

The regular meeting of June 13, 2005 of the Washington Township Planning Board was called to order by Chairman Jones at 7:30 p.m.

MEMBERS PRESENT

CLASS IV: Mark Bauerlein, Charles DiSalvo R. Gregory Jones, William Leavens, Kathleen McGroarty*
 ALTERNATES: Sam Akin, Lou Mont
 CLASS I: Geoffrey Price
 CLASS II: Eric Trevena
 CLASS III: Kim Ball Kaiser
 OTHERS ABSENT: Popper
 STAFF PRESENT: Engineer Hall, Clerk Kesper, Planner Banisch, Attorneys Buzak and Cofoni

*Arrived Late

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 15, 2005 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

- Minutes from the May 25, 2005 Regular Meeting

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

RESOLUTIONS

05-17 US Homes – Block 19, Lots 5, 6, 7 – Schooley's Mountain Road and Newburgh Road – Musconetcong Valley Senior Overlay Zone – 123 Acres – Approval of Minor Subdivision, Preliminary Site Plan with variances for 360 Senior Citizen Units and Clubhouse

The resolution was tabled to June 22, 2005 due to the fact that the applicant did not submit the revised plans to date.

Ms. Cofoni reviewed proposed changes. Page 10, second line...\$150,000 to township of Washington change ambulance to emergency services vehicle and condition X on page 14 infiltration shall be located...in accordance with Dr. Oweis' report instead of buildings number 38 and 39.

Mr. Jones informed the board of a meeting with the Long Valley First Aid Squad and the Schooley's Mountain Fire Department regarding emergency services. The board concurred with the changes. He suggested that the wording be that the donations would be to the Township of Washington and not to the Long Valley First Aid Squad.

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

DECISIONS ON COMPLETENESS

1. Drakestown Road Associates – Block 12, Lot 4 – Drakestown Road – R-5 Zone – 104 acres – Request for 14 Preliminary Subdivision

Barry Markowitz, Applicant's Attorney
Carlton Frost, Applicant's Engineer

Mr. Markowitz asked the board to review the application.

Mr. Hall referred to his letter of April 27, 2005. He did not recommend a waiver of the tree information or a, b, d, e of the DIS. He did not recommend a waiver of the driveway information. He recommended a determination of incompleteness.

Mr. Markowitz requested a waiver of the items for completeness only.

Mr. Frost stated that regarding the requested tree information; only the hedgerow has trees that would not be in a conservation easement. The applicant would not be cutting any of the existing trees on the site. The pedestrian path could be designed to eliminate any tree removal.

Mr. Jones referred to the October 2004 letter from the Board of Education regarding the path.

Mr. Markowitz stated that the board of education and the applicant have entered into negotiations for a drainage easement from the school property to this property.

Mr. Markowitz stated the missing DIS information would be supplied to the board.

Mr. Frost stated that he would submit the requested information for the driveway onto Drakestown Road.

Mr. Hall stated that his comments are the same as those contained in his letter of October 2003.

Mr. Banisch referred to Mr. Hall's letter and the Highlands Approval that should be listed under the DIS. He stated that this application is inconsistent with the DEP emergency rules. He asked if the board should be spending time reviewing something the board knows does not comply with the law.

Mr. Markowitz stated that a qualifying map could not be submitted that met the highlands act. It was his opinion that just because the application is inconsistent with the highlands regulation is not a reason for the board not to hear it. He stated that the applicant believes they will qualify for an exemption and or approval, as the subdivision requires less than 2000 gallons of septic per day. The application is consistent with the township's regulations.

Mr. Price pointed out the health department's letter, which had 19 points that had not been addressed.

Ms. McGroarty arrived and joined the meeting at 8:05 p.m.

Mr. Buzak stated that the board needs to separate the issues. Completeness is one issue and recommended that the issue be dealt with first. Regarding the highlands act and emergency regulations the board is going to have to deal with the issue of hearing or not hearing an application and this needs to be discussed by the board but not as a specific application.

Mr. Frost stated that the March 2, 2004 letter of the Health Department was for the 19-lot subdivision to 14-lot subdivision.

Mr. Markowitz asked for a decision deeming the application complete.

The board reviewed the incomplete items.

Mr. Hall reviewed Mr. Markowitz's letter of May 4, 2005.

Mr. Hall answered the board that it was his opinion that the Circulation impact study required under the DIS could be waived but that everything else should be supplied. Other applications have been deemed incomplete for the same reasons.

Mr. Hall did not recommend waiving the required tree information.

Mr. Markowitz stated that the applicant was asking for waivers from the items in Mr. Hall' s as: I.A tree information, I.B.a – Qualifications of Professional Archeologist, I.B.c – Circulation Impact study, and I.C – driveway information.

Mr. Hall stated that if the board was satisfied with applicant's engineering testimony on I.A, I.B.a and I.B-c he would not object to waiving the items for completeness only. He did object to a waiver of I.C driveway.

Mr. DiSalvo made a motion to deem the application incomplete based on the discussion this evening, waiving items I.A and I.B.a & c. of Mr. Hall's letter for completeness only but requiring the driveway information. Seconded by Mr. Bauerlein. A voice vote was taken; Ms McGroarty abstained, all others were in favor and the motion carried.

APPLICATIONS

1. Lance – Block 33, Lot 59 – James Trail – R-5 Zone – 95 acres –Three lot minor subdivision - Request for extension of time on Resolution 04-20

Jason Lance, Applicant

Ms. Kaiser, Mr. Leavens and Mr. Jones stepped down due to a conflict of interest as they are on the Washington Township Land Trust.

Mr. Lance referred to his attorney's letter, Mr. Knox, and stated that he is waiting for a permit from the DEP and MCSCD. He asked for a year extension on the resolution.

Mr. Hall stated he has approved the stormwater management plan and the driveway permits.

Mr. Buzak reviewed the history of this application. He recommended an extension of six months because of the escrow agreements and deeds of merger. If at the end of the six months the permits have not been received, the applicant can come back to the board again and ask for additional time.

Mr. Price made a motion to amend resolution 04-20 and grant the applicant a six-month extension of time, seconded by Mr. DiSalvo. A roll call vote was taken:

Ayes: Bauerlein, DiSalvo, McGroarty, Akin, Mont, Trevena, Price

Nays: None Abstentions: None Ineligible: Jones, Kaiser, Leavens

Absent: Popper

2. Regency at Long Valley I (Formerly Jade Land – Welsh Farms Estates) – Block 28, Lots 46 & 47 – Village age restricted housing overlay zone –

27.83 acres – Request for amendment to preliminary subdivision and site plan approval (Resolution 04-16) and Final subdivision approval (04-27) – Reduction from 50 to 45 building lots and elimination of private community center and three COAH apartments – Previously Heard May 9, 2005 – Public Hearing Continued

Lawrence Cohen, Applicant's Attorney
George Ritter, Applicant's Engineer
David Plant, Applicant's Engineer
Ray Rice, Applicant

Mr. Buzak swore in George Ritter.

Ms Kaiser and Mr. Akin stepped down as they are on the MUA board that owns property within 200'. Mr. Leavens and Mr. Jones stepped down due to a conflict of interest as he is on the land trust, which owns property within 200'. Mr. Mont stepped down due to a conflict of interest.

Mr. Bauerlein stated that he listened to the disc of the last meeting and is eligible to participate and vote on this application.

Mr. Cohen reviewed the previous testimony on this application. He stated that revised plans date June 3rd were submitted to the board. Regarding the COAH housing the applicant proposes an in lieu contribution of \$125,000 per unit instead of the building the three apartments approved under the original application for a total of \$375,000.

Mr. Banisch stated that he and Mr. Buzak spoke to the applicant on this issue. COAH'S minimum regional contribution is \$35,000 per unit and that is what the applicant originally offered. He stated that the applicant and the board had agreed that this application brings benefits to the township. He noted that DEP approvals have forced the applicant to remove the three COAH apartments. It was his opinion that the \$125,000 per unit is a reasonable amount for the township to build three units and recommended the board accept this solution.

The board concurred with Mr. Banisch.

David Plante was sworn in by Attorney Buzak and presented his qualifications to the board.

Mr. Plante addressed Mr. Hall's letter of June 9, 2005 and stated that the applicant is still asking for the variance from building a clubhouse and stated that testimony was given at the last meeting on this variance. Waivers are still required from the 95' stream corridor ordinance and for the sewer manholes being outside the road right of way. He stated that testimony was also given on these variances at the last meeting.

Mr. Banisch recommended granting the variance from building the clubhouse.

Mr. Hall recommended granted the waivers from the 95' stream corridor ordinance and for the sewer manholes being outside the road right of way.

Mr. Price made a motion to grant the variances requested by Mr. Plante. Seconded by Mr. Bauerlein. A voice vote was taken; all were in favor and the motion carried.

Mr. Plante reviewed the utility and roadway design and stated that Mr. Maltz has approved the plans as the applicant has agreed to meet the request in Mr. Maltz's letter May 18, 2005 letter. He stated that the June 3rd plans have been revised to reflect this.

Mr. Plante stated that the applicant agrees to comply with items B, C and D comply

Mr. Plante addressed item IV – stormwater management. He stated that a basin has been removed and replaced with a special filter and that he has provided information to Mr. Hall on this filter that is a large concrete chamber with perlite filters and is an approved BMP by the DEP. There is a maintenance document with the information given to Mr. Hall. He answered the board that it would be the homeowner's association responsibility to maintain the filters and the detention basin.

Mr. Plante addressed IV-B and stated that an easement would be provided to the Township to maintain the structure if the homeowner's association failed to do the required maintenance. This goes for all the stormwater facilities on the site as well.

Dr. Keller was concerned with the long-term maintenance of the filter should the manufacturer go out of business.

Mr. Plante stated that it is a fairly simple technology and it could be retrofitted.

Mr. Plante addressed IV. C and stated that the DEP approval is in the booklet given to Mr. Hall.

Mr. Plante addressed IV.D and pointed out on the plans the well that would keep the pond at a consistent level. The well is actually currently located within one of the buildings on the site. It is shown on the grading plan.

Mr. Plante addressed IV.E and explained that the detention basin has been eliminated.

Mr. Plante addressed IV.F, G, and H by stating that the applicant would comply.

Dr. Keller explained the wet pond and the concerns he has with the DEP BMP manual requirements. He asked that water lilies be added to the plants for the basin.

Mr. Plante stated that regarding item V – other comments, he would comply with all A, B, and C.

Mr. Hall stated that he was satisfied with the applicant's responses. He stated that revised plans would have to be submitted based on this evening's testimony.

Mr. Plante stated they have MCPB approval. The locations of the easement dedications have not changed. The only permit outstanding from the DEP is a transition-averaging plan.

The meeting was opened to the public for questions and comments on this application. There were no questions or comments from the public and the meeting was closed to the public on this application.

Mr. DiSalvo made motion to authorize the board attorney to draw up a resolution of approval including the granting of variances and waivers as discussed and compliance with Mr. Hall's June 9th letter as discussed this evening, \$375,000 COAH contribution, Dr. Oweis' approval and Mr. Maltz's approval. Seconded by Mr. Price. A voice vote was taken; all were in favor and the motion carried.

Eligible: Bauerlein, DiSalvo, McGroarty, Trevena, Price

Absent 5-9-05: Bauerlein – listened to disc

Absent 6-13-05: Popper

Ineligible: Akin, Kaiser, Leavens, Mont, Jones

Ms. Kaiser and Mr. Leavens returned to the board.

3. Perez – Block 51, Lot 2 – Zellers Road – R-5 Zone – 153 Acres – Request for Waiver of Site Plan for farm labor housing

Anthony Sposaro, Applicant's Attorney

Mr. Jones stepped down, as he may be a property owner within 200'. Mr. Mont stepped down due to a conflict of interest.

Mr. Sposaro explained he has submitted a waiver of site plan application for farm labor housing because the ordinance requires that farm labor housing not exceed the number of residential units that could be built on the property. There are no commercial activities proposed. Only the Perez family would have horses on the property or trained on the property. The applicant is looking for five labor units and one residential unit. The farm labor housing would be one dwelling with five bedrooms with a common kitchen, living room, and dining room of approximately 3500 sf. The farm labor dwelling would be attached to the proposed outdoor riding arena. He stated that Morris County and NJ state agriculture have

approved the use. He answered Mr. Bauerlein that it is a restriction by both the state and county that the housing could be for employees of the farm only.

Attorney Buzak swore in Araceli Perez.

Ms. Perez pointed out the area of the labor housing.

Mr. Hall reviewed the concept plan for five lots and stated that the corner lot needs to be wider which shifts the road closer to the wetlands, which could trigger a requirement for a wetland permit.

Mr. Banisch suggested that the plan be revised to clearly show that they can conceptually create five lots. He answered Mr. Sposaro that it could be a condition of the waiver.

Mr. Buzak stated that under the terms of the ordinance an applicant is permitted in any zone to create appropriate housing for farm labor with certain conditions contained in the ordinance – he quoted from the ordinance. There is a waiver of site plan as they are considered accessory uses for farm structures within the ordinance and the applicant is before the board for a determination on the number of housing units. He explained when a site plan review might be required.

Mr. Price asked about stormwater management.

Attorney Buzak swore in Mr. Frost.

Mr. Frost answered Mr. Price that farmland activity is exempt from the stormwater regulations.

Mr. Sposaro stated that under the highlands regulations agriculture is exempt.

Mr. Hall referred to the ordinances 217-40 and 159-5 and asked under which the board could waive the site plan review.

Mr. Buzak stated that it would come under the general site plan waiver provisions.

Mr. Hall was concerned with stormwater.

Mr. Sposaro stated that it is not the barns or riding arena before the board, but the farm labor housing. He answered Mr. Price that the farm labor housing is for five adults.

Mr. Buzak answered Ms. McGroarty that the waiver it is not merely for the farm labor units but also for the structure that it is attached to it.

A discussion was held on requiring site plan approval.

Mr. Hall answered the board that the impervious coverage on the 110 acres would be under 5%.

Mr. DiSalvo made a motion to grant the requested waiver of site plan subject to the submission of a six-lot concept plan acceptable to Mr. Hall, subject to the definition of residential unit and subject to some stormwater management testimony.

Mr. Buzak stated that a waiver could be granted subject to the first two conditions suggested by Mr. DiSalvo but stormwater is a site plan issue.

Mr. Akin suggested the waiver as Mr. DiSalvo suggested and the stormwater be part of the MCSCD review.

Mr. Frost stated that they would be going to MCSCD. He stated that his firm has gotten a DEP exemption from stormwater for a much larger facility than this one.

Mr. DiSalvo made motion authorize the board attorney to draw up a resolution of approval for the Perez request for waiver of site plan for farm labor housing to house five adults subject to resubmission of a 6 lot subdivision acceptable to Mr. Hall, subject to the definition of residential housing unit and subject to approval of the Morris County Soil Conservation District. Seconded by Mr. Bauerlein.

Ayes: Akin, Bauerlein, DiSalvo, Kaiser, Leavens, McGroarty, Price, Trevena
Nays: None Absent: Popper Ineligible: Mont, Jones

Mr. Mont and Mr. Jones returned to the board.

Turnquist – Block 30, Lots 58, 60, 61 – Kings Highway – R-20 and R-5 Zone – 38.21 Acres – Request for two lot minor subdivision with variances – Deemed complete May 9, 2005 – Expires September 6, 2005

Mr. Turnquist, applicant and attorney
Paul Sturbenz, Applicant's Engineer

Paul Sturbenz was sworn in by Attorney Buzak and presented his qualifications to the board.

Mr. Sturbenz reviewed the physical aspects of the property. The property is 36.2 acres, in the R-5 zone; a small portion is in the R-20 zoning which the access driveway will cross. Mr. Turnquist owns three lots, lots 58, 60 and 61. He referred to Mr. Banisch's letter regarding the lot sizes. Lot 58 is 20,700 sf proposed to reduced 18,090 sf. The reduction is due to a roadway dedication, not by the lot line adjustment. Lot 60 is reduced to 7.6 acres and lot 61 will be increased to 27.24 acres. Lot 61 is currently landlocked. The lot line adjustment will give frontage to this lot. Lot 60 is a flag lot. He explained that the flagstaff configuration and easements that would be required.

Mr. Hall referred to his letter of January 3, 2005. He stated that this application meets the definition of a highlands major development and the stormwater management regulations definition of major development.

Mr. Sturbenz stated that he agreed that a highlands approval is required but disagreed that a stormwater plan had to be submitted at this time for Mr. Hall to review, as it is a DEP issue. He would submit the plan for review to Mr. Hall when he submits it to the DEP.

Mr. Hall stated that it has been a board policy to review stormwater management at the time an application is before them and not leave it up to the engineer or DEP.

Mr. Buzak addressed the highlands act and concurred that this application will require a highlands approval. He asked that the board direct their staff to meet and review the affect of the new highland regulations, as they are not just applicable to this applicant. He stated that the May 9th regulation set forth criteria that are applicable to applications within the highlands preservation area. He reviewed some of the new regulations. He stated that the regulations now have fundamental requirements. It was his opinion that if an applicant does not meet the new regulations they could be denied by this board. Possible changes to checklists and ordinances may be needed.

Mr. Turnquist stated that it was his opinion that the rules are going to be modified and changed through lawsuits and legislation.

Mr. Sturbenz stated that this is really a lot line adjustment and they will bring their case to the DEP. If the DEP doesn't agree with the applicant this becomes one lot. He would like to make the applicant's case to this board on other issues. He answered Mr. Hall that he doesn't know if this application meets the preservation area design criteria. He stated that the application meet the former regulations, but he was not sure about the newest regulations issued on May 9th. He answered the board that the applicant has not filed or received and consistency determination from the DEP.

Mr. Hall stated that there are 12 endangered species.

Mr. Turnquist asked that he be heard on the facts based on the Township ordinance and any approval be subject to getting a Highlands approval or determination.

Mr. Trevena stated that it was his opinion the Board would want to see how the stormwater issue was being handled.

The meeting was adjourned to August 8, 2005 so that the applicant could address stormwater and highland issues.

5. Rand Homes (Southern Hill) - Block 33, Lot 87 – West Springtown Road – R-2 Zone, 53 Acres – Request for amendment to stormwater management plan for ten lot subdivision approved with Resolution 03-18, Remand from Superior Court – Public Hearing - previously Heard January 28, 2005 and March 14, 2005

George Johnson, Applicant's Attorney
Andrus Aasmaa, Applicant

Mr. Johnson stated that after the last meeting they looked at the plans and stated that Mr. Hall was correct and they submitted revised plans to MCSCD.

Mr. Aasmaa referred to a revised grading plan that was passed out to the board and marked A-8. He explained that the basin has been moved approximately 20'. The primary change is not shown, but that they are infiltration trenches that have been added along all the driveways. He referred to sheet 2-A of 8 that was marked A-9, which was revised through 5-9-05. He pointed out the infiltration trenches. The trenches would catch water from the driveways and lawns. The revised plans have been reviewed by MCSCD and were approved by them on May 5, 2005. He stated that he did an actual analysis based on the proposed improvements and based on that a CSF # of 64 was arrived at. He could meet Mr. Hall's requirement of 68 CSF by increasing the width of the trench underground. The visible area of the trench would be 3' wide. He agreed to provide a maintenance plan that would include sweeping of the driveways and cleaning of the infiltration systems twice a year by the homeowner. He stated that this would be put in a deed notification.

Mr. Hall stated that under the stormwater management regulations the enforcement would be through either the construction code official, township engineer, DPW or police department.

Mr. Hall referred to his letter of June 9, 2005 and stated that he wrote a letter to the MCSCD requesting a letter from them that this applicant meets the off site stability requirements. He did not receive a reply and he does not believe the will. He read the applicant's letter regarding his mitigation for off site stability. He stated that the plan does show the applicant is controlling the amount of runoff of the site. For the most part his concerns have been addressed. There are now four outflow devices that do reduce the concentration of flow. The MCSCD did re-approve the plans. He explained for the board that what the applicant is now providing is what the new stormwater regulations require. He told the board that generally he is a lot less concerned about the stability but not 100% satisfied. He is not going to object to the applicant's remedy as the applicant has complied with his request to reducing the CSF to 68.

Dr. Keller stated that he spoke with Mr. Hall and Mr. Aasmaa about the issue of the amount of excavation for the trenches. He proposed that stone be used within the trenches because the amount of void space with stone is about 40%. There are new products to address this. He described a product called rainstore,

which is plastic and if this were substituted for rock it would cut the excavation by half. He was concerned with the exposed stone as it could be a maintenance problem and he recommended turf on a bed of sand. He asked that these methods be considered

Mr. Aasmaa expressed his concerns with the methods proposed, because of the need for lateral support and runoff over the turf. He stated that he would work with Mr. Hall and Dr. Keller on this issue.

The meeting was opened to the public for questions and comments on this application. There were no questions or comments from the public and the meeting was closed to the public on this application.

Ms. Kaiser made a motion to authorize the Board attorney to draw up a resolution of approval of the amended stormwater management plan shifting the detention basin based on Mr. Hall's letter. Seconded by Mr. DiSalvo. A voice vote was taken; all were in favor and the motion carried.

Eligible: DiSalvo, Jones, McGroarty, Kaiser, Trevena, Price

Absent: 3-14-05 – Bauerlein, Leavens, Mont, Akin

Absent: 6-13-05 - Popper

6. Drakestown Road Associates – Block 12, Lot 4 – Drakestown Road – R-5 Zone – 104 acres – Request for 14 Preliminary Subdivision – Public Hearing if deemed complete

The application was not heard as it was deemed incomplete. Mr. Jones announced that the application was adjourned to July 11, 2005.

7. Carfaro – Block 63, Lot 28.03 – Hackelbarney Road – -5 Zone – 16.138 acres Request for two lot minor subdivision – Deemed Complete March 14, 2005 – Previously Heard March 14, 2005 – Expires June 22, 2005

Adjourned at applicant's request to July 11, 2005

DISCUSSION/ CORRESPONDENCE

1. Vouchers

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

2. June 2, 2005 Correspondence form Edward J. Buzak re: New Jersey Law Journal Article on affordable housing projects

Noted for the record.

3. Summer Agenda

The summer scheduled was reviewed.

Ms. McGroarty made a motion to cancel the meeting of July 27, 2005 seconded by Mr. DiSalvo. A voice vote was taken; all were in favor and the motion carried.

4. COAH – Needs Assessment

Mr. Banisch distributed and draft housing plan element background analysis. This process will be followed up with options on the ways for the Township to meet their third round obligation. After this is done it will be sent to the Township Committee for their review and agreement before adoption as a Master Plan housing plan element.

5. Sign Ordinance

Mr. Banisch stated that he would be getting a copy of a proposed ordinance to Mr. DiSalvo within the next two weeks for discussion on July 11th.

Mr. Price made a motion to adjourn, seconded by Ms. Kaiser. A voice vote was taken; all were in favor and the meeting was adjourned at 11:30 p.m.

Virginia R. Kesper