

Minutes of the Regular Meeting of the Morris Plains Planning Board held on March 17, 2014 at 7:30 P.M. in the Council Chambers, 531 Speedwell Avenue. The following members were present:

Present: Mr. Andre Jensen
Mrs. Sydney Leach, Vice Chair
Mr. Ralph Lopez, Chair
Ms. Suzanne McCluskey
Mr. Leo Nichols
Mr. Vincent Novak
Mr. Hank Sawoski
Mr. Donald Underhill

Leon Hall, Borough Engineer
William Denzler, Borough Planner
Christopher Falcon, Board Attorney

Absent: Mayor Frank Druetzler

PLEDGE OF ALLEGIANCE

The meeting was called to order by Mr. Lopez. Mr. Lopez made the statement that adequate notice of this meeting has been published and posted in accordance with Chapter 231 of the Public Law of 1975, "Open Public Meetings Act."

COMMENTS FROM THE PUBLIC

Mr. Lopez opened the meeting to the public to speak on matters other than those on the agenda. Seeing no one, he closed the public portion of the meeting.

APPROVAL OF MINUTES

Mr. Lopez requested a motion for the approval of the meeting minutes of the Board's Meeting held on February 10, 2014.

The Board Secretary advised there is one correction to these minutes. Mr. Soloway's name is spelled as Holloway. She will make this correction.

Mr. Nichols moved that the minutes as corrected be approved, seconded by Mrs. Leach.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mrs. McCluskey, Mr. Nichols,
Mr. Sawoski
Abstain: Mr. Novak, Mr. Underhill
Absent: Mayor Druetzler
Nays: None
Motion carried.

CORRESPONDENCE AND BILLS

Mr. Nichols read the vouchers for payment.

William Denzler & Associates	P. O. #95046
For Professional Services rendered to the Planning Board	
January 2014	\$3,080.50
William Denzler & Associates	P. O. #95065
For Professional Services rendered to the Planning Board	
February 2014	\$4,514.00

Mr. Nichols moved that these vouchers as read be approved, seconded by Mr. Jensen.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mrs. McCluskey, Mr. Nichols,
Mr. Novak, Mr. Sawoski, Mr. Underhill

Abstain: None

Absent: Mayor Druetzler

Nays: None

Motion carried.

REPORTS OF COMMITTEES

Minor Site Plan Committee

Mr. Novak spoke about problems experienced by the Zoning Officer, Donald Salerno, in enforcing the sign code relating to there being a dark green background and gold lettering. He distributed a draft memorandum to the Board members that has been created. There are many businesses in the center of town that do not comply with this regulation. The suggestion is that since this requirement is proving very difficult to enforce that it be removed from the ordinance and allow businesses to use any colors they want or, alternatively, that the zoning officer can suggest the preferred colors, but not require or enforce it. Mr. Novak provided a few examples of how the ordinance has been difficult to enforce.

Cross discussion about the best way to proceed, including that there really should be some degree of guidance regarding colors of signs, but not a strict requirement that all signage be this color(s) or that color(s).

Mrs. McCluskey suggested that Board members think about this between now and the next Board meeting and be prepared to discuss this issue at the next meeting.

Some members believed that for various reasons it is important to some business owners to be able to have colors they prefer, while others would probably be more agreeable to a Borough-preferred recommendation.

Mr. Lopez believed that the ordinance should be left as it is with some flexibility to permit colors unique to certain companies.

Mr. Denzler commented that when the ordinance relating to the use of the dark green and gold for signs was done in 1998, just before he started, the expectation by the Borough was that the downtown area would become a pedestrian mall type of environment and that was a compelling reason why there was a desire to have uniform signs colors. He believes that certain standard colors should be listed as permitted to prevent any terribly garish surprises for signs. Other municipalities handle this matter in a variety of ways.

Mr. Hall stated he believes there should be uniformity in the Borough. He can understand a special request when a specific color is directly associated with a certain business, but otherwise there should be uniformity.

Mr. Falcon spoke about the balance between aesthetics and land use. Trying to regulate/legislate signage colors along with other related issues is often a “tough road to hoe”.

Continued cross discussion about how other municipalities have addressed this and similar land use issues.

One of the Board members stated that in his opinion “too much sameness is not good”.

Mr. Lopez asked Mr. Denzler to research this matter and investigate how other municipalities have addressed this issue for presentation at the Board’s next meeting. He said he is agreeable to keeping it as it is with some degree of flexibility as needed. He also suggested that it would be a good idea if the Zoning Officer would attend the next meeting to further discuss this matter with the Board, and a decision will be based on everyone’s input.

Master Plan Review Committee

No report presented.

PB-4-13 Francesca Ecker – Public Hearing

Block: 185 Lots: 3.01 & 7.01 – Malapardis Rd. & Schoolview Dr.

Mr. Soloway introduced himself to the Board, the Professionals, and the public as the attorney representing the Applicant. He stated this application is a straightforward one. He reminded that they appeared before the Board approximately two years ago on a minor subdivision application that was approved in October 2011. The approval of this application created a new Block 185, Lot 7.01. This current application is for a lot line adjustment between Lot 7.01 and existing Lot 3.01 immediately to the northwest. This lot line adjustment will produce a very minimal impact on Lot 7.01 – in fact the lot size will actually increase from 1.47 acres to 1.50 acres, well in excess of the required 18,000 SF minimum lot size requirement for this zone.

Continuing, Mr. Soloway commented on issues related to there being wetlands on that lot. The Applicant has contacted the New Jersey Department of Environmental Protection (NJDEP) to obtain a "Very Minor Road Crossing and Wetlands Permit." This permit has been obtained, but as a result the wetlands in the Transition Area changed a bit from what was shown on the plan initially approved. They need the Board's approval and possibly also the Borough Council's to effect this change. He also spoke about a conservation easement. The total for both lots will be roughly 2.4 acres. Lot 7.01 will be conforming and there will be no bulk variances.

However, there are several variances needed for Lot 3.01, two of them relate to the function of the existing lot configuration on the Malapardis Road side.

Mr. Soloway explained that the Borough has an ordinance requiring a minimum of 18,000SF within 150' of the road frontage. This lot does not comply with this ordinance, even though the lot is significantly larger than the minimum lot size. Lot 3.01 is more than 100,000 SF, but there is not 18,000 SF within the 150' of the road frontage. It is an existing condition. A certain amount of frontage along Malapardis Road will be dedicated.

Mr. Soloway commented on the second variance stating that they do not have a 120' lot width at the front setback line – 35' off Malapardis Road. This is another existing condition. The house for Lot 3.01 would be in the back where the remaining land is. The third variance relates to the issue of steep slopes, although the Applicant's engineer does not agree with this determination. The applicant's engineer has explained to him that this is not a hill, but rather irregular terrain. He advised he will have only one witness, the Applicant's engineer. The property owner is also present at this meeting.

All those who will provide testimony were sworn in by Mr. Falcon.

Mr. Richard Schommer of Schommer Engineering introduced himself to the Board, the Professionals and the public. He advised he is both a professional engineer as well as a professional planner. He has appeared before this Board on prior occasions and has appeared before other boards, too. Mr. Schommer marked and displayed Exhibit A-1, entitled "Minor Subdivision Exhibit". No new building lots will be created, both located in the R-2 Zone and zoned for single-family residential use. He stated that the dashed line on the exhibit represents the existing lot line between the two lots. Today Lot 3.01 is 2.58 acres and Lot 7.01 is 1.46 acres. The Applicant will be dedicating .12 acres of land (in the front of the property) to the Borough for right-of-way roadway purposes. Using Exhibit A-1, he pointed out a variety of markings and other information, explaining each. Afterwards, Lot 3.01 will be 2.39 acres and Lot 7.01 will be 1.55 acres. The majority of dark green areas on the exhibit represent freshwater wetlands. There is a large portion of the property that is not particularly useable, is restricted, and they are not planning on doing anything with this property. The Applicant has received a Letter of Interpretation from the NJDEP. This letter confirms that, yes, there are wetlands and, yes, we

agree with your delineation of the wetlands. The Applicant also received a permit relating to the driveway for Lot 7.01 since it crosses a portion of the Transition Area.

Cross discussion about the Transition Area and what impact does it have on the area dedicated to the conservation easement, including that there will be some modification to the easement due to the fact that additional NJDEP approvals are needed.

Mr. Schommer provided details about the additional permits needed from NJDEP stating they deal with modifying the edge of the wetlands – doing a Transition Area waiver, a standard NJDEP permit – that allows reduction of the Transition Area in spots and enlargement in others. The driveway for Lot 3.01 crosses some wetlands transition areas and also a small portion of riparian zone related to the stream, and NJDEP permits for these issues, too. There will be sought and nothing will happen until all the necessary permits are obtained.

Mr. Lopez reminded that any major changes will require a return to the Board.

Mr. Schommer advised that the light green areas on the exhibit show the house locations for each lot. He explained how allowing the adjustment to the lot line will have an overall positive impact. The houses area conceptual. He advised that before any construction, they will need to have a lot grading plan, a detailed plan that will be submitted to Mr. Hall for his review and approval. He discussed stormwater management measures for each lot; they are depicted on the subdivision plan the Board has. There will be drywell for infiltration and other measures. There is no anticipation of an increase in stormwater runoff and that all will be in accordance with the Borough's rules and regulations.

Mr. Lopez asked if the actual houses will be larger than what is depicted or do they represent the maximum size or perhaps even smaller in size.

Mr. Schommer stated they are not the actual houses, but the area available for building houses on these lots is well defined. Neither house will be drastically different than what is shown. The locations of the driveways are also well fixed. There are limited options for the locations of houses and driveways. The final products will not be significantly different from what is being shown.

Mr. Schommer provided some additional details relating to the size of the proposed houses and issues in connection with the NJDEP permits. Due the shape of Lot 3.01 relief is needed from the ordinance. The measurement is 7,955 SF within the first 150' reach. Similarly, the minimum lot width at the setback (35') the minimum lot width is required to be 120', but because of the existing shape of the property they cannot conform with this. They have 50.9' at the front setback line. He stated they are existing conditions that are hardships that run with the property, requiring hardship variances. There would be no impact on this situation – it is a hardship. He commented on the matter of the steep slopes situation, explaining what the

ordinance allows or does not allow regarding steep slope areas. He referred to Sheet 4, pointing out the dark spots on Lots 3.01 and 7.01, stating these spots mark the steep slope areas. The change in grade involves several feet occurring over a short distance. It is 20 percent or more, but is not a large hillside. They are small isolated areas, especially when compared to the size of each lot, less than one-half percent of the lot.

Continuing, Mr. Schommer commented on soil disturbance for the Lot 7.01 driveway and for grading near the driveway and a retaining wall near the house on Lot 3.01. Disturbance will be quite limited. He called these areas "regulated steep slopes", but in his opinion it is a de minimus deviation from the ordinance in terms of actual disturbance. He does not consider this a major impact; rather he considers it no impact. But, because of the way the ordinance is written, the Applicant needs to seek relief. Drainage is toward the west. An easement will be provided to the Borough for a sanitary sewer that runs through a portion of the property.

Mr. Lopez asked about impact on neighbors with regard to drainage issues.

Mr. Schommer replied that the topography flows toward the nearby stream and away from the neighbors. There will also be stormwater management measures built into the development on both lots. There will be drywells for roof areas and for parts of the driveways. They will not create a drainage problem for the neighbors. What is being proposed will make Lot 3.01 a somewhat more usable lot for construction for its intended purpose.

Mr. Hall stated he had no questions of this witness at this point.

Mr. Denzler followed up on issues relating to steep slopes. He asked if after all the construction is done, will the grading and other matters be restored.

Mr. Schommer advised there is a soil erosion plan as a part of the plans submitted. On the downhill side protective measures will be installed. Stabilization will be provided by vegetation and/or pavement. It will be stabilized and will not remain undisturbed ground.

Mr. Denzler asked about Lot 3.01 and the 25' radius, wondering why it was done that way. Is there a specific reason?

Mr. Schommer replied that he does not know the history well enough to be able to answer this question. This is the maximum development that will occur here.

Mr. Falcon asked about lot coverage and how it impacts the size of a house that could be constructed. Is it based on the whole lot?

Mr. Schommer stated it is based on the whole lot.

Mr. Falcon responded that would allow for a larger house than what is being depicted here.

Mr. Schommer commented that the houses depicted are roughly the maximum size that any house constructed on either of these lots could be. There are practical limitations that mandate the size of the houses.

Cross discussion of what would be impacted if significantly larger houses were to be built on one or both of these lots.

The Board members had no questions for this witness.

Mrs. McCluskey commented on the size of the houses in that if they were to be four/five bedrooms and two and one half stories, she would not object, but if there were to be seven or eight bedrooms, she does not think this is what the Board would expect.

Mr. Schommer responded that he has no expectation of either house being seven or eight bedrooms.

Mr. Nichols asked about driveways and expressed some concern about what the flooding risks might be since the area did flood during Sandy.

Mr. Hall commented that he did talk about flood zones on the FEMA maps in his report. He referred to Flood Zone X. Flood Zone X is referred to as the 500- year storm or areas of the 100-year storm where depths are undefined but typically less than 1'. He suggested that the Board might want to consider a FEMA application on these properties as a way of being forthright and up front with future property owners. He advised that during construction he will be observing trucks coming to the site in connection with their possible impact on the roadway.

Mr. Lopez opened this portion of the meeting to the public for questions of this witness.

Mr. Larry Everitt, 63 Malapardis Road, Morris Plains, stated his main concern relates to drainage area off to the back toward the baseball fields. He believes this area should be looked at. He has no objections to the overall project.

Mr. Lopez asked about the configuration of one of the driveways asking if this driveway could come straight out.

Cross discussion about this matter, including how this might pose less impact in connection with possible flooding.

Mr. John Cortese, 75 Malapardis Road, Morris Plains, asked whether the stream could be cleaned up to allow it to carry more water. He said he believes much of the problem is that the stream is too filled with sedimentation.

Mr. Sawoski responded to this request from his perspective as being a member of the Mosquito Control Committee. He explained that a permit must be applied for in order to do this as well as many other procedures that need to be done concerning private property issues and dealing with NJDEP. It could take up to two or three months. He offered to look at the stream. He will bring this to the attention of Mosquito Control Committee, but explained some of the difficulties in accomplishing what is being requested.

Mr. Schommer again referred to the NJDEP Letter of Interpretation received by the Applicant and commented on what information it conveys. He also discussed again the permit(s) in connection with the driveway(s) that are still needed from NJDEP. NJDEP does permit what the Applicant is proposing under specific guidelines, and in the Applicant's opinion this falls within those guidelines. He anticipates receiving the necessary permit(s).

Mr. Nichols commented on flooding he has seen first hand in the area of the subject lots. He expressed concern about the location of the driveway(s) and disagrees that this is an area that would be impacted primarily by a 500-year storm. He is much more concerned with the 100-year storms which appear to be occurring more often. He is not sure enough stormwater management measures will be installed to address potential flooding.

Mr. Hall explained why he believes sufficient attention is being paid to issues of stormwater management measures, and he believes the Applicant probably will be successful in obtaining the necessary permit(s). Once NJDEP issues these permits, he is unsure if the Board will have any jurisdiction over such types of issues.

Mr. Lopez stated that it would appear the NJDEP will have the "last word".

Mr. Hall commented on matters relating to the ground. Once construction begins that will tell him everything he needs to know about the stability of the subgrade. If there is a problem, that will be addressed at that time. He is not necessarily expecting there will be any problems. He also spoke about the NJDEP/FEMA floodplain maps. He believes certain areas within the Borough are not accurate on these maps, but "the maps are the maps". It will take funds to petition the NJDEP to make changes on these maps.

Mr. Soloway commented on the changes that will be made in reference with Mr. Hall's January 27, 2014 report. He stated he has no further witnesses.

Mr. Lopez opened this portion of the meeting to the public for questions or comments regarding this application. Hearing none, he closed this portion of the meeting to the public.

Mrs. Leach stated that she would like everything to be in the Resolution that eventually will occur as part of this application, including the deed reference being in the subdivision deed.

Cross discussion about the matter of cleaning up the stream and the involvement of the Mosquito Control Commission.

Mr. Falcon stated the Resolution will grant a minor subdivision which addresses the relocation of the previously approved line. The line will be altered and relocated, thus creating two new lots with a new configuration. There will also be approval of three requests for variance relief – two relating to the portion of the property at the top of the map which extends to Malapardis Road and the third grants relief from the requirement that nothing be constructed affecting the slope exceeding 20 or more percent.

Mrs. Leach moved to direct the attorney to prepare a resolution of approval for the Board's next meeting in April, seconded by Mr. Underhill.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mrs. McCluskey,
Mr. Novak, Mr. Sawoski, Mr. Underhill

Nays: Mr. Nichols

Absent: Mayor Druetzler

Motion carried.

NEW BUSINESS

None.

OLD BUSINESS

None.

There being no further business Mr. Underhill moved the meeting be adjourned, seconded by Mrs. Leach. Voice vote. All in favor.

Motion carried.

Karen M. Coffey
Commission Secretary

Maureen Sullivan
Recording Secretary

