

PLANNING BOARD MINUTES
BOROUGH OF BERNARDSVILLE
March 4, 2010 (postponed from Feb. 25, 2010)
7:30 PM

1. Statement of Adequate Notice by Presiding Officer;
Roll Call. Members Present: Mr. Graham, Mr. Knudsen, Ms. Totten, Ms. Rochat, Mr. Simoff, Ms. Paluck, Ms. Thompson and Mr. Lawrence.
Members Absent: Ms. Foster

Professionals Present: Board Attorney Mr Hoffman, Board Engineer Mr. Brightly, Board Planner Mr. Zimmerman, Mr. Nay Traffic Consultant and Administrative Officer and Assistant Engineer Mr. Mondok.
2. Approval of Minutes - Jan. 7, 2010 (work meeting portion); Jan. 21, 2010; Feb. 11, 2010
Motion to approve sets of Minutes: Mr. Knudsen
Second: Ms. Thompson
Voice Vote: All members present voted in the affirmative.
3. Communications not Related to Agenda. Nothing to report.
4. Business of Visitors not Related to Agenda. Nothing to report.
5. Pending Applications/Public Hearings:
 - A. Sheer Bluff Holdings, LLC/Vandever, 79 Douglass Ave./487 Mine Brook Rd. (Rt. 202);
Block 28, Lots 47, 48, 56; proposed "Open Space Residential Development", Major Subdivision #M-90; R-1 & R-2 Zones (carried from 1/21/10) Announce further postponement.
Time is 7:42 PM
Mr. Lawrence noted correspondence dated March 3, 2010 from Thomas Malman, Esq. requesting postponement to April meeting. Board concurred and Mr. Hoffman noted that an extension had been granted to the end of May 2010.
Time is 7:44 PM
 - B. Subdivision, Appl. #631 of Alex Timchula & Leslie Regan; 66 Rippling Brook Way; Block 30, Lot 22.03 - Remand Hearing to consider typical and reasonable conditions per 12/7/09 Order For Judgment of the Superior Court of NJ - Memorializing Resolution (heard 12/17/09 & 1/21/10).
7:45 PM
Ms. Lloyd Tubman, Esq. was present to represent the applicant. The final proposed Resolution with comments were addressed and agreed upon.
Motion to adopt Resolution as amended: Mr. Knudsen
Second: Ms. Thompson
Roll Call: Affirmative – Mr. Graham, Mr. Knudsen, Ms. Totten, Ms. Thompson and Mr. Lawrence

Not Eligible to Vote: Ms. Rochat, Mr. Simoff and Ms. Paluck Time is 7:50 PM

- C. Review, clarify and/or modify Certificate of Incorporation as it pertains to the use of the Open Space, Washington Corner Assoc., LLC, "The Preserve", Washington Corner & Hardscrabble Rds.; Block 7, lot 4; Major "Open Space Residential Development" subdivision Appl. #M-88. Time is 7:56 PM. Mr. Michael Ostermann, Esq. representing Washington Corner Associates reported that he recently requested an adjournment because the agreement with neighbors is near complete as it continues to work with a 3rd party, The Passaic River Coalition. However, the agreement is still being worked out with the Coalition which is acceptable to his client and therefore he requests another adjournment.

Mr. Ostermann noted that he has spoken with Mr. Fahey and he agrees with the request for adjournment. Ms. Roachat expressed that she recently became aware that the reason why the neighbors are requesting an adjournment is that they only received the Agreement from the The Passaic River Coalition today at 3:00 PM

Board agreed to adjourn to the April 22 meeting and carried the matter without further notice. Mr. Hoffman requested that at least ten days prior to the April hearing date that the Board be made aware of any news regarding this matter rather than hear the update the evening of the hearing. Mr. Ostermann agreed to send a confirming letter to the Board that this is carried to the April 22 date without further notice and that no later than ten days prior to that date the Board shall receive communication as to the status of the Agreement.

Time is 8:00 PM

- D. Bernardsville Centre, 80 Morristown Road; Block 64, Lots 1.01 & 23; Site Plan Application #SP-213 for proposed building addition & related site improvements.

Susan Rubright, attorney for Bernardsville Centre was recognized and approached the dais. Before any discussion Ms. Thompson questioned if Ms. Rubright had a chance to read Dr. Soosa report. Ms. Rubright answered that she had a chance to skim the text, however her Engineer did review the report and does have a couple of comments, one of which is that the stream has been misidentified as a C1 stream, which it is not. Both Mr. Lawrence and Ms. Thompson noted that this is point number one and a deposited issue that needs to be addressed.

Mr. Thompson then disclosed that she one of Bernardsville delegates to the Ten Towns Great Swamp Management Committee, which is an intermunicipal agreement from the ten towns that border the Great Swamp, also Mr. Knudsen is a municipal representative to that group and in a totally unconnected way, Dr. Soosa is Tens Towns consultant for stream water sampling for the streams that flow in the Great swamp. There is not a sampling site on Penns Brook and thought that you should know this.

Howard D. Cohen of Parker McKay requested to be recognized for he represents the Great Swamp Management Committee and can address this issue. Mr. Cohen noted that he spoke with Ms. Rubright earlier this evening relative to Dr. Soosa's report and it was agreed that those issues would be addressed at a later proceeding since tonight's proceeding is not intended to cover those issues and we reserve our right to examine the applicant's witness and present his case.

Mr. Hoffman inquired if Mr. Cohen considered if Ms. Thompson and Mr. Knudsen's representation on these other Boards creates a Threshold issue; which might warrant their reclusal and the need to "borrow" two members from the Board of Adjustment to sit on the Planning Board for this application.

Mr. Cohen knows of no basis for a recusal or a basis of an objection on behalf of the Great Swamp. He does not know what the applicant's position is. Mr. Hoffman then inquired of Ms. Rubright on this issue. Ms. Rubright fundamentally does not have an issue in theory where members who are part of the Ten Towns Great Swamp Management Committee sit on the board, but her experience is that when members and Counsel think that there will not be a conflict, invariably in a majority of times there eventually then becomes a potential conflict issue. Ms. Rubright stated that she does not question the ability of Ms. Thompson and Mr Knudsen but would prefer that no issues appear that might warrant a concern. Ms. Thompson noted that Ten Towns does not take a position in such matters.

Mr. Hoffman suggested that another individual who has expressed a concern in this matter be recognized at this time, so Ms. Rubright is familiar with all concerned parties. Mr. Carl Kempf, an attorney representing Village Shop Rite addressed the Board, noting he will also represent opposition on this applicant on behalf of this client. Mr. Hoffman inquired if Mr. Kempf had any basis for recusal and he also concurred that he knows no basis for recusal.

Ms. Rubright questioned Ms. Thompson and Mr. Knudsen if their judgment could be affected for their membership in these organizations? It was determined that this is a leading question. Ms. Rubright questioned the mission of the Ten Town and Ms. Thompson responded.

Ms. Rubright requested a brief recess to discuss this matter with her client. The time is 8:23PM

Meeting resumes 8:25PM. After the brief recess, Ms. Rubright reported that she spoke with her client and it was agreed that Ms. Thompson and Mr. Knudsen can proceed with the Board in this application.

Ms. Rubright began her presentation for the site plan application, which proposed an addition of approx 21,727 square feet [noting the intention of the application. Present site plan application for an addition to the existing shopping center, which are permitted uses in the zone. The proposed addition is 21, 727 sq ft. 15,703 square foot footprint and partial second floor on the East side of the existing building [Lot 1.01 & 23 are to be merged] and related improvements such as parking, storm water, landscaping, signs, etc.

Tonight is to discuss the existing condition at the site and surrounding properties and area. The provide overview of the proposal of the addition and the other improvements. Next, site and traffic circulation. At separate meetings storm water / drainage and architectural will be addressed.

Mr. Thomas J. Quinn EKA, Associates, 328 Park Avenue --- address,
Credentials, deemed acceptable ad administered the Testimonial oath by Mr. Hoffman.

Following exhibits were entered into evidence via a Power Point presentation. Existing Conditions: A1- A19 with titles.

Bernardsville Center Exhibits, 80 Morristown Road Planning Board Application # SP-213

March 4, 2010

- A1- Zoning Overlay**
- A2- Enlargement of A1, minus zoning identification**
- A3- Illustrates entrance/exit – site circulation**
- A4- Easterly side**
- A5-Northerly side**
- A6-Western side**
- A7-Illustrates lighting**
- A8- Illustrates lighting**
- A9- Penns Brook Tributary and Sanitary Sewer**
- A10- L4 Pipe, erosion example 18” Diameter**
- A11-Beginning of stream creating erosion**
- A12-Down Stream, 75’ from pipe discharge**
- A13- Behind Volkswagen Dealer**
- A14-Erosion ditch towards Penns brook – Sanitary Sewer**
- A15- Standing over sanitary sewer and looking up**
- A16- Penns Brook at Junction towards Childs Road**
- A17- 24” pipe. Takes 40 acres of drainage**
- A18- Side shot of 24” pipe**
- A19- Looking down stream from 24” pipe**
- A20- Proposal for addition and improvements**
- A21- Proposed rendering, shows new piping**
- A22- Proposed Fixture**
- A23- Height of Light Pole [approx 25’]**
- A24-Architectural Elevation Rendering**
- A25- Elevation**
- A26- Floor Plan**
- A27-Color rendering of front of building**
- A28- Drainage Area – Map from Ferriero Report dated March 27, 2009**

9:25 PM –

At the conclusion of his presentation the public posed questions to Mr. Quinn’s regarding his presentation.

Mr. Howard D. Cohen, Esq. from Parker MacKay, Counsel for the Great Swamp Watershed Association stated that he will hold question until later proceedings and reserve same until such time.

Ms. Rubright then called her next witness. Traffic Engineer Mr. John Jahr, Maser Consulting, 100 American Metro Boulevard, Hamilton, New Jersey

Mr. Jahr’s witness qualifications were accepted by the Board and was then administered the testimonial oath by Mr. Hoffman.

Referring to his Traffic Study that was published February 23, 2010, it was soon recognized that the Board had not received the document. Rather Mr. Jahr offered a brief summary and it was agreed that his testimony would continue at the next meeting and this week the Traffic Study would be delivered to the Board offices.

This concluded Ms. Rubright's presentation. This hearing will continue without further notices March 25, 2010.

6. Report of the Subdivision & Site Plan Review Committee - Draft Report attached.

Motion to accept Report: Mr. Knudsen

Second: Ms. Rochat

Voice Vote: All members present voted in the affirmative.

7. Report of the Evaluation Committee- Draft Report attached; *and review/comment to the Council: Proposed Ordinance #10-1531, Adding Provisions Regulating Dumpsters*

Motion to accept Report: Ms. Paluck

Second: Mr. Knudsen

Voice Vote: All members present voted in the affirmative.

8. Old Business.

Mr. Knudsen reported that the Board may be asked again to look at the lighting and sign ordinance.

9. New Business:

A. Consider Professional Services Contract with TRC/Omni Environmental, LLC.

Motion to enter Agreement: Ms. Thompson

Second: Ms. Paluck

Roll Call: Aye: Mr. Knudsen, Ms. Totten, Ms. Rochat, Mr. Simoff, Ms. Paluck, Ms. Thompson

Nay: Mr. Graham and Mr. Lawrence

B. Grant application: Penns Brook

Ms. Thompson reported that she and Charlotte Foster will be working with Paul Ferriero on a grant application regarding the Penn Brook.

C. Payment of Vouchers:

Motion to approve Bills List total in the amount of \$15, 269.00: Mr. Knudsen

Second: Mr. Simoff

Roll Call:

Aye: Mr. Graham, Mr. Knudsen, Ms. Totten, Ms. Rochat, Mr. Simoff, Ms Paluck, Ms. Thompson and Mr. Lawrence.

Nay: None

10. Business of Visitors, Second Opportunity: No business.

11. Meeting Extension:

Motion to extend meeting to 11:25 PM: Mr. Knudsen

Second: Ms. Thompson

Voice Vote: All members present voted in the affirmative.

12. Adjourn to Executive Session, if necessary, to discuss pending litigation or personnel matters.

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently existing;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Bernardsville, County of Somerset, State of New Jersey, as follows:

1. The public shall be excluded from discussion of and action upon and hereinafter specified subject matters[s].
2. The general nature of the subject matter[s] to be discussed is as follows:
 Personnel Real Property Litigation/Potential
 Contract Public Safety/Attorney-Client
3. It is anticipated at this time that the above stated subject matter[s] will be made public at the conclusion of each individual specified subject matter.
4. This Resolution shall take effect immediately.
Time: 11:05 PM
Motion: Mr. Knudsen
Second: Ms. Thompson
Voice Vote: All members present voted in the affirmative.

13. Reconvene; perform any relevant action as needed.
The time is 11:15 PM

14. Adjournment of public meeting.
Time is 11:15 PM
Motion to adjourn: Mr. Knudsen
Second: Ms. Paluck
Voice Vote: All members present voted in the affirmative.

Respectfully submitted,

Teresa Lyons, Recording Secretary

Minutes approved: April 22, 2010

Keywords: minutes-planning-board-Sheer-Bluff-Holdings-Vandever-79-Douglass-Avenue-487-Mine-Brook-Road-open-space-residential-development-major-subdivision-#M90-Alex-Timchula-Leslie-Regan-66-Rippling-Brook-Way-Washington-Corner-Assoc-The-Preserve-Washington-Corner-Hardscrabble-Road-Bernardsville-Centre-80-Morristown-Road-site-plan-application-#sp213