

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

September 11, 2013

The Planning Board of the Township of Denville held its regular meeting on Wednesday, September 11, 2013. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place. Chairperson Maffei presided.

Acting Secretary Probasco read Notice of Public Meeting.

Roll Call: **Present** – Chr. Louis Maffei, Vice Chr. Glenn Buie, Mayor Thomas Andes, Marilyn Kuntz, Sue Filauro, Mark London, Kurt Schmitt, Christopher Golinski
Absent – Peter Nienstadt
Professionals present – Tiena Cofoni, Esq., Jason Kasler, PP

MINUTES

May 8, 2013

Motion to adopt the meeting minutes as submitted was made by Mbr. Buie, seconded by Mbr. Filauro and unanimously approved by all members able to vote.

July 10, 2013

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

July 24, 2013

Motion to adopt the meeting minutes as submitted was made by Mbr. Buie, seconded by Mbr. Golinski and unanimously approved by all members able to vote.

PURCHASING

Motion to pay vouchers submitted by Kasler Associates (dated July 31, 2013) subject to the availability of funds, was made by Mbr. Buie, seconded by Mbr. Golinski and approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by Hatch Mott MacDonald (dated May 3, July 2 and July 25, 2013) subject to the availability of funds, was made by Mbr. Buie, seconded by Mbr. Golinski and approved by the majority of Members present and able to vote.

Motion to pay vouchers submitted by The Buzak Law Group (dated July 31, 2013) subject to the availability of funds, was made by Mbr. Filauro, seconded by Mbr. Golinski and unanimously approved by a majority of Members present and able to vote.

CORRESPONDENCE

Chr. Maffei referenced the distribution of the NJ Planner publication.

EXTENSION

**PSP/FSPV 08-04: 19 Elcock Avenue, LLC
Block 50410, Lot 11 & 12
Orchard & Clark Streets**

Tiena Cofoni, Esq. referenced The Permit Extension Act may be applicable to this application. Stating that the applicability would be determined by whether this is an environmentally sensitive area and stating the definition of same. Jason Kasler, PP was unable to locate the information on the tax map. The applicant's professionals were also not able to determine.

Richard Clemack, Esq. represented 19 Elcock Avenue, LLC and stated that proceeding with the extension would be preferred. If the Permit Extension Act applies, it would supersede the application. The original approval was obtained in August 2010 for four market value and one affordable housing unit. Stating that economic conditions and applicant's inability to obtain funding require this additional request for extension.

John Onorati (19 Elcock Avenue, Boonton) was present, sworn under oath and testified to being the principal to 19 Elcock Avenue, LLC. Mr. Onorati testified to being unable to obtain private or public

funding. Making the decision to pursue a private contractor/developer to complete the project. Stating that Mr. Previ agreed to build the project in strict accordance with the prior approval obtained.

John Previ (5 Wilcox Drive, Mtn. Lakes) was present, sworn under oath and testified to being a residential construction builder for twenty-five years. Testified to entering a contract in March of this year and currently performing due diligence. Working with Lawrence Corinda who created the original drawings to make construction drawings.

Chr. Maffei opening to the board professionals.

Jason Kasler, PP had none.

Chr. Maffei opened to the board members.

Mbr. London had none.

Mbr. Filauro inquired how apartments could be sold without drawings. Mr. Previ stated there were no contracts as drawings did not yet exist. Mbr. Filauro also inquired about the time contract was entered to purchase. Mr. Previ stated February 2013.

Mbr. Kuntz inquired about changing of the plans approved by the board. Mr. Previ stated that the engineering and construction drawings are being drawn. Mbr. Kuntz inquired about prior number of buildings. Mr. Previ stated over the past 25 years thousands and under his own company five homes.

Mbr. Schmitt agreed with the time involved in the construction process. Stating that what the applicant is asking for is reasonable and what is proposed is proper. Having been previously approved, Mbr. Schmitt commented that they should be allowed to build.

Mbr. Golinski inquired about the number of co-ops and Mr. Previ answered several dozens.

Mbr. Buie stated that he had no questions.

Chr. Maffei inquired about the plans as approved. Tiena Cofoni, Esq. stated that the footprint would stay the same but minor changes or interior changes could be made without returning to the board.

Mbr. London referenced that the proposed is no longer permitted in the zone as it relates to the Permit Extension Act. Tiena Cofoni, Esq. responded that the Permit Extension Act extends the protections from the changes in zoning. If the extension is not granted and if the Permit Extension Act doesn't automatically extend that, then they would not be able to proceed because new zoning is in place. If the Act holds they would get beyond the extension through December 2015. There were some additional comments and questions from board members.

Mr. Previ explained that the entire building has been designed raising any habitable space above 3' and constructed within twelve months from breaking ground.

Mbr. Kuntz commented on concerns for flooding.

Mbr. Schmitt inquired about NJDEP and compliance. Mr. Previ confirmed.

Mbr. Filauro requested a review of the layout. Mr. Previ responded.

The one year extension would apply from August 11, 2013 through August 11, 2014.

A Motion to approve the one year extension was made by Mbr. Buie, seconded by Mbr. Golinski and approved by a majority of Members present and able to vote.

ROLL CALL: Ayes Buie, Golinski, Andes, Maffei
Nays Kuntz, Filauro, London

PUBLIC HEARINGS

Township of Denville Master Plan 2013 Periodic Re-Examination Report

Jason Kasler, PP spoke to the Planning Board's responsibility for the Master Plan and Re-Examination Plan. A review of the Periodic Re-Examination Report of the Township of Denville's Master Plan under the New Jersey Municipal Land Use Law, NJSA 40:55D-89. Stating that technically, a public hearing is not required and stated the five requirements. A review should be performed at least every ten years. The last Master Plan is dated 2000 and the last Re-Examination Plan is 2006.

Five points to the Re-Examination Report (1) Statement of Major Goals and Objectives (pages 6-7), Jason Kasler stated that there is a presumed validity of the ordinances that would be lost if the Re-Examination Report was not done periodically. This would require the need to defend the ordinances. (2) Goals have been Reduced or Increased, (3) Significant Changes or Policy Changes, (4) Specific Recommendations and (5) Any Rehabilitation or Redevelopment. The Township Planner stated that the housing and population data is twelve years old. Recommending that a town wait two years after the new census is out and the full data is available and extractable.

The 2011 SDRP was released and is still in draft form. It eliminates planning areas and the matrix is still being developed and has not yet been finalized. The process of cross-acceptance mapping has been abandoned. It used to be the state provides, we would meet with the county and they would go back to the state. 2011 the Governor signed the Executive Order abolishing COAH, only to have the Supreme Court decide in 2012 that the Governor did not have the power to abolish. The State Agency is back with limited staff. FEMA has been updating the FIRM Maps and these will be incorporated into the ERI and the Master Plan when finalized.

Mr. Kasler referenced the Re-Development Plan, stating it is an acknowledgement that this municipality has recently adopted its first Rehabilitation Plan. The specific changes of the Re-Examination relate to the hotel and motel ordinance which is outdated and requires updating. This Re-Examination Plan recommends the removal of all motel zones and that only hotels should be in the I2 zone, close to federal highways. Requires modernization.

If the board chooses to adopt this Re-Examination, the Township Planner recommended that this be considered as an Appendix to the Master Plan. A legitimate way of doing it. They are different documents.

Mbr. Kuntz inquired if a map exists for the I2 zones. Jason Kasler responded that the I2 zones are spread in different areas. Current ordinance allows for hotels in I1 zone. The proposed Re-Examination takes motels off of Route 10 and Route 46. Mbr. Kuntz inquired who decided this was necessary. Jason Kasler responded the Mayor and Council. There was a brief discussion of floor area ratio.

Ted Einhorn, Esq. of Einhorn & Harris was present and represented the owner of Hampton Inn. Stating for the record that there were no other members of the public as of this time. Further stating on behalf of his client he is opposed to the Re-Examination Plan as it relates to the hotel/motel and not to the Rehabilitation Plan for the Estling Lake Road development. Mr. Einhorn referenced spot zoning and a proposed overlay zone. Mr. Einhorn went on to provide the details of his argument stating his client's concerns for hotels in the I2 zone.

Chr. Maffei asked from other members of the public and seeing none, closed the public portion.

Mbr. London had some questions and inquired about the legalities. The board attorney was unfamiliar with the referenced case and was not in a position to respond. Jason Kasler, PP referenced that zones I1, I2, B2 and B3 are being reviewed and it is not considered 'spot zoning'.

Mbr. Filauo had comments, voiced a desire to have a map showing the I2 zones and stated not being in support of this change at this time.

Mbr. Kuntz had comments and voiced a desire for more information and discussion, stating not being in support of this.

Mbr. Schmitt concurred with his fellow board members and would need more information to make a decision.

Mbr. Golinski commented on the manner of what has taken place, not notifying the property owner to provide the opportunity. Jason Kasler, PP responded that certified letters would be required. Mbr. Golinski voiced a need for public outreach.

Mbr. Buie agreed with the other board members.

Chr. Maffei voiced discomfort with making a decision that reverses a prior decision.

Chr. Buie commented on the decision that reverses the decision of the zoning board of adjustment. Feeling that this was a denial at that time. Commented on being uncomfortable.

Mbr. Filauo inquired about other paramount decisions that should be updated in the Master Plan. Jason Kasler responded that this was a focused Re-Examination of this one topic.

Mayor Andes provided comments, referenced good rateables and explained the reason for not sending a notification wasn't determined by the cost but to avoid an omission. Mayor Andes liked Mbr. Golinski's idea of a courtesy mailing and suggested the topic be tabled for now. When rescheduled, Jason Kasler will provide a thorough presentation that includes maps.

Mbr. Golinski responded to occupancy being unavailable.

Mbr. Filauo commented on social services.

Mbr. Kuntz commented on having availability of rooms at Hampton Inn.

Mbr. London commented on boutique hotels and voiced disappointment it would preclude this approach.

There was further exchange of comments between the board members.

A Motion to approve tabling this matter was made by Mbr. London, seconded by Mbr. Golinski and approved by a majority of Members present and able to vote.

ROLL CALL: Ayes London, Golinski, Kuntz, Filauo, Buie, Andes, Maffei

NEW BUSINESS

Mbr. Kuntz referenced the quantity of hardcopies of invoices and had questions regarding the dates and number of pages. Mbr. Golinski referenced having this discussion with John Ruschke present along with a sampling of Hatch Mott MacDonald invoices for discussion.

ADJOURNMENT

Motion to adjourn.