

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

March 25, 2009

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, March 25, 2009. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:30 P.M. Vice Chairperson Filauro presided.

Secretary Probasco read Notice of Public Meeting.

Roll Call: **Present** – Mayor Hussa, Vice Chr. Filauro, Howard Shaw, Lou Maffei, Jim Schoner, Kurt Schmitt,
 Absent: Chr. Kuntz, Glenn Buie, Peter Nienstadt
 Professionals present – Edward J. Buzak, Esq., Nicholas Rosania, PE, P.P.,
 William Denzler, P.P.

CORRESPONDENCE

Vice Chr. Filauro referenced correspondence dated March 9, 2009 from Garth Weber, Esq. (Dillon, Bitar & Luther, LLC) regarding the Robert L. Fortunato application. The letter stated the applicant's intention to proceed with the application. This letter was in response to a solicitation of letters from the board secretary. A brief discussion ensued regarding applications that remain incomplete before the board for extended periods of time. The board will revisit the topic of dormant applications in the summer. In the interim, the board secretary is to acknowledge receipt and follow-up with the applicant's attorney.

Correspondence also included a Morris County Freeholder Forum and a letter from the board secretary to Marcus Rosenau, Associate (SSP Architectural Group) regarding the board's response to the Morris Hills Regional School District concept plan. Vice Chr. Filauro also made mention of the revised Planning Board Membership List and reminded members to check their information for accuracy.

PROFESSIONAL COMMENTS

William Denzler, Township Planner indicated that he had no professional comments. Mayor Hussa stated that the Highlands Presentation was filmed and available for sign-out. Interested members should see Irene Stefanacci. Nicholas Rosania, Township Engineer inquired about the footbridge and whether the chain link fence was to remain. Mayor Hussa inquired about the status of the overpass. Nick Rosania indicated that its completion was targeted for October. The Mayor indicated that the consensus was to have the fence removed and whether or not it can be removed. The Township Engineer stated that it was the State's objective was to prevent pedestrians from crossing mid-block and to force cross walk. Mbr. Filauro stated that the temporary fencing for the fireworks was the impetus of the chain link fence. Mr. Rosania indicated that the fence was a result of several factors.

PUBLIC HEARINGS

**SP/FSPV 07-02: 415 Franklin Avenue, LLC
 Block 40101, Lot 3
 415 Franklin Avenue**

Theodore Einhorn, Esq. (Einhorn & Harris) represented the applicant 415 Franklin Avenue, LLC. The applicant is requesting a two year extension of approval for the Preliminary and Final Site Plan and associated variances that was granted on June 27, 2007. Mr. Einhorn testified that the applicant was affected by the down turn in the economy and would like to delay the addition to their building. The approval will expire in June and the applicant is requesting a two year extension. Mr. Einhorn indicated that it would be difficult for his client to comply under current economic conditions and stated that there is no negative impact to the municipality.

Vice Chr. Filauro opened the hearing to professional comments.

Mr. Rosania indicated there were no zone or ordinance changes affecting the condition of approval and recommended approval of the extension.

Mr. Denzler concurred and stated that there are no current or anticipated zone changes in the next year or two.

Vice Chr. Filauro opened the hearing to comments from the board.

Ed Buzak, Esq. indicated that if approved, the extension would begin in June 2009 and explained that his interpretation of the MLUL is that extensions be granted in one year increments not to exceed three years. The extension of protections prevents a developer from being subject to any subsequent zoning or ordinance changes. Mr. Einhorn accepted Mr. Buzak's interpretation of the MLUL.

Motion to **approve** the one year extension was made by Mbr. Shaw, seconded by Mbr. Schoner and unanimously approved by all members eligible to vote.

Roll Call: Ayes – Shaw, Schoner, Maffei, Schmitt, Husa, Filauro

**MFS 08-07: Estate of Robert Cuneo, Sr.
Block 20901, Lot 7
320 Palmer Road**

Theodore Einhorn, Esq. (Einhorn & Harris) represented the applicant Estate of Robert Cuneo, Sr. The applicant is requesting final subdivision approval to create four new lots.

Vice Chr. Filauro received confirmation from the Board Attorney that legal notice was not required.

Mr. Einhorn acknowledged the municipality's street naming policy and indicated that in the event of approval, the applicant would like to address the council in naming the street after a veteran in the family.

Mr. Marc Walker (21 Bowling Green Parkway) was present, remained under oath and accepted as a professional witness. Mr. Walker indicated that a final subdivision plat has been created and referenced reports from the Township Planner, dated February 10, 2009 and Township Engineer, dated March 23, 2009. Testimony to address comments from both reports included that there were several concrete monuments on the site and a number of deed descriptions for dedicated roadways and easements. Mr. Walker referenced the remaining onsite improvements and indicated that access to this site will be made through the Dolce subdivision. Dolce has obtained final approval for curbing, base pavement and street lights. If not already complete, site and sewer easements will be finalized. Bond estimate for remaining work to include sidewalk construction, street lights, shade trees, concrete monuments, top soil, seeding and mulch in ROW, miscellaneous grading, detention basin and trash rack installations.

Mr. Einhorn indicated that as a condition of the preliminary approval that a Developer's Agreement has been entered into with the Township of Denville's municipal council. Mr. Walker testified that all the items that could be complied with at this point in time have been complied. Remaining items relating to individual lots will be addressed when possible in the future. The Preliminary Developer's Agreement will be modified upon approval for a Final Developer's Agreement, then final plat for engineer's approval, deeds of dedicated easements for municipal attorney's review and approval.

Vice Chr. Filauro opened the hearing to the professionals.

Nick Rosania, P.E. indicated that most of the improvements have been or will be addressed and recommend approval.

Bill Denzler, P.P. indicated that any concerns have been addressed at this time.

Vice Chr. Filauro opened the hearing to the board members.

Mbr. Schoner received confirmation from Nick Rosania that a builder can go for preliminary and final site approval and not have to build anything.

Mayor Husa had general questions on the lot numbers and street naming. Mr. Einhorn indicated that Thomas Poulos was a veteran in the family. Mayor Husa inquired about the Morris County report dated December 22, 2008 indicating that the plan was not acceptable for a final plat. Mr. Walker indicated that the map has been sent in a digital format and was now acceptable. Mbr. Filauro stated this should be a condition of approval. Mayor Husa also inquired about COAH. Denzler confirmed Round Three was correct at \$30K per lot.

Mbr. Maffei indicated that the family should be given consideration and inquired about the fire departments comments regarding fire hydrant installation. Mr. Einhorn, confirmed yes to fire department and that it has already been done.

Vice Chair Filauro inquired about possible fencing around the detention basin. Nick Rosania, PE confirmed that this is the correct time to be installed. It was previously discussed that it be similar to pool fencing, durable, practical and not able to be climbed. Mbr. Filauro commented on the elaborate storm water plans. Suggested that trees to remain as much as possible to maintain the beauty of the location and maintain the run-off.

Ed Buzak, Esq. commented on Nick's point that the board doesn't often see the improvements made prior to final subdivision approval. Commented and commended that the board and applicants be commended for subdivision coordination between independent applications to develop the area in such a comprehensive way.

Ed Buzak, Esq. summarized that the board grant final subdivision approval to this development subject to conditions. Conditions to include; execution of an amended developer's agreement, the additional descriptions for easements and rights of way, posting of the bond, completion of final plat acceptable to both the municipality and the Morris County Planning Board, satisfaction of any other requirement by the Township Engineer, submission of the contribution of the applicant's affordable housing obligations as outlined in the resolution, coordination with Township Engineer regarding fencing around the detention basin and lastly, the name of the street to be added as well.

Motion to **approve** the final subdivision with conditions was made by Mbr. Schoner, seconded by Mbr. Shaw and unanimously approved by all members eligible to vote.

Roll Call: Ayes – Schoner, Shaw, Maffei, Schmitt, Husa, Filauro

NEW BUSINESS

Vice Chr. Filauro inquired about standard colors for topographic maps and if one exists. As an Environmental Commission member, Mbr. Filauro commented on seeing more and more inconsistencies regarding steep slopes being of a darker color. Nick Rosania, PE indicated that there is not a standard but that the general trend is light to dark color corresponding to less to more steep slopes. Bill Denzler added that between the County Waste Water Management Plans and the Highlands there will be adjustments to the steep slopes and that this could be done at that time.

Ed Buzak, Esq. referenced the legislature passed a bill for developer's who have received approval for age restricted developments to make application to the planning board to eliminate the age restriction in the development. There are conditions including that the developer provide a 20% set aside for affordable housing. Mr. Buzak's legal opinion is that it will be difficult for the Planning Board to deny the conversion of an age restricted development to a non-age restricted development. Unfortunately, there is no legislation for the municipality to obtain compensation for the additional costs they will see as a result of such conversion. Ed Buzak suggested the council and board members send a letter to the Governor requesting this be vetoed and request a provision that the municipality be able to receive some type of compensation. The new COAH regulations provide a presumptive maximum set aside of 25% as opposed to 20% at densities of 8 units to the acre, 6 units to the acre and 4 units to the acre in sewer service area. Mayor Husa indicated that he was in possession of articles from the League of Municipalities regarding Age restricted developments that would be distributed. Board Secretary to send a short note to the Council.

Mayor Husa added that the Board will eventually need to look at the affordable housing plans. Bill Denzler indicated that the Planning Board will adopt the housing plan and forward to the municipal council. The board will see a side by side review once the Highland information is available.

ADJOURNMENT

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted