

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

September 8, 2010

The Planning Board of the Township of Denville held its regularly scheduled meeting on Wednesday, September 8, 2010. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:30 P.M. Vice Chairperson Maffei presided.

Secretary Probasco read Notice of Public Meeting.

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

MINUTES

August 11, 2010

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

PROFESSIONAL COMMENTS

Nicholas Rosania, Township Engineer commented on the routine business.

William Denzler, Township Planner had none.

Mayor Husa had no comments and advised that Councilwoman Smith was seeking information on the veterinary place between TV Leo and doctor's office.

PUBLIC HEARINGS

Denville Land Use Ordinances #22-10, #23-10, #24-10 & #25-10

Review of the ordinances introduced at the August 17th Municipal Council meeting and scheduled for adoption at the September 21st Municipal Council meeting:

Ordinance #22-10 – New Section “Property Maintenance”

Vice Chr. Maffei opened the application to the professionals.

Bill Denzler, Township Planner stated that the ordinances were first introduced in April and prepared by Mr. Denzler for discussion at the Council workshop meetings in June and further amended and reviewed in August.

The property maintenance ordinance began as an abandoned vehicle ordinance and after looking at what other towns have in place has evolved into an ordinance with more depth. The legal content is consistent with other property maintenance ordinances, the definitions used are consistent with the building code and the other items have been added due to complaints. These items include exterior structures and property areas, swimming pools, sanitation, grading, drainage, extermination, landscaping, maintenance of driveways and sidewalks. Enhancing motor vehicles by addressing unregistered vehicles, construction equipment, swimming pools and exterior structures.

The purpose of this ordinance is to provide further substantiation before the court to support and protect the Township on items with broader ordinances. The first portion of the ordinance outlines the zoning responsibility, fines and procedures for appeals. Relating to complaints received and safety hazards, citations can be issued. For example, swimming pools would need to be maintained or closed up. Mayor Husa commented on it being problematic in some neighborhoods where neighbors do not get along. Includes rubbish and garbage outside of dwellings, detached garage and temporary structures. Establishes a basic minimum living standard for plumbing, water, sanitary and heating on multi-family dwellings.

Mbr. Buie inquired about retroactive and “grandfathering”. Once in effect those homes with existing conditions would be subject to the new ordinance. Bill Denzler confirmed that violations would be given and would begin as warnings.

Mbr. Maffei suggested that the Township Planner provide an overview of all and then comments would be requested.

Ordinance #23-10 – Amendment Section “Temporary Signs”

Bill Denzler, explained the signage ordinance would include Real Estate, political and temporary signage. Outlining permissions of where signage could be placed, what could be used and by whom. Recognizing temporary signage for commercial contractor signage and real estate open house signs. Political signs to be addressed with size, location and length of time before removal. Clarifying banner type signs are prohibited and various types of signs that are permitted. Five day renewable signage has been encouraged during this economy provided bonds have been posted for their removal.

Ordinance #24-10 – New Section “Outdoor Lighting”

The Township Planner explained that this is new and not previously addressed. Combination of typical municipal standards to address maximum foot candle intensity, light styles as practical, light conservation and new standards for site plan applications to be followed.

Ordinance #25-10 – Amendment Section “Storage of Commercial Vehicles”

Storage of commercial vehicles and commercial equipment ordinance is also a result of being unable to uphold violations in municipal court. The court had taken a position that construction equipment was no different than large lawnmower equipment on a residential property, despite the signage. Court found language to broad and omitted the necessary information to support the violation. Construction equipment would be permitted on residential properties during construction but would have to be removed within seven days of completion.

Vice Chr. Maffei opened to the board for comments.

Mbr. Buie commented on power companies and pole lights. Bill Denzler replied foot candles would still have to be followed.

Mbr. Schoner deferred comments.

Mbr. Schmitt inquired about the fines schedules and questioned the need to address interior requirements. Bill Denzler replied that a separate fee schedule exists for zoning and explained that the interior requirements are for the basic plumbing, water and heat. Five cases of minimum living requirements this year where a tenant did not even have adequate water pressure. Mbr. Schmitt inquired about the un-mowed strips between property line and curb by those individuals who refuse to cut. Bill Denzler responded that it would be addressed by the ordinance, similar to sidewalks and snow removal. Mayor Husa commented that if existing laws are in place that any redundancies be cited to the existing ordinances. Such as grass cutting under a health item. Mbr. Schmitt commented positively on the lighting ordinance being necessary and that enforcement and fines on signage would be good. Mr. Denzler confirmed that trailers would be considered a separate piece of commercial equipment.

Mbr. Nienstadt inquired about vacant homes enforcement. Bill Denzler responded that the township has nothing in place currently and that mortgage holders can be pursued. Lighting as it relates to skyward lighting and senior housing on Diamond Spring Road. The Township Planner indicated that it's probably a combination of lighting type and elevation. Mbr. Nienstadt commented positively on the signage and that his mother in law has eight open house signs weekly on her property.

Mbr. Kuser commented on the need for these ordinances as an added protection for the town. The township attorney, zoning and health officials have all contributed and pleased with it. Spoke to boarded, uninhabited and overgrown homes. Mbr. Kuser spoke to political signage only on private or commercial property with permission but not public. Size limitations and prompt removal. Up-lighting is a large complaint, omni-directional (i.e. Shoppes at Union Hill). Shielded lighting can be requested at the time of new tenants or zoning changes. Lighting ordinance needed, sign ordinance needed, and the property maintenance ordinance is what the officials need to address the issues we have.

Mbr. Schoner spoke the property maintenance starting on the right foot but becoming heavy handed. Mbr. Schoner commented that the Jersey radio station referenced Denville for over regulation for not smoking. Bad press for bad reasons and avoiding Denville looking like whackos. Agree that abandoned buildings and buildings in disrepair should be addressed. Mbr. Schoner suggested should be seven days instead of 5 for removal of political signage. Lighting ordinance well worth it, good ordinances. Only concern regarding increasing the maximum from 1 ton on commercial vehicles for those who drive back and forth to work. Mbr. Buie commented that 1 ton is a sizeable vehicle. Commercial vehicles versus personal use.

Mbr. Buie spoke to drawing the line and that these are for complaints and not for chasing after individuals. Commented that all the ordinances are long over due.

Mayor Husa stated that last year the council was not interested but this year it was to address abandoned homes. Stating that the spirit of it is a maintenance code and not abandoned homes. The Mayor referenced a memo from Administrator Ward to Walter Stefanacci and distributed a copy indicating thoroughness before implementing a property maintenance ordinance. Mayor Husa suggested defining abandoned homes to differentiate from vacant homes. Ed Buzak, Board Attorney stated that ordinances do evolve and that the comments have been good. Recommendations are good but it's the Council who implements the policy. It's only the responsibility of the planning board to determine what the Council has provided to determine they are consistent with the master plan and that the decision is that of the governing body. Mbr. Buie commented that the definition of abandoned versus vacant should not be discriminatory in nature. Ed Buzak, Esq. agreed that good rules should apply to everybody and should provide equal protection. Classification between structures between abandoned (not taken care of) versus where someone is there. Distinctions to be made but not here.

Mayor Husa spoke to the distinction being made having been the original intention of the end product. Mayor Husa stated that many car buffs would freak out at the inoperable motor vehicles section infringing on their hobby. Stating that this ordinance wouldn't allow residents to paint or work on their cars. Mayor Husa thought the vacant structures and land was good but commented on overlapping references. Mayor Husa commented that we have adequate provisions for sidewalks and driveways and this section is not required. Pointing out that this would force people to replace a worn out driveway regardless of their economic position. The Mayor commented positively on the rodent harborage but had concerns; interpretation of weeds, painting of cars, homes and open construction permits. Mr. Denzler stated that construction must be complete within 12 months. Mayor Husa suggested that extenuating circumstances provision to be added on painting the home and considerations on groundwater causing foundation shifting causing violations and hardships for people. Inquired about garage sales not being addressed. Mr. Denzler explained that there have been no complaints regarding garage sales. Mayor Husa thought commercial vehicles were allowed to be parked behind the line of the home. Mr. Denzler responded no, for the zone. In closing, the Mayor stated he had concerns and would be speaking with the Township Planner and Attorney off-line.

Vice Chr. Maffei liked the signage ordinance and inquired about spinning signage. Suggesting that perpetual signage on Route 10, people holding signs, seven signs in a row, etc. should be added. Bill Denzler stated that this was originally in the ordinance but removed by the Council. Mbr. Maffei commented positively on the lighting, commercial vehicles and property maintenance. Stating that the property maintenance was somewhat subjective and questioned enforceability. Abandoned homes is necessary. Mbr. Maffei inquired about stacking on Cooper Road. Bill Denzler responded that stacking is an extensive ordinance and typically separate.

Ed Buzak, Board Attorney referenced some internal cross-references, internal references cited that may be typos that can be addressed with Bill Denzler separately. Referenced midsummer offenses and Denville not having the ability to establish effectively as indictable offenses. The Board Attorney suggested more extensive review of the abandoned vehicles. Referencing a Boonton business owner who abandoned his vehicle in Mountain Lakes. (Cantor vs. Mtn. Lakes) Mr. Buzak mentioned a Sunset provision may be desired to incorporate a one year expiration to compel the municipality to reexamination the ordinances.

A motion to **deny** the recommendation to adopt **Ordinance #22-10** was made by Mbr. Schoner and seconded by Mayor Husa.

Mbr. Kuser requested that the board members provide specifics as to what the Council should consider as suggestions. Mayor Husa agreed that his specific comments would be forwarded to Bill Denzler. Ed Buzak, Esq. stated the importance of the suggestions being heard in a timely manner on the record and not in a private forum. Recommending that some action be taken during the planning board meeting and that if the board finds it's consistent with the Master Plan, recommend that it not be adopted in it's existing form.

A motion to **approve** the recommendation to adopt **Ordinance #22-10** once amended was made by Mbr. Buie, seconded by Mbr. Kuser and approved by the majority of voting members.

ROLL CALL: Ayes – Buie, Kuser, Nienstadt, Schmitt, Husa, Maffei
Nays - Schoner

A motion to **approve** the recommendation to adopt **Ordinance #23-10** was made by Mbr. Buie, seconded by Mbr. Kuser and approved by the majority of voting members.

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

A motion to **approve** the recommendation to adopt **Ordinance #24-10** was made by Mbr. Schoner, seconded by Mbr. Kuser and approved by the majority of voting members.

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

A motion to **approve** the recommendation to adopt **Ordinance #25-10** was made by Mbr. Buie, seconded by Mbr. Kuser and approved by the majority of voting members.

ROLL CALL: Ayes – Buie, Kuser, Nienstadt, Schmitt, Husa, Maffei
Nays - Schoner

Denville Bike Initiative Master Plan Amendment

Discussion of the 2010 Bike Initiative element to amend the Master Plan. Ed Buzak, Board Attorney indicated that a public meeting with proper legal notice will be required at some point in time. Stating a vote can be taken to proceed with the concept of adding a bike plan element to the Master Plan. Concerns involved were using taxpayer money, the possibility of increasing liability, eliminating on-street parking and determining what roads would be selected for bike paths. Mayor Husa pointed out that Bike Lane, Bike Path and Bike Routes are all different things.

Bill Denzler stated that he incorporated the county plan into Mayor Husa's. He summarized that all the ordinances were consistent with the master plan. Mayor Husa spoke to having the detailed plan available for those interested in reviewing it. Comments will be forwarded and discussed at a subsequent planning board meeting.

NEW BUSINESS

Lou inquired about Briar Rose case management conference. Ed Buzak, Esq. responded that he didn't have a status from Tiena Cofoni, Esq. at this time.

ADJOURNMENT

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted