

HILLSBOROUGH TOWNSHIP PLANNING BOARD
PUBLIC MEETING MINUTES
December 05, 2013

Chairman Sireci calls the Planning Board meeting of December 05, 2013 to order at 7:30 p.m. All stand for the Pledge of Allegiance. The meeting takes place in the Courtroom of the Municipal Complex.

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

ROLL CALL

Mayor Frank DelCore – Present
Michael Merdinger – Present
Committeewoman Gloria McCauley – Present
Steve Cohen, Vice Chairman - Present
Tod Mershon, *Secretary*- Present
Neil Julian - Present

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

Also present: Bruce Rydel, P.P., AICP, Township Planner; David Kois, Zoning Official; Eric 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.); Lucille Grozinski, CCR; and Caz Bielen, Premier Media, LLC, Videographer.

ACCEPTANCE OF MINUTES

November 07, 2013

A motion was to approve was made and seconded.

Roll Call: Mr. Peason - yes, Mr. Julian - yes, Mr. Mershon - yes, Vice Chairman Cohen - yes, Committeewoman McCauley - yes, Mayor Del Core – yes. Motion carries

ACCEPTANCE OF RESOLUTIONS

None

PLANNING BOARD BUSINESS

Gibraltar Quarry – KDC Solar – File #12-PB-01-SR – Request for extension of time until June 30, 2014

A Motion to grant the extension is made and seconded.

Roll Call: Mr. Wagner – yes, Mr. Julian – yes, Mr. Merdinger – yes, Mr. Mershon – yes, Dr. Marulli - yes, Mr. Peason – yes, Vice Chairman Cohen – yes, Committeewoman McCauley – yes, Mayor DelCore – yes, Chairman Dr. Sireci – yes. Motion carries.

BUSINESS FROM THE FLOOR

None

PUBLIC HEARING – SUBDIVISION/SITE PLAN APPLICATION

JK Design – File #13-PB-13-MSRV – Block 163.22, Lot 41 – 465 Amwell Road.

Chairman Sireci introduces the application.

Luke Lynch, Esq., representing KPJ Properties, makes a brief opening statement and introduces his expert, Robert B. Heibell, P.E. of Van Cleef Engineering.

Mr. Heibell is sworn in, reviews his credentials, is accepted by the Board and explains his knowledge of the application.

The parking requirement is for 19 spaces; currently there are 25. Still, the business has grown and the need for more parking spaces has arisen.

Mr. Heibell testifies that the Applicant will remove 2 existing parking spaces and create 13 new ones on the westerly side, making the total an increase of 11 parking spaces.

He describes the need for the variance, specifically so the parking spaces can be 5 feet from a residential zone or use instead of the required 15 feet buffer.

Mr. Heibell testifies about the Environmental Commission report for which the conclusion is that there are no concerns as long as the D&R Canal Commission concerns are met.

The Applicant also applied to the Somerset County Planning Board because they are on a county road. The County Planning Board approves the project with no conditions.

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Somerset Union Social Conservation District issued a certification on Nov. 21st with no conditions. The Applicant was previously exempt from by D&R Canal Commission but the regulations recently changed. They issued a report on Oct 29, 2013 with 6 conditions with their approval. All will be met or discussed.

Mr. Heibell testifies the D&R Canal Commission approved all engineering aspects of the application. The Applicant has proposed porous pavement for the parking spaces.

Mr. Heibell testifies that there are no comments or conditions from Fire Safety.

Mr. White's report of Nov 26th stated that there are three waivers for the parking. The Applicant is requesting a waiver from putting Belgian block curbing due to the porous pavement. There are one or two places where the aisle width goes from 25 feet to 24 feet. In those areas, the Applicant is requesting a waiver as there is still plenty of space for a car to turn around.

Mr. Heibell discusses the one-way loop and employee only parking signs that Mr. White suggested to be installed. Though he notes that most people are employees, these measures will make visitors park in one of the 25 spots currently available.

Mr. Heibell discusses the Tree Replacement Ordinance and whether their plan requires a waiver. The Applicant agrees to all other aspects of Mr. White's report.

Mr. Heibell discusses the report submitted by the Zoning Officer, Mr. Kois, which addresses the variance and waivers already discussed.

The Board Professionals are satisfied with the application.

No comments from the public.

A motion to approve is made by Vice Chairman Cohen, seconded by Mr. Wagner.

Roll Call: Mr. Wagner – yes, Mr. Julian – yes, Mr. Merdinger – yes, Mr. Mershon – yes, Dr. Marulli - yes, Vice Chairman Cohen – yes, Committeewoman McCauley – yes, Mayor DelCore – yes, Chairman Dr. Sireci – yes. Motion carrier.

WSH Enterprises – Amended Preliminary - File # 06-PB-08-MJ (Submitted 11-07-13) – Block 148, Lot 24 – Beekman Lane

WSH Enterprises – Amended Final Plat - File #08-PB-15-MJF (Submitted 11-07-13) – Block 148, Lot 24 – Beekman Lane

Chairman Sireci introduces the two applications together.

Francis P. Linnus, Esq representing WSH Enterprises makes an opening statement then calls Mr. Heibell as his first witness.

Robert B. Heibell, P.E. of Van Cleef Engineering is sworn in, reviews his credentials and is accepted by the Board.

Mr. Heibell describes **Exhibit A-1** which incorporates various elements of the plans on file.

Mr. Heibell makes note of a prior preliminary subdivision approval and describes the modifications to the plan.

He specifies that they are no longer modifying the existing detention basin and instead constructing one on the first lot.

Mr. Heibell notes the design of the basin will be exactly the same as previously described.

Chairman Sireci clarifies that the basin is meant to be shared among the community and that it is not an engineering concern.

Mr. Heibell agrees that the detention facility will be maintained by a home owner's association in full accordance with the ordinance, except that it is on an easement rather than a lot.

Mr. Heibell and the Board discuss water basins and past litigation.

He explains that due to the amended plan, the Applicant needed to resubmit to several outside agencies.

Mr. Heibell notes they are waiting on a final decision from the Somerset County Planning Board, though he says the prior report from 2006 commented only on the final subdivision plat and a fee payment to the county.

We have resubmitted to the Somerset-Union Soil Conservation District but have not yet heard back.

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This application is not within the jurisdiction of the D&R Canal Commission but I have resubmitted for the Applicant due to amendments to the plan but have not heard back.

Mr. Heibell continues that all other outside agencies they applied to were covered by the Permit Extension Act and did not need to resubmit.

He testifies that the Environmental Commission has no concerns about this application.

The Board discusses the storm water report from the Environmental Commission.

Mr. Heibell testifies there is adequate water for public water use and for fires while discussing the Fire Safety reports.

He then addresses the report by Mr. Kois noting the Applicant's willingness to comply with the conditions.

Mr. Linnus further discusses the legal aspects of Mr. Kois' report in regards to Affordable Housing compliance needed from the Applicant.

Mr. Bernstein and Mr. Rydel offer the Board their views of affordable housing requirements.

All parties discuss the legal aspects of this requirement.

Mr. Heibell discusses the Tree Mitigation Ordinance, how it relates to this application and how the Applicant intends to comply.

Mr. Heibell addresses the recommendation, Item 11, made by Mr. Kois to add a split rail fence around the entire area of the conservation easement on both sides. The Applicant has not agreed to this.

Mr. Linnus addresses one other recommendation in the report by Mr. Kois. Item 8, which describes a confirmation letter to be signed and provided to each homeowner at the time of sale with the suggestion it is received at building permit stage. Mr. Linnus asks that to be modified to the CO stage.

Mr. Kois states that it is reasonable.

Mr. Heibell testifies that there are no comments in Mr. White's report that the Applicant objects to, though he does touch on some specific conditions.

Chairman Sireci asks Mr. Heibell, if in your professional opinion, will the redesign of the stormwater management system have any substantial detrimental impact on the neighborhood.

Mr. Heibell testifies none whatsoever.

Mr. Heibell talks about the isolated wetlands and the buffers they will create around it.

Mr. White asks the Board to think about fencing the conservation easement.

Mr. Heibell says there is no objection to a split-rail fence but a chain link fence is a hazard because children can climb it but adults cannot. He is personally opposed to a chain link fence.

Chairman Sireci notes that a split-rail fence could act as a psychological barrier to remind people that it is for a separate use than the rest of the woods.

Mr. Kois asks for item 7 from his report to be addressed.

Mr. Heibell explains the item addresses the 15% maximum allowable impervious surface and that Mr. Kois worries it will be used up in the initial building of the houses.

Mr. Heibell breaks down the dimensions of the proposed houses and driveways, testifying each house will use up about 9.2%.

Mr. Julian states the environmental concerns have been adequately addressed.

Chairman Sireci talks again about the split-rail fence, noting the conservation easement skirts the corner of the triangle lot house and worries the fence would be too close to the house.

Mr. Heibell notes that in other developments without fences, the conservation easements have been altered by homeowners.

The Board and Mr. Heibell discuss the likelihood of homeowners clearing parts of the conservation easement.

The Board decides there is no need for a fence around the conservation easement but there should be one around the detention basin.

Open to the public.

Stuart Lieberman, Esq. – Objector's Attorney

Mr. Lieberman states he represents the community group that was in court over this matter. He states he will be calling witnesses tonight.

Chairman Sireci clarifies that anyone in this objecting organization is represented by counsel and cannot speak for themselves. He asks if anyone who is not part of this group would like to speak at this time.

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No one comes forward.

Mr. Lieberman calls his expert, Keithe Merl, P.E.

Keithe Merl, P.E. is sworn in, gives his credentials, is accepted by the Board and provides testimony.

Mr. Merl testifies that in his opinion, the system that is proposed by the Applicant does not satisfy the State stormwater requirements.

Mr. Merl discusses the total suspended solids (TSS) and testifies that it is not treated at the bottom portion of the basin.

Mr. Merl discusses the proposed grading and how it relates to TSS and storm water flow.

Mr. Merl addresses the drainage report and peak flow for existing and proposed conditions. He notes that the peak flow rate has increased in the proposed conditions.

Next he addresses the technical aspects of soil testing in the bio infiltration basin and testifies the calculations made by the Applicant were incorrect.

Committeewoman McCauley wants clarification that the regulations the expert is addressing are related to this development of seven houses.

Mr. Merl testifies that yes, they are pertinent to the size of this development and his concern is not with the type of drainage system, only the mechanics.

Mr. Merl talks about the Annual Groundwater Recharge Analysis, stating the deficiency reported could be significantly lower which would impact the size basin, stating 'it should be bigger.'

For his final point, Mr. Merl notes the drainage pipes are too small.

Committeewoman McCauley notes that was addressed earlier by Mr. Heibell.

Mr. White adds that Mr. Heibell agreed to increase the size of the pipes.

The Board and Mr. White discuss the technical aspects that Mr. Merl brought up and how they are currently addressed in the plans.

Short recess.

Mr. Linnus does not cross examine the witness at this time.

Mr. Bernstein recommends Mr. Lieberman call his next witness.

Paul Rosenbaum, 20 Peterson Road, is sworn in.

Mr. Rosenbaum indicates where he lives on the map.

He shares his concerns about flooding to the Board. He indicates there is currently significant flooding in his backyard and basement.

Mr. Linnus asks Mr. Rosenbaum to clarify if there is flooding right now without the development.

Mr. Rosenbaum states he currently experiences flooding.

Gary Schaeffer, 15 Peterson Road, is sworn in.

Mr. Schaeffer indicates where he lives on the map, which is on the other side of Peterson.

He testifies that he has flooding right now and there are also bare spots on his lawn.

Mr. Schaeffer says he disapproves of the application. More flooding will cause more damage to his property, his fence, and the value of his property.

June Davies, 26 Peterson Road, is sworn in.

Ms. Davies indicates where she lives on the map.

Ms. Davies indicates that she has standing water in her backyard during heavy rains.

She further clarifies that it pools and the grass dies off.

She states she is concerned this development will cause more standing water.

Mr. Linnus asks if she knows what property the water is coming from. Miss Davies indicates no.

No more questions for these three witnesses.

Mr. Bernstein suggests that Mr. White request additional information from Mr. Heibell and bring everyone back for a meeting on January 9th.

Mr. Heibell indicates he would need a transcript of the witness testimony in order to address his concerns.

Mr. Lieberman also requests a transcript.

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Mr. Bernstein clarifies that these two applications are separate and must be voted on and acted upon separately.

Motion to carry application File # 06-PB-08-MJ, to January 9, 2014 without further notice. All in favor – Aye; Opposed – none. Motion carries.

Motion to carry application File #08-PB-15-MJF to January 9, 2014 without further notice. All in favor – Aye; Opposed – none. Motion carries.

PLANNING BOARD MEETING SCHEDULE

Chairman Sireci asks for a motion to cancel the December 12, 2013 meeting due to no activity scheduled to the agenda. A motion was made and seconded. All in favor; None opposed.

CORRESPONDENCE

None

ADJOURNMENT

The meeting adjourned at 9:48 p.m.

*Submitted by:
Caitlin Davis
Planning and Zoning Clerk*

*Reviewed by:
Debora Padgett
Administrative Assistant
Planning Board/Board of Adjustment Clerk*

Approved