

The regular meeting of June 14, 2004 of the Washington Township Planning Board was called to order by Vice-Chairman McGroarty at 7:36 p.m.

MEMBERS PRESENT

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

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 May 26, 2004 Regular Meeting

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

***RESOLUTIONS***

Mr. Leavens and Dr. Keller arrived and joined the meeting at 7:40

04-20 Lance – Block 33, Lot 59 – James Trail – R-5 Zone – 95 acres – Approval of 3 lot minor subdivision

James Knox, Applicant's Attorney

**JUNE 14, 2004**

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

Mr. Knox stated that the applicant would like the board to take action on the resolution this evening. He further stated that he wanted to have the resolution perfected and deeds filed before the Governor signs the Highlands Legislation.

Ms. Cofoni reviewed the resolution before the Board. She explained that this resolution of approval was unique because the development rights are being transferred to the Washington Township Land Trust and that because of this the resolution has a condition that the stormwater management plan approval is a condition of a building permit, not perfection of the resolution. She suggested a condition that would have the lots re-merged if the stormwater management plan were not approved by a date certain. This information would be in the recorded deed. She asked that the re-merger deeds be held in escrow with the Planning Board attorney and if the approvals are not received by the date certain the Planning Board attorney would record the merging deed.

Mr. Hall answered Mr. Price that due to the DEP permits the applicant requires, the DEP may want to review and approve the stormwater plans. He would review it under RSIS.

Mr. Knox agreed to this condition.

Ms. Cafoni reviewed the conservation easement requirement, as to the size of the easement.

Mr. Knox agreed to a 25' stream corridor easement.

Ms. Cafoni stated that this would require a waiver in the resolution from the stream corridor ordinance. She further explained that the additional 20' below the new lots is on the remainder lot.

Mr. Knox stated that he was not able to encumber the remainder lot but agreed that this language could be put in the resolution, merger deed and agreement with the Land Trust to expand the no clearing area from 200' to 250'. He stated that he would ask if the Land Trust would allow an easement that there would be no clearing in this area to be given to the Township.

Ms. Cafoni agreed to this.

Ms. Cafoni reviewed the resolution in its' entirety and the changes being made from the copy the Board had.

The date certain for the merger of lots was discussed and it was decided that it would be one year subject to extension requests by the applicant.

Mr. Banisch asked for some assurances that the ridgeline area would not be cut.

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

Mr. DiSalvo made a motion to approve resolution 04-20 with the changes discussed this evening, including the waiver from the 95' conservation easement. Seconded by Mr. Price. A roll call vote was taken

Ayes: Bauerlein, Trevena, DiSalvo, McGroarty, Price  
 Ineligible: Jones, Leavens, Kaiser, Cullen

Nayes: None  
 Absent: Popper, Walsh

Ms. McGroarty left the meeting.

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

#### DECISIONS ON COMPLETENESS

1. Toll Brothers – Block 18, Lot 6 & 10 – Coleman Road – R-5 Zone – 148 Acres – Request for Final Subdivision of Phase I of Estates at Long Valley – 24 lots

Lauren Sweeny, Applicant's Attorney

Mr. Hall reviewed his letter of June 3, 2004 with regard to the incomplete items. He noted that construction plans and affidavit have not been received but that he did not object to deeming it complete.

Mr. Price made a motion to deem the application complete, seconded by Mr. Bauerlein. A voice vote was taken; all were in favor and the motion carried.

#### *APPLICATIONS*

1. Mascharka – Block 42, Lots 13 & 14 – Hacklebarney Road – R-5 Zone – 16.90 Acres – Request for three lot minor subdivision with variances (pre-existing) – Deemed complete May 10, 2004 – Previously heard May 10, 2004 – Expires September 10, 2004

Robert S. Goldsmith, Applicant's Attorney

JUNE 14, 2004

Carlton Frost, Applicant's Engineer

Mr. Goldsmith asked for approval, stating that they were prepared to provide a stormwater management plan subject to building permit and would agree to a deed restriction similar to the previous applicant, Lance.

Mr. Goldsmith stated that they would ask for this condition as a building permit because of the Highlands application.

Mr. Hall, stated that the State stormwater regulations were effective February 2, 2004 . He stated that a stormwater management plan was waived on the Lance application for reasons unique to that application. It was not waived on the Cianfracca application, a farmland preservation application. He explained before the new regulations minor subdivisions were not subject to a stormwater plan but now they are. He stated that he has recommended to the Board that they should see what method of stormwater management an applicant intended to use, as there are several methods allowed by the DEP.

Mr. Banisch stated that this property is in the Highlands preservation area.

Ms. Cofoni stated that due to the fact that most of the Township is within the preservation area of the highlands legislation all applicants from here on in would have the same urgency. It was her opinion that this application does not have the uniqueness that the Lance application had where the benefits of approving a subdivision without a stormwater management plan outweigh the detriments.

Carlton Frost was sworn in by Attorney Cofoni.

Mr. Frost reviewed the plans and pointed out the areas that the applicant has approved driveway permits. and that construction has been started. It was his opinion that the stormwater management rules exempt lots that have construction permits. He also stated that excluding the driveway area of disturbance that is already permitted, the application is under the area of disturbance that would trigger the stormwater management rules. He stated that there is 42,000 sf of disturbed area for both lots excluding the area of the driveway already permitted and, therefore, the applicant would be exempt from the new regulations.

Mr. Banisch asked what the total impervious coverage of the tract would be, as it may be under the proposed highlands legislation limitation.

Ms. Cofoni read the list of permits and approval that would have to be received by an applicant to be exempt from the stormwater regulations.

Mr. Frost stated that the applicant has a driveway permit and the applicant does not need any wetlands permit.

Mr. Goldsmith stated that based on Mr. Frost's explanation the applicant is exempt from the stormwater management plans.

Mr. Banisch suggested a condition that restricts the amount of impervious coverage. He suggested 10,000 sf on lot B and 17,300 on lot C, which includes the driveways. He stated that the applicant had already agreed to items in his previous letter.

Mr. Frost stated that the house footprint shown would accommodate a 2600 sf first floor home.

Mr. Goldsmith answered the board that the sight easements have not been recorded and that they would be recorded as part of this application.

Mr. Hall referred to his letter of May 6, 2004 and the remaining open issues of the Combe landfill water pollution and front yard setback variance.

Mr. Frost stated that this property would be served by city water and is several miles from the Combe landfill. He stated that the variance is for an existing home that has been extensively renovated.

Mr. Hall stated that the applicant has not received a lot grading plan approval.

Mr. Goldsmith stated that should the home be destroyed the location of the house would be moved to a variance free location.

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

Mr. Price made a motion to instruct the board attorney to draw up a resolution of approval based on discussions tonight and May 10<sup>th</sup>, including a cap on impervious coverage and subject to a clarification on whether a driveway permit is a construction permit and if this would exempt the applicant from the stormwater management rules. Seconded by Mr. Bauerlein. A voice vote was taken; all were in favor and the motion carried.

Ineligible: Absent 5/10 – Leavens, DiSalvo  
Absent 6/14 – Jones, Popper, Walsh, McGroarty  
Eligible: Bauerlein, Kaiser, Price, Trevena, Cullen

2. Ehmann – Block 61 – Lot 4 – Hacklebarney and Black River Roads – R-5 Zone – 83.964 acres – Concept Plans for a 10 lot conventional / cluster subdivision – Previously Heard January 28, 2003 and November 10, 2003

James Knox, Applicant's Attorney  
Carlton Frost, Applicant's Engineer

Mr. Knox stated that this property is not in the highlands protection area. The applicant is working towards the preservation of this property. He stated that the stormwater regulations impacted the rear portion this property. He explained that the applicant has a stage 1 preliminary approval with the Morris County Agricultural Board to put the property into farmland preservation and they are now in the appraisal stage. The concept plan is to get planning board feedback on the number of lots that may be approved by the Board.

Mr. Frost referred to the plans and explained that the prior plan had 13 lots, this plan has ten lots. He stated that all lots are conforming. He stated that the 300' setback from the stream would be met. The large lot would be merged with the existing home owned by the applicant.

Mr. Knox stated that the easement for the power lines restricts structures and roads, but not anything else.

Mr. Hall stated that there is a stream shown on the Morris County soils map in the front of the property.

Mr. Frost stated that the area of the stream shown on the map is a corn field and the stream no longer exists.

Mr. Hall agreed with Mr. Frost but explained the regulations.

Mr. Knox referred to the cluster and that if the property does not go into farmland preservation, the cluster plan would probably be the plan pursued by the applicant.

Mr. Banisch stated that it appears that the plan shows that the property could support ten lots.

The Board did not object to the probability that the applicant could get approval of a ten lot subdivision. The Board noted that if the stream on the soil map is not changed by soil conservation and they had to comply with the 300' setback of the stormwater regulations, the applicant would not be able to develop that portion of the property and would not be able to get ten lots.

3. Ochs – Block 59, Lots 59, 59.05 and 59.06 – Request for amendment to resolution 04-10

Mr. Silvaggi's letter was reviewed.

Mr. Bauerlein made a motion to granted the applicant a 90 day extension to pay the taxes as required by the resolution, seconded by Ms. Kaiser. A voice vote was taken; all were in favor and the motion carried.

4. Hoppe – Block 51, Lot 6.09 – High Meadow Lane – R-5 Zone – 12.239 Acres – Request for two lot minor subdivision

Robert Mielich, Applicant's Attorney  
Carlton Frost, Applicant's Engineer  
Michael Hoppe, Applicant

Mr. Mielich reviewed for the Board the fact that the necessary variance was previously granted by the board.

Carlton Frost was sworn in by Attorney Cofoni.

Mr. Frost referred to the plans and stated that the house was repositioned so that the house and the driveway does not trigger the stormwater management regulations. He answered Mr. Hall that this plan is the plan the applicant will use for construction. He reviewed Mr. Hall's letter of June 10<sup>th</sup> and stated that he has complied with comments A-F in the letter.

Mr. Hall stated that he had no other concerns and from an engineering perspective he recommended approval.

Mr. Frost answered Mr. Banisch that the conservation easement had been expanded and that the applicant had complied with his recommendations.

Mr. Mielich stated that this is a conventional subdivision but that 63% of the lot has been placed into conservation, including more than 30% of unconstrained areas, therefore the applicant also meets the criteria for a cluster. He asked the board for a memorialized approval.

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

Mr. Price made a motion to approve the application based on the discussions this evening and plans submitted dated June 4, 2004, subject to revised plans based on Mr. Halls letter of June 10 and access agreement being executed with the Township, seconded by Mr. Cullen A roll call vote was taken:

Ayes: Bauerlein, Trevena, Leavens, DiSalvo, Price, Cullen, Kaiser

Nays: None Abstentions: None Absent: Jones, McGroarty, Popper, Walsh

5. Toll Brothers – Block 18, Lot 6 & 10 – Coleman Road – R-5 Zone – 148 Acres  
– Request for Final Subdivision of Phase I of Estates at Long Valley – 24 lots  
– If deemed complete

Lauren Sweeny, Applicant's Attorney  
Michael Glenn, Applicant  
Robert Powerhouse, Applicant

Mr. Powerhouse stated that the affidavit of compliance would be sent immediately. The road name would be corrected. The conservation easement would be revised to close.

Mr. Glenn stated that a DEP required phase B archeological study was done and they have proceeded to a phase 2 study as requested. The report was finalized on June 9<sup>th</sup> and submitted to the DEP and Ms. Zakowski. A copy of the report would be submitted to the Board shortly. Mr. Bellows, the archeologist did not recommend any modifications to the subdivision or conservation plans. The applicant expects to get DEP confirmation of this within one month. He agreed to comply with the other conditions of Mr. Hall's letter except 6C. Regarding 6C he asked for clarification.

Mr. Hall stated that snow fence and conservation markers must be in before the first building permit and then individual lot grading plans prior to each individual lot permit. He agreed that the deed notification should reference 24 lots, not 37 lots.

Mr. Powerhouse asked that under item K that all sidewalks not have to be completed prior to the first CO. He also asked that a sentence be added regarding the top course of pavement be required unless reasonable circumstances prevail.

Mr. Hall agreed.

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

Ms. Kaiser made a motion to have the board attorney draw up a resolution of approval of the application for final approval of phase I based on this evenings discussion, seconded by Mr. Bauerlein. A voice vote was taken; all were in favor and the motion carried.

***DISCUSSION/ CORRESPONDENCE***

1. Vouchers

Mr. Price made a motion to approve the vouchers reviewed by the chairman and found in order and send same on for payment, seconded by Ms. Kaiser. A voice vote was taken; all were in favor and the motion carried.

2. Update on the Highlands Legislation

Mr. Banisch stated that when the bill is signed by the Governor the legislation becomes law. It was his opinion that the towns within the core area would be getting

rules and standards to apply to their current applications.

Ms. Cofoni read the grandfather provisions of the ordinance.

The bill is scheduled to be signed on July 1, 2004.

The board briefly discussed the legislation and it was concluded that the Board will have to wait for the bill to be signed and direction from the State before a determination is made about the impact the bill will have on application currently in process and forthcoming applications.

### 3. Ridgeline Ordinance

Mr. Hall displayed his map of the ridgeline with the buffer areas shown. The red line is the ridgeline shown on the zoning map and the blue line would be the toe of slope. He stated that the Fox Hill range has a defined ridgeline.

The discussion was tabled to a future meeting where Mr. Buzak could be present and Mr. Banisch would have a cost estimate for further defining the ridgeline.

### 4. May 26, 2004 Correspondence from the MCPB RE: Amendment to County Land Use Ordinance to require submission of digital copies of final plats

Ms. Kaiser asked that we look at requiring this information as well.

### 5. Website

Ms. Kesper explained that there is a new website being created for the Township where agendas and minutes will be posted.

The board discussed the information to be on this site and it was decided that the minutes back to January 2004 would be sufficient. Also a summary of the Planning Board and its responsibilities will be put on the web. Ms. Kesper was directed to write something up for the Chairman to look at.

### 6. Sign ordinance

Mr. DiSalvo stated that he and Mr. Banisch were starting a first draft of a new sign ordinance.

Mr. Bauerlein made a motion to adjourn the meeting, seconded by Mr. Leavens. A voice vote was taken, all were in favor and the meeting was adjourned at 10:25 p.m.

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Virginia R. Kesper

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