

**Town of Westfield  
Planning Board  
MINUTES  
December 3, 2018**

The Westfield Planning Board met on December 3, 2018, at 7:30 pm in the Council Chambers in the Westfield Municipal Building, 425 East Broad Street, Westfield, NJ.

The meeting was called to order and opened, and all present were asked to join in the Pledge of Allegiance.

In compliance with Chapter 231 P.C. OPEN PUBLIC MEETINGS ACT in the State of New Jersey, adequate notice of this meeting was provided to all members of the Planning Board and the newspapers that have been designated to receive notice, the Star Ledger and the Westfield Leader.

**ROLL CALL:**

**PRESENT:** Robert Newell, Darielle Walsh, Michael La Place, Linda Habgood, Anastasia Harrison, Michael Ash, Matthew Ceberio, Kris McAloon, Mayor Shelley Brindle, and Bill West

**ABSENT:** Ann Freedman

**ALSO PRESENT:** Alan Trembulak, Planning Board Attorney, Donald Sammet, Town Planner and Linda Jacus, Administrative Secretary

**ADOPTIONS OF MINUTES:**

Chairman Newell called for a motion to adopt the minutes of the November 5, 2018, meeting. Darielle Walsh made a motion to approve the minutes; Michael La Place seconded.

**ALL IN FAVOR:** Robert Newell, Darielle Walsh, Michael La Place, Linda Habgood, Anastasia Harrison, Michael Ash, Matthew Ceberio

**ABSENT:** Ann Freedman

**OPPOSED:** None

**ABSTAINED:** Kris McAloon, Mayor Shelley Brindle, Bill West

Motion carried.

**ADOPTION OF RESOLUTIONS:**

None.

Chairman Newell announced the Board will be adjourning into executive session. The Board entered executive session at 7:43 pm. The executive session adjourned at 8:03 pm.

**CARRIED FROM NOVEMBER 5, 2018:**

**PB 18-10 D. Villane Construction, LLC., 885 New England Drive, Block 5301 Lot 16  
9/18/18**

Applicant is seeking to remove the existing single-family home and subdivide the property into two conforming, separate lots. **Application deemed complete October 12, 2018. 45 day decision date is November 26, 2018.**

Bill West recused himself from the application, Kris McAloon and Mayor Brindle stated they listened to the audio transcript of last month's meeting and would be eligible to vote.

James Foerst, Esq., (159 Millburn Avenue, Millburn) appeared on behalf of the applicant. Mr. Foerst stated last month you heard from the applicant, our tree expert, and the site engineer. Based on a discussion regarding Section 8.06G of the Land Use Ordinance, our planner will present planning testimony and discuss the 13 points of Section 8.06G. Mr. Foerst noted his objection of Section 8.06G with regard to the application, and his letter to the Board was marked as Exhibit A-4. The applicant will agree and stipulate to a condition there would not be a front facing garage on either property.

Chairman Newell swore in Peter Steck (80 Maplewood Avenue, Maplewood). The Board accepted Mr. Steck as licensed planner.

Mr. Steck stated the subject property contains 26,215 square feet, and is 154 feet wide x 168 feet deep. The existing single-family home was built in 1976 and is about 2,800 square feet. The house will be demolished and the property will be subdivided into two lots about 13,000 square feet each, and each lot will conform with all zoning requirements. A seven-page handout was marked as Exhibit A-3. Referring to the handout, Mr. Steck stated in the neighborhood there are various lot sizes with some lots that are substandard, and a mixture of home styles with some new construction. Based upon his analysis, neither the substandard lot sizes or the new construction has had any negative affect on the neighborhood. Therefore, the proposed application which complies with the zoning standards, will not alter the character or have any negative affect on the neighborhood. Mr. Steck stated appearing in front of both boards for many years, Section 8.06G has never been brought up. The 13 points in Section 8.06G raised by Mr. Simon are vague and arbitrary, and would not stand up if challenged. Mr. Steck went through each point in Section 8.06G, and stated these are design standards, which should not be used to undo the zoning requirements in the RS-12 zone because that would not be good planning. Section 8.06F of the Land Use Ordinance states if the proposed development complies with the ordinance and the Municipal Land Use Law, the Board shall grant subdivision approval. If an application complies, you do not have the discretion to say you do not like the subdivision and deny the application. There is clear evidence on the record that this subdivision warrants the approval of the Board.

Open to public questions.

Aldona Haines (870 New England Drive) asked for clarification of the home styles near 885 New England Drive and if Willow Grove has sidewalks on both sides of the street.

Robert Simon, Esq., (25 Independence Blvd, Warren) appeared on behalf of 34 residents who are opposed to the application.

Mr. Simon cross-examined Mr. Steck. Mr. Simon marked his letter of December 3, 2018, as Exhibit O-3. He asked about visits to the neighborhood, the widths of homes on New England Drive, if any surrounding properties had existing non-conformities or substandard setbacks, and if there were designs for the proposed homes. Mr. Steck was questioned if any investigation was done about the determining the origins and adoption of Section 8.06G and why those design standards were enacted. Various sections of the ordinance regarding site plan, subdivisions, and zoning requirements were marked as Exhibit O-4. Mr. Simon went through the different sections of the ordinance discussing with Mr. Steck how those various provisions would be applicable to

the proposed subdivision application. Exhibit O-5 a title report for the subject property, dated November 12, 2018, was marked. Questions regarding deed restrictions or covenants were asked and if there were any restrictions contained in Exhibit O-5 that would impact Mr. Steck's opinion about the application.

Lawrence Budnick (838 Nancy Way) asked about traffic and trees being removed.

Fredda Siegel (10 Pine Court) asked about traffic volume and what day of the week Mr. Steck visited the property.

Sherry Hines (28 Stoneleigh Park) asked what the definition of a standard family would be.

Closed to public questions.

Open to public comments.

Chairman Newell swore in:

Kathleen Hanlon (890 Village Green) appeared in opposition to the application. She stated the subdivision would affect her property, and set a precedence of subdivisions in the neighborhood. There is also concern about tree removal and flooding. Two photos marked as Exhibit O-6 A & B, were marked to show clear cutting on Mr. Villane's property. Another photo Exhibit O-6 C, was marked to show flooding on the subject property and Ms. Hanlon's property.

Jeremy Rothfleisch (940 New England Drive) appeared in opposition and stated because of a curvature of the street it will make the new homes appear even closer together.

Jean Erickson (880 New England Drive) appeared in opposition and stated she lives across the street from the subject property. She stated bulldozing the neighborhood and squeezing in more houses is not good for the town. Ms. Erickson stated she is concerned about the number of trees that will be removed and marked two photos as Exhibit O-7 & Exhibit O-8. The subdivision will change the character of the street and it will set a precedent in the neighborhood.

Joshua Abrams (908 New England Drive) appeared in opposition and stated we are not opposed to development or building something new when it is right and makes sense for the neighborhood. Mr. Abrams stated he is concerned about traffic and how the purposed subdivision will increase the traffic in the neighborhood and make it even more dangerous.

Benjamin Bryan (825 New England Drive) appeared in opposition and stated he is also concerned about traffic. There are cars that park on New England Drive when events are held at Tamaques Park. Each new home will bring additional cars and traffic to the neighborhood. Mr. Bryan suggested a moratorium on subdivisions be put in place until the town master plan is completed.

Amanda Brouillard (902 New England Drive) appeared in opposition and stated she is also concerned about traffic and future subdivisions in the neighborhood.

Donna Dwyer (808 New England Drive) appeared in opposition and submitted two photos marked as Exhibit O-9 and O-10. She stated the subdivision that was approved on Willow Grove Road, which appears in Mr. Steck's handout, does not benefit her or the community.

Gerri Rothfleisch (940 New England Drive) appeared in opposition. Exhibit O-11 a chart of 21 lots in the neighborhood was marked. Ms. Rothfleisch performed an analysis based on tax information and found the average lot size is 19,000 square feet, has a 3,000 square foot house,

and the average lot width and frontage is 129 feet. The proposed two new lots will be significantly less than the average square footage, lot width and frontage, and house size. The purpose of the analysis is to show that New England Drive really does have a specific character.

Brian Murphy (857 New England Drive) appeared in opposition. Mr. Murphy stated this development will significantly impact and change the character of the neighborhood. There have been other properties on New England Drive that have been looked at for subdividing. If this application is approved it will have an economic impact to the current homeowners, and be a disaster for the neighborhood.

Laura Millwater (841 New England Drive) appeared in opposition. She stated she had a sewer backup on her property and it was because of a developer working in the area disposing of materials in the sewer.

Sherry Hines (28 Stoneleigh Park) appeared in opposition. She stated the master plan described Westfield as suburban town and the tenor of the town has changed over the last few years. The town needs to do something about changing the zoning to stop future subdivisions from happening.

Closed to public comments.

Mr. Simon stated he took this case for a conforming subdivision because of the ordinance itself. The ordinance provisions are there to have protections for minor subdivisions and to protect neighborhoods such as this one. The burden of proof is on the applicant. This a builder that has been around a long time and has the ability to provide plans for the Board and public to review. Based upon on the information provided, neither the Board, nor the public can make an efficient judgement about this application. As a Planning Board you are permitted to ask for additional information. We do not know what these homes will look like, and if they will comply with the neighborhood in terms of materials, design, landscaping, drainage. These two new lots will be the smallest and narrowest, and are going to be different than the other lots in the neighborhood. Mr. Simon stated this application cannot be approved as submitted.

Mr. Foerst stated this a fully conforming subdivision, and the applicant has met all the criteria for the RS-12 zone. The law and the ordinance state you cannot deny an application when the subdivision is conforming. If you feel Section 8.06G of the ordinance should be applied, Mr. Steck was able to give you 13 different reasons why Section 8.06G is not applicable. The application does not only conform, it exceeds the requirements. The fact that it will be the smallest lot in the zone is not relevant to the Board's deliberation. Mr. Foerst asked the Board to approve the application.

The Board thanked the public for coming out and encouraged them to participate in the master plan process so neighborhoods such as this one can be preserved. It was agreed although case law and state law require the Board to approve a subdivision that conforms with the zoning standards, Section 8.06G of the ordinance cannot be disregarded, and the Board is obligated to apply that ordinance. The applicant did not deliver anything to show how this is consistent with the various provisions of Section 8.06G, and those 13 points made a difference in the application. The Board was also concerned about the drastic number of trees that could be removed on the site and about future subdivisions on that street. It was agreed if the Board voted for this subdivision it would be a detriment to the public good.

Chairman Newell called for a motion. Anastasia Harrison made a motion to deny; Darielle Walsh seconded.

ALL IN FAVOR: Robert Newell, Darielle Walsh, Kris McAloon, Mayor Shelley Brindle,  
Michael La Place, Linda Habgood, Anastasia Harrison, Michael Ash,  
Matthew Ceberio

ABSENT: Ann Freedman

OPPOSED: None

ABSTAINED: Bill West

Motion carried.

Application denied.

There being no further business, a motion to adjourn was made, seconded and carried. The meeting adjourned at 1:04 am.

Respectfully Submitted,

Linda Jacus  
Administrative Secretary