

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

January 29, 2014

The Planning Board of the Township of Denville held its regular meeting on Wednesday, January 29, 2014. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:38 p.m. Vice Chairperson Kuntz presided.

Secretary Probasco read Notice of Public Meeting.

Roll Call: **Present** – Vice Chr. Marilyn Kuntz, Mayor Thomas Andes, Sue Filauro, Mark London, Kurt Schmitt, Peter Nienstadt, Christopher Golinski, Lou Maffei,
 Absent – Chr. Glenn Buie
 Professionals present – Edward Buzak, Esq., John Ruschke, PE, Jason Kasler, PP

MINUTES

January 15, 2014

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

PURCHASING

Motion to pay vouchers submitted by **Kasler Associates** (dated 03/01/13, 04/01/13, 12/08/13 and 01/09/14) subject to the availability of funds, was made by Mbr. Maffei, seconded by Mbr. Golinski and unanimously approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by **Hatch Mott MacDonald** (dated 12/03/13 and 12/20/13) subject to the availability of funds, was made by Mbr. Golinski, seconded by Mbr. Maffei and approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by **The Buzak Law Group** (dated 12/11/13, 12/13/13, 01/07/14 and 01/14/14) subject to the availability of funds, was made by Mbr. Maffei, seconded by Mbr. Nienstadt and unanimously approved by a majority of Members present and able to vote.

RESOLUTIONS

**Hall v. Township of Denville and Planning Board of the Township of Denville
Settlement of Docket No. MRS-L-2977-13**

The action on this matter was deferred until later in the meeting after entering into closed session.

Motion to approve the resolution of **Approval** was made by Mbr. Golinski, seconded by Mbr. Filauro and unanimously approved by all Members present and able to vote.

ROLL CALL: Ayes Golinski, Filauro, Maffei, Nienstadt, London, Andes, Kuntz

PUBLIC HEARINGS

Acting Chr. Kuntz addressed the members of the public and advised of the planning board's parliamentary procedures.

**MSV 13-05: Albert & Erzebet Szollosi
 Block 60207, Lot 22 & 31
 61 Crystal Drive**

Applicant is requesting minor subdivision approval of two lots and 'C' bulk variance approval for a lot fronting on an unimproved right-of-way.

Edward Buzak referenced the correspondence from the Township's Business Administrator dated January 28, 2014 stating that the Township of Denville had no intent of purchasing the lot for open space.

The applicant, Albert Szollosi was present and responded to the issues referenced by the board's attorney. The one matter was that the legal notice referenced that there would be one lot that would be preserved as open space. As it may be inadvertently misleading to the public. Another matter of concern was referenced

by the Township Engineer's report dated January 27, 2014 stating that the lot, if not dedicated as open space, must be a buildable lot.

John Ruschke, PE referenced the engineering concerns raised in the letter dated January 27, 2014 and provided a summary.

Mr. Szollosi stated that the lots were merged without his knowledge or consent. That the reason the lots were merged was unknown but that he just wanted the lots returned as they were before.

Jason Kasler, PP responded to the applicant. Explaining that the subdivision would not return the lots to the original lots purchased as indicated by the applicant. Stating the survey's do not match.

After further dialogue between the applicant and the professionals, Mr. Szollosi withdrew the application before the board.

The board attorney stated that any remaining escrow funds would be returned.

**PSP/FSPV 13-07: Estling Village, LLC
 Block 30601, Lot 6
 30 Estling Lake Road**

Applicant is requesting preliminary and final site plan for a multi-family development and 'C' bulk variance relief for number of units per building.

Joseph O'Neil, Esq. of Garofalo & O'Neil (60 Baldwin Road, Parsippany) was present. Edward J. Buzak, Esq. referenced an error of tax lot in the public legal notice as 30601, Lot 1 but should be Lot 6 and discussions with the applicant's attorney. Referenced a 2013 Supreme Court case finding that the error was not fatal to the application. Reasons were assumed based upon other descriptive information in the notice. The Block was accurate and Lot would be recognizable based upon review of the tax map. Legal notice included alternate description which were sufficient. This is based upon Lot 6 being the only property in the Rehabilitation Zone identified in the legal notice, along with the correct street address. Applicant is prepared to proceed despite the deficiency. The board can make a determination that the notice is not sufficient. The board could consider this based upon possible third party challenge.

The board attorney continued for the record of having advised Joseph O'Neil, Esq. of the situation. Mr. O'Neil confirmed Ed Buzak's accounting of their discussion and the situation and referenced a Pond Run Watershed Assoc. v. Twp of Hamilton BOA case. Stating this case reaffirms the applicant's belief that this had proper notice.

Acting Chr. Kuntz asked the board to make a motion whether to proceed or not to proceed with the application. Mbr. Golinski made a motion to proceed but there was no second. Acting Chr. Kuntz asked for the board to make a motion not to proceed but there was none. Joseph O'Neil, Esq. stated that the applicant would volunteer to renoticed for the next available meeting. Secretary Probasco stated that the next available date would be March 12, 2014 as there was not sufficient time to notice for the February 12, 2014 meeting. Jason Kasler, PP stated that the traffic report reflects the incorrect property and should be revised as well. Mr. O'Neil provided an extension of time through March 31, 2014.

Acting Chr. Kuntz announced to members of the public that the application had been rescheduled to the March 12, 2014 planning board meeting and would be renoticed.

Acting Chr. Kuntz announced a five minute break.

Secretary Probasco read the Resolution to Enter Closed Session at 8:45 pm.

Board resumed Open Session at 8:54 pm.

The action of resolution adoption was performed at this time.

OLD BUSINESS

Mbr. London inquired about the Township regulations for receiving NJDEP wetlands applications as it relates to a public application. Mr. Kasler referenced he would verify that the municipal checklist includes language on meeting any other departmental requirements.

Acting Chr. Kuntz referenced hardcopies of the large electronic files that were obtained from the applicant. These included the traffic and stormwater reports. The board attorney inquired about submissions of documentation. There was a brief discussion regarding electronic files and uploading to DropBox. Secretary Probasco confirmed that application submissions arrive with eighteen sets of hardcopies and for larger applications, electronic files are also requested. Jason Kasler stated that the checklist only states eighteen copies of the application but not all documentation.

Mbr. London reminded the board members that if they had any comments on the Environmental Resources Inventory they needed to forward them before it's finalized in the coming week.

NEW BUSINESS

Mbr. Filauro asked Mayor Andes if a Bus Tour would be scheduled this year. Mayor Andes asked Secretary Probasco to request some address from both the Zoning Board and Planning Board Chair to coordinate a Bus Tour.

ADJOURNMENT AT 9:15 PM

Denean Probasco, Board Secretary

Date Approved: March 12, 2014