

Call to Order:

The regular meeting of the Monroe Township Planning Board was called to order at 7:05 p.m. by Chairman O'Brien. The Board saluted the flag. Roll call was as follows:

Present – Mr. Agnesino, Mr. Cooper, Mr. Crane, Mr. Kozak, Mr. Masterson, Mr. Teefy, Ms. Hui, Mr. Cotton, Mr. O'Brien. Absent – Mr. Caligiuri (excused), Mr. Scardino, (excused). Also present – Mr. Rocco, Solicitor, Mr. Kernan, Planner, Mr. Jordan, Engineer.

Proper notice of this meeting was given as required by the Open Public Meetings Act on January 15, 2015.

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."

Discussion:

1. COAH

Mr. Kernan informed the Board that within the last week Fair Share Housing's consultant updated his calculations on what each town's obligation should be for affordable housing. Monroe Township had just received a zero obligation from this consultant last summer; he has now changed that obligation and assigned Monroe a new obligation of 974 affordable units. Mr. Kernan called the consultant after the numbers were changed and he explained the designation of being an Urban Aid community. Monroe Township is designated as an Urban Aid community, however the consultant stated that the Round 2 COAH rules, which is what the court is going back to now, takes Monroe out of that designation. Mr. Kernan explained that one of the criteria for qualifying as an Urban Aid community is that there must be a population density of 10,000 people per square mile; we do not meet that criteria. There are also other criteria for qualifying but Monroe Township does not meet any of those criteria either. He explained that technically the Round 3 rules have been in flux since 1999. The Board had an official from COAH come to a meeting back in 2004 and that official basically said that the town should not do a COAH plan because there really weren't any rules to follow. Then the rules finally did come out for Round 3 and the town did a plan but then those rules were challenged in the courts and in 2008 the numbers changed again. Once again those rules were challenged in the courts and seven years later this is where we are. So now they're saying that from 1999 to 2025 the town has to provide 974 affordable units in addition to the units that are accounted for under Rounds 1 and 2. The outcome from litigation with Justin Commons and Blaze Mill gives us a Round 3 credit of approximately 128 or 129 units which probably can be deducted from the 974; however that still leaves a very large number. Mr. Kernan explained how the consultant calculates the number based on population and employment projections to 2025. He added that it is a very complicated process that is based on the regional area, land mass, available vacant land, etc. He commented that he believes the number given to Monroe Township is way off the mark.

The number of residential units on the books with approvals already total almost 1000 units and even if we could get a percentage of them to be affordable units that would only add up to a couple hundred which doesn't even make a dent in the number. Mr. Masterson asked if the consultant that calculated the new number is the same consultant that gave us a zero number last year. Mr. Kernan stated that it is the same consultant. Mr. Masterson commented that it doesn't make that consultant very reliable if he can give a zero number and then change it to almost 1000 in less than a year. He asked what will happen if there really isn't any new residential development in the next ten years. Mr. Kernan replied that in order for the town to be protected from builder's remedy lawsuits, they have to have realistic plan; the units don't actually have to be built in ten years, but the plan has to be submitted and certified. Mr. Masterson stated that we wouldn't be able to meet this number even if every developer that did come in proposed all affordable units, which is never going to happen.

Discussion: (continued)

1. COAH (continued)

Mr. Kozak commented that the town should just keep doing what they are doing and ask the developers for twenty percent onsite affordable units. Mr. Kernan replied that he didn't think a judge today would agree to a twenty percent onsite set aside for every developer because COAH did come out with that percentage in 2008 and the courts struck it down saying that isn't how fair share housing is supposed to work. Mr. Masterson agreed that it wasn't feasible for every type of development to have onsite affordable units simply because the residents of those units cannot afford the upkeep, homeowner's fees, as well as simply the costs of living in the area. Mr. Kernan commented that between Mr. Teefy, Council, and the Planning Board there should be a consensus as to whether or not they want to challenge the number, accept the number, or just wait and see what happens. Mr. Teefy asked if anyone verifies this consultant's numbers. Mr. Kernan replied that he believes the State League of Municipalities is going to hire someone to do just that, check this consultant's math based on the Round 2 rules. Mr. Crane asked when that would be done. Mr. Kernan stated he did not know if they've even hired someone as of yet. He stated he would not recommend the town doing a plan based on the number given. Mr. O'Brien asked if the town was getting credit for what we already have. Mr. Kernan replied that we are getting credit and should get credit for units in Round 3. Mr. Kozak commented on the Barclay Glen situation where only twenty-one of the forty-one affordable units are occupied by qualifying residents and there are only ten unoccupied units left in the whole complex. He stated that the owner has not met his COAH obligation and something should be done. Mr. Kernan replied that that issue will be addressed very soon.

Mr. Kernan explained that the town has done things under the Round 3 rules such as the money from the Blaze Mill project that will go toward fifty plus unit market to affordable program and those units will count towards the new number. With regard to the timeline, there is a ninety day period for towns to discuss the decision from Fair Share Housing and strategize. Then from June 8th to July 8th the town can submit a Declaratory Judgement which could state that the town believes the 974 number is extremely excessive and submit supporting documentation to that argument. After that the town most likely will be given a five month window in which to prepare a realistic plan to meet whatever the number is. He definitely did not think doing a plan now for the 974 number was the right thing to do. He stated that the town could try to get a twenty percent onsite set aside from every developer but he didn't believe it will work in single-family developments especially if they are smaller in size because the developer would not be able to afford to build it; however if that is the town's strategy for not wanting anymore residential development then it will work, but if you're looking to bring more retail/commercial business to town you need the residential. There was discussion on the most recent type of developments being proposed those being townhouse developments and that they are the perfect type of development for including affordable units. Mr. Kernan agreed stating that the affordable units can be blended in much easier. Mr. Masterson stated that he believes the 974 number can be challenged for two reasons; the first because going from zero to 974 in less than a year shows that the consultant must have made a mistake somewhere in his calculations and then based on the that reason, the second is that if the town had been given a number other than zero we would have been aggressively whittling away at that number. Instead the town believed it could not legally ask for onsite affordable units because there weren't any numbers to go by for the last ten plus years.

Mr. O'Brien stated that the Mayor would have to approve the extra work it would take for Mr. Kernan and Mr. Rocco to challenge the number. Mr. Teefy stated that the number should be challenged. He commented that the whole system is flawed because you have one side that wants all these affordable units but then you have the courts saying you can't make the developer put in those units or if you want them you have to give the developer more units but then that puts more of a burden on the towns. Mr. Kernan agreed saying that the Round 2 rules did allow the builders to get more density; so the rules are not in favor of the towns but the builders.

Discussion: (continued)

1. COAH (continued)

Mr. Crane asked what the next step is if the number is going to be challenged. Mr. Rocco stated that the first thing for the Board to understand is that this number is not set in stone right now. He is going to do some investigating as to how the town went from zero to this number. He commented that other towns are in the same situation. The first step for the town is to file the Declaratory Judgement which is the vehicle to challenge the number. He stated that he and Mr. Kernan should meet with Mr. Fiore and put together the argument to challenge the number. Mr. Rocco stated he would research how they gave us that number and how it went from zero to almost one thousand and what changed to make that happen. Mrs. Farrell commented that there is a residential application coming to the Board in June and wanted to know what the Board can legally ask for with regard to affordable units. Mr. Kernan and Mr. Rocco agreed that they have to look into that issue before the application comes before the Board. Mrs. Farrell also asked that if the developer is allowed more density because they are providing onsite affordable units, does the applicant need a density variance and have to file with the Zoning Board or can the application stay with the Planning Board. Mr. Rocco stated he would look into that issue as well. Mr. Heffner commented that he did not know how the professionals could put a plan together if they did not know the rules. He asked if the consultant that calculated the number counted all the land that cannot be used in the town. Mr. Kernan stated that one year ago West Deptford had a number of 1800 units but now their number has dropped to 1000 units and many towns have been lowered and capped at 1000 units so it stands to reason other towns have picked up the difference. He wondered how they were just able to redistribute the numbers like that. Mr. Teefy asked if the town's court master, Mary Beth Lonergan is going to help the town with this issue. Mr. Kernan replied that he believes that she would be available to help.

Mr. Masterson stated that since other towns are in the same boat as ours, maybe Mr. Kernan and Mr. Rocco can reach out to their professionals and see if we can pool our resources and get together and fight the numbers. Mr. Teefy agreed it was a good idea to reach out to other towns that have been hit with outrageous numbers and ask how they plan to handle it. Mr. Rocco stated that he and Mr. Kernan could make some calls to other professionals but the town does have the first shot at a challenge with the Declaratory Judgement. They just have to work together to present a valid argument to the court. Mr. Kernan commented that the town's 2004 plan took the town through to 2014 and he had calculated at that time the town's obligation to be somewhere in the four hundred range. Now Fair Share Housing has increased the State need from the one hundred and seventy thousand range to over two hundred thousand projected out to 2024. COAH published their projections last year and they were only at forty-one thousand State wide to 2024. They also gave Monroe a zero obligation last year. So the town had a zero obligation number from both Fair Share Housing and COAH less than a year ago. So far there has not been any response from COAH.

Mr. O'Brien asked if any of the Board members had any objection to Mr. Kernan and Mr. Rocco working on the matter, doing some investigating as to why the number has changed. Mr. Agnesino commented that we should just wait and not do anything. He stated that he did not understand how they can force a town to meet the numbers if they do not have any real growth. Mr. Kernan agreed that he did not want to do a plan based on the current number. Mr. O'Brien commented that he did not want them to do a plan but to be prepared to challenge the number. Mr. Kozak commented that Council should be the ones to decide if Mr. Kernan and Mr. Rocco should do the work and how the town should proceed. Mr. O'Brien agreed that Council should be involved but that the Mayor and Mr. Heffner were present and that the town doesn't have a lot of time to prepare and submit the challenge. Mr. Teefy stated that he would like Mr. Kernan and Mr. Rocco to reach out to other towns to possibly pool resources to have a type of class action challenge for these numbers. He asked the professionals to make those phone calls and get back to him.

Discussion: (continued)

1. COAH (continued)

There was discussion concerning the list of documented and undocumented affordable units that COAH sent out a few months ago. Mr. Kernan stated that his secretary Robin is working on that list and he is confident that those units listed as undocumented are still affordable units as most of them belong to the Gloucester County Housing Authority. He explained that those units even though listed as undocumented are counted as part of the numbers from Rounds 1 and 2. Mr. Kernan stated that he and Mr. Rocco will make some calls. He also believes that he, Mr. Rocco, and Mr. Fiore should meet to begin putting together their argument for the Declaratory Judgement. They will include Mary Beth Lonergan's report showing the credits from Rounds 1 and 2 as well as the surplus going into Round 3. They will also include old plans and other documentation to support the argument.

Mr. Masterson commented that there is a residential development coming in soon and he thought the professionals should find out what the Board can do from a legal standpoint with regard to affordable units. Mr. O'Brien replied that Mr. Rocco will look into that issue and inform the Board what they are able to do.

2. RG-TC Zone Ordinance

Mr. Kernan stated that he started working on a memo to permit dual use in the RG-TC Zone, mainly Main Street, to allow for apartments above commercial establishments. There was discussion by the Board on allowing a brewery on Main Street and the Board wanted the code changed to address that use. There was also discussion with the Board on how the code is very disorganized especially with the schedule of limitations, superscripts, and the tables as they pertain to the code. The new memo has been updated to incorporate comments made by Sue Grogan from the Pinelands. For the RG-MU Zone, Ms. Grogan stated that craft alcoholic beverage establishments should only be permitted as part of a planned development in that zone and not as a principal use. He made those changes to the code. The next comment stated that craft alcoholic beverage establishments will be permitted in the RD-C, RG-TC, RG-C, and RG-LI Zones. There was some discussion on allowing them in the RG-LI Zone with the Board recommending removing the RG-LI Zone from the changes. As part of those changes the lot areas and bulk standards also needed to be addressed which is part of the memo. In the RD-C Zone craft alcoholic beverage establishments will be conditionally permitted uses and must be on at least a one acre lot. Mr. Kernan commented on the schedule of limitations and how they are so confusing; he commented that he added a table below the notes for craft alcoholic beverage establishments because they could not get into trying to change the tables and schedules right now, but that is something that should be addressed in the future. Craft alcoholic beverage establishments will also be permitted in the Commercial and Business Park Zones outside the Pinelands.

Ms. Grogan also commented on whether the amendments to the RG-TC Zone permit apartments over the commercial uses. She stated that she did not see anywhere in the current code that apartments were permitted in the zone at all. So the table had to be expanded to include apartments on the second or third floor of community commercial uses in the RG-TC Zone and the schedule of limitations amended as well. Mr. Kernan made the suggested changes and additions to the code. He only added apartments as permitted uses in the RG-TC Zone above community commercial uses and not in the other zones in or out of the Pinelands. He asked the Board if they were comfortable with the changes and recommending them to the Ordinance Committee. He will send the changes he made to Sue Grogan for any further comment/approval as well. Motion by Mr. Agnesino, seconded by Mr. Cooper to recommend the changes to the Ordinance Committee. Roll call vote: Ayes – Mr. Agnesino, Mr. Cooper, Mr. Crane, Mr. Kozak, Mr. Masterson, Mr. Teefy, Ms. Hui, Mr. Cotton, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

Approval of Minutes:

1. 4/9/15 regular meeting.

Motion by Mr. Agnesino, seconded by Mr. Crane to approve the minutes from the April 9, 2015 regular meeting. Voice vote; all ayes, motion passed.

Reports:

1. Mr. Masterson asked if the alternate traffic study for the Grandview application is being done. Mr. Kernan replied the traffic engineer from Maser has submitted a draft study.

2. Mrs. Farrell stated she will send an email to the Clerk's office concerning the ordinance changes. The Board's next meeting is scheduled for May 14, 2015.

3. Mr. Teefy informed the Board that he reached out to the engineer for the Grandview development concerning an access on Main Street. He is waiting for him to return his call. He also is coordinating a meeting with the four corner property owners at Fries Mill Road and Route 322 for May 8th to discuss the plans for that intersection. Mr. Teefy commented on the children having a good day in Town Hall as part of "Take Your Child to Work Day". He mentioned that the first floor and basement floor of Town Hall is scheduled to be cleaned over the weekend.

4. Mr. Agnesino asked if there was any news on the demolition of the old Quality Furniture Store. Mr. Teefy replied that he has not heard anything but he will reach out to the owner.

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