

Chairman DiSalvo called the regular meeting of March 25, 2009 of the Washington Township Planning Board to order at 7:30 p.m.

MEMBERS PRESENT

CLASS IV: Mark Bauerlein Charles DiSalvo, William Leavens, , Lou Mont,  
Eric Trevena  
ALTERNATES: Sam Akin, William Beute  
CLASS I:  
CLASS II: Patrick Monahan  
CLASS III: James Harmon  
OTHERS ABSENT: Ken Short , Kathleen McGroarty  
STAFF PRESENT: Clerk Kesper, Attorney Cofoni, Engineer Hall, Planner Banisch

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 18, 2008 and posted on the Bulletin Board on the same date. Two notices were mailed, as there were two requests.

**\*\*NO NEW CASES OR WITNESSES SHALL BE HEARD SUBSEQUENT TO 10:30 PM\*\***

Pledge of Allegiance

**MINUTES**

1. Minutes from the March 9, 2009 Regular Meeting

Mr. Mont made a motion to approve the minutes, seconded by Mr. Leavens. A voice was taken; Mr. Beute and Mr. Trevena abstained; all others were in favor and the motion carried.

**RESOLUTIONS**

NONE

***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.***

**PUBLIC HEARING/APPLICATIONS -**

MARCH 25, 2009

1. Hidden Hills – Block 3.14 Lots 9 & 10 25 - Northridge Court and 23 Shadow Hill Road and Block 3.14, Lot 26 - 19 Shadow Hill Way – Request for Soil Disturbance Permit for removal of 1,390 cubic yards of soil from the redesign of two detention basins

Stephanie Bortnyk, Applicant's Attorney  
Raymond Papa, Applicant's Engineer

Mr. Hall explained that the basins had to be enlarged as the submitted basin as built surveys did indicated that the basins would not hold the required design volume.

Ms. Bortnyk had marked Exhibit 1, Reconstruction of Basin 1 and Exhibit 2- Reconstruction of Basin 2.

Raymond Papa was sworn in by Attorney Cofoni and presented his qualifications to the board and was accepted by the board as an expert witness in the field of engineering.

Mr. Papa referred to Exhibit 1, the basin off of Shadow Hill Way and stated that the applicant has to push back the bottom of the basin, build a retaining wall in order to create more storage. He explained that at the top of the basin there will be a white vinyl post and rail fence with wire mesh and as they will be removing several trees. He stated that the applicant will add Blue Spruce trees as well as other landscaping. He stated that the applicant will have to remove 1200 cubic yards of soil from this basin. He answered the board that the exterior of the basin is planted with wild growing fescue that grows about waist high and in response to the property owners concern it will be replaced with normal grass that can be mowed. The interior of the basin will be planted in accordance with Dr. Keller's recommendations. The retaining wall will save up to ten 10" trees.

Mr. Hall referred to his February 12, 2009 and the impact to the adjoining neighbor who is setback only about 15' and recommended additional landscaping. He reviewed his letter of February 12, 2009.

Mr. Papa agreed to all comments under II. 1 through 17. He also agreed to comply with Mr. Norton's letter and obtain from the receiving township their need for a permit or not.

Mr. Hall stated that these changes are required because the basins were built undersized and this is the only solution to the problem. He explained that this problem came to light when the as built calculations were submitted. He answered the board that it could not be determined what was responsible for the undersized basins whether it was that the design calculations were incorrect, the survey was done incorrectly or if the contractor built it incorrectly. He answered

the board that properties downstream could be impacted if the modifications were not made.

Ms. Bortnyk stated that the applicant had met with the neighbor, Mr. Pickle and they will plant twelve 10' trees, 10' on center.

Mr. Papa agreed to plant them as suggested by Dr. Keller, staggered, if there is enough room.

Mr. Papa answered Mr. DiSalvo that the walls will be made of the same materials as used in other areas of the development, keystone walls. He stated that Keystone certifies the material for 30 years.

Mr. Hall concurred with Mr. Papa's statements regarding the Keystone walls. He answered the board that under the easement/ordinance language major structural repair will be up to the Township, minor maintenance (mowing and keeping the inlets clear) is the homeowner responsibility.

Mr. Papa stated that the applicant has agreed with the neighbor to correct the swale, to deter the water that is currently crossing his yard and the applicant will put in French drains is necessary.

Mr. Papa referred to exhibit 2, basin 2 and stated that the changes are minor compared to basin one and that only 190 cubic yards of dirt will be removed and that they would only be widening the flat part of the bottom and pushing back the slope, the middle of the bottom will not be disturbed. He referred to the outlet changes and piping changes. The grassed areas in the bottom of the basin will be the only disturbed area and it will be replanted in accordance with Dr. Keller's recommendations.

Mr. Hall stated that this deficiency is very small, but it is at the bottom and explained although a small deficit it was important that it be built according to the original design. He added that there was a lawsuit that involved this basin and this modification will ensure that it is working properly.

Dr. Keller stated that this is one of the deepest basins in the township and the excavation has encountered the ground water of the basin which resulted in standing water. He stated that every time he visited the site there has been a seep at the northern end of the basin and there is always water flowing out of the side of the hill. To work with this condition the basin was replanted as a marsh wetland, which is the most effective stormwater management and treatment. He stated that regarding mosquitoes, this is not standing water but a complete eco system that does not support mosquitoes. He stated that under drains would not make the basin dry because of the groundwater. He stated that he would work with the homeowners on keeping it a natural basin that limits the amount of maintenance necessary. He will look at the slope stabilization when this basin is modified.

Ms. Cofoni answered Mr. Mont that there would not be a conflict of interest with Mr. Hall because of the lawsuit as it was with a suite with the adjacent property owner, not Hovnavian.

Mr. Hall stated that even though the volume of soil being removed is small it is necessary to do the modifications.

Dr. Keller reviewed the maintenance of the detention basins.

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

Costa Percham stated that he is the adjoining property owner to this development and it was his opinion that this repair was contrary to federal, state and local laws.

Robert Elms, engineer for Mr. Percham was sworn in by Attorney Cofoni and presented his qualifications to the board as a professional engineer. He asked if the basin overflowed and where the soil was going.

Mr. Hall answered that to his knowledge the basin has not overflowed.

Mr. Papa answered that the soil would go out of township but he did not know at this time where it was going to be taken.

Mr. Elms referred to the Hidden Hills map and that the applicant would be working in a wetlands basin.

Mr. Hall stated that this is correct, but the applicant received a transition area waiver from the DEP to construct this basin. The applicant is allowed to work in this area under the waiver granted by the DEP.

Dr. Keller stated that maintenance is covered under the transition area waiver. There were trees within the basin, but some of them died, but they were initially replaced. He stated that the buffers are still 150' buffers for wetlands and the stream buffers are now 300' but there were none when the development was built. He explained the waiver granted by the DEP the reducing of the buffer from 150' to 75'.

Mr. Hall stated that this is not a new project and that the Township has not accepted the subdivision or the basins and they are still under performance bond. He explained that this work does not have to be approved by the Highlands as the subdivision is exempt because it was built and approved prior to the Highlands Act. He reiterated that this is not a new project, these modifications are to bring the project into conformance with the approved plans.

Mr. Elms stated that water from the outfall is putting water onto Mr. Percham's property.

Mr. Hall stated that he has a survey that states that the outfall is located on the Hovanvian property, not the applicant's.

Mr. Elms stated that he has a survey that is contrary.

Mr. Hall answered the board that the outfall is on the applicants half of the Mission Road right of way, the water may ultimately flow into the stream on the applicant's property, but that the outfall structure is not.

Ms. Cofoni that the Board can rely on Mr. Hall's testimony.

Mr. Cook stated that the basin will flow to the top of basin 1 five to six times a year and asked that the volumes of water be looked at closely as the water coming down the hill is significant. He stated that he hopes these remedies will work. He answered Mr. hall that the water does breach the swale. He stated that he appreciated the boards time.

Dr. Keller suggested that for the breaching an infiltration trench be put where the water is breaching the swale.

Mr. Papa stated that the speed and volume of the water coming in requires a change in grade.

Mr. Hall stated that the applicant will be made to also bring the swale into compliance with the plan as well.

Mr. DiSalvo made a motion to draw up a resolution of approval of the soil disturbance permit with the conditions discussed this evening and in Mr. Hall's and Mr. Norton reports. Mr. Seconded by Mr. Leavens. A voice vote was taken; Mr. Mont abstained; all others were in favor and the motion passed.

2. Union Cemetery – Block 2, Lot 14 – OR/1 Zone, 44 Acres – Request for Wavier of Site Plan for Mausoleum (2,368 s.f. total with 950 s.f. of occupiable area and 27' height)

Michael Selvaggi, Applicant's Attorney  
Roger Hines, Applicant

Mr. Selvaggi reviewed the application for a mausoleum in the Union Cemetery and reviewed his letter and Mr. Buzak's letter regarding the Board's review powers.

Roger Hines was sworn in by Attorney Cofoni.

Mr. Hines stated that he was the head of maintenance and would be in charge on the maintenance of the mausoleum. He stated that the cemetery was stated in 1857 and explained that they had first looked into doing this about twenty years ago and now, with the renewed interest in Mausoleums and the success of the

nearest ones in Newton, Philipsburg, Dover the only in the area the Board of Trustees have decided to go ahead with building a mausoleum. Sixty crypts have been sold since June when they started marketing the mausoleum. He referred to a rendering dated December 2007 which was marked A-1 and stated that this is what it would look like, but without the glass. The structure will hold over 300 crypts and 200 niches for cremation burials. The crypts and niches will be both inside and outside. The height of the mausoleum is approximately 27' high and it is approximately 700' from East Avenue. He stated that the structure will not be lighted. The interior is polished granite. By law the cemetery must be open sunrise to sunset and is patrolled by Washington Township and Hackettstown Police and that they have not had vandalism problems. Internment ceremonies would be through the front gate off of Mountain Avenue to the plot and in this case the mausoleum. He stated that there are two entrances off of East Avenue as well. He answered the board that a burial ceremony is generally 15-20 minutes. The cemetery has many roads within it that can accommodate a large funeral.

Ms. Cofoni stated that the boards review is limited to the setbacks and height of the structure which Mr. Hall has confirmed meets the Township's requirements.

Mr. Selvaggi submitted a copy of the DCA approval.

Mr. Hall referred to his letter of March 19, 2009 which confirmed the setbacks and height meets the township requirement

Mr. DiSalvo made a motion to approve the waiver of site plan as presented. Seconded by Mr. Trevena. A voice vote was taken; all were in favor and the motion carried.

***DISCUSSION /  
CORRESPONDENCE***

1. Vouchers

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

2. Highlands Regional Master Plan

Mr. Banisch stated that Module 1 was submitted to the council and when the council replies we will have an idea of the build out for Washington Township.

3. Conditional Uses in the C-1 Zone

Mr. Banisch reviewed his memo of March 23, 2009 and stated that without a making this use a conditional use with standards for service stations without gasoline service any applicant would have to apply for a Use Variance before the Board of Adjustment. This ordinance is written so that it applies to the auto repair facilities in existence at the time of the ordinance.

The board reviewed the ordinance.

Ms. Kesper stated that the existing facilities would also need FAR variances.

Mr. Banisch stated that he will research this further and get back to the board with additional information at the next meeting.

#### 4. Amendments to Telecommunications Ordinance

Ms. Kesper explained that this ordinance change has been presented to address comments on the ordinance given by the courts during several court cases the Township was involved in as well as reported court cases on telecommunication ordinances. The changes involve setback and location requirements.

Mr. Banisch concurred with Ms. Kesper. He also stated that the tower approved on a local farm has so far been designated by the NJDEP as illegally erected and may have to be moved. The ordinance also sets in place standards that are more reasonable standards and sets out standards to locate a tower on municipal property.

Mr. Mont made a motion to send this ordinance back to the committee with the determination that it is not inconsistent with master plan and recommend adoption. Seconded by Mr. Trevena. A voice vote was taken; all were in favor and the motion carried.

#### 5. Senate Bill 2577 RE: Age Restricted Housing

Ms. Cofoni reviewed the bill and that this bill gives an applicant the ability to come into the Planning Board and ask for an age restricted development be made a non-age restricted without further approvals of zone changes. The bill sets out the standards under which the Planning Board must review the request. She answered Mr. DiSalvo that she will look further into whether this will affect age restricted housing where other residential is not permitted, but it was her initial opinion that the bill did not look at the underlying zoning.

#### 6. NJPO Conference – April 24, 2009 RE: Municipalities Under a Tidal Wave

Noted for the record.

Mr. Monahan made a motion to adjourn, seconded by Mr. Mont. A voice vote was taken; all were in favor and the meeting was adjourned at 9:10 p.m.

7. Senate Bill 1303 – Inherently Beneficial Uses

Mr. Akin brought to the attention of the board that this bill defines inherently beneficial use for purposes of zoning variance and specifically includes facilities and structures that supply electrical energy produced from wind, solar, or photovoltaic technologies.

---

Virginia R. Kesper, Clerk