

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

August 12, 2009

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, August 12, 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 Husa, Chr. Kuntz, Vice Chr. Filauro, Glenn Buie, Peter Nienstadt, Lou Maffei, Jim Schoner, Kurt Schmitt
Absent: Howard Shaw
Professionals present – Tiena Cofoni, Esq., William Denzler, P.P.

MINUTES

July 8, 2009

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

PURCHASING

Motion to pay vouchers submitted by Denzler & Associates, (dated July 7, 2009) subject to the availability of funds, was made by Mbr. Buie and seconded by Mbr. Nienstadt and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by The Buzak Law Group, (dated July 7, 2009 and July 24, 2009) subject to the availability of funds, was made by Mbr. Buie and seconded by Mbr. Filauro and unanimously approved by all Members present and able to vote.

PROFESSIONAL COMMENTS

Mayor Husa stated he had no comments at this time.

William Denzler, Township Planner indicated that he had no professional comments.

RESOLUTIONS

**MSV 07-10: Joseph D'Egidio
Block 61901, Lot 3
59 Kitchell Road**

A motion to adopt the memorializing resolution of **approval** as amended for the above property was made by Mbr. Filauro seconded by Mbr. Buie and unanimously agreed upon by all members present and eligible to vote.

Roll Call: Ayes - Filauro, Buie, Maffei, Husa, Kuntz

**MS 09-01: Raymond Greene
Block 41302, Lot 20
8 Mendes Street**

A motion to adopt the memorializing resolution of **approval** as amended for the above property was made by Mbr. Buie seconded by Mbr. Maffei and unanimously agreed upon by all members present and eligible to vote.

Roll Call: Ayes - Buie, Maffei, Filauro, Nienstadt, Schoner, Husa

PUBLIC HEARINGS

**MSV 09-03: Hollstein & Jones
100 Woodstone Road
Block 40001, Lot 42 & 50**

Keith E. Paterson, Esq. (124 East Main Street, Suite 104) represented the applicant. The applicant, Gustav Hollstein was present and sworn in. Mr. Hollstein (106 Woodstone Road) inherited the property at 100 and 102 Woodstone Road and was Executor of his mother's estate. Keith Paterson provided an overview of the application indicating that the application was for a lot line adjustment that would give a portion of the property on Lot 42 to Lot 50. The March 11, 2009 report from Denzler and Associates was addressed. Mr. Hollstein indicated that none of the lots had access to a public road and that only private access existed to Woodstone Road. The applicant testified that the garage on Lot 50 was used primarily for parking of personal vehicles and warehousing some construction and electrical material for personal business. No further development of Lots 42 or 50 are anticipated.

Chr. Kuntz opened the hearing to the professionals for comment.

William Denzler, Township Planner received confirmation from the applicant that the garage was not used for manufacturing. For the board, Mr. Denzler reviewed that three variances were being requested. The first was for minimum lot area on Lot 42 being undersized at 33,877 sq. ft. where 81,000 sq. ft. is required. If approved, Lot 42 would become 47,577 sq. ft. in lot area. The second variance being for minimum lot area within 60'. The third variance for an accessory structure not meeting the principal building setbacks of 3,100 sq. ft. The garage does not meet the rear setback based upon the new ordinances. Mr. Denzler stated that there was no detriment associated with the lot line adjustment and all other questions had been addressed.

Chr. Kuntz opened the hearing to the public.

Mr. Gerald Idec (1 Long View East Trail) was present and inquired about a 50' ROW that exists and voiced concerns for use as a walking path and blocking an entrance to a public park. For the record, Mr. Denzler stated that the property in question was not a part of this application and that the police were aware of Mr. Idec's concerns.

Chr. Kuntz inquired if there were other members of the public, seeing none, closed the public portion.

Chr. Kuntz opened the hearing to the board members.

Mbr. Schoner inquired if the property was accessed from Warren Trail or Woodstone Road, if a portion was the towns and if the road would be widened. The applicant indicated that the property was accessed from Woodstone Road, that the property was his and not the towns and there was no intention to widen the road. The dirt path off of Warren Trail was referenced.

Mbr. Filauro referenced the fire department's comments and that the concern was clarified by access from Woodstone and not Warren Trail. The applicant confirmed that water and sewer exist. Mbr. Filauro had no further questions.

Mbr. Schmitt asked Mr. Denzler to confirm that the variances requested already existed and were not being further exacerbated. Mr. Denzler confirmed that the variance for the garage exists already and the variance for lot area would be improved slightly.

Mayor Hussa inquired about the possibility of future sales and concern for Lot 42 to become landlocked. The applicant clarified what properties were his and that an easement exists.

Mr. Paterson testified to the Deed that had been provided for the benefit of Lot 50 over Lot 42 but indicated that an extensive title search had taken place in an unsuccessful attempt to locate the easement for Lot 42 and 50 over Lot 1.01. Tiena Cofoni, Board Attorney indicated that a condition of approval be the generation of a Deed for Lot 1.01 has an access easement granting access for Lots 42 & 50 to Woodstone Road. Mr. Denzler stated that a condition also be that all traffic enter and exit off of Woodstone Road. The applicant agreed to the suggested conditions of approval.

Mbr. Maffei inquired about the dwelling on Lot 50 and if it would stay in the family. The applicant confirmed that his son would be in possession of the home.

Mbr. Nienstadt had no questions.

Chr. Kuntz inquired about the age of the structures. Mr. Hollstein indicated that the structure on Lot 42 was from approximately 1945 and the garage was built in the mid-1950's and the other dwelling on Lot 50 began in the 1930's as a garage that has been added on over the years. Chr. Kuntz had no further questions.

A motion to **approve** this application with conditions was made by Mbr Filauro, seconded by Mbr. Hussa and approved by all members present and eligible to vote.

ROLL CALL: Ayes – Filauro, Hussa, Buie, Nienstadt, Maffei, Kuntz

**NJSA 40:55D-13 Master Plan Amendment
Land Use Plan Element
Downtown Overlay Zone**

William Denzler, Township Planner provided a recap of the amendment from the 2006 Re-Examination Plan. Under the Land Use Plan a new downtown residential overlay zone for high density multi-family residential was proposed along Lots 11, 16, 23 and 25 on Block 50410 along Orchard Street. Based upon a review of that ordinance, this amendment proposes to remove the overlay zone and restore the OB-1 Zone. The reasoning to more appropriately represent the lot sizes and dimensional characters of the neighborhood and reduce impacts to the local street network, prevent potential negative impacts for high density residential within identified 100 year flood hazard areas. While advancing several purposes of the Land Use law providing municipal action and appropriate locations for the development of lands and to secure safety from flood, to establish appropriate population densities, appropriate space and locations for residential, office according to their environmental requirements and to promote desirable visual environment and good civic design.

Chr. Kuntz opened to the public and seeing no one, closed the public portion.

A motion to **approve** this amendment to repeal the downtown residential overlay zone for introduction to the Council was made by Mbr Schoner, seconded by Mbr. Nienstadt and approved by the majority of members present and eligible to vote.

ROLL CALL: Ayes – Schoner, Nienstadt, Filauro, Maffei, Schmitt, Husa, Kuntz
Nays – Buie

NEW BUSINESS

Chr. Kuntz referenced complaints regarding a Karate Studio being on the first floor. Mayor Husa commented that there was a CPR training company that was unable to lease on the first floor and inquired how this was possible. Bill Denzler, Township Planner indicated that the ordinance prohibits office use and that karate is not an office use. Chr. Kuntz stated that the ordinance states retail only on the first floor. Mr. Denzler clarified that it states retail, sales and service. Chr. Kuntz indicates that the problem is the parking with dropping off and picking up students. Bill Denzler stated that parking wouldn't change whether it's the first or second floor. Mayor Husa would like this investigated further. Mr. Denzler pointed out that there is more than one zone involved. He stated that it would require a tightening of the current ordinance that is broad and perhaps incorporate a schedule of permitted uses.

Open discussion continued. Chr. Kuntz referenced the need for the health department to investigate licensing of nail salons. Tiena Cofoni, Board Attorney suggested that specific complaints be directed to Bill Denzler or the health department. Mbrs. Filauro and Schoner commented on construction vehicles, heavy equipment and materials in residential areas. Mayor Husa referenced never-ending permits. Bill Denzler explained that in these ongoing open permits that the State statute supersedes. Mbr. Buie referenced contacting the NJDOT regarding an incomplete sidewalk on Route 46 near Wendy's.

ADJOURNMENT

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted