

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES
December 10, 2014

The Planning Board of the Township of Denville held its regular meeting on Wednesday, December 10, 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, Louis Maffei, Mayor Thomas Andes, Christopher Golinski, Sue Filauro, Mark London, Mbr. Nienstadt, Mbr. Schmitt
 Absent – Vice Chr. Kuntz
 Professionals present – Tiena Cofoni, Esq., John Ruschke, PE, Jason Kasler, PP

MINUTES

November 12, 2014 – Open Session

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

November 12, 2014 – Closed Session

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

PURCHASING

Motion to pay vouchers submitted by **Kasler Associates** (dated November 26, 2014) subject to the availability of funds, was made by Mbr. Golinski, seconded by Mbr. Maffei and unanimously approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by **The Buzak Law Group** (dated November 3, 2014) 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.

RESOLUTIONS

**PSP/FSP 14-01: J. Fletcher Creamer & Son, Inc. & Creamer
 Brothers Partnership Settlement Agreement
 301 Palmer Road
 Block 61702, Lot 5**

Motion to adopt the resolution of **APPROVAL** was made by Mbr. Filauro, seconded by Mbr. Nienstadt and approved by a majority of members.

ROLL CALL: Ayes – Filauro, Nienstadt, Golinski, Maffei, London, Andes, Buie

PUBLIC HEARINGS

**J. Fletcher Creamer & Son, Inc., and Creamer Brothers Partnership
Vs. The Planning Board of the Township of Denville Civil Action**
Superior Court of New Jersey Docket: MRS-L-2148-14
PSP/FSP 14-01, J. Fletcher Creamer & Son, Inc., 301 Palmer Road, Block 61702, Lot 5

John A. Schepisi, Esq. of Schepisi & McLaughlin (473 Sylvan Avenue, Englewood Cliffs) provided a summary. Creamer Brothers is the contract purchaser of the Ciottariello property. J. Fletcher Creamer & Son, Inc. would be the tenant and user of the property. A fourth generation family owned company. The partnership is owned by Fletch Jr. Creamer (50%), Dale A. Creamer (25%) and Glen Creamer (25%).

This business is a permitted use, less intensive than currently and variance free. Centrally located site for one division of J. Fletcher Creamer & Son. No proposed changes for the site. Described type of business and its guide rail operations. Discussed the business of guide rails. No fabrication or manufacturing. Guide rail is delivered primarily in the field and some to the site. Taken to the job site. A maximum of ten employees would work staggered hours and most likely only four employees on the site at any given time. The topic of noise from trucks and back up hons will be discussed this evening.

Stating that the concerns of the neighbors have been adequately addressed and in the best interests of the Township of Denville.

Dale A. Creamer, Vice President of J. Fletcher Creamer & Son (101 East Broadway, Hackensack) Dale Creamer was present and sworn under oath. Stated that Creamer Brothers Partnership is owned one third each by Dale Creamer, Glen Creamer & Fletch Creamer. Testified that only the property in Denville will be utilized. The portion in Rockaway will not be used and is environmentally sensitive.

Testified using **Exhibit A-1 - Minor Site Plan**, dated December 4, 2013. Stating there are approximately 20 trucks onsite with the current owner. Creamer Bros. intends to have seven trucks onsite, including a pounder truck, a tractor-trailer, possibly two trailers and possibly two tractors, one flatbed rack truck, one cone truck, one attenuator truck with a hydraulic tailgate, one forklift (used for loading/unloading trucks), three containers (for un-useable pieces of guide rail). The containers will be removed to recycling or scrap metal location. To occur once weekly, via roll-off, possibly twice weekly. 225' from the residential property line. Spoke to rip rap, retaining wall and landscaping for trees. A fence has been installed along the entire front of the property. Mr. Creamer testified there were no proposed changes to the site.

The 60' x 80' building is currently being used by garage, storage and warehouse. Proposed tenant would use the building for an office and storage of nuts and bolts. No major repairs proposed onsite. Other than a flat tire or a dead battery, all repairs are performed at the main office. No hazardous materials or gasoline will be stored onsite.

Proposed change of hours of operation from 7 am – 8 pm currently to 6 am - 8 pm. Trucks to be located in the rear of the site and to be backed up during the day to have the ability to pull out directly. There will be no back up after 7 pm at night. A sign will be posted to indicate no left turn of tractor trailers onto Palmer road leaving the site.

Dale Creamer spoke to being in the 93rd year of a family owned business. Spoke to being a part of the community and being a good neighbor by offering a helping hand when possible. Dale Creamer spoke to the ability of accessing work near Rt. 287 and Rt. 46 by this satellite location. Primary New Jersey locations are located in Lynden and Fulsom. Mr. Creamer testified that the no additional lighting is required. The two lights on the building currently are sufficient. The detention basin and water management plan will be followed and the water basin will be maintained. The appearance of the J. Fletcher Creamer sites are maintained and always a reflection of the pride in their business.

Dale Creamer testified to being amenable to working with the township on addressing all issues. Despite having been advised by legal counsel that everything proposed is permitted under the zoning of the municipality and that they would most likely win the suit without making any concessions. Mr. Creamer agreed that upon call from the township, dust control or street sweeping measures would be immediately addressed.

Approximately 4-5 emergencies occur annually and would have to come out of the main yards. Dale Creamer testified that the material may come out of the Denville location but not as an emergency. Equipment and men would be shuttled to the emergency site. The materials would come out of Denville as a normal work day. Mr. Creamer explained that materials for large jobs come from the Lynden or Fulsom sites. The Denville location would be for smaller jobs, such as a Dunkin Donuts that needs some rail.

John Schepisi, Esq, read the conditions of the settlement agreement into the record and Dale Creamer testified to agreeing to each of these items individually.

Chr. Buie opened to the board professionals.

John Ruschke, PE had none.

Jason Kasler, PP inquired about major versus minor repairs. Spoke to major vehicle repair being overly broad. No transmission fluids, no oil changes, etc. Dale Creamer confirmed that only minor repair items, such as AAA would perform would take place onsite. Stating further that work would be performed by stationed mechanics at the 16 garage bays in Hackensack, 12 bays in Lyndon and 7 bays in Fulsom. If required by transporting on a low-bed.

Chr. Buie opened to members of the public.

Erika Studint (3402 Scenic Court) was present and inquired about the entrances and exits. John Schepisi, Esq. confirmed that the tractor-trailers exiting the site will not be permitted to make a left hand turn. Ms. Studint thanked the board for representing the public.

Dave Renkas (104 Sheffield Ct) was present, sworn under oath, testified to having a familiarity with Union County, commented on the traffic flow and number of trucks and inquired about a forklift. Mr. Schepisi, Esq. stated that a maximum of two deliveries would be made on weekdays between the hours of 7 am and 8 pm. Mr. Creamer stated that the forklift would be a lull but not heavier. The all-terrain forklift would be stacking the materials on the east side of the property.

John Clancy (506 Knollwood Court) was present and voiced a primary concern for the change in business hours. The bulk of emergency work is performed out of Lynden. Mr. Schepisi clarified that the emergency work for this division, for guide rails only occurs four times per year during off hours.

Rich Strunck (1108 Worthington) was present, argumentative and had questions on trucks not idling or not going in reverse. John Schepisi, Esq. clarified that the trucks would not be idling for extended periods of time and would only be backing up during business hours.

Robyn Mappa (606 Knollwood Court) was present advised of the Palmer Road flooding and voiced concern for the safety of joggers and wildlife. John Schepisi, Esq. commented that the trucks are high off the ground. Dale Creamer stated that deliveries won't be made if the road is closed.

Mr. Lingampalli (1707 Windsor Court) was present and inquired about the number of tractor trailers on the premises. Mr. Creamer responded that there would be only one tractor trailer in and out per day. With the exception of when there is a delivery, there would be two. The crew goes out with the cone truck, then the attenuator truck and then the guide rail.

Kenneth Brown (3410 Scenic Court) was present and inquired about the noise when loading and unloading. John Schepisi, Esq. stated that there will be a minimum amount of noise. To satisfy the residents they will not be loading or unloading before 9 am or after 6 pm. during business hours. Stating that there will be less noise than that takes place currently by the three landscaping companies on the premises. Tiena Cofoni, Esq. stated that town officials do not perform routine inspections. Enforcement is done when required. Mr. Brown was sworn under oath and voiced concern about property values.

William O'Keefe (304 Palmer Road) was present, sworn under oath and inquired about back up alarms, dumpsters and stone materials. Mr. Creamer stated that the trucks also have the ability to pull around the building. Mr. O'Keefe suggested there must be a better way than dumping from a lull. Dale Creamer confirmed that only a small quantity will be required. Large quantities will be provided by a quarry to the job site. There will be no double ender on this site.

Mary Ann Cuneo (304 Palmer Road) was present, sworn under oath and inquired about noise and dust. John Schepisi, Esq. stated that both would be kept to a minimum and should there be a problem a phone call can be placed to Dale Creamer. Ms. Cuneo agreed that they would be a good neighbor and wished them good luck.

Michael Calello (817 Buckland Court) was present and inquired about visibility and safety from possible deliveries blocking the driveway. There will not be any trucks blocking the driveway or sitting on Palmer Road. Mr. Schepisi, Esq. stated that as a stipulation of approval they agreed to add that no tractor trailers would be sitting on Palmer Road.

John Briod (2502 Vantage Court) was present, sworn under oath and voiced concern for future growth and changes. Mr. Dale Creamer stated that due to its size, this site would remain a satellite site. A site of 16-30 acres would be required for growth.

Chr. Buie asked for other members of the public and seeing none, closed public portion.

Chr. Buie opened to board members.

Mbr. Schmitt inquired about the fence, weekend work and the size of the building. Dale Creamer confirmed the business is typically Monday through Friday. The building is larger than required. The Township Planner confirmed that the fence is required by ordinance.

Mbr. Nienstadt inquired about fuel storage, waste containers and flooding. Dale Creamer confirmed the containers would be picked up between the hours of 9 and 3 and that guide rail is can get wet.

Mbr. Golinski spoke to a tale of two creamers and the good people of Denville. Last public hearing wasn't presented as well. Tonight's hearing demonstrates a desire to be a good neighbor and a member of the community.

Mbr. London agreed this public hearing is better than the last public hearing. Referenced noise and the dumpster being open on the end. Applicant responded to end loading of the dumpsters when possible. Mbr. London referenced invasive species not be used in the landscaping.

Mbr. Filauro inquired about the weight limit of the bridge, referenced flooding even when there is a rain storm. Thanked the applicant and the residents.

Mbr. Maffei had no questions or comments.

Mayor Andes commented on the public hearing being different than the last. Agreed with Mbr. London regarding the dumpsters. First few pieces make the most noise. Referenced the deliveries being both employees and outside companies. The Mayor voiced confidence that the applicant would be a good neighbor. Dale Creamer stated a list of numbers would be provided to the engineer for any potential concerns or issues.

Chr. Buie echoed the comments of the board members. Stating only that actions speak louder than words, he would hope that the applicant holds to the promises made.

Tiena Cofoni, Esq. stated that the conditions would follow those found in the settlement agreement. The only additions tractor trailers shall not be sitting idling on Palmer Road and that all plantings should be native species. Mr. Schepisi, Esq. stated that they would endeavor to load from the side door.

Motion to approve this application was made by Mbr. Filauro, seconded by Mbr. Nienstadt and approved by a majority of members.

ROLL CALL: Ayes – Filauro, Nienstadt, Golinski, Maffei, London, Andes, Buie

Chr. Buie announced a ten minute break.

After a brief break, Chr. Buie announced that Mayor Andes needed to leave for another matter.

**APMS/FMS 14-06: TRI-M Enterprises
52 & 54 Smith Road
Block 20401, Lot 3 & 11**

Jason Rittie, Esq. of Einhorn & Harris, (165 East Main Street) represented the applicant, Tri-M Enterprises. Applicant is seeking to amend prior preliminary and final major subdivision approval. Original approval was obtained on August 13, 2008 with extensions. Applicant proposing to eliminate the subsurface detention basin and create one above ground.

Marc Walker, PE (21 Bowling Green Parkway, Hopatcong) was present, sworn under oath and whose qualifications were recognized by the board. The original project would have a sewer service area which was removed by NJDEP. Due to no renewal of Treatment of Works Application (TWA). More studies were performed, additional would be required with no guarantee to get back in to the sewer service area. The applicant has performed testing of each lot and plans include proof of this testing that all lots will accept a private septic. A 400' pipe underground would be eliminated. The stormwater system with a sand bottom surface basin is proposed in the exact same location. Basin as designed will meet all state stormwater regulations for quality, quantity and the infiltration of water.

Referenced HMM report of December 4th, 2014 and agreed to the majority of the comments in the report with five or six to be discussed with the board. It was agreed that the second emergency spillway is not required. Run-off for pretreatment was requested by township engineer. Mr. Walker stated that the drainage area is very small and no pretreatment is required for the 8.1 acres. With the board's consent, a PVC split rail fence is proposed to avoid future maintenance. A clay core is not needed for this project and will not be included in the detail for the detention basin. Using **Exhibit A-1** Lot Layout Exhibit, colorized sheet 4 of 13 that board received. A berm would be included along with the swale remains unchanged. The Township Engineer recommends inclusion of a drainage easement of 20' wide along the back property line to ensure that for the municipality it remains in perpetuity. Recorded vacation of the 10' AT&T easement despite it being on the plans. Proposed 12" pipe picks up water from only lot 11.01. Language will include that the homeowner is responsible for the maintenance of the pipe. A roof leader drain and downspout sizes will be specified on the plans. This information will be provided on any plan that is provided to the building department in the future. Marc Walker, PE referenced the reports from town agencies. The Fire Department requested an additional fire hydrant. As it relates to RSIS 400' on a 530' road there is no need for a third hydrant. Mr. Walker stated the only differences of the two plans were that they performed soil testing and proposed septic system. Stating there is no impact to the proposed infrastructure other than the removal of the sanitary sewer line. Referenced the DPW report requesting the shifting of the hydrant at the end of the cul-de-sac. Also, pointing out that the applicant agreed to this stipulation of moving the street trees out of the ROW. Jason Rittie referenced the Morris County Planning report of October 31, 2014. Mr. Walker confirmed that the applicant would comply with both the requests of the MCPB and Tax Assessor.

Chr. Buie opened to board professionals.

John Ruschke, PE referenced the insulation of the pretreatment for the detention basin. It is a recommendation by NJDEP's Best Management Practices for ease of maintenance. Spoke to the split rail fence to keep children out. Recommends the fence. Aesthetics, more rustic, wood vs. PVC left to the consideration of the board. Applicant has agreed to all other conditions and will be held to the storm water control regulations and they will have to demonstrate. No issue with setbacks and would need to meet requirements for board of health septic design and to demonstrate soil borings are adequate. John Ruschke agreed that the fire hydrant should be moved for ease of flushing the line.

Jason Kasler, PP inquired about the maintenance responsibility and if there was a homeowners association. The aesthetics will be the homeowner 11.05 at the end of the cul-de-sac and deed restriction. The maintenance would be the responsibility to the township.

Chr. Buie opened the public portion of the hearing and seeing no one wishing to speak, closed the public portion of the hearing.

Mbr. London had questions about a COAH obligation and a through street. As it relates to COAH, the board attorney confirmed that this is just a modification to a previously approved plan and the contribution remains in effect. Mr. Walker stated that it could have been a through street to what is currently a paper street. Mbr. London requested any plantings be native species.

Mbr. Filauro inquired about switch from pursuing sewers. Mr. Walker stated that the efforts have been ongoing to proceed with sanitary sewer but it seems to be unlikely based upon current regulations. The original proposed hook-up from Nicole Drive would be ideal. John Ruschke, PE confirmed that once you are out of a sewer service area it's very difficult to get back in.

Mbr. Maffei inquired about Item #17 from the engineering report and an explanation about being removed from the sewer service area. Marc Walker responded to the lines of responsibility and provided an explanation regarding undeveloped properties and wetlands.

Mbr. Schmitt agreed with the maintenance and that a split rail fence would have the best appearance for the property and didn't have a preference of wood versus PVC. Stating brown PVC could be obtained.

Mbr. Nienstadt agreed with Mbr. Schmitt.

Mbr. Golinski commented on a best management practices recommendation for a pretreatment device.

Mr. Walker spoke to the impervious coverage, sediment and the cost of filters as it relates to the 8.1 acres. Mr. Ruschke, PE didn't agree and suggested a smaller device at a smaller cost.

Chr. Buie agreed with being in favor of the pretreatment device and inquired about the elevation. Mr. Walker stated it was approximately 4' in height.

Tiena Cofoni, Esq. referenced the outstanding item of the pretreatment device. Asked the applicant if they wished to amend their application or to proceed with a vote this evening. It was the consensus of the board members that a pretreatment device be installed by the applicant. Jason Rittie, Esq. asked for some time to speak with his client. After a brief break, the applicant agreed to a condition leaving the pretreatment at the approval of the township engineer. Should a decision not be met, the applicant would like to return to the board.

Tiena Cofoni, Esq. provided a summary of the conditions to include; design of the pretreatment device, Board of Health to approve septic design of each lot, a deed restriction for Lot 11.01, Native species plantings. Stating the condition of the 4' split rail fencing to have mesh backing has been removed.

Motion to approve this application was made by Mbr. Golinski, seconded by Mbr. London and approved by a majority of members.

ROLL CALL: Ayes – Golinski, London, Nienstadt, Filauro, Maffei, Schmitt, Buie

OLD BUSINESS

Chr. Buie thanked Mbr. Golinski for his time and service with the board.

ADJOURNMENT AT 10:50 PM

Denean Probasco, Board Secretary

Date Approved: January 14, 2015