

TOWNSHIP OF DENVILLE
 PLANNING BOARD
 MINUTES

March 10, 2010

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, March 10, 2010. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:30 P.M. Chairperson Filauro presided.

Secretary Probasco read Notice of Public Meeting.

Roll Call: **Present** – Mayor Hussa, Chr. Filauro, Vice Chr. Lou Maffei, Marilyn Kuntz, Don Kuser, Pete Nienstadt, Jim Schoner, Kurt Schmitt
 Absent – Glenn Buie
 Professionals present – Ed Buzak, Esq., Nicholas Rosania, PE, William Denzler, PP

MINUTES
January 27, 2010

Motion to adopt the minutes as amended was made by Mbr. Kuser seconded by Mbr. Kuntz and unanimously approved by all Members present and able to vote.

PURCHASING

Motion to pay vouchers submitted by Denzler & Associates, (dated January 18, 2010) subject to the availability of funds, was made by Mbr. Kuntz 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 February 9, 2010) subject to the availability of funds, was made by Mbr. Maffei seconded by Mbr. Hussa and unanimously approved by all Members present and able to vote.

CORRESPONDENCE

Chr. Filauro referenced two letters from Denville's Municipal Clerk, one dated February 12, 2010 to Eileen Swan of New Jersey Highlands Council regarding adoption of Resolution 10-41, another dated March 5, 2010 to Rene Axelrod, Morris County Planning Board regarding amending Chapter 19, Zoning to permit the operation of a Seasonal Farmer's Market. Correspondence also included an invitation to board members for attending the Annual Municipal Summit to be held on March 31, 2010 at the Morris County College. Chr. Filauro recommended reading the League of Municipalities Magazine for useful articles on sustainability of water.

PROFESSIONAL COMMENTS

Nicholas Rosania, Township Engineer had no comments.
 Chr. Filauro inquired about the Young property on Thurmont Road tree clearing on the property. Nick Rosania indicated that the trees were from another area and no tree clearing was taking place.
 William Denzler, Township Planner indicated that he had no comments.
 Mayor Hussa stated that he had no comments.

RESOLUTIONS

PSP/FSPV 09-07 LLD, LLC
 Block 51005 Lot 3
 300 Route 46 West, Mosswood Trail, Lakewood Drive

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

Roll Call: Ayes – Kuntz, Nienstadt, Schoner, Schmitt, Hussa, Filauro
 Abstain - Kuser

AFSPV 09-08 Pierson Industries, Inc.
 Block 40302, Lot 6
 9 Astro Place

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

Roll Call: Ayes – Kuntz, Schoner, Nienstadt, Schmitt, Hussa, Filauro
 Abstain - Kuser

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

Keith Paterson, Esq. represented the applicant. Applicant is requesting an extension of the 190 day deadline to perfect their minor subdivision approval with variance relief for rear yard setback under NJSA 40:55D-47(f). Mr. Paterson indicated that there were some delays regarding the access easements over a neighbor's property and the remaining open item is the Deed for Lot 42.

Chr. Filauro opened to the professionals for comment.

Bill Denzler, Township Planner had no planning related comments, stating that there have been no zoning changes that would change the previous determination of the board.

Nick Rosania, Township Engineer concurred with Mr. Denzler that there is nothing unusual that would be no impact on granting the extension of time.

The Board Attorney, Ed Buzak spoke to the deadline date being different than the March 22, 2010 date referenced by the applicant's attorney. One hundred ninety days from the September 23, 2009 adoption of the resolution would be April 1, 2010. Mr. Buzak spoke to the extension of time not being an extension of protections. The statutory section referenced allows the 190 day period extension under the condition of the developer proving to the reasonable satisfaction of the board that the developer was barred directly or indirectly from obtaining approvals from a government body and that those approvals were requested and applied for diligently during this period. The Planning Board does not have absolute discretion to extend the time to record the deeds under the statute. The statutory section referenced allows the Planning Board to extend the 190 day filing of the minor subdivision under a single situation. The Developer must prove that he applied for and was unable to obtain governmental approval. The alternatives would be to either not grant the extension or to reapprove the minor subdivision. In order to reapprove, legal notice would have to be given and a vote could not be taken tonight.

Keith Paterson, Esq. provided formal withdrawal of the request for extension. Stating that in the event that the subdivision cannot be perfected by April 1, 2010 the applicant would return to the board for re-approval of the original subdivision after providing legal notice.

PUBLIC HEARINGS**Clark Street Parking Modification**

Chr. Filauro announced to members of the public that the Council was still in deliberation regarding the budget and that this application would be carried to the April 14, 2010 public hearing without further notice.

Seasonal Farmer's Market – Courtesy Review

Liisi Lascarro stated that the intention is to have a Seasonal Farmer's Market but that the ordinance preventing outdoor sales has been the hurdle. Ms. Lascarro indicated that she has been working with Kristin Pamperin, Chair for Chamber of Commerce to sponsor this project. A meeting in February before the Council went favorably but that an Ordinance change must take effect.

Mayor Husa explained that our current land use law prohibits outdoor vendors and outside businesses. This provision would allow for an outdoor farmer's market with careful control.

Bill Denzler, Township Planner explained the timing involved. The Council introduced the Farmer's Market Ordinance at the March 2, 2010 meeting. The Planning Board reviews the ordinance and provides formal comment after determining that it is consistent with the Master Plan and back to the Council. Council meeting adoption scheduled for April 6, 2010.

The market would be held at the Upper Bloomfield parking lot on Sundays from 8:30 a.m. to 1:00 p.m. in for a period of 22 weeks beginning on June 27, 2010 through November 21, 2010. The Township leases the lot from the owner, Gannett Outdoor. The lease is being revised to accommodate. Two of the seven rows of parking would be for vendors and the remaining rows would be available for the customers. The market would be comprised of an anticipated twelve vendors. Two or three vendors would be farms, one organic, one each specializing in fruits or vegetables. The first right will be given to Denville vendors. Specialty vendors such as cheese or baked goods. Once weekly a local restaurant would be featured to allow showcasing samples. Only items from commercial kitchens are allowable. Sunday's were chosen as a way of bringing more people to downtown businesses on Sundays. Ms. Lascarro will document the success of the farmer's market and report the findings to the Council.

Chr. Filauro opened to the board for questions.

Mbr. Schoner inquired about fees for the vendors to cover the administrative costs of port-a-potty's, trash removal and traffic direction from police. Ms. Lascarro indicated that there are both seasonal and weekly fees with discounts for local businesses. The fees are determined by canopy size. The largest cost will be advertising. A cost of \$40/week for out-of-town vendors and \$30/week for town vendors. A meeting will be held with Marie Goble, Township Administrator to discuss the police and trash. Traffic control is not anticipated since the market will be held in the parking lot and customers will not be crossing the street. If police were required it would be the responsibility of Ms. Lascarro as the onsite manager and not the taxpayers. Mbr. Schoner inquired about the hours of operation being mid-day instead of early in the day. Ms. Lascarro indicated that the farmer's market people and those coming from church are early risers. As a trial year, it will be easier to extend the hours if required.

Mbr. Kuntz asked the Township Planner for comments on the ordinance. Mr. Denzler confirmed that he had already tailored the ordinance. Mbr. Kuntz then inquired about other merchandise besides produce. Ms. Lascarro indicated that there will be a "full basket" cheese, pickles and bread that are produced by the business selling it. Mbr. Kuntz inquired about the types of merchandise to avoid the sale of tee-shirts and avoid a flea-market. The Board Attorney clarified that the sale of goods would be of an agricultural and food nature and can be controlled by the sponsor. Ms. Lascarro indicated that a contract will be approved by the Chamber of Commerce prior to going to the vendors.

Mayor Husa inquired about restaurants versus not for profit organization. Mr. Denzler and Ms. Lascarro both confirmed that there was one local restaurant and one not-for-profit-organization weekly. Mayor Husa commented that he thought the hours of operation were early.

Mbr. Kuser commented that the council is in full support of the farmer's market. It's not a destination where people go and stay all day but to go to shop and hopefully spill over to the town to shop and eat in town. No bathroom is provided when you go to the bank.

Mbr. Maffei commented that Morristown, Chatham, Summit and Wharton have similar markets and that the success lies on the invitations to the vendors and protects both the vendors as well as, the chamber of commerce. Ms. Lascarro mentioned that they are lucky to have the number one vendor (Jeff O'Hara).

Mbr. Schmitt commented that it is a good idea and the early Sunday morning will be less likely to compete with downtown stores. Looks upon it favorably and likes the idea that it can be modified if required.

Mayor Husa commented that Kristin and Liisi have worked hard on this project and that much feedback has been received urging the farmer's market. Overall being a good thing for Denville and having the Mayor's support.

Chr. Filauro stated that she's done a lot of projects with Jeff O'Hara. He has terrific produce and will be nice to have him. For the board, Chr. Filauro added that Jeff O'Hara leases township property on Cooper Road and is a tenant farmer.

Mbr. Kuntz inquired about the gardens on Diamond Spring Road. Mayor Husa added that our law provides if it's grown in Denville you can sell it. They could add a booth on their property. They could be a part of the market. Ms. Lascarro stated that if the prices are too low it will harm the other vendors but they would take it into consideration.

Discussion of Township Ordinance #7-10 to amend and supplement portions of Chapter 19 zoning for land use regulations to allow for a seasonal farmer's market.

A motion to **approve** this ordinance was made by Mbr. Kuser, seconded by Mbr. Nienstadt and approved by all voting members.

ROLL CALL: Ayes – Kuser, Nienstadt, Kuntz, Maffei, Schoner, Husa, Filauro

Gardner Field Bandstand - Courtesy Review

George Hrobuchak, President of Denville Rotary Club presented the proposed Bandstand at Gardner Field. Site visits of Montville, Parsippany and Hopatcong took place, as well as subsequent meetings with the mayor, township engineer and public works. Club members, Mike Meola will oversee the construction and Lou Barbieri, Architect has designed the plan. The bandstand would be located near the existing flagpole facing the east, elevated 8' higher than the ball fields down below. 36 x 32 slight "T" shape with opening on front. The rear elevation of 5'10" would be level with the parking lot.

Chr. Filauro opened to the professionals for questions.

Nick Rosania, Township Engineer inquired about the construction schedule. Lou Barbieri responded that the final construction drawings will be available in approximately three weeks along with a complete materials list. When complete material donations from vendor's and manufacturer's will be requested. The township will be assisting with the foundation work. Construction to begin at the end of April. Mr. Rosania inquired about the cost involved. Mr. Barbieri stated that all will be through donations of labor, materials. The rotary has donated \$15K of the approximate \$40K project. Mr. Hrobuchak stated that Wickes Lumber has offered a nice donation the details of which are not available. Lakeland Surveying has donated the survey of the elevations area. Nick Rosania indicated that the location is on the fringe of the flood hazard area. It is the Township Engineer's determination that it is de minimis in nature. Lacking a foundation, the structure is less of a structure and more similar to a deck. The NJDEP does allow a certain amount of construction in the flood zone without a permit. If not considered a de minimis issue, the project would require NJDEP approval. Mayor Husa stated that we do need to notify NJDEP 14 days prior to construction under the provision of Permit by Rule. The Mayor will get the information from Mr. Barbieri to work on applying to the NJDEP for Permit by Rule. This involves sending a letter to the NJDEP outlining the project showing that the requirements of permit by rule are being met.

Chr. Filauro opened to the board members for questions and comments.

Mbr. Schmitt commented on the nice design and inquired about power, lighting and maintenance. Mr. Barbieri confirmed that when complete, maintenance of the wood structure would become the responsibility of the town. The bandstand will be 18' in height with power for amps and lighting.

Mbr. Maffei commented on the nice design being a nice addition and suggested it bear the name of the Rotary.

Mbr. Nienstadt commented on bandstand and being a perfect use. Inquired about parking of commercial vehicles on Savage Road.

Mayor Husa responded briefly that the Town Clerk may be able to assist with information on this. Tightening of parking regulations may be a possibility.

Mbr. Kuser commented that the design was fantastic and mimicking the existing buildings in the future. Voiced concern for the safety factor of construction during the baseball season with the equipment in the parking lot. Concrete foundation with steel columns wrapped in pine wood for painting or staining as a possibility. If white, suggested maintenance free products. Mr. Barbieri indicated there would be ten six by six columns.

Mbr. Kuntz voiced concern of the height of the building. Mr. Barbieri stated the roof height is important for visibility with a 7 on 12 pitch, with the majority of the roof at 14-15' and would contain 4 x 10' removable acoustical panels.

Mbr. Schoner commented on the project being nice and having nice contributions from the town. Mbr. Schoner agreed with minimum maintenance and avoidance of pressure treated products. Recommended a change in shingles and suggested access for future ceiling fans. Inquired where the storage of panels would be and inquired if gutters would be necessary. Mr. Barbieri indicated one 8' gutter in the center all other runoff back into the soil. The ten panels can be stored beneath the existing pavilion.

Chr. Filauro inquired about the space between the bandstand and chain link fences. Mbr. Kuser advised the fence is removable. Chr. Filauro inquired about a walkway for direction to the lower level. Mr. Barbieri indicated that the access is the same as now. Gentle slope would be the same as it is currently.

Mayor Husa provided thanks to the gentlemen that have spent time on this project and provided assurances that the scheduling will be coordinated around the sports schedule.

The Board Attorney provided a recap of the board's recommendations that the columns are wrapped in low or non-maintenance materials, provisions be made for ceiling fans and that architectural shingles be used.

A motion to **approve** the recommendations to the Rotary was made by Mbr. Schoner, seconded by Mayor Husa and approved by all voting members.

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

OLD BUSINESS

Chr. Filauro referenced the Summit that begins at 5 p.m. on March 31, 2010.

NEW BUSINESS

Mbr. Kuser reiterated what Bill Denzler said regarding the Council's interest in having Planning Board members evaluate the Highlands Council regulations for future adoption. Some items to investigate are well heads and water set-backs to strengthen our zoning. On April 13, 2010 Eileen Swan will be coming to a Council Meeting. The Council wants to continue looking into the Highlands and welcomes advice from the Planning Board members.

Chr. Filauro referenced an upcoming zoning board of adjustment meeting regarding a challenge to the zoning of the Master Plan. Fast food restaurants are a non-permitted use on the Route 10 corridor. Chr. Filauro mentioned that the Planning Board Chair from Mountain Lakes has suggested a joint informal meeting. In the past these types of meetings have been beneficial in exchanging information regarding water, traffic and other items that impact both communities.

ADJOURNMENT

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted