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**PLANNING BOARD
REGULAR MEETING MINUTES
MAY 11, 2022 - 7:30 P.M.**

1. **CALL MEETING TO ORDER/SUNSHINE STATEMENT** – Planning Board Chair called the meeting to order at 7:30pm and read the Sunshine Statement:

“This meeting is being held in accordance with the Open Public Meetings Act, also known as the Sunshine Law, N.J.S.A. 10:4-6. Notice of the meeting was sent to the Daily Record and the Citizen on January 13, 2022 and published on January 19, 2022. Notice was also posted on the Bulletin Board of the Municipal Building and on the Town of Boonton website.”

2. **PLEDGE OF ALLEGIANCE** – Planning Board Chair led those in attendance in the Pledge of Allegiance to the Flag.

3. **ROLL CALL** – Planning Board Clerk conducted Roll Call:

NAME	PRESENT	ABSENT	EXCUSED
Ms. DeVenezia	X		
Mayor Corcoran		X	
Mr. Brewer	X		
Mr. Khokhar	X		
Mr. Orlusky	X		
Mr. Phelps	X		
Mr. Schnitzler	X		
Mr. Venturini	X		
Mr. Weisman	X		
Mr. Wrobel	X		
Mr. Vasa	X		

The following were also present:

- Mr. Scott Carlson, Board Attorney
- Mr. Graham Petto, Board Planner
- Ms. Alexandra Handel, Board Engineer

4. **OLD BUSINESS**

- a. Topology performed a Board Member training.

5. **PAYMENT OF THE BILLS**

- a. The Planning Board Clerk announced that the bills are in order to be paid. A motion was made by Mr. Weisman, and seconded by Mr. Brewer, to pay the bills as submitted. All were in favor, and the motion carried.

6. **APPROVAL OF MINUTES**

- a. Minutes of the regular Planning Board meeting of April 13, 2022 were accepted as presented.

7. CORRESPONDENCE

- a. No correspondence was received.

8. RESOLUTIONS

a. RESOLUTION OF DENIAL

**APPLICATION OF
PARK WOODS AT THE BOULEVARD ASSOCIATES LLC
DENIAL OF PRELIMINARY AND FINAL SITE PLAN WITH VARIANCES**

IN THE MATTER OF
PARK WOODS AT THE
BOULEVARD ASSOCIATES LLC

: PLANNING BOARD OF THE
: TOWN OF BOONTON
: APPLICATION NO. 2021-9
: BLOCK 113; LOT 10
: ELY PLACE

WHEREAS, Park Woods at the Boulevard Associates LLC (“Applicant”) requested approval of a preliminary and final site plan with variances for the property located at Block 113, Lot10 on the tax map of the Town of Boonton, being commonly known as an undeveloped, wooded parcel located on Ely Place, Boonton, New Jersey (the “Property”), located in the R-4 Zone District; and

WHEREAS, by Ordinance adopted by the Mayor and Board of Aldermen of the Town of Boonton under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one board (the “Board”), which possesses and may exercise all powers granted to the Planning Board and Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.; and

WHEREAS, the Board held a public hearing on the Application for preliminary and final major site plan approval and bulk variance relief (the “Application”) on February 23, 2022, March 9, 2022, and April 13, 2022; and

WHEREAS, Applicant was represented by Bryan Plocker, Esq. and

WHEREAS, the Board heard the testimony and evidence presented by the Applicant and solicited comments from the public.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board of the Town of Boonton, County of Morris and State of New Jersey, on the 13th day of April, 2022, made the following findings of fact:

1. The Board found the Application complete.
2. In connection with this Application, the Board reviewed the following:
 - a. Application for Development filed August 12, 2016;
 - b. Application for Variance filed August 12, 2016;
 - c. Suburban Consulting Engineers review memorandum dated February 17, 2022;
 - d. Suburban Consulting Engineers supplemental review memorandum dated March 15, 2022;
 - e. Topology Planning Report #1 dates February 18, 2022; and
 - f. Morris County Planning Board “Site Plan Report” dated April 7, 2022.
3. The Board noted that the Application was originally before the Board in 2016 and was denied in July, 2019. The Resolution of Denial associated with those proceedings is attached hereto as Exhibit A. The Application is now back before the Board on remand from the Superior Court of New Jersey,

which was the result of an appeal of the Board's 2019 denial of the Application. The Board was instructed by the Court to complete rehearing of the Application by March 29, 2022.

Since the Board's initial denial of the Application, the Property was rezoned by the Town of Boonton, making the proposed use and density permitted on the Property. Accordingly, the use variance that was requested during the initial hearing of the Application is no longer needed or requested; only bulk variances are requested at this time.

Further, the Property has been earmarked for three affordable housing units as part of the Final Judgment of Compliance entered with respect to the Town of Boonton's settlement with Fair Share Housing Center.

Finally, the Board noted that it requested that Applicant prepare and submit an Environmental Impact Statement in connection with the Application, but the Court determined that Applicant could not be required to prepare or submit same.

4. Based upon the opening comments of Bryan Plocker, Esq., the Board noted that the Property is an irregularly-shaped parcel at the corner of Ely Road and Fanny Road. Applicant seeks preliminary and final site plan approval and design waivers to permit the development of 20 residential units, comprised of 17 market rate units and three stacked affordable units.

When the Application was initially filed in 2016, the Application proposed 21 market rate townhouses and zero affordable units. The property was split-zoned (business and residential) at that time. Accordingly, the Application required a use variance. After several initial hearings, Applicant paused the proceedings to revise the Application. During this hiatus, the Town of Boonton settled a declaratory judgment action brought by Fair Share Housing Center. In the settlement agreement, the Property was identified to be the site of three affordable housing units.

Applicant then submitted a revised Application which consists of 17 market rate townhouses and three stacked affordable apartment units. The Application, still requiring a use variance, was denied in June, 2019. Applicant appealed that decision to the Superior Court of New Jersey. During the pendency of that litigation, the Town of Boonton rezoned the Property to permit the proposed residential use and density. The Court rendered its decision in November, 2021, remanding the Application to the Board for rehearing as a permitted use.

5. Based upon the sworn and qualified testimony of Eric Keller, P.E., Applicant's licensed professional engineer, the Board found that the Property is a "C-shaped" parcel located at the intersection of Ely Road and Fanny Road in the R-4 zone district. The Property is 3.28 acres in area and ranges in elevation from 475 feet to 560 feet. The Property slopes from east to west.

Applicant proposes to construct four residential buildings. Building #1 consists of townhouses and three stacked affordable apartment units. Buildings #2, #3, and #4 consist entirely of townhouses. Each townhouse has a driveway and two-car garage. Twelve surface parking spaces are proposed and no on-street parking would be permitted.

The maximum number of units permitted on the Property is 20, and 20 units are proposed. The proposed building height is 36 feet. The proposed setbacks are compliant with the zoning ordinance. The proposed street is a cul-de-sac and its width is 21 feet, which complies with the Residential Site Improvement Standards. Applicant proposes to connect to existing sewer located on Fanny Road.

Variances are required for location of a fence within 25 feet of a street right-of-way, fence height, setback distances, rear yard depth, distance to a non-residential use, and steep slope disturbance. The rear yard depth and front yard setback variances were eliminated by revision to the plans made during

hearing. The proposed fence is to be located on top of the proposed retaining wall and, accordingly, would not impede site distance. In addition, when placed on top of a retaining wall, the height of the fence is calculated to include the height of the retaining wall (16.3 feet at its highest point), necessitating a variance for excessive height. Several design waivers are also required, most notably a waiver from the requirement that sidewalks be provided, as none are proposed.

The most significant variances concern steep slope disturbance. The deviations from the ordinance are as follows:

Slope category	Maximum permitted disturbance (percentage)	Maximum permitted disturbance (total area)	Proposed disturbance (percentage)	Proposed disturbance (total area)
15% - 19.99%	40%	1,500s.f.	48.9%	14,025s.f.
20% - 24.99%	20%	1,000s.f.	55.8%	20,186s.f.
25% - 29.99%	None.	500s.f.	48.9%	9,994s.f.
30% or greater	None.	100s.f.	35.7%	10,514s.f.

At hearing, revisions to the proposed parking spaces resulted in a negligible alteration of the above-enumerated quantities of steep slope disturbance.

According to Mr. Keller, the purpose of steep slope regulations are to provide controls during construction as to minimize erosion. No mechanisms to control erosion exist on the Property today. Applicant proposes a series of retaining walls to eliminate the impacted steep slopes and stormwater management facilities to control stormwater runoff. The stormwater management system complies with the requirements of ordinance and with the requirements of the New Jersey Department of Environmental Protection that were in place at the time the Application was submitted.

Applicant projects that the proposal would generate 5,700 gallons of wastewater per day. The daily capacity of the sewer pipe to which Applicant proposes to connect is 556,000 gallons per day. Accordingly, the wastewater generated by the proposal would have a negligible impact on the existing sanitary pipes.

Applicant proposes landscaping throughout the developed portion of the Property, including shade and ornamental trees and deciduous and evergreen shrubs. Five LED street lights are proposed on 14' tall poles. Sidewalks were not proposed in the Application because the introduction of sidewalks would push the location of the proposed buildings further into the slopes and increase steep slope disturbance.

Applicant agreed to propose to the Town Council that Title 39 of the New Jersey Revised Statutes concerning motor vehicle offenses be enforced on the Property.

During the pendency of the proceedings, Applicant revised its plans to reflect that three parking spaces located adjacent to the proposed entrance to the Property were relocated to the interior of the Property.

Mr. Keller explained that, in his opinion, sidewalks were not needed for the proposed development, and that the addition of sidewalks to the plan would result in further disturbance of the Property's steepest slopes.

6. Based upon the sworn and qualified testimony of Robert Larsen, Applicant's licensed architect, the Board found that a total of twenty residential units are proposed. Fourteen of the units will be a townhouse of a particular design; three will be a townhouse of a different design; and three will be apartment units. The materials comprising the exterior of the buildings were selected for their ability to blend into the areas surrounding the Property. The townhouses will be approximately 2,400s.f. in area and the area of the apartments will range from 809s.f. to 1,265s.f. At the April 13, 2022 hearing, the Board's professional planner identified, and Mr. Larsen acknowledged, that the proposed size of two of the apartments (809s.f. and 877s.f.) does not comply with the 1,000s.f. minimum size requirement set forth under Town of Boonton ordinance §300-851 and §300-104.2(E)(5)(b). This proposed condition would require an additional variance that was not identified by Applicant and for which no proofs were offered.
7. Based upon the sworn and qualified testimony of John McDonough, P.P., Applicant's professional planner, the Board heard that Applicant proposes four residential buildings consisting of 20 units, including three affordable units. The Property is located in the R-4 zone district. Applicant has adhered to the use, density, parking, and building dimension requirements of the R-4 district. Variance relief is required for several non-conforming conditions relating to steep slope disturbance, landscape buffer, and the location and dimensions of the proposed fence. Additionally, design waivers are required for the lack of pedestrian sidewalk, distance between the parking field and the proposed residential structures, and design of proposed signage.

Mr. McDonough asserted that the variances could be approved under the flexible "C(2)" statutory standard, which is a balancing test whereby the benefits of the application as a whole substantially outweigh the detriments of the application. Benefits of Applicant's proposal include: (1) advancement of the Town of Boonton's fair share housing plan and court settlement entered in furtherance of that plan; (2) replenishment of the Town of Boonton's housing stock; (3) provision of a variety and diversity of housing stock; and (4) promotion of core planning goals such as creation of a desirable visual environment, planning for a variety of land uses in appropriate locations, and efficient use of land.

Mr. McDonough noted that expert testimony had been provided asserting that the site could be developed without detriment and that none of the planning purposes of steep slope controls would be violated. Steep slope controls are environmental-based and have been addressed by Mr. Keller, including soil loss, vegetation loss, increased rate of erosion, alteration of natural drainage patterns, and impairment of terrestrial or aquatic systems.

Regarding the fencing, the relief sought is in furtherance of public safety. The wall and associated fence advance the project as a whole without adverse impact.

Variance for the landscape buffer is justified because fifteen feet of buffer is provided, however it is tiered. Accordingly, the purpose of the buffer requirement is satisfied.

The site plan works effectively notwithstanding the design waivers sought by Applicant. The parking waiver is reasonable given the "boutique" scale of the development. The sidewalk waiver is reasonable given the slow vehicle speeds expected on the cul-de-sac development and lack of connection to other pedestrian walkways. The signage waiver is reasonable because it creates no visibility impacts. Strict or literal enforcement of these ordinances would serve no practical planning purpose.

Mr. McDonough testified that his opinion concerning the steep slope disturbances would not be altered by the additional disturbance caused by the addition of sidewalks to the proposal. The Board finds this assertion unconvincing.

8. At hearing, Applicant stipulated that it would add sidewalks to the proposal but declined the opportunity to show the location and design of those sidewalks, as well as the impact they would have on steep slope disturbance. Accordingly, at the conclusion of the hearing, the Board did not know and could not have known the magnitude of the steep slope disturbance or the areas that would be disturbed.
9. The Board further benefitted from the advice of its professional engineer and professional planner. The Board's engineer noted that the revised plans shown at the March 9, 2022 meeting were not submitted in advance of that hearing, notwithstanding the fact that they were required to be submitted ten days in advance. The engineer reviewed the revised plans after that hearing and issued a supplemental report to the Applicant and the Board dated March 15, 2022 and attached hereto as Exhibit B. Concerns were raised regarding the impact of the four-building proposal (specifically buildings #3 and #4) and its impact on steep slopes.

Concerns were also raised about the landscaping plan and supplemental landscaping, retaining natural vegetation, disturbance of steep slopes, and sidewalks. Applicant agreed to a revised landscaping plan but will not provide a survey of existing trees and vegetation. Applicant further declined to consider building removal or relocation to mitigate the proposed steep slope disturbance. Applicant agreed to provide sidewalks but declined to show the size location, or circulation of the sidewalks, or their impact on steep slopes. Applicant disregarded the requirements of the Town of Boonton's steep slope ordinance §300-94.1. Applicant also declined to reduce the number of units or the number of buildings to mitigate the disturbance of steep slopes. The engineer is further concerned about the methodology of construction and specifically the lack of geotechnical reports. Those concerns were expressed in the Board's engineer's March 15, 2022 supplemental memorandum and remained unaddressed by Applicant.

10. The Board further benefitted from a "Site Plan Report" from the Morris County Planning Board dated April 7, 2022, attached hereto as Exhibit C. That report noted "several deficiencies in Applicant's application that need to be addressed." The most significant findings of the Morris County Planning Board, as expressed to the Town of Boonton Planning Board, were as follows:

The development will result in just over one acre of impervious cover. Presently the site is undeveloped and vegetated and allows for a high rate of groundwater recharge. Stormwater management entails the use of a subsurface infiltration/detention basin, which outfalls to the Fanny Road stormwater collection system. The development would result in a nearly 60% reduction of groundwater recharge. The basin is designed to account for this deficit and was modeled to show it should slightly exceed this deficit. There is no method depicted for intercepting stormwater prior to reaching the retaining walls. Poor drainage behind the walls can increase the hydrostatic pressure from the saturated soil and blow out the wall. . . .

The County has several environmental concerns regarding this site. This site is impacted by moderate to severe steep slopes throughout the property. The applicant has requested a variance from the Town's steep slope ordinance for the amount of slope to be disturbed. The site is covered by mature trees of varying sizes with developed root systems helping to stabilize the soil. The disturbance of nearly two acres of this site with the widespread removal of mature trees, in addition to the removal of exposed rock and large boulders scattered around the property, could cause critical issues with stability during the grading and leveling phases of construction. The site does not have much level ground and will require an increased effort to level and prepare the site for construction, while also protecting from slope failures during and after the installation of the retaining walls. . . .

NOW, BE RESOLVED, that the Planning Board of the Town of Boonton, County of Morris and State of New Jersey, on the 13th day of April, 2022, concluded that this request for use variance relief cannot be granted because the statutory positive and negative criteria are not satisfied, and there will be a substantial detriment to the zone and zone plan should the variances be granted. Specifically, the Board concluded that, for the several reasons expressed by its professional engineer, the variances were not justified and could not be approved. Furthermore, the Board was being asked to approve a final plan that was speculative in nature and was not shown to the Board. The Board was not informed of the final quantity of steep slope disturbance, the areas of steep slope disturbance, the design or location of the proposed sidewalks. Accordingly, without that information, the Board could not make an educated or informed decision on the Application.

NOW, BE IT FURTHER RESOLVED, by the Planning Board of the Town of Boonton, County of Morris and State of New Jersey, on the 13th day of April, 2022, the application of Park Woods at the Boulevard Associates LLC is hereby **DENIED**.

A motion was made by Mr. Weisman, which was seconded by Ms. DeVenezia, to accept the Resolution of Denial.

NAME	YES	NO	ABSTAIN
Ms. DeVenezia	X		
Mr. Brewer	X		
Mr. Orlusky	X		
Mr. Schnitzler	X		
Mr. Weisman	X		
Mr. Wrobel	X		
Mr. Vasa	X		
Mr. Phelps	X		

The motion passed on a vote 8 YES, 0 NO.

**b. RESOLUTION OF MEMORIALIZATION
ACCEPTANCE OF 2021 ANNUAL REPORT**

WHEREAS, N.J.S.A. 40:55D-70.1 requires as follows:

The board of adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The board of adjustment shall send copies of the report and resolution to the governing body and the planning board; and

WHEREAS, by Ordinance adopted by the Mayor and Board of Aldermen of the Town of Boonton under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one board (the “Board”), which possesses and may exercise all powers granted to the Planning Board and Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.; and

WHEREAS, the Board’s professional planner, Topology, prepared a “2021 Annual Report, Town of Boonton, Zoning Board of Adjustment” (the “Annual Report”) dated April, 2022; and

WHEREAS, the Annual Report was presented to the Board at its May 11, 2022 meeting; and

WHEREAS, the Board accepts and acknowledges the findings and conclusions set forth in the Annual Report.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board of the Town of Boonton, County of Morris and State of New Jersey, on May 11, 2022, adopts the “2021 Annual Report, Town of Boonton, Zoning Board of Adjustment” dated April, 2022, prepared by Topology.

A motion was made by Mr. Brewer, which was seconded by Mr. Orlusky, to accept the Resolution of Approval.

NAME	YES	NO	ABSTAIN
Ms. DeVenezia	X		
Mr. Brewer	X		
Mr. Khokhar	X		
Mr. Orlusky	X		
Mr. Schnitzler	X		
Mr. Weisman	X		
Mr. Wrobel	X		
Mr. Vasa	X		
Mr. Venturini	X		
Mr. Phelps	X		

The Resolution passed on a vote 10 YES, 0 NO.

9. PUBLIC HEARINGS

a. APPLICATION 2021-11 MURAWSKI

311 Union St. – Block 67, Lot 2

Change of Use with Bulk Variances

Ms. DeVenezia, as a Class 3 Board member, excused herself from this hearing.

Mr. Brancato introduced himself as the attorney representing the applicant, and he introduced the applicant, Mr. Murawski. Mr. Murawski was sworn in at this time. Mr. Brancato questioned Mr. Murawski on his tenancy and ownership of the subject property, and the proposed changes with regard to this application to the subject property, and the intended use of the basement apartment being inhabited by the applicant’s father. Mr. Murawski made the following comments:

- Presented A-1, a photograph of the rear of the property as seen from Mechanic St.
- Proposed to keep the current floor plan of the deck, but reconstruct the stairs to current code.
- Stated intent to pave the driveway and remove the shed on the left side of the property.
- Presented A-2, a photograph of the aerial view of the subject property. This photograph shows that Union St. sits higher in elevation than Mechanic St., which will facilitate the walkout basement apartment that is proposed facing Mechanic St.
- Presented A-3, a photograph of the view from the rear of the subject property looking toward Mechanic St.
- Described the property makeup in the immediate vicinity of the property along Mechanic St.
- Discussed a fence and stair improvement that was constructed in the front of the property along Union St.

The Board Chair opened the hearing at this time for Board comment.

Mr. Orlusky asked how the basement space is currently utilized. Mr. Murawski said that the basement is an unfinished space, but is proposed to become a one-bedroom apartment with a bathroom. Mr. Orlusky asked how many square foot the apartment is proposed to be. Mr. Murawski responded that the apartment would be roughly 600 square feet. Mr. Orlusky asked if the first floor unit would be able to access the basement apartment. Mr. Murawski, stated yes, that the stairs from the first floor to the ground floor utility room will remain, and that will be a common area before the basement apartment. Mr. Orlusky asked where all of the residents would park. Mr.

Murawski responded that the second floor tenant currently parks on Union St., Mr. Murawski uses garage, and the ground floor tenant would park in the driveway.

Mr. Khokhar asked if utilities are proposed to be separate or shared. Mr. Murawski said that the only shared service is water, and they proposed to install new water meters for each unit. Mr. Khokhar asked if the third apartment would eventually become an income stream once Mr. Murawski's father moves on. Mr. Murawski responded that he would like to continue to receive income from the unit in the future.

Mr. Brewer, inquired about parking and architectural layouts. Mr. Murawski replied that they are proposing a double wide driveway paired with on-street parking. Mr. Brewer made more comments, and Mr. Murawski deferred the response to later question his engineer regarding parking layout and architectural.

The Board Chair opened the hearing at this time for the Board's professionals comment.

Mr. Petto asked about the design approach for the layout of the basement unit asking if a living room window would be a full sized window. Mr. Murawski replied that it is not a full sized window, but that he would be willing to install a full sized window. Mr. Petto asked about the use of parking, specifically regarding the width of driveway. Mr. Murawski stated that the proposed driveway will be doublewide, and the tenants could coordinate parking for off-street purposes. Mr. Petto asked if there was an air conditioning condenser that is located over the property line. Mr. Murawski responded yes, and stated that the condensers were existing in that location upon his purchase of the property.

Mr. Brancato asked Mr. Murawski if he has a budget for improvements, and Mr. Murawski stated that he is expecting to spend between \$120,000 and \$140,000. Mr. Brancato noted that Mr. Murawski's intent is professionally have all the proposed work done to upgrade his residence.

Having no further questions, the Board Chair opened the hearing at this time for public questioning of this witness based on his testimony this evening. Hearing no questions from the public for Mr. Murawski, the Board closed the hearing to the public, and thanked Mr. Murawski for his testimony.

Mr. Brancato introduced the applicant's engineer, Mr. Paul Anderson, who was sworn in at this time. Mr. Andersen stated his credentials and education, and he was accepted by the Board as a professional engineer and planner.

Mr. Andersen made the following comments:

- Referenced SP-1, which was given to the Board in the application packet.
- Discussed that the subject property fronts on Union St., and rears on Mechanic St.
- Noted that there is a 9 to 10 foot elevation difference, creating the ability for a walkout basement.
- In order for the applicant to pave driveway, it will increase the impervious coverage.
- Proposed to add a lower level to the existing deck for the ground floor unit.
- Presented exhibit A-4, a total of seven photographs on four sheets of paper, to show a context of the neighborhood. Photo 1 shows the existing house as seen from Union St. Photo 2 shows the front, left side of the house showing a neighboring house and industrial building in rear. Photo 3 shows a four-car garage to the left of the subject property. Photo 4 is looking south on Union St. from the subject property. Photo 5 shows the subject property from the rear. Photo 6 shows neighboring houses on Union St. Photo 7 shows the industrial building across the street on Mechanic St.
- Stated that the subject property was built in 1911, and although it is not historic, it fits into the fabric of the community.
- Noted that there are no proposed building additions, and the proposed project substantially conforms with the master plan objectives.
- Commented that the driveway is proposed to be two cars wide, and three cars deep. The proposed driveway will blend into the residential neighborhood, and it is not an unusual circumstance for this community and neighborhood.

- Stated that a D-1 variance is required for the proposed third dwelling unit, as the R3-A zone only permits one and two-family dwellings. C variances are required for impervious coverage, and for several items involving the existing deck.
- Present that Division St., and this property, were recently considered by the town to be an Area in Need of Redevelopment.
- This application is compliant with the Master plan as it offers proper balance and use of land. Residential unit with higher density between industrial and community is a correct location.
- Stated that the proposed development will not be a detriment to the community or the zone plan, and that the D-1 variance, as well as C variances, can be granted without detriment to the zone plan and community.
- Noted that in terms of engineering, adding the impervious coverage with a mild pitch down from the garage toward Mechanic St. would permit the stormwater to flow to the gutter line of Mechanic St. Similarly, the application does not propose any stormwater management.

Mr. Brancato asked about the increased impervious coverage, and was any alternative parking situation considered. Mr. Andersen said that proposed doublewide driveway is safer for vehicles parking, and fits the neighborhood better than a parking lot.

The Board Chair opened the hearing at this time for Board comment.

Mr. Weisman asked for clarification on the doublewide driveway and if a need new curb cut would be needed. Mr. Andersen stated that the driveway apron is in bad shape, and that a car can drive into the existing width of the driveway and drive on either side of the proposed doublewide driveway.

Mr. Brewer asked how wide the proposed driveway would be. Mr. Andersen replied that the driveway would be 18 feet wide. Mr. Brewer asked if it would be a challenge to park and maneuver six cars in the driveway. Mr. Andersen said that there would have to be coordination of parking in the driveway. Mr. Brewer asked could the parking be redesigned to accommodate six cars to come and go at will. Mr. Andersen stated yes if the entire lot was covered in impervious coverage, but it would not fit the neighborhood. Mr. Brewer asked if the subject property is historic or not? Mr. Andersen, replied that it is not a historic site, but it is old, built in 1911, and not changing the house, and only improving inside the building maintains the fabric of the community.

Mr. Orlusky asked how many bedrooms are in each apartment. Mr. Murawski stated that there are 2 bedrooms in each existing unit.

Mr. Wrobel asked if the driveway is paved doublewide what the impervious coverage numbers would be. Mr. Andersen said it would be an increase in impervious coverage. There currently is 1258 square feet, and the increase would go to 2522 square feet. Mr. Andersen referred to the zoning schedule and note that the allowable amount of coverage for the property is 2219 square feet.

Mr. Vasa asked if there was any consideration for the doublewide driveway to be all gravel. Mr. Andersen, replied yes it was discussed, but a paved driveway would look cleaner with no stone going into street. Furthermore, the application would be willing to install an all gravel driveway subject to approval by the Board.

The Board Chair opened the hearing at this time for the Board's professionals comment.

Mr. Petto asked about the makeup of the existing, surrounding residential units as one, two, or three-family units. Mr. Andersen said that most of the neighboring residences are single or two-family, but that he did not know the exact makeup.

Ms. Handel recalled that Mr. Andersen stated that this is an area for higher density units in future, and that if all three units became rental, parking could get confusing. Ms. Handel asked if there was any consideration for signage or parking of tenants. Mr. Andersen stated that as proposed there will be two cars parking in driveway, but there will be a plan for the future parking if the applicant did not live. Ms. Handel asked, subject to approval, if the applicant could show parking conditions for future. Mr. Andersen replied that there would be one to two spaces per unit, one space in the garage, and parking proposed on left side of garage so each car could exit unimpeded. Ms. Handel asked if the driveway would have to be widened to accommodate parking for six cars. Mr. Andersen, responded yes in order to accommodate parallel parking and a drive lane. Ms. Handel asked if the drainage from the garage grades toward Mechanic St., asked for confirmation that the neighbors will not be negatively impacted by

drainage, and asked if there is any ponding on-site today. Mr. Andersen stated that the grade naturally pitches toward Mechanic St., the neighbors will not be negatively effected, and there is no ponding. Ms. Handel asked due to building and impervious coverage if there was any consideration for a dry well. Mr. Andersen replied no because the building is the same, and that the driveway would sheet-run to the gutter. Ms. Handel asked if there would be any required upgrade to the existing utilities for the addition of a third unit. Mr. Murawski stated that he would add a new water meter for the new unit. Ms. Handel inquired if it is possible to relocate the existing A/C unit and fence within the limit of property. Mr. Murawski stated that in order to relocate fence it would have to be on the bottom of the retaining wall, and the purpose of the fence was to stop people from falling over the retaining wall. The A/C units have no other location to be placed, due to topography of property. Ms. Handel asked if there was an existing sidewalk that runs along Mechanic St. Mr. Anderson replied that the applicant is planning to remove and replace the strip of sidewalk, and put in a proper driveway apron.

Mr. Phelps asked if the second floor unit has basement access, or only access through the front door. Mr. Murawski replied that the second floor unit is only accessible through the front door.

Having no further questions, the Board Chair opened the hearing at this time for public questioning of this witness based on his testimony this evening. Hearing no questions from the public for Mr. Andersen, the Board closed the hearing to the public, and thanked Mr. Andersen for his testimony.

Mr. Brancato stated that he has no further witnesses, and that the application is complete. Putting aside the presented testimony, Mr. Brancato commented that no passerby or neighbor will appreciate any difference if this application is granted. The neighborhood is a mixed use, and the applicant has demonstrated a commitment to improving the quality of the neighborhood and community, and hopefully will inspire other neighbors to take pride in their properties as well.

Mr. Brewer asked if there was any consent regarding moving the A/C condenser. Mr. Murawski responded that he figure out how to relocate the condenser pending Board approval.

The Board Chair opened the hearing at this time for the Board’s discussion.

Mr. Wrobel asked if a condition could be that the residence would convert back to a two-family pending the father’s departure, and Mr. Carlson stated that could not be a condition.

Mr. Vasa requested that water runoff management could be added as a condition of approval. Ms. Handel requested same. Mr. Carlson also added the condition that a drywell system be installed, if feasible, to the satisfaction of Board Engineer. Mr. Murawski agreed.

Ms. Handel asked that a condition be to comply with all the comments set forth in the engineer report.

A motion was made by Mr. Weisman, which was seconded by Mr. Orlusky, to approve the application with conditions.

NAME	YES	NO	ABSTAIN
Mr. Brewer		X	
Mr. Khokhar	X		
Mr. Orlusky	X		
Mr. Vasa		X	
Mr. Weisman	X		
Mr. Wrobel		X	
Mr. Phelps	X		

The motion was denied on a vote, 4 YES, 3 NO, where 5 YES votes are required to pass a Use Variance.

b. APPLICATION 2022-01 SMR REALTY

215 Liberty St. – Block 14, Lot 7
 Subdivision with Bulk Variances

Mr. Venturini recused himself from this hearing as being a conflict for being on the 200 foot list.

Mr. Schepis introduced himself as the attorney to represent the applicant, and he introduced Ms. Damera of SMR Realty, as the applicant. Mr. Schepis then introduced Mr. Mark Gimigliano, and Mr. Gimigliano was sworn in at this time. Mr. Gimigliano stated his credentials and education, and he was accepted by the Board as a professional engineer.

Mr. Gimigliano made the following comments:

- Presented Exhibit A-1, an aerial photo of the subject property with an overlay accurately displaying the proposed addition to the property.
- Stated that 215 Liberty St. located between Birch and Cedar St. is an undeveloped, vacant property in R-3A zone, and that the property has clearly been disturbed and regraded in the past. The R3-A zone permits single-family and two-family homes, and the surrounding properties are such.
- The subject property is oversized for the zone hence the proposed subdivision.
- Noted that there is a steep drop-off from the front to the rear of property, which is a manmade slope that runs through the lot.
- Presented Exhibit A-2, an aerial photograph from 1979 found on www.historicarials.com, showing two improvements on the lot.
- Commented that there are no references of any improvement on property since 1980, and it is likely that a fire occurred.
- Noted that the land lay is similar to today, minus the structure.
- Presented A-3, a site plan sheet which shows slope map, as submitted in application (set of 9 photos).
- Described the believed fill and soil, the retaining wall that was built in the rear of the property to increase the height of the rear yard, the fill brought in to the front of yard to create a flat area, and the slope between Liberty Ave. down toward Boonton Ave. in rear yard.
- Commented that clearly the land has been reworked with retaining walls to create level areas. If it was natural, slopes of this lot would be similar to other properties, which is not the case.

Mr. Schepis commented that in furtherance of this application and the recommendation of master plan, the applicant would accept as a condition of approval, a deed restriction to always be a single family structure with related accessory structures.

Mr. Gimigliano made the following comments:

- Stated that lot 7.01 would be on the left, and 7.02 on the right. Lot 7.02 is compliant, and 7.01 is slightly undersized, but does meet requirements for street frontage and all other setbacks and coverages.
- Noted that there is a band of steep slope that runs through the center of the property, and that these slopes are manmade. Most of the slopes are proposed to be removed, and after construction the slopes will be more stable than they are today.
- Commented that with regard to stormwater management that currently the property is graded to slope from north to south, toward back of property; all of the water runs off to the adjoining lots. The applicant is proposing that the roof downspouts, as well as the stormwater runoff from the driveway, will run into street and will be discharged into the gutter. This creates a significant proposed reduction of stormwater to neighboring and adjoining properties.
- Stated that there is no septic system, and the project will use city water and sewer.
- Referred to the SCE Report dated 1/26/22 and Presented Exhibit A-4, renderings of the proposed development.

The Board Chair opened the hearing at this time for Board comment.

Mr. Brewer asked if the stormwater currently sheets to neighboring properties, and asked how it is believed to flow. Mr. Gimigliano stated that currently the water flows from the front, left corner of the lot to the right, rear corner. Mr. Brewer asked for more information regarding the roof runoff. Mr. Gimigliano said that a drywell or infiltration area will be installed, and it is expected to be a 500 gallon drywell in the front and rear yard.

Mr. Weisman asked what would protect the surrounding properties during construction. Mr. Gimigliano responded that a silt fence would be installed to intercept stormwater runoff, and the rest of the rear will remain vegetated and stabilized.

Mr. Vasa asked if the basement will be visible on the rear of house at grade. Mr. Gimigliano replied that the house will be designed with a walkout basement following the existing grade.

Mr. Wrobel asked if the applicant proposes any retaining walls. Mr. Gimigliano replied that none are proposed at this time, and the property will be graded in a similar fashion as today. Mr. Wrobel asked if there will be a deck or patio, and Mr. Gimigliano replied that a deck would be installed on the first, and a patio for the walkout basement.

Mr. Weisman asked about the distance between the two houses on the side yard. Mr. Gimigliano said that distance is approximately 14 feet.

Mr. Khokhar asked how this lot compares to neighboring properties. Mr. Gimigliano said that the planner has put an exhibit to show neighboring properties, but this lot is larger and the subdivided lots will be similar to neighboring lots.

Mr. Brewer asked why Mr. Gimigliano believes the slopes are manmade. Mr. Gimigliano replied that slopes, if natural, don't abruptly change from flat area to slope. If it was not developed it would be a more gradual slope, and the fact that there is a retaining wall and fill at the rear of property to level backyard shows that the yard was regraded and is not natural. Mr. Brewer asked if the pattern of development is intended to be built into slope. Mr. Gimigliano said that the development will repair the condition and not exacerbate the existing condition.

Ms. DeVenezia asked if the applicant proposes to remove or replace the existing retaining wall as part of this project. Mr. Gimigliano said that the existing retaining wall is not on the subject property, and it will remain unchanged. Ms. DeVenezia asked if the applicant is aware of any underground springs and streams on this property. Mr. Gimigliano responded that they are not aware of any streams or springs.

Mr. Schepis replied that based on the Town of Boonton tax map, sheet 3 of the official tax map, herein presented as Exhibit A-5, there is no evidence of stream out there today. Mr. Gimigliano continued to say that the stream outlined in the tax map is approximately 90 feet off of property in a neighboring property. Mr. Gimigliano stated that the applicant did do soil testing on property, and found no evidence of streams or springs on subject property.

Mr. Vasa, asked if there would be fencing to prevent people from falling down a steep slope. Mr. Gimigliano replied that the property will be regraded to lessen the slope, and no fencing will be required.

Mr. Khokhar asked if there was any consideration on impact to the skyline for neighboring properties. Mr. Gimigliano replied by saying that there are trees in the rear corner of property which will stay, and the property will be landscape with evergreens to create barrier between the homes and neighboring properties. Furthermore the applicant would agree to plant additional evergreens for screening as a condition of Board approval.

The Board Chair opened the hearing at this time for the Board's professionals comment.

Mr. Petto questioned the height of the building in terms of stories, and asked if the basement would be considered a story. Mr. Gimigliano said no, and that the grade will drop from front to meet the exterior corner of the building. The properties will be graded to be 2 1/2 story dwellings. Mr. Petto asked if an existing curb cut will be used and one new proposed additional curb cut, or will there be two new curb cuts. Mr. Gimigliano said that the existing curb cut will be expanded, and an additional curb cut will be added for lot 7.02. Mr. Petto asked if there will be a walkway from the front door to the sidewalk. Mr. Gimigliano responded no because they did not want to increase impervious coverage. Mr. Petto asked if a street tree was contemplated. Mr. Gimigliano replied that they would be happy to provide street trees to the satisfaction of the Board planner as a condition of Board approval.

Ms. Handel asked if any further measures will be implemented to protect neighboring properties during construction. Mr. Gimigliano said there will be a silt fence, gravel access drive, limited disturbance, and the project is subject to MCSCD review and application. Ms. Handel asked if additional soil testing was performed for the stream. Mr. Gimigliano said that soil testing was done for dry wells and the infiltration basin. Ms. Handel asked about the overflow for the basin. Mr. Gimigliano said that the overflow for basin is at downspout, and functions during large storm events the same as a home without a drywell system. The front of the property overflow is at driveway, and will go to the street gutter line. Ms. Handel asked if stormwater management was designed for a 2, 10, 100 year storm, and that a grading plan be submitted to the satisfaction of the town engineer. Mr. Gimigliano

agreed. Ms. Handel asked if any additional landscaping would be provided. Mr. Gimigliano said that some trees will be removed, and landscaping and screening plan will be submitted for review of the Board planner.

Having no further questions, the Board Chair opened the hearing at this time for public questioning of this witness based on his testimony this evening.

Ms. Kathy Masterson of 220 Boonton Avenue expressed concern of water runoff. Mr. Gimigliano reassured that the proposal for stormwater management has an infiltration area in the back as well, to spread out water in the rear yard. He stated that less water would drain to all neighboring property as proposed than currently does now.

Ms. Christina Will of 220 Boonton Avenue asked if there were provisions made for any storm damage due to proposed construction. Mr. Schepis responded that a grading permit and approval from SCE will be required, and that the soils are conducive for a stormwater management system. In addition, the proposed drainage system complies with the Town's regulations, and it will create a decrease of stormwater runoff. Mr. Schepis further stated that the municipal engineer stands between the developer and the public, and the property owner will have continuing obligation based on approvals.

Hearing no further questions from the public for Mr. Gimigliano, the Board closed the hearing to the public. The Board thanked Mr. Gimigliano for his testimony.

Mr. Schepis introduced Mr. Matthew Flynn, the applicant's planner, and Mr. Flynn was sworn in at this time. Mr. Flynn stated his credentials and education, and he was accepted by the Board as a professional planner. Mr. Flynn made the following comments:

- Presented Exhibit A-6, a set of 5 photographs and aerial views, which show maps, and photos of the subject property.
- Stated that it is currently one existing tax lot, which is approximately 11,331 square feet, and it is proposed to become two subdivided lots of 5081 square feet and 6250 square feet. One lot complies, and one lot is undersized.
- Commented that on page 43 of the 2018 Master Plan, it suggested changing the minimum lot size to 4000 square feet. In addition, proposing to build single-family dwellings is consistent with master plan recommendation.
- Noted that sheet one of Exhibit A-6, the existing lot is larger than neighboring lots. The use is permitted by zone, and the applicant is proposing a less dense development than what could be built here considering two-family dwellings are acceptable in this zone.
- Stated that page 5 of A-6 shows a color-coated map showing smaller, similar sized and larger properties to the proposed subdivided properties.
- Remarkd that to comply with the intent of the residential zone this lot would require steep slope variances, and reminding the Board that they are manmade slopes and not natural contours.
- Stated that the benefits of this application as a whole outweigh any detriments, no impacts of adverse nature have been left unaddressed, and the development will result in an improved neighborhood harmony. What is being proposed is not out of context of the neighborhood.

The Board Chair opened the hearing at this time for Board comment.

Mr. Weisman asked if a single home built on the rear of the lot would only disturb steep slopes for a driveway. Mr. Schepis replied that the house as shown is at rear yard setback line. Mr. Weisman asked if the distance between the homes is comparable to other homes in the neighborhood. Mr. Flynn replied yes that the side yard setbacks are complaint, and are similar to neighbors.

Ms. DeVenezia requested that Mr. Flynn show where the slopes are the steepest. Mr. Flynn showed where the slopes are steepest on this lot, and reminded that the slopes are manmade. Mr. Schepis stated that the center of the property has been scoured and is devoid of vegetation, which is indicative of having previously been developed.

Mr. Vasa asked how many on street parking spaces would be lost. Mr. Flynn replied that three parking spaces would be lost, but each driveway could park two cars plus one garage spot.

Mr. Weisman asked if most of the neighboring homes have off-street parking in that area. Mr. Flynn replied that it appears so, yes.

The Board Chair opened the hearing at this time for the Board’s professionals comment.

Ms. Handel asked that if the houses were relocated toward the rear of the property with a longer driveway, would that reduce steep slopes variances. Mr. Gimigliano replied that if the houses were moved that it would require a rear yard setback variance and that the steep slope disturbance would be similar to the proposed in order to traverse to the garage. The disturbance may be reduced, but there would still be steep slopes.

Mr. Petto clarified that single family dwellings are proposed, but the applicant by right has the option to develop two family dwellings. Mr. Schepis replied that is correct, but the applicant proposes a deed restriction.

Having no further questions, the Board Chair opened the hearing at this time for public questioning of this witness based on his testimony this evening. Hearing no questions from the public, the Board closed the hearing to the public, and thanked Mr. Flynn for his testimony.

Mr. Schepis made a closing statement asking the Board to give this development the ultimate test that you should apply to this application; the ‘gut test’. Asking how does this sit with you as it applies to the ordinance? This project could be built with a two family dwelling, and although it is permitted, it is not what the applicant wants to do. The Master Plan recommends what is proposed by eliminating the two family option and decreasing lot size, and actually furthering the purposes of the master plan based on what is recommended. This is something that the Board should approve. The steep slope area was previously developed, and the condition is artificial in the front and rear of the property. While it technically requires relief from the ordinance, these are not the types of steep slopes that are to be protected by the zoning ordinance.

The Board Chair opened the hearing at this time for Board discussion.

A condition was requested that the dwellings be deed restricted to single family that a letter for plantings and a street tree be made to the satisfaction of the Board planner.

A motion was made by Mr. Orlusky, which was seconded by Mr. Brewer, to approve the application.

NAME	YES	NO	ABSTAIN
Mr. Brewer	X		
Mr. Khokhar	X		
Mr. Orlusky	X		
Mr. Vasa	X		
Mr. Weisman	X		
Mr. Wrobel	X		
Ms. DeVenezia	X		
Mr. Schnitzler	X		
Mr. Phelps	X		

The motion carried on a vote, 9 YES, 0 NO.

10. INVITATION FOR PUBLIC COMMENT OF NON-AGENDA MATTERS

- a. No comment was made.

11. BOARD DISCUSSION ITEMS

- a. No items were discussed.

12. NEW BUSINESS

- a. No new business was discussed.

13. ADJOURNMENT

- a. There being no further business to come before the Board, a motion was made by Mr. Wrobel, and seconded by Mr. Orlusky, to adjourn. All were in favor on a voice vote. The motion carried, and the meeting was adjourned at 10:07 PM.

Respectfully submitted,

Steven Willenborg

Steven Willenborg
Planning Board Clerk