

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES
April 30, 2014

The Planning Board of the Township of Denville held a special meeting on Wednesday, April 30, 2014. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:30 p.m. Chairperson Buie presided.

Secretary Probasco read Notice of Public Meeting.

Roll Call: **Present** – Chr. Glenn Buie, Vice Chr. Marilyn Kuntz, Mayor Thomas Andes, Sue Filauro, Mark London, Kurt Schmitt, Peter Nienstadt, Christopher Golinski, Lou Maffei,
 Absent – None
 Professionals present – Edward J. Buzak, Esq., John Ruschke, PE, Jason Kasler, PP

PUBLIC HEARINGS

Chr. Buie asked the board attorney to explain the circumstances with Mbr. Golinski. Edward Buzak, Esq. addressed the members of the public and advised that the council representative, Mbr. Golinski was detained and would be available by phone until arrival.

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

This is the third public hearing for this applicant and was carried from April 9, 2014. The applicant is requesting preliminary and final site plan for a multi-family development and 'C' bulk variance relief for number of units per building.

Prior to continuing with the public comments, Chr. Buie asked the professionals to talk about the latest submissions from the applicant to the board. John Ruschke, PE referenced the Fire Truck Turning Plan, dated March 11, 2014. Stating that concerns have been addressed as a fire truck can maneuver as proposed on the site. Jason Kasler, PP referenced the NJDEP letter dated September 18, 2013. Stating that the letter confirms the wetlands delineation requiring a 50' buffer. If the applicant applies for a wetlands buffer transition waiver it would be required as a condition of approval.

Chr. Buie reminded the members of the public that they remain under oath if they were previously sworn and opened the public portion to Ms. Valentino.

Katherine Valentino (43 Estling Lake Road) was previously sworn and remained under oath. Ms. Valentino inquired about the soil movement approval, sewer facilities and deed restrictions. The applicant's attorney responded that the applicant would be seeking all necessary approvals from the county and NJDEP. Mr. Keller responded that the soil movement permit is not required prior to application submission. Further stating that that soil erosion comes from MCSCD and the soil movement comes from the municipality. Mr. O'Neil stated that the applicant has testified in great detail to the proposed sewer hookups. The board attorney clarified to Ms. Valentino that 'sewer' refers to the disposal of sewerage and not the sanitary sewers in the ground. Ms. Valentino inquired about the high tension wires on the property. Mr. Keller stated that the NJ Power and Light ROW is located in the wetlands portion of the site and will have no impact to the easement or proposed development. Mr. O'Neil confirmed that an agreement for sewer service is pending with Estling Property Owners Association. Ms. Valentino inquired about handicapped parking. Mr. Keller testified that the five parking spaces would be 8' wide with an adjacent 5' or 8' wide access aisle. The locations would be by the west end, clubhouse and middle. Mr. Buzak referenced the relocation of two handicapped spaces from the last meeting. Mr. O'Neil confirmed that the applicant has agreed to two spaces being adjacent to the building as a condition of approval. The applicant will revise the plans to reflect same.

Ms. Valentino asked when the first work was performed at the subject property. Mr. Forgione responded that only asbestos abatement has been performed inside the building. Ms. Valentino referenced the proposed removal of ten trees. Mr. Keller testified that the trees have not been removed. Ms. Valentino stated that brush was removed and referenced a violation letter from the NJDEP. Mr. Forgione responded to the DEP having made a mistake in viewing the aerial photographs of the property. The onsite activity was a result of NJ Transit. Michael Novak added that the NJDEP was looking at the vegetation incorrectly as it relates to the setback from the road. NJ Transit vehicle had been onsite along with JCP&L. NJDEP recognizes the easement and the activity of the utility. Mr. Buzak asked if there was documentation after the violation. Mr. Novak responded he would look for the correspondence. Ms. Valentino inquired about a response to the violation. There was some discussion between the board and applicant's attorneys regarding the sequence of events and correspondence. Ms. Valentino inquired about NJDEP being satisfied at this time and the site being remediated. Joseph O'Neil, Esq. confirmed that the issue of the violation has been resolved. Ed Buzak, Esq. clarified that remediation regarding the contamination is a separate issue. Joseph O'Neil, Esq. stated that the applicant would provide the information as a condition of approval.

Ms. Valentino went on to ask questions of the architect, Tom King and inquired about the tallest point of the structure. During questioning, the board recognized Mbr. Golinski entered council chambers at 8:20 pm. Mr. Keller referenced the township ordinance using the midpoint of roof to the average grade for building height. Mr. Keller was unable to provide the tallest point of the building. Ms. Valentino continued questioning of Mr. Keller. Mr. Keller testified to the sheet flow of water continuing to discharge towards NJ Transit and having been approved by MCSCD. Ms. Valentino was reading case law documentation in to the record. Ed Buzak, Esq. interrupted Ms. Valentino pointing out that the referenced cases were for use variances and not what the applicant is seeking approval. Mr. Buzak also advised Ms. Valentino that what she was referring to as statutes were actually sections of the MLUL. The board attorney also explained that public comment is not for reading cases to the board but more for applying the law and stating that the applicant has not met certain burdens. Ms. Valentino stated she had performed research and that the applicant had not demonstrated a hardship case. Further commenting that through some internal miscommunication regarding the number of building units, the applicant created their own hardship. The board attorney responded and referenced the prior testimony of Mr. King, stating that the board would need to make the determination on granting the variance. In closing, Ms. Valentino commented on the uniqueness of the area, train breakdowns, petitions, inability to widen the road and thanking the board.

Chr. Buie asked for other members of the public.

Norbert Hornstein (8 Lamar Drive) was present and spoke to being a commuter, the proposed development being on the other side of the tracks, and emergency access. Mr. Hornstein commented on ignoring the traffic, commuters, safety and building height. In closing, Mr. Hornstein commented that the development didn't make sense and that the developers, board and council lacked common sense.

Chr. Buie asked for other members of the public wishing to speak.

Don Bilby (47 Estling Lake Road) was present and stated that nothing is a perfect solution but the developer having tried to make the situation better. Mr. Bilby referenced being in the same place for 49 years and commenting on vandalism and fires. Stating that the proposed would bring sewers, the potential increase in property values and overall being a good solution.

Chr. Buie asked for other members of the public.

David Wilson (53 Estling Lake Road) was present and entered a marked up diagram from a fire veteran (**Exhibit Wilson-1**). Mr. Wilson was sworn under oath. Edward Buzak, Esq. responded to the document being hearsay and the applicant and the board not having an opportunity to question this party. The applicant's attorney, Joseph O'Neil, Esq. objected to the Exhibit being marked due to lack of cross examination. The board attorney advised the applicant that the township engineer responded to a document earlier to regarding onsite fire truck circulation. The township engineer responded that there are some limitations but the document demonstrated fire trucks can maneuver on the site.

Chr. Buie thanked Mr. Wilson.

Kevin Kostyszyn (31 Estling Lake Road) was present and sworn under oath. Mr. Kostyszyn spoke to the project not being perfect and asked those opposed if they'd rather have a business with 100 employees and cars coming in and out each day. Stating it will beautify the neighborhood and improve property taxes. In closing, Mr. Kostyszyn voiced his support of the project.

Nancy ImHoff (29 Station Road) was present and sworn under oath. Ms. Imhoff inquired about asbestos abatement, wells, testing and remediation. Joseph O'Neil responded, restating the prior testimony that there will be ongoing monitoring of the site. Michael Novak responded that no wells currently exist but will be installed after the contaminated soils are excavated and removed. Ms. Imhoff continued with questions. Mr. Keller responded to questions on the proposed walkway, lighting and electrical service. The board attorney responded to Ms. Imhoff's question regarding criteria for a commercial variance, stating the criteria for a commercial property are no different than those for a residential property.

Chr. Buie thanked Ms. Imhoff and asked if other members of the public wished to speak.

Tom Clover (15 Vista Way) was present and sworn under oath. Mr. Clover spoke to the no stopping or standing being disregarded on the other side of the tracks and stated that it's not the developer's problem but is the community's problem. Also voiced concern to the fire and safety in the area. Emphasized the need for a secondary access.

Chr. Buie thanked Mr. Clover and asked if there were additional members of public wishing to speak.

Andor Kish (27 Estling Lake Road) spoke to the current property becoming worse and worse. Stating that landscaping is a problem, graffiti, copper piping being stolen, vandalism, racetrack, theft and fire. Commenting that the fire engines had no trouble gaining access during the fire. Testified to having his home being broken into. Not having a problem when Joyce Honda had 250 cars on the property. Would rather have the cars than an abandoned building. Contamination would be removed, doesn't understand not wanting this positive impact as opposed to leaving the building and contamination with the associated potential problems. In closing, voiced fully supporting the proposed project.

Chr. Buie thanked Mr. Kish and asked if there were others interested in speaking.

Alice Parish was present and spoke to the dangers of walking back and forth over the tracks. Ms. Parish commented on the access being a problem regardless of what is done on the subject property. Doesn't want to see an abandoned building in her neighborhood and would prefer a residential site. Voiced that the existing problems of the community are being piled upon the developer.

Chr. Buie asked for a show of hands of those wishing to speak. States that there are five members of the public and announces a ten minute break. After the break, the public hearing resumed at 9:43 p.m.

Mr. Norbert returned and commented that graffiti and the homes being broken into was not relevant.

Margaret Whitlock (35 Estling Lake) was present, previously sworn and remained under oath. Ms. Whitlock had questions regarding the garages and access doors. Mr. King responded to dormers and the roof break line going from a higher roof to a lower roof. Mr. Keller responded to questions regarding the widening of the roadway and property lines. Mr. Forgione stated that the garages will not be used for storage. Ms. Whitlock inquired about no parking signs for the side of Estling Road. Mayor Andes responded it was not currently proposed. Stating that if parking becomes an issue for the majority of the neighbors, a parking restriction could be pursued. Ms. Whitlock inquired about a guarantee of sewer hook-ups for the neighborhood. Mr. O'Neil stated that representations made during the hearings will be conditions of approval.

Dave Wilson referenced Exhibit 4, three story building and no fire escapes. Mr. King responded NJ State building code not required if fully sprinklered.

Chr. Buie asked if there was any one else interested in speaking.

Bruce Whitlock was present and remained under oath. Mr. Whitlock referenced the last meeting and the A&P parking lot as it relates to the stub streets and potential accidents. Voicing concern for vehicles backing up so close to pedestrian walkways. Mr. Whitlock inquired if there was a code to prevent the distance. Mr. Keller responded there was not. In closing, Mr. Whitlock stated that this was not a good location for an apartment building and stressed safety concerns.

Tammy Boyd (27 Vista Way) was present and entered photographs she had taken on April 16th, 17th and 18th (**Exhibits Boyd-1 and Boyd-2**) of various parked cars to reflect the disregard for the no parking area. Asking the board to consider the difficulties in the lanes, vehicular traffic and having only one lane accessible. Ms. Boyd stated she was not against the complex but felt an alternate access was necessary.

Katherine Valentino (43 Estling Lake Road) spoke again. Stating that the employee traffic from Elm Manufacturing was arriving/departing at opposite time of the residents and not present on weekends. Ms. Valentino spoke about storage, standards for utilizing bikes and inquired about the ordinance creation.

Chr. Buie asked for additional members of the public and saw none. The public portion of the meeting was closed and was opened to the board members.

Mbr. London stated that there are several problems that are existing town wide problems but not a result of the proposed development. Mbr. London voiced concern for invasive plantings and inquired if there was consideration for an emergency access and referenced a map with a paper road called Patnode Road. Mr. Keller responded it was not a consideration of this project and was not familiar with the referenced map. Mbr. London commented on having trouble reviewing plans and asked that future revisions be noted.

Mbr. Filauo concurred with Mbr. London as it relates to problems with the application not being a result of the application. Mbr. Filauo referenced car stacking, partnering with NJ Transit and voiced concern for emergency access and consideration for an alternate route in or out. Stressed the volatility of the area. People crossing over the tracks, under the gate. Unsure of the stub roads. Would like the unit to be smaller. Mbr. Filauo asked for a review of the garbage pick-up and inquired about garbage trucks blocking traffic. Mr. Keller responded, stating it will be monitored by the onsite maintenance for the community. MR. O'Neil responded as well. Mbr. Filauo inquired about sewer hook-ups, school buses and lack of a page by page review, fire truck plan comments if any, fire walls between apartments, solution for the road not being wide enough for sidewalks. Mr. Keller responded that RSIS doesn't apply to existing roads. Mr. O'Neil stated the BOE has the final decision. Mbr. Filauo inquired about the fire department's comments. Mbr. Golinski stated there were no concerns and provided their comments. Mbr. Filauo reserved the right to ask more questions.

Mbr. Maffei inquired about the sewer easement. Mr. Forgione responded it would be an extension from the site to a manhole at the first driveway in the lake community. Stating that the town attorney is involved in the all the revisions to the easement. Mbr. Maffei inquired about the maintenance of water quality devices and stormwater. Mr. Keller confirmed that the property owner would be responsible. Mbr. Maffei referenced the fire hydrant placement and one to be moved. Mr. Keller restated the applicant's agreement in prior testimony. Mr. O'Neil added that applicant agreed to all the conditions.

Mbr. Maffei voiced concern for temporary access and snow removal as it relates to the stub streets. Mr. O'Neil stated it is the applicant's responsibility. Mbr. Maffei stated he had a number of questions but would only mention one at this time. Mbr. Maffei referenced the December 20, 2013 comments from MCPB regarding a sidewalk extension.

Chr. Buie mentioned that Mbr. Kuntz had signed an affidavit for having read the transcript of the last meeting.

Mbr. Kuntz inquired if a signage sketch was available. Mr. O'Neil stated not at this time but that the signage would meet ordinance requirements. Mbr. Kuntz requested a copy be provided when available. Mbr. Kuntz inquired about the MCPB letter and John Ruschke, PE responded that all four items have been addressed. Mbr. Kuntz inquired about wetlands approval. Mr. Keller responded that approval was still pending with NJDEP. Mbr. Kuntz voiced concern for the stub streets and referenced the Environmental Commissions comments and concerns. The township engineer responded that the applicant would comply with drainage and runoff but that green space is a different issue. Mbr. Kuntz voiced having a problem with green space or locations for outside such as balconies and benches. Mr. Forgione confirmed that this could be addressed. Mr. O'Neil stated that benches could be added. Mr. Forgione agreed to tree plantings along the railroad. Mbr. Kuntz inquired about Denville Mews versus current. Mr. Forgione stated it was the same project, different name with some changes. Mbr. Kuntz questions and/or concerns regarding storage, snow removal, courtyards, emergency vehicle access, mailboxes and the community house size. Mbr. Kuntz voiced severe concern with the stub streets and inquired about a remedy of the design for the stub streets as it relates to circulation. Additionally, Mbr. Kuntz requested written reports for the contamination to date along with updates. Mr. Novak agreed that this information would be provided.

Prior to adjourning the meeting, Mbr. Golinski recommended that the police department provide statistics prior to the next public hearing. These would be for the intersection of Estling Lake and Thurmont Roads and communities with comparable households for other intersections such as Cedar Lake Roads and the Indian Lake entrance. Chr. Buie asked the Mayor if this could be obtained and Mayor Andes confirmed.

There was some discussion regarding the next possible meeting date. The applicant agreed to schedule a special meeting. The board secretary suggested an earlier start time.

Chr. Buie announced to members of the public and the board that the public hearing would be carried, without further notice to Wednesday, May 28th at 7:00 p.m.

ADJOURNMENT AT 11:25 PM

Denean Probasco, Board Secretary

Date Approved: May 28, 2014