

**BOROUGH OF BERLIN
PLANNING BOARD MINUTES
June 9th, 2014**

CAUCUS: 7:00PM

REGULAR MEETING: 7:30PM

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 published by law.

ROLL CALL:

Mayor John Armano	Present
Councilman Nick Maccaroni	Present
Jack Gangluff	Present
Rick Miller	Present
Ken Clegg	Present
Richard Crain	Present
Jack Hall	Present
Dan Pomponio	Present
Ron Katkocin	Present
Carl Canfield Jr.	Present
John McCall	Present

REGULAR MEETING:

Due to the absence of Chairman Jack Gangluff on our May 12th meeting, he will not be voting on the application listed in old business for Travis McAllister, Carl Canfield Jr. will be voting in his place.

MINUTES:

A motion to approve the minutes from May 12th, 2014 was made by Richard Crain and seconded by Dan Pomponio. Those eligible to vote, all voted aye.

RESOLUTIONS:

Case# 14: 4-4
Jay Ashman
54 Roosevelt
Block: 2401 Lot: 62
Bulk C Variance

A motion to approve the resolution for Jay Ashman was made by Jack Hall, and seconded by Carl Canfield Jr. On roll call vote:

Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Jack Hall	Yes
Richard Crain	Yes
Ken Clegg	Yes
Dan Pomponio	Yes
Ron Katkocin	Yes
Carl Canfield Jr.	Yes

Case # 14: 4-3
John & Jamie Manners
101 Rich Avenue
Block: 1309 Lot: 4
Bulk C Variance

A motion to approve the resolution for John & Jamie Manners was made by Carl Canfield Jr., and seconded by Jack Hall. On roll call vote:

Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Jack Hall	Yes
Richard Crain	Yes
Dan Pomponio	Yes
Ron Katkocin	Yes
Carl Canfield Jr.	Yes

Evino's Corporation
81 W. White Horse Pike
Berlin, NJ. 08009
Administrative decision

A motion to approve the resolution for Evino's Corporation was made by Jack Hall, and seconded by Richard Crain. On roll call vote:

Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Jack Hall	Yes

Richard Crain	Yes
Dan Pomponio	Yes
Ron Katkocin	Yes
Carl Canfield Jr.	Yes

ZONING OFFICERS REPORT:

April 15th, through June 9th. Craig Fallstick, Zoning Officer

OLD BUSINESS:

Case # 14:4-1
Travis McAllister
9 Washington Avenue
Block: 1400 Lot: 16
Bulk C Variance

Appearing before the board is Travis McAllister of 9 Washington Avenue. Mr. McAllister submitted new drawings and changed the size of the proposed attached garage. Mr. Mark Rinaldi summarized the application, and summarized the submission items. There are 2 variance requests, one is for lot frontage. This is an existing condition of 68ft. where 70 ft, is required, and a side yard set back of 6ft. where 20 ft. is required on one side, and no less than 10ft. on the other. The proposed garage will be 24 x 18. Mr. McAllister testified that the garage is to store cars and kids toys. It will be sided to match the existing house, gutters will be installed to divert water to the street, there will be electric in the garage but no plumbing.

Mr. Crain asked if the fence will be moved, Mr. McAllister testified the section of fence that Mr. Crain refers to will be removed once the garage is under construction. Mr. Hall questioned the 6ft. gap between garage and fence line if it will be gated, and Mr. McAllister stated yes. Mr. Crain also questioned the side door of the home, what it goes to, Mr. McAllister stated it goes to the kitchen, that door will remain and be access into the home from the garage. With nothing further from the board, Chairman Gangluff opened this portion of the meeting up to the public for questions, with no questions from the public, Chairman Gangluff closed the public question portion. Chairman Gangluff then opened the meeting up to the public for comments, with no one wishing to make comments, Chairman Gangluff closed the public comment portion. At this time Dan Pomponio made a motion to approve this application, and Jack Hall seconded the motion. On roll call vote:

Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Chairman Jack Gangluff	Abstain
Rick Miller	Abstain

Ken Clegg	Yes
Richard Crain	Yes
Jack Hall	Yes
Dan Pomponio	Yes
Ron Katkocin	Yes
Carl Canfield Jr.	Yes
John McCall	Abstain

NEW BUSINESS:

Case # 06:1-18
Berlin Multi Family LLC (Nexus Properties, Inc)
183 Tansboro Road
Block: 1700 Lots: 1 & 4
Preliminary Major Site Plan, Minor Subdivision

On this application our special COAH Council Stuart Platt Esq. will serve as the board solicitor for this application.

Mr. Platt explained the process of the Planning Board Meeting, and how the board acts on any application. This information was provided to the public in a handout. Mr. Platt also swore in our Planner from CME Associates Jennifer Beahm, and conflict engineer John Hess from CME Associates. Board secretary certified that all notices have been made.

Mr. Platt mentioned that an issue has been brought to his attention regarding a board member that made a comment or a posting on a “concerned berlin” facebook page. The comment was read, and a name, number, and email address was listed. This matter has been discussed with Mr. Miller, and he was asked if he can continue to hear this application and weigh the application fairly and justly, and Mr. Miller confirmed that he can. Mr. Platt asked Mr. Hoff the applicant’s attorney, and Mr. Hoff stated he has no concern or objection to Mr. Miller hearing and voting on the application.

Mr. Platt explained the requirements of COAH, which was established to administer the fair housing act. Each municipality was then required to provide affordable housing to low and moderate income since late 1980’s to current date. Berlin Borough through court litigation was deemed compliant and addressed a housing plan in the first and second round, Lonaconing, Haverhill, and Carriage Stop were results of those litigations. The judge approved these developments in the court with little or no input from the Borough Planning Board, or Borough Officials, or the public. Following the second round obligation, COAH deemed the second round was not met by the Borough, and this developer on this application filed a builder’s remedy suit. This same developer applied for a 235 unit development on this site with a number of variances, and the application was denied. After the denial this developer filed the remedy suit. With this, the builder is permitted to build more units then what was originally applied for. This case was

challenged in court, and the court determined that this site be approved for 600 residential units. The Borough filed an appeal, and the developer determined that 600 units may not be appropriate for this site. Then negotiations started in 2009 that lead to a settlement agreements with the help of a court master was signed and completed. There was a hearing before the Planning Board and the Governing Body for a housing plan, and an ordinance change. Following the approval of the settlement agreement, it still had to go back to the Court in front of a judge. In June of 2013 that hearing took place. The Court Master prepared a report and the basis of the report essentially states this site and the number of units is acceptable. We have an affordable housing ordinance, along with the ordinances that will be relevant along with the Settlement agreement regarding to this application. The applicant may apply for deviations from an ordinance requirement, and from a design standard, called variances, and design waivers. Since this application was submitted, it was reviewed by our Planner and Engineer with a check list. The applicant was then deemed complete based on the application and information provided. After the application was deemed complete, each professional prepared a report from the board's perspective and issued letters with regards to this application. Those letters are available to the public.

Chairman Gangluff asked if any of the board members wanted to make a statement relevant to the application process that would be helpful. At this time, Councilman Nick Maccaroni commented that as a member of Council for several years, he has been involved with this application. Mr. Maccaroni stated this application has come in with all apartments, however in the Court Master statement wording states Multi Family, Single Family units. We were always under the pretense that this would be a mixed use of apartments and townhomes. We were supplied with concept plans, correspondence from a bank that 2 bedroom townhomes would not sell, and meetings that dealt with a bedroom count. This has always been a concept of apartments and townhomes, and Council may not have agreed with all apartments.

Mayor John Armano added that after reviewing the application and plans, that this was not the intent of the plan and the applicant will take another look at this and will consider complying more with the settlement agreement.

Mr. Platt mentioned that Council has had little or no input regarding this approval. There were compromises that the Borough through the Settlement agreement gives the Borough Planning Board a process, and fundamental benefit for the borough. There was a lifting of a scarce resource order so the Borough could release new sewer connections to developers. There was money collected for an affordable housing trust fund that has been release due to the settlement agreement.

Mr. Rick Hoff, Esq. on behalf of the applicant Berlin Multi Family LLC is present to request an extension, and he has done so in writing. Mr. Hoff stated that his concerns are one that the facility may not be able to have this public meeting here, as the room may not hold all of the public that he would anticipate more public. The next concern is that the applicant has received extensive review comment letters from the board Planner and Engineer. The applicant will provide appropriate notice for the public, and the applicant

is also agreeable to extend the time of action by the board, to carry this meeting to the July 14th meeting at the Berlin Community School where previous public meetings have been held. With no questions for Mr. Hoff, Chairman Gangluff opened this portion of the meeting up to the public for the subject matter of the request for continuance.

The first to appear is Mr. Jim Osborn 536 Riggs Avenue, Winslow Township. Mr. Osborn was sworn in by Mr. Platt. Mr. Osborn commented on the postponement, what is in the notice? Hearing the process this may take more than one meeting, and requested maybe the letter should notice what subject matter would be heard at what meeting.

Next to appear before the board is Kellie Myers of 2 Jason Drive, Berlin. Ms. Myers was sworn in by Mr. Platt. Ms. Myers mentioned that a 200 ft. list should be extended to everyone in the Borough to get the word out. Her parents that live in Centennial square did not know about the development. Mr. Platt explained that we are governed by the Municipal Land Use Law, and the notice by law goes out in a particular way, to particular people. Mr. Platt mentioned that the notice also goes into the paper, and the official Borough paper is the Courier Post. Mr. Platt stated to change that 200 ft. requirement has to be done through legislature. Ms. Myers also stated that the agenda's have not been posted on the website, and Chairman Gangluff stated that they may not be as timely as some people would like. Chairman Gangluff explained that the only action being heard tonight is that the applicant has requested a postponement. The applicant has requested a July 14th meeting which is being announced tonight, and the applicant has agreed to properly re-notice the 200ft. adjoining property owners, and re-notice in the newspaper. We cannot require them to do anything additional.

Next to appear before the board is Mr. Joseph Theurer of 21 Coleman Road. Mr. Theurer was sworn in by Mr. Platt. Mr. Theurer testified that there are several properties in his development that is up for sale. Chairman Gangluff commented to the resident that he should save this comment for the July 14th meeting. The only matter before the board is the request for postponement.

Next to appear is Patrick Quigley of 15 Brierhill Road in Centennial Square. Mr. Quigley was sworn in by Mr. Platt. Mr. Quigley made a suggestion to the audience, not to get discouraged, but bring friends, and family to each meeting and get the word out.

Next to appear is Frank Ballak of 13 Tansgate Blvd. Mr. Ballak was sworn in by Mr. Platt. Mr. Ballak stated that if the board is having this at a different facility that the Board should post on the website of the change in location.

Next to appear is Gary Banks of 5 Aristone Dr. Mr. Banks was sworn in by Mr. Platt. Mr. Banks asked what additional items is the applicants concern, or needed additional time for? Mr. Hoff answered that there are several pages of concerns and questions by the Board Engineer, and Planner, and the applicant is seeking more time to review those items on each letter. There are issues for internal roadway design, and issues for storm water design, which may require significant changes to the design.

Jennifer Bheam, Planner from CME associates, informed the public that those letters are on file with the Planning and Zoning office, and can be reviewed by the public.

Next to appear before the board is Gary Sorce of 528 Riggs Avenue, Winslow. Mr. Sorce asked how many times can one application be postponed? Mr. Platt stated that all will be based on if there is good cause, and if we have to deal with another postponement request, it will be dealt with on it's own merits. We can only deal with what is in front of us this evening. With nothing further from the public, Chairman Gangluff closed the public portion. Mayor John Armano made a motion to approve the request for postponement, and the change of venue to the Berlin Community School, and John McCall seconded the motion. Nick Guerere of 12 Glenview, President of the School Board stated that the School gymnasium is available on the requested July 14th date. On roll call vote:

Mayor John Armano	Yes
Councilman Nick Maccaroni	Yes
Chairman Jack Gangluff	Yes
Rick Miller	Yes
Ken Clegg	Yes
Richard Crain	Yes
Jack Hall	Yes
Dan Pomponio	Yes
Ron Katkocin	Yes
Carl Canfield Jr.	Yes
John McCall	Yes

GOOD OF THE ORDER:

Mr. Rinaldi mentioned the change in venue for any future applications that may be on the July 14th meeting needs to be informed to the future applicants.

Mr. Pomponio asked if the Nexus Application would be listed as old business. Mr. Hall asked what the limitations are for timing? Would the end be limited to 12 midnight, and no new applications after 10pm.? Chairman Gangluff stated yes that is in our rules.

Mr. Clegg mentioned he sat through the Wal Mart application, and the information Stuart gave in the beginning of tonight's meeting was very critical so the public is informed.

CORRESPONDENCE:

Letter from Leidos Engineering regarding former Texaco Station, no board action required.

PUBLIC PORTION:

NONE

ADJOURNMENT OF REGULAR MEETING:

Mr.Canfield Jr. made a motion to adjourn the meeting, John McCall seconded the motion. Meeting Adjourned.

Cc: Bill Behnke, Fire Marshall, Fire Chief
Stacey DiVello, Escrow Financial Department
Michael DePalma, Construction Official
Terry Stagliano, Tax Assessor
Lou DeMarco, Captain, EMS
Chairman Andrew Simone, West Berlin Planning Board