



BOROUGH OF SOUTH RIVER
ZONING BOARD OF ADJUSTMENTS
REORGANIZATION & REGULAR MEETING MINUTES

Tuesday, January 25, 2022 – 7:30 p.m. Location: Virtual Meeting

Public Announcement – Open Public Meetings Act

The Reorganization and Regular Meeting of the South River Zoning Board of Adjustment was held on January 25, 2022 commencing at 7:00 pm by virtual meeting by Zoom.

The Reorganization & Regular meeting was called to order by James Kinneally, Esq. at 7:00 pm followed by the Pledge of Allegiance. He recited the following announcement, *“In compliance with Chapter 231 of Public Laws of 1975, adequate notice of this meeting was given by way of Annual Notice filed with the Borough Clerk, the Home News Tribune, The Sentinel and posted and posted in the window of Borough of South River Municipal Building. Be further advised that the Zoning Board of Adjustments for the Borough of South River will hold its regular meeting on (4th Tuesday of every month), at 7:00 p.m. at the Criminal Justice Center, 61 Main Street, 2nd Level unless stated otherwise. Meetings are open to the public.”* The Zoning Board of Adjustments may take formal action at this meeting.

ROLL CALL

Present: Robert Bodak, Ruell Brown, Michael Clancy, John Frost, Nick Giannakopoulos, Jeremiah O’Grady (AL 7:30 pm), Edward Trygar, Richard Rocha (A1), Sandra Adelino (A2)

Absent: None

Also Present: James Kinneally, Attorney; Bruce Koch, Engineer; Todd Bletcher, Borough Planner; Arthur Londensky, Administrator

OATHS

Board Members, Brown, Frost and Rocha, were sworn in prior to the start of the meeting.

REORGANIZATIONAL MEETING MINUTES

Election Of The Board Chair

Nominations were opened to the floor for Chairman of the Zoning Board of Adjustment for 2022.

Mr. Giannakopoulos nominated Robert Bodak as Chairman, seconded by Mr. Frost. There were no other nominations, and the nominations were closed.

The motion to elect Robert Bodak as Chairman was first made by Mr. Giannakopoulos, seconded by Mr. Frost

Roll Call in Favor: Brown, Clancy, Frost, Giannakopoulos, Trygar, Rocha, Adelino, Bodak

Absent: O’Grady

Abstain: None

Chairman Bodak conducted the remainder of the meeting.

Election Of The Board Vice Chair

Nominations were opened to the floor for Vice Chairman of the Zoning Board of Adjustment for 2022.

Mr. Frost nominated Nick Giannakopoulos. There were no other nominations, and the nominations were closed.



The motion to elect Nick Giannakopoulos as the Vice Chairman was first moved by Mr. Frost, seconded by Mr. Trygar

Roll Call in Favor: Brown, Clancy, Frost, Giannakopoulos, Trygar, Rocha, Adelino, Bodak

Absent: O’Grady

Abstain: None

Appointment Of Professionals by Resolution:

Board had no objections to resolutions. The following Resolutions were adopted by Consent Agenda:

- 1) Appointment of Board Attorney
- 2) Appointment of Board Engineer
- 3) Appointment of Board Planner
- 4) Appointment of Board Secretary
- 5) Approval of Official Newspaper
- 6) Approval of 2022 Meeting Dates

The motion to adopt Resolutions 1–6 by Consent Agenda was first moved by Mr. Clancy, seconded by Mr. Brown

Roll Call in Favor: Brown, Clancy, Frost, Giannakopoulos, Trygar, Rocha, Adelino, Bodak

Absent: O’Grady

Abstain: None

Motion carries

Reorganizational Meeting ended at 7:20 pm and convened into the regular meeting.

REGULAR MEETING MINUTES

Approval Of The Minutes – November 23, 2021

The motion to approve Meeting Minutes dated November 23, 2021 was first moved by Mr. Giannakopoulos, seconded by Mr. Frost, all in favor by voice vote.

Motion carries

Resolutions

File ZB–2021–011, Terralheiro

13 Mako Court Block: 395 Lot: 16.01

The motion to adopt resolution *File ZB–2021–011, Terralheiro* was first moved by Mr. Trygar seconded by Mr. Giannakopoulos

Roll call with eligibility: Brown, Clancy, Frost, Giannakopoulos, Trygar, Rocha, Bodak

Absent: O’Grady

Abstained: Adelino

Motion carries

File ZB–2021–012, Cueva

45 Lexington Avenue Block: 190 Lot: 2

The motion to adopt resolution *File ZB–2021–012, Cueva* was first moved by Mr. Giannakopoulos, seconded by Mr. Brown

Roll call with eligibility: Brown, Clancy, Frost, Giannakopoulos, Trygar, Rocha, Bodak

Absent: O’Grady

Abstained: Adelino

Motion carries



Completeness Hearings – None

Public Hearings:

File ZB–2021–013, Grego

33 Whitehead Avenue Block: 299 Lot: 10

Application for bulk and use variance for third apartment, minimum front yard and parking requirements.

Attorney has requested the application to be carried to March 22, 2022 meeting.

The motion to carry *File ZB–2021–013, Grego* to the regular meeting scheduled for March 22, 2022 was first moved by Mr. Giannakopoulos seconded by Ms. Adelino, all in favor by voice vote. Applicant to provide legal notice.

File ZB–2021–014, Ria Mar

25 & 27 Whitehead Avenue Block: 299 Lots: 6, 7, 8, 01, 9 & 16

Application to for bulk and use variances to reduce catering and construct 17 residential units in B–1 and R–75 zones.

Attorney has requested the application to be carried to special meeting in March 2022 or to the regular meeting on April 26, 2022. Chair will discuss with Board.

Chair Bodak explained that the attorney will be out of town over the next couple of months and feel the testimony would be best heard live. They asked Chairman Bodak if we would consider a special meeting for their application. Mr. Kinneally did not hear from counsel; he asked if we knew when we would return to live meetings. Mr. Londensky responded that the Council stated no live meetings will be held in February; the determination is being reviewed on a month to month basis. Mr. Clancy opined that with the uncertainty, we should schedule their meeting for the regular meeting scheduled in April. This Board has not scheduled special meetings at applicant’s request. Chairman Bodak explained that the applicant would prefer to have a live meeting so presentations can be seen and better understood by all the Board and public. They anticipate a large number of members from the public interested in participating in the meeting. There is no deadline for this Board to meet since the applicant requested the application to be carried.

The motion to carry *File ZB–2021–014, Ria Mar* to the regular meeting scheduled for April 26, 2022 was first moved by Mr. Clancy seconded by Ms. Adelino, all in favor by voice vote. Applicant to provide legal notice.

Board Business

Annual Report Review

The Board reviewed the drafted annual report. There were some discussions on variance requirements for those homeowners who have to change their gravel drive way to black top or concrete, they would be required to get a variance. Mr. Londensky explained that the Mayor and Council passed an ordinance in 2021 that existing driveways can be right up to their property line within current 20’ or current width of driveway. If they go over 20’ and were less than 20’ before, we will encourage them to use Belgium bricks or something as a boarder.

Mr. Frost suggested that we should consider 40’ or 50’ zone; there are many small lots in town. Mr. Trygar agrees with Mr. Giannakopoulos and Mr. Frost; his neighborhood lots are smaller. He asked for the bulk variance meaning. Mr. Kinneally explained; either lot is too small for requirements of the zone or house does not meet the setbacks in the zone. Chairman Bodak asked Mr. Bletcher if such a zone is possible; he responded that this is an area that needs to be discussed. Direction from the Council and



Planning Board, both Master Plan and Zoning Ordinance was to enact a “down zoning” because they did not want to establish a R40 zone so we would not have additional density. South River is the second densest community in Middlesex County behind Perth Amboy. Per Mr. Clancy for clarification; this is to prevent subdivision of one larger lot into smaller ones. If an existing home on a 40’x100’ lot is eliminated for some reason, if the foundation remains, owner can build only on existing foundation without issues. “*Act of God*” clause allows you to rebuild your house with same foundation. Mr. Frost asked in the commercial zone, if owner wants to change façade, would this trigger a need for variance? Mr. Kinneally responded that a façade change might trigger a site plan application but not a variance; he does not believe a door or window change would not. Per Mr. Bletcher, the recent rule changes from the Dept. of Consumer Affairs (DCA) , owner can do what they consider “ordinary work” which means changes like for like work; no permits are required. Mr. Londensky explained how the Rehabilitation Subcode works making it easier for applicants to do work on their property. There was discussion on fees.

Flood Plane Area

There was discussion on the Flood Plane Area in town. Mr. Bletcher explained Community Rating System (CRS) directed by FEMA after the Sandy hurricane. South River was asked to plot on map areas that made flood insurance claims from Sandy and previous super storms prior to Sandy. Repetitive Flood Hazard Zone report was created. The “*Strategic Recovery Planning Report*” was an amendment to the Master Plan followed by a second report “*Flood Plane Neighborhood Acquisition Plan*”; Mr. Bletcher explained the policies to the plan. The Army Corps Project is no longer occurring. Master Plan states that future houses should not be built in the *Repetitive Eminent Flood Loss Area*; zoning ordinance does not prohibit it. Master Plan allows existing properties to be elevated at their cost, not to construct new elevated homes. Bignell Consulting created *Physical Impact Loss Report* which explains the potential loss in ratables.

Density

Chairman Bodak stated that there has been a number of applications and/or developers interested in constructing housing in town. Mr. Bletcher explained the density in R75 zone; it is approximate 5.8 dwellings units per acre. The Borough is in discussions for the redevelopment of Main Street.

No revisions were made to the Annual Report.

Polling by Application Discussion

This issue was discussed at the October 2021 meeting. Mr. Kinneally stated that if an applicant requests a poll, this Board is not required to hold the poll if not comfortable. He stated that polling can lead to a compromise by the applicant; if they see that they would not get the required votes, they may offer to revise plans to the satisfaction of the Board. Per Mr. Kinneally, if the resolution has not been memorialized, the applicant can ask their hearing to be re-opened with new plans. Once the resolution is adopted, the applicant would have to reapply and pay all required fees. Mr. Frost does not have an issue with being polled; gives the applicant the advantage of time and money to make it easier for them; he opined it would benefit the applicant. The more money spent during the application stages, comes out their overall project budget. Mr. O’Grady stated that polling does not occur often and does not see a problem. He agreed with Mr. Frost, it helps the applicant and it gives the opportunity to revise their application. Chairman Bodak stated that in the 15 years on this Board, he does not recall polling occurring until 2021. Per Mr. Clancy, we are a consistent Board, the applicants are aware of our process. Mr. Kinneally stated that if a Board member is not comfortable with the polling, s/he can abstain. The voting can be done on a case by case basis. Mr. Trygar stated that we have adopted procedures and follow the Robert Rules of Order, which stated that a poll vote is meaningless. He opined we should stay



within procedures we agreed to and to follow the Robert Rules of Order. If the applicant requests the resolution vote be tabled to give them the chance to make revisions and return, the applicant would have to provide legal notice for the hearing. Chairman Bodak asked the Board what they would like to do. Mr. Trygar brought up the procedures and the Robert Rules of Order previously agreed upon. Per Mr. Kinneally, the straw vote is not a vote, but gives the applicant the opportunity to see where the Board is going which would allow them to consider revising their plans acceptable to the Board. Mr. Kinneally's recommendation is to poll on case by case.

If asked for a poll, the Board has chosen to poll the Board if they want to have the poll vote, then vote; based on case by case situation. Per Mr. Trygar, it would have to be unanimous vote, not simple majority. Board members can vote or abstain.

Mr. Frost asked if the application process can include that if their application is denied that they can return before the resolution is memorialized can be included the application package. Per Mr. Koch, he stated that the applicant will come with the most aggressive application possible and if denied, they will come in with another plan and we will hear them again.

This issue will be further discussed at the February meeting.

Announcement

Chairman Bodak reported that the legal notice from East Brunswick, NJ, where there is an application before their Zoning Board to construction a self-storage facility at 710 Old Bridge Turnpike, was sent to members.

Public Session

Chairman Bodak opened the Flood to the public.

Mayor John Krenzel thanked the Board for their continued work. He would like to see both Planning and Zoning Boards be more educated with the zoning laws; seminars and for all members to have a copy of the Cox (Gann) Book. The Planning Board will be working on the Master Plan this year. He would like to find ways to reduce residents' cost to apply for work to be done on their property.

The motion to close the public portion was first moved by Mr. Giannakopoulos, seconded by Mr. O'Grady, all in favor by voice vote.

Adjournment

The motion to adjourn at 8:30 pm was first moved by Mr. O'Grady, seconded by Mr. Brown, all in favor by voice vote.

Respectfully submitted by:

Julie Moy
Zoning Board Recording Secretary