

Chairman McGroarty called the regular meeting of February 22, 2006 of the Washington Township Planning Board to order at 7:40 p.m.

MEMBERS PRESENT

CLASS IV: Mark Bauerlein, William Leavens, Kathleen McGroarty, Geoffrey B. Price
 ALTERNATES: Sam Akin, Lou Mont
 CLASS I: Kim Ball Kaiser
 CLASS II: Eric Trevena
 CLASS III: Kevin Nedd
 OTHERS ABSENT: Popper, DiSalvo
 STAFF PRESENT: Clerk Kesper, Engineer Denzler, Planner Banisch, Attorneys Buzak & Cofoni

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 17, 2006 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 January 25, 2006 Regular Meeting

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

RESOLUTIONS

06-09 Lang – Block 9, Lot 14 – Drakestown Road – R/5 Zone, 13.415 Acres – Approval of Request for Two Lot Minor Subdivision

The resolution was reviewed.

Ms. Kaiser made a motion to approve resolution 06-09, seconded by Mr. Bauerlein. A roll call vote was taken:

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

06-10 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 – 45 Age Restricted Town Homes – Approval of Request for Waiver from restriction on demolition / construction prior to April 15th

Mr. Trevena made a motion to approve resolution 06-10, seconded by Mr. Price. A roll call vote was taken:

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

06-11 Claremont Village – Block 28, Lot 18. 02 – East Mill Road – Approval of Request for Amendment to Resolution 04-18

Mr. Nedd made a motion to approve resolution 06-11 seconded by Mr. Bauerlein. A roll call vote was taken:

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

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

DECISIONS ON COMPLETENESS

1. Murray – Block 50.02, Lot 14 – 4 Ramsey Way – R-5 Zone – 2.5 Acres – Request for Conditional Use Home Occupation

Patrick Murray, Applicant

Mr. Hall referred to his letter and recommended completeness.

Mr. Leavens made a motion to deem the application complete. Seconded by Mr. Price. A voice vote was taken; all were in favor and the motion carried.

2. Elegant Homes – Block 42, Lot 11 – Hacklebarney Road – R/5 Zone, 66.8 acres – Request for Two Lot Minor Subdivision

Joseph Murray, Applicant's Attorney
Jerome Lange, Applicant's Engineer

Mr. Murray reviewed the application stating that it was a two lot minor subdivision of 67 acres. The applicant has made the Planning Board requested changes to the plat. He stated that the applicant is not proposing to give the easements to the Township without compensation.

Mr. Hall stated that he has had conversations with the applicant's engineer regarding the required conservation easements and they have now been shown on the plat and the applicant has complied with the ordinance and he recommended that the application be deemed complete.

Mr. Price made a motion to deem the application complete. Seconded by Mr. Bauerlein. A voice vote was taken all were in favor.

APPLICATIONS

1. US Homes – Block 19, Lots 5, 6, 7 – MHA-R Overlay Zone, 121.43 Acres - Schooley's Mountain Road Request for Amendment to Minor Subdivision Approval – Deemed Complete January 25, 2006

Joel Kobert, Applicant's Attorney
William Hamilton, Applicant's Planner and Landscape Architect

Mr. Kobert stated that the applicant has withdrawn their request to amend the minor subdivision and now was asking for a 190 day extension to file the deeds. He stated that the deeds have not been filed because the applicant was still awaiting necessary permits from the DEP. He referred to the MLUL regarding this extension. He stated that US Homes has not taken title to the property because all of the permits have not been received, specifically the HMUA permit.

Mr. Hall confirmed that he spoke to Mr. Smith of the HMUA and confirmed that the HMUA hopes to have the permit in the summer of 2006.

Mr. Price made a motion to grant the requested extension of time, seconded by Ms. Kaiser. A roll call vote was taken:

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

2. Murray – Block 50.02, Lot 14 – 4 Ramsey Way – R-5 Zone – 2.5 Acres – Request for Conditional Use Home Occupation

Patrick Murray, Applicant

Bernard Patrick Murray was sworn in by Attorney Cofoni.

Mr. Murray stated that it was brought to his attention three months ago that he was improperly operating a business in his home and that he did not have the proper permits. He explained that his business is rebate processing and that he has 15 people but only two employees are working out of his home. He explained that he periodically holds training sessions for the people who work him in his home. He stated that that this violation came to light during his renovations and subsequent disagreements with his contractor.

Mr. Murray addressed the 17 conditional uses requirements. He stated that there would not be any public coming to the home, he does have federal express every day but no mail deliveries as he picks up from post office and once a month he has deliveries of materials for the business. His home is 5500 sf, including the recent renovations and the office is 450 sf. He is the owner of the property and the business. He will not have more than two employees at the home office at any one time and on occasion no more than two people for training for an hour or less. There is no outdoor storage or display. There is no retail traffic. No off site noise, etc. No sign is anticipated but if he did it would comply with the ordinance.

Mr. Murray stated that he has adequate parking and would comply with Mr. Hall's request to have an additional 20' back from the garage door and he will move the stones back two feet – he referred to the photographs he submitted to the board and pointed out this area. He referred to the plans submitted to the board and described the garage area and parking. He described each of the photographs submitted to the board. He stated that the porch is not yet complete and a circular driveway will be installed in the spring. He pointed out the landscaping currently on the property. He described the photos of the views that his neighbors have of his property. He offered to landscape the area between himself and his side yard neighbor. His hours of operation are 9 to 5 and that he is not proposing any alterations to the home for the business. His business generates paper and cardboard waste only. He does not believe that he would have any requirements from the Health Department.

Mr. Murray stated that he stated that he bought a building in Hackettstown and will be moving his business there but that he would still like to have his home available for his business in the event his business decreases. There is no stop work order on the construction but no CO has been issued for the addition as of yet because it is not complete. The business is not in the new addition. His home is a 4 bedroom dwelling.

Mr. Hall stated that based on the ordinance the application requires 5.2 parking spaces and based on the documents submitted and a site inspection there is enough room to park 6 vehicles. He agreed that heavy buffering should be required on the side yard.

Mr. Murray answered Mr. Hall that he would comply with the ordinance and would have no more than 3 employees, including himself. He answered Mr. Banisch that his supplies are delivered approximately once a month by a box truck. He showed examples of the type of paper products he receives and mails out. UPS/Fed Ex delivers approximately once a day and reiterated that he does not get US mail delivery. If he had to he could do his training off site, but he would prefer to do it on site. Training would be only three – four times a year. He answered Mr. Banisch that the construction materials in the photograph belong to him. He stated that now that he has the garage doors installed he would move as much of the material into the garage as possible.

Mr. Banisch suggested a conditional of approval should be moving the construction materials into the garage as much as feasible and a double row of evergreens on the garage side of the home between the applicant's home and his neighbor.

Mr. Murray stated he was planning to plant in the spring he would move the dirt if possible, if he had to. He answered Mr. Hall that the dumpster is for construction purposes. The paper from his business is taken during weekly garbage pick up. He explained that his contractor walked off the job the weekend after thanksgiving, however he has had other contractors working daily. Waste management comes and empties the dumpster every week and it is picked up between 7:00 a.m. and 10:00 a.m.

Mr. Banisch suggested either the dumpster be taken away until heavy construction begins again or moved inside or fenced.

Mr. Murray answered Mr. Leavens that the dumpster would be removed when the construction was complete.

Mr. Murray stated that he is in violation of the ordinance at this time. The zoning officer called him and informed him of the violation and he immediately came into the township and filed the necessary paperwork to appear before the board. He answered the board that he will move the construction debris and the dirt pile. He explained the location of the property line and stated that he may use the dirt for a landscape berm. He answered Mr. Nedd that the office space in Hackettstown is 1600 sf and that he purchased it on May 18, 2005. He will move his business and the people who now work in his home will work out of the office. The deliveries will continue for sometime. He will conduct his training in the Hackettstown office, as long as he has it. He explained to the board the reason he is pursuing this approval is a backup measure in case his business situation changes. Driveway as it exists now was pre-existing but that it did not extend quite as close to the neighboring property as it does now.

The meeting was opened to the public for questions or comments.

Joe Ferrucci- 6 Ramsey Way was sworn in by Attorney Cofoni and stated that he is the adjoining neighbor on the garage side. He questioned the amount of

square feet of the home being used for the business. He stated that Mr. Murray received three deliveries today. He stated that the dumpster has been on the property longer than the construction period, initially a larger dumpster was there and that it is picked up a lot earlier than 7:00 a.m., as early as 4:30 a.m. He asked how long Mr. Murray has used his home for business. He told the board that he would want the berm and trees planted. He asked who would police the use of the building. He was concerned that there were more than two employees. It was his opinion that 2500 sf has been added for the business. He explained that Mr. Murray had encroached on his property. He wanted the landscaping planted solely on Mr. Murray's property.

Mr. Murray answered Mr. Ferrucci that the addition is not used for his business and that the room is a billiards room and that he had the receipts for a billiards table. He does use the basement for storage use; approximately 25 – 30 sf. He stated that he has on average one delivery and pick up per day. He stated that he has been in business since 1991, but has not had employees in the home all that time. He stated that he has had three 30 yard containers during roofing siding and deck and removal and swing set removal and this smaller dumpster is for the ongoing construction.

Ms. Cofoni answered Mr. Ferrucci that the Zoning officer is the Township enforcement agent if he were to receive a complaint.

Mr. Murray stated that he had four employees working for him at his home for a four week period. His home has been undergoing renovations for 21 months and that he hires college kids for lawn maintenance in the summer. He stated that he is using 417 feet of the existing house and not using any of the new addition for the business. He explained that the addition started out to be space for his father-in-law who passed away before the addition was completed. The home is now 5200 – 5500 sf. He answered the board that he would accept a condition limiting the use of 450 sf for his business.

Thomas Pellerin – 10 Ramsey Way was sworn in by Attorney Cofoni and stated that he was concerned with the change in the character of the neighborhood through the operation of this business. He stated that the dumpster was there long before any construction. He has seen tractor-trailers deliver to the applicant's home. He has concerns for the safety of the neighborhood and children and questioned that the addition was just for residential reasons.

Leon I. Gruber – 8 Ramsey Way was sworn in by Attorney Cofoni. His concern was not with what exists, but it will grow into. He had concern about the long-term implication for property values and safety of the neighborhood. He expressed concerns about employee meetings, deliveries and that 417 sf was not adequate for three people. He asked Mr. Murray if he takes a portion of the home as a tax credit. He questioned the size of the business and asked about storage for the business now at the home.

Mr. Murray answered Mr. Gruber and Mr. Pellerin that he currently has 200 boxes in storage in his garage and that he is going to use the home additional for residential use such as the billiard room and that he has receipts for the pool table and other residential furnishings. He received this past Friday a Temporary Certificate of Occupancy for the Hackettstown building and once he has cable and other items he would move there, probably by the beginning of summer. He stated that the approval he is seeking is to continue the use of his home as a home occupation as he testified to, with two employees within 25% of his home.

Ms. Cofoni confirmed that this is allowed under the ordinance.

Jim Botti- 15 Gentry Drive was sworn in by Attorney Cofoni and asked about the ordinance requirements and limitations on the of cars and if parking on the lawn is permitted.

Mr. Hall answered that the applicant must supply 5.2 parking spaces and he has at least six. Parking spaces are on the stoned surface or inside the garage itself. He stated that parking is not allowed on the lawn.

Mr. Murray answered the board that the storage of materials is in the garage and/or basement, not in the living area of the home.

Mr. Murray explained that the house without addition was approximately 3600 sf. He stated that after realizing that storage is part of the home occupation space he would accept a condition of 900 sf for the home occupation in total for office and storage, regardless of the 25% allowed by ordinance.

The home occupation ordinance was reviewed.

Samuel Susarchick - 14 Ramsey Way was sworn in by Attorney Cofoni and stated that this was a family neighborhood, and had Meghan's Law concerns with the applicant's employees, fire concerns and telecommunication interference concerns.

Mr. Murray answered that his employees are from Washington Township, one for 10 years and a college graduate who was raised in and lives in Long Valley and he is concerned as well for safety as they work in his home. He does not use wireless routers for his internet connection.

Collette - 11 Ramsey Way was sworn in by Attorney Cofoni and stated that she is a new resident and reiterated the concerns with the safety of the children in the neighborhood and asked about signs and monitoring of the number of employees on site.

Mr. Murray stated that there would never be a sign.

Daniel Domaratzky - 6 Gentry Drive was sworn in by Attorney Cofoni and asked how long the approval would be good for. He stated that the board should be sympathetic to the neighbors.

Mr. Banisch stated that the approval would stay with the home.

Helen Machleder – 7 Stewart Court objected to the application because it would change the character of the neighborhood.

There were no further questions or comments and the meeting was closed to the public for questions and comments.

The ordinance was read regarding the number of allowed deliveries per day.

Mr. Nedd stated that he did not object to the home occupation as presented except for the number of deliveries and the impact the neighbors see regarding the deliveries. He noted that the ordinance read "shall be" no more than two per day.

Mr. Murray answered Mr. Nedd that he averages one or two a day over a year but at some seasons it is more than that.

The board discussed the delivery truck issue.

Mr. Price asked that Mr. Murray supply delivery records from his delivery services over the last two years.

The meeting was adjourned to March 22nd to allow the applicant to obtain the data requested on the number of mail deliveries and Attorney Cofoni to determine if the approval would run with the land.

Eligible: Bauerlein, Kaiser, Leavens, McGroarty, Nedd, Price, Trevena, Akin, Mont

Absent: Popper, DiSalvo

2. Elegant Homes – Block 42, Lot 11 – Hacklebarney Road – R/5 Zone, 66.8 acres – Request for Two Lot Minor Subdivision

Joseph Murray, Applicant's Attorney
Jerome Lange, Applicant's Engineer

Jerome Lange was sworn in by Attorney Cofoni and presented his qualifications to the board.

Ms. McGroarty accepted Mr. Lange as an expert witness in the field of engineering and planning.

Mr. Lange referred to a steep slope map, which was marked A-1. He stated that the map showed the property in its entirety and pointed out the steep slopes on the property. The map also showed the other environmentally constrained areas such as wetlands, C-1 streams and highlands areas. The wetlands were based on a DEP Letter of Interpretation issued on October 25, 2001. He highlighted the home sites in green. He marked as exhibit A-2 a development plan for Elegant Homes. He highlighted lot A in pink and noted that this is a 4+ acre lot and the remainder lot B is 62.2 acres. He testified that lot A does not include any steep slopes except for a small area of man-made slopes in the right of way. He stated that both of the lots have approved driveway permits. Lot B's 62.2 acres includes a home site, steep slopes and environmentally encumbered property. He referred to sheet 20.1 of the plans submitted and marked it exhibit A-3. This plan shows the proposed driveways. He addressed Mr. Banisch's letter regarding a shared driveway. He stated that to do this the homes would have to be very close together and for the character of the area it was his opinion it would be better to have them separated with their own driveways. He marked as Exhibit A-4 sheet 17 of 21 - landscaping plan. He pointed out the proposed landscaping along Hackelbarney Road and the westerly property line. He explained that this landscaping was recommended by the State DEP Historic Preservation Department when the applicant was proposing an eleven lot subdivision but that the applicant has decided to maintain the landscaping as shown, even though this is now a two lot subdivision. He explained that both homes would be served by private septic systems and public water and that there were no road improvements proposed to Hackelbarney Road and that there were acceptable perc tests on the site.

Mr. Lange referred to the conservation easements shown on the plan. He highlighted in red on exhibit A-1 the conservation easements. Conservation easements equal 38.5 acres of the property and encompass the entire highland open water buffer. He addressed the equestrian trail requested by the Board and stated that there is a note on the plan regarding it, but there is no trail shown. He read the note on sheet 7 of 21 of the plans that stated the conservation easement are shown per the ordinance requirement and are not intended to be dedicated to the Township without payment. The easements for shade tree and historic corridor buffer are unrestricted.

Mr. Lange referred to exhibit A-1 and stated that the front is in farmland, the wooded areas are in the center and northerly area. The center portion is secondary re-growth forest area. He pointed out the two building envelopes and stated that both lots fully conform to Township Ordinances. He noted that the home locations are in areas of previous disturbance. He stated that disturbance for both lots is less than an acre and the impervious is less than one quarter of an acre and therefore the highlands and stormwater acts do not apply. They have, however, supplied stormwater controls in accordance with the stormwater act. All development is outside the environmentally sensitive areas of the site. As a result of the highlands act the applicant can develop less than one acre of the property. The conservation easements do not encompass any other land than

highlands and wetlands. There are no structures or disturbance proposed in the conservation easement areas.

Mr. Murray granted the Board an extension of time through April 30th

The meeting was adjourned to April 10, 2006.

Eligible:: Bauerlein, DiSalvo, Kaiser, Leavens, McGroarty, Nedd, Price, Trevena, Akin, Mont
Absent: Popper, DiSalvo

***DISCUSSION /
CORRESPONDENCE***

1. Vouchers

Ms. Kaiser made a motion to approve the vouchers reviewed by the Chairman and Vice Chairman and send same on for payment. Seconded by Mr. Bauerlein. A voice vote was taken; all were in favor and the motion carried.

2. January 27, 2006 Housing Construction Report from Leon Hall

Mr. Hall reviewed his report for the board.
Clerk Kesper was directed to send the report to both Boards of Education.

3. Sign Ordinance

Mr. Banisch stated that Mr. Jordan would be at the meeting of March 13th and the discussion was adjourned to then.

4. Housing for Elderly Parents – November 16, 2005 Correspondence from David Banisch

Mr. Banisch reviewed his memo. He explained the growth share ordinance and the fact that anyone before the Planning Board or Board of Adjustment that is seeking to add an additional housing unit is required to pay a 1/8th growth share for every new housing unit (between \$35,000 and \$50,000 per unit) vs. the development fee ordinance obligation of 1%.

The board discussed this issue and concluded that they wanted to see the development fee ordinance apply in this instance, with proper deed restrictions. They did not want to amend the ordinance at this time to allow it to be a permitted principal use, thereby continuing the requirement that all such applications be heard by the Board of Adjustment as a use variance.

Ms. Kaiser made a motion to send a recommendation to the Township Committee that the ordinance be changed as in Mr. Banisch's memo as long as controls are

put in place, such as a deed notification, that the apartment is only for elderly parents. Seconded by Mr. Price. A voice vote was taken; all were in favor and the motion carried.

5. January 31, 2006 Correspondence from E. Buzak RE: Pay to Play Legislation

Noted for the record.

6. February 14, 2006 correspondence from E. Buzak RE: Scudese v. Washington Township

Update on the litigation.

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 11:15 p.m.

Virginia R. Kesper