

**TOWNSHIP OF LOPATCONG
PLANNING BOARD MEETING**

7:00 pm

February 24, 2021

Topic: Lopatcong Planning Board Meeting
Time: Feb 24, 2021 07:00 PM Eastern Time (US and Canada)

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Chairman VanVliet called the Planning Board Meeting to order.

A Prayer was offered followed by the Oath of Allegiance

Chairman VanVliet stated “Adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Ledger and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Members Clymer, Coyle, Pryor, Samson, Weeks, Mayor Mengucci, Chairman VanVliet. Also present were Attorney Bryce, Engineer Wisniewski and Planner Ritter.

Chairman VanVliet – Getting into Old Business at this point, we have two resolutions that we are considering tonight to pass. They’re both, the first resolution is:

Resolution – Interim Resolution of the Planning Board of the Township of Lopatcong, Warren County, New Jersey Determining the Application of NFI Real Estate, LLC for Preliminary and Final Major Site Plan Approval and Variance Relief Concerning Property Located at 188 Strykers Road and Designated as Block 99, Lots 3.01 & 6 to be Incomplete.

Chairman VanVliet - Mr. Bryce, would you review that for us, please?

Attorney Bryce – Chairman, the resolution that’s before the Board tonight is just capturing what the Board reviewed last month during its hearing. It encapsulates what was presented to you, the Board, for review so noted by the Board professionals’ and it reflects the Board’s determination that it was Incomplete for those particular items; importantly as of that date, which I believe was the 27th last month, whether the Board actually heard it, so, that application still remains on the Board’s docket. It’s just Incomplete as of that particular date which was the 27th, Chairman.

Chairman VanVliet – Has everyone on the Board received a copy of that resolution? Anyone have any questions on it or comments?

Member Pryor – I do.

Chairman VanVliet - Mr. Pryor.

Member Pryor - Jim, I have two questions for you. Are these interim resolutions, because of the motion that the plaintiffs filed, in other words, we have restraints on us, litigation restraints, on us from?

Attorney Bryce – No, that interim resolution, and there is only one interim resolution, that resolution has nothing to do with what’s going on in court. That’s simply a resolution that memorializes the determination as the deed specific, simply because the Time of Application Rule may become very relevant into the future whether, when, if, the applications are complete so, that’s why it’s not customarily done, but given that there is a potential zone change that has been, that’s somewhat in flux, I think it is important to memorialize the history and that is why there is an interim resolution as to Completeness which, normally, frankly, is not done, but given the sensitivity of timing with the zoning, I think that it is important at this point.

Member Pryor - I had one other Jim, I guess, in the first resolution about half way down, it says, whereas the applicant has indicated the following items are not applicable and the second one we use the word proper. I’m wondering if determine is the correct word and whether we should be consistent, I was thinking of opined, but I will go with whatever you think is correct; just my two cents

Attorney Bryce - I don’t think that it has a substantive or material effect on the ordinance. I think in fairness, a lot of those items that were marked as inapplicable probably are inapplicable on both applications. I don’t think that’s a stretch by any means.

Member Pryor - All right, I'll go with your opinion.

Chairman VanVliet - Anyone has any questions for our attorney? If not, I'll call for a motion to approve the resolution.

Member Pryor - Are we doing one at a time, Mr. Chairman?

Chairman VanVliet - Yeah, I was going to do one at a time so it's on the record.

Member Pryor – All right. I'll make the motion.

Mayor Mengucci – I'll second it.

Chairman VanVliet – Beth, roll call, please.

AYES: Members Clymer, Coyle, Pryor, Samson, Weeks, Mayor Mengucci, Chairman VanVliet

NAYS: None

Chairman VanVliet – Okay, the second resolution:

Resolution – Resolution of the Planning Board of the Township of Lopatcong, Warren County New Jersey Determining the Application of Bridge Development Partners, LLC for Preliminary Major Site Plan Approval and Variance Relief Concerning Property Located at 80 Strykers Road and Designated as Block 99, Lot 6 to be Incomplete and Denying the Application without Prejudice for Lack of Jurisdiction.

Chairman VanVliet – Again, Mr. Bryce, would you review that for us, please?

Attorney Bryce – Certainly, that particular resolution is also meant to not only encapsulate the determination that was made by the Board, at the last hearing, but also to resolve the issue of regarding jurisdiction. If the Board does recall, both the Board Planner and the Board Engineer examined the plans that were submitted and the FAR, as determined by our Board professionals, were in excess of what is permitted in the zone. As you will recall, some discussion about that during the last hearing, and I think that the Board indicated and agreed that it does not have the jurisdiction to grant relief from the FAR because that is reserved for the Zoning Board of Adjustment and, therefore, jurisdiction is not proper before the Planning Board as far as FAR, so, just as a technicality more, so, than anything else under the Municipal Land Use Law, it constitutes a denial, without prejudice, just for lack of jurisdiction.

Chairman VanVliet - Thank you. Do the Board members have any questions or comments on this resolution? Hearing none, I will call for a motion to approve the resolution.

Mayor Mengucci – I'll make that motion.

Member Coyle – I'll second it.

Chairman VanVliet – Roll call Beth, please.

AYES: Members Clymer, Coyle, Pryor, Samson, Weeks, Mayor Mengucci, Chairman VanVliet.

NAYS: None

Chairman VanVliet - Thank you very much. That's all the Old Business we have. Basically, all the business we have for the Board this evening. At this point, I will call for public comment. Is there is anyone out there who have your hands raised? Hearing none, before we adjourn the meeting, I just want to tell everybody that we will have an Executive Session after we close this meeting and we ask the public to be removed or I have a note here from our Webmaster indicating that to remove any of our visitors, the public, before we get into Executive Session. So, that all being stated, I ask Board members and professionals to stay on line and I'll call for a motion to adjourn.

Attorney Bryce – Actually, Chairman, how that should go, there should be a motion to go into Executive Session and then once the Executive Session is then complete, we'll have a motion to go back into public and then once you're back in public, then you can adjourn the meeting. Mr. Peck's raising his hand.

Chairman VanVliet – Mr. Peck.

Attorney Peck - Thank you, Mr. Chairman. Will the Board be taking any action after the Executive Session?

Chairman VanVliet - There will be no action after the Executive Session.

Attorney Peck – Thank you very much.

Attorney Bryce – But, we will be coming back out into the public.

Chairman VanVliet – Into the public session.

Attorney Peck – And, how do we know how to come back in?

Attorney Bryce – I believe the Webmaster has the ability to put people, who are not part of the Board, into a separate room.

Attorney Peck - That would be great.

Chairman VanVliet - Is the Webmaster on?

Secretary Dilts - I'm going to text her when we're going into Executive.

Attorney Bryce Well, you can text her now and she should put people in, the non-Board members, nonprofessionals, into a separate room.

Secretary Dilts – I will let you know when she responds to me.

Attorney Bryce – That’s fine.

Chairman VanVliet – Beth, I have a note on an email, Lori sent me and said her son Nick will be running it; she has a Freeholder Board meeting tonight.

Secretary Dilts – Yeah, and then she did text me and said to tell her when ready to go into Executive. She acknowledged him and told me to do that.

Attorney Peck - Well, I guess what we’re wondering if there is going to be any substantive discussion after? I understand when you come out of Executive, you have to reopen to public to adjourn the meeting and if that’s all that’s going to happen, then you don’t have to, I think, you know, belabor the point, but if there is going to be some substantive discussion, we do have an interest in the topics that are being discussed in Executive and we would like to hear them, but if there is not, there is no reason to stick around.

Attorney Bryce - The only reason we are going into Executive, as far as, and it was my request, was to inform the Board as to the status of the litigation. We’re named defendant in one of them. The Board just has to know what’s out there. There is really going to be no substantive discussion. I’m not handling the litigation. It’s really just kind of telling the Board what’s going on, and then we are going to come out. I can assure you there will be no substantive discussion or action that I anticipate will occur during or after Executive Session, but by all means, if there is anybody else from the public, I don’t want them to feel as if they can’t stay and then see the Board come out and then actually adjourn cause that’s their right under the Open Public Meeting Act. So, you know, I, can have, as officer of the court, I can tell you that no, we’re not going to take any formal action. There will be no action or substantive discussion regarding any application, any application actually during the Executive Session or after.

Attorney Peck – Okay, thank you. I appreciate you’re being forthright.

Attorney Bryce - Not a problem.

Chairman VanVliet - Beth, did you get in touch with Lori?

Secretary Dilts – No, she’s not answering me, so, I’m just going to move away and call her on the phone

Attorney Bryce – Chairman, it’s really not that critical we have the Executive Session. There is nothing the Board needs to do at this point in time. It’s just for the satisfaction of the Board members to be informed of the litigation. I’ll leave it to you.

Chairman VanVliet - Do you feel comfortable with just you giving us the information, what we need to know about the lawsuit. We’re going to take no action on anything anyway? So, do you want to just continue the meeting and you inform us of what is going?

Attorney Bryce – No, that would be inappropriate for me to do that during an open session. I don’t think the municipal attorney would like me to do it that way, so, but again, there is nothing critical, as far as timing is concerned, that deals with the Board; anything of that nature. So, I don’t want to unnecessarily burden the Board by waiting to have to go into Executive Session.

It's really more of a propriety just to inform the Board as to what is going on and how it is going on and who is doing what.

Chairman VanVliet – Okay, well, I think we should go into an Executive session give the Board members (inaudible) too much damage done that would have. At this point, I'll ask for a motion to go into Executive Session.

Secretary Dilts – All right, I got Lori on the phone and she is going to get a hold of the person who is hosting and tell them we are ready. So, just another minute Garry. Shall we take a motion then to hold the Executive Session while we are still in the public?

Chairman VanVliet – Somebody made the motion. Who made the motion?

Member Samson – I did, Robert Samson.

Chairman VanVliet - Who seconded it?

Member Coyle - I'll second it.

Chairman VanVliet – Okay, have a roll call Beth, please.

AYES: Members Clymer, Coyle, Pryor, Samson, Weeks, Mayor Mengucci, Chairman VanVliet.

NAYS: None

Resolution

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND THE STATE OF NEW JERSEY AUTHORIZING AN EXECUTIVE SESSION

WHEREAS, there are presently pending matters to be considered in Executive Session concerning possible matters listed:

Attorney/Client Privilege – Litigation Matters – Three Lawsuits

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Lopatcong, County of Warren and the State of New Jersey that the Planning Board is authorized to hold an Executive Session.

BE IT FURTHER RESOLVED that the Council of the Township of Lopatcong will make said matters public within approximately 30 days of said meeting or until such a time as confidentiality of the matters is no longer required.

CERTIFICATION

I, Margaret B. Dilts, Planning Board Secretary, of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Planning Board at a Meeting held on Wednesday, February 24, 2021.

Margaret B. Dilts,
Secretary

Chairman VanVliet - All right now we're just waiting for the Webmaster to put us into Executive Session and eliminate the public.

Attorney Bryce - Sorry about that, I dropped off for a bit there.

Chairman VanVliet – Still waiting for the Webmaster to

Attorney Bryce – Okay.

Secretary Dilts – All right, Lori's instruction is that there are 18 people on and we have to tell them to leave the meeting now and we should see them checkout, Garry.

Chairman VanVliet – Okay, will the public remove themselves. We will be back in regular session after this and you are welcome to rejoin, I believe at that point and will adjourn the meeting at that point. So, if those people would please log off.

Attorney Bryce – Chairman, how about if we tell people they can log back on in five minutes or ten minutes, whatever the Board thinks is appropriate.

Chairman VanVliet - How long would you estimate you would have to take?

Attorney Bryce - Five to ten minutes at most, but then, we will have to adjourn at the ten-minute mark from Executive and let people log back in.

Chairman VanVliet - Okay, let's make it ten minutes. Still see there is Mr. Lanceburg. Ok, how about Coleman P?

Attorney Bryce - He just left.

Chairman VanVliet - How about Coleman P?

Secretary Dilts - That's Brian Weeks. Who is Who is 507-7496?

Member Clymer – That's me Beth.

Secretary Dilts – Okay Earl.

Chairman VanVliet - I don't see anyone from the public left on, so.

Attorney Bryce – Did you do a motion?

Chairman VanVliet – Okay, barring any further questions of Mr. Bryce, do I hear a motion to go out of Executive Session and back into Regular Session?

Member Pryor – I'll make the motion.

Mayor Mengucci – I'll second it.

Chairman VanVliet - All in favor, Ayes. Any opposed? No abstentions. Motion carried. We will go back into Regular Session.

Chairman VanVliet – Thank you, Mr. Bryce.

Attorney Bryce – Yeah, my pleasure.

Chairman VanVliet - for making it crystal clear.

Attorney Bryce – I don't know if it is. That's just one of the problems with this type of litigation. Right now, the Board is caught in the switches, so.

Secretary Dilts – Okay, we are recording again.

Chairman VanVliet – Okay, we'll give a few minutes for Mr. Peck back audience back. Okay, just for the record, we are out of Executive Session back into the Regular Session. I'll give the public one more chance to have any comments. Hearing none, I'll close the public portion and entertain a motion to adjournment

Member Weeks – I make a motion we adjourn.

Chairman VanVliet - Do I hear a second?

Mayor Mengucci – I'll second it.

Chairman VanVliet - All those in favor signify by saying yes. Any opposed? Any abstentions? Okay, motion carried. Thank you very much for showing up this evening. We'll have the continuing saga.

Attorney Bryce - See you next month.

Respectfully submitted,

Margaret B. Dilts
Planning Board Secretary