

The regular meeting of August 9, 2004 of the Washington Township Planning Board was called to order by Chairman Jones at 7:30 p.m.

MEMBERS PRESENT

CLASS IV: R. Gregory Jones, Kathleen McGroarty, Howard Popper, Kevin Walsh
 ALTERNATES: Mark Bauerlein, William Leavens
 CLASS I: Eric Trevena
 CLASS II: Walter Cullen
 CLASS III: Kim Ball Kaiser
 OTHERS ABSENT: DiSalvo, Price
 STAFF 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 July 12, 2004 Regular Meeting

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

RESOLUTIONS

04-25 Garner – Block 41.01 – Lot 5 – 185 Old Farmers Road – R-1 Zone – 27,802 s.f. – Approval of Request for Conditional Use Home Occupation for Hair Salon and minor site plan

Mr. Jones made a motion to approve resolution 04-26, seconded by Mr. Bauerlein. A roll call vote was taken:

Ayes: Bauerlein, Cullen, Jones, Kaiser, Leavens, Popper, Walsh

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Nays: None Abstentions: None Absent: DiSalvo, Price
 Ineligible: McGroarty, Trevena

04-26 Domingues – Block 34, Lot 25.01 – West Valley Brook Road – R-5 Zone – 14.865 acres – Two Lot Preliminary Subdivision with Variances – Approval of Request for amendment to Resolution 04-15 – two lot minor subdivision with variances

The resolution was reviewed.

Mr. Walsh made a motion to approve resolution 04-26, seconded by Ms. Kaiser. A roll call vote was taken:

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

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. Jade Land (Welsh Farms Estates) – Block 28, Lots 46 & 47 – Fairview Avenue – Village Age Restricted Zone – 62.83 Acres – Request for Final Subdivision Approval – Completeness Hearing

Lawrence Cohen, Applicant's Attorney
 Ray Rice, Applicant
 David Plante, Applicant's Engineer

Mr. Cohen stated that the applicant has submitted revised plans making the changes requested in his August 4, 2004. He reviewed the open items on the preliminary resolution.

Mr. Rice stated that the hydrant locations are on the plans and new plans highlighting the hydrants have been submitted to the Long Valley Fire Department for their review and approval. Dr. Oweis has approved the plans. DEP has deemed their applications complete. He asked for a motion to deem the application complete.

Mr. Hall stated that he just received the revised plans this afternoon and did not do a detailed study but that he noted that some of the items had been complied with. He did not review the rest of the items.

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

Mr. Plante stated that all items requested in Mr. Hall's letter of August 4th have been complied with on the revised plans.

Mr. Hall answered the board that the open completeness items are minor in nature and he would not object to the application being deemed complete.

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

APPLICATIONS

1. Fleming – Block 40, lot 26 – Fairmount Road – R-5 Zone – 13.118 acres – Request for two lot minor subdivision with variances for pre-existing conditions – Previously Heard June 23, 2004 – Public Hearing Continued

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

Mr. Mielich stated that some of the outstanding issues from the last hearing have been resolved and addressed Mr. Hall's letter of August 4, 2004. He referred to the previous testimony on the variance for the existing home and the fact that the non-conformity is being increased due a road dedication to the Morris County. He stated that the plan is now for a two lot minor subdivision.

Mr. Metzler testified on the request for a waiver from a conservation easement because the wetlands are across the street and explained that the buffer extends into the existing home, driveway and areas that are currently farmed.

Mr. Hall stated that from an engineering perspective he did not object to this waiver.

The Board concurred that granting the waiver was appropriate in this case.

Mr. Metzler agreed to items II A & B in Mr. Hall's letter. Regarding the concern of the back neighbor he explained that the way the driveway now curves, the lights would not be going into the back yard.

Mr. Metzler referred to the plan and pointed out that the backyard neighbor is uphill and more than 200' off the applicant's property line and pointed out the existing hedgerow. He noted that the backyard home is at a lower topography. The proposed new home location is at least 600' from the neighboring home.

Mr. Banisch suggested a low evergreen buffer at the bend of the driveway to the new house.

Mr. Metzler disagreed with Mr. Banisch as to the need for the buffer and stated that the applicant did not want to agree to this.

Mr. Jones stated that the neighbors comment had more to do with the three lot subdivision.

After discussion, the Board agreed that with the homes being 600' apart that an additional evergreen buffer was not necessary.

Mr. Metzler referred to Mr. Banisch's letter of August 6th and stated that they had no problems with the first four times.

Mr. Metzler stated that the plans would be cleaned up as requested in Mr. Banisch's letter.

Mr. Mielich referred to item 6 regarding a possible flag lot variance and read from the ordinance and that it was his opinion that two flag lots could be side by side without creating a variance

Mr. Banisch concurred.

Mr. Mielich stated that the applicant has a contract agreement to use that existing driveway which would be a total of three homes off of one driveway.

Mr. Hall stated that this would create the need to widen the existing driveway and an amended driveway permit.

Mr. Metzler stated that the applicant would share a driveway with 26.02 (who has a joint agreement with 26.01) through an easement and joint maintenance agreement. He stated that the plans would be revised to reflect this. He stated that if the new owner would want to put in a separate driveway they would have to come back to this board.

Mr. Mielich asked that revised plans and revised driveway plan be submitted as a condition of approval.

David Hellwig – 294 Fairmount Road stated that he is the owner of lots 26.01 and 26.02 and that he does not have legal interest in lot 26.

Mr. Hellwig was sworn in by Attorney Buzak.

Mr. Hellwig stated that he was agreeable to working out a joint driveway agreement.

Mr. Metzler answered Mr. Hellwig that the applicant has a driveway permit from Morris County as well as Washington Township for the lot which is the subject of this application.

Mr. Metzler testified to that this application meet the Township flag lot criteria.

Mr. Banisch referred to number nine and ten of his report and asked for an enhanced rear yard setback.

Dr. Keller reviewed the NJDEP Natural Heritage Program letter and the bird species on this property and recommended the restricted rear yard setback for the building envelope for the principal building.

Mr. Banisch asked for 350' rear yard setback.

Mr. Mielich stated that the applicant does not wish to grant an additional rear yard setback. He stated that based on the plan the minimum rear yard setback would be 280' and he would agree to that.

The board discussed a conservation easement to keep this area in grasslands.

Dr. Keller stated that the yard could be cut up to four times a year starting at July 15, 2004.

The discussion on this issue was tabled to the next meeting.

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

Mr. Hellwig referred to the plans and stated the he did not see the house being moved up as a good plan. He stated moving it back and having the circle areas for the birds connected to the existing lot would give a greater habitat for the birds.

There were no further comments and the meeting was continued to September 13, 2004.

Eligible: Bauerlein, Cullen, Jones, Kaiser, Leavens, McGroarty, Trevena, Walsh

Absent: 6/23/04 – Popper, DiSalvo

8/9/04 - DiSalvo, Price

2. Rosewood Communities – Block 20, Lot 88 – Spring Lane – R-5 Zone – 31.785 Acres – Request for five lot preliminary subdivision with variances– Deemed Complete July 12, 2004 – Public Hearing - Expires November 9, 2004

Robert Mielich, Applicant's Attorney
Carlton Frost, Applicant's Engineer
Frank Dunn, Applicant

Carlton Frost was sworn in by Attorney Buzak.

Mr. Frost referred to the plans and stated that the project is on Spring Lane just before Mission Road. The applicant has frontage on Spring Lane but it is significantly encumbered with wetlands and wetland buffers. He pointed out the area of access, the gas easement and electric company easements. The road is a rural road configuration with flag lots. He pointed out each of the five conforming lots. The property slopes from an elevation of 1070 to 940 across 2000'. He pointed out the driveways currently under construction and answered the board that they are other lots owned by the applicant several hundred feet up Spring Lane that are not part of this application.

Mr. Hall stated that there are several major issues concerning this application and referred to page four of his report and an alternative design which would use the current common driveway under construction for one lot and then another driveway for four lots that would decrease the area of disturbance. Regarding mandatory cluster, directly across the street from this property is open space, which may trigger the mandatory cluster ordinance.

Mr. Mielich stated that the applicant is interested in looking at the proposal of Mr. Hall, but wanted board feedback on the possibility of granting the variances that may be triggered with such a proposal. He was concerned about this application being able to meet the conditions of a mandatory cluster. He stated that the applicant submitted revised plans today which comply with most of the forty conditions in Mr. Hall's letter, with the exception of three or four items.

Mr. Frost confirmed that the applicant has addressed Mr. Hall's letter of August 4th and has complied with almost all of them.

Mr. Buzak stated that the applicant must present a variance free conventional plan to qualify five clustered lots, and explained that this plan is not variance free.

Mr. Hall answered Mr. Jones that the number of lots in a variance free qualifying map may not be the number the applicant is proposing.

Mr. Banisch reviewed the ordinance and the criteria for mandatory cluster and it was his opinion that between the open space across the street and the conservation element greenway plan, this property is subject to mandatory cluster.

The Board agreed with Mr. Banisch.

Frank Dunn –78 Spring Lane was sworn in by Attorney Buzak

Mr. Banisch referred to the Highlands Bill and the impact on this application and suggested a TCC for this application and also suggested that the applicant get some clarification from the DEP, especially as to forested areas.

The meeting was opened to the public for questions or comments on the application.

Albert Kent of the Morris County Park Commission – stated that he wanted to get patriots path through this property to connect Quail Run to the Hackettstown side of the Mountain and asked the board to consider requesting a trail easement across this property.

Mr. Dunn stated that he was agreeable to talking to Mr. Kent about the path.

A TCC committee was set up, Ms. McGroarty, Ms. Kaiser, Mr. Walsh and Mr. Jones will attend for the board.

The meeting adjourned to October 11, 2004.

3. TM Group – Block 42, Lot 12 – Hacklebarney Road – R-5 Zone – 71.84 Acres – Request for Utility Waiver for underground utilities for the first two poles onto Krista Court and the existing home

Archibald Reid, Applicant's Attorney

Ted Maglione, Applicant

Mr. Maglione was sworn in by Attorney Buzak.

Mr. Maglione reviewed his waiver request, his letter and the letter from JCP&L. He was seeking a waiver from underground utilities for the existing two poles. He stated that he contacted JCP&L to take the utilities underground from Hackelbarney Road. He referred to the map submitted to the board and pointed out the area he needed to have the utility waiver. He stated that when he contacted JCP&L it was explained to him that because of the type of pole, for safety reasons JCP&L would not be able to bring in underground utilities from Hackelbarney Road. He referred to the July 22 letter from the JCP&L which stated the reasons another pole would result in right of way issues and a lot of tree removal and would not be feasible. He asked for the waiver for the first two poles and the existing homes, every thing else would be underground. He referred to the submitted plan and pointed out the area of overhead utilities in yellow and underground in blue.

Mr. Maglione answered Mr. Jones that there would be no additional poles installed. The pole on Hackelbarney road will remain where it is and the two other poles would be moved to be outside the traveled way but may be within the road right way, if necessary.

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

Mr. Hall stated that Township ordinances also restricts obstructions in the township right of way and a waiver would be need for this is as well if the poles are in this right of way.

Ms. McGroarty made a motion to grant a waiver for overhead utilities, based on the letter from JCP&L, for the two existing poles and allowing them to be moved, if necessary, to remove them from the traveled way and grant a waiver to allow the two poles to be in right of way, if necessary, as they are already existing poles, seconded by Mr. Bauerlein

Ayes: Bauerlein, Jones, Kaiser, Leavens, McGroarty, Popper, Trevena,
Nays: Walsh, Cullen Absent: DiSalvo, Price

4. Jade Land (Welsh Farms Estates) – Block 28, Lots 46 & 47 – Fairview Avenue – Village Age Restricted Zone – 62.83 Acres – Request for Final Subdivision Approval – Public Hearing (if deemed complete)

Larry Cohen, Applicant's Attorney
Ray Rice, Applicant
David Plante, Applicant

Ms. Kaiser, Mr. Jones and Mr. Leavens stepped down due to a conflict of interest and left the meeting.

Mr. Cohen gave the Clerk a signed affidavit of compliance.

Mr. Plante referred to Mr. Hall's letter of August 4th section B as follows:

1. Add statement to plat in accordance with §175-31A(4).
Mr. Plante stated that this is now on sheet 1, note 16
2. Add sinkhole statement to plat in accordance with §175-27X(1).
Mr. Plante stated that this is now on sheet 2, note 17
3. Provide area of conservation easements on each individual lot.
Mr. Plante stated that this is now on sheet 2
4. Applicant to provide statement as required by §175-23A(3). This is a submission requirement. –
Mr. Plante stated that this was submitted today
5. Applicant to provide affidavit as required by §175-23A(4).
Mr. Plante stated that this was submitted by Mr. Cohen this evening
6. On Sheet 2, the alignment of the existing northerly sideline of Fairview Avenue does not agree between the 30 and 50 scale plan (one shows a curve and the other an angle point). Plat to be revised.
Mr. Plante The plan has been revised to comply.

7. In the summary of lot areas, the proposed roadway vacation should appear.

Mr. Plante stated that this is included on lot area table on sheet one.

8. Building and tract setback lines in accordance with the Village Age Restricted Housing Overlay Zone shall be shown on the plat.

Mr. Plante stated that this is now shown on all sheets

9. The title block does not meet New Jersey State Board of Professional Engineers and Land Surveyors requirements. After speaking to Mr. Alfred A. Stewart, Jr's office, there may be the need for two title blocks on this map.

Mr. Plante stated that this is the title block has been corrected

10. The line type of the existing boundary and proposed right of way lines along Fairview Avenue do not match the legend.

Mr. Plante stated that this is this has been corrected on all three sheets an it is now consistent with the legend

11. The existing boundary line information is incomplete.

Mr. Plante stated that this is this has been corrected and added to sheet one.

12. The curve data listed in the existing boundary table is incomplete.

Mr. Plante stated that this is this has been corrected and added to sheet one.

13. The (S) and (D) in the existing boundary table should also be listed in the legend.

Mr. Plante stated that this is this has been clarified and added to the table on sheet 1

14. The curve shown in details B, C, D & E are incomplete. All curve data on the map must include the chord bearings and chord distances.

Mr. Plante stated that this is this information has been identified and added to sheet 3

15. Lot 46.101 and 46.102 should be labeled on the map as being open space.

Mr. Plante stated that this is this has been indicated in note 13

16. The distance of 291.84 along the title line as shown in detail A scales pass the outbound of the tracts easterly line.

Mr. Plante stated that this is that the distance is correct.

17. All bearings and distances must be readable on the map.

Mr. Plante stated that this is this has been corrected

18. I do not see the need for the words "Sheet 2" and "Sheet 3" on the plan view of Sheet 1.

Mr. Plante stated that this is this has been corrected

19. The bearings and distances along the conservation easement on Lot 47.01 are not labeled.

Mr. Plante stated that this is included on sheet 2

20. The conservation easement's area on Lot 47.01 is not labeled.

Mr. Plante stated that this is shown on sheet 2

21. A direction of flow arrow should be labeled along the Raritan River, South Branch.

Mr. Plante stated that this has been corrected as requested.

22. The words "Raritan River – South Branch" should read "South Branch – Raritan River".

Mr. Plante stated that this has been corrected

23. All non-tangent curves must be labeled as non-tangent.

Mr. Plante stated that this has been corrected

24. The preparer of the "Final Map of Welsh Farms Estates" should review the map filing law and the State Board of Professional Engineers and Land Surveyors Regulations and comply with same before resubmitting the map for further review.

Mr. Plante stated that this would be done as requested

Mr. Planted stated that regarding section C of Mr. Hall's letter regarding the preliminary plans Dr. Oweis and the Shade Tree Committee have approved the preliminary plans with comments for the construction stage of the project.

Mr. Plate answered Mr. Hall that they would comply with the WTMUA' s request for a 25' easement and that this would be shown on shown on the final map as well.

Mr. Hall stated that he has he only received the plans today he has not reviewed the plans to confirm the statements of Mr. Plante. He stated that the main obstacle is that the preliminary plans have not been signed.

Mr. Cohen stated that the main reason the maps could not be signed were the DEP approvals

Mr. Rice was sworn in by Attorney Buzak.

Mr. Rice stated that regarding the condition of the preliminary resolution that the DEP confirm that the applicant met the stormwater regulations he spoke to the DEP who told him that the issuance of the permits is their concurrence that the

plan submitted meets the stormwater regulations regarding the suspended solids. There is nothing that would specifically state that an applicant met a particular requirement.

Mr. Hall read the condition of the resolution.

Mr. Plante reiterated that when the DEP issues permits they have reviewed the stormwater standards as this is part of the review process.

Mr. Buzak stated that the permit would be reviewed when it is received to see if it meets the condition.

Mr. Plante stated that he can probably get a letter from the DEP confirming that the applicant meets the stormwater management rules, but probably not specific to the suspended solids.

Mr. Rice explained that their application was deemed complete by the DEP on June 28th and they expect to receive a letter soon.

Mr. Plante stated that they reduced the suspended solids on site by more than 80%, but there is some off site water that enters into the stream.

The Historic Preservation Commission letter was reviewed by the Board.

Mr. Rice stated that he has spoken with the Morris County Department of Engineering and that they are issuing a letter that the County does not have a problem with the "do not block intersection" signs at Schooley's Mountain Road and that regarding the chevron signs on Fairview Avenue, this is not their jurisdiction. Therefore, he agrees to put these signs up.

Mr. Cohen answered Mr. Buzak that the applicant would be able to close on the property with a vote on a final approval, even without signed plans.

Mr. Hall wanted a condition of approval that construction of any kind, including demolition, is prohibited until the preliminary plans are signed.

Mr. Rice pointed out the 15 acre site that is going to be conveyed in fee to the Washington Township Land Trust. The property will be conveyed subject to the right of Morris County to a trail easement. He stated that the Land Trust is aware of the 25' easement to the WTMUA .

Mr. Hall wanted a note on the construction plans regarding the WTMUA water line construction.

Mr. Walsh made a motion to instruct the board attorney to draw up a resolution of approval of the final subdivision subject to the discussions this evening including the perfection of the preliminary approval. Seconded by Mr. Cullen.

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

The resolution will be read on September 13.

Eligible: Bauerlein, Cullen, McGroarty, Popper, Trevena, Walsh

Ineligible: Jones, Kaiser, Leavens Absent 8/9/04: DiSalvo, Price

DISCUSSION/ CORRESPONDENCE

1. July 28, 2004 Correspondence from DEP Commissioner Campbell RE: Highlands and the August 4, 2004 Draft Correspondence from V. Kesper to Commissioner Campbell responding to requests in the July 28th correspondence

The board reviewed the chart and requested that Washington Township be added as a header to the cart and with that change it was approved and could be sent to the DEP as long as the Mayor concurred.

2. Cross Acceptance Update from Morris County – Tabled to the next work session
3. Correspondence from Mayor Short - RE: Volunteer Recruitment for Clinics
Noted for the record.
4. Vouchers

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

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 10:45 p.m.

Virginia R. Kesper