



Borough of Rocky Hill
Borough Council
Minutes of the Regular Meeting
August 20, 2018

The regular meeting of the Borough Council of the Borough of Rocky Hill was called to order by Mayor Phil Kartsonis at 7:37 PM followed by the salute to the flag.

NOTICE OF COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT

ROLL CALL

Attendee Name	Title	Status	Arrived
Irene Battaglia	Councilwoman	Absent	
Amy Kirtland	Council Member	Present	
Billy Dawson	Council Member	Present	
John Hagemann	Council Member	Present	
Mark Sibley	Councilman	Absent	
Robert Uhrik	Councilman	Present	
Phil Kartsonis	Mayor	Present	

Also present: Clerk Rebecca Newman, Deputy Clerk Christine Witt, Attorney Albert Cruz, and Planner Tamara Lee.

MAYOR'S COMMENTS

APPROVAL OF MINUTES

B. Borough Council - Summer Meeting - Jul 9, 2018 7:30 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Billy Dawson, Council Member
SECONDER: Robert Uhrik, Councilman
AYES: Kirtland, Dawson, Hagemann, Uhrik
ABSENT: Battaglia, Sibley

C. Borough Council - Summer Meeting - Jul 17, 2018 6:30 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Billy Dawson, Council Member
SECONDER: John Hagemann, Council Member
AYES: Kirtland, Dawson, Hagemann, Uhrik
ABSENT: Battaglia, Sibley

PUBLIC COMMENT

Jon Lee, 10 Toth Lane, commented on accessing the public meeting agenda online.

STATE POLICE REPORT

- A. State Police Report July 2018

ENGINEER'S REPORT

- A. Engineers Report August 2018

CHIEF FINANCIAL OFFICER'S REPORT

DEPARTMENTAL REPORTS

- A. Tax Collectors Report June 2018
- B. Municipal Court Report

APPROVAL OF VOUCHERS

- A. August Bill List

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Billy Dawson, Council Member
SECONDER:	John Hagemann, Council Member
AYES:	Kirtland, Dawson, Hagemann, Uhrik
ABSENT:	Battaglia, Sibley

COMMITTEE REPORTS

- Administration & Records -B. Dawson
- Buildings & Grounds - J. Hagemann
- A. Buildings and Grounds August 2018
- Finance & Insurance - A. Kirtland
- Public Safety & Emergency Services - B. Dawson
- B. Public Safety Reports
- Streets & Roads - M. Sibley
- C. Streets and Roads August 2018
- Water, Sewer & Environmental Protection - R. Uhrik
- Council Representative to Planning Board - I. Battaglia
- Council Liaison to Recreation Committee- A. Kirtland

Council Representative to Board of Health - B. Uhrik

Zoning Official's Report - M. Blasch

Grants Committee - A. Kirtland

D. Grants Report

SPECIAL BUSINESS

- A. RESOLUTION-2018-69 Authorizing the Mayor and Clerk to Sign the Shared Services Agreement with Somerset County Department of Public Works Equipment and Personnel

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Billy Dawson, Council Member
SECONDER:	Robert Uhrik, Councilman
AYES:	Kirtland, Dawson, Hagemann, Uhrik
ABSENT:	Battaglia, Sibley

- B. RESOLUTION-2018-70 Authorizing the Mayor and Clerk to Sign an Agreement with Somerset County for Recycling Services

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robert Uhrik, Councilman
SECONDER:	Amy Kirtland, Council Member
AYES:	Kirtland, Dawson, Hagemann, Uhrik
ABSENT:	Battaglia, Sibley

- C. RESOLUTION-2018-71 Authorizing the Mayor and Clerk to Sign the 2018 Risk Management Consultant's Agreement for Statewide Insurance

RESULT:	ADOPTED [UNANIMOUS]
AYES:	Kirtland, Dawson, Hagemann, Uhrik
ABSENT:	Battaglia, Sibley

UNFINISHED BUSINESS

- A. ORDINANCE-2018-08 An Ordinance of the Borough of Rocky Hill, County of Somerset, State of New Jersey, Amending Chapter 80, Entitled "Development Regulations" of the Code of the Borough of Rocky Hill, to Add a New Section 80-86A Entitled "Ch Cottage Housing Overlay" and to Amend Sections 80-83 and 80-84 in Order to Implement the Ch Cottage Housing Overlay Zone.

Mr. Cruz explained that the ordinance must receive four affirmative votes to pass rather than a majority of the quorum because the property owner, David Schafer, filed an objection to the ordinance. Mr. Cruz stated that the Planning Board reviewed the proposed ordinance and found that it is not inconsistent with the Master Plan.

Ms. Lee presented the proposed ordinance to the public. Ms. Lee displayed a board with pictures of cottage developments for the public to see examples of what cottage units may look like. Ms. Lee explained that the Council is considering adding a cottage overlay zone to the Schafer tract. This tract of land is currently zoned for 34 age-restricted duplex houses. With the cottage zoning overlay if a

developer wants to build anything other than 34 age-restricted duplexes, the units would have to be cottages in accordance with the specifications of the ordinance. The cottage zoning ordinance provides an opportunity for affordable housing that is consistent with the character of the Borough.

The Borough must increase its housing density to compensate for affordable housing. Affordable housing regulations require a minimum of six units per acre with 20% of the units set aside as affordable units. Cottage zoning on the Schafer property can generate a development of 60 small cottages, including 12 units of affordable housing, arranged in very compact clusters around a series of common open spaces. While not age-restricted, the cottage sized units will attract smaller households such as young singles and couples as well as seniors looking to down-size their homes. The unique site design will foster a residential lifestyle, imbued with a positive sense of community and intergenerational social experiences, along with enhanced privacy and security. It will leave ample room for buffering to adjoining neighbors and green space along the edge of the historic district while protecting environmentally sensitive land and valuable local infrastructure. In addition, unlike more traditional townhouse development, the compact nature of cottage housing site design means that future construction will not require the blasting of underlying geology which could damage existing structures and infrastructure, like the Borough's important but vulnerable water lines. The cottages will be 800-12,000 square feet with no basements or garages. There will be a few two-story structures with the option for rental units; some rental units are required under the Affordable Housing regulations.

The proposed cottage zoning ordinance advances several purposes of the Municipal Land Use Law, including:

Purpose a - this zoning promotes the appropriate use and appropriate development which promotes the public health, safety, morals and general welfare because it's an appropriate type of development for this community and in addition, the unique site design that the ordinance requires is designed to promote positive community relationships which typically makes the communities safer.

Purpose c - promoting adequate light, air and open space. Open space on this site is important because of the intrinsic environmental constraints of the site as well as the need for adequate buffering between existing uses and a development that has a density higher than anything else in the Borough. Providing open space through an arrangement of tightly clustered cottages promotes the open space that this neighborhood requires.

Purpose e - requires towns to establish appropriate population densities and concentrations that contribute to the well-being of the community and the preservation of the environment. This is the lowest density the Borough can assign to this zoning district because of the affordable housing regulations, but the ordinance does it in a way that works to protect the well-being of the community and preserve the Borough's quaint, historic character.

Purpose i - requires towns to promote a desirable visual environment and this ordinance includes standards for architectural design and site design that will insure a desirable visual environment.

Purpose j - encourages the conservation of historic districts, open space and valuable natural resources. The requirements in this ordinance that mandate small, Craftsman style cottages are a reflection of the new overlay's commitment to the historic character of the town and the clustered aspects of this ordinance will generate open space and help preserve natural resources.

The floor was open to public comments:

Diana Conway, 20 Princeton Avenue, asked if there is currently plans for construction on the site and if the cottage community would be part of the greater Rocky Hill community. Ms. Lee responded that construction is not currently pending, but the Borough is putting zoning in place in case something is built, and that cottage zoning is being presented to provide as many units as needed to satisfy the Borough's affordable housing obligation.

Janine Lacava, 62 Hickory Court, asked if there is currently another option for development of the property other than duplexes. Ms. Lee responded that there is currently no other option.

Ed Zimmerman, 3 Lemore Circle, asked if there is an overlay for farmettes. Ms. Lee stated existing zoning permits general farming.

David Plunkett, 18 Princeton Avenue, asked if the owner of the property has an incentive to do one type of development over the other. Ms. Lee responded that the owner still has the right to build the approved duplexes but has expressed an interest in building 120 townhouses which would require a use variance or a court order. There is currently a pending law suit.

Mr. Plunkett asked about parking and the effect of the proposed development on traffic. Ms. Lee responded that parking would meet state standards.

Denise Varga, 16 Princeton Avenue, asked if the town will provide water to the development. Ms. Lee responded that the developer would have to find a public utility.

Zack Zorochin, 15 Grove Street, asked if there are blueprints available for the proposed development and if there will be homeowners' association fees. Mr. Zorochin expressed concerns about parking and firefighting on the site. Ms. Lee responded that there are no blueprints, and there will be homeowners' association fees.

Dante Carnevale, 131 Washington Street, questioned why the ordinance specifies square footage rather than giving developers more leeway. Ms. Lee responded that the ordinance is trying to keep development in character of the Borough.

Ms. Lacava asked if there is a cottage development in the area to look at for comparison. Ms. Lee responded that this would be new in New Jersey.

Paul Lacava, 62 Hickory Court, asked why this is an overlay development. Ms. Lee responded that the current zoning on the site does not provide for affordable housing.

Dan Smires, 20 Hickory Court, asked if the impact on taxes is known. Ms. Lee responded that a detailed tax analysis has not been performed.

Cecelia Lawton, 15 Grove Street, raised concerns about police, fire, EMS services and increased traffic on Princeton Avenue and asked if the Borough is going to hire a police force. Ms. Lee responded that these types of developments tend to be safe.

Catherine Plunkett, 18 Princeton Avenue, asked if the development will be made accessible to people with special needs and raised concerns about parking. Ms. Lee responded that she is not aware of accessibility requirements for market rate units, but Affordable Housing units must comply with all regulations. Ms. Lee stated that there will be two parking spaces per unit.

Mr. Plunkett asked how residents can stay up to date on this development. Mayor Kartsonis responded that there will be periodic press releases, residents can attend Council meetings, and email the Clerk with questions. Mr. Cruz added that New Jersey court filings will be open to the public soon.

The floor was turned over to Thomas Carroll of the law firm Hill Wallack which is representing David Schafer in his builders' remedy law suit against the Borough. Mr. Hill asked Ms. Lee several questions about the illustrative board with pictures of cottage developments and asked that the board be preserved as part of the public record. Mr. Carroll asked Ms. Lee if any developer has sought to develop cottages Rocky Hill and Ms. Lee responded that no developer has asked to develop cottages. Mr. Carroll asked if any developer has asked to develop townhouses or if townhouse zoning has been adopted by the Borough. Ms. Lee responded that one developer expressed an interest in building townhouses but did not pursue the development and that the Borough has not adopted townhouse zoning.

Mr. Carroll stated that his intent is to try to convince the Council that it is not in the Borough's best interest to adopt the cottage zoning ordinance because he believes it is contrary to the Mt. Laurel doctrine and experimental zoning that will result in taking of property. Mr. Carroll stated that there has been a lot of interest from builders in developing townhouses and garden apartments. Mr. Schafer has filed a builders' remedy lawsuit, and there is a motion for summary judgment pending. Mr. Carroll stated that the perception that cottage zoning will help the Borough in its defense of the law suit is incorrect because the snapshot in time doctrine makes the cottage zoning legally irrelevant.

Mr. Carroll introduced Jeffrey Otteau as an expert real estate appraiser. Mr. Otteau conducted an economic feasibility study of cottage zoning and found that it is not economically feasible and will not produce an opportunity for affordable housing. Mr. Otteau stated that a cottage development has never been built in New Jersey which is evidence that it is not profitable in this state. Mr. Otteau stated that there are no economies of scale in the proposed cottages. Mr. Otteau performed a market analysis of smaller homes in this area and concluded that cost of building cottages whether stick built or modular is greater than the achievable revenue.

Mr. Carroll introduce Art Bernard as an expert planner. Mr. Bernard explained that each municipality in New Jersey is required to provide affordable housing and that the need for low and moderate priced housing is large. Mr. Bernard stated that the parcel of land that would be subject to cottage zoning is 15.74 acres, and according to his calculations, 13.3 acres are developable. Mr. Bernard stated that the parcel can accommodate a higher density than what Ms. Lee calculated. Mr. Bernard stated that cottage homes are not necessary to keep the historic nature of the Borough and that the ordinance limits developers to one housing type. Mr. Bernard stated that cottages are experimental housing, there is no evidence that it's economically feasible, the ordinance is prescriptive, and he urged the Council not to adopt the ordinance.

Mr. Carroll closed by summarizing the various arguments he and the expert witnesses he presented made, and asked that the Council not adopt the Cottage Housing Overlay Zone because, in his judgment, the Ordinance was not valid.

Mayor Kartsonis closed the floor to public comment. Mayor Kartsonis commented that in his opinion the cottage zoning ordinance is what's right for the town because it provides for the safety of residents and is in keeping with the character of the Borough. The Borough will provide expert reports to show that cottages are economically feasible. Mayor Kartsonis stated that he takes exception to the suggestion that the Borough is not trying to provide affordable housing.

Mr. Hagemann commented that the Borough has attempted to work with Mr. Schafer to find a mutually agreeable plan for the property.

Ms. Kirtland commented that she initially had the same questions and concerns as those raised by the public but has concluded that cottage zoning is what is right for Rocky Hill.

Mr. Uhrik commented that cottage zoning does not discriminate against families and that some units will have families with children.

Mr. Dawson questioned why Mr. Schafer's has not already developed his property if it is economically beneficial.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Billy Dawson, Council Member
SECONDER:	John Hagemann, Council Member
AYES:	Kirtland, Dawson, Hagemann, Uhrik
ABSENT:	Battaglia, Sibley

- B. ORDINANCE-2018-09 Borough of Rocky Hill County of Somerset, New Jersey ordinance Providing for Improvements to the Rocky Hill Water and Sewer Systems by Theborough of Rocky Hill, in the County of Somerset, New Jersey Appropriating \$ 240,000 Therefor and Authorizing the Issuance of \$ 228,000 Bonds or Notes of the Borough to Finance Part of the Cost Thereof be it Ordained by the Mayor and Borough Council of the Borough of Rocky Hill, in the County of Somerset, New Jersey

The floor was open to public comments:

Raymond Whitlock, 94 Crescent Avenue, commented that ordinance is necessary because of the Borough's aging water system.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robert Uhrik, Councilman
SECONDER:	Amy Kirtland, Council Member
AYES:	Kirtland, Dawson, Hagemann, Uhrik
ABSENT:	Battaglia, Sibley

NEW BUSINESS

None.

COMMUNICATIONS

PUBLIC COMMENT

Raymond Whitlock, 94 Crescent Avenue, congratulated the Council for passing the Cottage Zoning Overlay ordinance.

ADJOURNMENT

Meeting adjourned at 9:59 PM.