

Call to Order:

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

Present – Mr. Caligiuri, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Ms. Hui, Mr. Scardino, Mr. Agnesino. Absent – Mr. Cooper, (excused), Mr. O’Brien, (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 13, 2014.

Mr. Agnesino 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-17-14 – Adoption of the Open Space Inventory Plan Approved

Motion by Mr. Kozak, seconded by Mr. Crane to adopt resolution PB-17-14. Roll call vote: Ayes – Mr. Agnesino, Mr. Caligiuri, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson. Nays – Zero. Abstentions – Zero.

2. PB-55A-13 – App. #1739 – 110 Whitehall, LLC – Amended Exhibit to Resolution

Mr. Schwartz stated that the Board wanted the applicant to clarify Exhibit A-2 as part of the resolution with regard to the language concerning COAH. Mr. Schatz was present to explain the proposal to the Board. Mr. Agnesino questioned when the town would get the \$1,500,000.00 to fund another COAH project such as Catholic Charities; and would the town have to wait until all of the homes are built. Mr. Kernan stated that the town would have to wait; however the developer is going to front some of the money. According to the exhibit the applicant will make a payment of \$75,000.00 when the first Whitehall site CO is pulled and \$75,000.00 when the first Hamilton site CO is pulled. That money will be a credit for the following CO’s on both sites as long as it is determined another provider will construct the COAH units and the COAH units will not be built on the Whitehall site. Mrs. Farrell questioned why the Hamilton Greene site was included in this proposed agreement with the town concerning the COAH obligation for Whitehall. Mr. Schatz agreed that Hamilton Greene should not be included; and without Hamilton Greene included it will not be \$1,500,000.00 it’s the development fee of \$4,500.00 per unit times 192 units, for a total of \$864,000.00. The Board was in favor to remove the Hamilton Greene site from the agreement. Mrs. Farrell asked if the \$4,500.00 per market rate unit proposed is over and above the \$75,000.00 proposed on the first Whitehall CO. Mr. Schatz stated that it’s part of the overall COAH fee. Mr. Kernan commented that the \$75,000.00 is a prepayment. The money will go into an escrow account not the COAH trust fund if the town enters into an agreement with Catholic Charities or some other provider before the first Whitehall CO; then the money will be used to help that provider build COAH units somewhere else in the town. In addition, if there isn’t a provider before the forty-ninth CO is pulled, then the applicant will draw from the escrow account and build the first five COAH units on-site.

Memorialization of Resolutions: (continued)

2. PB-55A-13 – 110 Whitehall, LLC (continued)

Mr. Schwartz commented that the agreement, Exhibit A-2, will be revised to remove the 1,500,000.00 and replace that amount with the 864,000.00 for the 192 market rate units in the Whitehall development. The reference to the Hamilton Greene development will be removed completely from the agreement. Mr. Schwartz stated the only revision to the resolution would be on page ten, number twenty-three where it refers to the Exhibit A-2. It will now indicate that the exhibit has been revised on April 10, 2014. The Board would be re-voting on the resolution with the revision to the exhibit. Mr. Schwartz commented that the Board voted on this agreement at final approval using this exhibit; it's only because there was a question on the wording of the agreement that we are having this discussion. There was some question on whether or not Hamilton Greene was part of the original agreement because it was not discussed at the final hearing for Whitehall. Mr. Schwartz indicated it may not have been discussed but it was part of the agreement that was submitted and that the Board voted on.

Mrs. Farrell suggested removing all the other language in the agreement with regard to the one and one half percent and the \$75,000.00. Mr. Kozak stated that the applicant will pay \$4,500.00 on each CO for the market rate units in the Whitehall development which will go into an escrow account. Mr. Kernan asked why the Board wouldn't want the \$75,000.00 paid up front towards their COAH obligation. Mr. Kozak asked if they would work off that \$75,000.00 until it's done; the applicant replied yes that was the intent if by the first Whitehall CO, the town has an agreement with another provider such as Catholic Charities. Mr. Kozak commented that they should just stick with the \$4,500.00 for each CO. Mr. Kernan asked what would be the harm if they took in the \$75,000.00 up front. Mrs. Farrell commented that it seems that they are going to have to build the COAH units on-site and they will have to come back for site plan approval. Mr. Schwartz commented that that would be a change to what was agreed to and then the Board would have to go back and ask for a rehearing of final approval. Mr. Schatz disagreed and stated that they know their obligation is to build the COAH units onsite; however they made this agreement in case the town has another provider to build the COAH somewhere else. Mr. Gabbianelli stated that the Board did not agree to them building the COAH onsite. After further discussion; it was determined that the Board did agree to the applicant building the COAH onsite but they must come back to the Board with a site plan for those units. In addition, the COAH units are to be age-restricted units.

Mr. Schwartz read from the resolution what the Board approved which was that the developer would build the units onsite if the town did not have another provider by the time they pulled their forty-ninth CO. They understand they have to come back for site plan approval for the COAH units if they are to be built onsite. The other option to the town is for the developer to place into an escrow account \$75,000.00 if they have an agreement with another provider, and they would use that \$75,000.00 as part of their \$4,500.00 obligation per market rate unit. That is what was agreed to at the final approval meeting; then when the resolution came up to be memorialized in December, there was some confusion on the wording only and the language was revised and Mr. Schatz is here to answer any questions. If you start taking things out of the agreement, then you are revising the final approval. Mr. Agnesino stated that the reason he questioned the language was because of the 1,500,000.00 and if the town was getting that money up front or piece meal. Now he understands that money was a total for two developments. So now it's one development and it's now \$864,000.00. So all that's being done is the 1,500,000.00 is being eliminated and Hamilton Greene is being removed.

Memorialization of Resolutions: (continued)

2. PB-55A-13 – 110 Whitehall, LLC (continued)

Mr. Schatz is in agreement with the revisions. The applicant still has to prepay the \$75,000.00 if the town has an agreement with another provider for the COAH units. Mr. Caligiuri asked what guarantees the town has to get the \$75,000.00. Mr. Schwartz stated that they would not receive their CO if they did not make the payment. If there is not an agreement with another provider, the developer will make a \$4,500.00 payment for each CO into an escrow account up to their forty-eighth CO, at which time they will have to build a minimum of five COAH units if the town still does not have another provider. They may draw from the escrow \$18,000.00 for each COAH CO. Mr. Caligiuri asked if the town should have the \$864,000.00 up front and give them back the money if necessary. Mr. Agnesino stated that was his question with the 1,500,000.00 and when the town would get that money. They have to pay it in installments, with possibly \$75,000.00 up front. Mr. Gabbianelli commented that the Board should have never approved this conversion development.

Mr. Kozak asked Mr. Kernan if COAH would be okay with the money going into an escrow account and not the COAH fund. Mr. Agnesino commented that it is unknown whether they are going to build the COAH onsite or not. Mr. Kernan commented that the town would be holding the money in trust. Mr. Schatz commented that their obligation under the conversion law is to build them onsite; however Catholic Charities came along so they agreed to put the money up front into an escrow account so the town can support another provider for the COAH units. The money in the escrow account would then be switched over to the COAH fund and used for the purpose of helping another provider build the COAH units. Mr. Kernan stated that he is comfortable with the money in escrow because it's essentially the developer's money since they are obligated to build the units onsite. If there is another provider, then the money can be switched over to the COAH fund at that time and if not the developer will get the money back and build the units onsite. Mrs. Farrell stated that they can build through Phase 3 without having to build any COAH units onsite. Before they come in for Phase 4, they have to come back for site plan approval for the COAH units. Mr. Caligiuri asked what happens if they never build Phase 4. Mr. Gabbianelli stated that they still have the money in an escrow account for the COAH. Mr. Schatz commented that if they did not build more than forty-eight units they wouldn't have a COAH obligation. He stated they have over one hundred acres of property with approvals so they would not just build forty-eight units; they will build the entire site. Mr. Gabbianelli commented that after the language is cleaned up and brought back to the Board they will vote. Mr. Masterson questioned the one and one half percent in the language. Mr. Schatz commented that the one and one half percent was based on the cost of the house and they agreed to the \$4,500.00 per unit. Mr. Caligiuri commented that if the language is being revised then it should be revised to whatever the COAH law is at the time the units are sold. Mr. Kernan commented that they cannot revise the language with that condition because that is not what was agreed to by the Board at final approval. Mr. Schwartz stated that they are only cleaning up the language which Mr. Schatz has agreed to. The resolution and the attached exhibit will be revised and brought back to the Board for a vote at the next meeting.

Final Major Subdivision:

1. #1829 – RJP Homes, LLC

Present – William Ziegler, applicant’s attorney, Larry Ragone, applicant’s planner, Cliff Gail, Evan Hill, applicant’s engineer.

Member’s packets contained: 1. Report dated March 20, 2014 prepared by Ray Jordan. Report dated April 8, 2014 prepared by Tim Kernan. 3. A copy of the applicant’s final major subdivision plan.

The applicant is before the Board seeking final major subdivision approval for the proposed Woodview townhome development. They received preliminary approval along with various waivers on April 25, 2013 for the construction of thirty-eight residential townhomes and one open space/stormwater management lot. All of the residential lots will front on the proposed cul-de-sac which will intersect with Tuckahoe Road just north of the access road to the Willowoods development and is known as Block 12901, Lot 18.

Mr. Hill testified as to his credentials as a licensed professional engineer in the State of New Jersey. Mr. Jordan, Mr. Kernan, Mr. Hill, and Mr. Ragone were sworn in by Mr. Schwartz. Mr. Ragone displayed the plan for the Board and briefly described the location of the site located on Tuckahoe Road. All of the units front on the proposed cul-de-sac and all of the units back up to open space. The lots are fee simple lots so they will own their own lots. They are proposing a homeowner’s development which will be responsible for the basin, cutting the grass, plowing, and trash removal. The street will be a public street and the town will be responsible for the street inside the curb lines. The parking area will also be maintained by the homeowner’s association. Mr. Ragone displayed the architectural plans for the Board which is marked as Exhibit A-1.

Mr. Agnesino expressed some concern with the number of homes and the ability of the future homeowner’s maintaining a homeowner’s association. Mr. Gabbianelli stated that if there isn’t a homeowner’s association then they have to get the basin maintenance money up front. There was a question as to whether the township has an ordinance that there be a minimum of 100 hundred homes for a homeowner’s association. Mr. Ziegler commented that he was not aware of an ordinance requiring a minimum of 100 homes in order to have a homeowner’s association. Mr. Gabbianelli stated that he is okay with a homeowner’s association as long as it’s in writing that the homeowner’s cannot come back to the Township if they cannot maintain the basin. Mr. Ziegler stated that it would be in writing. There was further discussion on the HOA and as an alternative the basin maintenance fee. Mr. Kernan stated that the formula for the basin maintenance is \$50,000.00 for the first acre and \$25,000.00 for each additional acre or fraction. There would still be a homeowner’s association; however if the applicant paid the basin maintenance fee, the Township would maintain the basin. Mr. Ziegler stated he would be in agreement with that arrangement. It was determined that the basin is less than one acre in size and after further discussion it was decided that the homeowner’s association would maintain the basin as well.

Mr. Schwartz read from the ordinance which states that a HOA shall be established for any multi-family development or a development, such as single family, of one hundred dwellings or more. The applicant agreed that there will be a homeowner’s association that will maintain the basin as well as the common open space, plowing, trash removal, the parking area, street cleaning, drainage facilities, and internal piping for drainage as set forth in the preliminary approval resolution.

Final Major Subdivision:

1. #1829 – RJP Homes, LLC (continued)

Mr. Agnesino asked that the future homeowner's are made aware of all of their responsibilities with regard to the association. Mr. Ziegler agreed to provide point of sale disclosures that will be reviewed by Mr. Schwartz. All future homeowners will get a copy of the declaration of covenants as part of their deed and which are recorded with the County. Mr. Heffner inquired as to a voluntary contribution to go toward recreation in the town. He stated that it would be a nice gesture on the applicant's part since this development will add additional children to the existing recreational facilities. Mr. Ziegler commented that the law states that the applicant is not required to make a recreation contribution and he is obligated to inform his client that making a voluntary contribution can be construed as buying an approval. Mr. Gabbianelli stated that the contribution goes into the general fund for recreation; right now it's costing the Township over a million dollars to install new lighting on all the baseball fields. The applicant stated they would make a \$500.00 per unit voluntary recreation contribution for a total of \$19,000.00 to be paid before the plans are signed. Mr. Agnesino thanked the applicant for their contribution.

Mr. Ragone stated that they have agreed or worked out all of the issues in Ray Jordan's report. Mr. Jordan stated that there is one waiver required for some of the pipe runs that have insufficient flow velocities. Mr. Jordan stated that it is due to the slope which they cannot achieve. Mr. Gabbianelli clarified by saying that the rain water will not wash the pipe out so they will have to flush those pipes out periodically. Mr. Hill stated that it involves two pipe runs. Mr. Schwartz commented that the Board should vote on completeness with the waiver for pipe velocities being voted on separately. Mr. Jordan stated that there aren't any signs proposed for this development. There are a number of items in the environmental section where they must provide documentation prior to construction. Mr. Ragone stated that there will not be a development identification sign; however they will use a sign for marketing purposes in accordance with the Township requirements. The final plat should be reviewed by the Township engineer as well as the construction cost estimates for bonding and inspection fees.

Motion by Mr. Crane, seconded by Mr. Heffner to deem application #1829 complete. Roll call vote: Ayes – Mr. Agnesino, Mr. Caligiuri, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Ms. Hui, Mr. Scardino. Nays – Zero. Abstentions – Zero.

Mr. Kernan reviewed his report for the Board. He stated that the applicant did change the shape and size of the lots and made them deeper which is a good thing as there is still plenty of open space behind each lot. They did meet the thirty foot perimeter buffer at preliminary approval; however when they changed some of the lots, one of the lots, Lot 18.20 encroaches into the buffer at the very corner; however since the lot is much larger than required they agreed to revise the lot so it conforms. At preliminary, the applicant testified as to the existing vegetation along the southern property line; however after an onsite visit back in May 2013, the applicant agreed to revise the plans to depict the actual existing vegetation more accurately there and elsewhere on the site. Additional vegetation may have to be added to fulfill the buffer requirements along the external boundaries once they clear. It is hard to say until they clear for the roads and other improvements and the applicant agreed to supplement the buffer if necessary.

Final Major Subdivision: (continued)

1. #1829 – RJP Homes, LLC (continued)

The proposed buffer along Tuckahoe Road conforms to the ordinance with regard to the 100 foot width; however there are open spaces on either side of Woodview Drive that should have screening to shield the first two units from Tuckahoe Road. Mr. Ragone stated that he would sit down with Mr. Kernan to come up with something to be planted in that area that will look nice but he didn't feel an actual buffer was necessary as they wanted the units to be visible from the road. Mr. Kernan agreed they can sit down and work something out with regard to the plantings in those areas. With regard to COAH, Mr. Kernan recommended the development fee of one and one half percent. Mr. Gabbianelli asked how many units they would have to provide if they built them onsite. Mr. Kernan replied that he did not know since COAH is supposed to come out with new regulations. He suggested they take the development fee. Mr. Gabbianelli commented that he did not want to take the development fee he wanted them to build onsite. Mr. Kernan stated that there isn't a set aside right now in the regulations. Mr. Ziegler commented that the Township ordinance requires a development fee of one and one half percent. Mr. Kernan stated that COAH has recently confirmed the Township's fee of one and one half percent, which was sent to them back in 2009. The twenty percent set aside that was in the ordinance has been struck down by the courts and COAH is supposed to come up with new regulations by May 1, 2014. By our ordinance we can take in the one and one half percent. Mr. Gabbianelli commented that he did not want to take the money; he wanted the applicant to build them onsite. Mr. Agnesino stated that the ordinance does not say they can require the COAH onsite. Mr. Ziegler stated that he did look at the Township's ordinance which does say one and one half percent; however if the town wants them to build COAH onsite then they are entitled to a density bump. Mr. Gabbianelli stated that they will take the one and one half percent development fee. The one and one half percent is required to be paid half at building permit and the rest at CO. With regard to the recreation contribution, Mrs. Farrell indicated she wanted the full amount of \$19,000.00 paid before the plans are signed.

Motion by Mr. Crane, seconded by Mr. Kozak to approve the waiver for the pipe velocity. Roll call vote: Ayes – Mr. Caligiuri, Mr. Crane, Mr. Heffner, Mr. Kozak, Mr. Masterson, Ms. Hui, Mr. Scardino, Mr. Agnesino. Nays – Mr. Gabbianelli. Abstentions – Zero. 8 ayes, 1 nay, motion passed.

Motion by Ms. Hui, seconded by Mr. Masterson to grant final major subdivision approval subject to all the comments in Mr. Jordan's and Mr. Kernan's reports, review of the homeowner's documents, the Township will only maintain the street from curb to curb, point of sale disclosures, the recreation fee of \$19,000.00 being submitted prior to signing the plans, COAH of one and one half percent of the assessed value, posting of bonding and inspections fees, all conditions listed in the preliminary approval resolution. Roll call vote: Ayes – Mr. Caligiuri, Mr. Crane, Mr. Heffner, Mr. Kozak, Mr. Masterson, Ms. Hui, Mr. Scardino, Mr. Agnesino. Nays – Mr. Gabbianelli. 8 ayes, 1 nay, motion passed.

Discussion – for Board Action:

1. Chapter 175-140 – Ordinance Amendment: HDPE Pipe Requirements

Member's packets contained: 1. Letter dated April 3, 2014 prepared by Dawn Farrell. 2. Letter dated March 31, 2014 prepared by Chris Rehmann.

Mr. Gabbianelli commented that the amendment is what the town needs with regard to the piping. There are strict backfill requirements in the amendment and full time inspection by Township personnel of the installation of corrugated polyethylene pipe. The issue has been that the developer installs the piping first and then it gets run over by heavy equipment and the pipe is becoming elliptical instead remaining round. Mr. Schwartz stated that the Board would be recommending this amendment to Council.

Motion by Mr. Gabbianelli, seconded by Ms. Hui to recommend the ordinance amendment to Council. Roll call vote: Ayes – Mr. Caligiuri, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Ms. Hui, Mr. Scardino, Mr. Agnesino. Nays – Zero. Abstentions – Zero.

Approval of Minutes:

1. 3/27/14 regular meeting.

Motion by Mr. Crane, seconded by Mr. Heffner to approve the minutes from the March 27, 2014 regular meeting. Voice vote; all ayes, motion passed.

Adjournment:

The meeting was adjourned at 8:28 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