

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

May 28, 2008

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, May 28, 2008. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:30 P.M. Chairperson Kuntz presided.

Secretary Probasco read Notice of Public Meeting.

Roll Call: **Present** – Mayor P. Ted Hussa, Howard Shaw, Marilyn Kuntz, Glenn Buie, Peter Nienstadt, Louis Maffei, Sue Filauro, Jim Schoner
 Absent – Geoff Millington

Professionals present – Edward J. Buzak, Esq., Tiena Cofoni, Esq., Nicholas Rosania, PE, P.P., William Denzler, PP

MINUTES April 9, 2008

Motion to adopt the above-mentioned minutes as submitted was made by Mbr. Buie, seconded by Mbr. Shaw and unanimously approved by all Members eligible to vote.

PURCHASING

Motion to pay vouchers submitted by Edward Buzak, Esq. (dated April 20, 2008) and Denzler and Associates (dated June 1, 2008) subject to the availability of funds, was made by Mbr. Buie and seconded by Mbr. Shaw and unanimously approved by all Members present.

Board attorney, Mr. Buzak administered the Oath of Allegiance to Mbr. Filauro. Chr. Kuntz welcomed Mbr. Filauro.

RESOLUTION ADOPTING ADMINISTRATIVE SECRETARY

Motion to adopt the above-mentioned resolution adopting Denean Probasco as the new board secretary was made by Mbr. Buie, seconded by Mbr. Shaw and unanimously approved by all Members.

PUBLIC HEARINGS

SPV 07-17: Morris County Housing Authority
 Block 21301, Lot 7
 Peer Place

Mr. Douglas Henshaw, Esq. of Porzio Bromberg & Newman, P.C. (100 Southgate Parkway, Morristown) represented Morris County Affordable Housing Authority, non-profit subsidiary of Morris County Housing Authority (99 Ketch Road, Morristown).

Also present and sworn in were Roberta R. Strater, Executive Director of Morris County Housing Authority, Mr. Michael J. Spillane, P.E of Spillane Engineering Associates, LLC (124 Morris Turnpike, Randolph) and Mr. Gary Irwin (11 Ferncliff Road, Morris Plains) as expert witnesses.

The application seeking Minor Subdivision and preliminary/final site plan approval with variance relief for required minimum lot area, front and side yard setbacks and steep slopes to construct six affordable housing townhouse units was reviewed.

An aerial map (Exhibit A-6) of the existing 57 3BR units was shown. Originally two more buildings were proposed for a total of 75 units. The current application for an additional 6 owner units is proposed for a more effective use of the flat area originally created. If approved, no more units would be requested. Due to buffers and wetlands there is no place left viable to build.

The property is constrained by wetlands with a 150' buffer and steeply sloped. Setbacks are necessary to build six units. No neighbors would be affected. Side yard setback is essentially from a vacant area. Directly across the street is a steep slope and it's also across from the Housing Authority units. Operations and Maintenance Manual and Storm Water Management will be provided to Township Engineer.

Parking is designed for 18 versus 15 for three extra visitors with a 24' aisle from parking for adequate landscape plan. DEP requirements will be followed to enhance the area. Proposed lighting at entrance will be determined in conjunction with Township Engineer. Copies of Soil Erosion and Soil Movement plans will be provided upon submission. Tree Removal will be minimal, expected at one or two.

Mr. Henshaw summarized that the proposed exterior construction (Exhibit A-7) would be all wood frame, vinyl siding and possibly stucco. The plan calls for 3 BR modular units approximately 1,600 sq. ft. with a 20' x 11' oversized one car garage. The unit's interior (Exhibit A-8) can be modified for handicap use and items such as door swings are already accessible.

Township Engineer, Nick Rosania summarized his May 26, 2008 report. Mr. Rosania indicated that a steep slope analysis has not been done. Items that need to be provided are drainage report, soil movement data, Morris County Soil Control District, report applications for tree removal. Additional comments that the lighting is modest and the size of the connection to Township water and sewer may not be adequate.

Mr. Spillane, Engineer for applicant, confirmed that fire chief's comments on steep slopes were addressed when the plan decreased to six units and a flat area around the building allows for fire ladder accessibility. He also confirmed that the sprinkler system on the preliminary site plan was in error, as the units will not have sprinklers. It would be cost prohibitive to have a building sprinkler system. Fire walls between the units have not yet been determined. The building department will ensure that UCC fire codes are met.

Chr. Kuntz opened to public, seeing no one and closed the public portion.

Township Planner, Bill Denzler discussed the comments in his May 2, 2008 report. Mr. Denzler indicated that the units would require additional foundation plantings and confirmed that there were no adjacent buildings to be impacted. Mr. Henshaw answered Mr. Denzler's inquiries that the driveway is part of the association and will be maintained by the association. Mr. Henshaw also confirmed that the dining room would only be converted to a bedroom for handicap purposes. Overall Mr. Denzler indicated that the benefits outweighed the concerns.

The board's inquiries were addressed and discussion included; that shifting the lot line from 2.9 to 3 acres could be done. Eliminating one unit would only remove the front yard setback but would not eliminate the side yard setback. Mr. Spillane indicated that there would not be a guardrail but a fence could possibly be installed far enough from the slope. The Basketball court north of Unit 6 will remain.

The primary concerns of the board were lighting, steep slopes and parking. Lighting would need to be increased. Mr. Spillane previously agreed that they would work with the Township Engineer on providing additional lighting. There is a large drop off behind the shed and the steep slopes are a concern for young children and vehicles. It was suggested that a physical disturbance line such as a fence be established. Parking is available for one car in the garage and one parking spot in front of the garage. The road is 25' across and Mr. Henshaw was unclear if parking along Peer Place is acceptable. Mr. Henshaw agreed that the resolution could include a condition of approval regarding the slope. Mr. Henshaw also agreed that conditional language could be added for handicap units opting to convert the dining room to a bedroom to ensure a maximum three-bedroom unit.

Chr. Kuntz indicated that this application be **carried** due to time constraints, with no further notice, to June 25th.

MSV/SM 08-01: Eunice Shatz
Block 10901, Lot 17
4 Tulip Lane

Mr. Remo A. Caputo, Esq. (One Broadway, Suite 201, Denville) represented the applicant, Ms. Eunice Shatz. Eunice Shatz and Marvin Klein are co-executors of the estate of Anna Klein. Mr. Caputo reviewed the applicants request for Minor Subdivision approval with "C" variance relief for required minimum lot area, lot depth, lot width, front yard and lot frontage. Mr. Caputo summarized that the lot spans two towns, both Denville (Lot 17, Block 10901) and Parsippany (Lot 2, Block 8) and they are requesting to bifurcate the property along the municipal line and obtain separate lot numbers. He explained that access is through an easement currently since there is not access on an approved Street in Denville. A variance is necessary because there is no frontage.

Mr. Marc Walker (21 Bowling Green Parkway, Lake Hopatcong) was present and sworn in as an expert witness. Mr. Walker provided his comments and reviewed the minor subdivision plan (Exhibit 1) dated October 25, 2007. He indicated that the property must abut a municipal street to comply with the planning variance LUL 40:55D-35/36. A lot frontage variance is required; lot width falls under measurement from the right of way area and a lot area variance is required for measurement from right of way. The lot area of 450 sq. ft. is substantially larger than a standard lot size. With a depth of 264.7' and width of 175' the lot provides zero lot frontage. Access to a municipal road from the Township of Denville would provide Tulip Lane a driveway, sewer and emergency services from Denville.

The wooded lot is flat with no steep slopes and backs up the storm water management basin. A 40' easement through the Tulip property has been in existence for a long time. Lots 16 and Lot 1091 went through subdivision on paper but there have been no improvements to date. Lots 16.01 and 16.02 have been created. Mr. Walker indicated that approval could be contingent upon completion of subdivision improvements.

Applications have been made for tree and soil removal. Approval will be obtained with the Morris County Soil Conservation District. Some of the soil will now be used to increase the berm in the driveway from 1' to 2'. This will reduce the 643 cubic yards indicated on the soil movement application.

Nick Rosania, Township Engineer summarized his report of May 26, 2008. Having no major concerns as proposed. The existing and proposed contours all flow towards the existing water basin. From a municipal standpoint it will remain individual tax bills for two separate lots.

Mr. William Denzler, Township Planner summarized his report dated April 3, 2008. Mr. Denzler confirmed that there aren't any restrictions on easement for this lot and they all meet R1 standards.

Chr. Kuntz opened to the public.

Mr. Arnold German (10 Puddingstone Road, Parsippany) was present and sworn in. Residing at the property (Block 8, Lot 5) behind the applicant's property. Mr. German voiced concerns about disturbing the existing tranquility and nature that his family has enjoyed for the past 22 years.

Mr. Richard Green (12 Puddingstone Road, Parsippany) was present and sworn in. Mr. Richard Green discussed the negative impact created when builders dug up the road and left it unrepaired for the last 5 years. Concerned that approving this application will destroy the beautiful setting behind their homes. Also voiced concerns about tree removal, developers and energy costs to run air conditioning units when trees are removed.

Chr. Kuntz thanked the public for their comments and closed the public portion of the hearing.

Mr. Ed Buzak, Esq. discussed two aspects for the Planning Boards consideration. The first was that the variance criteria must be met for the lot that doesn't have frontage on an existing street. Denying access to a street would create a hardship and the board would be constrained to approve. The second was the variance bulk criteria measuring in Denville of 40,000 sq. ft. This lot would be almost 60,000 sq. ft. exceeding the minimum lot size in this area. Mr. Buzak suggested weighing the testimony against zoning and planning guidelines, bulk requirements and township ordinances.

The Board members were concerned about the existing access easement and requested a copy to review. Mr. Caputo, Esq. was open to a contingency that would set forth rights with the owner of Lot 16.01.

It was the Board's consensus that the following items would be required for further consideration of the board; (1) copy of the current access easement, (2) development of a tentative easement to reduce the size of the 40' easement. Including a defined easement for lots 17.01 and 16.01 and specifications for maintenance (3) consideration ought to be given to imposing a condition on the Parsippany property that there will be no further subdivision (6) approval be obtained concurrently from both Denville and Parsippany boards.

This application will be **carried**, with no further notice, to the July 9, 2008 meeting.

OLD BUSINESS:

The status of the *Amended Third Round COAH Affordable Housing Rules* was discussed. The rules will be effective as of June 2nd. There were simultaneous amendments made that will be considered in September 2008.

NEW BUSINESS:

There was a discussion regarding the New Jersey State League of Municipalities conference in Atlantic City. It was the board's suggestion that the Township reconsider sending more than three members of the board. Mayor Husa said that he would speak with Administrator Goble and get back to Chairperson Kuntz.

ADJOURNMENT:

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted