

Call to Order:

The regular meeting of the Monroe Township Planning Board was called to order at 6:32 p.m. by Chairman O'Brien who 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."

The Board saluted the flag.

Roll call:

Present – Mr. Boorstein, Mr. Caspar, Mayor DiLucia, Mr. Garbowski, Mr. Kozak, Mr. O'Brien, Mr. O'Reilly. Absent – Mr. Helsel, (excused), Mr. Laughlin, (excused), Mr. Schwaiger, (excused), Mr. Verratti, (excused), Mr. Wisner, (excused), Mr. Snowden, (excused). Also present – Ms. Gaglione, Solicitor, Mrs. Orbaczewski, Secretary.

Proper notice of this meeting was given as required by the Open Public Meetings Act in the Annual Notice of Meetings on January 8, 2021. The change of platform and time for this meeting was published in the newspaper on June 28, 2021 and posted on the Township website.

Memorialization of Resolutions:

1. PB-23-2021 – Appointment of Planning Board Secretary

Mr. Garbowski nominated Mrs. Orbaczewski, seconded by Mr. Kozak. With no other nominations, Mrs. Orbaczewski was appointed as Planning Board Secretary.

2. PB-24 -2021 – App. WSP-06-21 – Brandon Keller/Nick Cottone – Site Plan Waiver Approved

Motion by Mr. Kozak, seconded by Mr. Caspar to adopt resolution PB-24-2021. Roll call vote: Ayes – Mr. Caspar, Mayor DiLucia, Mr. Kozak, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

3. PB-25-2021 – Amendment to Chapter 175 and 2012 Master Plan Reexamination Report

Motion by Mayor DiLucia, seconded by Mr. Caspar to adopt resolution PB-25-2021. Roll call vote: Ayes – Mr. Caspar, Mayor DiLucia, Mr. Kozak, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

4. PB-26-2021 – App. #1828 Philadelphia Suburban – Amendment to PB-34-13

Ms. Gaglione explained the owner is selling this project to another entity for development and they have questioned the validity of the condition to pay \$3000.00 per building lot to the recreation fund. She stated there is case law from 2008 that does not allow municipalities to require off-site contributions in lieu of providing open space and/or recreation areas. The only type of development that the set aside of open space and recreation is required is in a Planned Residential Development. This approved development is considered a cluster development.

Memorialization of Resolutions: (continued)

4. PB-26-2021 – App. #1828 Philadelphia Suburban (continued)

Ms. Gaglione stated the resolution before the Board is to amend the resolution to remove that one condition since it is not legally enforceable. Mayor DiLucia stated that the original developer voluntarily agreed to make the contribution to the recreation fund but the new owners do not agree. Mayor DiLucia questioned whether there was anything in the agreement of sale. The new owners bought an agreement and the breach is on the part of the original owner. He asked how many units there are in the development and how much money is involved. It was determined it is approximately \$300,000.00. Ms. Gaglione stated that even though it was an agreed upon condition of the original approval, it is still not something that is legally enforceable. Mayor DiLucia asked if the resolution can be tabled until Ms. Gaglione finds out if the agreement to pay the recreation fees was included in the agreement of sale with the new buyer. Ms. Gaglione replied the resolution can be tabled. Mayor DiLucia made the motion to table the resolution.

Mr. O'Reilly asked if the statute is the same one as Governor Christie put in place where municipalities are not able to seek alternative balances such as the Open Space fund. Ms. Gaglione replied the case law actually is from earlier in 2008 prior to Governor Christie. Mayor DiLucia replied he is aware of the law; however, in this case, the applicant voluntarily agreed to pay the fees. He asked legally, if that agreement can be amended or altered for the new buyer by the owner. Mr. Kozak asked if the original owners did not sell the project yet and they came before the Board arguing they legally are not obligated to pay the fees; does that make a difference. Ms. Gaglione replied that the project has not been sold yet; however, the prospective buyer has been in touch with the Township Solicitor with regard to this issue. Mr. Kozak stated he remembers this project very well and the Board gave certain concessions with regard to variance approvals for the project and the applicant voluntarily agreed to make the recreation contribution. There was further discussion on the matter with the determination that the resolution would be tabled.

Motion by Mayor DiLucia, seconded by Mr. Kozak to table Resolution PB-26-2021. Roll call vote: Ayes – Mayor DiLucia, Mr. Boorstein, Mr. Caspar, Mr. Garbowski, Mr. Kozak, Mr. O'Reilly, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

5. PB-27-2021 – Closed Executive Session

Motion by Mr. Kozak, seconded by Mr. Caspar to adopt resolution PB-27-2021. Voice vote; all ayes, motion passed.

Administrative Change for Board Action:

1. #469-SP – Mark Hernandez/Autumn Lake Winery

Present – Mark Hernandez, applicant.

The applicant is before the Board for an administrative amendment to his site plan. Upon inspection by the Township Engineer, it was determined that there were parking lot improvements and a split rail fence installed beyond the southerly limit of disturbance. Also the loading dock and millings were installed beyond the northern limit of disturbance. After discussion with the Township Engineer, it was determined that these changes could be handled administratively by the Planning Board instead of the applicant having to come back to the Board with a new amended site plan. The property is located at 870 West Malaga Road, also known as Block 9801, Lots 7.01 and 7.07.

Ms. Gaglione stated what is before the Board is an administrative amendment based upon the Township Engineer's recommendation that the disturbance to the site in the areas shown are minor in nature and the approval of these changes can be done administratively. Mr. Hernandez was sworn in by Ms. Gaglione. Mr. Kozak asked Mr. Hernandez to explain why he went beyond the approved area of development. Mr. Hernandez replied that on the northern side of the site, he installed some partitions to retain the soil so he could use more of the crushed bed to his loading dock. The ground was so sloped that it made it impossible to use it; so he placed some blocks there so he could drive up to the loading dock. On the south side, he installed a split rail fence in the wooded area for aesthetics as there are areas where the public can sit and he wanted to separate the area from the open woods.

Motion by Mr. Kozak, seconded by Mr. Boorstein to administratively approve the changes to the as-built and site plan for application #469-SP. Roll call vote: Ayes – Mr. Boorstein, Mr. Caspar, Mr. DiLucia, Mr. Garbowski, Mr. Kozak, Mr. O'Reilly, Mr. O'Brien. Nays – Zero. Abstentions – Zero.

Public Portion:

Motion passed to open the meeting to the public. There being none, motion passed to close the meeting to the public.

Reports:

1. Mrs. Orbaczewski stated there weren't any applications scheduled for the August 12th meeting. There was discussion about bringing in Philadelphia Suburban to discuss the recreation fees. It was determined that Mrs. Orbaczewski will inform the Board as to whether or not they will hold the August 12th meeting based on the outcome of discussion with Philadelphia Suburban.

Approval of Minutes:

1. 6/17/2021 regular meeting.

Motion by Mr. Kozak, seconded by Mr. Caspar to approve the minutes from the June 17, 2021 regular meeting. Voice vote; all ayes, motion passed.

The Board adjourned to closed executive session at 6:53 p.m.

Adjournment:

The meeting was adjourned at 7:10 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.

Respectfully submitted by: Ninette Orbaczewski, Clerk Transcriber