

Harrington Park
 PLANNING BOARD
REGULAR MEETING MINUTES
Tuesday, July 9, 2019 @ 8:00PM

Chairman Capazzi called the meeting to order at 8:00pm.

Open Public Meeting Act Announcement: In compliance with Chapter 231, Public Law 1975, adequate notice of this meeting was made. It has been posted on the Bulletin Board in the Municipal Center. Copies have been mailed to THE RECORD, NORTHERN VALLEY PRESS, and the NORTH JERSEY SUBURBANITE. A copy has been filed with the Borough Clerk and copies have been mailed to individuals requesting the same.

ROLL CALL

Roll Call	PRESENT	ABSENT
(JC) Chairman John CAPAZZI	X	
(PA) Vice-Chair Peter ARDITO	X	
(PH) Mayor Paul HOELSCHER	X	
(AN) Councilman Allan NAPOLITANO	X	
(JB) Member Jesse BARRAGATO	X	
(RM) Member Richard McLAUGHLIN		X
(RW) Member Robert WALDRON	X	
(DV) Alt. #1 Denise VELA	X	

Also Present:

- (JK) Jennifer Knarich, Board Attorney
- (LL) Liz Leheny, Phillips Preiss Grygiel Leheny Hughes (Planner)
- (DL) Daniel Lee, Neglia Engineering (Engineer)
- (CL) Carolyn Lee, Land Use Secretary

INVOICES FOR APPROVAL

General	Price, Meese, Shulman & D'Arminio (May 2019)	\$ 189.30
COAH	Price, Meese, Shulman & D'Arminio (May 2019)	\$ 1,710.00
Dimas Ct – Orange & Rockland	Neglia Engineering Associates (11/3/18- 11/30/18)	\$ 445.00
41 Peat - Escrow	Neglia Engineering Associates (4/28/19 – 6/1/19)	\$ 990.00
Services for various projects	Neglia Engineering Associates (May 2019)	\$ 1,100.00
Services for Hackensack Ave & Kline St. – NJDOT funded	Neglia Engineering Associates (4/28/19 – 6/1/19)	\$ 1,060.47
Affordable Housing	Phillips Preiss Grygiel Leheny Hughes LLC (May 2019)	\$ 297.00
TOTAL		\$ 5,791.77

JC asked the board if there was any discussion. There was none.

To approve invoices	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Chairman John CAPAZZI			X			
Vice-Chair Peter ARDITO		X	X			
Mayor Paul HOELSCHER			X			
Councilman Allan NAPOLITANO			X			
Member Jesse BARRAGATO	X		X			
Member Richard McLAUGHLIN						X
Member Robert WALDRON			X			
Alt. #1 Denise VELA			X			

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HEARINGS

1. 41 Peat Street – Minor Subdivision

PH asked to be recused from this hearing because of a conflict of interest. JK reviewed the notice for the application and the board had jurisdiction to hear the application.

David L. Rutherford is an attorney with an office in New Jersey and is appearing on behalf of the Sykes family trust A and B. Trust B was present, Massimo Piazza, the professional engineer and professional planner. Mr. Rutherford gave a brief opening statement. They are seeking a minor subdivision of Block 803, Lot 22 into 2 lots. Lot 22 was the assemblage of 9 lots as shown in the Bergen County Clerks office file map in 1897. These lots were acquired in 1959 by Mrs. O’Neil’s parents. The lot area is just under 22,400sf and is a through lot that runs between Peat and Deal Street. It has frontage that runs over 100ft on each side and depth is approximately 200ft. It is improved with a single family home on the Peat Street end of the lot. Deal Street end is unimproved. The property is located on the R-2 residential zone, which contemplates lots that are 100ft wide x100ft deep with an area of 12,000sf. The applicant seeks to create 2 lots that would meet minimum lot width and depth requirements, but are deficient in area. The lot 22.01 with the existing home, that would remain, would be 11,617.69 sf. The other lot would be 10,775.08sf. They are seeking a lot variance for each lot. They are basing their request on C1 and C2, section 70 of municipal land use law. The northern lot line is skewed. The lot gets progressively narrower as you proceed to the east. The Peat Street width is 120.4ft, and the Deal Street width is 103.55ft. If the lot width were maintained throughout the entire depth, variance relief would likely not be needed. It is the configuration of the lot an existing condition that justifies a variance relief.

The applicant is also seeking variance for section C2 of section 70 of the municipal land use law that permits the board to grant a variance where the proposed represents a better zoning alternative for the property. They suggest that through lots for purposes are generally not favored. The R-2 zone does not contemplate lots almost ½ acres in size. The neighborhood pattern of development within 200ft of the subject property, a portion of the lot of Deal Street, appears as a gap in development on side the street. There seems to be a house missing. By permitting a subdivision the board would be permitting that portion of the property for its intended use as a single-family residential property. They suggest that it advances purpose of the ordinance. It is not detrimental, not significant or substantive. The lots are deficient by 400sf in one lot and 1,225sf in the other lot. The line between lot 22.01 and lot 22.02 is an extension of the North South axis as a dividing line to the south. It was done on purpose for a uniform lot line to avoid a contrived lot line in the rear that could cause confusion. This is consistent with the way the neighborhood has been developed over the years.

There is only one through left in the area which is Block 802, lot 1 is east side of Deal St., opposite the vacant portion of his client’s property. It is a relatively new home placed on the lot where the property won’t be subdivided and will occupy the entire lot. Mr. Rutherford noted that he does not know the history of this property. The applicant’s house was placed with the idea that there might be a subdivision. There are existing nonconformities with the home. It violates

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the front yard setback, side yard setback and the driveway is too wide. They consider these existing nonconformities. They are not created by the subdivision.

Mr. Rutherford asked when to address the engineering completeness items. JK replied when the report is reviewed. Mr. Piazza will address the issues during his testimony as well. Mr. Rutherford said he prepared an exhibit list that he will provide to JK.

Mr. Piazza was sworn in. Massimo Piazza, Engineer. He has a Bachelor of Science of Civil Engineering, Masters of Science of Civil Engineering, Bachelors of Science of Land Surveying from Newark College of Engineering and New Jersey Institute of Technology. He is licensed as a professional engineer, professional land surveyor and professional planner in NJ. He appeared before many Bergen County hearings during his professional career and has been accepted as a qualified professional engineer and professional planning. There is nothing that has happened to his license since the last time he appeared before a board. The Planning Board accepted his qualifications as a professional planner and engineer.

Mr. Piazza visited the site on many occasions. Mr. Piazza prepared the survey, examined the documents on file provided by Bergen County Clerk including the file map, and examined a recorded title on Dec. 19, 2018 First Jersey Title Services. It free of deed restrictions other than that any house shall cost not less than \$6,000. Mr. Rutherford will provide a copy to JK at the end of the hearing.

Exhibit A2 was filed in 1897. The block 26, lots were 742 to 750. This is consistent with the deed. Each individual lot was 25ft wide x 100ft deep.

Northerly lots are slightly skewed through the street through the file map from east to west. George, Deal, Hazel, Peat Street have angled lot lines. The lot is wider on Peat then Deal. This is a function of the configuration of the file map.

Exhibit A3 – Feb.27, 1959 – property survey prepared for Mr. Rutherford’s client. It is consistent with configuration, width and depth shown on file map 699. 120.4ft is the front width along Peat. 103.55ft is the front width of Deal. They were measured at the right of way and not at the front yard setback. It is compliant with 100ft width.

Exhibit A4 – Boundary Topographic Survey (March 1, 2019)

Mr. Piazza created the survey based on the information provided. Block 803, Lot 22. The lot is 120.4ft along Peat; 201.3ft along northerly line; 103.55ft along Deal; 200.08ft on west. Total area is 22,392.77sf. Topography would not inhibit or limit development specifically at the rear section of the property. It is slightly sloped and has an elevation of 47 to about 44. There are no steep slopes. It is a little steeper at the front along the property line along Peat Street, but nothing unusual as far as topography is concerned. It is an improved single family home. The house is closer to Peat than zoning permits at 32ft (35ft required). There is a screened porch on the north side 11.2ft (15ft required) from the northerly property line. The southerly side

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driveway is 10ft and garage is in the rear. They enter the driveway and turn around and face Peat. It is a 2 car garage. The width is 32-33ft (24ft is permitted). Width is wider, but it is existing and not created or exacerbated by the subdivision. If the lot lines were perpendicular to Peat Street and maintained the width of Peat Street, there would be more than 24,000sf. The area would be conforming subdivision if total area were divided.

Exhibit A5 – Subdivision Plat (April 23, 2019)

Lot 22.01: Subdivision line is matching the other lots with a lot area of 11,617.8sf. Lot 22.02: 103.55ft (frontage), 111.97ft (rear) with an area of 10,775.08sf. They are deficient of the 12,000sf zoning requirements. 117.46ft (lot 22.01) and 106.54ft (lot 22.02) width is conforming. There is a conceptual dwelling shown on lot 22.02 with a 2,400sf footprint. It almost replicates what is on lot 22.01. Mr. Rutherford noted by no means it is not what will be built. This is just a demonstration that something could be built that will comply with front, rear, and coverage setbacks.

Completeness issues listed in the Engineering reports had to do with soil movement, tree preservation/removal, landscaping and screening and planting. The issues cannot be addressed until you know what will be built. It is the applicant's understanding that they would need to be in compliance before a permit is issued.

Daniel Lee, Neglia Engineering, 34 Park Avenue, Lyndhurst, NJ, was sworn in. It is common for these requests to be put in. The information submitted would be part of the building application. The borough ordinance has a requirement for a number of replacement trees. The plan shows a conceptual plan for a house this size and shape with the amount of trees removed. Something of this nature would have about 20 trees replaced. Any major soil movement above 350 cubic yards would require approval from Planning Board. We do not know that information at this time for the final plans and may not be required. This is for the Board to be aware of what is being waived.

PA noted that they would be come back to the board for these items.

JC asked if it is normal procedures in other towns that he works with. DL agreed that it is typical for conceptual placement with subdivisions. Once the applications come in to the building department for permits, any other requirements would be enforced at that time. The only reason for the application to come back to the board is if the soil movement is over 350 cubic yards. Mr. Rutherford said that it would most likely.

Block 802 lot 1 on the east of Deal St. is a through lot with the house set toward the center of the lot restricting development on Lynn St. It is the only other through lot in the neighborhood. Lots 1 & 22 are undersized. One is under 10,000sf and the other is about 9,800sf. The configuration is common because of the lot line that continues at an angle. Mr. Rutherford suggested to the board, to continue the line north as a straight line. Mr. Piazza did not want to contort the lot to even the area. They wanted the lot line along the south if someone wanted to add a fence it would be consistent.

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C1A – Relief. The lot line results in a decreasing area. Mr. Piazza said that it is an exception condition that justifies relief. If the bottom half were prepared without the skewed line, and parallel with other lines, then you would end up with 2 lots sufficient in area. The applicant is faced a lot that is almost 2 times of the area of what the minimum area required for this zone. The space could be used for a pool or a playground, but it would look unusual coming into this area. It would look like a front yard on Deal St.

C2 – The subdivision would represent better zoning alternative. Through lots are normally not favored and the lot seems vacant. North on Deal St. there are uniform houses within 200ft until this property. Using the rear of the property for a single-family home would be an improvement for the area. As an engineering and planner, Mr. Piazza said that people passing by would not notice the deficiency in lot size. The lots comply with the minimum width and depth. Mr. Piazza said people would not notice if the lot is deficient 400sf or 1,000sf if the lot is landscaped on either side. The impact of the lot area variance is not compounded by another bulk variance. They are strictly asking for a variance for area. The variance is 382sf for one lot and 1,224sf on the other.

Mr. Piazza said that it is a better zoning alternative, R-2 Zone. The lot is twice the size for this area. It does not bring substantial deterrents in the area.

Exhibit A-6 Letter of Certification for exemption (June 26, 2019). Bergen County Engineering and Planning Subdivision is not required.

Exhibit B1 – Philips Preiss Report (June 24, 2019)

Exhibit B2 – Neglia Engineering Review (May 30, 2019)

Mr. Piazza reviewed the letters from Philips Preiss (Richard Preiss) and Neglia Engineering (Mr. Kurus).

Mr. Piazza had no issues at this time. Some of the items will be dealt with at a later time. Mr. Lee noted that the tree replacement calculation is a concern and should be contained as a condition of approval of the building department. Any issues with the drainage or grading would be addressed. If the applicant is amendable with addressing the comments with the condition of approval for the building application once it comes in, he has no objection.

The Philips Preiss letter addressed the C1, C2 proofs that was discussed. It provided the lot area analysis on page 4. Block 804, lot 1 & 22 are smaller than the lots proposed.

Liz Leheney, 33-41 Newark St., Hoboken, NJ was sworn in. The report outlines the burden of proof that the applicant must address.

C1 – hardship variance– relates to the characteristics of property. The board has to evaluate whether a denial of the variance constitutes a hardship due to the unique in shape and size.

C2—The applicant must show that 1 or more purposing of zoning would be advanced and the benefits towards granting the variance would substantially outweigh the deterrents. The focus of this case is the characteristics of land that present an opportunity for improved zoning and

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planning that will benefit the community. It can't be just a benefit for the applicant. The board has to evaluate whether the proposed subdivision is a better zoning alternative at this location that exists with the current lot configuration. With the C1, C2 the applicant has to address the negative criteria. The variance would not cause substantial detriment to the public good. The board has to evaluate the impact of the proposed variance on adjacent properties and determine whether it would cause damage to the character of the neighborhood that would constitute substantial detriment to the public good. The board might look at it if there is a gap to fill in. It would be permitted if the subdivision were granted. Whether granting the variance would create 2 lots similar characteristic to near by lots in terms of area and building configuration. The board has to find that the variance would not substantially impair the intent and purposes of the zoning plan and ordinance.

Philips Preiss used 200ft to look at the neighborhood. There are 21 properties. 13 were similar in configuration to what is proposed. Only 2 lots were under the 12,000sf minimum, but 19 did meet the minimum. They concurred with the engineer report making conditional approval with regard to tree replacement/preservation and soil movement ordinances.

Mr. Rutherford had no more testimony. There were no questions from the board.

Open to public for questions of the engineer and planner's testimony.

Motion: RW Second: PA

In favor, all said "aye".

Judy Jones, 32 Deal Street. When she looked at the survey, she saw that the tree line and fence seemed to be on the applicant's property. Her survey and the permit for the fence issued by the town shows it on her property. She questioned the validity of the survey. She has not had a chance to reach out to her surveyor service. She called the question of the documents and asked that things can be delayed until they verify the survey.

Mr. Piazza did the county research, pulled the deed and all the adjoining deeds on the block. The file map does not have mining instruments from the 1800s. They went up and down the street and found the caps and pipes, measured and evaluated it to piece it all together. They found some caps and monuments above in the subdivision and it seemed to match. There is a cap at the back of Ms. Jones property and a pipe at the front that match. It shows that the fence on the applicant's property. Ms. Jones said that the town approved the survey when she applied for a fence. She suggested that there would be damage to her fence if the applicant tries to sell it and the builder goes against what was presented and could take down her fence. Ms. Jones said she needs to go back her survey company to resurvey the property. Mr. Piazza clarified that he was holding the caps and pipes on the property line. Mr. Piazza is not sure when the fence was built if they pulled the string or if it was off the house. Mr. Piazza asked if her survey shows the pipes and cap. Mr. Piazza explained that the line is straight and there are 3 caps in row. Mr. Piazza suggested she contact her surveyor and show Mr. Piazza's survey. Ms. Jones said that they dug into her lawn. Mr. Piazza said they were permitted to do that on the right of way and for look

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evidence. Ms. Jones surveyor would be permitted to do the same. Ms. Jones confirmed that the fence was put in after the property was surveyed.

There were no more question to the engineer from the public.

Closed to the public.

Motion: PA Second: JB

In favor, all said "aye".

RW asked if the homeowner was planning to stay in the house. The house belonged to the applicant's mother who passed away. The applicant is planning to sell.

Open to the public for comments.

Motion: JB Second: PA

In favor, all said "aye".

Michelle Ottomanelli, 41 Deal Street. She bought her property in 2006. The previous owner tried two times to subdivide the property and was not granted. Out of respect of the neighborhood and the way it was developed the house was put on the center of the property. When they bought the house the address was 242 Lynn Street. It was a single resident home where she lived in during the construction of the new home. The house was knocked down when she moved into the new construction. It is a beautifully landscaped home with an oversized front and rear yard. The only variance was for a fence. They were not granted the variance and they complied with the town rules for a fence. There are a couple of similar properties on Deal and Hackensack. There is a property with a front on Peat St. and backyard on Deal St. The house has tall trees planted in the backyard. She is not against new construction and would enhance the neighborhood. There are newer homes at the end of the street. She said that it would be detrimental to the look of the street with a chopped up lot and would like to see one new house. She was in a similar situation with the house located closer to one end or the property. The land for her property was not granted for a subdivision. She said that her house fits in with the neighborhood and was respectful to the street and neighbors during construction and it is a lovely home now. She is not for a subdivision forcing a home on a postage size lot. It would be over development.

Judy Jones, 32 Deal Street. The impact of building on a narrow street is going to be substantial. There are a lot of families, young kids and dogs. The machines needed to excavate that size of land would be devastating to the community and street. It would have an impact on water and sewage. Cutting the property doesn't meet basic requirements of 12,000sf. She is not against new construction. She went through hoops for a variance for her own house that had no real impact because she followed the rules. She can't see giving a developer to put what they want on the property without proper oversight and variance process. If you look at the average building cost, about \$200-\$250/sf is reasonable estimate; the cost for the land would be about \$380,000. The builder would have to sell the house for \$955,000 for a 2,300sf home. No

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contractor would pay that amount to build a 2,300sf home. The contractor would have to build a million dollar plus home on that property with a square footage to match. The town would like the tax revenue. Take in consideration the impact on the neighbors, the taxpayers who have put back into the community. The impact on them would be very negative. If a developer purchases the property, they would not be able to comeback because it would be grandfathered in. The neighbors need to stand up. Friends have commented on the beautiful street and not about the vacancy of the lot. There is a beautiful through lot on Peat St. Lots of these sizes are not atypical. If you drive down the block, you will see lots that are larger and have pass-throughs. You will see that the nature is for bigger houses. She and her husband are against the subdivision.

James Steindl, 46 Deal Street. He is not against new construction, but the lots do not meet the requirement.

Closed to public.

Motion: PA Second: DV

In favor, all said "aye".

JC asked if Mr. Rutherford would like to summarize.

Mr. Rutherford appreciates the time and attention the board has given. He would address the comments at the interests of the questions then the comments. He appreciates the concern about the fence. It appears that the fence along the adjoining lot was put up after the survey was done. Mr. Piazza's answers were very persuasive as he found the pins. The party does not have a survey that shows the fence. The applicant does have a survey that shows the fence with an encroachment of 1.1ft. The fence would be a private issue for boundaries. It is important concern, but should not delay the decision of the application.

The attempt to subdivide Block 802 lot 1. Every case stands on its own merits. We don't know when it was done or any idea of the proofs. Mr. Rutherford and Mr. Piazza said that Block 802 lot 1 is smaller then the applicant's property and is not the same. The board has to be concerned with consistency in decision-making. The board also has to decide each matter on the facts of the case as it comes before the board. He said that we can't draw any conclusions on why the subdivision was denied because we don't know when, the testimony or the facts.

The comment about forcing development on a chopped up property, the board can draw it's own conclusion. What they are proposing to the lots is very consistent with the neighborhood pattern. They were very careful about their testimony about through lots. They characterized the affected neighborhood as Mr. Preiss did within 200ft. We have heard testimony from the property owner across the street and he appreciates it. This is not forcing anything on any chopped up property. It is consistent with configuration with the majority of lots in the neighborhood. It is not a postage stamp lot. It is undersized 400sf in one and 1200sf in the other.

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There is no carte blanche being given. They made it clear throughout the presentation that whatever is built must comply with bulk variance with respect to coverage and setbacks. Having come before the board and ask for a subdivision, he can't see how a developer could ask the zoning board for coverage variance for a newly created lot. The first thing that would be said is that you saw the subdivision and created your hardship. This board is not granting development. The board could be confident that they are not creating a problem for the zoning board. Whatever is built on lot 22.02 should comply with the ordinance. It may be less coverage or smaller house. The cost of development and acquisition are irrelevant. With respect to the witness, it is not the type of testimony to base a decision on.

Mr. Rutherford thinks this is a C1A case. There is an unusual lot due to the shape with decreasing width and a decreasing area. It is also C2. The ordinance contemplates 12,000sf lots. It does not contemplate 22,400sf lots. The manner that the area has been developed is proof of that. The file map was made 120 years ago. Someone decided to have 25ft x 100ft lots and sold 8 or 9 together, which is what we have. It is an unusual configuration. The way the property was developed where the ordinance contemplates lots 100ft in depth and not 200ft in depth, means what they are proposing is consistent with what the ordinance contemplates. With respect to over development for 2 larger homes, the ordinance is going to regulate that. What is built will fit in with the neighborhood. The owner built the house closer to Peat St. and seemed to have a plan for the rear plot. The variance requires some detriment because it is a deviation from the ordinance. It is not substantial. They will follow the tree replacement, soil management and drainage, which would need to be approved.

Mr. Rutherford thanked the board for their time and attention.

Board Comments

RW asked if there was a way to make the property comply. Someone else would request a variance. JK noted that the application is only for a subdivision approval.

JB asked if there could be conditions attached. The zoning requirements are set on lot size. There are standard lot sizes. If you deviate, especially on a smaller lot will the zoning still remain for the life of the lot. There is some leeway in building a bigger house. JK said no, they are here for a subdivision. There was discussion.

Mr. Rutherford said that his client is prepared to stipulate as a condition of approval, that any home built on 22.02 would be built in full compliance with zoning ordinance.

Open to Public

Motion: RW Second: PA

In favor, all said "Aye".

Judy Jones, 32 Deal St. She wanted clarification if the house would be under a larger zoning because the original property. JC said that the house would comply with zoning with the lot that

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is created for that piece of property. She asked what allowances would they have? JK said that what is sold, would have to comply with the zoning ordinance.

Closed to Public

Motion: PA Second: AN

In favor, all said “aye”.

PA asked about going back to the stipulation, are they going to come back to the Planning Board for trees or soil movement? JK said it was testified based on soil movement calculation. They will comply with tree and soil movement.

To deny the application	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Chairman John CAPAZZI				X		
Vice-Chair Peter ARDITO			X			
Mayor Paul HOELSCHER					(recused)	
Councilman Allan NAPOLITANO	X		X			
Member Jesse BARRAGATO		X	X			
Member Richard McLAUGHLIN						X
Member Robert WALDRON					X	
Alt. #1 Denise VELA				X		

The application was denied.

Mr. Rutherford thanked the board for their time.

OLD BUSINESS

No old business.

NEW BUSINESS

No new business.

ADJOURN

Motion: RW Second: JB

In favor, all said “Aye”.

Meeting adjourned at 9:16pm.

NEXT SCHEDULED PLANNING BOARD
REGULAR MEETING
Tuesday, August 13, 2019 at 8pm