

Call to Order:

The regular meeting of the Monroe Township Planning Board was called to order at 7:00 p.m. by Chairman O'Brien. The Board saluted the flag. Roll call was as follows:

Present – Mr. Agnesino, Mr. Cooper, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O'Brien. Absent – Mr. Teefy, Council Liaison, (excused). Also present – Mr. Schwartz, Solicitor, Mr. Kernan, Planner, Mr. Jordan, Engineer.

Proper notice of this meeting was given in accordance with the requirements of the Open Public Meetings Act on January 11, 2013.

Chairman O'Brien read the following statement: "Be advised, no new item of business will be started after 10:30 p.m. and the meeting shall terminate no later than 11:00 p.m."

Memorialization of Resolutions:

1. PB-17-13 – App. #1830 – James Smart – Completeness Approved

Motion by Mr. Cooper, seconded by Mr. Crane to adopt resolution PB-17-13. Roll call vote: Ayes – Mr. Cooper, Mr. Crane, Mr. Heffner, Ms. Hui, Mr. Kozak, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

2. PB-18-13 – App. #1830 – James Smart – Lot Area & Front Yard Setback Variances

Motion by Mr. Cooper, seconded by Mr. Heffner to adopt resolution PB-18-13. Roll call vote: Ayes – Mr. Cooper, Mr. Crane, Mr. Heffner, Ms. Hui, Mr. Kozak, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

3. PB-19-13 – App. #1830 – James Smart – Minor Subdivision Approved

Motion by Mr. Cooper, seconded by Mr. Heffner to adopt resolution PB-19-13. Roll call vote: Ayes – Mr. Cooper, Mr. Crane, Mr. Heffner, Ms. Hui, Mr. Kozak, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

4. PB-20-13 – Recommendation to Council to pursue lawsuit against the Pinelands

Motion by Mr. Cooper, seconded by Mr. Heffner to adopt resolution PB-20-13. Roll call vote: Ayes – Mr. Cooper, Mr. Crane, Mr. Heffner, Ms. Hui, Mr. Kozak, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

Discussion:

1. Chapter 175-135 – Signs

Mr. Sebastian stated that the sign ordinance had been put on hold in order for the Board members to observe the timing of the messages on the Pfeiffer Community Center sign which varied from five seconds to ten seconds. He stated that according to Mr. Kernan's report and Ms. Pellegrini, eight seconds has been determined to be the acceptable and safe standard for the timing on electronic messaging signs per the National Sign Council. Mr. Kernan stated that it is their recommendation; however there isn't a State law regarding the timing.

Discussion: (continued)

1. Chapter 175-135 – Signs (continued)

Mr. Sebastian suggested going around to each Board member and get a general consensus with regard to the timing. Mr. Kozak stated that he thought it should be eight seconds since it is the standard recommended by the National Sign Council for the entire country as well as to protect the Township in the event something happened involving one of these signs. He added that he observed signs in other towns and eight seconds seemed to be the standard. All of the other Board members agreed to the eight seconds with the exception of Mr. Masterson who stated that he thought three seconds was fine. Mrs. Farrell asked if the Board wanted to discuss the issue of having a certain corridor for these types of signs. The Board responded that the ordinance states they are permitted in non-residential areas and that was sufficient. Mrs. Farrell commented that the large sign on Chestnut and Blue Bell for the water ice business can be converted to an electronic messaging sign under the ordinance and there are a lot of residences in that neighborhood even though it is zoned RG-TC. There was further discussion on the size of the electronic portion of the sign. The Board agreed that if the sign is fifty square feet then fifty percent or twenty-five square feet of the sign can be electronic; any signs twenty-five square feet or less in size can be one hundred percent electronic copy. Mr. Kernan stated he would make the change to the ordinance. Motion by Mr. Agnesino, seconded by Mr. Heffner to send the recommended ordinance to Council. Roll call vote: Ayes – Mr. Agnesino, Mr. Cooper, Mr. Crane, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. O'Brien. Nays – Zero. Abstentions – Mr. Gabbianelli, Mr. Sebastian.

2. Bonding, Inspection, & Pre-construction Meetings

Mrs. Farrell explained to the Board that there have been inconsistencies with the requirement of bonding for commercial site plans. It sometimes is not covered in the professional's reports or the resolutions and then there is confusion as to whether the applicant is supposed to be posting bonding. Bonding for inspections is required; however does the Board want the applicants to bond for the improvements and if so then it should be discussed at the applicant's hearing so the applicant is aware of what is required before the plans are signed. And if bonding is required the applicant must set up a pre-construction meeting with the Township engineer. Mr. Kernan commented that the Township would probably not call the bond for a commercial developer if he did not follow through on completing a building for example. He stated that some towns require a restoration bond; these are set up so that if an applicant starts a project but does not follow through, the bond can be used to restore the site to its original state. After some discussion, the Board decided that it would be included in Mr. Jordan's reports so that it can be discussed at the applicant's hearing and decided on at the meeting as to whether they must post bonding as well as inspection.

3. Letter dated 4/19/13 – Mr. Mintz: Reconsideration

Member's packets included a letter sent to Mr. Schwartz from Mr. Mintz concerning the Board's right to reconsider its decision on a previous application. The letter included case law and Mr. Schwartz presented it to the Board concerning the application for Philadelphia Suburban Development.

Discussion: (continued)

3. Reconsideration (continued)

Based upon the case law Mr. Mintz cited, a Board member can ask for reconsideration as long as proper notice is given. The resolution of denial would be memorialized; then if the Board agrees to reconsideration, there would be a motion to reverse the denial. Mr. Gabbianelli commented that the Board could reconsider the matter but still deny the application. Mr. Schwartz agreed. The applicant in question is reportedly going to present their original plan along with a voluntary recreation contribution of \$3,000.00 per market rate unit. If the Board agrees to reconsideration, the applicant must come back to a public hearing and make their presentation over again at which time any other issues may be open for discussion. There was discussion concerning the variances that were previously approved with Mr. Schwartz advising the Board that those variance approvals are not valid since the application was denied and that the applicant would have to make those variance requests again if necessary. Mr. Schwartz stated that if the Board was in favor, Mrs. Farrell could place the matter on a future agenda. Mrs. Farrell asked if she was scheduling the vote for reconsideration on a future agenda and then after the vote scheduling the public hearing or if it would all be done in the same night. Mr. Schwartz replied that it can be done however the Board wants; however, he thought the applicant or his attorney should come before the Board with their proposal for reconsideration so the Board is aware of the proposal before voting to reconsider. If the Board is comfortable with Mr. Schwartz conveying the applicant's thoughts and or proposal with the applicant not present for confirmation, then the Board can vote at anytime for reconsideration. Mrs. Farrell stated she thought the resolutions should be scheduled on a future agenda and then at that time if a Board member wanted to make a motion to reconsider they could. After further discussion, it was determined that Mrs. Farrell would schedule the resolutions for Philadelphia Suburban on the next agenda.

There was some discussion in general with regard to the Township's ordinance concerning recreation. The Board agreed they do not want on-site recreation but they wanted the developer to make a voluntary contribution to the recreation fund. Mr. Crane suggested that the Board have a discussion on an amount for a contribution so that everyone is on the same page. The Board was in agreement that the applicant does not have to make a voluntary contribution; however a contribution can be negotiated by the Board. Mr. Gabbianelli stated that the Board has to decide what is reasonable in today's market which is probably somewhere between \$2,000.00 and \$4,000.00 per market rate unit. Mr. Kernan stated that the number he calculates is based on the cost to build the required recreation per the ordinance. Mr. Jordan stated that the ordinance is specific about what equipment is required for a particular type of development. Ultimately the cost is passed onto the home buyer and not on the developer.

Mr. Masterson commented on the ordinance with regard to the case law which states the Township cannot require a developer to provide recreation or make a contribution in lieu. However the law does not apply to areas located in the Pinelands. Mr. Sebastian commented that the issue has not been challenged in the Pinelands areas yet. Mr. Masterson stated that if a developer wanted to challenge the ordinance it would ultimately cost him more money. Mr. Kozak replied it would cost the Township money too. Mrs. Orbaczewski asked why the ordinance gave the developer a choice of providing on-site recreation or a contribution when the Board does not want on-site recreation. In addition, if the Board cannot legally require either, outside of the Pinelands areas, why can't the ordinance just require a contribution in the Pinelands areas and not allow for on-site recreation, or at least make it the Board's decision and not the developers.

Discussion: (continued)

3. Reconsideration (continued)

There was further discussion with each Board member giving their opinion on what an acceptable and reasonable amount should be for a contribution per market rate unit. It was determined, by the majority, that \$3,000.00 was a reasonable amount per market rate unit. Mr. Gabbianelli felt the Board should accept whatever amount was offered.

Reports:

1. Mr. Schwartz's letter dated 3/28/13--Collocation of Wireless Communication Equipment

Mr. Schwartz stated that the question was raised on how the Township should handle the collocation of wireless communication equipment on existing wireless towers or support structures in light of the State law that took effect in January of 2012 and the Federal law entitled Wireless Facilities Development, also in effect in 2012. Mr. Weikel, the Zoning Officer, thought the applications for collocations should be reviewed by the Board's engineer; however the law clearly states they cannot be denied as long as the structure was previously granted all the necessary approvals, the height and width of the structure will not be increased by more than ten percent, and the square footage of the existing equipment compound is not increased by more than 2500 square feet, as well as the collocation complying with the structures final approval and does not require any variance relief. If all of the conditions are met, the Zoning Officer can issue a zoning permit. If they are not met then the applicant would have to come to the Board for a site plan waiver. Mr. Gabbianelli commented that he thought it gave the Zoning Officer too much power.

Mr. Sebastian asked if the law mentions anything about the structure meeting the engineering requirements. Mr. Schwartz replied that it has to have been previously granted all necessary approvals. Mr. Sebastian questioned how the Zoning Office would know if an existing tower or structure was approved for a certain number of antennas but an applicant wanted to add more antennas. Mr. Gabbianelli replied that the applicant would have to submit the proper paperwork, but he still thought they should all have to come to the Board. Mr. Kernan commented that the maximum number of antennas does not have to have prior approval; the site has to have received prior approval. He stated the Zoning Office or Construction Official has a previously approved plan or structural plan and that they would determine the structural integrity of the tower and the maximum number of antennas permitted on the structure. Mr. Jordan commented that this issue mostly deals with the issue of replacing equipment or antennas on previously approved structures. Also if the maximum number of antennas hasn't been reached then an applicant should be able to add antennas without coming into the Board since the structure itself was already approved.

2. Open Space and Recreation Plan – Genova Property

Mrs. Farrell informed the Board that she was contacted by the Township engineer's office with regard to the Genova property and the requirement to include that property in the Open Space and Recreation Plan. Mr. Gabbianelli explained that when they were in discussions concerning the purchase of this property he asked more than once, if they put up Township money in addition to the Green Acres money the County was contributing to purchase this property, would the Township still be able to construct a building on it for indoor recreation in the future. Mr. Sweeney and Mr. Atkinson from the County both replied that the Township would be allowed to construct a building on the property.

Reports: (continued)

2. Open Space and Recreation Plan (continued)

Mr. Gabbianelli stated that they asked that question over and over and again the answer was yes the Township could build on the property. Well they were wrong and the Township cannot build on the property because Green Acres money was used. He had several conversations with people from Green Acres and the bottom line is they cannot build on the property. Recently Mr. Rehmann showed a representative from Green Acres around the Townships various recreation sites including Owens Field, where the Genova property would connect to that field, the bike path, and then Duffy Park. The representative was impressed with the Township's recreation and he understood the Township's plan. Mr. Gabbianelli wasn't sure if it was fifteen or twenty acres the Township might exchange for being able to build on the Genova property. He stated the perfect piece of property is the Petrokiryk property which is a valuable piece of property that was acquired for Township recreation. He would like to exchange twenty acres in the center of that property so that a future administration could not use the property for anything other than recreation or sell the property. That piece would go into Green Acres inventory and the Township would be able to build on the Genova property. Mrs. Farrell stated she would contact Mr. Rehmann's office to get a definitive answer on the amount of acreage. She will schedule the amendment to the Open Space and Recreation Plan for the May 9, 2013 meeting.

Approval of Minutes:

1. 03/28/13 regular meeting.

Motion by Mr. Cooper, seconded by Mr. Crane to approve the minutes from the March 28, 2013 regular meeting. Voice vote; all ayes, motion passed.

Adjournment:

The meeting was adjourned at 8:00 p.m.

These minutes are an extract from the meeting that was held on the above date and are not a verbatim account or to be construed as an official transcript of the proceedings. The tape of the meeting is stored in the office of the Board.

Ninette Orbaczewski
Clerk Transcriber