

**BOROUGH OF BERLIN
PLANNING BOARD MINUTES
December 10th, 2012**

**CAUCUS: 7:00 PM
REGULAR MEETING: 7:30 PM**

CALL TO ORDER:

FLAG SALUTE:

SUNSHINE STATEMENT: This meeting is being held in compliance with the "Open Public Meetings Act" and has been duly noticed and publishes required by law.

ROLL CALL:

Mayor John Armano	Present
Councilman Nick Maccaroni	Present
Chairman Jack Gangluff	Present
Joseph Adolf	Present
Ken Clegg	Present
Richard Crain	Present
Jack Hall	Present
Carl Canfield Jr.	Present
Dan Pomponio	Present
Ron Katkocin	Absent
John McCall	Present

MINUTES:

A motion to approve the minutes for November 13th, 2012 was made by Joseph Adolf, and seconded by Richard Crain. All eligible members voted aye.

RESOLUTIONS:

Case # 12:10-1

Atlantic Region Food Corp (Dunkin Donuts)

235 S. White Horse Pike

Block: 1405 Lot: 3.01

Minor Site Plan

A motion to approve the resolution for Atlantic Region Food Corp was made by Joe Adolf, and seconded by Richard Crain. All eligible members voted aye.

OLD BUSINESS:

Case # 12:10-2

Robert Hindley

6 Villanova Court

Block: 2209 Lot: 36

Bulk C Variance

Appearing before the board is Robert Hindley. Mr Hindley addressed the board, submitted a new survey (exhibit A-1). Mr. Hindley stated that he is proposing an 18 x 20 rear addition, he needs a variance of 13.03 feet on the side, and 16.25 feet to the rear. The shed shown will be moved to the other side of the lot and will meet the required 5ft.rear and side set backs. Mr. Hindley also showed a new plan showing that he proposes a window vs. the sliding door on the original plan, as well as the proposed French drain is shown. With no questions from the board, Chairman Gangluff opened this portion of the meeting up to the public. With no one from the public wishing to speak on this application, the public portion was closed. Mr. Crain made a motion to approve this application; Mayor John Armano seconded the motion. On Roll Call:

Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Chairman Jack Gangluff	Yes
Joseph Adolf	Yes
Ken Clegg	Yes
Richard Crain	Yes
Jack Hall	Yes
Carl Canfield Jr.	Yes
Dan Pomponio	Abstain

NEW BUSINESS:

Hearing on the proposed settlement of litigation known as the Nexus Properties, Inc. vs. The Borough of Berlin and the Planning Board of the Borough of Berlin pending in the Superior Court of New Jersey, Law Division, Camden County.

Appearing before the board is Stuart Platt Esq. COAH Attorney for the Borough of Berlin, and Brian Slaugh, Planner for the Borough of Berlin. Mr. Platt swore in Brian Slaugh and the Board Secretary Debbie Simone. The Board Secretary confirmed on the record that proper notification of this meeting was provided and established as Exhibit 1. The Final settlement agreement as Exhibit 2. Mr. Platt summarized the litigation, and where we are now, as well as where we will be in the future. The property consists of 30.76 acres located off of Tansboro Road. A builders remedy act was filed against the Borough and action to allow affordable housing with market rate housing. The Fair Share is required for the 3rd round for each Municipality. The rules from 2004-2014 have been the subject of litigation. The matter was litigated in 2006. The Governing Body has approved this proposed settlement agreement. Resolution R11-13 2012 is the resolution approving the proposed settlement of litigation. The Court Master over looked the litigation; she has approved the agreement as well as the Governing Body. The developer will come to the Planning Board for site plan approval, there is a fast tracking requirement. This developer will need to pay their fair share of infrastructure, the Board will also upon review make sure the proposed developer meets the appropriate zoning regulations. The R5 will have a maximum of 470 units, some single family, some apartments, and some townhouses or some combination. 71 units are required to be low to moderate income. The Maximum bedroom limit is no more than 710 bedrooms and that no more than 399 can be market rate units.

Mr. Slaugh added that with the 1 and 2 bedroom units, and based on the size of the project, it will have an impact on the current school system. Mr. Platt also stated that in this agreement there is a requirement that the developer contribute \$142,000 toward fees for the infiltration infrastructure report. This will increase the lines to 250,000 gallons per day more, however 170,000 has to be set aside for this development until it is complete, for up to 5 years. They will have priority to the sewer capacity. The re-zoning of the R5 district will implement all of the specific set backs, buffers, landscaping, lighting, permitted uses, etc. Once this goes to the court, and all documents are approved, the litigation will be over, and no other developer can file this type of lawsuit. This will also allow us to allocate sewer to other applicants. If this is not resolved, then the Borough will lose control. There is money in the affordable trust fund, ½ million dollars, there was a freeze placed with the settlement, and the Borough decides when money is unfrozen. The Borough would need to adopt an ordinance to modify the housing, with 1 rental office, and 2 superintendents units that are deed restricted. Once the Planning Board is in agreement it goes back to the Governing Body for final approval. A fairness hearing will be held after the Governing Body makes final adoption of the ordinance, and based on the number of affordable units, it would fulfill the 2nd round of affordable housing requirements; we would receive a judgment of compliance, and possibly bring us to a surplus for the 3rd round.

Mr. Slaugh stated there are 20-25 versions of the R5 ordinance. Mr. McCall asked what are the maximum heights of these structures? Mr. Slaugh stated 48ft. maximum of 3 stories. Chairman Gangluff added that the agreement is for 10 years for protection of zoning, and 5 years for the sewer allocation. This agreement is transferable with ownership as well. Councilman Maccaroni commented that in 2005 this tract of land came to the Planning Board and the application was denied due to the magnitude of variances. With nothing further from the board, Chairman Gangluff opened this portion of the meeting up to the public.

Appearing before the board and sworn in is James Osborn of 536 Riggs Avenue, Winslow Twp. Mr. Osborn stated he was present at the 2005 hearing, and the plan had no buffering. There was landscaping shown by Winslow at that time. What is the meaning of a buffer, what does that do, is it a berm, a fence? Chairman Gangluff commented that would be part of our next action item. Mr. Sabatini of 63 Gardens Avenue addressed the board, and was sworn in. Mr. Sabatini asked with the sewer allocations, what does Nexus have to do? Mr. Platt explained the developer is required to pay \$142,000 to get their allowable capacity within 5 years. With nothing further, the public portion was closed. Mr. Adolf made a motion to recommend approval to the governing body the approval of the settlement agreement, resolution R11-13 2012, Mr. Pomponio seconded the motion. On Roll Call:

Chairman Jack Gangluff	Yes
Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Ken Clegg	Yes
Jack Hall	Yes
Carl Canfield Jr.	Yes
Dan Pomponio	Yes
Richard Crain	Yes
Joseph Adolf	Yes

Hearing on Amendment to the Master Plan of the Borough of Berlin regarding the Housing Element and Fair Share Plan in accordance with the requirements of N.J.S.A. 40:55D-28.

Brian Slauch the Borough Planner summarized the amendment to the Master Plan. There are updated charts, none of the information used came from the US Census. 70% own their own homes in the Borough, this is the fastest growing Municipality. The Simone Tract portion has been tabled in the R2 Residential district. Mr. Slauch explained the credits for each round of the affordable housing requirement. Mr. Slauch also discussed the spending plan. Mr. Pomponio asked if the changes to the Master Plan include the removal of the Simone tract, and the Armstrong settlement. Chairman Gangluff commented it is where the affordable housing will be located. The Master Plan needs to be reviewed every 10 years. Councilman Maccaroni explained that Nexus did not want to include the affordable housing in their plan. Mr. Platt stated this is a plan that is the Borough plan going forward. As developers come in, this must continue to be looked at for each site and be looked at by the board. Once the court approval is received, letters will be sent. With nothing further from the board, Chairman Gangluff opened this portion of the meeting to the public. With no one from the public, Chairman Gangluff closed the public

portion. Mr. Adolf made a motion to approve the resolution for the amendment to the Master Plan regarding the Housing Element and Fair Share Plan, and Mr. Crain seconded the motion. On Roll Call:

Chairman Jack Gangluff	Yes
Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Ken Clegg	Yes
Jack Hall	Yes
Carl Canfield Jr.	Yes
Dan Pomponio	Yes
Richard Crain	Yes
Joseph Adolf	Yes

Recommendation Regarding Ordinance 2012-19, and Ordinance 2012-20 Amending Chapter 335, Zoning and Land Use, to create the R-5 Zoning District, and use to comport with the requirements of N.J.A.C. 5:96-1 et seq. and N.J.A.C. 5:97-1 et seq.

Mr. Platt stated that section 26 of the MLUL 2012-19, to create the R5 zoning district. This rezones the parcel under consideration; this ordinance is designed to implement the settlement and zoning standards. December 27th is the second reading, for final adoption. Planning Board now is to review and make any recommendations to the Governing Body prior to adoption. Mr. Slauch read through and described briefly the zoning changes. Mr. Slauch added that it creates a fee category, R4 is Armstrong, and R5 is Nexus. Buildings will need to be sprinklered, must have a recreational facility on site, limits to the number of units per buildings. There are Architectural variations avoiding a "barracks" kind of look. Also the Buffers for affordable housing are to be consistent with other units. Mr. Crain asked if the streets would be owned by an H.O.A., and will they be looking for the Borough to take over the streets like what has happened in the past? Chairman Gangluff added that with rental units, they couldn't force the Borough to take over the streets. Mr. McCall asked if the Apartments, or Condos can be purchased, then rented out to others, Mr. Platt stated yes they could. Mr. Platt continued the concept plan that was run by the developer and was stapled to the Court order previously. That is not what we have here, this gives us more control. The Zoning Ordinance will implement the settlement, and again, we have more control. Mayor Armano asked if we would have control over what the units look like? Mr. Platt stated yes we would. This ordinance is consistent with the Housing Element of the Master Plan. With nothing further from the board, Chairman Gangluff opened this portion of the meeting up to the public.

Appearing before the board is James Osborn of 536 Riggs Avenue in Winslow Township. Mr. Riggs stated he was at the first meeting for the Nexus application. Mr. Riggs asked if this is just an ordinance, not a plan. Mr. Gangluff stated yes. Any plans submitted would need to meet the ordinance requirements, or variances, and waivers must be requested. Mr. Riggs asked about parking, and density being a concern of his along Tansboro Road, as well as drainage. The natural flow of water is towards his property, and he found 2 small dozers 4 feet deep in his yard. That problem has been resolved since then, however he is concerned that it will happen again. With nothing further from the public, Chairman Gangluff closed the public portion. Joe Adolf made a motion to recommend adoption of the ordinance 2012-19, and Dan Pomponio seconded the motion. On roll Call:

Chairman Jack Gangluff	Yes
Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Ken Clegg	Yes
Jack Hall	Yes
Carl Canfield Jr.	Yes
Dan Pomponio	Yes
Richard Crain	Yes
Joseph Adolf	Yes

Mr. Platt stated that on November 27th, was the first introduction of this ordinance, 2012-20 and the 2nd reading will be on December 27th. Mr. Slauch described information regarding the changes in this ordinance with regards to the Master Plan. This ordinance has more technical procedures, and deed restrictions. The section in R2 deletes Townhouses, and Single Family housing development could build Townhouses to meet the affordable housing requirement. This ordinance is consistent with the Housing Element of the Master Plan. With nothing further from the board, Chairman Gangluff opened this portion of the meeting up to the public. With no one from the public wishing to speak at this time, Chairman Gangluff closed the public portion. Joe Adolf made a motion to recommend 2nd reading, and final adoption of this ordinance 2012-20, and Mr. Crain seconded the motion. On roll call vote:

Chairman Jack Gangluff	Yes
Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Ken Clegg	Yes
Jack Hall	Yes

Carl Canfield Jr.	Yes
Dan Pomponio	Yes
Richard Crain	Yes
Joseph Adolf	Yes

Mr. Adolf made a motion to approve the resolution for ordinance 2012-19 and 2012-20, Mr. Hall seconded the motion. On roll call vote:

Chairman Jack Gangluff	Yes
Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Ken Clegg	Yes
Jack Hall	Yes
Carl Canfield Jr.	Yes
Dan Pomponio	Yes
Richard Crain	Yes
Joseph Adolf	Yes

Chairman Gangluff closed the meeting for a brief recess. 9:45pm. Chairman Gangluff reconvened the meeting.

Case # 12:11-1

Enterprise Rent-A-Car

116 W. White Horse Pike

Block: 204 Lot: 1 & 2

Dual Use Variance

Appearing on behalf of the applicant is Jason Sweet Esq. Mr. Sweet summarized the application for a dual use for Enterprise Rent-A-Car to utilize space within Rocco's Collision. This is located in the C2 Zone, and there are no new site improvements proposed. This is a less intense development, 3 witnesses were sworn in. Terry Combs, Engineer, Adams Rehman and Hegan, 850 S. White Horse Pike, Angelo Ditullio, from Rocco's Collision of 804 Castleton Drive, Mickleton, NJ., and Diane Craig of Enterprise Rent-A-Car, 3011 Admiral Wilson Blvd. Mr. Combs presented his qualifications; he is a licensed planner, and landscape architect. He has 30 years experience in land use planning.

Mr. Combs testified this is a 1.1 Acre lot in a C2 Zone on the corner of Elm and the White Horse Pike with 275 ft. of frontage, 75 ft. on Park Avenue. This is formerly the Berlin Auto Body location, with a 6,000 sq. ft. building, and the main building is 5300 sq. ft. and the fence line is to the west of the building for Vehicle storage. There are 20 spaces, and the last 4 spaces are blocked off due to site visibility issues on the side street. There are 5 employees at Rocco's, 3 paint bays, 2 frame bays, and 5 work bays. There are 330 sq. ft. of office space within the existing Rocco's facility for lease to Enterprise; the only change would be the identification on the existing pylon sign. Enterprise would only have 2 employees. Enterprise would need 10 to 12 parking spaces maximum as shown on the site plan. Hours on Saturdays would be 9am. to 12pm. Mr. Combs testified that the only customers would already be at Rocco's, so no additional parking would be required. This is an appropriate location, there is no detriment to the public good, and may be considered an accessory to the existing use. Chairman Gangluff referenced the letter from our Planning board engineer Jim Biegen with Maser Consulting LLC. Enterprise is in agreement to put in the wheel stops, and doing the sidewalk repair.

Mr. Ditullio testified the parking needs for vehicle storage for Rocco's is 15 spaces. There are 5 employees, the lighting is on timers, 1 for the main portion, and the front lights are streetlights as well as the illuminated sign. Mr. Biegen asked if there have been any complaints on the lighting, and Mr. Ditullio stated no. Chairman Gangluff excused Mayor John Armano, and Councilman Nick Maccaroni from the application as it is a Use Variance, and they are not permitted to vote. Chairman Gangluff addressed the large trucks that are parked in front of the fenced area. Mr. Ditullio testified that typically the Rocco's trucks do not park there. The employee/ large trucks parking will be contained behind the fence for Rocco's vehicles. Enterprise will have 12 dedicated spaces. Chairman Gangluff asked where would the towing vehicles be parked? Mayor Armano asked if the public would be rented to as well? Mr. Combs stated they would not turn the public away. Mr. Sweet stated that Berlin already has an Enterprise location, and they will pick up a customer. Mr. Ditullio testified that no trucks would be parked out front; all truck parking would be behind the fence. Enterprise would primarily be targeted to Rocco's customers. Mr. Hall asked when Rocco's came in November of 2011 was it their intention to have an Enterprise Rent-A-Car? Mr. Ditullio stated no. Mr. Sweet commented that there would be reduced vehicle trips to and from the site. There is ample parking, the only indication of Enterprise would be the proposed sign attached to the existing pylon sign. Parked cars would be there no more than an hour at a time. Mr. Adolf asked how many Rocco's locations are there? Mr. Ditullio stated 5 locations. Mr. Adolf asked if they all had the option of a Rent-A-Car office/space in them? Mr. Ditullio stated no this would be the first. Mr. Crain asked in the other locations, does Enterprise service them? Mr. Ditullio stated the 15 spaces for Enterprise would not be used all at once. Mr. Biegen commented that 40 spaces are required for Rocco's, and a waiver of the required parking spaces is needed. 5 parking spaces are needed for customers. There are no designated spaces needed for the larger Rocco's trucks.

Ms. Craig of Enterprise testified that there are 2 employees, the hours are the same as Rocco's and they have agreed to hash out lines at the site triangle corner of the White Horse Pike and Elm. Ms. Craig also testified that 30% of the rentals would be non-body shop rentals. Mr. Biegen added the 40 spaces for Rocco's is based upon the number of bays. Enterprise's proposed 5 spaces are for 2 employees and 3 customers. The remainder 13 spaces in the rear would be

accessible if needed. Mr. Crain commented that this is a dual use, and the dual use does not travel, nor does it get grandfathered in with the land. Mr. Katkocin asked if there is a limit to the type of business, not so much the name. Mr. McCall asked what about U-Haul trucks? Would the parking be for passenger type vehicles only? Mr. Adolf commented that he would like to see a limit on the type of vehicle that is parked, passenger type only, no industrial, no trucks. Mr. Biegen added that handicap parking signage would also be needed. With nothing further from the board, Chairman Gangluff opened this portion of the meeting up to the public.

Appearing before the board is Tim Regan of 9 Elm Avenue. Mr. Regan commented that parking in the front of the Rocco's lot is an issue. It is difficult to see when pulling out of Elm, onto the White Horse Pike. Rocco's are good neighbors, they blocked off the first 4 spaces, but Mr. Regan suggests, moving the parking spaces along the fence line, instead of along the White Horse Pike side. With nothing further from the public, Chairman Gangluff closed the public portion. Mr. Aolf made a motion to deny this application; Mr. Hall seconded the denial of the application. On roll call vote:

Chairman Jack Gangluff	Yes to Deny
Mayor John Armano	Abstain
Councilman Nick Maccaroni	Abstain
Ken Clegg	Yes to Deny
Jack Hall	Yes to Deny
Carl Canfield Jr.	Yes to Deny
Dan Pomponio	No
Richard Crain	No
Joseph Adolf	Yes to Deny

CORRESPONDENCE:

Berlin Township Planning Board Agenda

GOOD OF THE ORDER:

None

PUBLIC PORTION:

None

ADJOURNMENT OF REGULAR MEETING:

With nothing further, Joe Adolf made a motion to adjourn the regular meeting; Carl Canfield Jr. seconded the motion. Motion carried by assenting voice of the board.

Respectfully Submitted,

Deborah Simone

Planning Board Secretary