

**DELANCO TOWNSHIP
JOINT LAND USE BOARD
REGULAR MEETING
MARCH 1, 2011**

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: Mr. Lord, Ms. Lohr, Ms. Jass, Ms. Mader, Mr. Martin, Mr. Matulewicz, Ms. Moore, Mr. Taraschi, Ms. vanGenderen, Mr. Anastasi

Absent: Ms. Porter

Board Professionals: Denis Germano, Esq., Attorney, Michelle Taylor, Planner; Hugh Dougherty, Engineer

Resolutions

Resolution 2011-02

Appointing Board Secretary

Motion by Ms. Moore, seconded by Ms. Jass to adopt and memorialize Resolution 2011-02.

Those voting in favor: unanimous

Those voting against: none

Those recusing/abstaining: none

Resolution 2011-03

Designating Authority to the Board Engineer to Make Completeness Determinations

Motion by Ms. Mader, seconded by Ms. Jass to adopt and memorialize Resolution 2011-03.

Those voting in favor: unanimous

Those voting against: none

Those recusing/abstaining: none

Approval of Minutes

Approval of January 4, 2011 reorganization and regular meeting minutes

Minutes were approved by those Board members eligible to approve them. There were no corrections.

Professional Appointments—Annual Contracts for Attorney, Engineer, Planner/Landscape Planner

Ms. vanGenderen reported that the subcommittee had reviewed the proposals and recommended that the Board maintain the professional staff that is currently in place for the remainder of 2011.

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Motion by Ms. Mader, seconded by Ms. Moore to appoint Denis Germano as Board attorney.

Those voting in favor: unanimous

Those voting against: none

Those recusing/abstaining: none

Motion by Mr. Matulewicz, seconded by Ms. Moore to appoint Hugh Dougherty as Board engineer.

Those voting in favor: Mr. Lord, Ms. Lohr, Ms. Jass, Ms. Mader, Mr. Matulewicz, Ms. Moore, Mr. Taraschi, Ms. vanGenderen, Mr. Anastasi

Those voting against: none

Those recusing/abstaining: Mr. Martin

Motion by Ms. Mader, seconded by Ms. Moore to appoint Michelle Taylor as Board planner/landscape planner.

Those voting in favor: unanimous

Those voting against: none

Those recusing/abstaining: none

Swearing in of Board Member Larry Anastasi and Professional Staff

Mr. Germano reported that he had sworn in Mr. Anastasi prior to the start of the meeting. He then swore in Mr. Dougherty and Ms. Taylor as Board engineer and Board planner.

Historic Preservation Advisory Board Liaison

Motion by Ms. Moore, seconded by Ms. Jass to appoint Larry Anastasi as liaison.

Those voting in favor: unanimous

Those voting against: none

Those recusing/abstaining: none

Creek Road Realignment Zoning Study

Ms. vanGenderen announced that because of the full agenda this item would be continued to the Board's regular meeting of April 5, 2011 which is scheduled to begin at 7 PM.

Master Plan Ordinances—Pending First Reading by Township Committee

The Scenic Resources Protection ordinance was reviewed by the Board first because most of the members of the public who were present were there to discuss that ordinance.

Ordinance 2011-XX

Scenic Resources Protection

Ms. Taylor gave a brief overview of the accessory structures and fencing that are permitted along the Delaware Avenue and Rancocas Creek waterfronts under the current ordinance. The Master Plan discusses preserving these viewsheds and Ms. Taylor read from the Scenic Corridors section on pages

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35 and 36 of the Land Use Plan Element. She went on to review details about the proposed ordinance including landscaping, accessory structures, and lighting.

Mr. Germano noted for the record that Ms. Mader had stepped down from the dais. Ms. vanGenderen opened the hearing to the public. All members of the public who spoke were sworn in by Mr. Germano.

Michael Walsh, 701 Delaware Avenue—Mr. Walsh stated that he was completely opposed to the ordinance. His family has lived on Delaware Avenue for over 50 years and he spoke about lighting, fencing, and members of the public on his property. Mr. Walsh did not understand why the Board was regulating something that has worked out fine. There was discussion about replacing trees and a gazebo, preserving the river view, security lighting, and the “dark skies” concept. Mr. Walsh stated that he was opposed to more regulations. Board members and the Board planner said the proposed ordinance was about protecting the area, not about regulating it and that the lighting portion of the ordinance did not apply to selective security lighting.

Mr. Germano was asked to explain the purpose of the Joint Land Use Board’s ordinance review. He reviewed the procedure that must be followed in order for Delanco Township to adopt an ordinance.

Kathleen Choikov, 617 Delaware Avenue—Mrs. Choikov has lived along the river for 43 years and has not seen a lot of changes. The residents are very respectful of the river view and take good care of their properties. She made comments about the landscaping, the use of the area along Delaware Avenue by the public, lighting for security, and how no parking along the river has helped with problems. Mrs. Choikov objected to the ordinance. There was discussion about a previous application and problems with the current ordinance that had come to the Board’s attention because of that application. There was further discussion about the purpose of the proposed ordinance. Mrs. Choikov made additional comments about vandalism, lighting, fencing and not wanting more regulation.

Francis Purcell, 719 Delaware Avenue—Mr. Purcell asked the Board to be careful about the language in the ordinance and read from paragraph B on page 1. He described moving to Delanco and enjoying the river, how members of the public trespass on the riverfront properties and lighting for security.

David Suter, 725 Delaware Avenue—Mr. Suter understood why the Board was proposing the ordinance but thought it should encompass a larger area. He commented that the Board had always placed value on the scenic views but that the ordinance should have been written for all waterfront areas. Mr. Suter felt the proposed ordinance told residents on Delaware Avenue that they needed to be regulated and he felt the ordinance was overkill. He described the Delaware Avenue area and what he liked about it and spoke about problems he had with the landscaping section of the ordinance. He also spoke about problems with vandalism. Mr. Suter would like the Board to redesign the ordinance so that it is broader.

Carol Slocum, 1015 Delaware Avenue—Mrs. Slocum said she agreed with a lot of Mr. Suter’s comments. She spoke about fencing and about allowing more flexibility with landscaping.

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Sandra Welsh, 200 Oakford Avenue—Mrs. Welsh does not live along the river. She did not feel it was her place to tell those residents what they can and cannot do with their properties. She commented about living in Delanco, allowing neighbors to have what they want on their properties, and writing the ordinance for all waterfront areas around town. She felt the ordinance was spot zoning. Mrs. Welsh also spoke about the use of the Columns as a school. Mr. Taraschi commented about the need for zoning laws and balancing individual rights with the needs of the community. Mrs. Welsh mentioned that she would like to see enforcement of the current zoning laws. Mr. Taraschi asked Mr. Germano to read the opening paragraph of the Municipal Land Use Law (40:55D-2(a)) which he did.

John Rahenkamp, 1700 Second Street—Mr. Rahenkamp commented about the poor condition of the properties along Delaware Avenue when he moved to Delanco 20 years ago and the improvements that have been made during that time. Delaware Avenue residents are the highest taxed people in town with the fewest number of children who have generated a phenomenal improvement on Delaware Avenue. He asked the Board to please leave things alone. Neighbors will talk to each other and work things out.

Matt Pellegrino, 915 Delaware Avenue—Mr. Pellegrino asked for an explanation of the language in paragraph B on page 1 of the ordinance. The Board attorney said that section is intended to protect the views of the Delaware River for everyone. Mr. Pellegrino commented about the landscaping and lighting that he has added to his property, that he didn't feel the Board should panic because of the previous gazebo application and that every house along the river is beautiful. He didn't feel the Board needed to protect him. There was discussion about what accessory structures were permitted under current zoning and Mr. Pellegrino did say that he wouldn't want somebody to put a structure along the river.

Terry Mader, 725 Delaware Avenue—Ms. Mader spoke about the gazebo application and said she was in favor of regulating lighting along the river. She didn't see a problem with split rail fences, didn't want to see structures built along the river and felt the ordinance should be made more global. Ms. Mader also asked that the restrictions on plantings be lifted.

Shirley Astemborski, 329 Delaware Avenue—Mrs. Astemborski has lived in Delanco for almost 45 years. She felt Delaware Avenue is a beautiful street just the way it is and compared it to Riverton's waterfront which she didn't feel was as attractive.

Terry Mader, 725 Delaware Avenue—Ms. Mader spoke again and suggested that decks and patios could be located on the properties that slope down to the river if they are not visible from the street.

Joan Cohen, 625 Delaware Avenue—Mrs. Cohen has lived on Delaware Avenue for 24 years. She asked if existing fences were grandfathered. They are. She asked if the ordinance was modeled on ordinances from other riverfront towns. Ms. Taylor responded that the ordinance pertained particularly to scenic corridors. Rancocas Avenue and Delaware Avenue have been singled out because they provide public access to scenic resources, especially to the Delaware River Heritage Trail. The idea was to identify potential pitfalls and to identify what kind of structures should be permitted. There was

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further discussion about whether other towns had ordinances like this one and about permitted accessory structures. Mrs. Cohen said she shared the concerns of her neighbors.

Michael Singer, 721 Delaware Avenue—Mr. Singer purchased the property about 20 years ago. It was purchased at auction because it was in terrible shape and the house was restored at greater cost than the cost of building a new home. Mr. Singer commented that one of the outstanding things about Delanco was the tremendous variety in town, that all of the owners along the riverfront had been wonderful stewards, and that the Board was overreacting to the gazebo application and had created an ordinance that doesn't suit Delanco. He asked the Board to reconsider the ordinance.

Pat Pellegrino, 915 Delaware Avenue—Mrs. Pellegrino asked if there would be an issue if there wasn't a street between their house and the rest of their property on the river. Mr. Germano responded no, that the reason the ordinance was aimed at Delaware Avenue and the one section along Rancocas Avenue was because the Master Plan called for an ordinance that protects scenic corridors. There is only a corridor because Delaware Avenue runs through their property. Mrs. Pellegrino commented about lighting and about members of the public accessing the river and throwing trash on her property. She felt that the ordinance was taking away property owners' rights and that they should have the freedom to do whatever they wanted to with their properties.

Marianna Pawline, 110 Oakford Avenue—Mrs. Pawline spoke about the condition of her property when they moved in 9 years ago and that they removed 23 trees so they could have a view of the river.

Mike Templeton, 621 Delaware Avenue—Mr. Templeton distributed copies of postcards that show the Delanco waterfront about 100 years ago. He expressed concern about the limitations on what could be planted and spoke about the gazebo application. Mr. Templeton felt that adding another layer of regulation was not necessary and that property owners should be able to do whatever they want.

Linda Gammage, 101 Hazel Avenue—Mrs. Gammage has enjoyed the riverbank for 50 years. She thanked her neighbors for having such beautiful properties and for maintaining the neighborhood. Mrs. Gammage objected to the proposed ordinance because she thought it was spot zoning. She thought it should be global and apply to everyone who lives on the waterfront. She commented about plantings, fences, lighting, public use of the riverfront and the trash people leave. Mrs. Gammage asked the Board to reconsider the vegetation limits and the prohibition of split rail fences. She agreed with Mr. Suter's suggestion that residents be asked for their input when ordinances are being proposed and expressed concern about being sued by someone who may get hurt on her property.

Matt Pellegrino, 915 Delaware Avenue—Mr. Pellegrino spoke again and commented that low lighting would not work. The bulbs and glass in his light fixtures and the spotlights on his property are being broken and stolen.

After further discussion about fencing and what accessory structures were permitted on waterfront lots, Ms. vanGenderen stated that the hearing process had been very valuable and she appreciated everyone coming out. She suggested that the ordinance be tabled for now and that a working group be formed

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consisting of Delaware Avenue residents along with members of the Joint Land Use Board and the Township Committee. Mr. Germano suggested that the Board let the Township Committee make the decision about a working group since it's the Committee that decides whether any ordinance gets passed.

Matt Pellegrino, 915 Delaware Avenue—Mr. Pellegrino spoke again and commented that he did not see why property owners would put up a 3-car garage and block their own view. He felt the ordinance was overkill.

David Suter, 725 Delaware Avenue—Mr. Suter spoke again and asked if it would be easier to establish setbacks for the riverfront lots. He still felt the proposed ordinance was overkill and thought it would be absurd for someone to pay to live on Delaware Avenue and block the view. He would like to see things solved at the Board level.

Ken Pawline, 110 Oakford Avenue—Mr. Pawline suggested that the ordinance be changed so that property owners would have to send out a notice if they want to build something on the lots closest to the river. Mr. Germano responded that while that was a good idea the notification provisions are dictated by State law and are uniform throughout the State.

Mr. Martin thought a property owner could be put on a list to receive notification of all variance applications. Mr. Germano will research the question.

Kathleen Choikov, 617 Delaware Avenue—Mrs. Choikov spoke again and commented that the reason everyone was at the meeting was because they weren't notified about the proposed change. Mr. Germano responded that there was no provision for residents to get individual notices about proposed ordinances. He went on to explain the notification process for ordinances and Master Plans. Mrs. Choikov reiterated that she did not like being told what to do with her property and made additional comments about prohibiting split rail fences, lighting and vandalism on her property.

Ms. Moore commented that the cost to notice all residents of new ordinances would be prohibitive.

Mr. Germano asked the Township Committee members who were present how they felt about the proposed ordinance going back to them. Mr. Lord responded that the ordinance was not going to be accepted "as is" by the Township Committee. The Committee felt the ordinance was overbearing and too intrusive and all five members were not in favor of it. The Township Committee would be happy to hear constructive comments and Mr. Lord stated that his e-mail address was on the Township website. He asked the members of the public who were present if they would like a scenic resources ordinance if it was written in a different manner and the response was no.

Linda Gammage, 101 Hazel Avenue—Mrs. Gammage spoke again and said that she thought everyone present would oppose the construction of garages, etc. on the waterfront. There are some amendments that could be made to the current ordinance but they oppose how controlling it is. Mrs. Gammage would be happy to be part of a working group. Board members commented that the concern of both

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the Joint Land Use Board and the Township Committee was what is currently in the Township Code and they didn't want that to have a negative effect on the people who live along the Delaware River or the Rancocas Creek.

Matthew Pellegrino, 915 Delaware Avenue—Mr. Pellegrino spoke again and asked about existing setbacks.

Francis Purcell, 719 Delaware Avenue —Mr. Purcell spoke again and asked the Board to investigate before they write an ordinance. He spoke about vandalism on a neighbor's property.

Ms. vanGenderen summarized that the Board's decision was to table the ordinance, inform Township Committee of what has transpired tonight and see what steps they will take. She thanked the members of the public for coming to the meeting.

The Board took a brief recess at 9:55 PM. The meeting resumed at 10:10 PM.

Master Plan Consistency Review

Ordinance 2011-3 Amending the Land Development Ordinances Pertaining to the Design of Containment Areas for Designated Recyclable Materials on Residential Sites

Ms. Moore gave a brief summary of the ordinance. There were questions regarding the standards identified on page 5, whether the standards would apply to "infill" properties and whether future changes in the recycling collection process were considered. Ms. Taylor stated that while recycling was not specifically addressed in the Land Use Element of the Master Plan she thought there were several policies of the Master Plan that the ordinance adheres to and upholds and that the ordinance was consistent with the Master Plan.

Motion by Ms. Jass, seconded by Mr. Lord that Ordinance 2011-3 be deemed consistent with the Master Plan.

Those voting in favor: Mr. Lord, Ms. Lohr, Ms. Jass, Ms. Mader, Mr. Martin, Mr. Matulewicz, Ms. Moore, Mr. Taraschi, Ms. vanGenderen, Mr. Anastasi

Those voting against: none

Those recusing/abstaining: none

Ordinance 2011-6 Authorizing and Adopting Second Amendment to Redevelopment Plan for Zurbrugg Mansion Properties

Mr. Dougherty stated that number of proposed units at the Mansion has remained the same, they are just in a different configuration. He referred to Pennoni Associates Zurbrugg Mansion Redevelopment Report #2 dated February 2, 2011 and to his letter of February 24, 2011. Pennoni Associates has made the determination that the second amendment to the Redevelopment Plan is consistent with the Master Plan. There was discussion about the possibility of the new units blocking the viewshed however the applicant will be coming back before the Board for Amended Site Plan and Subdivision approval. Mr. Germano identified two clerical errors that needed to be corrected in sections 1 and 4 of the ordinance. There was discussion about what was the same and what was different about the proposed townhomes.

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Motion by Ms. Mader, seconded by Ms. Moore that Ordinance 2011-6 be deemed consistent with the Master Plan and to adopt and memorialize Resolution 2011-04.

Those voting in favor: Mr. Lord, Ms. Lohr, Ms. Jass, Ms. Mader, Ms. Moore, Mr. Taraschi, Ms. vanGenderen

Those voting against: Mr. Martin

Those recusing/abstaining: Mr. Matulewicz

Board Member comments: Mr. Martin voted no because he did not know what the project was going to look like. Mr. Matulewicz abstained for the same reason.

Executive Session

Motion by Ms. Jass at 10:34 PM, seconded by Ms. Moore that the Board enter into Executive Session to discuss a litigation matter. The Board returned to Open Session and continued the meeting at 10:50 PM.

Master Plan Ordinances—Pending First Reading by Township Committee

The Board continued its discussion of the proposed ordinances. Ms. Taylor will make some minor changes to the ordinance amending the C-1 and C-2 Zone Districts and creating new the Live/Work Zone District (Agenda Item XI. J.). The lighting ordinances (Agenda Items XI. A. and B.) were discussed. Mr. Germano suggested a change to the language at the bottom of page 1 of the ordinance Pertaining to Nonconforming Uses or Structures (Agenda Item XI. G.)

John Berger, 130 Rancocas Avenue, owner of Hawk Island Marina—Mr. Berger suggested some corrections to the marinas ordinance (Agenda Item XI. E.). There was discussion as to boat storage, maintenance and repairs provided, the size of the retail space and repair shop, the location of boat fuel storage containers, the restaurant and the use of the residential buildings.

Motion by Ms. Moore, seconded by Mr. Matulewicz that all of the ordinances with the exception of the Scenic Resources Protection ordinance be sent to the Township Committee.

Those voting in favor: Mr. Lord, Ms. Lohr, Ms. Jass, Ms. Mader, Mr. Martin, Mr. Matulewicz, Ms. Moore, Mr. Taraschi, Ms. vanGenderen

Those voting against: none

Those recusing/abstaining: none

Master Plan Ordinances—Joint Land Use Board Initial Review

Ordinance 2011-XX

Repealing and Replacing §60-1 and §60-2 “Fee and Escrow Schedule”

This agenda item was tabled for discussion until the April 5, 2011 meeting.

Political Contribution Disclosure Statement

This agenda item was tabled for discussion until the April 5, 2011 meeting.

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2010 Annual Report of Variances

The Board Secretary had prepared the report which catalogs the applications and decisions the Board has made over the past year in its role as a Zoning Board. The report provides information to both the Joint Land Use Board and the Governing Body so that there may be recommendations for zoning changes.

Motion by Ms. Mader, seconded by Ms. Jass to accept the report.

Those voting in favor: Mr. Lord, Ms. Lohr, Ms. Jass, Ms. Mader, Mr. Martin, Mr. Matulewicz, Ms. Moore, Mr. Taraschi, Ms. vanGenderen

Those voting against: none

Those recusing/abstaining: none

Creek Road Realignment Zoning Study

Ms. vanGenderen had announced at the beginning of the meeting that because of the full agenda this item would be continued to the Board's regular meeting of April 5, 2011 which will begin at 7 PM.

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 Ms. Moore and seconded by Mr. Lord. The voice vote by the Board was unanimous in favor.

Katherine Martin
Board Secretary

Approved: April 5, 2011