

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

September 10, 2008

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, September 10, 2008. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:30 P.M. Vice Chairperson Buie presided.

Secretary Probasco read Notice of Public Meeting.

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

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

MINUTES

August 13, 2008

Motion to adopt the minutes as submitted was made by Mbr. Filauro, seconded by Mbr. Shaw and unanimously approved by all Members present and able to vote.

PURCHASING

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

CORRESPONDENCE

Township of Denville Land Use Ordinance 14-08.

PROFESSIONAL COMMENTS

Nicholas Rosania, Township Engineer and William Denzler, Township Planner indicated that there were no professional comments.

RESOLUTIONS

None.

EXTENSIONS

**MSV 07-14: Rosemarie Totaro
 Block 31109, Lot 13
 13 Lake Lenore Road**

Remo Caputo, Esq. represented the applicant, requested a one year extension of the 190 day time period within which a minor subdivision must be perfected pursuant to NJSA 40:55D-47d as provided by NJSA 40:55D-47f of the March 12, 2008 board approval. The extension is required in order to satisfy the conditions of drainage improvement.

Tiena Cofoni, Esq. stated that as board attorney, there were no legal issues with this request based upon the causes. There were no further comments from the professionals or the board members.

A motion to approve a one-year extension for this application to September 18, 2009 was made by Mbr. Shaw and seconded by Mbr. Schoner and unanimously approved by all members present and able to vote.

Roll Call: Ayes – Shaw, Schoner, Filauro, Maffei, Millington, Hussa, Vice Chr. Buie

PUBLIC HEARINGS

**SP/FSPV 07-15: The Downs Group
 Block 40102, Lot 4
 305 Palmer Road**

Louis Rago, Esq. representing the applicant, was present and sworn under oath. Applicant is proposing to subdivide the property so that a conforming lot will be formed seeking preliminary site plan approval and bulk variances and exceptions, mainly for lot size. Three witnesses, James Downs, Mark Salina, Ray Pagoda and architect. The architect is present and available if

required. The site plan will address the obvious amenities such as storm water management, lighting, landscaping and suggestions from township professionals.

All four witnesses were present and sworn in.

James Downs, partner at The Downs Group (305 Palmer Road, Denville) a design build and architect firm, with design and construction entities. Mr. Downs presented an overview of the proposed building using a Landscape Rendering (Exhibit A-1) and Project Concept Rendering (Exhibit A-2). Building that was originally built in 1980 was purchased approximately four years ago and cost approximately a \$500,000 after renovations. The proposal would create a highly efficient building for their business Energy Design Solutions. Energy Design Solutions specializes in creating flexible office spaces. Exhibit A-1 depicts approximately 970,000 sq. ft. with the existing pavement indicated in light grey and flexible office space of approximately 2,000 sq. ft. Build-to-suit for all tenants. Street level is approximately half the height of the building.

Mark Zelina, PE of Maser Consulting (331 Newman Springs Road, Redbank) was acknowledged as a professional witness. Mr. Zelina provided a summary of the proposal from an engineering standpoint. The subject property is located in the I-2 Industrial zone that is adjacent to a town house zone across the street, to the east is an industrial property, to the west is a vacant property and a Conrail rail line to the north. The property is approximately 3.41 acres rectangular, wide and narrow with 535' of frontage on Palmer Road and approximately 275' in depth. Light grey is the current existing paving and one entrance way. The slight slopes significantly from Palmer Road to the rear of the site by 30' in grade from northeast to southwest corner and approximately 20' drop in grade from Palmer Road to the rear of the site. The grading will maximize keeping the buildings as low as possible and will minimize impact to residents across the street.

Reviewed the two applications. The one is for a minor subdivision, proposing to create a 2 acre lot on the east side of the current property to create a new 20,000 sq. ft. building and the remainder to approximately 1.4 acres to house the existing building with a 2,000 sq. ft. addition over an existing portion of the building to the west side of the site.

Cannot create two buildings on a single lot, which requires 5 acres. Proposing two lots, one conforming and the second non-conforming requiring bulk variances for side yard setbacks using the existing driveway located in the center of the site. To create one building would need to require a new access point. The subject property could accommodate a much larger building than what is proposed. The proposal is to share a driveway between the buildings as well as the parking. Preventing a 10' side yard setback due to the parking lot. Proposing 9'x18' parking spaces where the ordinance requires 10'x 20'.

Mr. Zelina provided an overview of the drainage and indicated that it currently drains to the rear and away from Palmer Road to an existing ditch along the north side of the property and will continue to do so. A storm water management system is proposed to collect the run-off and detains it in an underground detention system. The underground pipes and stone will collect and release the run-off at a rate less than current run-off to prevent any negative impact. The current and proposed site are served by public water and sewage. Applicant agrees to the fire department's suggestion for an additional fire hydrant at the entrance of the site.

The existing driveway and parking will remain at the rear of the existing building. A new parking lot has been proposed to the rear and east side of the new proposed building along with a new driveway along the western end of the site.

The original proposal showed all paved areas were to be illuminated with 12' tall metal halide lighting. Applicant agrees to the township engineer's suggestion for high-pressure sodium lighting. The plan will be changed to reflect 12' high-pressure sodium lighting with shielding for downward lighting.

The parking area will be cut into the site with landscaping on top of the 4' tall retaining wall. Due to the downward slope of the site and the recessed parking area, the 12' lighting will be below the road level.

Applicant agrees to the police department's suggestion for stop signs at the driveway entrances. Sidewalks currently exist to the east of the site up to the subject property but there are no sidewalks to the west of the site. Applicant would supply sidewalks if deemed necessary by the board.

Raymond C. Liotta, PP of Maser Consulting (53 Frontage Road, Clinton) was acknowledged as a professional witness. Mr. Liotta is also a landscape architect. He discussed the variances and exceptions of the proposed property. Starting with 4.01, the existing building of 9,600 sq. ft. is a combination office space (7,400 sq. ft.) and warehouse (2,200 sq. ft.) and includes 29 existing parking spaces. The minor subdivision is to create a line between the two lots. The proposal removes the existing warehouse component and replaces with a 4,000 sq. ft. office building with 2,000 sq. ft. of office space and 2,000 sq. ft. of warehouse space. The existing office space would remain. The Alternate Parking Layout (Exhibit A-3) shows the proposed is shown in black and the 20 are in red for a total proposed 78 parking spaces. Based upon operational needs, the parking analysis includes "bank" parking area to maintain green space of proposed spaces in front of both buildings.

The buildings are height compliant and meet the FAR requirements with a total of 54,034' sq. ft. There is an existing condition for lot depth on both buildings. The side yard setback does not comply on Lot 4.01 where there is a 53.7' requirement.

A larger building could be constructed if the existing building was demolished. Doing so would require two entrance roads and would create more disturbance making this a better zoning alternative.

Using the Alternate Parking Layout (Exhibit A-3) there is a proposal to construct 78 parking spaces. By ordinance Lot 4.01 requires 49 spaces, with 21 existing in the rear of the building and 20 new striped spaces and 10 additional spaces in front for a total of 51. Applicant does not believe the 10 spaces in front of the building are required by operational demand and have marked as "bank" parking area. By ordinance Lot 4.02 requires 100 parking spaces, with 6 existing and 78 new parking spaces at the rear and east of the proposed building for a total of 84 spaces. A few spaces will be removed to access the front parking lot combined with 19 spaces in front of the building totals 100 parking spaces. Applicant proposed existing parking is adequate and front parking of 16 spaces could remain as a "bank".

The physical orientation of the building remain the same. The 20' setback is to maintain the existing structure. It doesn't make good planning sense based upon the amount of disturbance it would create, just to satisfy the 20' setback. The building could be demolished, eliminating the need for a subdivision but creating more disturbance and negative criteria and again doesn't make good planning. Saving the existing building and working within the confines of what is allowed to do, leaving flexibility, not exceeding any coverage issues there would be no detriment to the neighborhood.

Referencing Bill Denzler's report, Mr. Liotta indicated there would be no new signage, that waste and recycling for 4.01 were added to the plan. He further stated that the applicant would work with Mr. Denzler on additional plantings and applicable affordable housing requirements.

Mr. Liotta indicated that there is no negative Criteria as it relates to the public, neighborhood zone and Master plan. The existing businesses are viable and the proposal doesn't exceed FAR or cause over development. The upgrade will improve the building appearance and streetscape. The proposed building will be modestly lower than Palmer Rd. Improvements are hidden due to slope. Will have less of an impact on the residences across the street. Parking will be more than adequate for existing and expanded use. Uses are permitted, in-fill lot viability of site, bring more value to land and consequently to the municipality. Do not impact the purpose and intent of Master Plan. Meets positive C1 and C2 criteria.

Vice Chr. Buie inquired about the disturbance of the site and indicated that there was another hearing. Mr. Zelena responded that it does comply.

Mr. Rago requested direction from the board to prepare for next meeting and was told egress, number of cars, traffic and soil samples.

Mr. Downs indicated that Environmental Phase 1 and Phase 2 was performed and can be provided to Mr. Rosania.

Mayor Hussa requested an adequate tree buffer. Mr. Downs indicated that none of the existing tree buffer would be removed.

This application was carried without further notice to October 22, 2008

**MSV/SM 08-01: Eunice Schatz
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. The applicant is requesting for Minor Subdivision approval with "C" variance relief for required minimum lot area, lot depth, lot width, front yard and lot frontage. The lot spans 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 road frontage. The hearings on this application were held on May 28, 2008 and September 10, 2008.

Mr. Mark Walker provided a recap of the application and briefly summarized that the property is 1.37 acres in Denville and 2.94 acres in Parsippany. The property has frontage on Beverly and Violet streets in Parsippany and there is no road frontage on the Denville side. Current access is through Block 10901, Lot 16.01, frontage on Tulip lane extension with 40' right of way access easement for Lot 17.01.

A Letter of Interpretation (LOI) from the DEP indicates that there are no constraints such as wetlands or transition areas on the property. The property also has no steep slopes. The applicant is proposing to subdivide the property on the municipal boundary line. The proposed subdivision eliminates frontage on a public road on the Denville property, requiring variances. Variances would be required for minimum lot area from right of way line, lot depth and width, front yard and frontage needed for lack of a public road, 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.

Mr. Walker stated that the 15' right of way would provide adequate access for emergency equipment and that there were no objections from the fire and police departments.

Mr. Walker reviewed Concept Plans B & C entered as Exhibit A-2 and A-3. He stated that although it is not the applicant's intention, conceptually the property could become a fully conforming three-lot subdivision. Mr. Caputo indicated that the applicant is not interested in providing a deed restriction on the Parsippany portion of the lot.

Vice Chr. Buie opened the application to the professionals.

Nick Rosania indicated that there were no other departmental reports. He commented that looking from the Denville side that there would be one house exiting and using the access drive regardless of the scenario. Mr. Walker agreed and stated that Exhibit A -3 shows public road access through Parsippany and causing negative planning issues and possible confusion in the case of a fire.

Bill Denzler confirmed that all the variances are technical in nature and that the applicant could apply to the building department for a dwelling at this time. The application is required solely from lack of street frontage.

Mr. Frank D. Mileto (14 Beaver Brook Drive, Long Valley) was present and sworn in. As a licensed professional planner, architect and former zoning officer for Clifton he was acknowledged as a professional witness. Mr. Mileto testified that there is one issue, being the proximity of the lot to a right of way. He stated that it is a peculiar situated lot and the variance is de minimis in nature. The ordinance calls for residential single-family dwelling and the subject property conforms or exceeds the requirements. The cul-de-sac would disrupt a lot of land, is not good planning and would involve two municipalities. It would cause confusion for life safety. He indicated that this is an opportunity to limit the use and get one lot with one home. The state plan calls for "in-fill" lots where facilities and utilities exist and without causing disruption. The plans intention is to eliminate sprawl and build where infrastructure exists. He referred the uniqueness of the lot and referred to Exhibit A-1.

Vice Chr. Buie opened the application to comments from the professionals. The Township Engineer and Township Planner had none.

Mr. Peter Agostini (28 Cambridge Avenue) was present and sworn in. He questioned Mr. Mileto as to if he visited the property, if he drove his car up the right of the way, how it could not be considered detrimental and if it was a flag lot. Mr. Mileto indicated that he visited the property today and that he didn't attempt to drive up the right of the way, that it was wooded and that it was appropriate for this property be utilized as a residence for one home, was consistent with the Master Plan and was not a flag lot. Flag lots have road frontage and this property does not. Further questions were considered not applicable in nature to this application by both the applicant's and board's attorneys.

Ms. Tony Milelli (2 Tulip Lane) was present and sworn in. Ms. Milelli indicated that she believed there would be detriment by creating a roadway and eliminating a nature path that has existed for twenty years. Ms. Milelli stated that she lives on a cul-de-sac and did not expect a roadway behind her house.

At this point in time, Vice Chr. Buie indicated that the hearing would not be completed and would need to be carried.

Mr. Peter Agnello (33 Cambridge Avenue) became upset and demanded that the board stay to listen the remaining public. Ms. Tiena Cofoni, the board attorney indicated that the board is volunteers and would be carried to November 12, 2008.

The Mayor made a motion to stay for an additional fifteen minutes. Another board member seconded the motion.

Mr. Peter Agnello approached the microphone and indicated that only the board attorney would benefit from the approval of this application.

Vice Chr. Buie thanked the public and indicated that the hearing would pick up where we left off with questions from the public.

This application was carried without further notice to November 12, 2008.

Members of the public approached the dais and continued to ask questions and provide comments and concerns to the board. The board attorney informed the public that they would need to wait until the next meeting where they could be sworn in and addressed by the board using the proper protocol.

OLD BUSINESS

NEW BUSINESS

Bill Denzler provided a three-page handout summarizing Denville Township's Third Round COAH Obligation. The handout was provided at the Council the prior evening. There is a new housing plan that will have to be forwarded to the governing body by December 31, 2008 based upon the current timeframes. The November 12, 2008 meeting date will need to include a public hearing on the Housing Plan. The committee will be made up of two members of Council, the Mayor, the Administrator and two members of the Planning Board. The Mayor indicated that he recommended Sue Filauro and Lou Maffei for representation for the Planning Board. Both accepted the recommendation.

ADJOURNMENT

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted