

Chairman McGroarty called the regular meeting of March 28, 2007 of the Washington Township Planning Board to order at 7:40 p.m.

MEMBERS PRESENT

- CLASS IV: Mark Bauerlein, Charles DiSalvo, Kathleen McGroarty, Howard Popper, Geoffrey Price
- ALTERNATES: Sam Akin, Lou Mont
- CLASS I: Eric Trevena
- CLASS II: Patrick Monahan
- CLASS III:
- OTHERS ABSENT: Leavens, Nedd
- STAFF PRESENT: Clerk Kesper, Attorney Buzak, Planner Banisch, Engineer Hall

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 12, 2007 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

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| <b>MINUTES</b> |
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1. Minutes from the March 12, 2007 Regular Meeting

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

2. Minutes from September 19, 2000 Work Session - Closed Session  
Minutes release per NJSA 10:4-13

Mr. Buzak stated that the statue provides that when the public is excluded the minutes be made public when subject discussed has been resolved. In the September 19, 2000 minutes there was no time set when the minutes could be made public. He explained that the current board may review the minutes and can determine that they can or cannot be released.

Ms. McGroarty made a motion to release the September 19, 2000 work session meetings to the public minutes. Seconded by Mr. DiSalvo. A roll call vote was taken:

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

**RESOLUTIONS**

NONE

**DECISIONS ON COMPLETENESS**

None

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

Mervyn Haines – Schooley’s Mountain Road – Asked about the age restricted at the Greenbriar at Riverview regarding the COAH units and whether they were to be separated or integrated and why.

Mr. Banisch answered Mr. Haines that the applicant has stated that aside from marketing the applicant was of the opinion that this was a better environment for the senior low and moderate income units.

Mr. DiSalvo stated that the applicant had presented a concept plan for a different product offering and that the COAH buildings would be operated by another agency which would offer more services and activities to the COAH residents.

Ms. McGroarty explained that the applicant has explained that these units would be also was to be marketed to an older population. She also stated that this was a concept plan presentation to the board and that the approved plan has the COAH units within the market rate buildings

Mr. Popper stated that this was also a financially driven decision by the applicant.

Mr. Haines was opposed to the segregation of these COAH units and it was his opinion that it was not appropriate for a government body to approve such a design. He wanted it to be integrated.

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

**PUBLIC HEARING/APPLICATIONS**

1. Mascharka – Block 61, Lots 6 & 21 – Apgar Road/Black River Road – R-5 Zone 55.646 Acres– Request for Lot Line Adjustment

MARCH 29, 2007

Lloyd Tubman, Applicant's Attorney  
Edward Bogan, Applicant's Engineer  
William Mascharka, Applicant

Ms. Tubman briefly reviewed the application and the flag lot variance.

Mr. Bogan was sworn in by Attorney Buzak and presented his qualifications to the board.

The Board accepted Mr. Bogan as an expert witness as an engineer and planner.

Mr. Bogan referred to a site plan that showed the existing conditions which was marked A-1. He described the existing conditions, pointing out the streams and wetlands on the property, and the existing dwellings. Both existing dwellings are served by city water and private sewer.

Mr. Bogan referred to a second plan, proposed subdivision, which was marked A-2. The flag lot will be 13 acres and the remainder lot would have approximately 41 acres. Each lot will have one dwelling. The current circulation plan with the current connecting driveways will not change. He pointed out the required buffers. He stated that there are no additions or buildings proposed at this time.

Mr. Hall reviewed his letter of March 9<sup>th</sup>. He explained the flag lot circle variance. He reviewed the waiver requested for road improvements, which he recommended. Regarding the conservation easement and open area water buffer he explained that our current ordinance would cover a larger area than the DEP. He suggested taking a conservation easement that is consistent with the DEP buffer, which is shown on the applicant's exhibit.

Ms. Tubman stated that the applicant agreed to add the shade tree easement and the rural/historic road buffer, as long as agricultural activities can continue in these areas.

Mr. Hall and Mr. Bansich did not recommend any additional plantings within the rural/historic road buffer as there are no new lots or dwelling units being created.

Ms. Tubman stated that the applicant agreed to the conservation easements shown on the map in red and yellow as long as the applicant can continue the current farming activity and allow additions to the home if they were granted a DEP permit.

Mr. Banisch stated that it was his opinion that the resolution could be written to allow the exceptions requested by Ms. Tubman or waiver a conservation

easement around the existing structure and utilities, driveways, septic systems, etc. could be granted.

Mr. Hall concurred. He answered Mr. Price that the board would have to grant a waiver from our stream corridor ordinance to take a conservation easement only on the 300' DEP stream corridor area.

Ms. Tubman agreed to the items under application comments of Mr. Hall's March 9<sup>th</sup> letter. She suggested a blanket easement for the utilities, not a metes and bounds easement.

Mr. Buzak stated that the blanket easement would be acceptable.

The Board discussed the conservation easement requirements and agreed with Mr. Banisch to allow activities approved by the DEP in the conservation area (one acre disturbance/quarter acre of impervious).

The board discussed the conservation markers.

Ms. Tubman agreed to a deed restriction that conservation easement markers would be required if farming were to cease on the property. The applicant agreed to 2 conservation easement on the driveway and four on each of the perimeters of the property.

Ms. Tubman agreed to meet the requirements of the Department of Health letter dated March 28, 2007.

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

Mr. DiSalvo made a motion to instruct the board attorney to draw up a resolution of approval including the requested waivers and variances discussed this evening. Seconded by Mr. Mont. A voice vote was taken; all were in favor and the motion carried.

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

***DISCUSSION /  
 CORRESPONDENCE***

1.     Vouchers

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

2. Correspondence from NJ League of Municipalities –RE Legislation A-3870 – Time of Decision and A-3860 – Curtailing Municipal Zoning Authority

Mr. Buzak reviewed the bills before the state legislature. He recommended that the board oppose this legislation.

A resolution opposing this legislation will be on the agenda for the next meeting.

3. Highlands Regional Master Plan

Ms. McGroarty stated that a letter from the Highlands Council of March 23, 2007 has been received announcing the public comment period has been extended to May 11, 2007.

Mr. Banisch reviewed his March 14, 2007 memo and maps.

Ms. Kesper stated that the Township Committee reviewed the memo on March 19, 2007 and that she had not received any revisions.

Ms. Kesper stated that the Mayor wanted a cover letter to go with this memo under his signature attaching the planners report.

The board had no additional comments on the letter but asked that it not be sent for a couple of weeks in the event other issues arise.

Mr. Banisch reviewed Mr. Haines letter. He stated that he would revise the map to show only the improved area of Heath Village in the planned development area.

The meeting was opened to the public for questions and comments on the highlands letter and discussions.

Mervyn Haines – Schooley’s Mountain Road – commented on the fact that the highlands act originally planned had good intentions to protect the water but has gone past what it was initially proposed to do. He was concerned with the taking of property rights and the arbitrary nature of the DEP highlands delineation lines and the septic rules and that this legislation is an unrestrained exercise of power. He stated that he had done some calculations of areas to be protected by the buffers outlined in the legislation. The stream protection would be 47% of the preservation area. He reviewed the other buffers around forested areas, wetlands, vernal pools, etc and stated that if all these buffers were applied the DEP would place restrictions over 128% of the

land in the preservation area. He stated that this over reach of exercise of power is defined as tyranny in the dictionary. He urged the board to do what they could to rain in the DEP. He also stated that, in his opinion, this is a socialistic program that does not belong in this state or country.

4. Agenda

The board stated that they would hold their April 9<sup>th</sup> meeting and cancel the April 17<sup>th</sup> work session.

5. U S Homes Density and Design Standards

Mr. Buzak stated that he had received a letter from the applicant's attorney, Joel Kobert, requesting his interpretation of the ordinance as to whether or not the applicant would need a density variance. He stated that he has discussed this at length with Mr. Banisch and it was there determination that increasing the number of units in a building would be a design waiver, as long as they don't go over the total number of 360 units. He explained that although the applicant has not stated whether or not they intend to subdivide the COAH buildings, it was their opinion that a density issue would arise with a subdivision. If the COAH buildings were not subdivided from the market buildings there would not be a density issue. He further explained that if there were a density issue the Planning Board would not have jurisdiction. He explained that if they applicant wanted to subdivide and stay under the jurisdiction of the Planning Board the applicant would have to make a request the Township Committee for a change in the ordinance.

Mr. DiSalvo made a motion to adjourn the meeting, seconded by Mr. Bauerlein. All were in favor and the meeting was adjourned at 9:00 p.m.

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Virginia R. Kesper, Clerk