

MINUTES

PRESENT: M. Augustine
 R. Dodds
 D. Haywood
 T. Kratzer
 J. Mathieu
 S. McNicol
 E. Niemann
 L. Sensus
 J. Strasser
 M. Syrnick, Alt #1
 D. Posey, Alt. #2

ABSENT:

CALL TO ORDER

The meeting was called to order by J. Mathieu at 8:00 PM.

NOTIFICATION

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Delaware Valley News and Express Times and sent to the Hunterdon County Democrat, and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Approval of Minutes

It was moved by R. Dodds, seconded by J. Strasser and carried to approve the minutes of March 11, 2008 with the following correction:

In Banisch Associates memo, Residential Growth Share Section:
“1 affordable unit/4 residential units”

All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by D. Haywood, seconded by R. Dodds and carried to release the Executive Session Minutes of November 27, 2007. All members present voted **AYE** on **ROLL CALL VOTE**, except M. Augustine, T. Kratzer, M. Syrnick and D. Posey, who abstained.

Resolutions

It was moved by R. Dodds, seconded by D. Haywood and carried to adopt **Resolution No. 2008- 06 – Honeymar – Block 26, Lot 4 – Granting Amended Minor Subdivision Approval with Bulk Variances**. All members present voted **AYE** on **ROLL CALL VOTE**.

S. McNicol recused herself from her position on the board for the following matter.

Silverson – Block 7, Lot 14 – Oak Grove Road - Conceptual Review

J. Silverson, proposed applicant and R. Lorentz, engineer, were present for the review this evening. The property in question was granted a Class II subdivision in 2006 and what is before the Board this evening is a conceptual review of the remaining lands. There is a fairly restrictive buffer on the property. The concept plan shows two flag lots which conform in terms of bulk requirements and are shown with the permitted side by side 25' wide access strips for a Class II common drive. There are two Class I lots with existing road frontage on Oak Grove Road. Those lots are conforming as to acreage but there are some issues as to access, specifically the presence of the wetlands and Category 1 stream. The prior subdivision was drawn along the field line. There were three lots that were previously developed about a year and a half ago. All the lots on the conceptual meet the basic bulk requirements, 4 acres in the main part of the flag lot and 2 or more in the lot fronting on Oak Grove Road. Both of the lots have 200' frontage. The frontage proposed for lot 14.20 does not allow access to Oak Grove Road due to environmental issues. The use of the Class II common driveway for access to the lot would be needed for approximately 500' into the property, where the bulk of the lot exists. The second lot has 200' of frontage and configured so that the built area is to the rear and would require a variance for access off the Class II drive. A wetlands determination and LOI have been issued. R. Lorentz indicated the wetlands on the overhead projection. The 2-25' strips are part of the rear most lot and one of the flag lot. It would be covered by a common access agreement for the two lots. Under a normal Class II access to the two adjacent Class I lots would be permitted off the Class II access for the first 50'. The applicant is requesting to extend it a considerable distance due to unusual circumstances. The maintenance agreement would include all four properties. The property will contain four separate lots even though one is shown as remaining land but it is not further subdividable. Lot 14, land remaining, consists of 7 acres with no constrained areas. Lot 14.19 consists of 9.1 acres with 5.4 acres (most of the Category 1 buffer) of constrained area. Lot 14.20 consists of 5.90 acres with 3.5 acres of constrained area. Lot 14.18 (with barn) consists of 3.52 acres with no constrained area.

J. Silverson stated he would consider demolishing the barns if the Township requested.

D. Pierce stated the Board should consider the variance application on its merits based on the testimony the applicant will provide during the hearing. The Board is not required to grant a variance. The variance for the driveway is a difficult proposition to support because it does not prohibit the productive use of the property but might not allow for the maximum use of the property. The Board would evaluate the application in that context.

J. Mathieu stated, it is a concern that by allowing a driveway of that length, a precedence might be set. There are some issues and consequences in the enforcement of the maintenance agreements. The Township eliminated the Class III subdivisions and is backing away from private joint maintenance agreements on subdivisions.

S. McNicol resumed her seat on the Board.

Schick - Block 14, Lot 39 – Fairview Road – Request for Extension of Time to File

C. Schick was present for the matter this evening. He is requesting an extension due to the fact he had to resubmit his application to the DEP. They have apparently misplaced his original application. The DEP has not been out for their site review yet. He does not have anything official from the DEP in regard to his resubmission except his copies of the bills from his professionals.

It was moved by J. Strasser, seconded by D. Haywood and carried to grant a 180 day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**.

Penn Jersey – Block 15, Lot 8.05 – Pittstown Road - Revised Final Site Plan Approval

D. Pierce has reviewed the affidavit of publication and notice and has determined they have complied with the notice requirements.

G. Hirsh of Archer & Greiner, attorney, was present for the applicants this evening. In reviewing the conditions of approval, the applicants identified the fact that the installation of the tower is necessary at this point. The applicant has a government grant which requires installation by a certain date. The applicant is not ready to construct the radio station at this time. In regard to the septic system, they will need to take a different approach before they apply for permitting. They are requesting the project be completed in Phases: Phase One as the installation of the tower and the remainder of the improvements as Phase Two or Three.

F. Napurano was sworn in by D. Pierce.

F. Napurano testified he is the president and general manager of Penn Jersey Radio. He testified if they receive approval, they will be able to build the tower and antennae. They have applied for the construction permit from the FCC to raise and move the antennae to the new location. There is a drop dead date of when the application had to be made or they might lose their license. There are measurements to ascertain they do not interfere with the AM station transmissions. They had applied for a NTIA grant for the construction of the tower, antennae and new equipment for the studio. The termination date is March of 2009 and a quarterly report of the progress is required. They are already behind schedule. It is an \$83,000 grant. The site would be unmanned until the studio has been completed. The signal would be microwaved to it until the studio is constructed. A chain link fence will be installed around the tower. The location of the tower is not movable. The location is set by its longitude and latitude. The existing tower will remain. It belongs to the State Police.

D. Pierce swore in P. McCabe of Van Cleef Engineering.

P. McCabe provided his credentials to the Board. He testified as to the proposed improvements. The board has received copies in their packages.

G. Hirsh had the drawings marked Exhibit A-1.

P. McCabe further testified the tower will be constructed to 180', as well as the guys and surrounding chain link fence. Part of the phasing would require the installation of two temporary trailers. One of the trailers is a storage trailer, 8x22, and the other is a temporary construction trailer for contractor's purposes. They will only be present at the site for as long as the process to construct the tower.

F. Napurano testified DRI Electronics Inc is constructing the tower. The transmission line is made of copper and at this time, copper is very lucrative. They need a place to store the items.

P. McNabe testified the second aspect included in this phase is a 10x12 enclosure. The enclosure will house the generator structure. It is a back up power source for the tower. The transmission equipment will be placed in a temporary trailer within the 10x12 enclosure. To obtain access to the unmanned facility, the applicants propose a temporary gravel 12' driveway with 6" of stone. Phase Two would be to construct the building, driveway, parking, stormwater management facilities, lighting and landscaping. The well and the septic system would not be required until the construction of the studio. The tower is going to be constructed in the northwest corner of the property. The corners would traverse from the east to the west. In regard to the septic system, the desire of the applicants was to go with a conventional system but there was a problem with mottling. The applicant had proposed a Clivus Multran system, which is a waterless, self-contained system. The system needs to be designed for the full use of the building. They will have to design some type of conventional system, which would require a TWA from the DEP and be an alternative system because of the issue with the ground water table. The system would have a tank, a secondary treatment and a disposal system. There is no problem with permeability. They can design a high system but might have a problem with breakout. They are proposing a peat filter system. The filters are replaced when needed and can be reused. The proposed basement of the building was going to be used to house the Clivus Multran system and will not be occupied. The construction of the tower is behind schedule and will be completed within a couple of months. The studio will be constructed as soon as possible, but is dependent on the DEP process. The proposed studio is 9,000 sq. ft. The improvements in Franklin Township will be to provide access to the site, such as drainage improvements to cross the ditch. The crossing in Franklin Township will be in the approved form required by them as well as the County. There is a metes and bounds conservation easement description for the wetlands on the northeast corner of the lot. The driveway will be fully improved to a 25' width.

G. Hirsh provided a letter from the FAA, marked as Exhibit A-2, dated January 30, 2007, indicating the tower would not be a hazard to air navigation and require lighting. The DEP has issued and extended the LOI.

After some discussion, the Board did not rescind the requirement of lighting on the original resolution.

It was moved by R. Dodds, seconded by S. McNicol and carried to grant approval for the phasing of the project with the following conditions.

1. The applicant shall post a bond, in an amount subject to the approval of the Board's engineer, to guarantee the removal of the tower if second phase of construction is not completed.
2. The applicant shall return to the Planning Board for site plan review and revision once the Department of Environmental Protection approves the septic system for the project.
3. The required performance and restoration guarantees required shall be provided at the beginning of each phase of the project in amounts appropriate for the work to be performed during that phase of the project, in such amounts as may be approved by the Board Engineer.
4. The required affordable housing contribution shall be resolved to that satisfaction of the Board prior to the issuance of a building permit for Phase 2 of the construction.
5. All other conditions of approval contained in Resolution 2008-10 not expressly amended by this resolution shall remain in full force and effect.

T. Decker stated he has a copy of the Stormwater Management Plan and it contains minor technical math issues but seems to be in order. He will work with their engineer on the amendments.

P. McNabe testified the power to the generators will be underground from the pole out front.

D. Pierce reviewed the items for Phase One:

- a. Installation of the tower, including the navigational lighting;
- b. Installation of the tower guys;
- c. Installation of fencing around the tower and guys;
- d. The installation of two temporary trailers
 - i. One trailer would be a basic construction trailer that would be present on site through both phases of construction and removed at the completion of Phase 2;
 - ii. The second trailer would be used for storage of parts of the tower during construction of the tower and would be removed after the tower was built;
- e. Installation of a 10' by 12' generator structure;
- f. Installation of power lines to the tower;
- g. Installation of a graveled driveway to the tower; and
- h. Installation of the driveway entrance and drainage improvements on the portion of the property located in Franklin Township.

All members present voted **AYE** on **ROLL CALL VOTE**.

Frenchtown Run – Block 12, Lot 31 – Horseshoe Bend Road – Amendment to Approval

Horseshoe Bend LLC – Block 14, Lot 28.02, Lot 30 – Horseshoe Bend Road –Amendment to Approval

D. Pierce stated the next two items on the agenda are as a result of the Township efforts to acquire the properties for open space and preserve them from the planned major subdivision developments. As part of the negotiations with the owners, a Letter of Intent has been signed and the Township has agreed to seek an amendment to the existing major subdivision approval. The amendment will change the approvals to a minor subdivision. The Equestrian Village development will contain one 14 acre lot, which the current owner will retain as part of the compensation for the sale and the remaining will be divided in two, one half to be acquired by the State Green Acres program and the other by the County.

On the Horseshoe Bend portion, there will be two new lots, both less than 10 acres, and the current owner will retain ownership. The Hunterdon Land Trust Alliance and Kingwood are participating in the purchase of this property.

D. Pierce stated the contract is contingent on the properties receiving the approvals to reconfigure the subdivisions. The lots will be single family lots and there have been discussions with the applicant regarding certain restrictions on the lands immediate adjacent to those lots to preserve the high caliber of those lots. The amended application should be submitted to the Board, for approval, at the May meeting. The new lots will be deed restricted against further development.

T. Decker stated the concept for the Equestrian Village is to square up the original 9 acre tract and make it perpendicular to the ROW. After the reconfiguration, it will contain 14.05 acres. The configuration keeps the property line out of the wetlands to the south. There is a little of the buffer that affects the property. The environmentally constrained lands will be on the open space portion. The Oakes' lot remains the same but some alterations to the access might be done. The Oakes' lot is essentially a flag lot and the staff of the flag

follows the path that leads to the northern property line. It is accessed by a drive that comes in parallel to the Buckeye Pipeline. He is reviewing the access easements.

D. Pierce stated the question is if the 50' ROW exists. He has been informed there is an easement granted for the current access but has not seen an actual instrument verifying the easement. The parties, Oakes and Horseshoe Bend LLC, have allowed Oakes to use it as an access. It could be an oral agreement. It is possible to negotiate for a reconfiguration of the access. The Green Acres program will have the southern half of the site and Hunterdon County the northern portion.

T. Decker stated, on the Deer Run project, there will be two lots to the west, a 4.4 acre lot and along the southern end, on Spring Hill Road, a 3.914 acre lot. These lots had access to interior roads on the original plat. Each of the lots will have a portion of a Conservation Easement and state open waters land. There are currently no improvements on the lots.

There are approximately 14 miles of trails for equestrian use and hiking.

J. Burke stated the transaction might be concluded by the end of the year.

D. Pierce stated, on the 14 acre lot, Horseshoe Bend LLC has requested the Board approve, since no further subdivision of the lot is allowed, as a condition of the contract, the construction of a second dwelling. They are contemplating a guest house.

Conservation Plan Element

A. Clerico stated the public hearing on the draft Conservation Element will be held on May 13, 2008. After the hearing on the draft Conservation Element, a public hearing on the final version will need to be scheduled. She would appreciate receiving comments back from the Board members by April 25, 2008.

Design Standards – Discussion

S. McNicol requested the item be listed on the agenda. At the last meeting, the Board discussed design standards. She is not prepared this evening to discuss the matter.

R. Dodds suggested the Board discuss the Draft Conservation Easement. It is a rewriting of Mendham Borough's standards.

D. Pierce suggested it should be more restrictive. He is familiar with the DEP standards in regard to conservation easements. The wetlands would have to get DEP approval for anything, including installing a pond. He can suggest language for next month's meeting.

A. Clerico has located a picture of a marker that could be used by the Board for wetlands. R. Dodds suggested a 3' ground monument that sticks up 6". The marker needs to be a durable material. J. Strasser stated it should have a distinctive height above and below the ground.

T. Decker stated there is an application that needs to delineate the easements and he is looking for direction so the applicant can finalize their plans. The concrete monuments for surveying have a medallion. The medallion can be customized for conservation easements. They can be ordered to anyone's specifications.

There was a brief discussion on the distance between markers. T. Decker stated having markers extending into open lawn and grass every 50' might impede the use of the property passively. The distance should be decided on a case-by-case basis. The requirement of markers should be added to the checklist so it is submitted with the plats.

Bunker Hill – Block 22, Lot 17

T. Decker stated he has contacted Bunker Hill and they will be installing the fence around the detention basin.

CORRESPONDENCE

J. Mathieu reviewed as per the agenda.

PRIVILEGE OF THE FLOOR

J. MacConnell – commented he would like the soil in excavations to be replaced as it was removed. He suggested holding the escrow funds until it has been repaired correctly. T. Decker responded he will advise the members of his staff to make certain the soil, in soil testing, will be replaced as it was removed.

Silverson – Block 7, Lot 14

J. Burke suggested a possible solution to the above referenced property is the owner donating an easement to the Township for some of the environmentally sensitive property. D. Pierce stated it would be enforceable.

J. Mathieu suggested the Board might want to consider a conservation easement along Copper Creek.

Board of Adjustment

D. Pierce stated a matter has become before the Board of Adjustment. The proposed Use Variance and Subdivision requires at least 5 members of the Board of Adjustment to hear the matter. The Board of Adjustment has 7 members and is short the two alternates. Three members have recused themselves from participating. One of the four remaining members has advised that they are not available for the April 9th meeting. He has spoken to the attorney's for both parties and they have agreed to a postponement of the matter until May. The Board of Adjustment would require one member of the Planning Board for this application. The statute provides, in this situation, only the necessary members of the Planning Board to make a quorum, can be brought over from the Planning Board. The applicants would have to have unanimous approval. The MLUL regulates which members of the Planning Board can serve on the Board of Adjustment. Class IV and Class II members are not eligible. The selection is then made from the remaining members by seniority of continuous service to the Board. J. Mathieu suggested J. Mathieu, R. Dodds and T. Kratzer are the remaining eligible members.

Zoning Map

After a comment by a Board member, T. Decker suggested Banisch and Associates update the zoning map and colorize it. J. Burke suggested A. Clerico review the County map and ascertain its accuracy before entering into the project of starting it from the beginning.

Stormwater Management Plan

T. Decker stated he has not seen any mechanism for an individual Stormwater Management Plan if someone had a 14 acre lot and built a 10,000 sq. ft home with some pavement. The trigger to require a Stormwater Management Plan is .25 acre of impervious coverage. D. Pierce stated the ordinance can be amended to provide for that type of review before the issuance of a building permit. J. Mathieu authorized D. Pierce to prepare the amendment.

ADJOURNMENT

It was moved by R. Dodds, seconded by J. Strasser and carried to adjourn the meeting at 10:25 PM. All members voted **AYE** on **ROLL CALL VOTE**.

Respectfully submitted,

Diane Laudenschick

Diane Laudenschick, Secretary