

BOROUGH OF BERLIN
PLANNING BOARD MEETING
March 14th, 2011

Jack Gangluff, Chairman, called the meeting of the Board to order and stated that it was being held in compliance with the "Open Public Meetings Act" and has been duly noticed and published as required by law.

All new members, and reappointed members were sworn in.

ROLL CALL:

Mayor John Armano	Present
Joe Adolf	Present
Councilman Nick Maccaroni	Present
Richard Crain	Present
Daniel MacDonnell	Present
Jack Hall	Present
Bonnie Deery	Present
Carl Canfield	Present
Chairman Jack Gangluff	Present
Ken Clegg	Absent
Dan Pomponio	Present

MINUTES:

A motion to approve the minutes for February 14th , 2011 was made by Carl Canfield and seconded by Joe Adolf. All eligible members voted aye.

RESOLUTIONS:

Case # 09:6-1

Block: 100 Lot: 1, 1.01, 4, 5 and 6

Gate of Heaven Cemetary

191 W. White Horse Pike

Berlin, NJ. 08009

Amended Final Site Plan

A motion to approve the resolution for Gate of Heaven Cemetery was made by Joe Adolf, and seconded by Chairman Jack Gangluff.

ROLL CALL:

Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Joe Adolf	Yes
Jack Hall	Yes
Chairman Jack Gangluff	Yes
Carl Canfield	Yes
Dan Pomponio	Yes

OLD BUSINESS:

Case # 10:5-1

KB Property, LLC/Luciens

81 W. White Horse Pike

Berlin, NJ> 08009

Block: 304 Lot: 1

Minor Site Plan, Bulk Variance/Correspondence

With recommendation from the board Engineer Jim Biegen, and Solicitor Mark Rinaldi the applicant met with both professionals, and have reduced the size of the canopy for the solar panels. Both professionals feel that rather than the applicant come back before the board, this can be handled administratively. Joe Adolf made a motion for the change in plan to be handled administratively, and Dan MacDonnell seconded the motion. All members present voted aye.

NEW BUSINESS:

Case # 09:11-3

Block: 1108 Lot: 1

33 S. White Horse Pike

Berlin, NJ. 08009

Zone: C2

Amended Minor Site Plan

With Bulk and Use Variances

Appearing before the board on behalf of the applicant is Lisa Only from the Law Office of Robert Borbe Esq., also appearing is the applicant Gurvinder Singh. Mr. Singh testified that this application is for a shed to be placed on his gas station property to store accessory stock items.

Ms. Only discussed the letter prepared by Maser Consulting. There are items that are missing from the original site plan application that were required, yet not completed at this time. Ms. Only submitted photos of the existing shed, (exhibit A).

Mr. Biegen from Maser Consulting addressed the striping of the parking lot that has not been completed as per the previously approved site plan. Mr. Singh stated no one parks on that side of the building that is why he did not stripe it. Chairman Gangluff addressed the fact that when the mechanic is in the shop, cars are all over, and the striping was to address that.

The shed doors open forward, and the set backs are noted on the plan. Chairman Gangluff also addressed that a bollard needs to be removed, as Mr. Biegen pointed out interfered with a parking space. Bumper curb would need to be installed as it was indicated on the original approved plan.

Chairman Gangluff addressed the letter from Mr. Biegen. The sidewalk repairs have not been completed; Mr. Singh testified that they would be done. Mr. Biegen added that the most updated plan is dated June 1st, 2010. Chairman Gangluff continued to read off from the previous approved resolution all that Mr. Singh agreed to and has not completed. Mr. Singh agreed to all items from the previous approved resolution will be completed. Ms. Only added that the applicant is seeking approval for the shed, so that Mr. Singh can further clean up the rear of the property, and further comply with the original resolution.

Mr. Adolf mentioned that he is not in favor of approving this application. Over a year ago the applicant has not complied with any part of the resolution that was approved. Mr. Hall also commented that the shed is there now. Councilman Maccaroni mentioned to correspond with the applicant's attorney to avoid negligence on the applicant's part. Mr. Rinaldi suggested that correspondence could come from the Borough to Mr. Rinaldi, to Mr. Borbe's office. Mr. Biegen added that the applicant has a Temporary Certificate of Occupancy, so the Borough still has control with the requirements. With nothing further from the Board, Chairman Gangluff opened this portion up to the public. With no one from the public wishing to speak on this application, Chairman Gangluff closed the public portion, and asked for a motion from the board. Ms. Only spoke with the applicant Mr. Singh, and he asked for a continuance to give him time to complete all the requirements as per the resolution. Mr. MacDonnell made a motion to approve a continuance of the application with 30 days to complete all the requirements of the previous resolution, and Mr. Canfield seconded the motion. Mr. Rinaldi added that the applicant would

not need to re-notice, they will be heard on the April 11th meeting. Mr. Singh agreed to waive the 45 day period for the board to act on this application.

ROLL CALL:

Mayor John Armano	Yes
Joe Adolf	Yes
Councilman Nick Maccaroni	Yes
Richard Crain	Yes
Daniel MacDonnell	Yes
Jack Hall	Yes
Bonnie Deery	Yes
Carl Canfield	Yes
Chairman Jack Gangluff	Yes

Case # 02:5-23

Block: 2100 Lot: 2.21

Chillemi Court

Zoned: R1

Fentell Builders LLC

Chillemi Court

Berlin, NJ. 08009

Amended Final Major Subdivision

Appearing before the board is Jim Fiegenbaum, representing Fentell Builders, LLC. Mr. Fiegenbaum summarized the original subdivision application. In August of 2005, Mr. and Mrs. Asari of 2 Chillemi court purchased their home. 2 to 3 years later, Fentell requested the release of their performance bond, and found that there was a 4ft. wide 250ft. long sidewalk that had not been installed. Mr. Fiegenbaum stated there was no easement recorded, only a 25ft. utility easement, and a 25 ft. proposed buffer in the rear. Fentell is seeking approval to delete the sidewalk. It is not a question of cost, Fentell is willing to contribute the cost of the sidewalk to the town, however, the homeowner will not allow Fentell on their property to install the sidewalk.

Testifying is Martin Fiegenbaum of Fentell Builders LLC. Martin explained that the sidewalk was missed, it was a side note on the grading plan, and he was not aware of any easement. He is

willing to make a contribution of \$2 per square foot, for 250 ft. long sidewalk. Martin stated he called, apologized for the oversight. Martin explained also that he met with Mr. and Mrs. Asare of 2 Chillemi court regarding the issue, and they both expressed that they did not want a sidewalk going through their property, and would not allow anyone to trespass on their property.

Dan Pomponio questioned if any of the owners were aware of the sidewalk, prior to purchase, how else could this have been handled? Mr. Fiegenbaum stated this was purchased from a third party, and in most cases, Fentell would have attended all of the meetings, and we would have been aware as well as Fentell would make a point to disclose everything to the proposed homeowners.

Councilman Maccaroni asked where would the existing 25 foot water line (utility) easement be in relation to the sidewalk? Mr. Fiegenbaum stated typically a trench would be created with an access further down the road if needed. Mr. Biegen stated that his office did a title search, and there is nothing indicated in the title or deed that there is an easement. Mr. Biegen also mentioned that there was a bond in place for the sidewalk at a cost of \$4.50 per square foot. Mr. Adolf asked if any research has been done, or if anyone has any memory as to why this sidewalk was required? Mr. Gangluff summarized to best of his ability to refresh the board's memory. With nothing further from the board, Chairman Gangluff opened this portion of the meeting up to the public.

Appearing from the public is William Earle of 3 Schaffer's Way. Mr. Earle compiled a letter to the board in which he recited voicing that he is in favor of the sidewalk with safety concerns for pedestrian's and he recalls seeing the sidewalk on a large scale model in the office showing the sidewalk. Mr. Earle also feels that this was done just so the builder can make a few dollars profit. They don't care about the community.

Next to appear is Lisa Asare and Kwame Asare of 2 Chillemi Court. Mrs. Asare stated she was one of the first to buy her home in that development. Had she known a sidewalk was going on her property, she would not have chosen this particular lot. She is concerned with the safety of her children. Other neighborhood children walk through the yards, and properties, they are asked to remove themselves. By putting a sidewalk it encourages people to walk through.

Next to appear is Riverol Voltare of 13 Chillemi Court. She feels that the sidewalk would create a safety issue. New Freedom road is a busy road, this sidewalk would create additional traffic, and it isn't safe.

Next to appear is Mike Mrvica, of 18 Chillemi Court. Mr. Mrvica stated in 2003 the meeting minutes state representation of Allan Nickerson regarding the bufferzone of 25ft. where 50 ft. was required. There was no discussion of a sidewalk, and the resolution does not reflect a sidewalk. Mr. Mrvica stated he wanted to live here with the cul-de-sax, and never saw a sidewalk on any plan. There are cars that speed down New Freedom road create a potential problem, and vandalism on the Asare's property would be a potential problem. Mr. Mrvica stated he feels Fentell was upfront and there was no deception.

Next to appear is Trish Sedoni Williams of 6 Chillemi Court. She lives 2 houses down, and would benefit from the sidewalk, however she does not want the sidewalk. She feels it would encourage more traffic. The cul-de-sac creates a safe area for children, there is no fence, and the split in the trees that are supposed to serve as a buffer make the appearance of a path.

Next to appear is Michael Vining of 16 Chillemi Court. He never saw a sidewalk on the plan. In the evening hours he is moving juveniles along, asking them to quiet down, the sidewalk would create a place for loitering, and predators.

Next to appear is Joe Hale of 3 Chillemi Court. Mr. Hale stated he doesn't know if a sidewalk was ever shown on any plan, but he feels it would be too close to the house.

Frank Barbieri appeared before the board, of 103 Washington Avenue. He stated kids always cut through, and it may be best to have 1 safe spot as opposed to several.

Ron Sabatini of 63 Gardens avenue stated he uses that area to walk. A sidewalk should be there, people would walk and ride bikes.

Gary Cohen of 4 Chillemi Court stated he never saw a sidewalk. He does not want the sidewalk as it would promote additional foot traffic into Chillemi Court.

With nothing further from the public, Chairman Gangluff closed the public portion.

Mr. Rinaldi summarized the nature of the application. This is an amended final site plan/subdivision. There is no recorded easement, and at this point it is impossible to enforce the sidewalk as it would be trespassing on the Asare's property. There is also an issue of the 20 foot Utility Easement. There would need to be an arrangement with the Asare's and the builder to resolve this.

Mr. Adolf stated the sidewalk should have been on the final site plan. Councilman Maccaroni stated that he is not happy with Builders that try to get out of things by saying they "missed it". He is not sure if the sidewalk was part of the lawsuit that took place regarding this subdivision. Mr. Adolf made a motion to approve the waiver of the sidewalk requirement of this application, and Bonnie Deery seconded the motion. On roll call all members voted aye.

PRIVELEGE OF THE FLOOR:

None

CORRESPONDENCE:

Township of Berlin Planning Board Agenda

ADJOURNMENT:

With nothing further from the board, Richard Crain made a motion to adjourn the meeting, and Dan MacDonnell seconded the motion. All members voted aye.

Respectfully Submitted,

Deborah Simone

Planning Board Secretary

CC: Stacey DiVello, Finance Department Escrow

Theresa Stagliano, Tax Assessor

Michael DePalma, Construction Official

Bill Behnke, Fire Marshall

Lou DeMarco, Captain, EMS

Paul Miller, Fire Chief

Andrew Simone, Planning Board Chairman Berlin Twp