

The regular meeting of January 28, 2004 of the Washington Township Planning Board was called to order by Chairman Jones at 7:30 p.m.

MEMBERS PRESENT

CLASS IV: Charles DiSalvo, R. Gregory Jones, Kathleen McGroarty, Howard Popper, Geoffrey Price  
 ALTERNATES: Mark Bauerlein  
 CLASS I: Eric Trevena  
 CLASS II:  
 CLASS III: Kim Ball Kaiser,  
 OTHERS ABSENT: Leavens, Walsh, Cullen  
 OTHERS PRESENT: Attorney Buzak, Attorney Cafoni, Engineer Hall, Clerk Kesper, Planner Banisch, Environmental Consultant Keller, Geo-Technical Consultant Oweis

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 16, 2004 and posted on the Bulletin Board on the same date. Five notices were mailed, as there were five requests.

**\*\*NO NEW CASES OR WITNESSES SHALL BE HEARD SUBSEQUENT TO 10:30 PM\*\***

Pledge of Allegiance

***MINUTES***

1. Minutes from the January 20, 2004 work session

Mr. Price made a motion to approve the minutes, seconded by Ms. Kaiser. A voice vote was taken; Mr. Bauerlein abstained, all others were in favor and the motion carried.

***RESOLUTIONS***

None

The meeting was opened to the public for items not on the agenda. There were no comments from the public and the meeting was closed to the public for items not on the agenda.

***DECISIONS ON COMPLETENESS***

1. Mission Ridge – Block 11 Lot 27 - Mission Road – R-5 Zone, 31.7 Acres - Final Subdivision of Six Lots

Judy Cohen, Applicants Attorney  
Eric Keller, Applicant's Engineer

Mr. Hall reviewed his memo regarding completeness.

Ms. Kesper stated that the only outstanding item from her letter was that the plans were not signed as Mr. Kizun has not signed off on the plans.

Eric Keller was sworn in by Attorney Buzak.

Mr. Keller addressed Mr. Kizun's letter regarding road improvements. He will make the revisions requested if the board wanted them done. He distributed a page including two photographs that was marked A-1. The photographs were taken in January 21, 2002. The photographs showed the pillars that Mr. Kizun would like closed up and the trees that he wanted remove. Another sheet of two photographs was marked A-2 and distributed to the board that also showed the trees Mr. Kizun wanted removed. He would like to leave the trees but would take them down if the board wanted them.

Mr. Trevena stated that the concern is that if Patriots Path was built you shouldn't have someone walking out at mid intersection. The reason for the tree removal is for sight visibility when turning from Mission onto Spring Lane. He stated that survey crews, etc. have used this area as an access into the property.

Mr. Keller stated that once the final plat is signed that property becomes Township property and it could not be used for construction traffic.

Mr. Keller stated that he had written to and spoken with Mr. Kent of the Morris County Park Commission and the Commission is still considering whether they want this trail in the Park Commission network. He noted that the property where the trail is located would be Township property after the final plat is signed.

Ms. Kaiser made a motion to deem the application complete, seconded by Mr. DiSalvo. A voice vote was taken; all were in favor and the motion carried.

2. Cianfracca – Block 47 Lot 11 - Pleasant Grove and Stephensburg Roads – Three lot minor subdivision

James Laughlin, Applicant's Attorney

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John Hansen, Applicant's Engineer

Mr. Price stepped down due to a conflict of interest.

John Hansen was sworn in by Attorney Buzak.

Mr. Hansen referred to the plans submitted to the Board and stated that the design was based on a previous concept hearing with the Board. He noted that there was a previous application for ten lots on this property, which was denied by the Board. He explained that this application proposes to subdivide two lots and put the remainder lot into farmland preservation.

Mr. Hall reviewed his letter of January 18, 2004 regarding completeness.

Mr. Hansen asked for a waiver for completeness only on the six items in Mr. Hall's letter.

Mr. Hall reviewed the waivers requested by the applicant from plat requirements.

Mr. Hansen stated that driveway permits have been submitted but have not been approved as of this date.

Mr. Hall stated that he did a site visit and the sight distance could be obtained for the two driveways.

Mr. Hansen stated that a site walk would be set for a date prior to the public hearing. Mr. Hansen was requested to show the driveways and house locations.

Ms. Kaiser made a motion to deem the application complete waiving the items in Mr. Hall's letter for completeness only and with the requirement that this information be supplied prior to a public hearing. In addition to the completeness items the board grants the waiver from plat submissions as recommended by Mr. Hall. Seconded by Mr. DiSalvo. A voice vote was taken; all were in favor and the motion carried.

Mr. Laughlin asked for a waiver from submitting a qualifying plan.

Mr. Banisch stated that if the applicant submits calculations as per 217-62 D1 he would be willing to waive this requirement.

The Board agreed.

Mr. Laughlin granted an extension of time to March 8, 2004.

A public hearing date was set for March 8, 2004.

Mr. Price returned to the Board.

***APPLICATIONS***

1. Mission Ridge – Block 11 Lot 27 - Mission Road – R-5 Zone, 31.7 Acres - Final Subdivision of Six Lots – Deemed Complete January 28, 2004 – Expires March 13, 2004

Judy Cohen, Applicants Attorney  
Eric Keller, Applicant's Engineer

Mr. Keller stated that he will comply with each of the items in Mr. Halls letter of January 23, 2004 that have not already been completed.

Mr. Keller referred to a color site plan of the subdivision that was marked A-3 and pointed out the lots and the open space lot. He noted that a homeowners association is no longer required as the Township has stated that they would accept the open space lot.

Mr. Hall stated that he has spoken to Mayor Short and the Township Committee is going to accept the cash contribution in lieu of road improvements.

David Brooks was sworn in by Attorney Buzak and answered Mr. Hall that the soil disturbance permit has not been processed by the Township Committee as the applicant does not have a recipient for the excess soil as of yet.

Mr. Brooks stated that the applicant would agree to no soil disturbance of any kind until the Township Committee approves the soil disturbance permit.

Mr. Hall reviewed Mr. Kizun's letter.

The Board wanted to see a gate or chain between the pillars but not filling it in with stone or brick.

Mr. Brooks and Mr. Keller agreed to put up a black aluminum gate between the pillars as found acceptable to the Township Planner.

Mr. Hall concurred that the construction traffic would be on the individual lots and would not have a reason to use the open space lot.

Mr. Keller agreed to the first half of the paragraph regarding the radius improvements.

Mr. Trevena stated that one of the reasons for the requested trees to be removed is for visibility for school buses making the turn.

Mr. Hall recommended the tree removal.

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The Board agreed to the tree removal.

The applicant agreed to remove the trees and the embankment requirements at the intersection.

The meeting was opened to the public for questions and comments. There were no comments and the meeting was closed to the public for questions and comments on this application.

Mr. DiSalvo made a motion to authorize the board attorney to draw up a resolution of approval for final subdivision of six lots subject to conditions discussed this evening including Mr. Kizun's letter and Mr. Hall's letter. Seconded by Mr. Popper. A voice vote was taken; all were in favor and the motion carried.

Eligible: Bauerlein, DiSalvo, Kaiser, Jones, McGroarty, Popper, Price, Trevena  
Absent: Cullen, Leavens, Walsh

2. Cianfracca – Block 47 Lot 11 - Pleasant Grove and Stephensburg Roads – Three lot minor subdivision – Deemed Complete January 28, 2004 – Expires March 13, 2004

Adjourned to March 8, 2004 as the applicant had not noticed for the hearing.

3. Ochs – Block 59, Lots 59, 59.05 and 59.06 – West Valley Brook Road – Request for Amendment

Mr. Price stepped down due to a conflict of interest.

Mr. Selvaggi stated that this application is a request for an amendment to a 1986 resolution. He stated that there is an outstanding tax bill of \$85,000. He has spoken to the Township Committee on this issue and the Committee stated that this was a jurisdictional issue and that it would be the Planning Board's decision to hear the application or not. He stated that the applicant and the property owners' attorney attempted to get this issue resolved by having the estate pay the taxes, but the estate does not have the money to pay them until this property is sold. The applicant cannot get financing to pay the taxes until he has an approval to build the homes. The applicant was willing to accept a condition that the taxes must be paid within 60 days of an approval.

Mr. Buzak stated that this is an amendment request as a condition of the 1986 approval resolution, which condition is that the Planning Board must approve a issuance of a driveway permit for lot 59. He read the condition of the 1986 resolution. He questioned the intent of the original condition.

Mr. Selvaggi agreed with Mr. Trevena that possibly permission was withheld so that future subdivision possibilities could be reviewed prior to the issuance of a driveway permit.

Mr. Ochs agreed that there would be no further subdivision of the remainder 11.3 acre parcel.

Mr. Selvaggi read from the findings of fact of the resolution regarding the driveway. He stated that the proposed driveway conforms to current driveway ordinances.

Mr. Buzak advised that if the board were going to approve the driveway permit, the board should make the approval conditioned on the taxes being paid by a date certain, before it is issued.

Mr. Selvaggi stated that he is asking the board to amend the 1986 resolution to allow for a driveway permit to be issued.

Mr. Hall stated that there are minor changes required to the plans submitted for driveway permits before he would approve them. He addressed the conservation easement deed that requires Township approval of fill in the conservation easement. He explained for the Board that the Township Committee has concluded that Planning Board is the appropriate board to review this.

Mr. Hansen stated that a stream encroachment permit has been issued by the state and a lot line verification and waiver of the buffers is in the process of being issued. He answered Ms. Kaiser that the DEP applications were submitted over a year ago. He answered Mr. Hall that this application would not be subject to the new stormwater regulations.

Mr. Hall and Mr. Buzak concurred that the new stormwater regulations would not be applicable to this application.

Mr. Hall stated that the fill is required for a driveway.

Mr. Buzak stated that the condition is for a road, not a driveway.

Mr. Selvaggi was asking for permission to allow for fill to construct a driveway to lot 59.

Mr. Buzak stated that the term road could encompass a driveway, which is a more minor crossing than a roadway and that the Board could grant the request to fill in an area within the conservation easement without a modification to the easement language.

Mr. Hall stated that the plans submitted and reviewed included information on the fill required. He stated that the applicant has attempted to minimize the amount of fill required.

Mr. Hansen pointed out the conservation easement area and the retaining walls. He stated that the fill and crossing have been approved by the DEP. He stated that in order to build an additional retaining wall, as suggested by Mr. Hall, would not necessarily cut down on the amount of disturbance and fill needed. He explained that the crossing was designed to fit within the DEP guidelines for disturbance.

Mr. Hall answered Mr. Buzak that if there were any changes required to the crossing, the applicant would have to go back to the DEP. He also confirmed that the crossing meets driveway ordinances and DEP requirements, but it was his opinion that the amount of fill could be reduced.

Mr. Banisch and Dr. Keller stated that they did not see that there would be any significant benefit by reducing the crossing to save 200' to 300' feet of disturbance.

Mr. Ochs agreed to a conservation easement over the wetlands area.

The board discussed the crossing and concluded that they would not require the applicant to revise the crossing area.

The meeting was opened to the public for questions and comments on the application. There were no questions or comments and the meeting was closed to the public for questions and comments.

Mr. Jones made a motion to draft a resolution to amend the 1986 to allow the issuance of a driveway permit for lot 59 after the Township Engineers review and approval and also permit fill to be placed within the conservation easement for the purposes of constructing a driveway, as shown on the plans submitted to the board. The approval is conditioned upon taxes being paid by June 30, 2004, conservation easements on the wetlands and a restriction that there be no future subdivision of lot 59. Seconded by Mr. DiSalvo. A voice vote was taken; all were in favor and the motion carried.

Eligible: Bauerlein, DiSalvo, Kaiser, Jones, McGroarty, Popper, Trevena  
Absent: Cullen, Leavens, Walsh                      Ineligible: Price

Dr. Oweis arrived and joined the meeting.

4. Mortonhouse Farms, Block 60, Lot 15.02, Black River Road, R-5 Zone Acres – 30 Acres -Request for 6 Lot preliminary subdivision – Deemed Complete December 8, 2003 - Previously Heard December 8, 2003 – Public Hearing Continued – Expires January 28, 2004

Barry Markowitz, Applicant's Attorney  
Hal Martin, Applicant's  
Carlton Frost, Applicant's Engineer  
Joesph Mester, Applicant's Engineer

Mr. Markowitz stated that this is a continuation of the hearing started on December 8, 2004.

Mr. Markowitz objected to the NJDEP letter of Mr. Putum being entered into the record because Mr. Putum was not present.

Mr. Buzak stated that the rules of evidence do not apply to the Board and it is known that the DEP does not readily attend local meetings.

Dr. Oweis stated that he reviewed the plans, the development impact statement and correspondence to the DEP. He referred to his letter and the fact the PCE is a contaminant but the concentration is unknown. He was concerned that an air remediation treatment would be needed, but concerns would remain if it would work and what would happen to the homes if it did not work. He answered the board that even if an active gas removal system was installed, the gas could go through the concrete and there could be some residual affect. He stated that what is known is that the ground water is contaminated and there are gasses in the soil. No testing of the air has been done. He stated that there is a connection between contaminated ground water and gas vapors.

Dr. Oweis stated that it was possible that contaminated water could have direct contact with the basements. He stated that nitrate dilution was not a problem, as indicated in Mr. Martin's report as Mr. Martin used the DEP formula.

Mr. Martin disagreed that he could not design an adequate vapor removal mitigation system. He did not see the need for a gas vapor study.

Mr. Oweis stated that a test of the buildings on the CIC site or in surrounding homes should be performed to allow the board to be comfortable with a remediation system.

Mr. Martin disagreed and stated that this would not prove anything other than an active vapor system being necessary. He answered the board that this type of system would work as they do know what the concentration of PCE is that is in the groundwater. He stated that there are no standards for soil gases. It was his opinion that if he did tests his recommendation would be to put in active vapor removal systems, which was already his recommendation.

Dr. Oweis stated that the DIS report submitted by the applicant indicated that the groundwater has 300 parts per billion of PCE and that is not a small amount of PCE concentration. The DEP standard is .3 parts per billion as safe. He was not convinced that there would not be vapors coming up through the foundation even with a vapor removal system. The tests he suggested would help quantify the risk.

The Board agreed that they wanted to see testing as recommended by Dr. Oweis.

Mr. Martin answered Mr. Hall and Dr. Oweis that it was his opinion after he reviews the DEP reports there will be other contaminates to do a vapor test on.

Dr. Oweis noted that a vapor mediation system would have to be maintained by the homeowner in order to be effective.

Mr. Martin explained the types of soil gas surveys and that the collected information is sent to a certified lab for analysis. He agreed to have the testing protocol approved by Dr. Oweis. He stated that the tests would have to be done after the ground thaws.

Dr. Oweis stated that the gas vapor danger is not outside, but inside confined areas.

Dr. Oweis addressed the groundwater contamination and that the homes would have to be designed so that the groundwater table could not reach the basements.

Mr. Martin stated that they did arsenic tests. Nine samples were taken on the property, and none of the samples contained arsenic over 5 parts per billion. He will get these test results to Dr. Oweis for his review.

Mr. Hall addressed the issue of soil borings to determine the water depth to the seasonal high water table that he has been asking for this information for months from the applicant and has not yet received it.

Dr. Oweis confirmed that drywells should not be in conflict with the seasonal high water levels.

Mr. Markowitz stated that the applicant would not object to granting DEP access to the site for monitoring.

The letter from a resident regarding the clearing of trees along the road was noted for the record.

The meeting was opened to the public for questions. There were no questions and the meeting was closed to the public for questions this evening.

Mr. Frost gave the board a copy the DEP permits received today.

Mr. Markowitz granted an extension of time to March 24, 2004 and the meeting was adjourned to March 24, 2004.

Absent 12/8 – Cullen, McGroarty, Walsh

Absent 1/28 – Cullen, Leavens, Walsh

5. Long Valley Village (Claremont Valley LLC) – Block 28, Lots 17.01, 18 and 18.02 - Request for two lot minor subdivision, lot line adjustment and preliminary site plan for 29,600 sf shopping center - Deemed Complete October 22, 2003 – Previously Heard December 8, 2003 – Public Hearing Continued - Expires – February 28, 2004

Mr. Jones announced that this application was adjourned to February 9, 2004 at the applicant's request and that no further notice will be given

***DISCUSSION/ CORRESPONDENCE***

1. Vouchers

Mr. DiSalvo made a motion to approve the vouchers reviewed by the Chairman and found in order and send same on for payment. Seconded by Ms. Kaiser. A voice vote was taken; all were in favor and the motion carried.

2. Correspondence from E. Buzak RE: Scudese Litigation

Mr. Buzak stated that he had nothing to add to the comments in his letter. He noted that a decision has not yet be rendered, but should be within the next month.

3. Draft Ordinance on time limits of preliminary approval

Mr. Buzak reviewed his memo on this proposed ordinance and the proposed ordinance. He recommended sending it to the committee as two sections for subdivision and site plan.

Ms. Kaiser made a motion to send the ordinance to the Township Committee for adoption. Seconded by Mr. DiSalvo.

Mr. Banisch stated he would get a revised ordinance to be put in both sections of the ordinance to Ms. Kesper to send to the committee.

A voice vote was taken; all were in favor and the motion carried.

4. Golf Course pre-construction meeting

Mr. Hall stated that a pre construction meeting has been scheduled 8:30 a.m., Wednesday, February 4. He invited members of the board to attend as well as the monitoring committee.

4. RO 01-04 – Village age restricted housing overlay zone

It was noted that the ordinance is the same that the Board sent to the committee with the exception of the fact that a definition was added for age restricted housing.

Mr. DiSalvo made a motion to send the ordinance back to the committee stating that the ordinance is not inconsistent with the Township Master Plan and the recommendation that it be adopted by the Committee. Seconded by Ms. McGroarty. A voice vote was taken; all were in favor and the motion carried.

Mr. DiSalvo made a motion to adjourn, seconded by Mr. Popper. A voice vote was taken, all were in favor and the meeting was adjourned at 9:30 p.m.

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Virginia R. Kesper, Clerk