

Chairman DiSalvo opened Regular Meeting of the Washington Township Planning Board of April 28, 2010 to order at 7:45 p.m.

MEMBERS PRESENT

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

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 12, 2010 posted on the Bulletin Board on the same date. Notices were mailed, as there were requests.

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

Pledge of Allegiance

MINUTES

1. Minutes from March 8, Regular Meeting
The minutes were tabled to the May 10, 2010 meeting
2. Minutes from April 12, 2010 Regular Meeting
The minutes were tabled to the May 10, 2010 meeting

RESOLUTIONS

10-08 Egizi – Block 38, Lot 3.07 - 7 Jordan Court- R-5 Zone – 5.32 Acres – Memorialized Approval of Request for amendment to original conservation easement – ridgeline restrictions

The resolution was reviewed.

Mr. Akin made a motion to approve the resolution, seconded by Mr. Mont. A roll call vote was taken:

Ayes, Mont, Akin Nays: None Abstentions: None
 Absent: Leavens, McGroarty Short, Harmon, Trevena
 Ineligible: Bauerlein, DiSalvo, Beute

10-09 Black Oak Golf Club, LLC – Block 18, Lots 1.09, 2, 3, 8.11, 8.12, 8.13, 8.14, 8.15, 27, 27.05, 29, 29.01 and Block 18.01 Lots 1.01, 1.02, 1.03, 1.04, 1.05, 1.06, 1.07, 1.08 and 1.09 – Approval of Amended preliminary site plan

Adjourned to the May 10, 2010 meeting

10-10 Granata – Block 43 lots 48.01 and 48.29 – Kings Highway – R-5 Zone - Approval of request for lot line adjustment

The resolution was reviewed.

Mr. Trevena made a motion to approve the resolution as written. Seconded by Mr. Bauerlein.

A roll call vote was taken:

Ayes: Bauerlein, DiSalvo, Mont, Trevena, Nays: Akin
 Abstentions: None Absent: Leavens, Short, Harmon
 Ineligible: Beute, McGroarty

The motion passed.

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 -

1. Tina's Portuguese BBQ, LLC - Block 28, Lot 21 – 38 East Mill Road – C-1 Zone Request for Waiver of Site Plan for three tables on the front porch

Vania Guerrierio, Applicant
 Maria Graca, Applicant

Vania Guerrierio and Maria Graca were sworn in by Attorney Buzak

Ms. Guerrierio stated that they would like to put four tables with a total of 8 seats on the porch so people have a place to wait or eat if they wish. She stated that they share parking with the exercise studio and have parking in the back of the building. She answered Mr. Hall that nothing has changed since the site plan waiver several months ago. She explained that there is already porch lighting and no further lighting would be required.

Mr. Hall suggested a condition limiting the number of people/seats.

Mr. Akin suggested it be limited to 12 people.

Ms. Guerrierio stated that there would not be food service on the porch, but patrons may choose to eat outside.

Mr. Akin made a motion to approve the waiver of site plan to allow tables/seating on the porch for up to 12 people/seats. Seconded by Mr. Beute. A voice vote was taken, all were in favor and the motion carried.

Mr. Short arrived and joined the meeting at 8:00 p.m.

4. Washington Township Board of Education (Long Valley Middle School) – Block 34, Lot 49 – 53 West Mill Road - Request for Capital Review of Maintenance and Transportation Building

Gregory J. Smjen, Applicant's Architect

Gregory J. Somjen was sworn in by Attorney

Mr. Banisch reviewed the Board's charge in the review of this application. A review and recommendation on the construction proposed.

Mr. Somjen stated that this capital review is for a maintenance and transportation building which includes training and office space. The design is based on a 59 bus fleet and two additional bays, a wash bay and a facilities bay for storage for the facilities and maintenance.

Mr. Somjen referred to the site plan and pointed out the location of the building and stated that the school would be extending the roadway to access the new building.

Mr. Hall reviewed his report of April 1, 2010.

Mr. Somjen agreed with item one, to curb and light the driveway.

Mr. Somjen stated that the intent that the roof leaders and drainage will be piped to the detention basin and released from their into the existing stormwater system.

Mr. Hall stated that the detention basin is very close to the by-pass.

Mr. Somjen concurred the moving of the basin as suggested by Mr. Hall to eliminate the concern of the close proximity to the by-pass.

Mr. Somjen addressed item 4 parking and stated that the employees are bus drivers and they will continue to park in the current employee parking area. The five spaces are for visitors to the maintenance/transportation building. The training will be for employees of the Washington Township Transportation Board of Education transportation employees.

Mr. Somjen stated that they have coordinated with the County regarding the location to the by-pass.

Mr. Somjen stated that the applicant will comply with NJAC7:8 stormwater.

Mr Somjen stated that the geo-tech plans have been done and that the school has been in contact with Dr. Oweis.

Mr. Somjen stated that the applicant will submit to Morris County Planning Board and Morris County Conservation District.

Mr. Somjen stated that there is a fire hydrant within 1000' of the building and pointed it out on the site plan, item. He stated that the water, Sewer and gas are to be extended from the roadway to the building.

Mr. Somjen stated that hazardous waster water will be handled in the same way as the Township's DPW and the school will dispose of everything in accordance with regulations. The wash bay will have a recycling benefit as well.

Mr. Somjen concurred that the building is 30' off the rear property line.

Mr. Hall noted that this complies with the Township Ordinance regarding accessory buildings.

Mr. Banisch noted that this proposal will be very close to the proposed future recreation facility and suggested that the Township Committee may want to see this application.

Mr. Short asked that the school appear before the Township Committee regarding this proposed maintenance and transportation facility.

Mr. Bauerlein was concerned with the hazard waste management.

Burtis Horner was sworn in by Attorney Buzak.

Mr. Horner stated that the containment system will be set up the same as the DPW and old waste is stored in a exterior containment system then a vendor comes and takes it away. The collection is interior and the final storage is exterior.

Mr. Sonjem stated that they do not intend to extend any existing fencing. They will put fencing around the exterior containment system. The building and driveway will have lighting. He answered Mr. Banisch that they will shield the lights as requested. He stated that the lighting will match the existing site lighting.

Mr. Banisch suggested that the board request an in-service lighting inspection.

Mr. Bauerlein was concerned with safety with this major maintenance facility basically in a school parking lot.

Mr. Sonjem stated that the maintenance work is currently subcontracted out to an offsite facility. He noted that the busses are stored on site now as well as dumpsters.

Mr. Sonjem stated that they predict three additional employees for this new facility. All of the other employees are already at the site at different offices.

Mr. Horner stated that the gasoline is at the DPW on Rock Road.

Mr. Short stated that the Washington Township Board of Education had indicated to the Township Committee that there were no capital project funds for this year.

Liz George was sworn in and stated that she is the Business Administrator.

Ms. George answered Mr. Short that this is part of the transportation budget, not capital and the cost comes from the cost savings of not outsourcing the bus repairs. There is a positive flow of \$150,000 from the implementation of the project.

Mr. Short stated that the Governor has put a stay on non-funded items such as the wash bay and therefore it may have not to be built.

Ms. George stated that this is something they would want to continue to do.

Ms. George answered Mr. Short that the new employees are not part of the current budget, but would come out of the outsourcing budget.

Mr. Short noted that this driveway is shown as a through road on the Township Master Plan part of the connection to the proposed community center and the location of the building is in the middle of this access.

Mr. Horner stated that this was discussed previously and it was the School Board's position that they did not want public traffic through the school right of way.

Mr. Short explained the previously proposed ten acre land swap which was turned down by the Board of Education.

Mr. DiSalvo stated that this is an inconsistency with the circulation plan of the Township's Master Plan.

Ms. George stated that the board did not have the funds to move some of the existing facilities to accommodate the Township's proposed property exchange and stated that the Board had not heard back from the Township on the issue.

Ms. George stated that the board did have issues with an emergency access through the school property.

Mr. Banisch answered the board that a portion of the school driveway is a public right of way then a private driveway beyond a certain point. The circulation plan does not show the connection to the Township property.

Mr. Somjen stated that based on his conversations with the County Engineer, Mr. Hammond and the right of way does go through the area and based on Mr. Hall's suggestion by moving the detention basin any conflict is removed.

Mr. Hall stated that the circulation map in the Master Plan shows this driveway as a local road.

Ms. George stated that the Board of Education was aware of the by-pass when this project started and asked the architect to take this into consideration when designing the project.

Mr. Hall stated that off the plat provided, the right of way is 570' off of West Mill Road and is 50' wide and encompasses the existing driveway. It is another 750' back to the proposed building.

Mr. Short stated that after looking at recycling of the wash facility on Rock road it was decided that the best way was to put the waste water into the public sewer.

Mr. Somjen stated that the water will be recycled but they have not determined where the water will be discharged.

Ms. George answered Mr. Short that the classrooms in the school are not large enough to have all the drivers present at one time.

Mr. Somjen stated that there would not be a significant amount of impervious coverage saved by removing the training area.

Ms. George answered Mr. Short that there have been some discussions about having shared services to have other township's bringing their busses, but the cost analysis does not take into account any revenue from such shared service.

Mr. Horner answered Mr. Short that there would not be a great need for additional parking spaces if other township buses were serviced.

Mr. Short stated that he did not think this was the right time to spend 2.6 million of tax payer dollars this project.

Ms. George stated that the positive cash flow, with depreciation, would start at \$100,000 savings per year in a very short time.

Mr. Somjen answered Mr. Trevena that the building is 10,500 s.f. He stated that the bypass crosses in front of the building. Employee parking is approximately 1000' from the building.

Mr. Banisch stated that if the bypass is built this proposal would create two driveways off of it.

Mr. Trevena suggested that the land swap be reconsidered to keep the maintenance building, busses and employee parking on the same side of the bypass.

Mr. Mont stated that construction costs of \$260.00 per foot seems a very high number.

Mr. Akin expressed concerns with the water usage with MUA facing limits on their water allocation by the state.

Mr. Beute expressed his concerns on this kind of expenditure and getting into this type of work in this economic climate.

Mr. Short stated that the two properties the county has not yet purchased for the bypass are the school and township properties and the County has made offers on these which the school and the Township is aware of. He noted that the federal government did appropriate one million dollars to this project last year and the County has budget one million dollars towards the project and although the project is moving slowly it is moving towards completion.

Mr. Banisch stated that the by-pass is part of our master plan circulation plan.

The meeting was opened to the public for questions and comments, there were no questions and comments from the public and the meeting was closed to the public for questions and comments.

The board deliberated on the application and the impact on the bypass and circulation element.

Mr. DiSalvo made a motion to deem this project inconsistent with the master plan and also that the Board of Education meet with the Township Committee letter regarding this project to be drawn and submitted to the State Department of Education. Seconded by Mr. Mont.

A roll call vote was taken:

Ayes: Bauerlein, DiSalvo, Short, Trevena, Mont, Akin, Beute

Nays: None Abstentions: None Absent: Harmon, Leavens,
McGroarty

Mr. Banisch answered Mr. Somjen regarding why this plan is inconsistent with the Master Plan. He referred to the applicant's sketch of the that anticipates no by-bass construction moving toward reality with the schools proposal and the fact that the County has been buying property for the by pass as pointed out by Mr. Short. He stated that should the by-pass be built, the driveway will become the major circulation point for the busses. This is the inherent conflict that the Board has identified and therefore inconsistent with the circulation element of the Township Master Plan.

Mr. Short stated that the master plan requires a developer to build the part of the roadway on the property being developed if the road was shown on the master plan. He also stated that the Township has had informal communications with two separate developers regarding building the community center and also informal communications with the County where they stated if the lower section of the by-pass were built they may take the by-pass section out to Fairmount Road.

Mr. Trevena suggested moving the existing parking south and putting the building in-between the bus parking and board of education.

Ms. George answered Mr. Short that the Board of Education is willing to have an open dialogue with the Committee on this issue.

2. Toll – Estates at Long Valley – Sections 2 - Bartley Road – Block 18 lots 6, 8, 10, 21 and 44 and Block 18.01 lot 1 –Request for Third extension of time for final subdivision approvals granted under resolution 06-19 of June 28, 2006

Toll – Estates at Long Valley – Sections 3 – Bartley Road – Block 18 lots 6, 8, 10, 21 and 44 and Block 18.01 lot 1 – Request for Third extension of time for final subdivision approvals granted under resolution 06-18 of June 28, 2006

Larry Cohen, Applicant's Attorney
John Peck, Applicant

Mr. Cohen stated that both applications could be heard together as they are the same applicant for the same subdivision and same time frame.

Mr. Buzak concurred that this was acceptable.

John Peck was sworn in by Attorney Buzak. He stated that he is a vice president of Toll Brothers.

Mr. Peck stated there is a total of 49 home sites, in phase one the last home site is sold and under construction (12 houses), in phase 2 there are 3 home sites left and in phase 3 there are 8 home sites remaining to be sold. He stated that including the model home in phase 1 there a total of 12 homes/home sites for sale. For both phase 2 and 3 final subdivision protections expire June 2010. He further explained that Phase one is complete and accepted by the Township, phase 2 and 3 need top course of pavement.

Mr. Peck stated that the applicant is selling approximately six home sites a year and therefore they anticipate selling the remaining lots within 2 years.

Mr. Cohen stated that the applicant is asking for a one year extension to June 2011.

Mr. Buzak stated that this is the last extension the applicant can receive.

Mr. Hall reviewed for the applicant the ordinance that all of the improvements must be in prior to the last 10% of the C.O.s. and told him about the aquatic basins in the detention basins needing to be completed (section 3) and the final road course of pavement.

Mr. Bauerlein made a motion to grant the requested one year extension of time. Seconded by Mr. Mont. A roll call vote was taken:

Ayes: Bauerlein, DiSalvo, Mont, Trevena, Akin, Beute Nays: None
Abstentions: None Absent: Leavens, Short, Harmon
Ineligible: McGroarty

5. Regency at Long Valley – Block 28 Lots 46.01-46.56, 46.101 and 46.102 (formerly lots 46 & 47) – Fairview Avenue, Welsh Farm Road, Raspberry Lane and Dairy Lane – Request for amended preliminary site plan approval for conversion from a 45 unit age restricted development to a non-age restricted development and Final Site Plan approval – Conversion application - Expires May 7, 2010– Previously heard April 12, 2010 - Public Hearing Continued

Lawrence Cohn, Applicant's Attorney
George Ritter, Applicant's Planner
Gary Dean, Applicant's Traffic engineer

Mr. Akin stated that he had a conflict of interest and left the meeting.

Mr. Ritter marked a revise site plan, page four of four, A-3 and indicated the changes to the plan since the last meeting. He pointed out the area that they would provide a tot lot.

Mr. Ritter addressed Mr. Banisch's request to change the mix of bedroom units for the affordable housing. Original were 5 - 3 bedroom and 4 - 2 bedroom. COAH rules would be 1.8 units of three bedrooms. He stated that the applicant is agreeable to providing 2 - 3 bedroom units and 6 two bedroom units.

Mr. Ritter addressed the township's fair share plan under the conversion law. The market rate units will not count against the growth share and the nine affordable units would be a credit to use against other requirements.

Mr. Ritter referred to the economic impact between this proposal and the age restricted subdivision. He stated that he had run an economic analysis. He referred to an exhibit marked A-4 (12 school age children) and distributed copies to the board. He explained that used the school's per pupil figure and stated that there would be a positive tax flow of \$54,043 for schools. He referred to exhibit A-6 which was the fiscal impact for municipal based on per capita costs which showed a positive impact of \$18,000. He stated that exhibit A-5 was a combining of both municipal and school with a net positive tax impact of \$72,672 annually.

Mr. Ritter stated he ran the numbers again, using Mr. Banisch's school age numbers of 15 students. The school surplus is \$8,000 – which is just above the break even numbers.

Mr. Ritter stated that this analysis was based on a \$390,000 sale price of the affordable units.

Mr. Ritter stated that a report from the school regarding student population indicated that from 2005-2006 to 2010 there was approximately 7% drop and it was his opinion there should be capacity in the schools to support 15 – 16 more children.

Mr. Ritter stated that it was his opinion that this application will be a neutral tax burden and the schools would be able to handle the students.

Mr. Cohen noted that they provided this financial information as requested but that based on the legislation this was not part of the information required for the Board to make a decision. He stated that the legislation assumed that there would be school age children.

Mr. Buzak stated that the question becomes part of the two prong negative criteria and that under the regulations they have to demonstrate impact on the public good and impact on the zone plan and zoning ordinance. The statute is not clear but the wording is the same that are contained in the MLUL under D variances, but the legislation does say that this is not a D variance. He noted that the legislation is ambiguous and that typically those phrases do not encompass impact to school systems. As Mr. Cohen stated this is not a D variance, which may allow the Board to consider some of the financial impact. He stated that the legislature recognized in the enactment of this bill, that to allow for conversion from age restricted to one that is no longer age restricted, that their would be children. It does not say that you can or cannot consider it. He recommended that the

Board should not ignore it but if take it into account but that it must be tied into the conversion of this development poses a detriment to the public good. He stated that the board could not determine that because there would be more children it is detrimental to the public good.

Mr. Cohen stated that he agreed with almost everything Mr. Buzak stated. He referred to the legislation and that children and costs are not a requirement for the applicant to supply.

Mr. Banisch referred to his two memos from April 27 and April 28. He explained the market rate and affordable charts in the April 27th report that gave him the number of students at 15. He stated that Washington Township is unique in their quality of education and another part of the standard pupil number generator which comes up with a greater number of students (10 to 20 students). He referred to his April 28, 2010 memo and the number of students from the Township's students in Peachtree Village and Hastings Square. It was his opinion that the attractive school district will influence the number of students up to 25-26 children.

Mr. Banisch explained that the legislation has given the first prong test of a D variance, positive criteria, but the legislation allows the board to look at substantial detriments to the public good.

Mr. Hall referred to his letter of March 24th. He had an issue with where the tot lot has been shown as it is where the stormwater quality outfalls are. He referred to page 3 of his report and that he has requested that the entire full set of plans be revised for this amended preliminary and final site plan.

Mr. Cohen stated that 99% of the plan did not change.

Mr. Hall agreed, but it should be submitted in total.

Mr. Buzak stated that a complete package should be submitted for at least future reference.

Mr. Cohen agreed to submit this.

Mr. Hall reviewed his memo and item 3, and stated that there is sufficient parking.

Mr. Short addressed recreation and that the tot lot the applicant proposed is not sufficient when other recreation opportunities are over 2 miles away. He stated that Patriots Path should not be a substitute for on site recreation and wetlands are the open fields. He also noted that there were no sidewalks.

Mr. Ritter stated that there are open lands throughout the development where children would be able to play and throw a ball. The number of units in this subdivision, in his opinion do not warrant significant active recreation.

Mr. Short stated that the COAH contribution is a concern, the \$375,000 contribution that the Township relied on. It was his opinion that the 20% of units is in addition to the previously approved plans.

Mr. Ritter disagreed as the conversion plan produces more affordable units then the previous plan.

Mr. Cohen stated that the COAH payments under the current approval were based on C.O.'s and if the development is not built the Township does not receive the funds.

Mr. Buzak reviewed the legislation and stated that it does not state that the original approval completely goes away. It was his opinion that the applicant should keep this in mind.

Mr. Cohen disagreed. The \$375,000 on top of the 9 units would be more then the required 20%.

Mr. Short was concerned that the affordable housing is not dispersed throughout the development, which is contrary to Township ordinances.

Mr. Ritter stated that the affordable lots face into open space, three are together and the other is within the development.

Mr. Banisch noted that the growth share obligation was not set yet when this application was initially approved and it is now 1 in 5.

Mr. Short stated that previous resolution called for improvements to the Columbia Trail from Fairview to Schooley's Mountain Road and asked if this work has been done.

Mr. Hall stated that this work has not been done.

Mr. Cohen stated that if it is required it will be done.

Mr. Ritter explained that each unit has 15' x 30' of open land after the deck. The tot lot shown is 60' x 100' lot and it will be grassed and fenced. He pointed out the areas of open space on the lot that is not deeded to others. The flattest portion is the area over the old gas easement.

Mr. Ritter answered Mr. Banisch that this was laid out for an adult community but it would not preclude the use by the non age restricted population.

The meeting was opened to the public for questions on this evenings testimony.

Cris Stephans – Middle Valley Road – addressed the open space and that some of it being proposed to be used for recreation is an easement to Morris County for the Columbia Trail.

Mr. Ritter pointed out the property deeded to the Land Trust and the easement to the Columbia Trail which could be used in conjunction with the home owners association

The meeting was closed to the public for questions on this evenings testimony

Mr. Cohen granted an extension of time to June 30, 2010

The meeting was adjourned to May 10, 2010.

Eligible: Bauerlein, DiSalvo, Short, Trevena, Mont

Ineligible: James Harmon, Sam Akin

Absent 4/12: Kathy McGroarty, William Beute

Absent 4/28: Kathy McGroarty, William Beute, Bill Leavens

***DISCUSSION /
CORRESPONDENCE***

1. Vouchers

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

2. Highlands– Further Information requested from the Highlands Council

Ms. Kesper stated that the February letter from the Highlands Council has asked for further information to complete the basic conformance portion of Highlands conformance. She stated that there has been correspondence from Eileen Swan, Executive Director that the current grant will cover the

costs of the additional submission and asked if the Board wanted to proceed with the basic conformance requirements.

Mr. Mont made a motion to continue the basic conformance compliance as long as it was covered by the Highlands grant. Seconded by Mr. Akin. A voice vote was taken; all were in favor and the motion carried.

Mr. Short made a motion to adjourn the planning board meeting, seconded by Mr. Trevena. A voice vote was taken; all were in favor and the meeting was adjourned at 11:00 p.m.

Virginia R. Kesper, Clerk