

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

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."

**Site Plan Waiver:**

1. #WSP-04-13 – Dominic Burgese, Jr. – Site Plan Waiver

Present – Dominic Burgese, Jr., applicant.

Member's packets contained: 1. A copy of the applicant's site plan waiver application. 2. A copy of the applicant's Pinelands Certificate of Filing.

The applicant is requesting a site plan waiver in order to be allowed to continue to use his existing auto repair building known as B & B Auto Repair. The property is located at 2073 South Black Horse Pike, also known as Block 9901, Lot 13.

Mr. Burgese was sworn in by Mr. Schwartz. Mr. Burgese testified that he used to live on the property but in the late 1990's his home burned down. He did not rebuild the house because it was so close to the Black Horse Pike. He started his auto repair business in 1979. Prior to the fire he constructed a new garage for his own personal storage; however after the fire he used that garage for his business as well. He was unaware that he had to get approvals for the garage to change from personal storage to be used for his business since his property was zoned for commercial use and he had a commercial business already. The business is open Monday through Friday from 9:00 a.m. to 6:00 p.m.; he has two full time employees and two part time employees.

Motion by Mr. Gabbianelli, seconded by Mr. Kozak to grant the site plan waiver for the existing garage. Roll call vote: Ayes – Mr. Agnesino, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

Mr. Schwartz indicated that he has prepared the resolution in the event that Mr. Burgese's application was approved by the Board. Motion by Mr. Kozak, seconded by Mr. Sebastian to adopt resolution PB-51-13. Roll call vote: Ayes – Mr. Agnesino, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

**Final Major Subdivisions:**

1. #1739 – 110 Whitehall, LLC/Country Village at Whitehall

Present – Ken Schatz, applicant, Richard Clemson, applicant’s engineer, Larry Ragone, applicant’s planner, Joseph Bennie, applicant’s attorney.

This application is for the construction of 192 non-age restricted single-family homes. In addition there are ten open space/storm water management lots that will owned and maintained by a homeowner’s association. The development is proposed to be constructed in twelve phases. The applicant received preliminary approval for the conversion of this development from age-restricted to non-age restricted on July 28, 2011. Access to the development will be provided at two points along Whitehall Road. The property is approximately 110 acres on Whitehall Road also known as Block 8001, Lot 28.

Mr. Bennie stated they were before the Board a little over a month ago and the hearing was adjourned due to some issues concerning their obligation for COAH. Mr. Schatz, Mr. Clemson, Mr. Ragone, Mr. Jordan, and Mr. Kernan were sworn in by Mr. Schwartz. Mr. Schatz stated that at the last meeting the Board indicated they wanted the COAH units onsite. They displayed a sketch showing the proposal of COAH homes onsite at the front of the development; the sketch was marked as Exhibit A-1. Mr. Schatz stated that they will commit to build the forty-eight COAH homes onsite. The sketch depicted six buildings with parking in front of each building. The COAH units will be age-restricted with first floor master bedrooms. They will be built on a schedule specified by the State; five units have to be constructed before the forty-ninth certificate of occupancy, a total of twenty-four before the ninety-sixth certificate of occupancy, thirty-six before the hundred and forty-fourth certificate of occupancy, and the next twelve before the hundred and seventy-third certificate of occupancy. They are also proposing to escrow \$4,500.00 into a fund controlled by the town specifically for the COAH homes each time they close on a market rate home. If the COAH homes are built onsite, then they would draw the money back out for each COAH home to be built.

Mr. Schatz stated that there were further discussions with Mr. Kernan, Mr. Fiore, and Catholic Charities with the thought of moving their COAH obligation to another site; however their proposal this evening is that the units are built onsite. They are giving the town the option if the town makes a deal with Catholic Charities to move the units offsite. The approval they are seeking tonight is for final approval for the first two phases and to have the age-restricted COAH units onsite as proposed on the plan. Mr. Schatz distributed a written summary of their proposal. The summary stated their proposal to provide the age-restricted COAH units onsite, the breakdown of when the COAH units would be constructed, and the option to the town concerning Catholic Charities or another provider and the developer’s commitment to fund \$1,500,000.00 to the Catholic Charities or other provider COAH project for seventy-six COAH units. The summary was marked as Exhibit A-2.

Mr. Kernan stated that the applicant’s proposal is a reasonable approach since COAH is still in turmoil. The conversion law states that they have to build the COAH units onsite and they are agreeing to do that but they are also giving the town the option to move them offsite. In the meantime the money would go into escrow and they won’t be able to go beyond the first forty-eight units without building some of the COAH units.

**Final Major Subdivision: (continued)**

1. #1739 – 110 Whitehall, LLC (continued)

Mr. O'Brien asked for some background on Catholic Charities. Mr. Gabbianelli stated that the town has been in discussions with Catholic Charities for a while now but the problem is they don't have funding. They had a couple of sites they were looking at in town for seventy-six adult COAH units. If they do obtain funding and if they need money for their pre-application, this developer has agreed to help provide that money from the escrow. Mr. Gabbianelli stated that everyone is frustrated with COAH because no one knows what to do because the State doesn't have a plan. The other issue is the Governor trying to take the COAH funds from the towns; this is why they are going to put the money in escrow, so it won't be the town's money, it will be their money until it's decided where the units will be constructed. If a third party is involved, there will be an agreement with the third party to build the COAH units and use the money provided by this developer.

Mr. Agnesino asked who will maintain the COAH units if they are built onsite since this development is going to have a homeowner's association. Mr. Kernan stated that a management company would be responsible for the COAH units, such as the one at Justin Commons. Mr. Kernan stated that the original resolution was worded in such a way that the units could be built onsite or offsite with a fee to be determined. Mr. O'Brien stated that the Board has to decide on the plan in front of them. Mrs. Farrell commented that the public hearings that were held at the preliminary left the public with the impression that the COAH units would not be built onsite. In actuality the applicant was supposed to come back to a meeting just to discuss the COAH issue but they never did. She felt the applicant should have another public hearing so that the residents in the area are aware that the COAH units are proposed onsite. There was further discussion on the matter and Mr. Kernan pointed out that he believes the town would rather see the units constructed offsite in a more suitable location in a Catholic Charities project or some other provider's project; however their proposal is to build them onsite at this time. If they build the units onsite, they will have to come back for site plan approval with a public hearing. Mr. Schwartz stated that he did not believe that the applicant needs a public hearing to allow them to construct the COAH units onsite. He did agree that a public hearing is necessary when the applicant comes in for site plan approval for the COAH units.

Mr. Masterson asked where the trigger is that will determine if the units are built on or offsite. He asked if it is after the first forty-eight units are constructed and the first five COAH units have to be built and does it have to be all or none or can half be onsite and half be offsite. The Board stated that it is after the first forty-eight units are constructed and it is all or none onsite. Mrs. Farrell asked when the applicant has to come in for site plan. Mr. Schwartz stated that they have to come for site plan approval before they started building anything. Mr. Agnesino asked if all of the outstanding issues have been addressed since the last meeting with regard to the professional's reports. Mr. Schatz indicated that they have met with the Board's professionals and resolved the issues. Mr. Schwartz asked what plan would be given to the Board at this time for signing off on final. Mr. Schatz stated that the plan for the first two phases; they can come in with the third phase as well before they have to come in for site plan for the COAH units since they would still be under the forty-eight units. Mr. Schwartz clarified that the Board was only approving final for the first two phases this evening.

**Final Major Subdivision(continued)**

1. #1739 – 110 Whitehall, LLC (continued)

Mr. Schwartz reviewed the requested waivers from the last meeting. The first waiver was from the applicant providing crosswalks at the interior roadway intersections. Motion by Mr. Agnesino, seconded by Mr. Sebastian to grant the waiver for the crosswalks. Roll call vote: Ayes – Mr. Agnesino, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

Motion by Mr. Agnesino, seconded by Mr. Crane to grant the waiver from the applicant showing all the significant trees on the site. Roll call vote: Ayes – Mr. Agnesino, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

Motion by Mr. Agnesino, seconded by Mr. Sebastian to grant the waiver to allow development identification signs at each entrance. Roll call vote: Ayes – Mr. Agnesino, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

Motion by Mr. Agnesino, seconded by Mr. Sebastian to grant final major subdivision approval for Phase I and II of the proposed development subject to the following conditions; the purchase of the required PDC's as per the Pinelands, the easement to allow an emergency access through the projects open space, the exact location will be determined at approval for Phase 9, approval of all outside agencies, the stormwater management basins and open space to be maintained by the homeowner's association, roads are public, curbs are private, the six foot wide path along Whitehall Road will be blacktop; the sidewalks will be concrete, the comments in the Board's professionals reports, the contribution of the recreation fee of \$1,500.00 per market rate unit, the phasing plan submitted, the Pinelands no call-up letter, deed restriction to state no additional bedrooms to be constructed or basements and or garages converted, by the developer or the homeowner, bonding for site improvements and inspection escrow, five foot high chain link fence with black vinyl provided around the basins, COAH as discussed, site plan approval if COAH is built onsite, snow removal and trash collection provided by the homeowner's association. Roll call vote: Ayes – Mr. Agnesino, Mr. Crane, Mr. Gabbianelli, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O'Brien. Nays – Mr. Heffner. Abstentions – Zero. 8 ayes, 1 nay, motion passed.

2. #1823 – Comfort Development Group/Hamilton Greene

Present – Vincent D'Elia, applicant's attorney, Larry Ragone, applicant's planner, Alec Norris, applicant's engineer, Rick Hoff, applicant's COAH attorney, Don Papparone, applicant, Ken Schatz, applicant.

The applicant proposes to subdivide existing property located between Tuckahoe Road and Main Street for the construction of 207 fee simple single-family attached townhouse units and three open space/stormwater management lots. The applicant was granted preliminary major subdivision approval by the Planning Board on October 27, 2011. The property consists of 41.71 acres also known as Block 14401, Lots 1, 4, 5, 6, 7 and 11, and Block 14501, Lots 24, 24.01, and 25.

**Final Major Subdivision: (continued)**

2. #1823 – Comfort Development Group (continued)

Mr. D’Elia introduced himself as the applicant’s attorney. Mr. Ragone, Mr. Paparone, Mr. Schatz, and Mr. Norris were sworn in by Mr. Schwartz. Mr. D’Elia commented that most of the outstanding planning and engineering issues have been resolved. Mr. Schatz stated that they are before the Board for final approval for the first phase of the project. Mr. Jordan indicated that the application can be deemed complete. Motion by Mr. Kozak, seconded by Mr. Agnesino to deem application #1823 complete. Roll call vote: Ayes – Mr. Agnesino, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O’Brien. Nays – Zero. Abstentions – Zero.

Mr. Ragone stated that they received preliminary approval and they are before the Board for final approval on Phase I. Phase I consists of the access road off of Main Street, twenty-six units, and the first stormwater management basin. Mr. Agnesino commented that the trash and snow removal will be the responsibility of the homeowner’s association; he also commented that the applicant will require cul-de-sacs at the end of the roadways for each phase. Mr. Ragone stated that the plan does show temporary cul-de-sacs. He also clarified that the streets will be public streets but the services will be provided by the homeowner’s association. Mrs. Farrell asked if a portion of Princess Street will be vacated; she stated that the street is paved with curbing and sidewalk. Once it’s vacated it will be divided between the property owners on either side; she asked if the applicant was going to leave the street as it is or will it be torn up and grass planted. Mr. Ragone stated that is the Township’s call. Mr. Jordan commented that there are utilities under that street so easements will be required. Mrs. Farrell stated that one of the property owners that would receive a portion of the street is present. They were curious as to what will happen to the vacated portion of the street. Mr. Schatz stated that they are not going to remove the paving and curbing. After some discussion, it was decided that the applicant would remove the paving and curbing since they have to tie into the utilities anyway. Mr. Schwartz indicated that the applicant must present their request to Council to vacate a portion of Princess Street.

Mr. Schwartz stated that the preliminary resolution indicates that all improvements, utilities and basins must be constructed during the first phase unless the applicant can prove to the Board that certain improvements can be delayed to a later phase. Mr. Schatz replied that the development was designed so that each phase can stand on its own. Mr. D’Elia commented that he believed that they have done that to the satisfaction of the Board’s professionals. Mr. Schwartz commented that the Board has to make the determination. Mr. Agnesino asked how people living in the first phase would exit if there were a problem at the Main Street access and the other access road out to Tuckahoe Road is not constructed. Mr. Ragone stated that they followed the RSIS standards as to how many homes they can build on a single roadway. The access road off of Tuckahoe Road will be constructed as part of Phase 5.

Mr. Jordan stated there were a few minor issues in his report that should be addressed. The first is that all covenants, maintenance agreements, easements, bylaws and membership rules of the homeowner’s association must be provided to the Board’s Planner and Solicitor for review and approval. Evidence of final approval from the MMUA must be provided. Sign plans and architectural plans must be provided. The architectural plans were provided but not shown to the Board. The final plat for Phase I should be submitted to the Township Engineer for review. The applicant is requesting a waiver for the velocities in some of the pipe runs which are less than two feet per second.

**Final Major Subdivision:**

2. #1823 – Comfort Development Group (continued)

The applicant must post bonding for the site improvements and escrow for site inspection. Mr. Jordan stated that all of the other issues have been addressed.

Mr. Kernan reviewed his report for the Board. He stated that the applicant has agreed to work out the remaining buffer concerns along the perimeter of the site. With regard to the architectural plans, Mr. Kernan stated he did receive them; however he did ask that colored elevations be presented at final. Mr. Ragone stated that they did not bring the colored elevations with them. Mr. Kernan stated the applicant has agreed to add additional shade trees on the plans. Signage is being proposed now as it wasn't proposed at the preliminary; a waiver will be required. The applicant agreed to make a sidewalk contribution of \$5,400.00 in lieu of providing sidewalk. Mr. Jordan stated that he may have a copy of the architectural plans that are not colored. Mr. Ragone displayed the architectural plans that were submitted to Mr. Kernan and Mr. Jordan. He stated that he would colorize one for Mr. Kernan if he has some specific concerns about the elevations. Mr. Kernan stated that he wanted the Board to be able to see the colorized architectural and comment on them. He stated that most of the features that the Board would like are optional features. Mr. Ragone stated that they have broken up the façade with brick and siding as well as some architectural changes.

Mr. Agnesino asked if the applicant was building their COAH units onsite. Mr. Kernan stated that they are not building them onsite. Unlike the last application where they are required to build them onsite under the conversion law, this application falls under the current regulations of the State which were struck down by the courts. Within the last month the Supreme Court determined that the gross share methodology that was in COAH's third round rules is not valid and they've given COAH five months to promulgate new rules. A contribution of one and a half percent is still on the table. Mr. Hoff stated that he agreed with Mr. Kernan and with his conclusion that the obligation for this project is a contribution of one and a half percent. The entire methodology of having to provide one COAH unit for every four, five, or ten units has been thrown out by the courts. COAH's new rules cannot use that methodology. In the new rules each town will get a number which is how it was back in the 1990's. In the interim towns can still charge the one and a half percent and even the two and a half percent for non-residential development. If the town wants the COAH onsite, they have to allow the developer an increased density. Mr. Kernan stated that since this developer is the same as for the last application, it may work out that they could combine the obligation with a third party developer such as Catholic Charities and build seventy-six units. Mr. Hoff also stated that the Superior Court has already determined that Monroe Township has credits moving forward; the first and second round obligation has been met and the town has credits toward whatever the third round obligation will be.

Mr. Schwartz reviewed the required waiver for the proposed signage on Main Street and Tuckahoe Road. Motion by Mr. Agnesino, seconded by Mr. Sebastian to grant the sign waiver. Roll call vote: Ayes – Mr. Agnesino, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

**Final Major Subdivisions: (continued)**

2. #1823 – Comfort Development Group (continued)

Motion by Mr. Agnesino, seconded by Mr. Sebastian to grant final major subdivision approval for Phase I subject to the comments in Mr. Kernan's and Mr. Jordan's reports, bonding and inspection fees, the waiver for the pipe velocities, submission of a colored architectural plan, the COAH obligation as stated in the preliminary approval resolution. Mr. Heffner inquired as to a recreation contribution. Mr. Schwartz stated that those issues should have been discussed and decided at preliminary. Mr. D'Elia indicated that they will submit the homeowner's documents before the plans are signed. This development is outside the Pinelands so a recreation obligation is not required. Mr. Agnesino commented that this developer might be willing to make a contribution since they are going to add more kids to the township recreational facilities. Mr. Schwartz stated that the homeowner association documents must be submitted so that it's clear that the association will be responsible for the maintenance of the basins and open space; and they will provide trash collection and snow removal. After some discussion on the recreation, Mr. Paparone and Mr. Schatz stated that they would make a contribution of \$1,500.00 per unit toward the recreation fund. Mr. Kernan commented that he thought the one and a half percent development fee for COAH should be set now. Mr. Schwartz agreed to put that into the resolution. Roll call vote: Ayes – Mr. Agnesino, Mr. Crane, Mr. Gabbianelli, Mr. Heffner, Mr. Kozak, Mr. Masterson, Mr. Sebastian, Ms. Hui, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

**Approval of Minutes:**

1. 10/10/13 regular meeting.

Motion by Mr. Agnesino, seconded by Mr. Sebastian to approve the minutes from the October 10, 2013 regular meeting. Voice vote; all ayes, motion passed.

**Adjournment:**

The meeting was adjourned at 8:30 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