

Chairman McGroarty called the regular meeting of June 28, 2006 of the Washington Township Planning Board to order at 7:40 p.m.

MEMBERS PRESENT

- CLASS IV: Mark Bauerlein, William Leavens, Kathleen McGroarty, Howard Popper, Geoffrey Price
- ALTERNATES: Lou Mont, Sam Akin
- CLASS I: Kim Ball Kaiser
- CLASS II: Eric Trevena
- CLASS III: Kevin Nedd
- OTHERS ABSENT: DiSalvo
- STAFF PRESENT: Clerk Kesper, Attorney Buzak

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. Seven 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 May 24, 2006 Regular Meeting

Mr. Price made a motion to approve the minutes, seconded by Ms. Kaiser. Mr. Akin stated that he had concerns with the woodlands ordinance that was sent to the Committee and he objected to the ordinance being sent to the Committee. He noted that it was not on the original agenda, that it appeared on an updated agenda the day before the meeting. Ms. McGroarty stated that the Board would look at this ordinance again if the Committee sends it back to the Board. A voice vote was taken; Mr. Akin, Mr. Leavens and Ms. Kaiser abstained; all others were in favor and the motion carried.

**RESOLUTIONS**

**06-18 BLACK OAK GOLF CLUB, LLC - ESTATES AT LONG VALLEY SECTION 3-**  
Block 18, Lots 8, 21 & 21.04 - Bartley Road - R/5 Zone, 181.795 Acres -  
Approval of Request for Final Subdivision Approval of 13 Lots

Joel Kobert, Applicant's Attorney  
Robert Brightly, Applicant's Engineer

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

Mr. Buzak stated that since the previous meeting, open space issues arose and the resolution before the board reflects the changes to the open space. He explained that the one large open space tract 9 has been divided into two tracts – tract 9 and 10. He suggested that Mr. Brightly review the open space as indicated in the resolution.

Mr. Kobert stated that there is open space that goes to the Township if the golf course is not built and open space that would revert to the golf course owner if the golf course could not be built because of issues outside the applicant's control.

Mr. Buzak swore in Robert Brightly.

Mr. Brightly marked A-1 a color map depicting the sequential development of the tract and pointed out each of the three sections and the associated open space. The second phase of the Toll Brothers homes, 13 homes, was dependent on section 3, which was shown in red and two golf course tracts shown in green. The additional golf course tracts were shown in brown. He marked A-2 a site plan map showing the open space entitled Estates of Long Valley Section III. The yellow on this map showed the open space from Estates at Long Valley sections 1 & 2. The exhibit showed the 41 acres of the open space that would remain open space in perpetuity. The gray on the map was the area that would not be disturbed if the golf course did not get built, the 8 open space conservation easement tracts equaling 91 acres of open space in section 3 that would become dedicated open space. He pointed out in the white area the five detention basins, which he noted have already been cleared. He answered Mr. Buzak if the golf course is not built the gray shaded parcels on A-2 together with the yellow will be conveyed to the township as open space. If the course is developed the shaded area in yellow would be part of the golf course but it would always have the delineation shown if in the future the golf course is abandoned. There would be no restriction on the white areas and the owner at the time could make application to the planning board for any permitted uses in the zone.

Mr. Hall's letter of June 23<sup>rd</sup> was reviewed.

Mr. Buzak stated that the different conservation tracts will be identified clearly by metes and bounds.

Mr. Brightly answered the Board that all the open space is accessible from Bartley Road or Ridgeline Drive and Chancellor Way.

Mr. Buzak stated that this is an important point and it will be make it clear in the resolution that the Township would have a right to use the private road if the property becomes under the ownership of the Township.

Mr. Kobert agreed.

Mr. Buzak stated that the resolution before the board includes the lots as described by Brightly. He stated that other changes that need to be made is that all the plans referenced in the resolution would be dated June 12. The acreage amounts through the resolution would be refined slightly because now there is a tenth tract. Also, the resolution will now make reference to Mr. Hall's letter of June 23<sup>rd</sup> and a condition will be added that the Township has rights over the private roads. It was his opinion the resolution was in a form that could be adopted if the Board wanted to move in that direction. He stated that he spoke with Mr. Hall about the changes presented and Mr. Hall had no objections to the changes discussed this evening.

Mr. Popper made a motion to adopt resolution 06-18 as amended this evening .  
Seconded by Mr. Trevena. A roll call vote was taken:

Ayes: Bauerlein, Kaiser, McGroarty, Popper, Trevena, Akin, Mont      Nays: None  
Abstentions: None      Absent 4-10-06: DiSalvo, Leavens, Nedd  
Ineligible: Price

Estates of Long Valley – Section II–Block 18, Lots 44, and 18.01, Lot 1- Bartley Road – R/5 Zone, 88.4 Acres - Approval of Request for Final Subdivision  
Approval of 12 Lots

Joel Kobert, Applicant's Attorney

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

Mr. Buzak reviewed the changes to this resolution based on the changes made to the resolution of approval for Estates at Long Valley Section II.

Mr. Popper made a motion to adopt resolution 06-19 as amended. Seconded by Mr. Bauerlein

Ayes: Bauerlein, Kaiser, McGroarty, Popper, Trevena, Akin, Mont      Nays: None  
Abstentions: None      Absent 4-10-06: DiSalvo, Leavens, Nedd  
Ineligible: Price

06-21 Messina – Block 51 Lot 23 – 58 Califon Road - R-5 Zone – 97.145 Acres –  
Approval of Request for two lot minor subdivision (severable exception area of farmland preserved property

The resolution was reviewed.

Mr. Popper made a motion to approve resolution 06-21, seconded by Mr. Mont.  
A roll call vote was taken:

Ayes: Bauerlein, McGroarty, Mont, Nedd, Popper, Price, Trevena  
Nays: None      Abstentions: None      Absent: None

Ineligible: Kaiser, DiSalvo, Leavens, Akin

***The meeting was opened to the public for items not on the agenda.***

Thomas White – 1 Thomas Farm Lane – stated that the reason for coming to the meeting is regarding the cellular antennas approval given by the board to mount on existing power lines. He stated that he was challenging the highlands approval request. He explained that there are two high-tension power lines on the property adjacent to his and he was very concerned that the addition of cellular antennas will impact his property. He stated that some of the photographs submitted by the applicant taken from Thomas Farm Lane were not accurate.

Mr. White submitted a photograph that was taken from his backyard. He asked that the board reconsider their approval.

Mr. Buzak explained that the board heard this application and there was no requirement that individual notice been given, which is not unusual in ordinances. He stated that the MLUL sets forth no requirements for notice of minor site plans or subdivisions and that from a legal perspective the board could not require notice under the ordinance. He explained to Mr. White that what was proposed was consistent with township ordinances and the board followed their required procedures and that the law regarding site plans requires that if an applicant complies with all requirements of the ordinances and no variances are required the board has no jurisdiction to deny it. Emissions are not something the board has jurisdiction over.

Mr. Price explained that the board required buffering of the equipment on the ground.

***DECISIONS ON COMPLETENESS***

None

***PUBLIC HEARING/APPLICATIONS***

1. US Homes – Greenbriar at Riverview – Block 19, Lots 5, 6 & 7 – Schooley's Mountain Road and Newburgh Road - Request for Minor Subdivision, Final Site Plan and Amended Preliminary Site Plan Approval (Resolution 05-17)

Joel Kobert, Applicant's Attorney  
Doug Angoff, Applicant  
Bruce Smith, HMUA  
William Hamilton, Applicant's Engineer

Mr. Kobert stated that because the applicants plans were not submitted ten days prior to the hearing he was not before the board for a technical review. He stated that the applicant is seeking to amend preliminary and apply for final so that the applicant can move forward with construction. He reviewed the resolution with the applicant's comments regarding compliance.

Mr. Buzak swore in Bruce Smith, Executive Director of the Hackettstown Municipal Utilities Authority (HMUA).

Mr. Smith explained that the HMUA wastewater management plan has been in effect since 1987 and there is sewer capacity. For the last 6.5 years the HMUA has been working on firm water capacity. They have finally come up with a good water supply, which has been tested. The new well has been constructed and started today the DEP is scheduled to come July 3<sup>rd</sup> for inspection which may require additional testing, but the HMUA anticipates receiving a firm capacity ruling from the DEP between the next two to eight weeks and that this will release the water ban. The applicant's property is within the HMUA sewer and water service area and that the applicant has made application to the HMUA for service, which are complete and the applicant has appeared before the HMUA board.

Mr. Smith referred to a potable water well concept plan which was marked A-1. The proposed potable water well is located in the proposed conservation area of US Homes property. If the well were accepted as a potable source, the well would be turned over to the HMUA. The HMUA is continuing to test for iron as previous tests were contrary. If there is no iron the HMUA wants the well, which would require a small structure.

Mr. Kobert stated that this building would have to be approved by the Board.

Mr. Smith referred to the exhibit and noted that the well is 100-150' off Schooley's Mountain Road. The HMUA would need a building over the well but would be willing to locate it away from the well in the wooded area. The area could still be hayed.

Mr. Kobert stated that the well was put in by US Homes at the request of the HMUA about a year ago.

Mr. Smith answered the Board that the HMUA wants this well to add to their potable water supply well in case one well went down. It would not be used specifically for this development. The well is currently a test well. He explained

the permit process the HMUA would have to go through at the DEP to use this well.

A discussion was held on when the well was drilled, why and under whose authority.

Mr. Kobert stated that the well was drilled over a year ago and that the applicant would have to take responsibility for drilling the well, but that it was not clear as to who requested it or why it was drilled. He stated that the applicant was before the board now with this request because the HMUA, when the applicant appeared in front of their Board this month, asked the applicant not to cap the well so that it may become part of the potable water supply.

Mr. Smith explained why a public well would need a structure associated with it.

The board had concerns with this well and structure. They did not want to see it in the conservation easement.

Mr. Kobert asked that the conservation easement be written in a way that would allow the well, if needed in the future, be allowed with a condition that would require a site plan review by the board.

Mr. Smith stated he would like to proceed with obtaining the permits and construction of the building in the next year or two.

Ms. McGroarty stated the concern of the board that this well was drilled when the board was reviewing the application which included conservation easements in this area.

The board wanted to see more information on this issue at a subsequent meeting.

The meeting was opened to the public for questions and comments on the testimony presented this evening.

Bob Torres - 402 Schooley's Mountain Road was concerned with the road improvements in front of his home.

Mr. Hamilton explained the proposed road improvements to Mr. Torres. All improvements will be within the existing road right of way.

There were no further questions or comments on the testimony heard this evening and the meeting was closed to the public for questions and comments on the testimony heard this evening.

The application was adjourned to July 10, 2006.

2. Lance – Block 33, Lot 59 – James Trail – Request for two year extension of Time on Resolution 04-20 – Three Lot Minor Subdivision

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

Attorney Knox's letter of June 13, 2006 was reviewed and it was noted that the applicant was delayed by the DEP.

Mr. Buzak stated that the statute only allows for a one-year extension.

Mr. Price made a motion to grant an extension for the period of protection under resolution 04-20 to June 14, 2007, seconded by Ms. Kaiser. A roll call vote was taken:

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

**DISCUSSION /  
CORRESPONDENCE**

1. Vouchers

Mr. Leavens 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. RO 14-06 – Amend 217-19 and 59 to allow for municipally sponsored multi-family affordable rental housing in the OR zone

Tabled to July 10<sup>th</sup> to allow Mr. Banisch to explain the ordinance and its comparison to the presentation Mr. Rice made to the Board on this proposal.

3. RO 15-06 – Amend 111-46 and 217-39-1 to change delineation of slopes from 10' contours to 2' contours

Ms. Kesper stated that this ordinance was to make all our ordinances consistent to require 2' contours when defining steep slopes.

Ms. Kaiser made a motion to send this ordinance back to the Township Committee recommending that it be adopted. Seconded by Mr. Popper. A voice vote was taken; all were in favor and the motion carried.

4. Downtown Revitalization Institute – Main Street New Jersey Training Opportunity – July 26 & 27 at Thomas Edison College

Note for the record.

5. Combe Land Fill

Ms. Kesper informed the board that the Township has been notified by the DEP that more pockets of buried material have been found on the border of Washington Township and Chester

6. Elegant Homes vs. WT Planning Board and Township of Washington

Mr. Buzak explained that Elegant has sued the Planning Board to remove the resolution condition concerning conservation easements and the Township to overturn the ordinance requirement for easements over wetland areas.

Ms. Kaiser made a motion to authorize Mr. Buzak to defend the Planning Board in this litigation. Seconded by Mr. Popper. A voice vote was taken; all were in favor and the motion carried.

7. Claremont Large Scale Retail – TCC July 11 at 1:30 p.m.

Mr. Price stated that the applicant requested the TCC and that they are coming in for an amendment to the preliminary approval and that they will be seeking relief from the cosmetic requirements in our ordinance, which has been stated would cost upwards to a million dollars. He referred to the newspaper article about Target, the applicant's prospective tenant, coming into Mt. Olive.

The Board noted that the Township's new growth share ordinance would apply with amended approval.

Ms. Kaiser made a motion to adjourn, seconded by Mr. Nedd. A voice vote was taken and the meeting was adjourned at 10:30 p.m.

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Virginia R. Kesper, Clerk