

April 12, 2010

A work session of the Allendale Planning Board was held in the Municipal Building on April 12, 2010. The meeting was called to order at 8:05 p.m. by Mr. Quinn, Chairman, who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following members answered roll call: Mr. Quinn, Mr. Fliegel, Mr. Herndon, Mr. Barra, Mr. Bernstein, Mr. Sirico, Ms. Sheehan, Mr. Walters, and Mr. Sasso. Mr. Yevchak and Mr. Zambrotta were absent. Also present was Mr. Dunn, Board Attorney.

Conceptual Review – Proposed Subdivision – Calvary Lutheran Church, W. Crescent Ave., Block 910 – Lot 2

Bruce Whitaker appeared as attorney for applicant. He said a conceptual review is a specific provision in the Municipal Land Use Law that allows an applicant to come before a Planning Board before going to a great deal of expense, time and effort, to review a matter with the Board and to solicit comments, concerns and issues without prejudice. This means that whatever input is given by the Board can be helpful, but after a formal application with completed plans is made, the Board is not held to any standard or decision made at the time of the concept review.

Mr. Whitaker said the church has a very good heritage with Allendale and churches these days look for some development, all of them having some trouble being able to provide all of the church related services they have provided in the past. He said Calvary wants to stay in Allendale. They are also planning for the future and they are looking at their congregation and the concept of the direction they are taking as well as their resources. In some instances churches have been merging and going in other directions. Some churches stay put but are proceeding with the development of undeveloped land for the purposes of being able to create an endowment fund – a foundation so that the church can function for years to come.

Mr. Whitaker said with this plan Calvary Church is the owner of three lots. Lot 2 is occupied by the church as their sanctuary and education building. Lot 17 has an existing home for the parsonage. Currently the sanctuary lot has 3.818 acres. The parsonage has 21,593 sq. ft. Lot 18 is a vacant lot and it has 20,280 sq. ft. If the church were to expand – this church or some other church in the future – we would be looking at the church expanding into the rear area where there are six back yards from adjoining properties. The concept that he is bringing to the Board is that instead of having all of this property remain as viable church property for future development and enlarging it, is to contain what they have now. The church sits on West Crescent and Ivers Road. The small lot on the corner is actually owned by Rockland Electric and it is maintained by the church. The applicant's proposal is to shift the lot line and create a church lot that would have 2.256 acres which is less than what is required by the Code but it contains it all to that far end that is being used right now. He said there is sufficient parking, sufficient sanctuary and sufficient office/education building.

Mr. Whitaker said by shifting lot lines, Lot 18 would then have 20,105 sq. ft. and Lot 17 would have 21,314 sq. ft. What is being created is one additional lot containing 1.572 acres and 68,496

sq. ft. which far exceeds what the zoning code requires. He said invariably flag lots are not looked upon very favorably in any municipality. In most instances when he has a flag lot scenario presented to him he does not have a lot of frontage and a very narrow 10 or 15 ft. pole going to the public roadway. Many times the flag lot to the rear just meets square footage requirements but this is a very large lot. The pole width is 25 ft. with conforming widths on the other lots. A 16 ft. wide driveway is proposed and the flag part of the lot affords an appropriate type of turnaround for emergency vehicles and that would be subject to police, fire and safety comment. Mr. Whitaker said by approaching this development this way, the Board is containing the size and the ability of this church to expand. From Calvary's standpoint, what they have now is adequate for their needs. In the event they were no longer there, it is possible another church would make use of the flag lot for additional church uses. He said if he were one of the six homeowners that abut the flag, he would rather see an estate-like home there as opposed to a parking lot for a bigger church. He has had occasion to deal with other churches that have sold to other congregations that had a need for expansion.

Mr. Whitaker said he took the liberty of contacting the Police Dept. and sent them a copy of the plans. He received a response from Sgt. Griffith stating that he sees no problem from a site prospective and the 16 ft. driveway can accommodate this type of lot.

Mr. Whitaker said Mr. Onello from Conklin Associates is present to answer the Board's questions regarding the conceptual plan.

Mr. Dunn said under the Municipal Land Use Act, Section 10.1, an applicant can make a concept plan application to the Board for general discussion purposes and guidance without any commitment on his part as to the actual application being made or any commitment on the part of the Planning Board. This is not a public hearing and if the Board gives any particular advice it could be construed as approval being given without notice. His general advice is to be general and talk about the concept as an overall plan in the terms of the Borough's planning goals and objectives.

Mr. Quinn said he will start by saying that in general the Board does not encourage flag lots.

Mr. Dunn said on the actual application the applicant has the burden of establishing a preponderance of evidence that a hardship exists and that there is a lack of detriment to the zone plan and zoning ordinance. The Board has not had a flag lot application for a few years but had a number of them in the past. Mr. Herndon said he recalls that they were always a bone of contention and ultimately the Board was not very happy with the ones that were created, deciding not to entertain them except in extraordinary circumstances.

Mr. Yakimik said from an engineering standpoint there are some drainage issues with this site that could probably be engineered to be corrected. He observed the site a couple of weeks ago when we had heavy rains and the site was flooded. It is a bowl-shaped area so drainage issues and how they would be addressed are a concern. The wideness of the driveway has to be looked at as well because that could exacerbate the drainage situation at the site. Mr. Quinn added that it might impact the adjoining lots as well. Mr. Yakimik added that he concurs with Mr. Dunn's suggestion to try to see if in the future a street can be configured within the pole of the flag.

There is another landlocked lot adjacent to it, Lot 4, Block 910, that is currently accessed by an easement that goes all of the way out to W. Crescent Avenue. He said his point is that applicant should look at how this lot will affect surrounding lots. In addition, the Borough codes are written such that they discourage flag lots.

Mr. Whitaker said what is different with this from most flag lots is the concept that this lot is three times the size that it needs to be. A provision in the deed that says it can never be subdivided into another building lot is a way to insure in the future that this driveway could never serve two properties. Another very unique thing is that it contains a church location. He could come to the Board 2-3 years from now with a site plan application for a new church building on all of this property with parking lots in the back and he believes the neighbors would oppose it. He said if he lived there he would rather see one house versus seeing an expansion of a church.

The Board asked about the background of how these lots were created. Mr. Whitaker said the parsonage is on its own independent lot. Lot 18 was created by a subdivision a while back. It is owned by the church and would remain a building lot with a lot line shift. The concept is what can they do realistically and still function as a church and have the ability to market something that can create the endowment they need. In reviewing the different options, he looked at this one and said let's try this conceptual to get the Board's reaction and input.

Mr. Fliegel asked if the intention is to subdivide the flag lot and sell it immediately. Mr. Whitaker said the intent is to sell it eventually as the church needs the funds and to sell it to someone who is looking to build a home on a 68,000 sq. ft. lot. The Board asked if that wasn't the intention of subdividing lot 18 from the property. Mr. Whitaker replied that Lot 18 in itself does not solve the applicant's problems at this time. He said the primary thing is they want to stay in Allendale and to accomplish this in the most feasible way. Mayor Barra asked why hasn't Lot 18 been sold. Mr. Whitaker said because the church wasn't ready to do that until they made a decision about what they were going to do to the rear property. Mayor Barra said every time he has passed that lot after it rains it has been flooded with water. Mr. Whitaker said there have not been any issues that he is aware of. Their goal is to have the ability to have two lots to be sold and still keep the parsonage.

Mayor Barra asked when lot 18 was subdivided as a separate lot. Chief Herndon said probably about 10-12 years ago. Mr. Onello of Conklin Associates said it appears to have been done in 1999. He said the conceptual lot is a pretty large flag lot. 50 ft. all around is a large setback and it provides some serious vegetative buffers for the adjacent homes. A circular drive would definitely fit. A 16 ft. driveway width is pretty large but as discussed before it could be extended even wider if need be.

Mr. Herndon pointed out that one plus is they are keeping the pole of the flag in between their own properties and not impacting a neighbor.

Mr. Whitaker said his goal tonight is just to look at the options. The first option is the church remaining here, keeping the property they actually need and containing it. He added that lot area requirement for a church would prompt the variance. The proposal would bring the lot area from 3.18 down to 2.256. Mr. Whitaker said the Borough ordinance says a lot used or intended for a

public building, school, church, hospital or other public building shall not be less than three acres in area. He said the church is satisfied with what they have. It is a 93 seat facility and it accommodates the parking, The rear portion in the back is something they do not need. Mr. Quinn said the Borough has a report from the Police Dept. but they should also have something from the Fire Dept.

Mr. Whitaker said from a planning perspective, does the Board acknowledge as a good planning concept the containment of this church on a smaller lot and allowing this turnover to residential rather than keeping it as a church lot for expansion. A Board member asked what would keep the church from expanding anyway. They could buy another piece of property next door, knock the house down and expand. Mr. Whitaker said no church can ever be totally contained but this church has been there for a long time. There is an acknowledgment by the congregation that they want to stay in Allendale. They do not need the additional property and they are not looking to buy any other homes. They are looking to create a fund so they can perpetuate themselves. The church that they have now is sufficient.

Mr. Quinn said this proposal should be reviewed by the Board's planner, Mr. Snieckus. Mr. Fliegel said the Board does not have an application or engineering information. He would like to know what is being asked of the Board.

Mr. Whitaker said the philosophy behind the conceptual plan is that a developer has the right and the ability to come before the board to seek its opinion before spending a great deal of money on engineering and other expenses. In addition, would the Board like the idea that a flag lot in this particular instance works better than an expansion of a church or in the alternative let them put in a parking lot and lights and all of the improvements that some church might want in the back because in the balance that is a better approach than a flag lot.

Mayor Barra commented that the church came before the Board 11 years ago to establish lot 18. He is having trouble with the rationale when lot 18 has sat with nothing being done for 11 years. He would have thought that lot 18 would have been sold to get some sort of endowment or an expansion. Mr. Whitaker said that times change. He was not involved with the subdivision at that time but the church has come to the realization that they do not need to ever expand. Basically all he is asking is what is the Board's feeling – is there an idea that perhaps one house back there bordering several backyards is better than a church expansion.

Mr. Herndon said as he stated when the Board started looking at the master plan, he has a concern about all of the church properties in town and where they are going. He is concerned because there are some churches in Bergen County that were once small churches and they have become very big churches. He would like to protect the community from overgrowth such as that. Mr. Whitaker said he knows of a church that had a very large building and a congregation of under 100. The church was sold and at this point there are two weddings on Saturdays and four services attended by over 300 people on Sunday. They are using the church every night for various activities including day care. There are churches that are meeting now in assembly halls looking for property like this. Mr. Herndon commented that the Board has no assurances how this will ultimately be developed.

Mr. Whitaker said there could be a restrictive covenant in the deed with a provision that it is going to be sold within a certain period of time. Another restrictive covenant could be that it cannot be subdivided into two building lots as well as locking in 50 ft. setbacks.

Mr. Herndon suggested seeking guidance from the planner on this. Mr. Whitaker said he will send a copy of the plans to the Borough's planner for his review and comments.

Proposed Amendment to Housing Element and Fair Share Plan of the Borough's Master Plan

Mary Beth Lonergan, the Borough's planning consultant was present. She said she would like to give the board a brief overview of the plan amendment. Copies of the draft dated March 31 had been submitted to the Board members. She said the Borough's Housing Element and Fair Share Plan was certified by the Council on Affordable Housing (COAH) last fall. This plan amendment of the certified plan is really meant to do two things. First, to clean up the issue of Garden Homes that they will be building 12 rental units on site and transferring 11 special needs housing units to what had been known as the Foreit property and will be called Crescent Common. The former adopted Housing Element and Fair Share Plan still said there would be 23 rental units built on Garden Homes. The second and more important part of this plan amendment to the certified plan is to reflect a small expansion of the Crescent Common site. It is adding the Roberts property and that brings the total Crescent Common site to about 2.5 acres.

She said she would like to go over the Borough's plans for units and credits from the new expanded Crescent Common site. The transference of units from Garden Homes is addressing the Borough's prior round obligation. The Roberts property will house three bedrooms. In addition to those 11 credits coming from Garden Homes there will be four additional 2 bedroom units for a total of 11 bedrooms in 5 units. That is the prior round makeup of Crescent Commons. The third round makeup is now revised to reflect 5 additional 2 bedroom units of special needs housing, 3 units of MS housing and 6 family sale units and 3 family rental units. That totals 17 total units for the third round and 5 units for the prior round totaling 22 actual housing units on that site.

Ms. Lonergan said one of the main purposes of actually going ahead and doing this plan amendment at this time is two-fold. Having this site in the plan before COAH will allow Allendale Housing, Inc. to apply for a number of Federal, County and State subsidies. In addition, the Borough will be eligible to spend its collected Affordable Housing Trust account money. Instead of coming from general revenue, the Borough can take an allocation from its trust fund money which is only allowed for affordable housing purposes and the way to do that, especially on the expanded Roberts property, is to get that specific lot and block in the petitioned housing element. She said she will be happy to answer any questions.

A Board member said since this is an amendment does it reopen the whole thing. Ms. Lonergan said it does not. Comments can be made solely on this amendment. Mr. Quinn asked how long the process will take. Ms. Lonergan said there still quite a bit of uncertainty with COAH but they are still slowly but surely certifying towns. She would hope that they could get to this within six months.

Ms. Sheehan asked if the Borough could get hurt in any way if the government decides to do away with COAH. Ms. Lonergan said she cannot guarantee anything but it is her professional opinion that the Borough is moving in the right direction. She said the Borough has a great site and it has been certified by COAH as well as having different types of funding commitments. She added that there are a lot of communities that haven't done anything. She said, "You are clearly ahead of the game and I don't think it is to your detriment." She added that from everything she is hearing there probably won't be an agency called COAH in the future but there is still the Mt. Laurel Court decision and the Supreme Court. They found that all municipalities have a constitutional obligation to provide their fair share of low and moderate income housing.

Mr. Quinn asked if EPA conditions on the site could impact the filing of this amendment. Ms. Lonergan said the State has already given financing for the Roberts property and COAH has already certified the Foreit site as being an appropriate site.

Mayor Barra asked if he can vote on this at Thursday's meeting since he is president of Allendale Housing, Inc., the contract purchaser of the property that will be building the units. He said the Mayor and Council established Allendale Housing as a non-profit to do the housing for Allendale. They did Orchard Commons and will be doing Roberts and Foreit. Mayor Barra said that he, Ms. White and Mr. Schoepflin are the Council members on the Board of Trustees of Allendale Housing, Inc. and the Board elected him as President. He said he does not want to vote if it is going to create a problem. Mr. Dunn said he will discuss this with Dave Bole between now and Thursday. Mayor Barra said he is not a voting member on the Council except in case of a tie.

Ms. Lonergan commented that this amendment is cleaning up something that COAH has already certified. COAH has already certified Garden Homes transferring 11 units to this property. Outside funding sources have already deemed the Roberts property as being suitable for Affording Housing purposes. Mr. Fliegel said there was a flood plain issue. Mr. Yakimik said that has been straightened out and there is no expansion in the flood plain.

Mayor Barra said there will be absolutely no taxpayer dollars from the residents of Allendale used for the Roberts and Foreit property. The developer's fees from the Whitney, the HMFA and the block grants that the Borough has received will be used.

The meeting adjourned at 9:40 p.m.

Respectfully submitted,

Barbara Knapp