

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

September 9, 2009

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, September 9, 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 Husa, Vice Chr. Filauro, Peter Nienstadt, Lou Maffei, Jim Schoner, Kurt Schmitt
Absent: Chr. Kuntz, Glenn Buie
Professionals present – Edward Buzak, Esq., Nick Rosania P.P.

MINUTES

August 12, 2009

Motion to adopt the minutes as submitted was made by Mbr. Nienstadt, 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 August 11, 2009) subject to the availability of funds, was made by Mbr. Shaw, seconded by Mbr. Nienstadt and unanimously approved by all Members present and able to vote.

CORRESPONDENCE

Vice Chr. Filauro thanked Chr. Kuntz for requesting new Residential Site Improvements Standards Books were purchased for distribution to the board members.

PROFESSIONAL COMMENTS

Mayor Husa had no comments.

Nick Rosania, Township Engineer stated there was nothing unusual to report.

RESOLUTIONS

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

A motion to **adopt** the resolution approving an amendment to the land use element of the Master Plan was made by Mbr Shaw, seconded by Mbr. Maffei and approved by the majority of members present and eligible to vote.

ROLL CALL: Ayes – Shaw, Maffei, Nienstadt, Schmitt, Husa, Filauro

PUBLIC HEARINGS

**MSV 09-05: Katherine Hall
Block 10901, Lot 15.01
Tulip Lane**

At the applicant's request this application was adjourned from the scheduled July 8, 2009 agenda. Howard Spear, Esq. (College Plaza, 477 Route 10, Randolph, 07869) represented the applicant, Katherine Hall. Applicant is requesting minor subdivision approval to create two lots requiring variance relief for minimum lot depth. The existing lot fronts Tulip Lane and is approximately 96,000 sq. ft. Proposed lots will be conforming in all respects with the exception of one lot 11' short where 230' in depth is required. The original application was 4' short but professionals had suggested part of the street be dedicated. Mr. Spear indicated that two professionals would be testifying.

Michael Textores, P.E. of Van Cleef Engineering (299 Cherry Hill Road, Suite 102, Parsippany, 07054) was present, sworn in and accepted as a professional witness. Testified to a small triangular portion of the property residing in Parsippany (Block 6, Lot 12.01). Tulip Lane is an improved street, all utilities have been completed for public sewer and water service and only the top layer of the road remains to be completed. Numerous trees in the 12-15" range currently exist on the 2.3 acre property. Proposed lot area of 42,342 sq. ft. on Lot 15.01 and proposed lot area of 42,860 sq. ft on Lot 15.02. Variance for lot depth on Lot 15.01 proposed 226' where 230' is required. Referenced William Denzler's suggestion (Exhibit A-1 dated April 20, 2009) to incorporate the ROW as dedicated at 50' wide. The applicant has agreed to this 50' dedication thus changing the lot areas. The only variance that will remain is proposed depth on Lot 15.01.

Vice Chr. Filauro opened the hearing to the professionals.

Nick Rosania, Township Engineer commented on the applicant owning property on the Parsippany side and inquired about further subdivision and possible cut through from the Parsippany side. Mr. Textores confirmed that the Parsippany lots had already obtained approval for subdivision to front on Violet Street and that no cut-through was intended. The existing 40' ROW to the north of the property was referenced and Mr. Textores indicated that Mr. Spear would comment. Howard Spear, Esq. testified that a dedication remains until the town either accepts or rejects the ROW. Puddingstone has access to Violet Street. Mr. Spear confirmed that no tie exists to Puddingstone. Mr. Rosania inquired about drainage and Mr. Textores indicated that applicant would agree as a condition of approval. Applicant agreed to add dry wells for roof runoff. No steep slopes exist. Shade trees at the township engineer's discretion should exist at 50' intervals to mirror those homes built on the north side of Tulip Lane. Nick Rosania added that Grading and Drainage Plan could be a condition of approval along with MCSCD. Confirmed that a fire hydrant had been installed and that MCPB has provided a letter confirming exemption. Mr. Rosania indicated that Grading and Drainage plan to be a condition of approval, as well as MCSCD approval. The Tax Assessor has provided addresses. Lot 15.01 being 3 Tulip Lane and Lot 15.02 being 5 Tulip Lane. Mr. Textores referenced the dedication of the ROW and that revised drawings would be provided to reflect the change in lot area. Vice Chr. Filauro inquired about full area and it would be taken from the 53K sq. ft. lot. Buzak sought confirmation of the expansion of the ROW dedication impacting both lots, Textores confirmed. Buzak inquired about the 10' and Textores responded that the actual dedication is actually a triangle instead of a circle measured from the center of the lot. Depth of the lot prior to the dedication was 226'.

Steven Ira Smith, Planner of Jaman Engineering (320 Route 10 West) testified as planner and surveyor. Mr. Smith testified that the originally proposed lot depth of 226' has been changed to a proposed lot depth of 219' where 230' is required. The variance of 219' is de minimis in nature based on the irregular shape of the property. The existing shape and request of the additional dedication creating a hardship of substantial underutilization based upon the density permitted for the zone allowed by the ordinance. No negative impact on the neighborhood or the zone plan. The proposed is not impacted by wetlands, steep slopes or a flood zone.

Vice Chr. Filauro opened to the professionals for comment.

Nick Rosania, P.E. agreed with the testimony that the variance was de minimis in nature.

Vice Chr. Filauro opened to public and seeing none, closed the public portion.

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

Mbr. Shaw commented on the trees. Mr. Smith responded an open area existed in the wooded area but essentially wooded. Mbr. Shaw inquired if the corners would be marked physically to prevent eventual lost. Mr. Smith responded that there would be a monument at the new edge of the ROW. Mbr. Shaw's questions were satisfied.

Mbr. Nienstadt inquired about the 40' ROW. Howard Spear, Esq. confirmed the offer of dedication was for public use until the town accepts or rejects it, the town can conceivably vacate or accept and use it. The board could suggest that the mayor and council take action. Mbr. Nienstadt had no further questions.

Mbr. Maffei inquired about the small piece of land in Parsippany. Steve Smith responded that as far as Parsippany is concerned it's Denville's.

Mbr. Schmitt inquired about the square footage and if it included the Parsippany lot. Mr. Textores commented on the calculations just for the lands of Denville. Confirmed that Lot 6 in Parsippany will be annexed to Denville's lot. Mbr. Schmitt had no other questions.

Vice Chr. Filauro commented on the 50' setback being measured from the township line. Mr. Smith indicated that it's measured from the rear property line and that Parsippany has a smaller setback than Denville. Mr. Buzak added that the inconsistency is with the measurement not including the Parsippany square footage for lot area but then the setbacks being measured from the property line. Mr. Smith confirmed to Ms. Filauro that this portion does not exist and is for the purposes of boundary lines for this subdivision.

Mr. Buzak commented on Lot 15.02 being located in two municipalities and that the subdivision would create a tax lot in Parsippany. Mr. Smith indicated that this is common on tax maps. The matter of taxes is beyond the board's prevue.

Mayor Hussa commented on the triangular piece being an assumption once the ROW is vacated. Going on to comment on the proposed ROW being resolved at some point. Mr. Buzak commented on the Subdivision Lot 15.02 versus Tax Lot 15.02. Mr. Smith confirmed the square footage was 1,116. Mr. Buzak commented that if vacated, the perimeter description for Lot 15.02 would be irregular in shape. Mayor Hussa added that it would be good to determine what the ROW would be used as (i.e. pedestrian traffic, vehicles, etc.) and possible restrictions. Mr. Spear stated that they would be agreeable to leaving

12-15' access for pedestrian use but ultimately, it was up to the town to decide what should be done with the ROW and it would be up to the council to decide. There was further discussion regarding the irrevocable dedication of the right of way and possible acceptance of the ROW.

Mr. Rosania commented on an 10' additional being held as side yard. Mr. Buzak acknowledged the Township Engineer's comment and inquired about the measurement of the edge of the ROW and the lot line. Hold the property line and not the easement line as the setback. Referenced the Planner's report and that this was not a concern of the Planner and that it the property line that should be held as the setback and not the easement line.

Ed Buzak, Board Attorney provided a recap of the application, referencing conditions of approval to include; submission of Soil Erosion Sediment Control Plan to MCSCD, revision of plans to reflect lot depth, Tulip Lane as 50' width, subject to Scarce Resource Order, rear yard of Lot 15.02 to be measured under Denville's ordinance, Lot Grading Plan, Shade Trees, Dry Wells and reference to Right of Way.

A motion to approve this application with conditions was made by Mbr. Shaw, seconded by Mbr. Maffei and unanimously approved by all members present and able to vote.

ROLL CALL: Ayes: Shaw, Maffei, Nienstadt, Schmitt, Husa, Filauro

OLD BUSINESS

Mbr. Schoner referenced the lighting ordinance and requested an update. Nick Rosania responded that Bill Denzler had been working on it. Mbr. Schoner to send a memo to Nick and Bill.

Mayor Husa commented on receiving more information and updates from committee liaisons. This would include reports to council on new developments, population changes, etc. The mayor encourages the liaisons to report such information.

NEW BUSINESS

It was conveyed by an outside audio transcriber that private conversations can be heard on the audio tapes. Secretary Probasco advised the board members to turn off individual microphones when they are not speaking and to be aware that the mics are sensitive enough to record even the quietest conversations.

ADJOURNMENT

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted