

TOWNSHIP OF DENVILLE  
PLANNING BOARD  
MINUTES

**July 13, 2011**

The Planning Board of the Township of Denville held its regular meeting on Wednesday, July 13, 2011. 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** – Chr. Sue Filauro, Vice Chr. Lou Maffei, Mayor Ted Hussa, Glenn Buie, Marilyn Kuntz, Gene Fitzpatrick, Kurt Schmitt, Mark London  
                  **Absent** – Pete Nienstadt  
                  **Professionals present** – Tiena Cofoni, Esq., William Denzler, PP, Peter Turek, PE

**MINUTES**

**June 22, 2011**

Motion to adopt the minutes as **amended** was made by Mbr. Kuntz, seconded by Mbr. Fitzpatrick and unanimously approved by all members able to vote.

**PURCHASING**

Motion to pay vouchers submitted by The Buzak Law Group (dated June 30, 2011) subject to the availability of funds, was made by Mbr. Buie, seconded by Mbr. Fitzpatrick and unanimously approved by all Members present and able to vote.

**CORRESPONDENCE**

Chr. Filauro referenced that there was no correspondence.

**PROFESSIONAL COMMENTS**

Bill Denzler, Township Planner had no comments. Chr. Filauro asked Bill Denzler to provide a status on the Palmer Road application for outdoor storage. Bill Denzler stated that the application has been filed with the building department and permits being reviewed. There is a delay to a problem the NJDEP had with the infiltration system design and now there is a violation due to the applicant moving equipment into the transition area. Once the NJDEP issue is resolved the applicant will move forward.

Peter Turek, Township Engineer was coverage for John Ruschke and had no comments. Mayor Hussa had none.

**PUBLIC HEARINGS**

**MSV 11-03: Richard & Karen Fels  
Block 41301, Lot 8  
26 Broad Street**

Tiena Cofoni, Esq. stated for the record, that sufficient legal notice was provided for this public hearing and members Gene Fitzpatrick and Mayor Hussa recused themselves.

Kurt G. Senesky, Esq. Schenck, Price, Smith & King, LLP (220 Park Avenue, Florham Park) represented the applicants Richard and Karen Fels (7 Indian Trail Road). Applicant is seeking minor subdivision approval of 7.175 acres of property at 26 Broad Street with variance relief for the creation of a new lot. The lot being created is proposed for open space dedication as part of a joint effort between Denville and Rockaway Borough. Kurt Senesky, Esq. stated that Richard Fels and Mark Walker would be the only witnesses.

The applicant and co-owner, Richard A. Fels (26 Broad Street) was present and sworn under oath. A colorized Site Plan of Proposed Subdivision (Exhibit A-1) was entered as an Exhibit. Broad Supply Company performing wholesale business as Broad Industrial Supply. Stated that the township was interested in the property but preferred purchase to an easement. To be used as a passive recreation area in conjunction with seven acres in Rockaway Borough. Concluded that the property would remain the same in appearance if the proposed subdivision was granted. No parking would exist on this property.

Marc G. Walker, PE, Dykstra Walker Design Group (21 Bowling Green Parkway, Ste 204, Lake Hopatcong) was present and accepted as an expert witness. The 7.175 acres of property is located in the I2 zone on the westerly side of Denville adjacent to Rockaway Borough. Rockaway River to the northwest. Existing building surrounded with pavement and otherwise undeveloped property. Portion to be donated consists of 5.175 acres. Flag lot being created with a stem. It is the desire of the town to create this stem.

Proposed lot 8.01 is to be 225,414sf (5.175ac) in area and will have limited frontage along Broad Street. Variance relief is required for proposed lot 8.01 for lot frontage and lot width. Proposed subdivision will result in Lot 8 (2ac) with existing structure requiring variance relief for parking setback and side yard setback. Proposed Lot 8.01 would be a flag lot and would be dedicated to the township as open space. The stem reduces the lot width and side yard requirement.

**LOT 8 (Existing Structure)** Variance relief for non-conforming conditions. Side yard setback minimum required of 20% of lot width (55.1' required) and 44.8' proposed. (Existing structure is already non-conforming to both front and side yard setbacks). Existing parking lot on westerly side of the property. Off-street parking minimum setback to a property of 10' required where 5.3' (-4.7'/-47%) is proposed. (Existing setback is conforming).

**LOT 8.01 (Proposed Open Space)** Variance relief for non-conforming conditions. Lot Frontage I-2 (19-5.2303f) minimum lot frontage of 200' is required where 27.90' is proposed to Broad Street. Lot Width minimum lot width of 200' is required where 27.90' is proposed to Broad Street.

Mr. Walker explained that access to the property could be from Broadway in Rockaway and from Broad Street in Denville.

Chr. Filauro inquired about the Letter of Interpretation. Mr. Walker stated that a LOI was not received for this property.

Chr. Filauro opened to the professionals following the conclusion of Mr. Walker's testimony.

Bill Denzler, PP concurred with the four variances in Mr. Walker's testimony and agreed that there was no detriment. Further stating that the proposed Open Space was consistent with the open space goals and objectives of the Master Plan in regards to preservation and linked open space.

Peter Turek, PE spoke to the July 8<sup>th</sup> letter from John Ruschke, PE. Agreed with Mr. Walker that the proposed is a relatively straightforward matter. Stating for the record, that the road could not support any type of driveway based upon the nature of the grades. Otherwise the project sounds like a worthwhile project for the township.

Tiena Cofoni, Board Attorney referenced a deed restriction that the property remain open space. The applicant voiced agreement with a deed restriction.

Chr. Filauro opened the hearing to members of the public.

Philip Ted Hussa (Hewetson Road) was present and sworn under oath. Mr. Hussa spoke to the property being partially purchased by green acres funds (\$375K with MC Open Space funds, \$25K Green Acres Grant and \$50K Municipal Open Space Trust Fund) and will immediately go on the ROSI open space inventory. Stating that some of the main reasons were to protect Denville from further flooding and to partner with another town on a joint municipal park. An aerial photograph (Exhibit P-1) was entered to show the total 85 acres of greenway. Another photograph (Exhibit P-2) was entered to show the future parking area where shrubs would be removed.

Chr. Filauro requested other members of the public and seeing none, closed the public portion of the meeting.

Chr. Filauro opened to the board members.

Mbr. Schmitt spoke to the additional open space being a good idea and inquired if any roads were intended. Mayor Husa stated that the property would remain undeveloped and that no roads were planned.

Mbr. Buie inquired if the plan for the 25' access strip would proceed regardless of the Rockaway property acquisition. Mayor Husa confirmed.

Mbr. Maffei had no questions but commented that based upon the proposal and the testimony given that the variances should be granted.

Mbr. Kuntz inquired about the funds being approved and Mayor Husa responded that the funds were already received. Mbr. Kuntz commented on the parking. Chr. Filauro commented on the 25' of ROW on Broad Street. Bill Denzler spoke to the parking being on Broad Street. Mr. Fels responded that just East of the dirt road a 100' ROW access.

Mbr. London commented that the application was good and inquired about the status of the LOI and was told by Mr. Walker that there was never an LOI for this property.

Chr. Filauro spoke to walking the property and voiced support of the application.

Tiena Cofoni spoke to the conditions of approval including; deed restrictions to remain open space, no improvements, metes and bounds approval.

Chr. Filauro asked for a motion to approve.

A motion to approve this application was made by Mbr. Buie, seconded by Mbr. Maffei and unanimously approved by all members eligible to vote.

Roll Call: Ayes – Buie, Maffei, Kuntz, Schmitt, London, Filauro

## **OLD BUSINESS**

Chr. Filauro asked the board attorney to provide a summary on the Meola brief. Tiena Cofoni spoke to the Meola Builders four lot subdivision that the board previously approved. Woodmont Properties being the adjacent property owner that objected to not being included in the subdivision for a total of a six lot subdivision. All counts of the complaint were successfully dismissed before the law division and now a brief has been submitted before the appellate division. Stating that a long period of time may pass before we receive any information.

## **NEW BUSINESS**

Chr. Filauro announced that Ed Russick, the new Recycling Coordinator was going to provide an information presentation on recycling to the board.

Edward Russick, Municipal Recycling Coordinator #2 was in attendance to provide a brief outline overview of the recycling program to the board members. Mandatory recycling in New Jersey since 1987. In the coordinator position since January 2011. Mandatory recycling for all residents and commercial establishments in Township since April 2008.

Three programs:

- (1) Residential Program is for Homeowners and is handled by the Morris County MUA. MCMUA can go above and beyond the State program. The Township can go above and beyond the County program. Denville Township is one of approximately 65 municipalities certified of the 566 municipalities in the state. Another 55 are going through the certification process.
- (2) Non-Residential Program - Businesses, schools, multi-family, office buildings and hotel.
- (3) Recycling Depot

Spoke to the program, website, uses, costs, grants and specifics on tonnage. Denville receives \$27K in grant money annually from recycled tonnage. Recycled items that end up in the trash cost the Township money for the landfill or impact the recycling tonnage.

Single stream pick-up is coming where one truck will pick up both cardboard and recyclables. Mandatory items for the County are #1 and #2 plastics. Additional items #4, 5 and 7 township receives credit. The numbers relate to the melting point of the plastics. Unwanted plastics are #3 which contains chlorine and #6 peanuts that fly in the wind. Items that have no number are engineered plastics and cannot be recycled. Restaurants must provide a recycling plan that is active, current and effective. Recycling of cooking oils is mandatory. First offense for non-compliance is a written warning, after that there is a \$250 daily fine.

Questions and comments were made by the board members. All expressed appreciation to Mr. Russick for his information presentation.

Chr. Filauro asked the Township Planner to discuss the General Requirements for all Non-Residential Off-Street Parking Areas. Bill Denzler referenced an ordinance that exists for sidewalks, curbs and street trees under the general provisions for off-street parking. Chr. Filauro suggested that the board members familiarize themselves with 19-5.803. Useful information regarding changes to ordinances or zoning should be forwarded by board members to Bill Denzler for the Master Plan. Topics such as tall buildings, townhomes and second floor businesses can all be included in future recommendations. Mayor Husa referenced a possible parking deck for the future.

Mbr. Fitzgerald mentioned that it was decided at a council meeting that the environmental commission will be applying for a sustainable New Jersey grant. An update of the Natural Resource Inventory is long overdue and needs to occur in the Master Plan.

**ADJOURNMENT**

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted: August 10, 2011