

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

January 23, 2008

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, January 23, 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 Bowditch read Notice of Public Meeting.

Roll Call: Present – Mayor P. Ted Hussa, Marilyn Kuntz, Howard Shaw, Glenn Buie, Nick Stecky, Louis Maffei, Jim Schoner, Geoff Millington

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

MINUTES January 9, 2008

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

PURCHASING:

Motion to pay vouchers submitted by Edward Buzak, Esq. (dated January 2, 2008) subject to the availability of funds, was made by Mbr. Shaw and seconded by Mbr. Buie and unanimously approved by all Members present.

CORRESPONDENCE

PROFESSIONAL COMMENTS

RESOLUTIONS

**RSP/FSPV/SM 07-08: Denville West Main LLC
Block 50412, Lot 12
2-28 West Main Street**

Ms. Cofoni reviewed the resolution.

Motion to adopt the memorializing resolution was made by Mbr. Buie and seconded by Mbr. Millington.

Roll Call: Ayes – Buie, Millington

AMENDED RESOLUTION – DESIGNATION OF NEWSPAPERS AND NOTICES

Motion to adopt the above-mentioned resolution was made by Mbr. Buie, seconded by Mbr. Shaw and unanimously approved by all Members present.

PUBLIC HEARINGS

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

Remo Caputo, Esq. (1 Broadway, Denville) represented the applicant. Mr. Buzak stated adequate notice was provided and the Planning Board had jurisdiction to hear this application. Mr. Caputo explained Ms. Totaro was unable to be at the meeting because she is out of state.

Nicholas Wunner, PE, LS, PP (PO Box 303, Succasunna, NJ) was present and sworn in. He presented his credentials and was accepted as an expert witness. He presented exhibit A-1, sheet 1 of the plans colorized by Mr. Rosania, and used this exhibit to review the property location, which is partially located in Parsippany. He showed the location of the Conrail right of way and Lake Lenore. Mr. Caputo stated approval would have to be received from Parsippany also.

Mr. Wunner explained there are two existing dwellings on the one lot, both of which have their own driveways, their own municipal water line and their own septic systems. He noted the location of the water line from Burton Lane to the larger dwelling, with a stub line to the smaller dwelling. He confirmed each driveway would be located within the respective new lots and the houses would be within the setbacks.

Mr. Wunner explained each lot is greater in bulk than the ordinance requires, but does not meet the requirements within the 230-foot arc.

Proposed lot 13.01

Required Area – 40,250 sf Bulk Area – 74,410 sf Area within 230' arc – 21,986 sf

Proposed lot 13.02

Required Area – 40,250 sf Bulk Area – 110,635 sf Area within 230' arc – 20,567 sf

He explained that lot width has the same issue. The ordinance requires a lot width of 175 feet at the setback line, lot 13.01 has 20 feet at the setback line and lot 13.02 has 70.57 feet at the setback line, but both lots have the more than the required bulk width. He confirmed the variances were required because of the unique and unusual shape of the existing lot.

Mr. Wunner presented exhibit A-2, sheet 2 of the plans, and used it to describe the existing slopes on the property. He stated the subdivision was proposed so that the existing slopes are not disturbed. This application was for minor subdivision approval only and no other physical changes would be done.

Mr. Wunner stated the existing lot is non-conforming because there are two dwellings on one lot. This would be rectified with subdivision approval, which is a benefit towards granting the variances. He stated that traffic is not an issue and believed a "K" turn could be made, if necessary, at the end of Burton Lane. The rural character of the neighborhood would be maintained. A condition of approval would be that they meet with Mr. Lowell regarding any drainage concerns.

Mr. Rosania reviewed his January 18, 2008 report, stating the new lots would be large and confirmed there was no construction proposed to the homes, driveways or any circulation changes. He stated the existing lot is unusual in shape and location and has extreme slopes. He had no concerns with approving the minor subdivision because he believed any further construction would be extremely difficult because of the slopes, but asked that there be a condition of approval that prohibits further development. Mr. Caputo was not against the concept of a prohibition of future construction, but was concerned with what that would mean for the property owners many years in the future. A discussion ensued regarding the possibility of unintended consequences and the possible language that could be used in a condition of approval.

Mr. Denzler confirmed by approving the minor subdivision the existing houses would now conform to the ordinance requirements of one house per lot. He stated the variances for lot area and lot width are technical variances and confirmed both lots would have 20-foot frontage on Burton Lane. He referenced his October 7, 2007 memorandum, which had asked about possibly extending Burton Lane, but did not recommend it at this time based on the existing slopes and the condition on further construction. He confirmed emergency services had adequate ingress and egress to the properties. From a planning perspective, he would recommend approving the subdivision with the restriction on further subdivision.

Mr. Rosania asked about the portion of the driveway that was not on their property, to which Mr. Caputo stated an easement could be granted.

This application was opened to the public, seeing no one, was closed.

Mbr. Shaw confirmed the septic systems for each house would be located on their respective lots.

Mbr. Maffei confirmed both houses were currently vacant.

Mbr. Schoner confirmed the locations of the septic systems are adequate.

Mbr. Stecky confirmed the lots have public water.

Mbr. Buie asked about the existing dirt drives and paths show on the plan. Mr. Wunner confirmed these are not easements and are old paths around the property from the Parsippany side. Mbr. Buie confirmed the water line easement was for an existing line to proposed lot 13.02.

Mayor Hussa asked for a clarification of the 230-foot arc line, to which Mr. Wunner reviewed and described how it was calculated. Mayor Hussa confirmed the existing driveways were adequate for emergency services. He then asked Mr. Caputo if there was an immediate reason why not to have the condition of approval of no further subdivision of the property. It was discussed that the Township should be allowed to make that change.

Chr. Kuntz was concerned with drainage. Mr. Rosania reviewed the conditions and was in favor of approving this subdivision. If a house were removed, Chr. Kuntz would like the application to have to appear before a board. Mr. Denzler explained if no variance was required, the zoning officer would still review the project, and if a variance were required, an application would be submitted to a Board. Chr. Kuntz was satisfied that someone in the Township would be reviewing any proposed construction.

Mbr. Schoner asked about the possibility of hooking up to the sewer system. Mr. Rosania stated they would have to make an application for that.

Mr. Buzak confirmed the lots have public water. He then reviewed the conditions of approval would be the following.

- 1- Subdivision would be subject to approval by Parsippany.
- 2- An easement would be granted for the existing water line.
- 3- A condition there is no further subdivision of the property. Mr. Buzak was concerned about the language of condition 3. Mr. Caputo suggested possible language. Chr. Kuntz believed the restriction would need to be there.
- 4- Drainage issues would need to be resolved with the Department of Public Works.
- 5- Driveway easement to be remediated with lot 33.

Mr. Buzak stated by approving this subdivision, the Planning Board would not be legitimizing the pre-existing, non-conforming conditions.

A motion to **approve** this subdivision with the conditions was made by Mbr. Buie and seconded by Mbr. Shaw.

Roll Call: Ayes – Buie, Shaw, Kuntz, Hussa, Maffei, Stecky, Schoner

**MS/SS 05-17: Briar Rose Group, Inc.
Block 40815, Lot 1700.01
97 Highland Trail**

Allen Hantman, Esq. (168 East Main Street, Denville) represented the applicant. Mr. Buzak confirmed the escrow had been replenished and stated the Construction Board of Appeals challenge would not affect this hearing.

Because of a change to the Township ordinances, Mr. Hantman explained the front yard setback variance is no longer required. He reviewed the remaining variances being requested, which included steep slopes and retaining wall heights for tracts 1 and 2, and lot depth for tract 2. He explained because of the shape of the existing lot, the lot depth is 122 feet, where 125 feet is required. He stated a portion of the property could be removed and they would not require a variance for this.

James Pryor, Esq. (262 East Main Street, Rockaway) represented Ms. Laurie Campbell, the owner of lot 1733.

Alfred A. Stewart, Jr., LS, PE (25 Pine Street, Rockaway) was present and sworn in. He presented his credentials and was accepted as an expert witness. He reviewed the minor subdivision plat and amended application.

The following exhibits were marked for the record.

Exhibit A-1: Sheet 1 of the plans submitted

Exhibit A-2: Sheet 2 of the plans submitted

Exhibit A-3: Sheet 3 of the plans submitted

Exhibit A-4: Sheet 4 of the plans submitted

Using exhibit A-1, Mr. Stewart reviewed the zone requirement table, explaining each lot is substantially larger than what is required in the zone. He reviewed the lot depth variance requested for proposed lot 17.01, describing how lot depth is calculated and explaining how if the lot line was moved east, this variance would not be required.

Using exhibit A-3, Mr. Stewart reviewed the steep slopes, stating the overall slope of the lot was downward toward the rear of the lot. The property has 30% slopes on it and steep slopes variances would be required to develop these lots.

Mr. Stewart explained they are proposing to have a two-story dwelling with drywells for roof runoff and a retaining wall on proposed lot 17.02. He stated the heavy black line on the plans represented the proposed limit of disturbance, which is mainly to the front of the lot. He stated the rear of the lot would remain as exists. He then explained the driveway would be pitched to toward Highland Trail and the lot grade, with the wall placed at the edge of that grading. He stated the wall would limit further disturbance to the rear of the property. The maximum height of the wall would be 17 feet at the rear corner and the height of the wall closest to the new house would be 15 or 16 feet high.

Mr. Stewart addressed the engineering comments for lot 17.02, which states this would be an excessive slopes project because of the 30% slopes on the site. He reviewed the existing slopes, stating that he believed 30% slopes were within the characteristic of the neighborhood.

Mr. Stewart reviewed the proposed drainage on the site, using exhibit A-3. He stated four (4) recharge pits would be provided; the driveways would not be connected to these pits, only the roof drains. He stated they would be typical in size and confirmed calculations would be provided to the Township Engineer, along with four (4) driveway profiles (two (2) for each proposed driveway). He confirmed the requested soil borings and logs could be done to determine permeability. Mr. Stewart believed the drywells could be placed deep enough for the runoff to breach the ground. He would look at other alternatives for the placement of drywells should this not be able to be done. Mr. Stewart stated application would be made to the Morris County Soil Erosion Control Board, which could be a condition of approval. He confirmed he would review the conflicting figures for the soil movement and a tree removal permit would be submitted.

Mr. Stewart reviewed the proposed retaining walls, based on the comment that they may be too large for the neighborhood. He stated there would be at least 100 feet or more from the retaining walls to the adjacent lots and has natural landscaping buffering.

Mr. Stewart explained the same comments could be addressed to proposed lot 17.01. The wall would be on the left side of the lot, allowing for an approximate 130-foot buffer (80 feet on their lot and 50 feet of the vacant lot). He explained the black oval, on exhibit A-3, would be the storage area for the topsoil, which would be part of the sediment control plan.

Mr. Rosania asked why the subdivision line was placed right of the center of the lot on exhibit A-1. Mr. Stewart explained this was done to limit the disturbance to a smaller area and keep the slopes disturbance to a minimum. Mr. Rosania believed this made for a tight fit with the proposed stairwell and thought it would be better to have the lots more evenly distributed. He then confirmed they did not intend to further subdivide this property.

Mr. Stewart explained the area with the greatest slopes was to the west, which had slopes around 40%. Mr. Rosania confirmed there were 40-50% slopes on the lot, especially closer to Highland

Trail and in the newly graded area, where slopes of 1 to 2 (or 50% slopes) were proposed. Mr. Stewart confirmed this was the standard and believed it was manageable. Mr. Rosania stated that 1 on 3 maximum was better.

Mr. Rosania believed soil borings should be done prior to approval, so that they know that the proposed infiltration pits would work. Mr. Stewart believed this could be a condition of approval and stated if the original proposal would not work, there are other options that could be used. He believed the proposed system would work based on the area's soil mapping done by the County. Mr. Rosania was still not convinced this should be a condition of approval and was concerned with having seepage pits next to steep slopes area because of saturation issues. He asked how this could be remedied if there was a problem? Mr. Stewart stated there were access ways around the proposed walls to the seepage pits, to which Mr. Rosania was not convinced.

Mr. Rosania asked that application be made to Morris County Soil Erosion Control, prior to Board approval. He was concerned the retaining wall, proposed to average of 14-foot high and 175 feet long, would be able to be seen by the neighboring homes on lots 1733, 1735, 1740, and 1742 (as shown on the key map). Mr. Stewart believed the heavily wooded buffer would not allow for the wall to be easily seen.

Richard Tkach (414 North Beverwyk Road, Parsippany) was present and sworn in. He is 50% owner of Briar Rose Group. He presented exhibit A-5, a 7 photo array of the area, taken by Mr. Tkach. He reviewed the photos:

A5-1: Photo taken from 27 Chestnut Hill Drive East, between lots 1740 and 1737.

A5-2: Photo depicting the lot in question, taken from 27 Chestnut Hill Drive East.

A5-3: Photo of lot, taken from around 15 or 11 Chestnut Hill Drive East.

A5-4: Photo of the Board of Adjustment lot, which borders with lot 1701.

Mr. Rosania noted that the upper lots could be seen through the tree line. It was his opinion that there was not a heavily wooded buffer between the adjacent lots. Mr. Tkach stated they would be able to buffer with additional landscaping.

A5-5: Photo depicting the topography of the lot in question, taken from Highland Trail.

A5-6 & A5-7: Photos of a retaining wall similar to what is proposed; located at in the rear yard of 54 Indian Spring Trail (Block 40801, lot 790 and 790). Mr. Tkach confirmed it was built for the lot on which it is located and was about 10.5 feet high with a 4-foot high fence and ran the length of the rear of the lot. Mr. Tkach explained the wall they are proposing would be between one or four courses higher than what is shown here. Mr. Rosania believed this was not aesthetically pleasing and that the existing landscaping was not adequate buffering.

This application was **carried**, with no further notice required, to the April 23, 2008 meeting.

There was a discussion as to whether an extension of time was required. Mr. Buzak confirmed the extension of time could be granted without prejudice to the applicant's claim of default approval. Mr. Hantman agreed and signed the extension of time sheet, with the caveat.

NEW BUSINESS:

OLD BUSINESS:

There will be a COAH seminar on the new regulations in February. Mr. Buzak recommended that the Board Members attend. A discussion on the new regulations ensued.

Kathryn Bowditch, Administrative Secretary

Date adopted