

ML - Cranbury

16-Sept - 83

Cranbury Dev. Corp. v. Cranbury

Complaint

Pgs. 5

CA002217C

FILED 16 SEP 1983

Chambers of
H.L. BREITKOPF, J.S.C.

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Attorney for Plaintiff

CRANBURY DEVELOPMENT CORPORATION,	:	SUPERIOR COURT OF NEW JERSEY
a corporation of the State of	:	LAW DIVISION
New Jersey,	:	MIDDLESEX COUNTY
	:	DOCKET NO. P.W. L-59643-83
Plaintiff,	:	
	:	Civil Action
vs.	:	COMPLAINT
	:	
CRANBURY TOWNSHIP PLANNING BOARD	:	
and the TOWNSHIP COMMITTEE OF	:	
THE TOWNSHIP OF CRANBURY,	:	
	:	
Defendant.	:	

Plaintiff, Cranbury Development Corporation, a corporation of the State of New Jersey, with offices at 1099 Wall Street West, Lyndhurst, New Jersey, by way of Complaint against the defendants, Cranbury Township Planning Board (hereinafter "Planning Board") and defendant, Township Committee of the Township of Cranbury (hereinafter "Township Committee"), says:

FIRST COUNT

1. Cranbury Development Corporation is the owner of lands known as Lot 10, Block 10, and Lot 1, Block 12, as shown on the Tax Map of the Township of Cranbury, Middlesex County, New Jersey. The parcel known as Lot 10, in Block 10, comprises approximately 375 acres and the parcel known as Lot 1, in Block 12, comprises approximately 20 acres; both parcels are situated westerly of the New Jersey Turnpike and contiguous thereto.

2. Prior to July 25, 1983, the subject property owned by the plaintiff was zoned industrial calling for minimum three-acre lot sizes.

3. On September 5, 1982, the Planning Board adopted the Cranbury Township Land Use Plan (hereinafter "Land Use Plan"). Pursuant to the Land Use Plan, the Planning Board recommended that plaintiff's land be re-zoned with Lot 10, Block 10, approximately 375 acres being located in a newly created light impact residential zone, and Lot 1, Block 12, being located in a newly created light impact industrial zone.

4. On July 25, 1983, the Township Committee adopted the zoning ordinance recommended by the Planning Board. The zoning ordinance was published on August 5, 1983.

5. Pursuant to the zoning ordinance, plaintiff's property has now been zoned R-LI, residential light impact. Section 150-17 of the zoning ordinance provides as follows:

Permitted Uses: In the R-LI, residence-light impact zone, no land shall be used and no structure shall be erected, altered or occupied for any purposes except the following:

- A. Detached single-family dwellings.
- B. Agriculture and other farm buildings.
- C. Public parks and playgrounds.
- D. Necessary public utilities and services.
- E. Buildings, structures and uses owned and operated by the Township of Cranbury.
- F. Accessory uses and accessory buildings cutomarily incidental to the above uses and located on the same lot.

150-19 Area and Bulk Regulations. A. Single-Family dwelling:

- (1) Lot area: Minimum lot area for a single-family dwelling shall be three (3) acres.

(2) Frontage: Minimum street frontage shall be two hundred fifty (250) feet.

(3) Lot depth: Minimum lot depth shall be two hundred fifty (250) feet.

(4) Front yard: Minimum front yard depth shall be fifty (50) feet.

(5) Side yards: Minimum side yard width shall be fifty (50) feet.

(6) Rear yard: Minimum rear yard depth shall be fifty (50) feet.

(7) Building height: Maximum building height shall be thirty-five (35) feet.

(8) Streets: Minimum street right-of-way and cartway widths shall conform with the standards for rural streets set forth in Article XVI.

6. The New Jersey State Development Guide Plan, as prepared by the New Jersey Department of Community Affairs, Division of State and Regional Planning, designates plaintiff's property as a growth area, rather than a limited growth, agriculture or conservation area. The State Development Guide Plan has been held to be the "remedial blueprint" for development by the Supreme Court in South Burlington County NAACP vs. Mount Laurel Township, 92 N.J. 158 (1983). Three-acre residential zoning as called for by the R-LI Zone, is not consistent with the Guide's growth area, but instead is consistent with the limited growth area, and thus a major inconsistency exists between the State's position and the Cranbury Township zoning ordinance.

7. The action of the Township Committee in re-zoning plaintiff's property to three-acre residential light impact is not consistent with the Middlesex County Master Plan.

8. Plaintiff's property is totally unsuited for development.

into three-acre estates as called for in the newly zoned R-LI Zone, inasmuch as the subject property is bounded by high intensity highway commercial, high density planned development (two to four dwellings per acre) and light industrial zoning which permits general manufacturing and office/research. Additionally, the subject property has over 1,800 feet of frontage on the New Jersey State Highway U. S. Route 130, a principal arterial, serving as a major truck route in southern and central New Jersey, and also is traversed by a freight rail line and shares a 2,400 foot common property line with the New Jersey Turnpike.

9. The re-zoning of plaintiff's property to residential-light impact is not consistent with the intent and purpose of the Cranbury Township Land Use Ordinance, nor vital to the philosophy set forth in the Master Plan since the subject tract is not involved in the transfer of development credits to retain farm land and to stimulate higher density residential development, nor is it similar to other areas of the Township zoned for three-acre residential development.

10. The actions of the Planning Board and Township Committee in recommending and adopting the zoning ordinance and the Land Use Plan as applied to plaintiff's property was arbitrary, capricious, unreasonable and clearly erroneous.

WHEREFORE, plaintiff demands judgment that the Land Use Plan and the zoning ordinance be declared null and void and set aside.

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SECOND COUNT

1. Plaintiff repeats the allegations of the First Count as if set forth hereinafter at length.

2. The defendant, Planning Board, incorporated in the Land Use Plan the utilization of Transfer Development Credits (hereinafter "T.D.C.").

3. The defendant, Planning Board, recommended and the defendant, Township Committee, adopted a zoning ordinance which provided for T.D.C.

4. The Zoning ordinance provides by definition in S 150-7 that:

"Development Credit - An interest in land which represents a right to exchange land for residential purposes in accordance with the provisions of this ordinance.

Transfer of Development Credits - Where permitted by this ordinance, the act of using a development credit in order that permission for development may be granted."

5. The use of T.D.C. in the zoning ordinance is not authorized by law.

WHEREFORE, plaintiff demands judgment appointing a Master to prepare a new land use plan and a new zoning ordinance.

WHEREFORE, plaintiff demands judgment for counsel fees and costs of this action.



THOMAS R. FARINO, JR.
Attorney for Plaintiff

DATED: September 16, 1983