

TOWNSHIP OF DENVILLE  
PLANNING BOARD  
MINUTES

**May 12, 2010**

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, May 12, 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, Glenn Buie, Don Kuser, Jim Schoner, Kurt Schmitt  
                      **Absent** – Peter Nienstadt  
                      **Professionals present** – Ed Buzak, Esq., William Denzler, PP

**MINUTES**

**April 14, 2010**

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

**PURCHASING**

Motion to pay vouchers submitted by Township of Denville, (dated March 9, 2010) subject to the availability of funds, was made by Mbr. Buie seconded by Mbr. Kuntz and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Denzler & Associates, (dated March 8, 2010) subject to the availability of funds, was made by Mbr. Buie, seconded by Mbr. Kuntz and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by The Buzak Law Group, (dated May 1, 2010) subject to the availability of funds, was made by Mbr. Buie seconded by Mayor Hussa and unanimously approved by all Members present and able to vote.

**CORRESPONDENCE**

Chr. Filauro referenced various correspondence regarding the Land Use Ordinance #7-10 allowing a seasonal farmers market that was adopted on April 6, 2010, a letter from the State of New Jersey Council on Affordable Housing regarding the Waiver Request on Bedroom Distribution and Pricing dated April 6, 2010, An April 14, 2010 letter from the State of New Jersey Department of Environmental Protection regarding the 14-Day Permit-By-Rule Notification for the proposed construction of the Gardner Field Bandstand, Engineering Department Activities Report dated March 22, 2010, a letter from Howard Spear, Esq. on behalf of Katherine Hall requesting the Council reject the offer of dedication on a 40-foot right of way easement dated April 16, 2010, monthly New Jersey Planner publication, League of Municipalities Convention Registration Request for Interested Attendees. Additionally, three pieces of correspondence regarding the Orchard Street, LLC vs. Denville Township Planning Board would be discussed in closed session.

League of Municipalities interest was obtained. Interested parties were Chr. Filauro, Mbrs. Nienstadt, Schoner and Buie. Mayor Hussa mentioned the decision regarding the fees being borne by the member if no replacement is found and they are unable to attend. Chr. Filauro indicated that the memo was clear. Secretary Probasco referenced less than the allowed number of zoning board members would be attending and if applicable township funds could be used to send four members from Planning Board (i.e. not to exceed six members).

### PROFESSIONAL COMMENTS

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

### NEW BUSINESS

Chr. Filauro referenced an article in the New Jersey Planner regarding the time of decision and its affect on the Master Plan. Emphasizing the importance of reading the article for those who haven't already done so. Ed Buzak, Board Attorney elaborated on the Time of Decision rule indicating essentially that the law in effect at the time applies. In the context of the Planning Board it would allow the governing body to change the ordinances in effect during the course of the application. Thus freezing the ordinances and laws in effect at the time the application is made. Once a developer files an application, it is those set of requirements that will apply during the entire process, including appeals. Indicating that most municipalities have opposed. Taking effect one year from its enactment. Reexamination of the Master Plan or review of the ordinances affecting development within the year before an application is filed. The statute does not reference a "complete" application, stating only an application. The cost of such a review would be borne by the municipalities or by volunteers as no funding has been allocated. Definition of application to be clarified to as "complete" application. Interpretation issues should be anticipated.

Chr. Filauro asked Bill Denzler, Township Planner to review his May 6, 2010 report summarizing Denville Township's Third Round COAH Obligation. New Senate Bill S-1 (scheduled for decision next week) could abolish COAH and task force on March 19, 2010. Only 5% of all building permits issued were affordable housing. Currently waiting for the Governor's office with a June 8, 2010 deadline to avoid lawsuits. Public Hearing on May 26, 2010, to Council for endorsement on June 1, 2010.

Three properties determined as potential affordable housing yields were Vanderhoff, Route 10/Franklin and Astro Place. **Vanderhoof Ave./Dock Road** (Block 62002, Lot 1 - 19.0 Acres) Reviewed the report to recommendation for rental units with a 2 for 1 bonus, doubling the number (8:00) Most bang for the buck. 80-100 and double in terms of rental bonuses. This one property could fulfill the entire obligation. **Route 10/Franklin Road** (Block 20801, Lot 4 - 16.12 Acres) Reviewed affordable units with remaining acreage for possible senior housing or Assisted Living. **Astro Place** (Block 40001, Lot 6 - 12.94 Acres) Primarily a frontage development due to steep slopes. Can be determined at a later date. Located off of the Regency an assisted living facility would make sense. Spoke to density bonuses. The process is very time consuming. The document is fluid and subject to change. Mr. Denzler confirmed that the report reflects the worst case scenario numbers. Using three scenarios for total obligation 615 units for COAH assigned numbers, 463 for Highlands Buildout numbers and 485 COAH Adjusted Buildout Numbers. Lot by lot analysis for the Township reflects 90 large subdividable parcels of land. Housing trust fund monies that have to be used, duplexes and triplexes. Of 600 remaining vacant lots, 500 are individual and 90-100 are subdividable. The smaller the unit the less school age children. Potential amendments to the plan can occur at any time as the laws change. Discussion included Vanderhoof as having less impact on the Denville road systems and children going to Riverview school vs. Lakeview school. Bill Denzler spoke to an unmet need. Large parcels in town can be addressed by rezoning. Astro can be included but not necessary. As a protection only, no action required. Vanderhoof is owned by the town and is the large portion of the requirement. Route 10 is a good regional location. Much discussion on which sites should be included in the plan. Although no obligation exists. Inclusionary is a mix of both affordable and market priced units. Franklin/10 to be removed. If Vanderhoof is owned and can be committed solely, 12/13 units of large homes. It was the general consensus of the board that Vanderhoof would be committed solely. Astro would be included if required but Franklin/Rout 10 site should be removed.

Chr. Filauro announced that we would enter into closed session to discuss the potential appeal of Orchard Street.

Mbr. Buie made a motion to enter into closed session, Mbr. Maffei seconded the motion.

The board entered into closed session.

After opened the meeting to the public and returned to open session.

Mr. Denzler informed the board that the towns legal counsel advised he does not need to recuse himself on this application. This is based on the fact that Mr. Denzler is not a property owner.

**ADJOURNMENT**

Motion to adjourn.

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Denean Probasco, Board Secretary

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Date adopted