

Minutes of the Regular Meeting of the Morris Plains Planning Board held on March 16, 2015 at 7:30 P.M. in the Council Chambers, 531 Speedwell Avenue. The following members were present:

Present: Mr. George Coogan
Mr. Salvatore Cortese
Mr. Andre Jensen
Mrs. Sydney Leach, Vice Chair
Mr. Ralph Lopez, Chair
Mr. Leo Nichols
Mr. Vincent Novak
Mr. Hank Sawoski
Mayor Frank Druetzler

Leon Hall, Borough Engineer
Christopher Falcon, Board Attorney

Absent: Elizabeth Leheny, Borough Planner

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 Re-Organization Meeting held on January 19, 2015.

Mr. Nichols moved that the minutes as circulated be approved, seconded by Mr. Jensen.

Roll Call

Yeas: Mr. Coogan, Mr. Cortese, Mr. Jensen, Mr. Lopez, Mr. Nichols,
Mr. Novak, Mr. Sawoski, Mayor Druetzler

Abstain: Mrs. Leach

Absent: None

Nays: None

Motion carried.

CORRESPONDENCE AND BILLS

Mr. Nichols read the vouchers for payment.

Anderson & Denzler Associates, Inc.

PO #97209

\$ 114.00

For Professional Services rendered to the Planning Board, January 2015
Maraziti Falcon LLP **PO #96391 \$ 875.00**
For Professional Services rendered to the Planning Board, January 2015
Phillips Preiss Grygiel, LLC **PO #97217 \$ 952.50**
For Professional Services rendered to the Planning Board, December 2014
Phillips Preiss Grygiel, LLC **PO #97217 \$ 885.00**
For Professional Services rendered to the Planning Board, January 2015

Mr. Nichols moved that the vouchers as read be approved for payment, seconded by Mr. Novak.

Roll Call

Yeas: Mr. Coogan, Mr. Cortese, Mr. Jensen, Mr. Leach, Mr. Lopez,
Mr. Nichols, Mr. Novak, Mr. Sawoski, Mayor Druetzler

Abstain: None

Absent: None

Nays: None

Motion carried.

PB-1-15 Harold Wooley – Minor Subdivision
Block: 193 Lot: 21 – 33 Old Wood Road

Mr. Lopez stated this matter is on tonight's agenda for completeness.

Mr. Sawoski recused himself from this portion of the meeting.

Mr. Carmine D. Campanile, Esq. introduced himself to the Board stating he is the attorney for the Applicant, and he provided comments on various reports.

Mr. Hall provided commentary on their February 20, 2015 report. He stated 18 items were listed as items of incompleteness. He asked the Applicant's attorney if there will be a Freshwater Wetlands Letter of Interpretation (LOI) in the file by the time of the Board's April meeting.

Mr. Campanile stated this is his intent. He advised he would request the engineer to explain in more detail. He and Mr. Hall discussed the issue of the Applicant possibly seeking one or more waivers and the matter of the Department of Environmental Protection (DEP) LOI.

Mr. Falcon asked if it could happen that the LOI could be returned in such a way that what the Board has reviewed will have to be substantially revised. This could render the plan currently before the Board unfeasible.

Mr. Hall provided information on the issue of an LOI possibly coming back with significant revisions and how the Applicant and the Board would proceed at that point. He also cited an example of a second review of certain property (Cortese/Ecker subdivision at the end of Schoolhouse Lane) by the DEP. This second review resulted

in the DEP expanding the limits of the wetlands. Until the DEP locks in the driveway line, the Board does not know the length of the crossing. The LOI can be made a condition of approval with the caveat that no subdivision deeds for the lots be created until the LOI is in place and the DEP permits are in place. The Board must safeguard itself against creating lots with no DEP approval.

Mr. Campanile stated he understands this and is agreeable to this being made a condition of final approval.

Mr. Hall stated that the Applicant would be proceeding at his own risk. He understands the position of the Applicant and the issue of spending two separate costs up front. The Applicant is looking for conditional action subject to an LOI and permits, and both are required for this application.

Cross discussion about contact made with PK Environmental and discussions with Mr. John Peel. A letter from John Peel, P.P. of PK Environmental was distributed to the Board.

Mr. Hall commented on General Notes, specifically General Note No. 7 and its making reference to Zone X of the FEMA flood study. Zone X as shown on the plat is on the property and there is a need to double check this.

Mr. Campanile stated Zone X is the area designated outside the floodplain; on a FEMA map these X areas are unshaded. here is no floodplain on this property.

Cross discussion concerning the issue of how to handle the matter of the DEP LOI and how best to move forward for both the Applicant and the Board.

Mr. Hall provided background on applications he has worked on in other municipalities and how they have proceeded in instances that are similar to this one. He stated he is comfortable with the possibility of the LOI not being in hand at the time of the public hearing and when a decision needs to be made by the Board with a condition of approval being that it is subject to the DEP LOI and the required 10A permit (Minor Road Crossing) and no subdivision deeds being filed. If the wetlands or their classification changes, the Applicant must return to the Board.

Cross discussion about issues relating to the application, including historical background information from the 1980's or early 1990's; two separate deeds; and various land purchase(s) over the years.

Mayor Druetzler stated he cannot recall certain purchase(s) of vacant land, and he would like to be able to review the historical information relating to this site. He was a Planning Board member during some of this timeframe, and he just does not remember any of this. He also mentioned possible land dedications.

Mr. Campanile provided additional information concerning the historical information, specifically that the entire half road was supposed to be dedicated, but for some reason the half road to the end of Lot 22, but there is no re-dedication for the portion of that half road that is in front of you in Lot 21. A portion of an earlier Resolution was read referring to a road right of way dedication.

Cross discussion about what did and did not happen over the years regarding Lots 21 and Lot 22, such as various sales of property and why dedication(s) did or did not take place, and that this dedication must be made a part of this present application.

Mr. Falcon stated that the issue is whether this application is complete. He also referred to earlier an earlier application(s). He recommended waiting for receipt of the title search to determine if the conditions of the prior subdivision approval have been accomplished. He commented on the issue of the dedication and depending on what the title search shows what would need to happen next.

Mr. Hall provided guidance on the granting or not granting of a certain waiver(s). This relates to completeness checklist waiver items.

Mr. Campanile agreed the remaining outstanding completeness items will be addressed and also agreed that if the dedication was not done, it will be a part of this application. The full search will reveal what actually did or did not happen. it may take anywhere from three to six months before the LOI is received.

Mr. Hall stated he is comfortable that if the public hearing is completed before the LOI is in hand, he recommends it be made a condition of approval. If the wetlands are significantly different on the LOI map, there will need to be a condition to go back to the Board again.

Mr. Falcon stated he believes that at this point the Applicant is seeking a direction to go in from the Board.

Mr. Campanile stated he realizes there is risk with this application caused by the absence of the LOI and other currently unknown pieces of information.

Cross discussion relating to the dedication issue and not being able to locate certain specific historical documents; current ownership of this property; adjacent property; private road versus public road; property extending to the center of the roadway; possible conditions of approval; and a possible oversight causing the incorrect dedication.

The Applicants Mr. and Mrs. Wooley agreed that if the dedication in question is proven to have not been done, it will be done with this application.

Mr. Hall referred to the last comment of his February 20, 2015 letter: "Also, the application must be revised to reflect a 6,250 square feet plus or minus road right-of-

way dedication and a reduction in lot area of 6,250 square feet plus or minus for proposed Lot 21.01.” He wants to ensure that the Applicant is clear about this.

Mayor Druetzler moved that this application be deemed incomplete per the information provided and recommendations of the Borough Professionals, seconded by Mrs. Leach.

Roll Call

Yeas: Mr. Coogan, Mr. Cortese, Mr. Jensen, Mrs. Leach, Mr. Lopez,
Mr. Nichols, Mr. Novak, Mayor Druetzler

Abstain: None

Recused: Mr. Sawoski

Absent: None

Nays: None

Motion carried.

Mr. Campanile thanked the Board for its time and consideration of the application.

Mr. Sawoski did not return to the meeting.

COMMITTEE REPORTS

Minor Site Plan Committee

No report was presented at this meeting.

Master Plan Review Committee

No report was presented at this meeting.

ORDINANCE #3-2015 REVIEW

Mr. Falcon provided information concerning this ordinance. It involves certain notice requirements when a use classification is occurring within a zone district. He and the Borough Attorney discussed a January 29, 2015 decision of Judge Grasso in the Superior Court which clarifies certain circumstances relating to this matter.

Mayor Druetzler added some additional information.

Mr. Falcon read the resolution pertaining to Ordinance 3-2015.

Mayor Druetzler moved the Ordinance #3-2015 resolution #15-06, seconded by Mrs. Leach.

Roll Call

Yeas: Mr. Coogan, Mr. Cortese, Mr. Jensen, Mrs. Leach, Mr. Lopez,
Mr. Nichols, Mr. Novak, Mayor Druetzler

Abstain: None

Absent: Mr. Sawoski

Nays: None

Motion carried.

A copy of the Resolution is attached and on file in the Board Secretary's office in the Planning Board's Resolution Book.

NEW BUSINESS

Mr. Falcon advised that at a meeting convened by the Mayor an issue was raised. This meeting was attended by the special COAH counsel, the Borough Attorney, myself, and representatives of the Borough Planner's office. The subject of the meeting was low and moderate income housing. "The time is now for the Master Plan to be addressed to bring up to date the status of all the things the Borough has been engaged in . . . 2008 report for housing element and fair share plan which was prevented from moving before COAH because of the eleventh hour, 11:59 filing of a lawsuit." Since then the Borough has acquired properties, made zoning changes, and assessed the suitability of land parcels for use for low and moderate income housing. It would be a good time for the Planning Board to direct the Borough Planner to develop a revised housing plan element and fair share plan, one that reflects the various actions taken since 2008 and to update the Master Plan appropriately.

Mayor Druetzler commented on this recommendation. He advised he had provided copies of certain documents relating to this subject, including the suitability report and the State Supreme court's recent COAH decision. He stated he had one question on the resolution, stating he had a different preference regarding the number of weeks. There should be time for two Planning Board meetings. Nine weeks would be better.

Cross discussion about this issue with various members expressing their thoughts and opinions.

Mr. Hall added his comments regarding this subject. The draft should go to the Planning Board Subcommittee at the same time as the draft goes to the Standing Master or should it go to the Planning Board Subcommittee first and then to the Standing Master?

Cross discussion about which one is the correct way to do this, including that the Mayor believes they should make sure that everything is included the way they want it to be presented. Various members voiced the same or similar opinions.

Revisions were suggested for the resolution(s) such as taking out references to the Standing Committee, the Standing Master, and making the timeframe nine weeks.

Mr. Falcon read the resolutions.

Mr. Nichols moved that this resolution, Resolution #15-07, be approved, seconded by Mrs. Leach.

Roll Call

Yeas: Mr. Coogan, Mr. Cortese, Mr. Jensen, Mrs. Leach, Mr. Lopez,
Mr. Nichols, Mr. Novak, Mayor Druetzler

Abstain: None
Absent: Mr. Sawoski
Nays: None

Motion carried.

A copy of the Resolution is attached and on file in the Board Secretary's office in the Planning Board's Resolution Book.

OLD BUSINESS

None.

Escrow Report

No report presented.

Mr. Coogan moved that the Regular Meeting be adjourned, seconded by Mrs. Leach. Voice Vote. All in Favor. **Motion carried.**

Karen M. Coffey
Commission Secretary

Maureen Sullivan
Recording Secretary