

BOROUGH OF GIBBSBORO
PLANNING/ZONING BOARD MINUTES
December 8, 2020
7:00 P.M.

Meeting called to order at 7:00 P.M.

Secretary Troxel read the Opening Statement: “All the notice requirements of the Open Public Meeting Act have been complied with in full”.

ROLL CALL

Present:

Chairwoman LuAnn Watson
Vice Chairman Councilman Jack Flynn
Mayor Edward G. Campbell
Mr. Dennis Deichert
Ms. Barbara Gellura
Mr. Michael Kelly
Mrs. Susan Croll
Mr. Barry Rothberg
Mr. John Ritz

Absent:

Professionals: Solicitor, Donald S. Ryan
Engineer, Gregory Fusco
Planner, Brian Slaugh

RESOLUTIONS

PB2020-12-26 RESOLUTION GRANTING A CERTIFICATE OF APPROPRIATENESS TO JOE WERNER FOR THE REPLACEMENT OF A GARAGE AT THE PREMISES LOCATED AT BLOCK 58.01, LOT 9.02, A.K.A. 68 WEST CLEMENTON ROAD, GIBBSBORO, NEW JERSEY

PB2020-12-27 RESOLUTION GRANTING A CERTIFICATE OF APPROPRIATENESS TO DENNIS DEICHERT FOR THE REPLACEMENT OF A FENCE AT THE PREMISES LOCATED AT BLOCK 58.01, LOT 8.01, A.K.A. 54 WEST CLEMENTON ROAD, GIBBSBORO, NEW JERSEY

Approval of these resolutions will be moved to the January agenda.

OLD BUSINESS None

NEW BUSINESS

Mr. Ryan swears in Mr. Fusco and Mr. Slaugh in preparation for their testimony.

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1. APPEAL DECISION OF ZONING OFFICIAL FOR INSTALLATION OF A PATIO IN AN R-40 ZONE (PB2020-28)

Applicant: Kevin and Megan Doherty
Project: Paver Patio & Pavilion
Address: Block 18.06, Lot 3
6 Bedford Court
Taxes: Current
Fee/Escrow: NA

Motion to reverse the decision of the Zoning Official Mrs. Croll, second Mr. Deichert

Poll: L.W. Aye J.F. Aye E.C. Aye D.D. Aye B.G. Aye M.K. Aye S.C. Aye

It was suggested that the ordinance be reviewed and updated to offer more clarity regarding patios in order to better serve the residents.

2. EMERGENCY CERTIFICATE OF APPROPRIATENESS (PB2020-29)

Applicant: Michael MacFerren
Project: Certificate of Appropriateness – Fence Replacement
Address: Block 3, Lot 3.02
3 Haddon Avenue
Taxes: Current
Fee/Escrow: NA

Mr. Ryan swears in Mr. MacFerren. Mr. MacFerren stated that he would like to replace an existing chain link fence that was damaged in a motor vehicle accident with a white vinyl picket fence. Both fences are four feet in height.

Motion to approve Mrs. Croll, second Ms. Gellura

Poll: L.W. Abstain J.F. Aye E.C. Aye D.D. Aye B.G. Aye M.K. Aye S.C. Aye

3. BRANDYWINE REALTY TRUST (PB2020-23)

Applicant: Brandywine Operating Partnership, L.P.
Silver Lake Townhomes
Project: Amended Preliminary Major Site Plan & Final Major Subdivision
Address: Block 7.04, Lots 16.01, 16.05, 16.06, 16.08, 19.01, 19.03 & 19.05;
Block 8.01, Lots 3.01, 3.03, 4 & 5; Block 10, Lot 2
Taxes: Current
Fee/Escrow: \$200/\$1700

Fire Inspector and Fire Chief review letter, dated 11/9/20
Planner review letter, dated 11/10/20

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Engineer review letter, dated 12/4/20

Ms. Watson recused herself from the remainder of the meeting.

Mr. Ryan polled the remaining members of the Board to confirm that they had read the memo he circulated prior to the November meeting regarding proper procedure for the evening's hearing.

Mr. Serlin, the attorney representing Brandywine, stated that the applicant was seeking amended final Site Plan and final Subdivision approval, and that they intended to return in February regarding the parking lot.

Mr. Ryan swears in Mr. Anthony Ziccardi and Mr. Edward Brady.

Subdivision:

Mr. Ryan stated that the prior approval was subject to the terms of the Developer's Agreement and that the changes sought were subject to the more recent First Amendment to the Developer's Agreement. Mr. Brady testified that the plans submitted were in compliance with the recommendations made by the Planning Board professionals. Mr. Ryan confirmed that necessary easements will be provided in the Final Site Plan approval.

Mr. Mitch Brown, 18 Troth Avenue, appeared as a member of the public and was sworn in by Mr. Ryan. Mr. Brown inquired about fencing between Phase I townhouses and the properties on Troth Avenue as well as how lighting in Phase I might impact existing properties in the vicinity.

Motion to grant Final Major Subdivision Mr. Deichert, second Mrs. Croll

Poll: L.W. Recused J.F. Aye E.C. Aye D.D. Aye B.G. Aye M.K. Aye S.C. Aye
B.R. Aye

Site Plan:

Mayor Campbell recused himself from this portion of the meeting.

Mr. Ryan listed the conditions to be modified from the previous resolution (PB2019-1-09) granting preliminary Site Plan approval: #1, #2, #3, #5, #7, #8, and #15. He also noted that satisfying the concerns itemized by the Fire Commission would be a condition, as would the vacation of York Road.

Mr. Brady testified that he is working with Mr. Craig Fallstick, Gibbsboro Fire Official, to address the concerns of the Fire Commission.

Mr. Slaugh discussed the development signs for the properties, which will be curved brick walls at each entrance with black tin lettering – "Silver Lake." He stipulated that Brandywine's team must work with his office on landscaping, and that bollards must match the Borough standard. He also noted that Phase I requires consolidation of property by deed as a condition of approval.

An additional condition of approval is that the applicant to return to the Board with the design of the park, including the permanent parking lot design. Mr. Serlin stated that the design would be submitted for the Board to review in February.

Mr. Ryan stated that conditions included the design for the park and parking lot, easements, compliance with the letter from the Fire Commission, and a lighting plan. All approval is also subject to COA as well as other necessary Government approval.

Vice Chairman Flynn noted that there were some questions regarding the cost of the design for the park. Mr. Slaugh stated that those questions had not yet been resolved with Brandywine.

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The proposed seven parallel parking spots on Haddon Avenue are intended to have a traffic calming effect. Questions about safety were raised by Ms. Gellura because of the current speed of drivers turning from Clementon Road onto Haddon Avenue. Mr. Deichert noted that the additional parking would benefit both current and future residents of that part of town and stated his belief that safety concerns had been adequately addressed. Mr. Slaugh pointed out that part of the project’s purpose was to transform the area by giving it a concentration of place in appearance, and that these parking spots were part of that plan.

Mr. Michael MacFerren, 3 Haddon Avenue, expressed his agreement with Ms. Gellura.

Mrs. Croll noted that members of the Home Owner’s Association should be properly notified of their responsibilities. Mr. Ryan stated that the HOA will be established and approved by the Planning Board with advice from the professionals.

Motion to approve amended Preliminary Site Plan and Final Major Site Plan with conditions (design of temporary and permanent parking lot, park, streetscape, cross easements, Letter from Fire Commission, approval of lighting plan, submission of a Cultural Res. Rep., and HOA Agreement) Mr. Deichert, second Mrs. Croll

Poll: L.W. Recused J.F. Aye E.C. Recused D.D. Aye B.G. Aye M.K. Aye S.C. Aye
B.R. Aye J.R. Aye

Motion to authorize Mr. Ryan to amend the previous resolution Mrs. Croll, second Mr. Rothberg

Poll: L.W. Recused J.F. Aye E.C. Recused D.D. Aye B.G. Aye M.K. Aye S.C. Aye
B.R. Aye J.R. Aye

PB2020-12-30 RESOLUTION GRANTING AMENDED FINAL MAJOR SUBDIVISION APPROVAL WITH CONDITIONS TO BRANDYWINE LIMITED OPERATING PARTNERSHIP, L.P., FOR BLOCK 8.01, LOTS 3.01, 3.03, 4 AND 5

On December 8, 2020, the Borough of Gibbsboro Planning Board held a virtual public hearing at which time the following members were present:

- LuAnn Watson, Chairperson (Recused)
- Ed Campbell, Mayor
- Jack Flynn, Councilman
- Susan Croll
- Barbara Gellura
- Barry Rothberg
- John Ritz
- Michael Kelly
- Dennis Deichert

The following were also virtually present at the meeting:

- Donald S. Ryan, Planning Board Attorney
- Amy C. Troxel, Planning Board Secretary

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Greg Fusco, Planning Board Engineer
Brian Slaugh, Planning Board Planner

SUBJECT

Brandywine Limited Operating Partnership, L.P. (Brandywine) received final major subdivision approval from the Borough of Gibbsboro Planning Board (Planning Board) on January 29, 2019, for Block 8.01, Lots 3.01, 3.03 and 5, which approval was memorialized by resolution (Final Major Subdivision Memorializing Resolution) adopted on March 12, 2019, Resolution 2019PB-3-08.

Since the granting of the aforementioned approval, the Borough, through its elected officials and professional staff, and Brandywine, have engaged in extensive discussions as to how best to satisfy the numerous conditions imposed by the terms of the Developer's Agreement dated October 11, 2017, and the aforementioned Resolution. As a result of those discussions, the Borough Council, Planning Board and Brandywine have executed an Amended Developer's Agreement dated July 10, 2020.

The Final Major Subdivision Memorializing Resolution dated March 2019 included as a condition of approval Condition No. 10, "subject to preliminary and final major site plan approval," and Condition No. 12, made the approval "subject to the terms and conditions of the Developer's Agreement dated October 11, 2017," which conditions need to be modified to comport with the Amended Developer's Agreement.

Brandywine has applied to the Planning Board to amend the conditions in Resolution 2019PB-3-08 for Final Major Subdivision Approval.

FINDINGS OF FACT AND CONCLUSIONS

1. The applicant has provided proper notice of the hearing in accordance with N.J.S.A. 40:55D-12.
2. The Planning Board has jurisdiction to Amend Final Subdivision approval under New Jersey case law Jen Stary Dom Pip v. Mauro, 16 N.J. 16 (2013).
3. The Planning Board finds that, based upon the testimony of Edward Brady, the applicant's Planner/Engineer and the testimony of Planning Board Planner Brian Slaugh and Planning Board Engineer Greg Fusco, that prior Resolution of the Planning Board 2019 PB-3-08 should be amended as follows (1) modified to delete granting of final major site plan as a condition of approval of Final Major Subdivision and (2) to provide that the condition of approval of Final Major Subdivision is subject to the Developer's Agreement dated October 11, 2017 as amended by the First Amendment to the Developer's Agreement dated July 10, 2020.
4. With the Planning Board adoption of the foregoing modifications to the Memorializing Resolution Granting Final Major Subdivision Approval, Brandywine may proceed to perfect final subdivision approval by recording a plan approved by the Borough Engineer and signed by the Planning Board Chairperson and Secretary, and proceed to seek Final Major Site Plan Approval in accordance with the terms of the Memorializing Resolution Granting Amended Final Major Subdivision Approval, the Developer's Agreement dated October 11, 2017 and Amended Developer's Agreement dated July 10, 2020.

RESOLUTION

On the Motion o Jack Flynn, seconded by Susan Croll, the Planning Board members voted to:

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1. Amend the Memorializing Resolution 2019PB-3-08 Granting Final Major Subdivision Approval to modify conditions 10 and 12, to enable Brandywine to proceed to record the approved subdivision plan and enable the Borough and Brandywine to fulfill their respective obligations under the Developer's Agreement dated October 11, 2017 and the Amended Developer's Agreement dated July 10, 2020.

2. Authorized the Planning Board Solicitor to prepare a Resolution Memorializing this Action.

3. The obligations of Brandywine set forth in paragraph 5.4 of the Developer's Agreement dated October 11, 2017 are confirmed and must be satisfied.

This resolution was passed by a 8 to 0 vote of the Gibbsboro Planning Board at a meeting held on December 8, 2020 and memorialized at the same meeting held on December 8, 2020.

ROLL CALL VOTE

| | |
|-----------------|-----|
| Ed Campbell | Yes |
| Jack Flynn | Yes |
| Susan Croll | Yes |
| Barbara Gellura | Yes |
| Barry Rothberg | Yes |
| John Ritz | Yes |
| Michael Kelly | Yes |
| Dennis Deichert | Yes |

PB2020-12-31 RESOLUTION GRANTING AMENDED PRELIMINARY MAJOR SITE PLAN APPROVAL AND FINAL MAJOR SITE PLAN WITH CONDITIONS FOR BRANDYWINE OPERATING PARTNERSHIP, L.P. FOR BLOCK 7.04, LOTS 16.01, 16.05, 16.06, 16.08, 19.01, 19.03 AND 19.05; BLOCK 8.01, LOTS 3.01, 3.03, 4 AND 5; BLOCK 10, LOT 2

On December 8, 2020, the Borough of Gibbsboro Planning Board held a virtual public hearing at which time the following members were present:

Ed Campbell, Mayor (recused)
Jack Flynn, Councilman
Susan Croll
Barbara Gellura
Barry Rothberg
John Ritz
Michael Kelly
Dennis Deichert

The following were also virtually present at the meeting:

Donald S. Ryan, Planning Board Attorney
Amy C. Troxel, Planning Board Secretary
Greg Fusco, Planning Board Engineer
Brian Slaugh, Planning Board Planner

SUBJECT

Brandywine Limited Operating Partnership, L.P. (“Brandywine”) received final major subdivision approval from the Borough of Gibbsboro Planning Board (“Planning Board”) on January 29, 2019 for Block 8.01, Lots 3.01, 3.03 and 5, which approval was memorialized by resolution (“Final Major Subdivision Memorializing Resolution”) adopted on March 12, 2019; and

The Planning Board has modified the Final Major Subdivision Approval by a Resolution 2020PB-12-30, dated December 8, 2020; and

The Planning Board granted Brandywine preliminary major site plan approval on January 29, 2019 for Block 7.04, Lots 16.01, 16.05, 16.06, 16.08, 19.01, 19.03 and 19.05; Block 8.01, Lots 3.01, 3.03, 4 and 5; Block 10. Lot 2, which approval was memorialized by Resolution 2019PB-3-09 (“Preliminary Major Site Plan Memorializing Resolution”) adopted on March 12, 2019.

Brandywine now seeks to Amend its Preliminary Major Site Plan Approval and to obtain Final Major Site Plan Approval.

FINDINGS OF FACT AND CONCLUSIONS

1. Brandywine has provided proper notice of the hearing in accordance with N.J.S.A. 40:55D-12.
2. The Planning Board has jurisdiction to Amend Preliminary Site Plan approvals and to grant Final Major Site Plan Approval in accordance with the MLUL and case law.
3. The Planning Board finds that, after granting of the aforementioned approval in 2019, the Borough, through its elected officials and professional staff, and Brandywine, have engaged in extensive discussions as to how best to satisfy the numerous conditions imposed by the Developer’s Agreement and the aforementioned Resolution, and as a result of these discussions the Borough and Brandywine have executed a First Amendment to the Developer’s Agreement dated July 10, 2020.
4. At the December 8, 2020 virtual hearing, the Planning Board heard testimony from Edward Brady, PE, PP for the applicant and testimony from Brian Slaugh, Planning Board Planner and Greg Fusco, Planning Board Engineer.
5. The Planning Board has received and reviewed the following Exhibits prepared by Taylor, Wiseman & Taylor:
 - A. Major Subdivision Plan dated 12/1/2017, revised 10/15/2020;
 - B. Final Site Plan – Phase I dated 12/1/2017, revised 11/30/2020;
 - C. Final Site Plan – Phase II dated 12/1/2017, revised 11/30/2020;
 - D. Final Site Plan – Phase III dated 12/1/2017, revised 11/30/2020.
6. The Planning Board has considered the review letters of its professionals, Brian Slaugh dated 11/10/2020 and Greg Fusco dated 11/7/2020, revised 12/4/2020.
7. One member of the public Mitchell Brown testified with respect to concerns about landscaping buffers, parking along Haddon Avenue and lighting on Phase I. Also, Michael MacFerren testified with respect to parking on Haddon Avenue.
8. Based upon the evidence presented, the Planning Board finds that the following conditions set forth in the Preliminary Major Site Plan Memorializing Resolution 2019 BP-3-09 shall be modified to comport with the First Amendment to the Developer’s Agreement dated July 10, 2020:
 - 1) Paragraph 1 Conditions shall be amended to state: Subject to the terms of the Developer’s Agreement dated October 11, 2017 among the Borough of Gibbsboro, the Gibbsboro Planning Board and Brandywine Operating Partnership, L.P.as Amended by The First Amendment to the Developers Agreement dated July 10, 2020.

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- 2) Conditions 2, 3, 5, 7, 8, 14 and 15 in Resolution 2019PB-09 in the Agreement shall be deleted and replaced with the following:
 - a. Instead of Easement Agreements or Declarations to address Temporary and Permanent Parking, Brandywine shall submit revised plans, which must be approved by the Planning Board in an application to be filed within ninety (90) days;
 - b. The Agreements of Sale between Brandywine and the Borough of Gibbsboro shall be amended in accordance with paragraphs 2 and 5 (a, b, c & d) of the First Amendment to Developer's Agreement dated July 10, 2020;
 - c. The obligation of Brandywine with respect to stormwater management and stormwater basin shall be in accordance with Sections 5 and 12 of the First Amendment to Developer's Agreement dated July 10, 2020;
 - d. The obligation of Brandywine with respect to the sanitary sewer collection system shall be in accordance with Section 5.5 of the First Amendment to the Developer's Agreement dated July 10, 2020;
 - e. The obligation of Brandywine and agreement of the Borough with respect to the bituminous path, boardwalk and access easements shall be in accordance with Section 5.3(e) of the First Amendment to the Developer's Agreement dated July 10, 2020;
 - f. The respective obligations of the Borough of Gibbsboro, Planning Board and Brandywine with respect to the vacation of York Avenue shall be in accordance with Section 5.13 of the First Amendment to the Developer's Agreement dated July 10, 2020;
 - g. The Planning Board approves the revised conditions as set forth in the First Amendment to the Developer's Agreement dated July 10, 2020, provided the following additional conditions are complied with:
- 3) Additional conditions of Final Major Site Plan Approval:
 - a. Within ninety (90) days, Brandywine shall submit to the Planning Board detailed revised plans for temporary parking, park, permanent parking, park design and streetscape details along Clementon-Gibbsboro Road;
 - b. Brandywine must obtain a Certificate of Appropriateness prior to the issuance of building permits;
 - c. Brandywine shall comply with the Cultural Resources Report recommendation of the Borough Planner;
 - d. Brandywine shall submit revised lighting details which must be approved by the Planning Board Engineer;
 - e. Brandywine shall submit the Homeowner's Association documentation for approval by the Planning Board Attorney, Planner and Engineer;
 - f. Brandywine shall comply with the recommendations of the Fire Commissioner as set forth in its letter of November 9, 2020;
 - g. Brandywine shall comply with the recommendations of the Planning Board Engineer in his letter of December 4, 2020 and the letter of the Planner dated November 10, 2020;
 - h. Brandywine shall consolidate the tax lots for the Phase I on the side of Gibbsboro-Clementon Road.
 - i. The obligations of Brandywine set forth in paragraph 5.4 of the Developer's Agreement dated October 11, 2017 are confirmed and must be satisfied.

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- 4) No building permits shall be issued until the foregoing conditions of approval have been satisfied.

RESOLUTION

On the motion of Dennis Deichert, seconded by Susan Croll, the Planning Board members voted to:

- 1. Amend the Memorializing Resolution Granting Preliminary Major Site Plan approval to remove paragraphs 1, 2, 3, 5, 7, 8, 14 and 15 to enable Brandywine to receive for Final Major Site Plan Approval in accordance with the remaining terms of the Memorializing Resolution Granting Preliminary Major Site Plan approval, the Developer’s Agreement and the Amended Developer’s Agreement.
- 2. Authorize the Planning Board Solicitor to prepare a Resolution memorializing the Planning Board Action in accordance with the foregoing.

ROLL CALL VOTE

| | |
|------------------------|-----|
| Jack Flynn, Councilman | Aye |
| Susan Croll | Aye |
| Barbara Gellura | Aye |
| Barry Rothberg | Aye |
| John Ritz | Aye |
| Michael Kelly | Aye |
| Dennis Deichert | Aye |

Mr. Ziccardi thanked the Board for their time, consideration, and discernment. Mrs. Croll congratulated all of those who have worked on this project for so long for bringing it to fruition.

Mayor Campbell rejoined the meeting.

MINUTES

Motion to dispense reading and approve the minutes of 11/10/20 Mayor Campbell, second Mrs. Croll

Vote: L.W. Aye J.F. Aye E.C. Aye D.D. Aye B.G. Aye M.K. Aye S.C. Aye

CORRESPONDENCE None

PENDING APPLICATIONS

- 1. HISTORIC PRESERVATION (PB2020-11-24/PB2020-30)

| | |
|------------|--|
| Applicant: | Mike and Delia Mahadas |
| Project: | Amended Certificate of Appropriateness – Fence |
| Address: | Block 18.05, Lot 36 31 Eastwick Drive |

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Taxes: Current
Fee/Escrow: NA

The khaki fence that was approved at the October 20, 2020 meeting is on back order. The amended application is for a 6-foot cedar wood fence.

Motion to approve contingent upon applicant providing a photograph of the cedar wood fence Mayor Campbell, second Mr. Deichert

Poll: L.W. Recused J.F. Aye E.C. Aye D.D. Aye B.G. Aye M.K. Aye S.C. Abstain
B.R. Aye

INFORMATIONAL

1. Next regular Planning Board meeting is the Reorganization Meeting, scheduled for Tuesday, January 12, 2021 at 7:00 P.M.

PUBLIC COMMENTS

Mayor Campbell thanked the Board and professionals for their service.

ADJOURNMENT

Motion to adjourn at 9:36 P.M. Mayor Campbell, second Mr. Deichert

Vote: L.W. Recused J.F. Aye E.C. Aye D.D. Aye B.G. Aye M.K. Aye S.C. Aye
B.R. Aye

AMY C. TROXEL, Secretary