

## CHESTERFIELD TOWNSHIP PLANNING BOARD

February 16, 2021

The meeting of the Chesterfield Township Planning Board was called to order by Madam Chair Romeu at 7:00PM. The Open Public Meetings Act statement and Sunshine Statement was read and compliance noted

Roll call was taken showing present: Rita Romeu; F. Gerry Spence (8:42); Jon Davis; Jerry Hlubik; Aparna Shah; Gary Pollack; Glenn McMahan; Belinda Blazic; Lido Panfili; Michael Nei and Albert Paulsson. Professional staff present: Doug Heinold Solicitor; Joseph Hirsh, Engineer and Chris Dochney, Planner.

### OATH

Albert Paulsson declared his Oath of Allegiance. Mr. Paulsson was appointed as 2<sup>nd</sup> Alternate for a two year term.

### AGENDA MATTER(S) REQUIRING RECUSAL(S)

Ms. Blazic; Mr. Panfili and Mr. Nei recused themselves from the Nalbone Use Variance application.

### MINUTES

#### February 4, 2021 Regular Minutes

A motion was made by Mr. Pollack seconded by Mr. Hlubik to approve the February 4, 2021 Regular minutes. All were in favor. Motion carried.

### RESOLUTIONS

None

### HPC APPLICATION FOR ACTION

Mr. Heinold explained to the board that under the current virtual meetings that the DCA (Department of Community Affairs) allows for written submissions. The submissions are made part of the record and the board may take them into consideration.

Mark Szul Block 600, Lot 24.01, 26 Chesterfield-Georgetown Rd. Natural stack wall to mimic old front porch with landscape.

The applicant is proposing excavating and installing a natural stacked stone wall ranging from approximately 18" to 36" in height.

Referencing the Secretary of Interior's Standards for the Treatment of Historic Buildings' guideline dealing with building sites, page 63:

*Recommended: Identifying, retaining and preserving features of the building site That are important in defining its overall historic character. Site features may Include walls, fences or steps; circulation systems, such as walks, paths, or roads; Vegetation, such as tress, shrubs, grass, orchards, hedges, windbreaks, or gardens; Landforms, such as hills, terracing, or berms; furnishing and fixtures, such as Light posts or benches; decorative elements, such as sculpture, statuary, or Monuments; water features, including fountains, streams, pools, lakes or Irrigation ditches; and subsurface archeological resources, other cultural or*

*Religious features, or burial grounds which are also important to the site.  
Recommended: Retaining the historic relationship between buildings and the  
Landscape.*

The applicant provided historical evidence of an original front porch with a stacked stone foundation. The new wall will reinforce the historic relationship between the buildings and the landscape by using the former porch foundation as design inspiration.

For the reasons outlined above, the Commission voted unanimously to recommend to the Planning Board approval of the application, excluding any stone caps, steps and lighting fixtures shown in the rendering.

A motion was made by Mr. Hlubik second by Ms. Shah to approve the application. A roll call was taken:

Ms. Romeu-yes; Mr. Davis-yes; Mr. Hlubik-yes; Ms. Shah-yes; Mr. Pollack-yes; Mr. McMahan-yes; Ms. Blazic-yes; Mr. Panfili-Abstain; Mr. Nei-yes. Motion carried.

Bob and Lisa Plummer Block 300, Lot 3.01, 467A Main Street.

Mr. Plummer stated that he met with members of the subcommittee from the Planning Board. He also submitted plans that were not acceptable to him and pictures of the surrounding homes. On Option 1 the HPC proposed adding the 2<sup>nd</sup> floor by stepping it back to add the 8 ft. ceiling height however Mr. Plummer stated that it wouldn't give him the space he needed and the look from the street isn't acceptable to him and it wouldn't fit in with the surrounding homes. Ms. Blazic stated that she reviewed the Secretary of Interior Standards and stated that they are advisory and are there to give guidance and to give case specific advice. In reference to Mr. Gillespie's letter regarding the HPC Ordinance, he stated that the ordinance was intended to give guidelines with flexibility.

A motion was made by Ms. Blazic second by Ms. Shah to approve the application. A roll call was taken:

Ms. Romeu-yes; Mr. Davis-no; Mr. Hlubik-no; Ms. Shah-yes; Mr. Pollack-yes; Mr. McMahan-yes; Ms. Blazic-yes; Mr. Panfili- Abstain; Mr. Nei-yes. Motion carried.

## **APPLICATIONS FOR ACTION**

Alessandra Kelly 109 Berryland Street, Block 107.02 Lot 3, Bulk Variance

Mr. and Mrs. Kelly was sworn. Mrs. Kelly stated she is seeking a bulk variance to push the fence out 10ft. and for a 5 ft. fence, (4 foot solid and 1 ft. lattice) where only 4 ft. is allowed in a front yard. Her property is a corner lot which has 2 front yards. Mr. Hirsh stated that there is no variance for having a fence in the front yard. Mrs. Kelly stated that they will be using vinyl as the material for the fence.

Madam Chair Romeu opened the meeting for public comment. Hearing none the public portion was closed.

A motion was made by Ms. Shah second by Mr. Pollack to approve the application. A roll call was taken:

Ms. Romeu-yes; Mr. Davis-yes; Mr. Hlubik-yes; Ms. Shah-yes; Mr. Pollack-yes; Mr. McMahan-yes; Ms. Blazic-yes; Mr. Panfili-yes; Mr. Nei-yes. Motion carried.

Fenick 463, LLC 463 Main St., Block 300 Lot 5, Minor Subdivision

Daniel Patterson, Engineer; Kevin Aberant, Attorney and Vincent Pocino, Owner were sworn. Mr. Aberant is filling in for George Hulse, Attorney. He stated that the property is .583 acres and located in the village zone. The applicant is proposing to add three new lots which will be on New Street. The lots meet all bulk requirements. He and his client agree with all of the Engineers report dated 12/10/20 however in regard to the first variance noted for the side yard setback on the existing residential structure he asked that this not be considered that it is a non-conforming condition. The other variance is referencing a deck which has been partially removed, therefore no variances are needed. The applicant is seeking a waiver in regard to the recommendation of a concrete sidewalk and grass strip along New Street. The application was reviewed by the HPC and has received approval from the Burlington County Planning Board.

Mr. Patterson stated the 3 proposed lots will front on New Street. They are seeking a waiver from the sidewalk because lots on either side are already established with no existing sidewalk. The plan shows a widening of the asphalt, they feel it will benefit the public because of the amount of cars that park along that road. There will be three parking spaces along the road with the proposed plan. There will be adequate off street parking for the proposed lots. The entire lot frontage is 161 feet, with 6 to 7 cars able to park along the road. Mr. Hirsh stated that currently if cars are parked along the road only one car can fit, there could be an issue if someone is walking along the road. Mr. Hirsh expressed concern for the site issue of coming out of the driveway if cars are parked parallel. Mr. Pocino feels that even with a sidewalk people will still park along the road. Mr. Hirsh stated the curb face would be at the existing edge of paving. The applicant has agreed to put in the sidewalk. Mr. Heinold stated the condition of approval will be to get a final layout and work with Mr. Hirsh. The applicant is now a fully conforming and there is no variance waiver application needed. Mr. Davis stated that the HPC did not review the subdivision only the exterior of the exiting home and the demo of the accessory structure. Mr. Aberant stated that it was correct and that his client is aware they will need to go before the HPC for the design of the homes. He also stated the final perfection will be filed by deed not plat which Mr. Heinold nor Mr. Hirsh objected.

Madam Chair Romeu opened the meeting for public comment.

Don Czehut – 468 Main Street. He reviewed a memorandum that he sent to the Planning Board members regarding the Village Zone District. The village zoning regulations are inappropriate for Crosswicks. He expressed his concern with the size of the proposed lots and the insufficient room for parking. He asked the board to reexamine the village residential zoning requirements. This level of density is misplace and not the development character of our community. In regard to the project, he stated that there are a few violations. The soil control problem, there was more than 5,000 sq. ft. of disturbed area yet no soil or sentiment control, there is soil washing down Main St. Work was being done on Sunday and work starting before 7am which is in violation of the Township Ordinance. He expressed his concern with the parking along New Street. He suggested having the sewer line go to Main Street as opposed to going under a driveway out to New Street to eliminate having an easement for sewer. He recommends the application be postponed and have the applicant write a letter to the adjoining properties to offer for sale a portion of the property to allow access from New Street and to enlarge the existing lots. He suggested not to approve more than 2 lots which would make a minimum of 3 lots not 4. During the level of testimony Mr. Czehut was sworn by Mr. Heinold. Mr. Heinold stated that the lot size is by Ordinance and the Planning Board doesn't have the authority to change that. This application was submitted in accordance with the zoning requirements.

Nancy Mrzljak – 1 New Street. She owns the Post Office and is aware of the parking issues. The parking issues on New Street are not from the Post Office, the parking issues are due to houses on Main Street. The residents from Main Street are still going to park on New Street that won't change.

Todd Hutchinson – 455 Main Street. His driveway goes back to New Street. He expressed his concern about the traffic on New Street and is concerned with the additional volume the 3 new homes will bring but also for the future. There is concern that if we allow the houses to be built then the firehouse lot can potentially be subdivided as well with more homes added. It will be detrimental to his family to not feel safe walking on New Street.

Hearing no further public comment, Madam Chair Romeu closed public comment.

Mr. Heinold stated that the applicant has provided adequate parking for single family lots by Township Ordinance which Mr. Hirsh confirmed. Mr. Hirsh stated that he recommends the sidewalk for safety concerns. Mr. Aberant stated that the applicant has agreed to the sidewalk and will provide revised plans.

A motion was made by Mr. McMahon second by Mr. Pollack to approve the application. A roll call vote was taken:

Ms. Romeu-yes; Mr. Davis-yes; Mr. Hlubik-yes; Ms. Shah-yes; Mr. Pollack-yes; Mr. McMahon-yes; Ms. Blazic-yes; Mr. Panfili-yes; Mr. Nei-yes. All were in favor, motion carried.

8:35 Ms. Blazic and Mr. Panfili left the meeting.

Donna Nalbone 216 Bordentown-Chesterfield Rd., Block 600 Lot 6, Use Variance  
Donna and Sal Nalbone were sworn. They are seeking a temporary land use variance to allow temporary equipment storage for parking during the construction phase of the pipeline. They will allow them to enter and exit from their property as needed and to have the equipment off the road. Mr. Nalbone stated that at this time the road is completely closed.

Mr. Dochney went through his review letter dated November 12, 2020. This property is in a Ag Zone and the purpose of an Agricultural Zone is to protect the Agricultural uses. The applicant will need a D1 use variance and there are 4 requirements the applicant will need to prove. The positive criteria; the applicant needs to demonstrate one of three special reasons (1) to show a practical hardship in using the property; (2) that the property is inherently beneficial to the public good; (3) advance the purposes of the zoning that will benefit the community. Mr. Dochney does not believe there is a hardship, and the property has not been recognized by the courts as an inherently beneficial use. They will then have to show that this purpose is beneficial to the public good or a particularly good use for the community. The negative criteria the applicant would have to show that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan. He asked what type of equipment would be stored there, Mrs. Nalbone testified that there is a variety of equipment, Mr. Nalbone stated a few different ones. Mr. Nalbone stated that we need to let them do their job and get done and be gone. Mr. Hirsh asked if the time frame of the temporary request is consistent with the road closing, Mr. Nalbone testified that it would be for 4 – 6 months until the project is complete. The area where the trucks will park is gravel. Mrs. Nalbone stated that they would be able to pull in and turn around as opposed to going around the circle with all the barricades. When they are parked there you can't see them. Mr. Dochney asked if there was a staging plan. He stated that this site

wasn't in the original plan that was proposed by the pipeline company. Mr. and Mrs. Nalbone were unaware. The Nalbones subsequently approached the company and asked them if they want to use their property to make it easier to turn around. Mr. Dochney asked how storing the equipment on the property would impact the agricultural operations on this site and impact the surrounding properties. Mr. Nalbone stated that it is not going to its going to help the company complete the project and be gone. He believes this makes the process easier. Mrs. Nalbone stated its crazy out there even the boring company used their driveway to park. Their neighbors had gas lines put in and the gas company used their property to park. She believes it's safer as well. She stated that their property is suitable because there is plenty of space for large equipment. Mr. Nalbone testified that the surrounding neighbors don't have a problem with it. Mr. Hirsh asked how many vehicles would be parked there, Mr. Nalbone stated 8 – 10 trucks. Mrs. Nalbone was unaware if County Approval was necessary. Mr. Hirsh stated that typically for use variance on a County Road it would require County approval and as a condition all outside agency approvals would be needed which would include soil conservation and DEP if there are wetlands. Mrs. Nalbone testified that the wetlands are far back not close to where they are parking. It would have to be delineated and without professional testimony it's not confirmed. Mr. Hirsh asked why the equipment cannot be parked and left on the side of the road if the road is closed, Mr. Nalbone stated that the town won't permit it. Mrs. Nalbone stated that if the trucks are off the road it makes it easier for them to function. When asked, Mr. Nalbone testified that the trailer in the back of his property is not being occupied. Mr. Hirsh is concerned that the entrance is conducive for large vehicles entering and exiting for sight distances, and clear site triangles. Mrs. Nalbone stated that they also have large equipment just like the utility line. Mr. Hirsh stated that their equipment is used for Ag use and that's what the difference is. Touching back on previous comments, Mr. Nalbone stated the trailer in the back of his property was left by the previous owner. Ms. Romeu asked if the Company offered to pay for the use. Mr. Nalbone stated no. She also asked what kind of animals are on the farm. Mrs. Nalbone stated mini donkeys, sheep, goats, pigs, rabbits, chickens, dogs and cats and they are all fenced in and safe. Ms. Romeu stated that she had visited other laydown sites and there were a lot of chemicals, oils and drilling lubricants stored on the property. Mr. Nalbone stated they are only going to park there and not storing anything. Mr. McMahan asked if the agreement is without a lease to park equipment and store trailers on the property without payment, Mr. Nalbone stated that was the agreement. Mr. McMahan stated that the property is an Ag farm and it's important that no other uses are allowed, as the accessory he asked if any of the land being utilized could hinder the Agricultural use, Mr. Nalbone stated not at all. Mr. Nalbone stated the projected date to be finished is June/July. Mrs. Nalbone stated that the current laydown yards are much further away. Mr. Pollack stated that he agrees with Mr. McMahan that allowing the use on an Ag zone will open it up so that someone else will want to do the same thing. Mr. Heinold stated that an applicant can seek a temporary use variance however it doesn't change the standards under the law on what has to be shown. Ms. Shah asked, without an agreement how do we know this will only be temporary. Mrs. Nalbone stated that this is what they have been told that the projected date to be complete is 4 to 6 months. Mr. Hirsh asked what the area where the proposed parking space currently is used for, Mr. Nalbone said it's just space used for mulch and stuff like that, it's a gravel area. Mr. McMahan asked if his excavating equipment is parked there, Mr. Nalbone said it is parked around the building yes. Mr. Nalbone stated that he uses his equipment for agriculture and his everyday use as a landscaper, his landscape business is growing trees. Mr. Hirsh asked what legal right does he have without an agreement if the company destroys any property, Mr. Nalbone stated he is there every day and didn't need an agreement to kick them off, and they are a good group of guys. He has only asked that they give him a certificate of insurance to protect himself.

Mr. Dochney asked for clarification on whether they were approached or if the applicant approached the Utility Line Company. Mr. Nalbone testified that he approached them. Mr. Dochney thought that the company would want a lease agreement to protect their rights, Mr. Nalbone stated he does things with a handshake. Mr. Dochney stated his assessment is that if the company didn't ask for an agreement than they don't necessarily need this property to park. Mrs. Nalbone stated that neither of them had discussed this and if one is needed she would ask for one. Mrs. Nalbone asked an employee of ULS if they wanted to attend the meeting and she was told that she could handle it just let him know. Mr. McMahon asked Mr. Nalbone if his trucks are working with ULS, Mr. Nalbone testified that his trucks are working for ULS and his trucks are stored on his property. Mr. Hirsh asked if a use variance was ever granted to his landscaping business, Mrs. Nalbone testified that when they purchased the property it was from a landscaper who ran his business from there and they have been doing landscaping for years. Mr. Heinold stated that for the purpose for tonight that issue is not before us and could be reviewed further if necessary.

Madam Chair Romeu opened the meeting for public comment.

Herb Ames-106 Crosswicks-Chesterfield Rd and 10 Old York Road, stated in 2016 he was approached by the pipeline and asked to rent the back 12 acres of his property. He did sign an agreement and the pipeline did approvals for soils and DEP and the BPU approval to use his site. He will be getting paid, they will be using his site until June that is in the contract he has with them. His site is zoned Agriculture but has the temporary approvals from BPU and DEP. He does farm it and will continue to farm it, he grows vegetables.

Agnes Marsala-42 Cromwell Drive, As far as inconvenience, they have inconvenienced themselves, it was fine when they were open and alternating traffic, they went to the County to seek the road closure. The proposed plans did not include the Ames lot or the Nalbone lot. Making their job easier is not beneficial for the community.

Susan Layton-90A Bordentown-Chesterfield Rd, She is living along this route while the road is closed. The pipeline is going in against our wishes and we shouldn't make their lives easier. An Agriculture Zone was designed for a reason and should remain for Ag uses only. We shouldn't make it convenient for them, they should have taken this into consideration before they started work.

Henry Krzewinski-10 Front St., thanked Mr. McMahon for catching this. He reaffirmed all the residents that had opposition on this and he asked the board to consider denying with prejudice.

Madam Chai Romeu hearing no further comment, closed the public comment portion.

Mr. Heinold gave the board an overview on how a Use Variance should be viewed and considered.

Mr. Hlubik stated that the pipeline already has the agreement to use Mr. Ames property in the plan. Ms. Romeu stated that there is also a staging area in North Hanover.

Mr. McMahon confirmed that when the initial application was filed there was no plans submitted to include this site as a staging area.

A motion was made by Mr. McMahon second by Mr. Davis to deny the application. A roll call vote was taken:

Ms. Romeu-yes; Mr. Davis-yes; Mr. Hlubik-yes; Ms. Shah-yes; Mr. Pollack-yes; Mr.

McMahon-yes; Mr. Paulsson-yes. All were in favor, motion carried.

## **CORRESPONDENCE**

Memo regarding Ordinance 2021-2, Amending Chapter 130 Article 130-4 Definitions a & Article 130-75 Stormwater management.

Mr. Hirsh stated that DEP is mandating updates to the stormwater control ordinances. Also cleaning up definitions in the ordinance pertaining to stormwater.

A motion was made by Mr. Pollack second by Ms. Shah to find the amendment in conformance with the Master Plan. All were in favor, motion carried.

Letter from Environmental Commission regarding unregulated land clearing within Chesterfield Township.

## **ITEMS NOT ON THE AGENDA**

None

## **INVITATION FOR PUBLIC COMMENT**

A motion was made by Mr. Spence second by Mr. Pollack to open to public comment.

Karl Braun, 12 White Pine Road. In reference to the letter from the Environmental Commission he stated that a property on Sykesville Road is on the record to subdivide his lot for single family homes however the owner has already cleared the site. The work has been done at night and they feel that a site that has made application to the Planning Board should be quite until the board can take action. The EC feels this is a loop hole that should be closed. Mr. McMahon stated that he was fined by the soils conservation due to removing more than 5,000 sq. feet of trees. He has also stopped the demolition of the old house and is coming in to talk to Mr. McMahon on how to move forward. Mr. Braun asked that when the ordinance and Master Plan are revisited maybe this could be part of the consideration.

Agnes Marsala-42 Cromwell Drive, thanked the board for denying the Use Variance application and Mr. McMahon for policing the area and she hopes it will continue.

Kat Hutinson-455 Main St., Thanked the Planning Board and HPC for preserving what makes Crosswicks and Chesterfield magical. The thing is it blends history while embracing development. We have witnessed 2 families that have gone through months of resistance to enhance their properties in the village yet a developer was able to put three new homes without touching the existing house being touched.

Hearing no further public comment a motion was made by Mr. Spence second by Mr. Pollack to close public comment.

## **ADJOURNMENT**

A motion was made by Mr. Spence seconded by Mr. Pollack to adjourn. All were in favor, meeting adjourned at 9:55 PM.

Respectfully submitted,  
Aggie Napoleon, Secretary