

The regular meeting of April 12, 2004 of the Washington Township Planning Board was called to order by Vice-Chairman McGroarty at 7:35 p.m.

MEMBERS PRESENT

CLASS IV: Charles DiSalvo, Kathleen McGroarty, Howard Popper, Geoffrey Price, Kevin Walsh  
 ALTERNATES: Mark Bauerlein, William Leavens  
 CLASS I: Eric Trevena  
 CLASS II: Walter Cullen  
 CLASS III: Kim Ball Kaiser  
 OTHERS ABSENT: Jones  
 OTHERS PRESENT: Engineer Hall, Clerk Kesper, Planner Banisch, Attorney Cafoni, Environmental Consultant Keller, Traffic Engineer Maltz

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 16, 2004 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 March 24, 2004 Regular Meeting

Ms. Kaiser made a motion to approve the minutes, seconded by Mr. Trevena. A voice vote was taken; Mr. McGroarty abstained, all others were in favor and the motion carried.

***RESOLUTIONS***

04-13 – Resolution of Participation in Cross Acceptance

Ms. Kaiser made a motion to approve resolution 04-13, seconded by Mr. Price.

Ayes: Cullen, DiSalvo, McGroarty Price Popper, Walsh, Kaiser Trevena, Leavens  
 Nays: None Abstentions: None Absent: Jones

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

Mr. Malone of Falcon Lane asked if Falcon Fields was on the agenda and stated he wanted to be noticed about any future meetings on Falcon Fields. He also stated that he thought a traffic study was appropriate.

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

### *DECISIONS ON COMPLETENESS*

1. Drakestown Associates – Block 12 – Lot 4 – Drakestown Road – R-5 - 104 Acres – Request for 19 Lot Preliminary Subdivision

Barry Markowitz, Applicant's Attorney

Mr. Markowitz stated that the applicant's DIS was not ready and asked for a thirty-day extension on the completeness hearing. The completeness hearing was adjourned to May 10, 2004

2. Elite Homes – Block 59, Lots 33, 37 and 40 – Beacon Hill Road and Fairmount Road – R-5 Zone – 105 Acres – Request for 6 Lot Preliminary Subdivision

Barry Markowitz, Applicant's Attorney

Mr. Markowitz stated that the applicant's DIS was not ready and asked for a thirty-day extension on the completeness hearing. He also stated that the applicant may be purchasing additional land and would be submitting revised plans on another subdivision layout and he will ask for a TCC prior to the next completeness hearing. The completeness hearing was adjourned to May 10, 2004.

### *APPLICATIONS*

1. Elegant Homes – Block 42 Lot 12 – Hackelbarney Road - R-5 Zone – 66.8 Acres - Request for 11 Lot Preliminary Subdivision – Deemed Complete

October 22, 2003 – Previously Heard December 16, 2003 - Expires May 26, 2004

Ms. McGroarty announced that this application had been adjourned to May 26, 2004 at the applicants' request.

2. Hoppe – Block 51, Lot 6.09 – High Meadow Lane – R-5 Zone – 12.239 Acres – Request for two lot minor subdivision and variance for lot without frontage on a public street – Completeness review and public hearing if deemed complete

Robert Mielich, Applicant's Attorney  
Harry Metzler, Applicant's Engineer  
Michael Hoppe, Applicant

Harry Metzler and Michael Hoppe were sworn in by Attorney Cafoni.

Mr. Mielich stated that the applicant is proceeding this evening only on the variance for permission to build on a lot without frontage on a public street. He stated that a letter of agreement from the Township Committee to sell an easement to use the property between the improved street and the applicant's property was part of the file. He noted that if the area of the driveway was ever to be improved as a public road the easement would terminate.

Mr. Metzler stated that the property would be accessed by a driveway, which would fully conform to Township driveway standards. He will be submitting a 1=30' scale plan to the Township Engineer. He referred to the letter from Schooley's Mountain Fire Protection and stated that the driveway will conform to Township Ordinances. He answered the board that the plans have been revised since the Fire Company saw the plans and that the changes included elevations and enlarged radius, but that their was nothing that would alter the fire companies approval. He agreed to resubmit the plans to the fire company with the revisions.

Mr. Hoppe stated that he would maintain the 12' height requirement on the driveway as requested in the Schooley's Mountain Fire Department.

Mr. Hall stated that since the driveway is more than 200' it will require a 16 width and asked that the applicant maintain the vertical height for the full 16 feet. He was satisfied that the driveway would provide safe access for emergency vehicles.

Mr. Hoppe agreed to Mr. Hall's request.

The board had no questions regarding the variance.

Dr. Keller stated that he did the wetland study on this property sixteen years ago. He stated at that time there was a Coopers Hawk seen on the property. He asked that the clearing be kept to a minimum on this site.

Mr. DiSalvo made a motion to direct the board attorney to draw up a resolution of approval for the variance, seconded by Mr. Popper, subject to a driveway opening permit.

A voice vote was taken; all were in favor and the motion carried.

Eligible: Bauerlein, Cullen, DiSalvo, McGroarty, Price, Popper, Walsh, Kaiser, Trevena, Leavens

Absent: Jones

Mr. Mielich stated that in regard to the subdivision he was asking the board for approval to proceed with a conventional layout instead of the mandatory cluster. He noted that this decision is the option of the Board. He stated that the reasons the applicant prefers the conventional is due to the configuration of the property. He stated that there is already a six acre open space easement. There is an existing house on the easterly side of the property, the westerly 2/3 of the property is woods and the area for the new home is limited because of these constraints. Regarding the continuation of farming Mr. Lindaberry, the adjacent farmer has submitted a letter to the board that the subject property is wet, rocky and treed and is not viable for farming. He stated that it was his opinion that lot averaging or cluster would not facilitate farming and that lot averaging would not preserve the open space any better than the conventional layout. The applicant agreed to extend the open space where appropriate. He referred to Mr. Banisch's report to which the applicant agreed. He asked the board for a consideration of the conventional plan.

Mr. Banisch referred to his report of April 10th that he agreed with Mr. Mielich that a conventional plan would be appropriate development.

Mr. Bauerlein stated that he was on the site walk of this property and he agreed that the conventional layout would be appropriate.

The Board took a voice vote on the conventional subdivision and all were in agreement that the conventional plan would be an acceptable development plan.

3. Black Oak Golf Course – Block 18, Lots 2, 3, 6, 8, 10, 21, 21.04, 27, 28, 29 and 29.01 – Bartley Road – R/5 zone - 305 Acres – Request and Amendment to Resolution 02-25 and Phasing Plan – Previously Discussed November 10, 2003  
Resolution 04-14

Joel Kobert, Applicant's Attorney

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

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Mr. Kobert stated that the applicant had no comments on the resolution prepared by Mr. Buzak and accept it as written.

The following is a list of dates this resolution was before the board for amendments:

September 24 – Discussion on Detention Basin

October 22 – Resolution approving detention basin was approved 03-26

December 8 – Tree Cutting Discussed

December 16 - Tree Clearing Resolution Discussed but not adopted

January 12 – Resolution on Tree Clearing adopted 04-7

February 25 – Second tree clearing discussed

March 8, 2004 – Second Tree clearing resolution adopted – 04-11

Ms. Kaiser made a motion to adopt resolution 04-14 as written, second Mr. Bauerlein. A roll call vote was taken:

Ayes: Bauerlein, DiSalvo, McGroarty, Popper, Trevena, Leavens, Kaiser

Ayes: None            Absent: Jones            Ineligible: Price, Cullen, Walsh

Mr. Price returned to the board.

4. Jade-Land, LLC – Block 28, Lots 46 & 47 – Fairview Avenue -Village Age Restricted – 27.83 Acres –52 lot subdivision with clubhouse and age / income restricted apartments –Deemed Complete March 8, 2004, Previously Heard March 8, 2004– Public Hearing Continued – Expires July 6, 2004

Lawrence Cohen, Applicant's Attorney

Raymond Rice, Applicant

Kenneth Fears, Applicant's Traffic Engineer

Daniel Ritter, Applicant's Planner

Mr. Leavens and Ms. Kaiser stepped down to a conflict of interest.

Kenneth Fears was sworn in by Attorney Cafoni and presented his qualifications to the Board.

The board accepted Mr. Fears as an expert witness.

Mr. Fears stated his conclusion that this application will generated 9 trips in the am peak hours and 13 trips in the afternoon peak hour. He envisioned approximately 150 trips per day. Generally age restricted units generate less traffic then a non age restricted unit. Regarding the level of service onto Fairview from Schooley's Mountain Road would remain at the current level A. Fairview at Schooley's Mountain onto Schooley's Mountain road would remain a C and D as they are now. The sight distance at Fairview and the new roads are satisfactory. He stated that Mr. Maltz's report is in agreement with his analysis as cited. He stated that he did not agree with

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road widening of Fairview Avenue in front of the applicant's property due to the short distance that it would be improved and that it is limited on both sides by existing narrow bridges and homes located close to the road. He agreed that a right of way dedication should be given to the applicant in the event the township decides to due a full widening of the road for a greater distance. Regarding the signage in Mr. Maltz's report he agreed as long as NJDOT approved the requested signs.

Mr. Maltz stated that he is in substantial agreement with the applicant's report. He stated that as Schooley's Mountain Road is a county road and Fairview Avenue is a municipal road DOT approval would not be necessary, only county approval. Regarding the sight distances he used 35 mph although the road is posted 25 mph and found the sight distance was more than adequate at 32 mph at Blackberry Drive. At Dairy Lane there was also adequate sight distance. He stated that the sight triangles as required by ordinance should be kept clear. He noted that the internal roads meet RSIS standards. He stated that under RSIS there is parking allowed on one side of the road with the other side being posted no parking anytime. Regarding parking the applicant met the RSIS standards. He noted the existing road width conditions of Fairview Avenue as 24' and the Master Plan 40' recommendation. He pointed out the bridges and homes that would limit any widening and that it would be difficult to do widening and he did not recommend widening only in front of the subject property. He recommended the road dedication.

Mr. Cohen stated that they would provide the road right of way dedication and signage would be installed by the applicant if allowed by the county.

Mr. Ritter addressed the questions regarding parking. The parking will be provided on the inbound lane of Dairy Lane and Blackberry and the northern edge of Welsh Farms Road. Under RSIS each of the homes have two car garages with an apron which would allow 3.5 parking spaces. Parking has been provided for the affordable housing apartments of seven spaces. There are 16 on street parking spaces making the total of 199 spaces. RSIS requirements are 2.4 and the apartment 1.4, which would total 135 required under RSIS where 199 is provided. Under township ordinances 197 parking spaces would be required and 199 have been provided. He stated that there are actually 4 spaces on each lot (two in the garage and two on the driveway) which would mean that the actual number of spaces would be 207 parking spaces.

Mr. Hall stated that regarding widening, he has submitted a NJDOT to improve the section of Fairview from Scenic Falls to Naughtright. He is proposing a uniform road widening of 24'. He asked the board to consider a uniform 12' road width improvements on the applicants frontage beyond the culvert. He stated that our ordinances require sight easements at Fairview Avenue and within the development.

Mr. Cohen stated that the applicant agreed to the requested sight easements. The applicant also agreed to the no parking anytime signs.

Mr. Trevena concurred with Mr. Hall that there should be 12' widening in front of the subject property as well as the sight easements.

Mr. Cullen was concerned that there was not a safety need for all the signs being recommended and wanted to see them minimized as much as possible.

The meeting was opened to the public for questions of Mr. Fears, there were no questions and the meeting was closed to questions of Mr. Fears.

Mr. Ritter referred to a revised color site plan that was marked A-4. He pointed out the changes including the change requested by the County Park Commission for Patriots Path. He stated that the changes were minor in nature. He referred to a rendering of the front of the building along Fairview Avenue, which was marked A-5. He pointed out the proposed landscaping which included large deciduous trees (10' – 15'), flowering trees and evergreen trees (6'-8') as well as a picket fence. He stated that the fence would be a composite vinyl/high density plastic low maintenance fence with wood posts.

Mr. Rice stated that as requested by the Board he would use wood and a finished rail fence instead of a vinyl picket fence.

Mr. Ritter referred to a rendering of the community center, which was marked A-5. He stated that it would have a maximum of 35'. He referred to a rendering of the townhouse elevations, which was marked A-7.

Mr. Banisch stated that the applicant has agreed to the items in his letter except for the type of lights and number 9 regarding the county paths. He stated that he would still like to see the private lane used for public pedestrian access as well as the one proposed on the plans.

Mr. Rice stated that the county is aware of the connection and that the County will be re-decking and reconstructing the bridges and constructing a cement/sand path. The applicant would not be doing the work, they are only providing the easement for the path. They will construct the sidewalks, which would be on county property. Regarding the private lane, it is not a public road but for the three property owners that surround it. If they did use it a new bridge would have to be constructed, which may be difficult to accomplish under the new stormwater regulations and proposed highlands legislation.

The board discussed Mr. Banisch's proposal.

Mr. Cohen stated that it is not clear that the public has rights to use this private path and stated that there would be public using it as Patriots Path would bring the public to it. He agreed to give Mr. Buzak the litigation documents on this issue. He stated that if they could legally do so, the applicant would provide the path to the private lane.

David Plante was sworn in by Attorney Cafoni and presented his qualifications as an engineer.

Mr. Plante was accepted as an expert witness in the field of engineering.

Mr. Plante reviewed the stormwater system proposed for this site. He stated that the stormwater plan has been designed in accordance with all stormwater regulations including the new stormwater management rules. He referred to A-1 and stated that currently there is no stormwater management / water quality treatment on the developed site. There is a 21% decrease in impervious coverage on the site from what is on site today. They propose underground seepage pits to accept runoff from 15 of the townhouses. An infiltration basin is also proposed which will take runoff from five townhouses and some of the roads. They are proposing a two stage stormwater management basin which would provide water quality management and flood control. He pointed out the grass swales and channels for water quality. The project has been designed to comply with the suspended solids removal requirement, although they did not have to because the site is currently developed. They propose to remove 73% of the solids from the 11 acre site. He stated that the existing sewer treatment plant will be abandoned. Regarding Mr. Hall's report of April 8, he has prepared comments dated April 12. He reviewed his comment letter. He read from the NJ management rules regarding the exemption for suspended solids. He reiterated that the applicant has met the stormwater requirements. Regarding the credits he discussed, they are not in the regulations, they were explained at a recent seminar given by the DEP. The applicant is applying for a transition area waiver, general permit 11 and stream encroachment permit and because of this the DEP would be reviewing his calculations as well for accuracy. The plan complies because of the exemption for treating water that comes from off site as DEP has stated that they will provide a credit of 50% for existing impervious areas, which is 7.8 acres or a 3.4 acre credit.

Mr. Hall asked that when the applicant submits to the state he wants the applicant to state he is taking the credits he explained.

Mr. Plante stated that he would comply with technical items in Mr. Hall's report. At the pre application at the DEP it will be clarified that the applicant is exempt from the 300' special water resource area because this is a redevelopment project.

Mr. Cohen stated that this waiver request has been sent to and received by the DEP and the DEP is in the process of review.

Mr. Plante stated soil tests have been done at a number of places on the site and there and they will comply with ordinances. It was his opinion that they had met Dr. Keller's landscaping requirements. The rip rap armor will be extended as requested. He agreed to do items 9 thru 17 of Mr. Denzler's letter.

Dr. Keller stated that he has spoken to Mr. Plante regarding roof runoff to be infiltrated and taken out of the flow calculation. He stated that the grass swales proposed would remove more pollutants than vegetative grass stripes which was the

calculation required by the DEP. He asked for amendments to the seeding mix and the type of blanket covers from hay to coconut. He asked that more native landscaping be used, especially virbunums.

Mr. Cohen stated that the use of the dutch boy leading a cow, which is shown on the proposed sign, may be copyrighted and not able to use. The archeological report was done and there was an absence of any archeologically significant artifacts.

The Health Department letter and Commerce Consultant letter were addressed and Mr. Rice stated that they would comply with the letters.

Mr. Ritter stated that in reference to the shade tree letter, he met with the shade tree chairman and they will look into using root barriers to allow for larger street trees. He will do whatever the shade tree committee concludes is best.

The letter from the Land Trust of April 12<sup>th</sup> regarding the donation of land and that they will accept it either with an easement or deeding to the land trust was reviewed.

Mr. Hall referred to Item III – Waivers of his April 8 letter. Mr. Hall stated that he would have to see the soil logs before he could make a recommendation that the Shimel criteria be waived.

Mr. Plante stated that regarding the stream buffers, in every case they are moving back from the stream bank from what is currently there and they were asking for the waiver of the areas that are within 95' from the stream. They will comply with township lighting requirements after landscaping is provided. All other items the applicant agreed to revise the plans to comply.

Mr. Hall reviewed the variances required with this application. He did not object to the steep slope variance for the man made slopes.

The meeting was opened to the public for questions.

Seth Noll – Fairview Avenue – stated hat regarding the fencing he did not object to any of the fence types discussed. He questioned whose responsibility the maintenance, liability, insurance etc. would be if public use were allowed. He stated that his parents are part owners of this lane that is for the benefit of the three adjoining property owners. He noted that the fire house has been hit on occasion by vehicles and he did not see how this would be a safer pedestrian walking area.

Mr. Cohen answered questions on the private lane and that the litigation result was that all three parties had an equal right to egress and access and no party shall prevent same. It is not a separate tax lot. Welsh Farms has not used it for years. Liability and maintenance was not addressed with the litigation.

Mr. Noll answered Mr. Banisch that the lane was not a road and stated that this was property that no one has been able to claim a clear title to.

Mr. Cohen asked the board to consider, if there is legal access, does the board want to allow this access.

Mr. Noll stated that the three existing homes on the lane maintain it.

Ms. Cafoni stated that if the lane is maintained equally the board could not impose a requirement that other homeowners to maintain property that was being given public access.

Caryl Brackenridge stated that, with permission of the land owners, the Land Trust has used the Lane for access to the land trust property and it is not a safe access because of coming out by the fire station. She stated that the Land trust attorney had reviewed the use of this lane and it was found that none of the individual parties could assign rights to the public.

Mr. Cohen submitted to Ms Cafoni a copy of the decision.

Ms. Cafoni stated that it reads as Mr. Rice stated and only addresses Welsh Farm access.

The Board discussed the access and decided that this access should not be required.

Mr. Cohen agreed that the applicant would remove the current crossing as it is entirely on the applicants property.

Mr. DiSalvo made a motion to instruct the board attorney to draw up a resolution of approval based on discussions on March 8<sup>th</sup> and this evening and granting the design waivers and variances discussed. Seconded by Mr. Walsh.

A voice vote was taken; all were in favor and the motion carried.

Mr. Cohen asked for a resolution at the next meeting, April 28<sup>th</sup>, because of the bankruptcy problems of the landowner.

The Board stated that they would read the resolution at the April 28<sup>th</sup> meeting.

Eligible: Bauerlein, Cullen, DiSalvo, Popper, Price, Trevena, Walsh

Absent: 3/8 - McGroarty

Ineligible: Jones, Kaiser, Leavens

***DISCUSSION/ CORRESPONDENCE***

1. March 29, 2004 Correspondence from Attorney Buzak RE: Scudese litigation  
Noted for the record.
2. NJPO Seminars and Conference – April 30, 2004 – Noted for the Record
3. Vouchers

Mr. DiSalvo made a motion to approve the vouchers reviewed by the chairman and found in order, seconded by Mr. Price. A voice vote was taken; all were in favor and the motion carried.

Mr. DiSalvo made a motion to adjourn the meeting, seconded by Ms. Kaiser. A voice vote was taken, all were in favor and the meeting was adjourned at 11:00 p.m.

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Virginia R. Kesper