNCIL LIAISON REPORT

Councilman Gallagher reminded everyone of the 125th Centennial celebration coming up on Saturday, October 19th at Stone Point Park from 12:00 – 4:00.

A drainage project will be starting at Stone Point Park *after* the Centennial happens.

DeWolf Road drainage improvements will be beginning soon as well.

The Ambulance Corp. is getting a new Ambulance as soon as the specs are finalized. It has been approximately 15 years since they have acquired a new one, there are some new safety improvements on it.

There is a discussion on changing the Ordinance to edit residency requirements for the Fire Chief.

Lastly, he reminded everyone that November 5, 2019 is Election Day, to get out there and vote!

CONSTRUCTION OFFICIAL REPORT

Report was distributed in everyone's packet. Chair Weidmann asked if anyone had any questions.

BOROUGH ENGINEER REPORT

Mr. Skrable had nothing to report.

FINANCIAL SECRETARY REPORT

Ms. Nilsson presents the financial report:

Budget is \$ 0.00 and Escrow \$ 1,266.00

Total: \$ 1,266.00

Motion to approve: Mr. Maggio

Second: Ms. Louloudis

One voice vote, all in favor, none opposed, approval.

MINUTES

Approval of September 11, 2019 Regular Meeting.

Motion to adopt – Ms. Haverville

Second – Councilman Gallagher

One voice vote all in favor, none opposed, the minutes are approved.

OLD BUSINESS

None

COMMUNICATIONS

Letter from Capizzi Law Offices (of today's date) asking that 30 Autumn Lane, ADI Properties, LLC be carried to the November 13, 2019 meeting.

RESOLUTIONS AND ORDINANCES

None

APPLICATIONS

139 Fernwood Terrace
Block 2602, Lot 6
FAR Variance - D

Because of the type of Variance this applicant is looking for Anna Haverilla, Borough Administrator and Councilman Tom Gallagher recuse themselves.

Kathryn Walsh of Wells, Jaworski & Liebman, LLP is the Attorney for the above applicant (Mr. Brian Robins) who is also in attendance. She is deemed as a qualified attorney and sworn in. She gave a brief overview of the application and the property. The property is located in residential area RA-25. Currently on site is a single family dwelling and a swimming pool. The current square footage is 5,480 sf and they are looking to increase an additional 416 sf. The cabana, which would be considered an accessory structure will be located in the rear of the home in the back yard.

With the addition of this accessory structure, the existing 0.22% FAR would go to a 0.235%. "This creates a de minimus increase but an increase none the less."

Without the FAR, the application conforms to all setbacks. Ms. Walsh introduces Mr. Chris Lantelme, the Engineer from Lantelme, Kurnes & Associates, P.C.

He refers to a drawing originally dated October 3, 2018 with an updated date of July 2, 2019, the last revision. This is marked as Exhibit A1.

Mr. Lantelme is deemed acceptable as the Engineer and is sworn in. Mr. Lantelme goes into his testimony. The location of the property is Block 2602, Lot 6, one lot west of Rockland Road. It is located in Residential RA-25 zone. The lot size is 25,051, roughly rectangular being 126' wide by 200' deep.

The existing characteristics are as follows:

The lot is fairly flat with a one foot difference in elevation from side to side.

It is a two-story dwelling that encompasses a paver driveway, walkways, a rear patio, an in-ground pool and a 6' vinyl fence the surrounds the entire back yard. There is also a drainage system in place. There is one seepage pit located in the front yard which was installed when the home was originally built. There are also two, additional seepage pits installed in the rear of the property.

They are proposing a pool cabana as shown on Exhibit A1 which is approximately centered, side to side and 14.5' from the rear line. It will also be located at least 100 feet from any neighborly structure. The enclosed area is 240 sf where 350 sf is allowed and the roof area will be 416 sf where 500 sf is allowed.

There will be no gas or water lines to this structure as it will be used solely as a changing area and a storage facility. They are requesting that electric be run for a ceiling fan and some outside lighting.

Chair Weidmann stated it would have been nice to see some renderings of what the cabana will look like once complete. Ms. Walsh stated she didn't have anything but knows the resident is going to "echo" the look of the existing home.

At this time, Chair Weidmann opens up the application to the rest of the Board. Mr. Skrable, the Borough Engineer, comments that he had done a soil movement review earlier this year (attached) and should the Board approve this application; the conditions in the memo would need to be met.

He has no comment on the FAR, he can't mitigate it. You can't ask someone to remove some of the existing home . . . He feels it is a reasonable request to get a more "useable" living space.

Motion to Open to the Public – Questions for the Engineer Only: Mr. Alessi
Second: Ms. Nilsson

Seeing none . . .

Motion go Close to the Public – Questions for the Engineer Only: Mr. Alessi
Second: Mr. Maggio

Ms. Catherine Gregory, the Planner, is deemed qualified as the Planner. She has actually come before this Board already with the Gas Station application. She is sworn in.

She points out that this applicant did not build the home, a builder did. He just purchased it. So the 0.22% FAR was already existing.

Ms. Gregory lists all the positive criteria for the application:

- Drainage is already installed
- Brand new site
- Application conforms with the MLUL Law
- Does not negatively affect air, light or open space
- The height requirement is met
- The property is surrounded by a 6' fence
- The cabana will only be utilized a portion of the year
- The cabana is a permanent structure.
- We feel we meet the intent of the current Master Plan

Ms. Gregory feels there are no substantial, negative impacts to the neighborhood.

There is a precedent already set here as a permit was issued back on February 11, 2015 for an application that was requesting a larger FAR than this application is requesting and it gained approval.

Mr. Maggio states that if this application is approved, one of the conditions would be that no water, gas or sewer would be installed. The Board will accept the run of electric only for lighting/fan needs.

At this point, Mr. Robins is sworn in. Chair Weidmann asks about the pool equipment, where is that now? Mr. Robins answers that it is located in the rear yard and that there will be some vegetation around the pool pump to make it more visually pleasing but there will be no structure of any kind around it.

A point came up regarding the plan in front of the Board that there is a “proposed” pool and a “proposed” patio and “proposed” pool equipment when in reality, everything that is proposed on this Exhibit is already constructed with the exception of the “proposed” cabana . . .

Mr. Boyce has a question: “ . . . big undertaking for the storage of pool noodles?” He puts out the assumption that Mr. Robins may have plans for the “cabana” to turn into a “garage” with the flow of the driveway to the accessory structure and the measurements of 20’ x 12’ ?? Mr. Robins assures the Board that this will not turn into a garage. Mr. Boyce states that maybe it should be included as a condition in the Resolution that the cabana will not turn into a garage.

Open to Public for Questions for the Planner: Ms. Nilsson
Second: Mr. Eller

Seeing none . . .

Close to the Public for Questions for the Planner: Mr. Alessi
Second: Mr. Eller

Open to the Public for any Questions regarding this Application: Mr. Alessi
Second: Mr. Eller

Seeing none . . .

Close to the Public for any Questions regarding this Application: Mr. Eller
Second: Mr. Alessi

Kate Walsh gives a quick summation for the Board . . . there is a de minimus increase on the FAR and there is no visual impact on any of the neighbors. This is an aesthetically pleasing structure that will only be used for a certain number of months during the course of the year.

Motion: Chair Weidmann

Second: Mr. Maggio

	Yes	No	Abstain
Chair Weidmann	X		
Vice Chair, Mamary	X		
Mr. Maggio	X		
Financial Secretary, Ms. Nilsson	X		
Mr. Keil			absent
Mr. Alessi	X		
Police Chief Shine	X		
Councilman Gallagher			X
Borough Administrator Haverilla			X
Alternate #1, Mr. Eller	X		
Alternate #2, Ms. Louloudis (**)			
Alternate #3, Mr. Boyce			
Alternate #4, Mr. Scozzafava			

(**) The roll call was stopped as the Applicant had enough votes . . .

NEW BUSINESS

Old Tappan OTR, LLC

Review Waivers

Determine Completeness of Application

Nicole Magdziak, the Attorney for the Applicant of Day, Pitney LLC is present along with Patricia Ruskan, Engineer of PS&S. Both are deemed credible and the Engineer is sworn in.

On September 19, 2019, Mr. John Szabo sent a letter to the Board Secretary, stating “Due to the applicant’s request for submission waivers, the application must technically be deemed incomplete until such time as the Board grants the requested checklist waivers. This is a jurisdictional requirement that should be determined at the outset of the hearing process.” He further stated, “The applicant has submitted the requested waivers in writing to the Board as part of the application with reasons justifying the request. It is recommended that since the requests involve engineering matters that the requested waivers be reviewed by the Borough Engineer for comment.”

With that being said, Mr. Szabo also noted that, “I am respectfully suggesting that this application be put on the October agenda **solely for the purpose of determining completeness.**”

The Attorney states that they would like to clarify the waivers. Some of them are only being requested as completeness waivers and they will be provided during the hearing or as conditions of approval. They are not necessarily waivers that they will never provide.

Chair Weidmann asks how can they deem the application complete without all the information that the Board needs . . .

Below are listed the Submission Waivers along with a comment from Tom Skrable, Board Engineer relating to them. Per Charles Maggio’s suggestion, each waiver should be addressed, one by one.

(I am including this verbatim from Tom Skrable’s email to Patti Ruskan, Engineer, the Board Secretary, Mr. John Szabo, Planner and Mr. Robert T. Regan, Borough Attorney.)

Also, in bold will be the Riders that Day Pitney provided with an explanation/reasoning as to why they are requesting the waivers to begin with.

Lastly, I will add any pertinent conversations, comments from the Board in italic.

Tom Skrable was under the opinion that the Board was ready to get this out to the public so the questions can start to be asked. If the Board feels that waivers should not be granted to what is obviously going to be a sensitive and important application to this Borough – I am not going to object to that. That is what the Board needs to decide tonight.

It was the Boards’ consensus that the more waivers that could be removed, the better off they will be.

Screening of Utility Boxes – I agree this should be done once further feedback from utility companies is provided, and could be made a condition of the approval, if necessary.

Rider #1 – The Applicant requests a waiver from 3f of the Landscape Requirements – Subdivision and Site because all utility boxes are not yet known as the applicant continues to coordinate with utility authorities. The Applicant will appropriately screen the utility boxes that are required.

Per the Engineer, they have not met with any of the utility companies as of yet and don’t know where they will be located nor how many of them there will be. The Applicant has every intention of doing the screening once

that is determined. They are usually screened with landscaping, evergreen material or shrubbery depending on the height of the box.

Chair Weidmann asks if drawings will be submitted for this and can a preliminary, generic drawing be submitted showing an example of what the screening will look like . . . Patricia stated yes, but if we don't know where they are going to be located, she feels they need to wait until the meeting with the utility company(s). They rarely will give their employees projects to do like that until they know that the application has been approved by the Municipality.

Dan Eller asked if there was a way to get a "typical detail" just so we can remove one of the Waivers. Patricia agreed to that.

Mr. Maggio states that since Tom Skrable took the time to comment on each one maybe we should get his input . . . Mr. Skrable states that he agrees with Patricia on their position. But if the configuration changes from what the originally suggest, what you are asking them to do is meaningless. The fact that they are going to screen them is the important factor. To do that now, is difficult.

Mr. Boyce agrees that this would be a difficult to impossible task at this point in time because of all the different parameters that go into it.

Location of nearest intersections – These are well known and can be seen on your location map.

Rider #2 – The Applicant requests a waiver from 14 of the Plat Requirements – Subdivision and Site Plan because not all required information to the nearest intersections is shown on the survey because of the distance to said intersections.

This was determined to be okay, granted. The intersections are obvious. It is also located on the Key Map.

Dashed lines for structures being removed – Your demolition plan is clear, without dashed lines.

Rider #3 - The Applicant requests a partial waiver from 15 of the Plat Requirements – Subdivision and Site Plan because dashed lines are not used to indicate the structures and buildings to be demolished: A separate demolition plan is included in the site plan set prepared by PS&S.

Mr. Skrable states it could be changed to "dash lines are not indicated by dash lines." It is obviously shown to be removed but the line is not dashed.

Anna states at that time, so if we ask them to change it to a dashed line then all these plans are going to be have done over again?! Everyone was in agreement that that would be ridiculous and UN cost effective.

It was discussed at this time that since we already asked for one change regarding the utility screening, then *EVERY* little change will have to be amended on the drawings . . .

Could the applicant and the attorney create an addendum or a memo with the changes? A checklist?

The Engineer agrees that that could be accomplished if the Board goes over each Rider first.

Existing utilities – These are shown, for the most part, on the underlying survey, and will be required to be marked out prior to any demolition work.

Rider #4 - The Applicant requests a partial waiver from 17 of the Plat Requirements – Subdivision and Site Plan because all underground utilities are not shown.

Street profiles and cross sections – I have no objection to your proposed street cross section. We do need street profiles with vertical curve data shown, but this can be addressed during the hearing process. There is always

the possibility that these streets will become public at some point, so they need to be designed to municipal street standards for horizontal and vertical alignment, as well as cross section.

Rider #5 – The Applicant requests a partial waiver from 20 of the Plat Requirements – Subdivision and Site Plan because all proposed streets are private streets and, as such, are not required to conform to all Borough specifications and standards. Typical sections are shown.

Mr. Skrable asks Patti, the Engineer, for some help . . . she explains that the intent is that if it is a public road it has to meet the Borough standards but these will be internal, private roads. We provided the profiles, we provided the vertical curve geometry (that is on the profile sheet), to the extent that the cross section itself will meet the Borough standards, is the pavement section. The intent is not that these will become public roads. We would have to meet a certain width of the right of way and then we wouldn't meet the setbacks of the homes, etc. The intent is that these roads will never become public.

Mr. Skrable agrees with what they have already contributed.

It is discussed that the Fire Department may have some problem with the width of the roadways if they are going to be responsible for the "community."

Mr. Skrable states that they are "mostly or partially, at least, complying" with what they need to supply us with. Chairman Weidmann is worried that in ten years that these become public roads . . . Mr. Skrable is talking about the structural standards but not to Borough standards which was included in the settlement agreement.

Mr. Skrable states that the Attorney was over zealous with the waivers; if there was any question whatsoever, they asked for the waiver. In Mr. Skrables' opinion, if they didn't ask for this particular waiver, he wouldn't have flagged it as one. They were requesting it conservatively. The Chairman has a legitimate concern but it should not hold up the decision of if this application is complete.

The Borough would be responsible for the "common services." i.e. picking up the leaves, snow removal, etc. The residents in this community will be considered tax payers and are eligible for these services. Again, there are concerns regarding emergency services voiced by Chief Shine.

Tim Wiss, acting Board Attorney, reminds the Board that we are here for the completion deeming only, to not get off track into the more intimate details of this application.

Nicole, Attorney, added that they asked for the waiver because it is not a public road so this entire checklist item doesn't apply to "our roads" so if anything it is more information provided because they will comply with the standards with the exception of the width of the roads.

She does understand that it is a "big deal" and it can and will be addressed during testimony.

Lot numbers – I agree this should be done later.

Rider #6 – The Applicant requests a partial waiver from 5 of the Final Subdivision Requirements because the Borough Engineer has not yet approved the new lot numbers. The Applicant will comply with this requirement as a condition of approval.

This gets done at the end and the Tax Assessor would be responsible for them.

Road Profiles – I have no objection to your profile scale or sheet size.

Rider #7 - The Applicant requests a partial waiver from 12 of the Final Subdivision Requirements because scales of the roadway profiles provided as part of this project (see sheets C-24 and C-25) are 1"=40' horizontal and 1"= 4' vertical to match the scale of the plan views and sheet size for the project is 30" x 42" for this private development; sheet size of 22" x 36" is a NJDOT requirement for roadway projects. This project does not include design of any NJDOT roadways.

Per Mr. Skrable, that is just a weird requirement where they have to put it on a certain sheet at a certain scale . . . it is actually a DOT standard.

Could they give us smaller sheets for the road profile? Yes, I guess they could but the information would be the same.

Storm, Sanitary and Water profiles – I agree we don't need these throughout the site as the information is available on the design plans. We may require certain areas to be detailed, as the hearing process continues.

Rider #8 – The Applicant requests a partial waiver from 14 of the Final Subdivision Requirements because their proposed on-site roadways will be private, not public and it is our understanding that this requirement for inclusion of water main and storm sewer profiles is a requirement for new subdivisions with public roadways. Additionally, water main locations must initially be coordinated with and approved by Suez Water Company, therefore, it is premature to provide this information on the (private) roadway profiles.

There are some profiles for some of the utilities just not all at this time. Storm and sanitary are included – the Engineer states they didn't do a separate water profile because it is showing as a separate utility shown as a circle.

Per Mr. Skrable, all that information is on the site plan it is just not duplicated in the actual profile.

Although preliminary, Councilman Gallagher asks about the demands on our pump stations. The applicant has done a very thorough study and our pump stations will need upgrades. Chair Weidmann asks, "that is their responsibility right Tom?" And Mr. Skrable states, "as far as I'm concerned, it is."

The water profile can be an additional supplement that would probably consist of a couple pages.

Road specifications – This issue is addressed by #5 above.

Rider #9 - The Applicant requests a partial waiver from 17 of the Final Subdivision Requirements because all proposed streets are private streets and, as such, are not required to conform to all Borough specifications and standards.

Same issues as #5 – it is a written statement that the specifications will meet the Borough standards. Mr. Maggio asks that this should be pretty easy to supply us with correct? Mr. Skrable responds, to the fullest extent possible."

Improvement estimate – I agree this should be done later.

Rider #10 – The Applicant requests a partial waiver from 19 of the Final Subdivision Requirements. The written estimate of the total cost of constructing, installing and completing all improvements and monuments will be provided as a condition of approval to reflect the final version of the plans that is approved.

Nicole stated that this is a difficult task for an application this large as things will constantly be changing with requests from the Board. We realize that an "inspection escrow" will have to be in place as well as a bond (which will cover any buffering/landscaping required and also any improvements that will be dedicated to the Borough.) The cost estimate is usually done closer to the end of a project so as to not revise multiple times during the course of the hearing which could become confusing.

Mr. Maggio suggests giving a very broad estimate of the costs of the project and then refine that at the end.

Drainage within 500' of the site – This is a common waiver and your project will only be affecting very specific off-site drainage, which we will address in our review.

Rider #11 – The Applicant requests a partial waiver from 22 of the Plat Detail Requirements (page 17). The plans do not show all drainage structures within 500 feet of the property given the distance between those structures and proposed structures on site.

Mr. Skrable states that "we require a 500' radius to locate every single drainage structure. For a site this big it would be a tremendous undertaking. Why I don't think it is necessary is because this entire site is going to be drained at one spot basically. It will have to be analyzed for capacity, etc. And will be well known before this project ever gets approved. At this point it is unnecessary and doesn't serve a specific purpose in this case."

Mr. Mamary asks, so this is one that should be left as a waiver . . . Mr. Skrable responds, yes, he would recommend it.

Mr. Maggio asks what waivers could be provided on some sort of supplemental document?

Mr. Skrable states that they all will be addressed in some form with the exception of the Lot numbers.

Nicole asks if the Board wants them to provide the different size sheets (pertaining to Rider #7). He responds that that would be a Board decision. All that information has already been submitted.

Nicole questions . . . one waiver for lot numbers and one waiver for the drainage within the 500' . . . ?
It was agreed.

It was also agreed that they would get the Board this information by, no later than, November 1st in order for them to be listed on the November 13, 2019 meeting agenda.

Chair Weidmann makes a motion to take a vote that everyone is “happy” with the waiver requests which would deem the application complete after receipt of the new information from the applicant.

If the information is not sent to us by November 1, 2019, the application will NOT be deemed complete.

Motion: Mr. Weidmann

Second: Ms. Haverilla

	Yes	No	Abstain
Chair Weidmann		X	
Vice Chair, Mamary	X		
Mr. Maggio	X		
Financial Secretary, Ms. Nilsson	X		
Mr. Keil			absent
Mr. Alessi	X		
Police Chief Shine	X		
Councilman Gallagher	X		
Borough Administrator Haverilla	X		
Alternate #1, Mr. Eller	X		
Alternate #2, Ms. Louloudis	X		
Alternate #3, Mr. Boyce			X
Alternate #4, Mr. Scozzafava			X

PUBLIC OPPORTUNITY TO SPEAK ON NON-AGENDA ITEMS

Motion to open the meeting to the public: Councilman Gallagher

Second: Mr. Eller

One voice vote, all in favor, none opposed, the motion carried.

Seeing none . . .

Motion to close the meeting to the public: Mr. Alessi
Second: Councilman Gallagher
One voice vote, all in favor, none opposed, the motion carried.

ADJOURNMENT

Motion to Close Regular Meeting: Mr. Alessi
Second: Councilman Gallagher
One voice vote, all in favor, none opposed, the motion carried.