

U.L. v. Carteret

June 12, 1987

S. Plainfield

2 copies of letter from Barbara to Neisser w/ rough draft of letter to Opalski attached

Pgs. Total : 18

742

CA000~~742~~L

Barbara J. Williams, Esq.
90 Dencio Road
Lawrenceville, New Jersey 08648
(609) 896-0910

June 12, 1987

Eric Neisser, Esq.
A.C.L.U.
38 Walnut Street
Newark, N.J. 07102

Re: South Plainfield

Dear Eric:

Pursuant to our telephone conversation of today, I am enclosing a very rough draft of the letter to Mr. Opalski that we discussed.

I would appreciate your reviewing the documents and the letter and letting me know your comments and suggested changes. I suspect it will have to be toned down a bit.

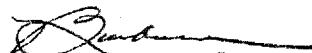
By a copy of this letter, I am sending the draft and accompanying documentation to John and Roy. I have been unable to reach Roy at this point to discuss his viewpoint on sending a letter but I agree with you that it certainly is indicative of the lack of good faith on the part of South Plainfield.

Alan is trying to re-arrange his schedule to attend the next mediation session with us. The Sr. citizen site will be the main issue of discussion.

Must run to the post office before it is too late.

In search of fairer fair shares, I remain.....

Very truly yours,


Barbara J. Williams

cc: C. Roy Epps
Dean John Payne

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90 Denow Road
Lawrenceville, New Jersey 08645
(609) 896-0910

DRAFT

June 12, 1987

Mr. Douglas V. Opalski, Executive Director
New Jersey Council on Affordable Housing
CN 813
Trenton, New Jersey 08625-0813

Re: Urban League of Greater New Brunswick et al v. The
Borough of Carteret et al (South Plainfield)

Dear Mr. Opalski:

South Plainfield, the Civic League and Harris Steel are presently in the process of mediation. Two mediation sessions have been held and another mediation session is scheduled for June 18, 1987. The Civic League is hopeful that a satisfactory resolution of its objections to the South Plainfield Housing Element can be reached. The funding of the 100 units of Senior Citizen housing remains of concern and it may become necessary for South Plainfield to find alternate sites for the 100 units.

A serious matter has recently come to my attention. The Orders of Judge Eugene D. Serpentelli, J.S.C. regarding South Plainfield specifically enjoined action by South Plainfield with respect to specific sites of vacant land within the Borough as a result of the improper sale of vacant land by South Plainfield of municipal lands required to be rezoned by the Court's Judgment. (The relevant Orders of the Court are enclosed). One of the parcels subject to the restraint was Block 427 Lot 1.01. While this site is not part of the current Housing Element of South Plainfield, it remains part of the injunction by the Court currently in effect.

By letter of Barbar Stark Esq., attorney for the Civic League, counsel for the owners of Block 427 Lot 1.01 and South Plainfield were explicitly apprised that the Civic League, while having no objection to the owners proceeding through the subdivision process, did object to the owners obtaining any vested rights thereby. Despite being

on notice of this objection, the South Plainfield Zoning Board granted the subdivision without any conditions, thereby effectively vesting the rights of the owner in direct violation of the prior notice of the Civic League - and more importantly, in direct violation of the Order of the Court.

Investigation has revealed that no building permit has been issued with respect to the subject site.

This action again reflects a blatant disregard by South Plainfield of the Orders of the Court and evidences a lack of good faith on the part of the municipality toward satisfying its fair share obligation. I respectfully request that this matter be taken into account with respect to the grant of substantive certification to South Plainfield.

Additionally, on behalf of the Civic League, I respectfully request that South Plainfield be required to certify that no other action has been taken as to any of the other sites restrained by the Court and the the Council on Affordable Housing explicitly enjoin the issuance of a building permit as to Lot 427 Block 1.01. If a Motion before the Council is necessary for the foregoing, please advise and I will proceed accordingly.

The Civic League reserves the right to seek further enforcement of the Court's Order should the vacant land in Block 427 Lot 1.01 become necessary to satisfy the South Plainfield fair share.

I thank you for your assistance in this matter.

Very truly yours,

Barbara J. Williams

PETER J. CALDERONE
ATTORNEY AT LAW
19 HOLLY PARK DRIVE
SOUTH PLAINFIELD, N.J. 07080
(201) 561 - 0479

June 3, 1987

Barbara J. Williams, Esq.
90 Denow Road
Lawrenceville, N.J. 08648

Re: Urban League of Greater
New Brunswick v. Mayor
and Council of Carteret
(South Plainfield)

Dear Ms. Williams:

Enclosed please find copies of the materials
concerning Block 427, Lot 1.01. Please advise if you
need additional information.

Sincerely,



PETER J. CALDERONE

Enclosure

RESOLUTION
PLANNING BOARD
BOROUGH OF SOUTH PLAINFIELD

BE IT RESOLVED by the Planning Board of the Borough of South Plainfield that:

WHEREAS, DIGIAN AND SON CONSTRUCTION COMPANY, represented by Jonathan Drill, Esq., has made application for a three-lot subdivision and bulk variances in Block 427, Lot 101;

WHEREAS, a public hearing was held on February 4, 1987 and the Borough Engineer's November 7, 1986 Report was read into the record;

WHEREAS, the Board found that the benefit of granting the variances outweigh any detriment and that the granting of the variances will not impair the purpose and intent of the zone plan.

NOW, THEREFORE, preliminary subdivision approval and the requested variances are granted subject to:

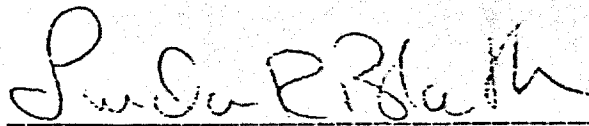
1. All recommendations, approvals, and fees contained in the Borough Engineer's November 7, 1986 Report.
2. Deed restrictions are to be included requiring that property owners be responsible for maintenance of drainage facilities and that consisting of 1/3 sections of pipes.
3. Rebars are to be installed at the openings of the 15' RCP.
4. Providing Borough Engineer with metes and bounds description of storm drainage easement and obtaining Mayor and Council of the Borough of South Plainfield's approval of easement.

THOSE IN FAVOR: HOGAN, ACKERMAN R., GRAF, GALLAGHER, GOUSHY, WESTRICK,
FITZIMMONS, SKOLNICK, ACKERMAN P.
THOSE OPPOSED:

THOSE ABSTAINING:

THE FOREGOING IS A TRUE COPY OF A RESOLUTION ADOPTED BY THE PLANNING BOARD AT THEIR MEETING OF: MARCH 4, 1987

DATE: March 4, 1987


LINDA R. BLATH, CLERK

Mr. Dalto pointed out that this Board does have the authority within the site plan ordinance to have these conditions waived. He was asked that they be given the opportunity to commence construction.

Discussion ensued as to whether these conditions should be approached and voted on separately.

Mr. Spisso, again, stated that he did not want to set a precedent.

Mr. Calderone explained that the amount pending was not that much so it would not negate the resolution that much.

The attorney explained the steps for improving the site, and then construction, and thought the time involved was a four (4) month process..

The board decided to address each request separately.

A motion was offered by Mr. Spisso and seconded by Mr. Westrick that relief be given regarding the advance warning sign on Park Avenue. Upon voice count, the motion was carried unanimously.

A motion was offered by Peter Ackerman and seconded by Mr. Skolnick to relieve applicant from getting approval from the utility companies prior to the issuance of a permit. Mr. Graf noted cannot issue a permit until the applicant has a reference number.

Upon voice count, the motion was carried unanimously.

A motion was offered by Mr. Westrick and seconded by Mr. Spisso to dispense with approval of the DEP prior to the issuance of a permit. Upon roll call, the motion was carried with the following members voting "no" P. Ackerman, Gallagher, Goushy, Fitzimons.

The motion featured the point that the applicant can proceed with site work to the point of first inspection.

PUBLIC HEARING

84-15/V(A)

DI GIAN & SON CONSTRUCTION COMPANY, INC.
P.O. BOX 181
South Plainfield, New Jersey
Block 427, Lot 101
Creation of three (3) lots

Jonathan Drill, Esq. representing the applicant explained that the application is for a subdivision of Lot 101 in Block 427 to create three lots - two (2) of which the applicant proposes to building two (2) family homes. He recalled that they came in as a major subdivision and received approval, and reflected on the easement requirement. He noted that they were not able to obtain the easement and the Board after being approached by the applicant ruled that a new application be prepared for consideration. It was noted that the easement needs Borough's approval (easement).

Mr. Drill noted that both lots require variances since they are short in frontage and square footage.

Mr. Di Gian was duly sworn in. He detailed the history of these topic lots. He noted that they thought they would be able to obtain the easement, however he told of refusal by the other party.

Mr. Di Gian noted the proposal of the concrete pipe for run off, which is being offered in consideration in lieu of a swail on the side and rear of the property.

Mr. O'Lenik, Engineer, was duly sworn in.

Mr. O'Lenik described the proposed pipe configuration.

Mr. Drill referred to a possible deed restriction for the maintenance of the pipe.

Mr. Drill pointed out that there was only a small amount of flow to be considered.

Discussion ensued on the grate to protect the pipe and prevent children from getting into same.

Mr. Naberezny explained that the proposed is the only way he knew of addressing the back area.

The concept of deed restriction was discussed.

Mr. Drill introduced into evidence a missive from Rutgers Constitutional Law Clinic which allows the applicant to close title (Exhibit A-1)

A chart was presented and expounded showing substandard lots and two (2) family homes (Exhibit A-2)

Mr. Naberezny stated that he is going to need a metes and bounds description of the easement.

The application, by the Chairman, was opened up to the public. However, no one approached the assemblage to discuss same and the meeting was closed to the public.

A motion was offered by Mr. Skolnick and seconded by Mr. Fitzimmons to amend the application subject to the conditions instituted in the November 7, 1987 letter from Mr. Naberezny, and that the amended condition for the pipe be approved with rebars at the opening of the 15" RCP, deed restriction for maintenance of the 1/3 section channels and a metes and bounds description of the easement.

Upon roll call, the motion was carried unanimously.

OLD BUSINESS

The board approached the topic of a Planning Consultant for the year 1987.

Chairperson Hogan stated that the members have read and reviewed the correspondence and proposals from the two (2) firms.

Mr. Westrick recounted a representative from Hudson speaking to the Board. He noted Mr. Rosa's presence and thought that, perhaps, Mr. Rosa might want to address the board.

Mr. Rosa of Robert Rosa Associates, planning consultant, was duly sworn in. He detailed his background, and that of his staff. He detailed the expertise of his firm, and that they have the ability to approach the design aspect. He added that they are one of the most experienced firms in the State regarding Mount Laurel

Mr. Westrick noted that in Mr. Rosa's contract it noted his availability to attend the meetings; however, this group never cashed in on this aspect. It was pointed out that the fee for his attending meetings is \$275.00 per meeting.

Mr. Rosa explained that the \$3,000.00 is there from other years, and that this amount would be utilized first.

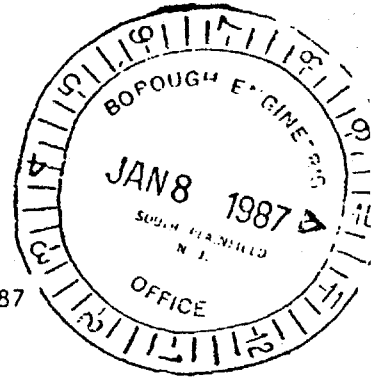
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Mr. Rosa reflected that this plan was incorporated into the Master Plan.

Councilwoman Goushy noted recent information noting that this element will now be included in master plans.

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS
Campus at Newark

School of Law-Newark • Constitutional Litigation Clinic
S.I. Newhouse Center For Law and Justice
15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687



June 2, 1986

Joseph Murray, Esq.
McDonough, Murray & Korn
555 Westfield Avenue
Westfield, NJ 07091

Dear Mr. Murray:

This is in response to your letter of May 27, 1986 to Eric Neisser, Esq. We have no objection to the closing of title of DiGian & Son Construction Co., Inc.'s project, subject to the escrow of the closing funds. Nor do we have any objection to the subdivision of this property, with the understanding, of course, that no rights vest in connection with same.

We do not agree, however, that "the intent of the existing restraints was to include only that portion of Lot 1.01 which was sold to Mr. Massaro ...". Your client's property is plainly included in the existing restraints, and we would oppose any attempt to vest rights contrary to Judge Serpentelli's Order.

Very truly yours,

A handwritten signature in cursive, appearing to read 'Barbara E. [unclear]'. The signature is written in dark ink and is somewhat stylized.

cc/Frank A. Santoro, Esq.
Chris Nelson, Esq.

Barbara J. Williams, Esq.
90 Denow Road
Lawrenceville, New Jersey 08648
(609) 896-0910

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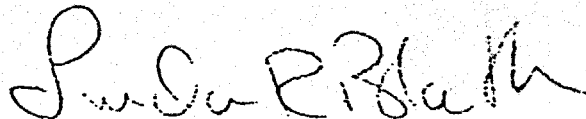
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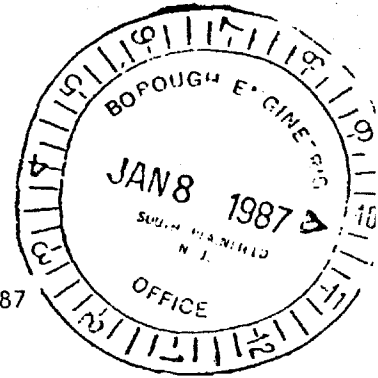
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June 2, 1986

Joseph Murray, Esq.
McDonough, Murray & Korn
555 Westfield Avenue
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Very truly yours,

A handwritten signature in black ink, appearing to read 'Frank A. Santoro'.

cc/Frank A. Santoro, Esq.
Chris Nelson, Esq.