

Vice Chairman McGroarty called the regular meeting of October 26, 2005 of the Washington Township Planning Board to order at 7:40 p.m.

MEMBERS PRESENT

CLASS IV: Charles DiSalvo, William Leavens, Kathleen McGroarty, Howard Popper

ALTERNATES: Lou Mont

CLASS I:

CLASS II:

CLASS III: Kim Ball Kaiser

OTHERS ABSENT: Akin, Bauerlein, Jones, Price, Trevena

STAFF PRESENT: Clerk Kesper, Engineer Hall, Attorney Cofoni, Planner Banisch

*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

- 1. Minutes from the September 28, 2005 Regular Meeting

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

RESOLUTIONS

05-30 Carfaro – Block 63, Lot 28.03 – Hackelbarney Road – 5 Zone – 16.138 acres – Approval of Request for two lot minor subdivision

Tabled due to lack of quorum

05-31 Moraghan – Block 59, Lot 1.2 – West Fox Hill Road – R-5 Zone – Approval of Request for Lot Line Adjustment

Tabled due to lack of quorum

05-32 Toll Brothers – Block 18, Lots 6 & 10 – R-5 Zone – Request for Amendment to Resolution 01-37 – Preliminary Subdivision Approval – Approval of revised preliminary approval grading plans for lots 47, 48, 49 & 50 and Extension of Time on Resolution 04-24– Final Major Subdivision Phase I – 24 Lots

Tabled at the applicant's request.

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

DECISIONS ON COMPLETENESS

None

APPLICATIONS

1. Ray Rice – Block 8 Lot 2.02 – 37 Drakestown Road O/R Zone - .77 Acres– Concept Plan for COAH Housing

Ray Rice, Applicant
William Hotz, Applicant

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

Mr. Rice referred to a site plan of the proposed COAH housing as was discussed at the TCC meeting referred to in Mr. Banisch's letter of October 26th. The barn would be retained and the existing house would be converted into o apartments and two more buildings would be erected for a total of 10 apartments, four in each of the new buildings and two in the existing unit. He distributed a proposed floor plan. He proposed to have a mix of very low income and moderate-income housing. He stated that the property is served by public water and sewer.

Mr. Banisch referred to his memo of October 26th and stated that the concerns raised at the TCC meeting were that the buildings be in scale with the neighborhood, which has been proposed as well as the retention of the barn to keep the development in scale and style with the surrounding neighborhood.

Mr. Rice stated that the barn and house are on the township's list of historic sites.

Mr. Hotz stated that the adaptive reuse of the barn for housing would not be feasible but that they would keep the barn on the site for use by the tenants.

Mr. Banisch explained the benefits of having five very low-income rental units as the township gets two credits for every very low-income rental units. He referred to the financing that would have to be agreed to by the township and the applicants to make this arrangement work for the applicant.

Mr. Rice stated that he was looking for a \$550,000 grant from the Township to make this plan work because of the low rents that would be received from the very low-income housing. It will be about \$1 million to build the project, of which the applicant would be funding the amount over the \$550,000 as well as contributing the land. He and Mr. Hotz would be the owners of the property and building.

Mr. Banisch stated that this proposal would cost the township \$36,660 per credit. These credits would be towards the Township's Third Round obligation. Mr. Banisch stated that these credits would be counted for a minimum of 30 years. He answered Mr. Leavens that COAH is on a ten-year review cycle. He did not see COAH obligations going away in the future. He answered Mr. Popper that a township could send their obligations to another township at a cost of \$35,000 per credit.

Mr. Rice answered Mr. DiSalvo that the barn may serve as storage units for the apartments.

Mr. Hotz explained to the board that leaving the barn keeps the look of a farm. He stated that he is building the affordable housing in Harding Township, which is being built to look like a farm.

Mr. Rice stated that the buildings would be colonial in style wood frame, clapboard siding, shutters, etc. He agreed to Mr. Banisch's suggestion to shift the buildings closer to Lotus Blvd.

Mr. Hotz stated that to follow Mr. Banisch's suggestions the board would have to grant variance relief from the 15' setback on Lotus Blvd. Fronting them on Lotus Blvd would make it look like the buildings have existed in the neighborhood all along.

Mr. Banisch suggested adding one of the buildings to the existing building to get more green space.

Mr. Rice stated that the existing building is a true salt-box colonial with a flat roof and the mass of a structure attached to it would be out of character for the neighborhood.

Mr. Banisch agreed.

Mr. Banisch recommended sending this proposal to the Township committee for their review for inclusion in the Township's housing plan. He stated that there may need to be zoning changes to accommodate this plan.

Mr. DiSalvo made a motion to send the proposal as discussed this evening to the Township Committee with a recommendation that it be made part of the Township's housing plan, seconded by Mr. Leavens. A roll call vote was taken:

Ayes: DiSalvo, Kaiser, Leavens, McGroarty, Popper

Nays: None Abstentions: None Absent: Akin, Bauerlein, Jones,
Price, Trevena Ineligible: Mont

2. Long Valley Village – Block 28, Lot 18.02 – East Mill Road - C-1 Zone – 5 Acres – Request for Final Site Plan Approval for retail shopping center

Doug Janacek, Applicant's Attorney
Ronald Kennedy, Applicant's engineer
Donald Sciaretta, Applicant

Ms. Kaiser stepped down due to a conflict of interest.

Mr. Janacek explained that the applicant is before the board for final site plan approval.

Mr. Kennedy marked exhibit A-1 the proposed site plan rendering dated March 2004 and A-2 a site dimension plan dated October 2005 noting the items that have changed. He referred to the site plan and pointed out the buildings, detention basin, etc. He referred to the changes to the site plan as:

- Building A – Previously had stairs that they have changed to a sidewalk at floor elevation, which eliminated stairs and required a retaining wall that was not on the original plans. The retaining wall is 6' high with a fence and landscaping at the top. North of the building they have included a small enclosed dumpster area, behind the sidewalk in front of a parking space. The dumpster was a requirement of one of their tenants.
- Building C – Changes are to the rear. They are not constructing the patio shown on the original plan, as they do not have a restaurant tenant who would require it. If they get a restaurant tenant they would build the patio. They have eliminated the sidewalk on the west side of the building and have brought the sidewalk up to the back of the building. They have shifted by 90 degrees the dumpster area.

Mr. Kennedy stated that the impervious coverage is slightly lower than previously proposed.

Mr. Hall explained to the board that the building A retaining wall was built last week, before he was given the plans to review and he has since been rejected the design plan. There are some structural problems that have to be resolved with himself, the Construction Code Official and the applicant. He pointed out that there is now a 10' retaining wall then a 6' retaining wall basically on top of it.

The board reviewed this change.

Mr. DiSalvo stated that this retaining wall is a visual eye sore and if it had a stone facade it would be much more acceptable. He stated that the material used for the retaining wall is very inconsistent with the rest of the development which used stone face.

Mr. Kennedy stated that they would landscape the walls to soften the look.

Attorney Buzak swore in Donald Sciaretta.

Mr. Banisch asked that a landscape plan be submitted for approval.

Mr. Kennedy stated that there were no changes that would impact the stormwater management plan.

Mr. DiSalvo expressed his concern that the fence gates may be left open.

The dumpster location and the fencing was discussed.

Mr. DiSalvo asked where the flagpole was.

Mr. Kennedy stated he would get back to the board about the pole, as it does not seem to be located on the plans.

Mr. Hall stated that the landscaping around the stone sign wall is somewhat high and hides this feature.

Mr. Hall reviewed his letter of October 24, 2005.

Mr. Kennedy stated that the applicant agreed to comply with all items in Mr. Hall's letter. He stated that the East Mill Road stripping would be complete prior to the first Certificate of Occupancy.

Mr. Sciaretta stated that he would remove some of the shrubs in front of the sign wall and move them to other locations on site.

Mr. Banisch stated that the sign plan is basically in compliance with what was submitted at the time of preliminary.

Mr. Sciaretta answered Mr. DiSalvo that lease agreements will limit signs in the windows.

Enforcement of the sign restrictions was discussed.

Mr. Banisch asked that preliminary condition of approval U-2 as part of the lease.

Mr. Buzak stated that this could also be put into the final resolution with specific restrictions.

Mr. Sciaretta stated that he already has five leases signed and three leases out for signature. He also noted that they do not have big glass windows on the site. He will submit to Mr. Buzak what they have in their leases currently.

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

Mr. Buzak stated that the preliminary resolution should also be amended to reflect the changes discussed. He noted that the applicant has sent public notice regarding the meeting this evening.

Mr. DiSalvo made a motion to authorize the board attorney to draw up a resolution of approval granting amended preliminary approval and final approval consistent with the amended preliminary, subject to the conditions in Mr. Hall's letter, review of the existing leases as to signage and placement of the flagpole. Seconded by Ms. McGroarty. A voice vote was taken; all were in favor and the motion carried.

Eligible: DiSalvo, Leavens, McGroarty, Mont, Popper
Absent 10/26/05: Akin, Bauerlein, Jones, Price, Trevena
Ineligible: Kaiser

***DISCUSSION /
CORRESPONDENCE***

1. Vouchers

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

2. Ridgeline Ordinance

Ms. Kesper reviewed the changes suggested by the Township Committee. She stated that Mr. Akin asked that the board review the requirement that anyone seeking a building permit on a lot within 100' and suggested that it read any land

disturbance within 100'. He stated that there are a lot of long narrow properties that start at the top of the mountain and go down to the river that could be impacted by this ordinance.

Mr. Buzak reviewed clerical changes that he would like to have made to the ordinance.

Ms. Kaiser stated that one of the questions at the Township Committee meeting was regarding the justification for the ridgeline in the southern part of the township in the Hackelbarney/Black River area.

Mr. Banisch stated there are a couple of things going on with the determination of the ridgeline. The first criteria is the change of slope from 20% to less then or greater then 20%, which is clearly defined on the Schooley's m north and south east and west ridgelines shown on the map. Second, the ridgeline is determined through an interpretation of high points following the ridgeline along a particular range where the slope classifications are not as clearly defined, which is the case with the Fox Hill range that runs through the area of protection shown on the map. The next polygon down from the fox hill range was interpreted the same way. In the southeasterly corner around Hacklebarney Road there is a clearly defined break of less then 20% to greater than 20% and that is why the ridgeline appears on the map the way it does, boundary; the area of protection follows pretty much the river at that point on the easterly boundary of the municipality and where it adjoins another municipality (Tewksbury) in the southerly most point. He reiterated that the ridgeline is shown where it can be clearly interpreted by slope or when characteristics are not plainly evident by the traditional ridgeline mapping techniques.

Mr. Banisch addressed Mr. Akin's comment that it may not be clear where the area of disturbance is and the ordinance requires protection areas on the ridgeline and it is in the Township's interest to get this established when an activity takes place on each of the lots, not just when disturbance occurs within 100 feet of the line. He noted that GIS mapping is a great tool, but it is not exact.

Mr. Hall stated that areas of disturbance enlarge beyond what is presented with a building a permit. It was his opinion that the ordinance should not be based on area of disturbance.

Mr. Buzak agreed with Mr. Banisch and Mr. Hall.

The meeting was opened to the public.

Laura Akin stated that many historic properties in the township run from the ridge down and may be impacted. She was also concerned with the idea that the protection is from any public way and felt this was an intrusion. She was concerned with the removal of vegetation limiting woodland management as farming. Concerned with allowing the valley to grow up and then there would be

no vistas. She also was concerned with the 20% slopes are considered tillable and farm structures should be considered to be placed at 20% or above.

Mr. Buzak clarified that the steep slope provision is not limited to the ridgeline area.

Ms. Akin explained that all farms are not necessarily covered by the State's Right To Farm ordinance and explained what a farmer must submit to the county and state to get protection under the right to farm ordinance. She explained that the township's ordinance is broader and covers most farms. It was her opinion that the ordinances being discussed tonight should reference the township right to farm ordinance as well as the states

The board discussed this issue and decided to leave the ordinance as written, any property within 100' of the ridgeline.

Mr. Banisch answered Ms. Kesper that the Zoning map should also be updated to reflect the new ridgeline.

Mr. DiSalvo made a motion to send the ordinance as amended this evening to the Township Committee for adoption. Seconded by Mr. Popper. A voice vote was taken all were in favor.

3. Stream Corridor Ordinance

Ms. Kesper reviewed the changes to the ordinance proposed by the Township Committee and Attorney.

Mr. Mont made a motion to send the ordinance as written and discussed this evening to the Township Committee for adoption. Seconded by Mr. DiSalvo. A voice vote was taken all were in favor

The meeting was opened to the public for questions and comments on this ordinance

Laura Akin – Reiterated her comments made during the discussion of the Ridge Line Ordinance regarding the right to farm.

4. Fertilizer Ordinance

The ordinance was reviewed and it was noted that this is a companion ordinance to the stream corridor ordinance.

Mr. DiSalvo made a motion to send the ordinance as amended this evening to the Township Committee for adoption. Seconded by Mr. Mont. A voice vote was taken all were in favor

5. Morris County Planning Board Municipal Assessment Review

The Board reviewed this assessment plan and it was noted that it appeared that the county had reviewed the old 1998 Master Plan and not the newer 2003 plan. The Planning Board decided to send a letter to the County that the plan needs to be revised prior to comment as most of the goals and recommendations listed in the report were taken care of in the 2003 Master Plan.

6. October 14, 2005 Correspondence from Edward Buzak RE: Scudese v. Washington Township Planning Board

Mr. Buzak explained that the new attorney for the Scudese family have filed with the Appellate division to re-instate their appeal which had been previously dismissed by the court.

7. Washington Township Board of Education Five-Year Plan

The Board wanted the Board of Education to appear at the November 14 planning board meeting to present the report. They particularly wanted a comparison of the previous five year plan student population projection compared to the actual population. They also wanted extra copies of the report for review.

8. New School

Ms. McGroarty stated that she had concerns with the capital review process. She noted that the Planning Board only saw the concept plan and never any detailed plans. She stated that she was aware that the Board's review is for consistency determination with the Master Plan. She asked if it were normal protocol to not present engineering plans to a planning board.

Mr. Buzak answered Ms. McGroarty that the statute requires Planning Board review before money is spent by the Board of Education. He explained that statutorily the Planning Board is on the bottom floor, which just gets you a concept plan and not detail. He stated that the Planning Board is not prohibited from asking for more information but that the Board can only make recommendations, which we did on what we saw. All detailed plan reviews and inspections are through the state DCA.

9. Signs

Mr. DiSalvo asked that a draft ordinance be ready for review on November 14.

Mr. DiSalvo made a motion to adjourn, seconded by Ms. Kaiser. A voice vote was taken; all were in favor and the meeting was adjourned at 10:30 p.m.

Virginia R. Kesper

OCTOBER 26, 2005

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