

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

December 10, 2008

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, December 10, 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** – Sue Filauro, Glenn Buie, Howard Shaw, Peter Nienstadt, Jim Schoner, Geoff Millington, Mayor P. Ted Husa, Chr. Marilyn Kuntz

Absent: Lou Maffei

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

MINUTES

October 22, 2008

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

PURCHASING

Motion to pay vouchers submitted by Township of Denville (dated October 27, 2008) subject to the availability of funds, was made by Mbr. Buie and seconded by Mbr. Shaw and unanimously approved by all Members present.

Motion to pay vouchers submitted by William Denzler & Associates (dated November 3, 2008 and December 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.

Motion to pay vouchers submitted by The Buzak Law Group (dated November 23, 2008 and November 26, 2008) subject to the availability of funds, was made by Mbr. Buie and seconded by Mbr. Shaw and unanimously approved by all Members present.

CORRESPONDENCE

Chr. Kuntz referenced correspondence from Township of Denville dated December 1, 2008 regarding Land Use Ordinance #24-08 for Development Fee and Affordable Housing Contribution and Land Use Ordinance #22-08 for Accessory Structures. Correspondence also included was a November 2008 article from the Thonet Associates Inc. regarding NJ Highlands Plan Conformance, a letter from the Township of Morris regarding Resolution No. 198-08 and a memo to Marie Goble from Mayor Husa regarding the COAH Action Plan dated December 2, 2008.

PROFESSIONAL COMMENTS

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

RESOLUTIONS

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

Tiena Cofoni, Esq. provided a recap and indicated that 84 parking spaces would be constructed where 100 parking are required. There was a change on Page 5, Paragraph 11 of the resolution that now provides a state wide development fee to be provided by the applicant before certificate of occupancy will be issued.

Edward Buzak, Esq. indicated that a provision should be included in all resolutions as a condition.

A motion to adopt the resolution as modified was made by Mbr. Shaw, seconded by Mbr. Buie and unanimously agreed upon by all members present and able to vote.

Roll Call: Ayes – Shaw, Buie, Filauro, Schoner, Millington, Husa, Kuntz

PUBLIC HEARINGS

MSV/SM 08-01: Eunice Shatz (Carried from 11/12/08)
Block 10901, Lot 17
4 Tulip Lane

Previous hearings on this application were held on May 28, 2008, September 10, 2008 and November 12, 2008. The applicant's attorney Mr. Remo A. Caputo, Esq. (One Broadway, Suite 201, Denville) was present. Mr. Caputo confirmed that Ms. Schatz provided an extension through March 31, 2009 and requested an adjournment.

Chr. Kuntz indicated that public hearing would be carried to the January 14, 2009 reorganization meeting for rescheduling.

PSP/FSPV 08-05: Heritage Community Bank
Block 31210, Lot 1
Route 53 and Dickerson Road

Richard Sweeney, Esq. of Laddey, Clark & Ryan represented the applicant. The applicant is seeking to modify previous approval by requesting a parking variance for Heritage Bank's exclusive use. The original approval was for a bank and dry cleaner. The requested variance is for two additional parking spaces to make the bank parking in compliance with the ordinance. The existing parking is 25 spaces where 27 are required by ordinance. The intensity of the use will be diminished. Resolution of approval was for five signs on the building where only three will exist.

Richard Sweeney, Esq. called Mr. Peter Kenny as a witness using the site plan (Exhibit A-1) of seven sheets dated June 6, 2007. Mr. Peter Kenny, President & CEO of Heritage Community Bank (1206 Sussex Turnpike, Randolph, NJ) was present and sworn under oath. Mr. Kenny indicated that there are six relationship managers that arrive in the morning spend some time in the office and then leave to meet with client's offsite. The Randolph facility has 250 transactions per week including drive-up. The drive-up is used most heavily during the morning and evening hours when the relationship managers would be in the office. Mr. Kenny testified in his professional opinion that there is adequate parking for the bank.

Nick Rosania, Township Engineer commented that there is a less intense use than originally approved. Only one third of the available spaces are in use. There is a hardship as there is no room to accommodate additional parking.

William Denzler, Township Planner commented that the parking lot has not been heavily in use during site visits and from a planning perspective there is no negative impact. As per Mr. Denzler there is a self-regulating use and approval is recommended.

Chr. Kuntz opened the hearing to the public for comments and questions and seeing none, closed the public portion of the meeting.

Chr. Kuntz opened to the board for questions.

Mbrs. Millington and Nienstadt had no questions or comments.

Mbr. Shaw commented that an excellent job was done in straightening out the property.

Mbrs. Schoner, Filauro and Buie had no questions or comments.

Mayor Hussa commented that it was a nice upgrade to the town.

Chr. Kuntz agreed with the Mayor's comments and inquired if the two test wells were closed.

Richard Sweeney, Esq. responded that the two test wells were closed and one additional well was created. The new well will remain open and will be subject to testing from time to time. Mr. Sweeney, Esq. stated that the applicant is satisfied.

Bill Denzler, Town Planner responded to Mr. Buzak's inquiry that there was no substantial detriment to the town by the variances sought.

Motion to approve the amended site plans was made by Mbr. Shaw, seconded Mbr. Filauro and unanimously approved by all members present and able to vote.

Roll Call: Ayes - Shaw, Filauro, Buie, Nienstadt, Schoner, Millington, Hussa, Kuntz

Mr. Stewart continued testimony referencing Cross-Section plans Exhibit A-16 through A-20 that were only provided to the town's engineer and planner. Used to calculate the volume of fill required on both sites. Proposed 258 cubic yards fill required on Lot 1700.01 for a total of approximately 18 truck loads of soil. Proposed 453 cubic yards fill required on Lot 1700.02 for a total of approximately equating to 31 truck loads of soil.

Stewart testified that based upon the topography of the site and the ordinances this plan is a better plan. This proposal reduces the amount of disturbance on the site and although not as aesthetically pleasing as the last plan it is less intrusive to the environment.

Louis Barbieri, P.P. (123 East Main Street, Suite 29), previously sworn in and remains under oath. Mr. Barbieri stated that the footprint was basically the same but that the height has been reduced by being an upside down house (i.e. bedrooms down, living space up). Mr. Barbieri further testified on the lot width, slopes and overall plan. The lot width and wall heights remain the same. In regard to access and safety of the serpentine driveway, Mr. Barbieri indicated that the amount of disturbance is far less on the slopes, fill as well as being further away from the neighbors to the rear of the property. Overall plan works better without the safety issues of the serpentine drive. The home is similar to the other homes in Indian Lake on two of the largest lots in Indian Lake. One home is approximately 2,500 sq. ft. and the other home is approximately 2,700 sq. ft. both with unfinished basements. The variances can be granted without substantial detriment and the lots cannot be developed without the variances.

Allen, Hantman, Esq. stated that the revised architectural drawings were not submitted due to time constraints. However, if this application is adjourned the revised architectural drawings would be presented.

The meeting recommenced after a fifteen minute break.

Mr. Stewart addressed Bill Denzler's report of December 9, 2008. Requesting a waiver of 30" high picket fence on top of the 6' walls as a safety barrier to meet construction code requirement. The crosshatched area on both grading and layout to widen road to 24'. From westerly along Highland Trail starts taper from 20' taper out to 24'. Not 12' from center line but 24' from the opposite edge of pavement across the street to ensure that there is 24' of pavement. Driveways are pulling head-on into garages. Driveways are approx. 27' with guide rails. Two vehicles in front of garage doors and allow for a pedestrian access along the westerly side of the driveway to the front porch. Guard rails on 1700.01 two walls on either side of driveway, on top of the walls is guide rail along the driveway. On walls on sides of houses from the corner to the wall around the houses along the top of the wall. Along the retaining wall as well as along the top. The same on Lot 1700.02 along the driveway, from the corner of the home and along the rear wall. Applicant agrees to add two shade trees to each lot.

Nick Rosania, Township Engineer indicated that there was no written report. Issues still apply with the exception of the driveway rearrangement. Issues remaining include; MCSCD, Drainage, Slope Disturbances still significant - some even greater, Slope ranges around the home, lack of living space, waiting for detailed construction layout. House size – applicant indicated wouldn't be changing the architectural, now indicating they will be changed. Police report recommending police presence – Highland Trail, Environmental Commission. Mr. Rosania addressed Mr. Barbieri and his being a resident of Indian Lake and the impractical use of a home with a slope, indicating slopes are undesirable and inquired if Barbieri concurs. Mr. Barbieri testified that some homes don't have any useable yard but do have 12x24' decks.

Bill Denzler, Town Planner received confirmation from Mr. Stewart that the wall heights are 3' not 6' and that the safety barriers will need to be 36". Sought confirmation of drainage overflow to downhill properties and impact. Mr. Stewart responded that it would handle a 100 year storm and would be the same impact as sheet flow. Super silt fence or otherwise, the applicant agrees that all MCSCD requirements will be met. Mr. Denzler sought confirmation from Mr. Barbieri that there is no substantial detriment to the zoning ordinance. Mr. Barbieri stated that the hardship is the inability to develop the property without the variances due to the exceptional topographic conditions. - the degree of the variance relief would be less (relative term) if the lot was to be developed for one home. Barbieri indicated that it would still require the same variances. However, Mr. Denzler pointed out that it would not be to the same degree. For the record, Mr. Hantmann agreed that the applicant was aware of the COAH requirements.

In response to Mr. Buzak, Esq.'s inquiry on the rational of the steep slopes. Mr. Barbieri stated that seeking a variance that would allow construction of greater than 30% where no disturbance is permitted is the hardship of this property. As you would have to disturb the steepest part of the slope to build a home.

Mr. Hantmann, Esq. agreed with the police report regarding keeping the road clear of debris during the construction.

Chr. Kuntz opened the application to the public.

Stephen Toth (11 Chestnut Drive East) was previously present and sworn in. Would request carrying the public portion to another meeting.

Mbr Buie inquired about an attorney being present previously for the member of public. Mr. Buzak, Esq. confirmed that Mr. Toth is still represented by an attorney and indicated that Mr. Toth could proceed in his absence.

Chr. Kuntz announced that this application would be carried without further notice to the January 14, 2009 reorganization meeting for scheduling.

OLD & NEW BUSINESS

Mayor Hussa referenced the Federal Lands at Greystone Park and indicated that Township is considering a resolution similar to theirs.

Chr. Kuntz referenced the League of Municipalities. Mbr. Shaw indicated that he would forward the guidelines he received.

Bill Denzler explained the Township Ordinance 22-08 – Accessory Structures and Ordinance 24-08 – Development Fees were discussed. Ordinance 22-08 regulates the size of accessory structures and increases the setbacks associated, coverage and zone to address the ordinance and the complaints made to the council members. It is based on zone districts, 500 sq.ft. and adjusted setbacks and a maximum and is consistent with the Master Plan. Ordinance 24-08 addresses single family tear down and rebuilds, review of building records, this trend, over one dozen this year. Rescind for additions and tear down and rebuilds. These ordinances were discussed and the Board Secretary would send a memo to council.

ADJOURNMENT

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted