

TOWNSHIP OF DENVILLE  
PLANNING BOARD  
MINUTES

**March 11, 2009**

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, March 11, 2009. 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 Hussa, Chr. Kuntz, Sue Filauro, Glenn Buie, Howard Shaw, Peter Nienstadt, Lou Maffei, Jim Schoner, Kurt Schmitt,  
                  **Professionals present** – Tiena Cofoni, Esq., Nicholas Rosania, PE, PP, William Denzler, PP

**PURCHASING**

Motion to pay vouchers submitted by William Denzler & Associates (dated March 2, 2009) subject to the availability of funds, was made by Mbr. Schoner and seconded by Mbr. Shaw and unanimously approved by all Members present.

Motion to pay vouchers submitted by The Buzak Law Group (dated March 5, 2009) subject to the availability of funds, was made by Mbr. Filauro and seconded by Mbr. Shaw and unanimously approved by all Members present.

**PROFESSIONAL COMMENTS**

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

**PUBLIC HEARINGS**

**CSP 09-02:**                   **SSP Architectural Group**  
                                      **Morris Hills Regional School District**  
                                      **Morris Hills High School**  
                                      **Long Range Facilities Plan**

Ernest Palestis, Ed. D, Superintendent of Schools at Morris Hills Regional School District (48 Knoll Drive, Rockaway) was present and introduced Joann Gilman, Business Administrator & Secretary and Marcus Rosenau, Associate at SSP Architectural Group

Marcus Rosenau, Associate at SSP Architectural Group (148 West End Avenue, Somerville) was present and provided an overview of the five year facility plan on future projects. The concept site plan is generated at the request of the Department of Education for funds allocation and covers educational work, technology and capital work. This five year plan is for interior renovations and capital work at the high school to ensure the facility is up and running for optimal efficiency.

Mr. Rosenau provided a summary of the plan. For Year One the boiler replacements are already complete, field work retaining walls and most of grading is almost complete, auditorium seating is underway. The large scale projects will be implemented over a series of years such as the security systems, card access and lighting replacements. This includes ceilings for energy efficiency, reduction of noise from mechanical systems in the building and classrooms, and to eliminate water leaks.

Chr. Kuntz opened to comments from the professionals.

Nick Rosania, Township Engineer commented on the parking lot and field improvements by the Regency townhouse project. The drainage issues need to be noted. Toll Brothers is already aware that the berm needs to be maintained and the inlets need to remain open during snowplowing.

Bill Denzler, Township Planner commented on the future soccer field lighting. The impact on the community from the field site lighting needs to remain a consideration both from a visibility standpoint, as well as from an angle of lighting.

Chr. Kuntz opened to comments from the board members.

Mbr. Buie inquired about the details of the existing and future roofs. Mr. Rosenau indicated that the roof is approximately 220K sq. ft. and they are investigating their roof options now, possibly a 3 ply roof with a cap. Built-up roofs were discussed and Mbr. Buie recommended TPO roofing as well as, lighting upgrade rebates. Marcus Rosenau was aware of the Smart Start Program and the need to fund the entire project and then get the rebate back.

Mbr. Schoner indicated that it was a nice plan and inquired if this is a requirement for all schools. Mr. Rosenau confirmed that all schools in the state need to do this and any changes require an amendment process. The funds are a combination of state and municipal budgets.

Mbr. Shaw Indicated that being on the school board previously for twenty years there are three types of roofs between the Hills and Knolls.

Mayor Husa inquired about the reason for roof replacement. Mr. Rosenau indicated that they are looking to upgrade the warranty and that the replacement was primarily for significant leakage more than law requirements. Mr. Palestis added that investigation and thermal scan & core testing would be performed. The whole roof may not require replacement but there are some severe leaks that require trash cans in the hallways.

Ernie Palestis, Ed. D continued that the Morris County Freeholders have been exploring the use of solar panels to select school districts. As a pilot, they were selected as one of the few to receive and this is not included in the plan. The concept is that the Morris County Improvement Authority will float the bonds for the solar panel units and through the sale of electricity to the grid will use the proceeds to pay down the bonds and reduce their electric costs. The solar panel installation will be linked with the roof repairs.

Mbr. Maffei wanted a status of future enrollment from an overall standpoint. Mr. Palestis responded that they were in good shape from a demographics standpoint in absorbing what is on the books.

Chr. Kuntz inquired about who oversees the grading of the softball fields. Nick Rosania, indicated it would be their engineer.

Nick Rosania inquired about the Knolls traffic signal issue and if a possible traffic study was part of the budget. Ernie Palestis, indicated that it was not part of the budget but that they would be interested in having a dialogue but that the flow has improved to a degree. Mayor Husa commented that this was discussed as part of budget sessions, as well as sidewalks and was driven by a need due to cost. Mr. Palestis indicated that he would contact the Mayor's office to discuss some of the other items including equitable field usage.

Tiena Cofoni, Esq. indicated that the Board Secretary should send a letter confirming the Planning Board's findings regarding the facilities plan being consistent with the MLUL and Housing element of the Master Plan.

Motion to authorize the Board Secretary to write a letter was made by Mbr. Shaw, seconded by Mbr. Filauro and unanimously agreed to by all voting members.

Roll Call: Ayes – Shaw, Filauro, Buie, Nienstadt, Maffei, Kuntz, Husa

**SP/FSPV 08-04: Orchard Street, LLC  
Block 50410, Lots 11 & 23  
Orchard & Clark Streets**

Michael J. Rowland provided a recap of the application for Orchard Street, LLC. William Denzler, Township Planner recused himself for the record. The applicant is requesting Preliminary/Final Site Plan approval to build a total of 5 residential housing units requiring relief for building length, soil movement, tree removal and a variance relief for off-street parking.

Provided a summary of the revisions made to the plans. As a result of discussions from the October 22, 2008 meeting, the applicant will be presenting a wholly conforming plan. The owners of the property, Mr. Jack Onorati and Mr. Jack Carfagno were available for questions. Professionals Daniel Clark, Architect of Lawrence Korninda Architects and Marc Walker, Engineer of Dykstra Walker was also present.

Mr. Walker was previously sworn and remained under oath and provided a summary of the changes reducing the required variance to only one for parking. The new full conforming plan (Exhibit A-7) Original Exhibit was submitted to board and is similar to the original plan (Exhibit A-6) for parking variance relief. A sidewalk has been added. Improvements along Orchard Street have been made to include evergreens to south side and shade and holly trees to the north side of the building. The dimensions of the building have been reduced 14' so that it meets the 125' building length requirement to eliminate the variance building length. The

footprint has also been modified to include individual decks to the rear of each unit. The setbacks have been modified with the original rear yard setback on the reverse side of Clark Street and side yard setback opposite Orchard Street. The building shape has been modified to provide decks. Variances requested provide 12 parking spaces where 11.9 are required and the plan shows 11.7 parking spaces and the parking calculations have been adjusted to show a total of 12 parking spaces. Some parking is not on property which is required to be on property per the ordinance. The physical road is off-centered in the ROW. 6' from the edge of the street to the ROW and on the easterly side there is 20' from the edge of pavement to edge of ROW. Physical road is shifted away from property leaving a void between the edge of the road to the edge of the ROW. Clark Street is 32' is a wide road. Applicant proposes to widen Orchard St. to 25'. Given the width of Clark St. and flow of traffic on Orchard Street it would be safer to back vehicles out onto Clark than onto Orchard. There is also a stop sign at the corner of Clark and Orchard.

The applicant used Exhibit A-7 a fully conforming plan to show why Exhibit A-6 for a parking variance is a better plan from a planning perspective. Two driveways off of Clark Street and four parking spaces off of Orchard Street. Having parking off of Clark is undesirable. Parking spaces on Orchard Street are in the flood hazard area vs. parking spaces on Clark Street being above the flood hazard area. This project is partially in the flood plane and the DEP jurisdiction would require alternative analysis on the parking out of the flood plan (i.e. A-6) Applicant argues that for safety, flood reasons, parking, traffic and ability to have a sidewalk this is a better from a planning perspective. Having the ROW at the pavement would be undesirable causing pedestrians to be in street or in between cars.

Chr. Kuntz opened to the Professionals.

Nick Rosania, Township Engineer commented that the applicant had done a nice job in addressing all the boards concerns from the last public hearing. Indicated that the plan that was presented as fully conforming may still have a rear yard variance due to a disagreement in terms of what is considered to be the rear and side yards. The renderings all face Clark Street with the backs of the units and decks face the back yard, leaving less than the required 15' in the rear yard and requiring variance relief for a 5' rear setback. Unless the applicant can present why the rear yard is a side yard it would be difficult to move forward with the non-conforming plan.

The attorney for the applicant argued that the matter was more a legal argument than a technical one. Mr. Rowland sited the definitions of corner and side lots using 19-5.725. The front yard setbacks have been met on both Clark and Orchard Streets. The developer determines the designated frontage provided that the front yard setback is met. The driveway and utility access can be from either side of a corner property. The applicant has selected Orchard Street as the front yard and east yard as the side yard and south property as the rear yard with compliance with front yard setback on both Orchard and Clark Streets.

Nick Rosania, PE argued that the ordinance referenced is for subdivisions were the building envelope has not yet been determined for establishing the area of lot to be used and not for buildings with an existing orientation.

Chr. Kuntz announced that there would be a 5 minute break.

After resuming the meeting, Tiena Cofoni, Esq. announced that the matter would have to be researched further. The board attorney further stated that the ordinance indicates that the driveway and utilities connections shall be from this designated frontage. Although the applicant proposes two conforming front yard setbacks it is uncertain if two conforming frontages exist. There was also a question of the lot width requirement as it relates to an overlay zone and not an OB-1 zone. It was suggested that the hearing move forward and continue with the testimony.

Mr. Rowland announced the applicant would continue with testimony from additional witnesses.

Daniel Clark, RA of Lawrence Korinda Architects (55 West West Main Street, Boonton) Mr. Clark provided his credentials and was accepted as a professional witness by the board. Daniel Clark provided a description of the proposed architectural plans using Exhibit A-8 (1<sup>st</sup> Floor Plan), Exhibit A-9 (2<sup>nd</sup> Floor Plan) and Exhibit A-10 (Front Elevations). The elevations have changed to have one continuous roof line with gables drawing less attention to affordable housing unit. Bump out of dimension for living and upstairs bedroom. Additional windows have been added in the side facades. Third floor is attic storage space accessible by pull down ladder for storage or mechanical units.

Nick Rosania, PE inquired about possible of redesign to gain 10' of rear yard setback. Daniel Clark, RA responded that it require considerable downsizing and the elimination of an upstairs bedroom.

Chr. Kuntz opened to the public.

Arthur Korn (15 Lafayette Place) was present and sworn in. Mr. Korn stated he was not a notified member of the public and requested a description of the units. Mr. Clark testified that the four units were 1,600 sq. ft. and the affordable housing unit was approximately 1,000 sq. ft. in size.

Chr. Kuntz closed the public portion and opened this portion of the hearing to the board.

Mbr. Shaw inquired about lighting and parking. Mr. Walker indicated that there would be no lighting on the side of the street or on Orchard Street and that there would not be parking on Orchard Street.

Mbr. Nienstadt inquired about parking as it relates to the centering of the ROW and inquired about basements being considered. Marc Walker testified to four spaces in front of market units and stated that it would improve the situation but not resolve it. Basements are not allowed by the DEP due to a portion being located in the flood area.

Mbr. Maffei inquired a decision had been made for utilities upstairs and ROW for parking and the towns liabilities for slipping or falling. Mr. Clark, RA responded not yet. Mr. Rowland, Esq. responded that everyone home has this situation to one extent or another. Tiena Cofoni, Esq. agreed that in reality it happens everywhere throughout residential areas and further stated that spaces within the ROW cannot be counted as off-street parking. Requiring variance for parking.

Mbr. Schmitt questioned the lighting of the units and landscaping. Mr. Clark testified that there would be down lights on the front porch and in the rear, unless the client requests. Mr. Walker addressed that there was a fence along the property line but landscaping was not proposed.

Chr. Kuntz inquired about the merging of two lots being 9,775 sq. ft. and 9,500 in the overlay zone and inquired what the entire sq. ft. including impervious coverage would be for the entire site. Mr. Walker indicated that another 3,200 sq. ft. for the ROW on top of 9,775 for approximately 13,000 sq. ft. in total. The improved lot coverage allows 90% coverage and they are 67%. If the area required in the 9,500 would fit without variances. An explanation of the 20% set aside was also discussed.

Mayor Husa inquired if it advisable to allow the use of the ROW. The board attorney responded that this was for the planning board members to decide. Mr. Rowland indicated that any development of this property would involve use of the ROW. Tiena Cofoni confirmed that the gap between the property line and the ROW would exist regardless and that the difference was parking within the gap.

Mbr. Buie inquired about drainage and if dry wells exist. Marc Walker spoke to soil logs having been performed and they are being collected from the roof will be piped to infiltration areas. Marc Walker indicated that there would be two air conditioning units on the front yard of Orchard Street and three units on the southerly rear yard.

Mbr. Filauro inquired about the address for the unit. Mr. Rowland responded that it would most likely be Clark Street. Mbr. Filauro's concern was the proximity to adjacent property owner and inquired about vacating the ROW eliminating the problem. Tiena Cofoni indicated it would require additional title work. Mr. Walker mentioned the multi-family homes exist in the neighborhood with existing non-conformities prior to the new zoning. Chr. Kuntz indicated that the home next door just built a new garage or shed. John ("Jack") Onorati (19 Elcock Avenue, Boonton) was present, sworn in and testified that he had no knowledge of the new garage by the neighbor. Mbr. Filauro further commented that the other homes in the area had open space and would like to see less packed into this space, something be included to prevent parking being intrusive for businesses across the street and lighting fixtures have less of a lateral impact to the neighbors. Pleased to see trees along Orchard Street.

Mbr. Schoner spoke to Mr. Onorati's comments regarding economic decisions and inquired if other development was considered. Mr. Onorati spoke to consideration having been made for a small office building and it would have been too small, not fitting the area and economic reasons.

Mbr. Shaw inquired about the fire walls in the attic and voiced concern for building to the minimum code requirements. Mr. Clark indicated that per code it doesn't have to extend past the rafters and that it is up to the builder and the inspectors to determine what is built. Mbr Shaw indicated that he would be satisfied with after Mr. Rowland indicated that the applicant's intent to construct the fire walls right to the ridge pole.

Chr. Kuntz reopened the public portion of the hearing for this application.

Arthur Korn inquired if Mr. Onorati approached other property owners regarding the purchase of their properties and what happened. Mr. Onorati indicated yes several years ago but didn't recall the name of who was approached. Mr. Korn inquired about the driveway on south side of the bank and suggested applicant approach the bank for an easement.

Chr. Kuntz saw no further members of the public and closed this portion of the meeting.

Tiena Cofoni, Esq. recommended carrying this hearing. Mr. Rowland inquired about the reschedule of the hearing date and that an extension would be required by the applicant.

Chr. Kuntz announced the public hearing for this application would be carried without further notice to May 13, 2009.

#### **NEW BUSINESS**

Mayor Husa mentioned the Highlands Council was coming next Tuesday night to discuss the pluses and minuses of the Highlands. Mayor Husa added that there is a COAH page on the Denville website and encouraged everyone to check out the website. Tiena Cofoni, Esq. indicated that only three members can attend to avoid a quorum. It was decided that Mayor Husa, Sue Filauro and Howard Shaw would attend. Mayor Husa was to investigate having it recorded for all to view.

#### **ADJOURNMENT**

Motion to adjourn.

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Denean Probasco, Board Secretary

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Date adopted