

The regular meeting of July 12, 2004 of the Washington Township Planning Board was called to order by Chairman Jones at 7:36 p.m.

MEMBERS PRESENT

CLASS IV: Charles DiSalvo, R. Gregory Jones, Geoffrey Price, Howard Popper, Kevin Walsh
 ALTERNATES: Mark Bauerlein, William Leavens
 CLASS I:
 CLASS II: Walter Cullen
 CLASS III: Kim Ball Kaiser
 OTHERS ABSENT: McGroarty, Trevena
 OTHERS PRESENT: Engineer Hall, Clerk Kesper, Planner Newcomb, Attorney Buzak, 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 June 23, 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; Mr. DiSalvo and Mr. Popper abstained; all others were in favor and the motion carried.

RESOLUTIONS

04-23 Mascharka - Block 42, Lots 13 & 14 – Hacklebarney Road – R-5 Zone – 16.90 Acres – Approval of three lot minor subdivision with variances

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

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Ms. Tubman referred to the last meeting and discussions on stormwater management and stated that Mr. Bogan has developed a stormwater management plan for the applicant.

Edward Bogan was sworn in by Attorney Buzak and was accepted by the Board as an expert witness.

Mr. Bogan referred to a color rendering of the subdivision plan which was marked A-3. He pointed out the area of conservation easements. He stated he prepared a stormwater management plan that complies with the new state regulations. He explained the standards that the state requires and how he developed the plan he submitted. He stated that the applicant proposes to continue farming the area of the newly created lots until such time as they are sold for home development. At the time the lots are developed they will be allowed to go back to natural brush vegetation. He stated that the seepage pits proposed meet the recharge requirements of the regulations. Water quality was addressed by picking up the flow on the pavement and diverting it into a mechanical device that removes the solids to the standards set by the state.

Mr. Hall referred to his July 9, 2004. He stated that Item A has been addressed by Mr. Bogan by stating that this area will remain woodland. His concern was item B. It was his opinion that the board should make a determination on the ultimate use of the land that is being put in the conservation easement. The question was whether it should be considered as brush, meadow or woodland. He also referred to item D of his letter that the calculations the board was shown last month of two acres of disturbance has increased to approximately six acres and this difference has to be clarified. He stated that regarding the road drainage, this has been satisfied by Mr. Bogan agreeing to extend the storm drain.

Mr. Bogan stated that the applicant would address items H through M of Mr. Hall's report.

Mr. Hall stated that he has received the soil logs and three of the five holes had ground water and he recommended further testing in the recharge areas.

The Board discussed the land use issue.

Mr. Jones stated that it was his opinion that the stormwater should be based on the worse case scenario of runoff, farmed fields.

Mr. Bogan stated that the Best Management Manual of the stated addresses conservation easement areas and identifies them as brush.

Dr. Keller explained that brush is only one stage in a succession that would ultimately become woodland, if there is no management, which is the restriction in the Township conservation easements. It was his opinion that it would not be safe to assume the best case scenario.

Mr. Hall stated that changing the criteria to meadow would not change the plan significantly, and that the applicant could meet the stormwater requirements using the meadow criteria. He stated that the board should discuss the area of disturbance and limiting that as well.

Ms. Tubman stated that more than half the site is proposed to be put into conservation easements and the applicant would like to have flexibility in allowing the area of disturbance as shown. She stated that the applicant would agree to use the meadow/field calculation method for the stormwater management plan.

Ms. Tubman addressed Mr. Banisch's request for limiting the building footprint to 5000 s.f., inclusive of decks and patios.

Mr. Newcomb explained that the 5000 s.f. represents 4000 s.f. for the dwelling and 1000 s.f. for accessory structures.

Mr. Masharka stated that this restriction would be acceptable.

Mr. Newcomb reviewed the plans regarding additional plantings in the hedgerow and asked that additional plantings be added to the plans.

Ms. Tubman stated that the applicant agreed to do this.

Ms. Tubman ask the board to act on the resolution with a condition that the stormwater management plan be made a condition of a building permit and not a resolution condition.

Mr. Hall stated that he did not object to this request, because he stated that the overall plan could be accommodated on site.

Mr. Buzak suggested a merger deed to be implemented by a date certain if the required work was not done.

Ms. Tubman stated that she has already prepared a merger deed and submitted it to the board attorney.

Mr. Hall stated that the stormwater plan should be made a condition prior to any disturbance of the site.

The Board discussed moving on the revised resolution and allowing the deeds to be recorded prior to all conditions of the resolution being met.

Mr. Buzak advised the Board on this issue.

Mr. Popper was concerned with setting a precedent.

Mr. Leavens was concerned, but was willing to do so with the merger deed as protection.

Mr. Cullen asked about the uniqueness because 50% of the lot is in conservation, and whether we risk losing this opportunity if the subdivision were not perfected.

Mr. Hall stated that a small area of wetlands buffer, 300' buffer and steep slopes are part of the conservation easement and the preservation of the hedgerows.

Mr. Hall answered the Board that he is confident that the BMP concepts presented will work, but that it still had to be documented by correct calculations.

Mr. Walsh was agreeable to moving forward and allowing recording of the deeds prior to perfection of the resolution as long as the board received a deed of merger.

Ms. Tubman read from the proposed conservation easement deed and the additional conditions written into it to preserve the hedgerow.

Ms. Kaiser was okay with memorization but not the filing of the deeds without perfection of the resolution.

Ms. Tubman read the re-merger deed to the board.

Mr. Price was agreeable with both memorializing the resolution and permitting the deeds to be filed without perfection.

Mr. Jones and Mr. DiSalvo and Mr. Bauerlein were agreeable to memorializing only.

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

A discussion was held on the condition to allow the rebuilding of the existing home on the same footprint, but if a larger home were desired it would have to meet current setbacks at the time.

Mr. Marsharka amended his application to withdraw the request for the variance.

Mr. Jones made a motion to memorialize the application as discussed this evening. Seconded by Mr. Walsh. A roll call vote was taken:

Ayes: Bauerlein, Kaiser, Price, Cullen, Jones, Leavens, Walsh
Nays: None Abstentions: None

Mr. Price made a motion to allow the deeds to be memorialized without perfection of the resolution on the basis a merger deed is provided and the resolution is perfected within 120 days. Seconded by Mr. Walsh

Ayes: Price, Cullen, Leavens, Walsh

Nays: Bauerlein, Kaiser, Jones Abstentions: None

Ineligible: Absent 5/10 – DiSalvo (Leavens listened to tape 6/23/04)

Absent 6/14 – Popper, McGroarty (Jones and Walsh listened to tape 6/24/04)

Absent 6/23 – Popper

Absent 7/12 – McGroarty, Trevena

04-24 Toll Brothers – Block 18, Lot 6 & 10 – Coleman Road – R-5 Zone – 148 Acres
– Approval of Final Subdivision of Phase I of Estates at Long Valley – 24 lots

Kevin Hahn, Applicant's Attorney

The resolution was reviewed.

Mr. DiSalvo made a motion to adopt the resolution as written, seconded by Ms. Kaiser. A roll call vote was taken:

Ayes: Bauerlein, DiSalvo, Kaiser, Price, Cullen, Jones, Leavens, Walsh

Nays: None Abstentions: None

Ineligible: 6/14 Popper (Jones & Walsh - listened to tape)

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. Rosewood Communities – Block 20, Lot 88 – Spring Lane – R-5 Zone – 31.785 Acres – Request for five lot preliminary subdivision

Robert Mielich – Applicant's Attorney

Carlton Frost – Applicant's Engineer

Mr. Mielich stated that after the June 23rd meeting the applicant submitted additional information to the Board and they were asking for a completeness decision this evening. He referred to Mr. Hall's letter of July 8th and that most of the information has been submitted.

Mr. Hall referred to his letter of July 8th and stated that the complete mapping of the ridgeline was still an issue, as it is not fully shown. He stated that the applicant's attorney has agreed to modify the ridgeline as requested by him. He would not now object to this item being waived for completeness. Regarding the wetlands, this issue

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has been clarified and he would not object to the application being deemed complete as the conservation markers missing from the plan are not significant. The soil disturbance permit is lacking some information, but not significant.

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

APPLICATIONS

1. Garner – Block 41.01 – Lot 5 – 185 Old Farmers Road – R-1 Zone – 27,802 s.f. – Request for Conditional Use Home Occupation for Hair Salon and minor site plan

Derrick Garner – Applicant

Mr. Garner stated that he was before the board for permission to operate beauty salon, which would be operated by him, in his family room on the lower level of his bi-level home.

Mr. Buzak reviewed the criteria for the board to review this application.

Mr. Newcomb reviewed Mr. Banisch's letter of July 9, 2004 and the conditions of a conditional use.

Mr. Garner agreed to and confirmed all of the items listed in Mr. Banisch's letter as follows:

He is the owner and resides on the premises.

He intends to be sole employee of the salon, working thirty-five hours per week.

There would be no goods or materials will be stored or displayed outside.

He confirmed that dwelling is a single-family dwelling.

He stated that he would have no more than two clients at one time.

He will not have retail sales and that only hair cutting and coloring services would be offered.

He confirmed that no outdoor activities or improvements are proposed that will result in noise, odors, radiation, glare, radio interference, etc.

He stated he would be placing an order once or twice a week and therefore would have only one or two deliveries for the business a week.

Mr. Garner was sworn in by attorney Buzak and affirmed that everything previously testified to was under oath.

Mr. Garner stated that he would comply with the ordinance.

Regarding a landscape buffer, he stated that his neighbor, Mr. Cutler did not ask for any additional landscaping. He stated that the driveway is large enough to turn around and go out forward.

The board discussed a requirement of screening from the neighbors.

Mr. Garner stated that hours of operation would be within the time-frame of the ordinance, 8:00 am to 8:00 pm. He testified that he would operate Monday thru Friday and he would be working by appointment only.

Mr. Garner stated that there would be no exterior changes to his home.

He confirmed that only one home occupation would be conducted on the premises.

Mr. Garner confirmed that his home is served by public water and sewer.

The Board reviewed the letter from the board of health was reviewed. The Board asked that Ms. Kesper submit the application to the WTMUA for review.

Mr. Garner estimated his water usage for the salon as approximately 3 gallons per day.

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

Tim Kelly - 189 Old Farmers Road – was of the opinion that the granting of this conditional use would change the character of his neighborhood as well as bringing additional traffic. He objects to this application.

Mr. Garner agreed to a limit of twelve appointments per day.

Mr. Buzak reviewed the township ordinances for a home occupation.

Rod Stewart -181 Old Farmers Road - asked about who polices the use to assure that what is testified to is all that is done on the premises.

Mr. Buzak stated that it is policed by the zoning officer and the neighbors who would notify the zoning officer if they noticed anything contrary to what was discussed this evening.

Diane Dinneney – 186 Old Farmers Road - was concerned with the parking, especially as a neighbor also cuts hair, and the cars using her driveway for turning around and blocking access. She was also concerned about a sign being allowed. She was concerned with her property values with a business across the street.

Mr. Garner stated that both his cars are parked in the garage. He also stated that the neighbors driveway, the Cutlers, do not have the additional parking area on their property as he does, as shown on the pictures submitted to the board.

The board discussed no parking on the street but did not make this a requirement.

John Palmer - 194 Old Farmers Road - and was concerned with the traffic and the small children in the area.

Michael Bridges - 188 Old Farmers Road – objected to the sign and if there is signage he wanted it to be small and plain.

Mr. Garner wanted a bronze hanging sign with Garner and his house number.

Mr. Buzak answered the public that there is no prohibition in the ordinance about the number of home occupations in a neighborhood.

Mr. Kelly stated that the driveways in the area are about the same size and it is hard to turn around in the driveways and if there were more than one car in the driveway it would not be able to turn around.

Mr. Garner disagreed with Mr. Kelly about the ability to turn around in his driveway.

Mr. Hall suggested putting signs for the proper area to customers to park in order to make sure the customers can turn around. He noted that parking is permitted on the street currently.

Mr. Garner agreed to a sign to put up a sign in the salon that would advise his clients that they are to turn around and head out the driveway head first and also a small sign on his driveway indicating the appropriate area for client parking.

Sue Thompson – Old Farmers Road – was concerned about the sign and traffic and people turning around in her driveway. She was concerned about the safety of her children and the children in the neighborhood.

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

Mr. Garner stated that the sign would be on or near the mailbox.

The board wanted to see some kind of screening between the applicant and adjoining resident along the parking area. The Board asked Dr. Keller to advise the applicant on appropriate evergreen plantings.

Mr. Buzak stated that if the house were sold, the business could continue as long as the business was run in the same manner as this applicant has testified too.

Mr. Garner stated that the driveway currently has lighting and that the lighting would not be expanded. He explained that his client would enter the salon area from the rear of the home.

Mr. Garner answered Mr. Buzak that the reason he is not looking for more hours, and would accept a limit to the number of clients, employees and sign is that he also works at a salon and he intends to continue to work there as well as at his home.

Mr. Hall asked that condition A of his report, trimming of trees in front of the house along the road, be included in any approval.

Mr. Popper made a motion to direct the board attorney to draw up a resolution of approval granting the conditional use subject to WTMUA approval, landscaping between driveway parking area and the adjoining neighbor, a sign with just the applicant's name and address, hours of operation limited to 8 am to 8 pm Monday to Friday. Seconded by Mr. DiSalvo.

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

Absent 7/12: McGroarty, Trevena

Eligible: Bauerlein, Cullen, DiSalvo, Jones, Kaiser, Leavens, Popper, Price, Walsh

2. Domingues – Block 34, Lot 25.01 – West Valley Brook Road – R-5 Zone – 14.865 acres – Two Lot Preliminary Subdivision with Variances - Deemed Complete September 24, 2004 Previously Heard September 24, 2003 and March 24, 2004 – Resolution of Approval 04-15 on April 28, 2004 – Request for amendment to Resolution 04-15

Kevin Hahn, Applicant
Carlton Frost, Applicant's Engineer
Gaspar Domingues, Applicant

Mr. Hahn stated that this application was previously approved in March and they were now back before the board for a steep slope variance on the driveway.

Mr. Hall stated that the variance was not detectable until a detailed driveway and grading plan was developed and submitted. He referred to his letter of June 30, 2004 and the need for grading off tract and possibly a retaining wall. He recommended approval subject to the grading and retaining wall.

Gaspar Domingues was sworn in.

Mr. Domingues stated that the applicant agreed to build the retaining wall and will submit a formal easement from the neighbor granting the right to grade on the property. They are also getting a formal easement for sight clearing on the adjoining lot. He stated that they currently have verbal agreements with the adjoining property owners.

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

Mr. Walsh made a motion to have the board attorney draw up a resolution of approval for the variance requested. Seconded by Mr. Bauerlein. A voice vote was taken; all were in favor and the motion carried.

Absent 7/12: McGroarty, Trevena

Eligible: Bauerlein, Cullen, DiSalvo, Jones, Kaiser, Leavens, Popper, Price, Walsh

3. Granata – Block 43, Lot 48.01 – Kings Highway – R-5 Zone – 19.0661 acres – Three Lot Preliminary Subdivision with Variances – Previously deemed incomplete on August 23, 2003 – Completeness hearing and if deemed complete public hearing

Michael Silvaggi – Applicant's Attorney
Joe Mester, Applicant's Engineer
Granata, Applicant

The Board reviewed the application for completeness.

Mr. Hall did not object to waiving for completeness the adjoining structures being shown on the plat as long as the information is on the next plan submission.

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

Mr. Silvaggi stated that based on Mr. Banisch's request of last August, the applicant has presented a conforming conventional plan and a cluster plan.

Mr. Mester referred to plans previously submitted to the board, revised through March 4, 2003. He stated that the plan remains mostly the same as submitted last year. He pointed out that the lots are approximately six acres each. There are existing conservation easements on the property. He referred to sheet three of the plans, grading plan, and pointed out the way the property drains. He pointed out the stormwater controls on the property. The plan was drawn before the new stormwater regulations. The seepage pits do offer recharge. It was his opinion that the plan

meets the recharge and control requirements of the stormwater regulations, but he does not have calculations for water quality.

Mr. Mester referred to the variance. He explained that the property line was developed as shown with a previous minor subdivision because at the time the applicant intended to come in for a major subdivision and what is now the flag staff would have been a public road. He noted that the change in zoning to R-5 from R-3 eliminated the possibility of a major subdivision. He referred to the conventional lot layout showing a road which would make this a conforming conventional plan.

Mr. Hall stated that the conventional plan should show conceptual stormwater compliance. It was his opinion that an appropriate stormwater plan probably could be obtained based on lot size, but septic systems would probably have to be moved.

Mr. Mester stated that the stormwater plan would be similar to what is shown on the plan they want to pursue. He referred to the two cluster plans. He stated that the applicant does not would like not to pursue the cluster plans. He pointed out the farmland and that the Granata property adjacent to the farm is wetlands. The applicant was not proposing to use his driveway or change it because it is consturcted and landscaped to service the existing dwelling.

Mr. Newcomb reviewed a possible cluster design that would back up to the farm and Middlesworth Farms. The existing home lot could retain the open space and that the open space would back up to the Middlesworth Farms property.

Andrew Granata was sworn in by Attorney Buzak.

Mr. Granata stated that he was the property owners' son and the proposed lots would be for homes for his sister and himself. The conventional plan best hides the homes from the road and he also stated that there are trees between the subject property and the Middlesworth Farms property. The current house lot is farmed and that sheep are raised.

Dr. Keller stated that he has concerns with the new backyards having only 40' for a back yard before the conservation easements begin.

Mr. Mester stated that the existing conservation easements are approximately six acres. He stated that they could try to move the house away from the conservation easement.

Mr. Hall stated that under the cluster plan the township would gain unrestrained open space.

Mr. Jones asked the applicant to put property on lot C into a conservation easement that would allow farming.

Mr. Selvaggi stated that it is open space without an easement because it could not be further subdivided.

The Board reviewed the plan the applicant would prefer to pursue as well as the conventional and cluster plans. The board commented that this property was not really what the ordinance was targeting for cluster. They concluded that based on the current farming, viewshed and existing conservation easements the plan that the applicant wanted to pursue was acceptable appeared to be the best alternative of the four plans shown.

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

James Frankovic -4 Middlesworth Farm Road and stated that his home is located behind lot B and asked about "creeping minors" and procedures.

Mr. Selvaggi stated that the application conforms to the ordinances and that this was the first meeting after being deemed complete, which was done this evening.

Mr. Jordan – 2 Middlesworth Farm Road stated that he was concern with his open space being taken away as well as being concerned about sheep grazing up to his property line. He noted that currently the sheep graze and are housed a distance from his property line.

Mr. Walsh stated that this is a rural township and the property and that the Board would prefer the property to be subdivided in a manner that would maintain the agricultural uses, including raising sheep.

Steve Lindquest - 6 Middlesworth Farm Road – stated that he was concerned with keeping his privacy and that he wanted the existing tree line to be maintained.

Mr. Granata agreed to put the tree line in a conservation easement.

The board asked to have additional trees put in this area.

It was concluded that a site walk was necessary before further discussion on the application.

The board asked that the site be marked out, showing the conservation easements, driveways and property lines.

Mr. Selvaggi agreed to notify one of the neighbors in attendance this evening about the date and time of the site walk.

The meeting was adjourned and continued to August 25, 2004

<i>DISCUSSION/ CORRESPONDENCE</i>

1. Vouchers

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

2. Correspondence dated June 24, 2004 from Anthony & Lina Cresci RE: Falcon Fields

Noted for the record.

3. Correspondence dated July 7, 2004 from E. Buzak RE: COAH Regulations

Noted for the record.

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 11:35 p.m.

Virginia R. Kesper