

The regular meeting of September 13, 2004 of the Washington Township Planning Board was called to order by Chairman Jones at 7:30 p.m.

MEMBERS PRESENT

CLASS IV: Charles DiSalvo, R. Gregory Jones, Howard Popper, Geoffrey Price, Kevin Walsh
 ALTERNATES: William Leavens
 CLASS I: Walter Cullen
 CLASS II: Eric Trevena
 CLASS III: Kim Ball Kaiser
 OTHERS ABSENT: Bauerlein, McGroarty
 STAFF PRESENT: Engineer Hall, Clerk Kesper, Planner Banisch, Attorney Cofoni

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 16, 2004 and posted on the Bulletin Board on the same date. Five notices were mailed, as there were five requests.

****NO NEW CASES OR WITNESSES SHALL BE HEARD SUBSEQUENT TO 10:30 PM****

Pledge of Allegiance

MINUTES

1. Minutes from the August 25, 2004 Regular Meeting

Mr. Price made a motion to approve the minutes, seconded by Ms. Kaiser. A voice vote was taken; Mr. Jones, Mr. Cullen and Mr. Walsh abstained; all others were in favor and the motion carried.

RESOLUTIONS

04-27 Jade Land (Welsh Farms Estates) – Block 28, Lots 46 & 47 – Fairview Avenue – Village Age Restricted Zone – 62.83 Acres – Final Subdivision Approval

Ms. Kaiser, Mr. Jones and Mr. Leavens stepped down due to a conflict of interest.

Ms. Cofoni reviewed minor changes to the resolution: Condition H page 3 -the three apartments satisfies the applicant's COAH requirement; Condition P on page 4, per Mr. Hall the final plat is now satisfactory, which is item B of his August but the condition will remain; Page 4, condition Q final construction plans to be revised regarding the WTMUA line to clarify that the applicant would put the pipe in the ground only if the

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pipe is supplied by the WTMUA and along the property line of 46.02; Page 5 condition X.3 indicates that the owner of the clubhouse lot will participate in the homeowners association.

Mr. Price made a motion to approve resolution 04-27 as discussed and amended this evening, seconded by Mr. Walsh. A roll call vote was taken:

Ayes: Cullen, DiSalvo, Popper, Price, Trevena, Walsh Nays: None
 Abstentions: None Absent: Bauerlein, McGroarty
 Ineligible: Jones, Kaiser, Leavens

04-28 TM Group – Block 42, Lot 12 – Hacklebarney Road – R-5 Zone – 71.84 Acres – Request for Utility Waiver for underground utilities for the first two poles onto Krista Court and the existing home

Mr. Price stepped down due to a conflict of interest.

Ms. Cofoni informed the board that this was a memorializing resolution.

Ms. Kaiser made a motion to approve Resolution 04-28, seconded by Mr. Trevena. A roll call vote was taken:

Ayes: Jones, Kaiser, Leavens, Trevena
 Nays: Walsh, Cullen Absent: McGroarty, Popper, Bauerlein
 Ineligible: DiSalvo, Price

The meeting was opened to the public for items not on the agenda. There were no comments from the public and the meeting was closed to the public for items not on the agenda.

DECISIONS ON COMPLETENESS

None

APPLICATIONS

1. Fleming – Block 40, lot 26 – Fairmount Road – R-5 Zone – 13.118 acres – Request for two lot minor subdivision with variances for pre-existing conditions – Previously Heard June 23, 2004 and August 9, 2004 – Public Hearing Continued – Expires October 27, 2004

Mr. Jones announced that the Fleming application has been adjourned at the applicant's request to October 27, 2004 and that no further notice would be given the public on this application.

2. Jerry Dean – Gray Development – Block 45, Lot 39 - 198 Old Turnpike Road – R-5 Zone – 8.448 – Request for Amendment to Resolution 88-60 – Condition B.2 – Road Improvements

Jerry Dean, Applicant

Jerry Dean was sworn in by Attorney Cofoni.

Mr. Dean stated that this lot was created with resolution 88-60 in 1988. This resolution contained a condition that the Old Turnpike Road be improved in front of the subject property with a four foot stone shoulder. He would like to have this condition eliminated as it would be the only area on the road that would be widened. He stated that there is currently a grass shoulder in front of the property.

Mr. Hall stated that a four foot stone shoulder would be intrusive, he stated that there would be room for a two foot stone shoulder. He stated that the road is very narrow and he suggested that a two foot stone shoulder would be useful for pedestrian use. The two foot widening would not require the stone wall to be removed or moving of utility poles.

Mr. Dean presented a sheet of three photographs taken this week of the road which was marked exhibit A-1. He did not think a shoulder would be appropriate in the area and pointed out the existing grass shoulder. It was his opinion that even if he put in a stone shoulder it would ultimately would become grass again. He did agree that people do use the road to walk, but that the road has low vehicle and pedestrian use.

The board reviewed the photographs, Ms. Kaiser and Mr. Cullen express their opinion were in favor of leaving the shoulder grass. Mr. Trevena stated that a stone shoulder would help stabilize the existing shoulder.

Mr. Dean stated that the frontage to be improved would be approximately 270'.

The Board discussed the need for road improvements.

Ms. Kaiser made a motion to striking the condition requiring the stone shoulder road improvements, seconded by Mr. Cullen.

A roll call vote was taken:

Ayes: Cullen, DiSalvo, Jones, Kaiser, Leavens, Popper, Price, Trevena, Walsh

Nays: None Abstentions: None Absent: Bauerlein, McGroarty

DISCUSSION/ CORRESPONDENCE

1. Proposed Change to Ordinance 175-31.A(2) – Completion of Improvements – August 27, 2004 Correspondence from Leon C. Hall

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Mr. Hall reviewed his memo regarding required improvements. This amendment would require that all outfalls be GIS mapped by the developer as part of the required improvements.

Mr. Walsh made a motion to recommend this ordinance be adopted by the Township Committee. Seconded by Ms. Kaiser. A voice vote was taken; all were in favor and the motion carried.

2. Cross Acceptance Update from Morris County

Ms. Kesper reviewed the report and that the numbers are based on total build out numbers.

Mr. Banisch reviewed the cross acceptance process and answered the Board that he did not know how these numbers were going to be used by the County or State. It was his opinion that the Township should participate in this cross acceptance. Regarding the highlands legislation, the land within the preservation area would be protected. The area of concern would be the land in the planning area and what the Highlands Council would see as growth areas.

Ms. Kesper stated that the vacant land build out was assumed to be all residential zoning and probably should have the acreage currently zoned OR/I or commercial taken out of the build out numbers.

Mr. Jones suggested answering the questionnaire with the current hard numbers and not give projection numbers.

Mr. Banisch stated that a condition of future COAH certification as indicated in the proposed amendment is that all Township Master Plans would have to be approved by the State Planning Commission as consistent with the State Plan before receiving COAH certification. There would be two levels of plan consistency, the first for COAH the second for enhanced benefits for transportation, etc. A further consistency review will take place under the highlands act and that the Township will have to decide to opt into the plan for the planning area or not. The Township will be required to have their master plan consistent with the Highlands Council Master Plan for the preservation area, but not necessarily for the planning area.

The Board concurred that along with the build out and preserved land numbers that the background information compiled by Ms. Kesper should be sent to the County so it was clear what our numbers included and represented.

Mr. Banisch was directed to review and edit the cross acceptance report put together by Ms. Kesper, where necessary. He was also directed to include language that clarifies that the build out number provided is based on the best available information available today. The numbers do not take into account the impact of the highlands preservation area regulations on the number of dwelling units because the regional plan permitted densities for the preservation area are not known at this time.

3. Resource Conservation Ordinance

Mr. Banisch reviewed his memo of July 16th, the July 16, 2004 draft ordinance and his memo of August 16th. He noted that the Conservation Element of the 2003 Master Plan supports the draft ordinance, but that as previously discussed, he recommended that the land use element be amended as well. This amendment would address the recent supreme court decisions on land use. He answered the Board that this would not be a comprehensive re-write of the element.

Mr. Banisch reviewed his August 16th memo in which he used previously approved subdivisions and what the impact of this ordinance would have on those subdivisions if they came before the board after this ordinance were adopted. The slope for which no land credit would be given was discussed. It was concluded that this worksheet would be based on our current ordinance, which is 30% and not the 20% used in the highlands legislation.

The Board was concerned that this ordinance and reduction factors could be defended in court. After reviewing the reduction calculations, the Board was of the opinion that the numbers used were acceptable, reasonable and defensible.

The Board discussed using other criteria for reduction such as threatened and endangered species, critical habitat and viewsheds.

Mr. Banisch stated his opinion that the items listed above are design criteria, but not reduction criteria.

Ms. Kaiser suggested that we should add to required plat details the NJ Landscape information.

The subdivision examples reduced the number of lots from 12 to 9 in sample one and 11 to 9 in sample two.

The board discussed adding utility easements as a reduction factor and decided that this would remain a resource conservation document and they would not use this land use as this time.

Mr. Banisch stated that this reduction number would be used as the acreage number under the mandatory cluster ordinance 217-62B.

Mr. Banisch answered the Board that the density calculation would apply to all subdivisions.

A discussion was held on amending all our ordinances regarding slope to be consistent with the Highlands legislation (20%) or leaving it at 30%.

The Board concluded that they wanted to move this ordinance to the Township Committee for adoption, but would first seek Mr. Buzak's opinion on the maximum allowable slope provision.

Mr. Banisch stated he would speak to Mr. Buzak about this prior to the next meeting.

4. Ridgeline Ordinance

Tabled to a future meeting

5. Scudese (TM Group) Litigation – September 8, 2004 Correspondence from T. Cofoni - RE: Summary Judgment upholding Planning Board approval of Preliminary and Final Subdivision

Ms. Cofoni reviewed her letter of September 8, 2004 regarding the successful conclusion to the litigation involving the planning board.

6. October 14, 2004 NJ Clean Water Council 2004 Public Hearing - Meeting the Challenges of Stormwater Management

Noted for the record.

7. October 15, 2004 ANJEC 31st Annual Environmental Congress

Noted for the record.

8. Vouchers

Mr. DiSalvo made a motion to approve the vouchers reviewed by the chairman and found in order and send same on for payment, seconded by Mr. Popper. A voice vote was taken; all were in favor and the motion carried.

9. Wastewater Management Plan Amendment Denial

Mr. Jones asked how this denial would affect the golf course and schools.

Mr. Hall stated that the denial could be appealed or in the case of the golf course, use an alternative design.

Mr. Jones suggested the Board send a letter supporting the approval of the Wastewater Management Plan to the DEP. He will speak to the High School Board of Education and determine if the WMBOE would want a letter sent on their behalf.

10. TCC – US Homes

Ms. Kesper stated that a TCC has been set for September 21, 2004 at 1:30 p.m. at the municipal building. Mr. Jones, Mr. Price, Ms. Kaiser and Mr. Trevena will attend for the Board.

11. September 22, 2004 meeting

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Ms. Kaiser stated that there are no applications ready to proceed at this meeting.

Mr. DiSalvo made a motion to cancel the meeting of September 22, 2004, second by Mr. Popper. A voice vote was taken; all were in favor and the motion carried.

Mr. DiSalvo made a motion to adjourn the meeting, seconded by Mr. Leavens. A voice vote was taken, all were in favor and the meeting was adjourned at 9:55 p.m.

Virginia R. Kesper