

**Township of Denville  
Planning Board  
Meeting Minutes**

**August 10, 2016**

The Planning Board of the Township of Denville held its regular meeting on Wednesday, August 10, 2016. The meeting was held in the Municipal Building, 1 St Mary's Place and commenced at 7:30pm. Chairperson Buie presided.

**Secretary Unrath read NOTICE OF PUBLIC MEETING**

**ROLL CALL:**

**Present:** Marilyn Kuntz, John Ciardi, Sue Filauro, Louis Maffei, Kurt Schmitt, Mayor Thomas Andes, Chairperson Glenn Buie.

**Absent-** Mark London, Stephanie Lyden

**Prf. Present:** Edward Buzak, Esq., John Ruschke, PE, Jason Kasler, AICP, PP

**Oath of Allegiance**

Edward Buzak swore in John Ciardi as the newest Planning Board member.

A motion to appoint Melissa Unrath at the newest planning and zoning board secretary was made by Mbr. Kuntz, seconded by Mbr. Maffei and unanimously approved by all members able to vote.

Presented Peter Nienstadt with dedication plaque for being a Planning Board member from 2008-2016.

**Minutes**

None.

**RESOLUTIONS**

**PSP/FSPV 15:05**

**Universal Institute, Inc.** (No vote: London, Maffei, Nienstadt, Schmitt)  
**40 Morris Avenue**  
**Block 60101, Lot 5.02**

A motion to approve this denial resolution was unanimously approved by all members able to vote.

**ROLL CALL:** Kuntz, Filauro, Andes, Buie

**PUBLIC HEARINGS**

**MSV/ 16-01**

**Leur, Compton and Ryerson**  
**9,11 & 15 Wildwood Terrace**  
**Block 60204, Lots 146,148 &149**

Mbr. Ciardi excuses himself from this public hearing due to the fact he has a business relationship with Mr. Caputo.

The applicants David and Kim Leur, Gerard Ryerson, Donn and Kim Ryerson sworn under oath and testified. They are seeking to grant minor subdivisions approving relating variances and permits to subdivide Block 60204, lot 148 and to merge the subdivided portions to the adjoining lots 146 and 149.

**Remo Caputo, Esq (Attorney)- 1 Broadway #201-** Represented the Leurs, Comptons and Ryerson. The Leurs own lot 146, Compton's own lot 149 and Leur/ Ryerson both own lot 148. The proposal is to split lot 149 to the Leurs and Compton's and Lot 148 will be completely dissolved. Currently on lot 148 there is shed and patio. The patio will be on lot 149, and the shed will be on lot 146.

**Garry Worley(Surveyor) 21 Ashford Street, Newton NJ-** sworn in as a professional surveyor. Exhibits A-1 to discuss the variance and wavers for lot 146 and 149.

Lot 146-

19-5.1106b- requires two yard and the proposed footage is 9.02 ft. and 22.5ft

19-5.1106d- requires minimum lot area of 15,000 sq. ft. The proposed plan is 11,367sq ft.

19-5.1106d -requires a minimum lot width of 110 ft. The proposed plan is 58.3 ft.

19-5.70e requires an accessory building in a residential zone built within the rear yard and the rear half of the side yard shall be no closer than 5ft to any lot line. The proposed lot is 2ft.

Lot 149

19-5.1106 requires a min. front yard set back of 35ft. The proposed lot is 17.4ft.

19-5.1106b requires a min yard of 50ft. The proposed lot is 5.1 ft.

19-5.1106d requires a minimum lot depth of 150ft. The proposed lot is 67.5 ft.

19-5.1106b requires a side yard of 17ft.the current footage is 3.3 ft. &2.4 ft. The proposed lot is 5.1ft &14.4 ft.

19-5.1106d requires a min lot area of 15,00sq ft. The proposed lot is 5,242 sf

19-5.1106d requires a min lot width of 100ft. The current width is 43.9. The proposed lot is 60.6ft

19-5.705d requires an accessory structure within the front half of the side yard and meet the side yard setback requirements in a R-2 zone which is 17ft. The proposed lot if 5.2ft after the subdivision.

19-5.705e &19-5.705j.2- are not needed for this variance

19-5.705k permits an accessory building on lots less than 7,500 sf. in side to have a max. lot coverage of up to 6%, not to exceed 450sf. The current percentage is 13.3. The proposed lot is 11.9%

Chair opens to board professionals

**John Ruschke PE-** Overall good application, no questions.

**Jason Kasler, PP-** Positive move to conforming lots, no questions.

Chair opens to the public

No public testimonies

**Remo Caputo (Attorney)** – Inquired about if there have been any issues with these current properties.

**Donna Compton- 154 Cedar Lake West-** There have been no issue with any of these properties.

Chair opens to the board members

**Mbr. Maffei-** No questions

**Mbr. Schmitt-** Good enhancements with the non-conforming lots. No questions

**Mbr. Filauero-** No questions, good application.

**Mbr. Kuntz-** Good application- Reads a deed from 1907 and questions if this would be a problem with any of the proposed lot. **Ed Buzak Esq,** confirms every property on Cedar Lake has this deed and there are no problems with any of these properties.

**Mayor Andes-** No questions

**Chair Buie-** No questions

**Edward Buzak, Esq-** A motion to grant this minor sub -division with conditions appending 2 new lots onto the adjacent portions. Also to grant variances that Mr. Caputo testified to which all reduce the scope of the deviation, but non-conforming the lots.

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

**Roll Call:** Kuntz, Filauero, Maffei, Andes, Schmitt Buie

**MSV/SS 16-02**

**Timothy Fisher  
17 Spring Road  
Block 61401, Lot 549**

Applicant is seeking for minor subdivisions, with Bulk ("C") Variance and waivers in a R-2 zone.

Member Kuntz excuses herself from this application.

**Jason Rittie (Attorney) 165 East Main Street-** States that the Mr. Fisher had a medical emergency and will not be able to attend this meeting. This application is for a minor subdivision with bulk variances located on 17 Spring Road in a R-2 zone.

**Thomas Carlyon- 17 Woodland Road-** Sworn in and under oath. Co- owner of the property. Purchased this property in early January. Proposed to leave the existing house, but just to modernize it. The applicants would like to remove the front porch and add living space above the garage. As for the sub division property the applicants are proposing to sell the property.

**Kenneth Dykstra- 21 Bowling Green Parkway, Jefferson-** sworn in as a professional engineer and planner. Exhibits A-1- lot development plan, the property is located on 17 Spring Road. It has access points from both Spring Rd. and Florence Ave. The lot is located in a residential R-2 zone where it has minimum lot size of 15,000 sq. ft.

The steep slope disturbance for lot 549.01 is 0.7%. For the new proposed lot 549.02 over 50% of the lot is sloped and will need a variance in every area. The applicant proposed to treat the slopes with proper soil erosion as of right now the applicants have done the appropriate soil testing and they have all passed. The foundation will act as the retaining wall and would bring it up to 10ft. There would be 1 more 4ft wall for natural grade.

In response to Mr. Ruschke comments from July 15<sup>th</sup>, there is no position to put drywalls on lot 549.02, but the applicant would consider a retention wall. The new site plans now propose a 'super' silt fence for erosion. The applicants have no objection for a roadway trench. Permits have been filed for proposed septic systems and for any other permits proposed for this property.

Variance and ordinances proposed for each lot.

19-5.1106b-Ordinance requires a minimum side yard of at least 17 feet. The applicant is seeking a side yard setback of 10ft for the remaining lot. This would be a c-2 variance because the applicants are keeping the existing house.

19-5.1106 d- Ordinance requires minimum lot area of 15,000 sf. The applicant is proposing a lot area of 11,102 sf. for the new proposed lot. The applicants want to preserve the existing house.

19-5.1106 d. Ordinance requires a minimum lot width of 100ft. The applicant is proposing a lot width of approx. 86ft. for the new proposed lot. This is a C-2 variance because they want to preserve the existing house.

19-5.1106 d. Ordinance requires a minimum lot depth of 150ft. The applicant is proposing a lot depth of 136ft for the new proposed lot. This is a hardship because of the existing house and the depth is non- conforming.

**Jason Rittie (Attorney)** Inquired about the plans if they will have substantial negative impact with the zone plans in the surrounding land uses. Ken Dykstra confirms the the surrounding houses have the same sq. footage at the proposed lot.

Chair opens to the professionals

**John Ruschke, PE-** Inquires about the lot size for 549 and 548. Mentions to the applicants that they aren't forced to have storm water mitigation, but it is highly recommended. Ken Dykstra confirms the square footage for both lots is 10,000

**Jason Kasler, PP** – Inquires if you subdivide the property oddly into 2 -15sf. lots if that could help with some the variances requested. Ken Dykstra agrees it could be achieved, but with odd lot lines. Jason Kasler and Ken Dykstra both agree if this were to be done, it would not serve as a planning purpose but just for mathematical reasons.

Open to the Public

**Eileen Whitmore- 140 Florence Ave-** Sworn in to testify. Inquires if the applicants have done a Hydraulic storm water test on either of the properties. Ken Dykstra confirms that all appropriate tests have been done for

this test. Also shows exhibit photos of the water affects that happen on Spring Rd and Florence Ave during a storm.

**Rose Dancses- 14 Spring Road-** Sworn in to testify. States she has been a Denville resident for 24 years and ever since she has lived in her house there has always been flooding. She lives directly across from the existing property. And shows photos of what 17 Spring Rd property use to look like with all the trees before they were cut down. (exhibits A5-6)

**Mary Foley- 73 West Glen Road-** Sworn in to testify. States she is very upset that her privacy is being invaded and inquires to the board of who will be responsible if the flooding gets worse.

**Stanton VanWinkle- 69 West Glen Road-** Sworn in to testify. Concerned about the water problems that will occur if this new property is built. Is very concerned about the steep slopes and believes that it will drastically affect the water problems already existing.

**Kim Luer- 9 Wildwood Terrace-** Sworn in to testify. Lived many years at the house between Florence Ave and Spring Road. Concerned about the number of cars that already drive past these 2 roads. States Spring Road is already small enough that fitting two cars is nearly impossible and adding more house will just cause more traffic.

**Charles Femminella- 164 Florence Ave-** Sworn in to testify. Concerned about the water damages that already and might occur with this new property. Inquiries about the highest and lowest points of the property and what the retaining walls would like to the surrounding neighbors. Ken Dykstra states the lowest point of elevation is 554 ft. The highest point of elevation is 608 ft.

**Kurt Albert- 18 Spring Road-** Sworn in to testify. **States he** just purchased his house on Spring Rd a year ago and is also concerned about the water damages that will occur with a new built house.

**Seth Harris- 145 Florence Ave-** Sworn in to testify. States that he wants to make sure there is enough soil at the new proposed property for the septic system. That if there should be a substantial rain fall that no septic systems will be harmed.

Open to the board members

**Mbr Schmitt-** States he has no complaints for the subdivision variances, but the steep slope percentages are too high for this property. He cannot support this application.

**Mbr. Filauro-** Inquires about the prior tree cutting before an application was approved. Thomas Carlyon clarifies if the property is less than 1 acre and a single family residence you do not need a permit. Sue Filauro states that the steep slope percentages are too high and she will not be supporting this application

**Mbr. Maffei-** Inquires about if any architectural drawings have been submitted. Thomas Carlyon clarifies no architectural drawings have been submitted, but a building envelope of 1,000sf was submitted.

**Mbr. Maffei-** Questions what will be the highest point be on this property? And what would be done to the existing dwelling?

**Thomas Carlyon, LLC-** Clarifies the height will be within the ordinance. Nothing would be done to the roof to raise it, and there will be living space above the garage. The property would also have city water and electric.

**Mbr Maffei-** Questions what is the purpose of the retaining wall?

**Ken Dykstra PP, PE-** Clarifies It will be a drystone wall accomplishing grading purposes.

**Mbr. Maffei-** Questions what process will be taken to clear these properties?

**Thomas Carlyon, LLC-** States that they would be concentrating on the old house first, and as of right now no blasting would occur for the proposed lot.

**Mbr Maffei-** Questions with all the traffic mentioned from the testimonies can there be guardrails put into this application for safety and traffic purposes?

**Thomas Carlyon, LLC-** States that this project cannot be done for this certain application.

**Mbr Ciardi-** States that the biggest issue is the steep slopes. The flooding does not negatively/ positively affect this application. He cannot support this application.

**Mayor Andes-** Clarifies that property owners have the right to improve their existing property. Nothing can be done about losing their privacy because another owner wants to work on their own property. States that he is aware of the flooding that occurs on Florence Ave. and that Spring rd. is the hardest streets to plow. The steep slopes are the biggest issue being disturbed. The water run off causes too many problems already. The Mayor cannot support this application

**Chair Buie-** States his biggest concern is the steep slopes. Disappointed that the removal of trees could have prevented some of the water problems.

**Jason Rittie (attorney)-** Requested that this application comes come back at a different time with a new design plan now hearing all the testimonies.

**Ed Buzak, ESQ-** Clarifies that the applicant does have the right to fix the issues that were brought up this evening. However, most of the issues of steep slopes and the variances were already mentioned in the reports from the planner and engineer. If the application should be appealed the applicant can come back to the board, but with a new application.

**Chair Buie-** States that the board will make the final decision if this application should come back with additional information.

**Mbr. Schmitt-** agreed with the attorney and the applicants that with the new testimonies brought up this evening, new plans would need to be provided before making any decisions. States he would be in favor of the applicant coming back.

**Mbr. Filauro-** States she does not think any new plans would benefit this application. She would not be in favor of carrying this application.

**Mbr. Maffei-** States that the steep slope ordinances are still the reason he denies this application. He would not be in favor of carrying this application.

**Mbr. Ciardi-** Agrees the steep slopes are still the main concern. He would not be in favor of carrying this application.

**Mayor Andes-** Agrees the steps slopes ordinances are still the reason he will not carry this application.

Motion to deny this application was made by Mbr Filauro, seconded by Mbr Maffei and unanimously approved by all members able to vote.

**Roll Call-** , Ciardi, Filauro, Maffie, Schmitt, Andes and Buie

## **OLD BUSINESS**

None.

## **ADJOURNMENT**

Motion to Adjourn at 10:27 PM

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Melissa Unrath, Board Secretary

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Date Approved