

HILLSBOROUGH TOWNSHIP PLANNING BOARD

PUBLIC MEETING MINUTES

July 05, 2012

Chairman Sireci called the regular Planning Board meeting of July 05, 2012 to order at 7:30 p.m. All stood for the Pledge of Allegiance. The meeting took place in the courtroom of the Municipal Complex.

Chairman Sireci announced the meeting has been duly advertised according to the Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

ROLL CALL

Deputy Mayor Gloria McCauley - Absent
Greg Burchette - Present
Committeeman Frank DelCore - Present
Steve Cohen, Vice Chairman - Present
Tod Mershon, *Secretary* - Present
Neil Julian - Absent

Sam Conard - Present
Steven Sireci, Jr., Chairman - Present
Marian Fenwick - Present
Daniel Marulli (Alt. #1) - Absent
Robert Peason (Alt. #2) - Present

Also present were Robert Ringelheim, P.P., A.I.C.P., Township Planner; Eric M. Bernstein, Esq., Board Attorney (Eric M. Bernstein & Associates); William H.R. White, III, P.E., P.P., C.M.E., Board Engineer (Maser Consulting, P.A.); and Lucille Grozinski, C.C.R.

ACCEPTANCE OF MINUTES

June 07, 2012

A motion to approve was made by Mr. Mershon, seconded by Mr. Peason.

Roll Call: Ms. Fenwick – yes; Mr. Mershon - yes; Mr. Peason – yes; Vice Chairman Cohen - yes; Committeeman DelCore – yes. Motion carries.

ACCEPTANCE OF RESOLUTIONS

None

PLANNING BOARD BUSINESS

None

SPECIAL COMMITTEE REPORTS

None

BUSINESS FROM THE FLOOR

None

CONSIDERATION OF ORDINANCES

None

PUBLIC HEARING – SUBDIVISION/SITE PLAN APPLICATIONS

James and Norma NORZ – File #12-PB-04-MRV – Block 13.01, Lot 5 - 938 River Road and Block 13.01, Lot 5.11 – Riverside Drive.

Chairman Sireci announced the application as submitted.

Mr. Ringelheim informed the Board that the applicant has since removed the request for a bulk variance and will either be removing the shed or moving it to another location on the property.

Robert B. Heibell, PE, LS of Van Cleef Engineering Assoc. representing the applicant stated Norma and James Norz own the property individually and have chosen to represent themselves without counsel this evening.

Mr. Heibell and Norma Norz were sworn in.

Mr. Heibell said this is truly a family subdivision. The Norz family has owned and resided on this property on the northerly side of Riverside Drive for the past 100 years. Jim and Norma reside in the current residence on the property; their daughter, Connie Lee Johnson owns an existing house just south of the existing driveway on a 2-acre lot. The goal of the subdivision is to take the existing house and have it on a 3-acre flag lot which would then be sold to their grandson who is the son of Connie Johnson. The 3-acre flag lot would be conforming and takes into account the existing driveway and existing house and leave all of the other barn structures shown on the minor subdivision with the property in and of itself, the property Jim and Norma would retain. Jim is handicapped so they are looking to build a single story house on the proposed property that is ADA compliant. The flag lot is actually 3.2 acres but you do not count the driveway staff. Part of the application would be not to construct a new driveway out to River Road but to construct a smaller driveway internally

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within the farm to the existing driveway which would come up. Technically, that is a waiver but shows much better planning than constructing a brand new driveway all the way out to River Road.

The property is in the RS Zone. There is no public water or sewer so the smallest lot allowed is 2-acres. Connie Johnson's lot is exactly 2 acres. We would reconfigure her lot so that it would still be 2-acres in compliance with the ordinance. The remaining lands for Jim and Norma would be about 19 acres for the proposed new house and existing farm structures. This property is farmed. The property has a stream that goes through it. I have been to the property several times. I am not sure that the wetlands are as extensive as they are on the map but we have shown them on the property. There is also a delineated flood plain shown in accordance with the NJDEP maps which we have also shown on the plans. The proposed dwelling is beyond those critical areas. We conducted on-site soil testing for a septic system for the proposed dwelling.

The farm use to be larger prior to the subdivision in the 1990's of the easterly property. The proposed subdivision would be for the lands they want to keep in the family and continue farming.

We received an exemption from the Somerset-Union Soil Conservation. Mr. Ringelheim's 06-15-12 report notes the variance requested for a shed next to the lot line of the Johnson property. Norma did notice for this hearing but unfortunately, two of the mailings were sent out 2 days late. Because of that the notice would have been defective so we have withdrawn the request for the variance. They will either remove and/or move the structure to a conforming location on the property. Mr. White prepared a report dated 07-02-12. Should this subdivision be approved it will be filed by deed, not by map. I will prepare the metes and bounds descriptions for the lots and a deed for the driveway easement for review. We did a topographic survey in the area of the house, not of the entire 22 acres. The boundary survey was shown on the final plat filed in the County Clerk's office. There are a couple other smaller items in Mr. White's report that the applicant will agree to.

The one issue we would like to discuss with the Board is the Stream Corridor Ordinance. The buffer is 150 ft. from the top of the stream bank. I thought the ordinance was applicable to major subdivisions and major site plans. In reviewing the matter with Mr. Ringelheim, there are no exceptions. In this case the stream corridor would be 300 ft. wide and would go on both sides of the stream. The applicant is asking for a waiver for this subdivision from providing a 300 ft. stream corridor buffer for the driveway and having to have post signs for an easement since this truly is a farm subdivision for the farm community and involves 3 generations of the Norz family who will retain the property. They know where the critical areas are; they farm the remaining area and are very conscious of the environment.

Mr. Ringelheim asked Mr. Heibell if there will be any buildings that would be within that 150 ft. buffer on either side of the stream, outside of the driveway.

Mr. Heibell said yes, there is a barn for the livestock. When Southgate was approved the ordinance was not in existence. There are no new structures proposed within either side of the stream corridor which is 300 ft.

Mr. Ringelheim asked if the applicant would be willing to put an agricultural deed restriction on the property. That would restrict the big farm lot for agriculture for the future.

Mrs. Norz said in other words, it would be farmland preserved.

Mr. Ringelheim said pretty much.

Mr. Heibell said they are without counsel. I am not clear if there are any problems that that would bring to them if they did agree to it.

Chairman Sireci said it would mean that the largest part would be subject to farming and not further subdivision and house building. The other lots are too small to be subdivided again. There are programs that would pay for that but they tend to be for land larger than the 19 acres. It is just a question at this point.

Mr. Heibell requested a short recess to review the matter with his client.

Chairman Sireci called the continuation of the meeting.

Mr. Bernstein said it is my understanding from the conversation with Mr. Ringelheim and Mr. Heibell relative to Section 188-64 of the Code, as the issue of stream corridors that a waiver is possible where the activities in question would cause a hardship. For the purpose of the record, there is a need by the applicant to indicate that a hardship would occur if a waiver was not granted. D(1) 'Prohibiting the activity would result in a hardship, as distinguishing from a mere inconvenience, because of the particular physical surroundings, shape or topographical conditions of the property involved. The necessity of acquiring additional land to locate development outside the stream corridor shall not be considered a hardship. 2) An applicant shall be deemed to have established the existence of a hardship, based on specific facts, if it is demonstrated that the subject property is not capable of being developed as authorized by provisions of this subsection and that this inability to yield a reasonable economic return results from unique circumstances particular to the subject property which (a) does not apply to or affect other property in the immediate vicinity; (b) relate to or arise out of the characteristics of the subject

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property rather than the personal situation of the applicant; (c) are not the result of any action or inaction by the applicant or owner or any predecessors in title.' They need to provide compelling public need and demonstrate that the proposed project will serve as an essential public health, safety or welfare need; the public health, safety or welfare require the proposed activity; the proposed use is required to serve existing public health, safety or welfare need; there are no alternatives available; the activity will not be materially detrimental or injurious to other properties or improvements in the area; the relief granted under this waiver is a minimum necessary to relieve the compelling public health, safety or welfare need.

Mr. Bernstein said I am assuming that placement of the driveway is the only way in which the driveway can be placed.

Mr. Heibell said yes.

Chairman Sireci said Mr. Bernstein had to read the ordinance for the record. What we are asking is if the engineer can say that the driveway was done efficiently as possible and be put where it is, and that it traverses the stream corridor as efficiently as possible.

Mr. Heibell said factually, we located the driveway and proposed lot line out of the 100 year flood plain. It is only within the Township's stream corridor that happens to be wider than the 100 year flood plain that we would have to pass through.

Mr. Ringelheim said on the matter of the agricultural easement, I would like to withdraw my request after review since it would place a hardship on the applicant in terms of their farm and ability to obtain any loans in the future.

No comments from Mr. White.

Mr. Burchette asked what is the use of the building going to be moved.

Mr. Heibell said it is a shed which is currently on Mrs. Johnson's property. When we change the lot line it will be on the farm property. Jim and Norma will have to decide if they are going to remove it entirely or move it 5 or 6 ft. to a conforming location. The shed is 7 ft. high so it would be required to be 10 1/2 ft. away from the property line. Right now it is at 5 ft.

Chairman Sireci said the Board cannot act on the matter because their notice was deficient due to the former variance.

Mr. Heibell said the applicants would rather move or remove the shed so that the Board can act on the application tonight than to wait and re-notice.

Mr. Mershon asked if there will be a road maintenance agreement.

Mr. Heibell said yes, for the driveway.

Chairman Sireci said the purpose of that is for the future when theoretically the property does not stay within the family.

Mr. Mershon said it can cause financing problems too without it.

Committeeman DelCore asked Mr. Bernstein to confirm whether or not the waiver request requires notice.

Mr. Bernstein said notice is not required for the waiver.

Mrs. Norz asked about the conservation easement.

Chairman Sireci said we are not requesting that be done because it is a working farm.

Open to the public
No comments/questions

Close public

A motion to approve application #12-PB-04-MRV was made by Mr. Burchette, seconded by Mr. Conard.

Roll Call: Ms. Fenwick – yes; Mr. Burchette – yes; Mr. Mershon – yes; Mr. Conard – yes; Mr. Peason – yes; Vice Chairman Cohen – yes; Committeeman DelCore – yes; Chairman Sireci – yes. Motion carries.

Mr. Heibell requested that the resolution be prepared so that it could be adopted for the next meeting since there are no meetings scheduled for August.

Mr. Bernstein said we will try to accommodate.

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CORRESPONDENCE

Planning in America: Perceptions and Priorities – APA Report

ADJOURNMENT

The meeting adjourned at 8:03 p.m.

Submitted by:
Debora Padgett
Planning Board Clerk

Approved