

**DELANCO TOWNSHIP  
JOINT LAND USE BOARD  
REGULAR MEETING  
JANUARY 5, 2010**

Ms. vanGenderen called the meeting to order and led the flag salute.

**Sunshine Statement**

Adequate notice of this meeting has been provided in the following manner: written notice has been given to the Burlington County Times and Courier-Post newspapers and posted on the official bulletin board of the Township of Delanco at least 48 hours prior to the meeting. Written notice was also filed in the office of the Township Clerk and mailed to those persons who have requested copies and who have paid the required fee. The Secretary is directed to include this statement in the minutes of this meeting.

**Present:** Ms. Lohr, Ms. Mader, Mr. Martin, Mr. Matulewicz, Ms. Moore, Mr. Taraschi, Ms. vanGenderen, Mr. Schmitt, Mr. Anastasi

**Absent:** Mr. Lord, Ms. Jass

**Board Professionals:** Denis Germano, Esq.; Hugh Dougherty, Engineer; Scott Taylor, Planner

**Resolutions**

**Resolution 2010-05**

**Thomas & Tammy McFadden**

**Resolution Declaring Application Complete**

Motion by Ms. Mader, seconded by Ms. Moore to adopt and memorialize Resolution 2010-05.

Those voting in favor: Ms. Lohr, Ms. Mader, Mr. Martin, Ms. Moore, Ms. vanGenderen

Those voting against: none

Those recusing/abstaining: none

**Approval of Minutes**

The December 1, 2009 minutes were approved by those Board members eligible to approve them. There were no corrections.

**Continued Applications**

**Thomas & Tammy McFadden**

Block 1400, Lot 1

401 Rancocas Avenue

R-6 Zone

Preliminary & Final Major Site Plan, interpretation of zoning map or ordinances & bulk variances for ice cream parlor with “affordable unit” apartment above.

This application was continued from the December 1, 2009 Board meeting. Mr. William Ziegler, Esq., Mr. and Mrs. McFadden’s attorney, stated that he had provided additional public notice for this application and provided an affidavit of service to the Board Secretary.

Mr. Germano updated the Board on what had taken place since the December 1 meeting. It was Mr. Germano’s understanding that the Township Solicitor had been authorized to draft a resolution that would

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change the current zoning ordinance by eliminating the C-1 conditional uses in the R-6 zone. If the ordinance is adopted, Mr. and Mrs. McFadden would be required to obtain a d(1) use variance instead of a d(3) conditional use variance. The Board has 120 days to make a decision on this application, and the fact that the rules may change in the middle does not re-start that clock. Mr. Germano's recommendation to the Board was that they not hear the application tonight on the assumption that the Governing Body will introduce the ordinance on first reading this month. Mr. Germano also suggested that the Board not hear the application again in February in order for the public hearing on the ordinance to occur. The Board would hear the application in March and would have to make a decision that night.

Mr. Ziegler stated that the applicants were fully prepared to proceed. The revised plans that were submitted have eliminated all of the variances with the exception of front yard setback and lot depth. These two matters cannot be fixed or controlled. Mr. Ziegler stated that the Governing Body had not yet introduced let alone had a public hearing on the rezoning. The applicants took all of the comments from the Board and have eliminated most of the variances and have added parking so that the application falls squarely within the confines of the ordinance with the exception of the front yard setback and lot depth.

Ms. vanGenderen asked when the revised plans had been submitted. Mr. Ziegler said they had been submitted several weeks ago. Mr. Taylor stated that he had not issued an updated report on the plans yet because of the unknown status of the project. Ms. vanGenderen stated that the Board was not prepared to move forward tonight because they do not have letters from the Board professionals regarding the revised plans. Mr. Ziegler reiterated that the applicants had taken all of the Board's comments and advice and incorporated them into revised plans. Mr. Ziegler mentioned that based on one planner's letter the Master Plan recommended that this be a permitted use.

Mr. Germano responded that upon closer examination the planners have realized that there is a mistake in the Master Plan. The 2009 Master Plan makes a specific recommendation that the commercial conditional uses be eliminated from the R-6 zone. The McFadden's property is in the R-6 zone. Confusion occurred and led to the comment about permitting the use in Cheryl Bergailo's review letter because there is a map from the County that indicates that the McFadden's property is in the C-1 zone which is an error. The Master Plan recommends that the C-1 zone be changed to C-2 which is why Ms. Bergailo's report read as it did. This property was mistakenly grouped in there because of the map. Mr. Germano thought the Governing Body would take the view that their ordinance is actually implementing the Master Plan.

Ms. vanGenderen stated that the Board was not prepared to move forward tonight. The Board will continue the application to the February 2, 2010 meeting. There will be another announcement at the February meeting so that Mr. Ziegler does not need to renotice. There was discussion regarding renoticing for the March meeting if the applicants require a new variance. If the Governing Body fails to act the application can be heard in February.

Ms. vanGenderen announced that the matter would be continued to the Board's next regularly scheduled meeting which is February 2, 2010. The meeting starts at 7 PM in the Municipal Building. Any members of the public who has been previously noticed on this application will not be renoticed and it will be incumbent upon them to be present should they wish to hear the continuation of this application.

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**2010 Meeting Schedule**

Ms. vanGenderen stated that the Board would be meeting on the first Tuesday of every month with the exception of the November meeting.

**Creek Road Realignment Zoning Study**

In Mr. Lord's absence, discussion was deferred until the February 2, 2010 meeting. Mr. Taylor stated that the next step for the study was for the Ordinance Subcommittee to meet with Ms. Lonergan to address the potential COAH obligations associated with any changes. Mr. Matulewicz pointed out that there had been a court settlement on the High Point property at Newton's Landing so a zoning change would require a change in the mediation agreement not just an ordinance change.

**Standards for Granting/Denying Variance**

Discussion was deferred until the February 2, 2010 meeting.

**Ordinance Subcommittee**

Board members on this subcommittee are Mr. Lord, Mr. Martin, and Mr. Taraschi. Mr. Lord can no longer serve on the subcommittee because two other Township Committee members will attend meetings and that would constitute a quorum. Mr. Schmitt volunteered to replace Mr. Lord.

**Open Meeting to the Public**

Ms. vanGenderen opened the meeting to the public and since there were no public comments the meeting was closed to the public.

**Comments from the Board**

There were no comments from the Board.

**Adjournment**

A motion to adjourn the meeting was made by Mr. Schmitt and seconded by Ms. Moore. The voice vote by the Board was unanimous in favor.

Katherine Martin  
Board Secretary

Approved: February 2, 2010