

**DELANCO TOWNSHIP JOINT LAND USE BOARD
OCTOBER 3, 2006**

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

Sunshine Statement:

Please be advised that proper notice of this meeting has been given in compliance with the Sunshine Law in the following manner. Written notice has been mailed to the Burlington County Times and Courier-Post newspapers and published in the January 16, 2006 editions. Written notice has been posted on the official bulletin board of the Township of Delanco at least 48 hours prior to the meeting.

Present: Mr. Chafin, Mr. Denlinger, Ms. DiCarlo, Ms. Jass, Mr. Lewandowski, Mr. Lord, Ms. Mader, Mr. Matulewicz, Ms. Moore, Mr. Pawline, Ms. vanGenderen.

Absent: Mr. Fenimore.

**Municipal Stormwater Management Plan Amendment
Element of Master Plan**

Written notice has been mailed to the Burlington County Times and published in the September 23rd, 2006 edition. Written notice has been posted on the official bulletin board of the Township of Delanco at least 48 hours prior to the hearing.

Ms. vanGenderen stated that a memo dated September 26, 2006 was received from Andre Lennertz of Birdsall Engineering, Inc. explaining the changes to the plan.

Mr. Germano stated that the Board adopted a plan in the spring and that DEP regulations require County Planning Board's to review the plan. The August 2006 plan is basically the plan that was approved last spring with the recommended changes from the County Planning Board. There were four recommendations. The Stormwater Management Plan is one element of the Master Plan which requires a public hearing, notice to adjoining municipalities and a hearing so that the public can comment on the plan before the Board can act on the plan.

Hearing Open To The Public:

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

Resolution 2006-27

Adopting an Amended Municipal Stormwater Management Plan as an Element of the Township Master Plan

Motion by Ms. Moore, second by Mr. Pawline

Those voting in favor: Mr. Chafin, Ms. DiCarlo, Ms. Jass, Mr. Lewandowski, Mr. Lord, Mr. Matulewicz, Ms. Moore, Ms. vanGenderen, Mr. Denlinger.

Applications:

Ryan Homes

River's Edge at Delanco

Continued from the 09/05/06 meeting.

D Variance

Block 500 Lot 2, Block 500.01 Lot 1, Block 500.02 Lot 1, Burlington Avenue

(Began at 7:47:26PM and ended at 8:53:52PM)

Kenneth Meiser of Hill Wallack represented the applicant. He stated that the issues before the Board concern the “S” building and that he has discussed procedure, what a “C” variance means and what a “D” variance means with the Board’s attorney and will discuss it with the Board. He asked the Board to declare the variance a “C” variance. In the alternative the Board should reconsider its determination assuming that it is a “D” variance. Reconsideration may be appropriate in this instance since a court or board has the right to reconsider in the instance of justice. There were no reasons given with respect to why certain people voted “no” and certain people voted “yes”. We could go to court and a court could say that we don’t have to discuss any of this. All of it is irrelevant because the fundamental obligation of a board is to articulate its findings of fact and conclusions of law. A court couldn’t determine what the reasons were because there were only “yes” or “no” votes.

Mr. Germano stated that it is a problem when a board takes action and doesn’t articulate its reasons. A judge places great weight on the rationale supplied by a board and is looking for statements from the board that are based on facts in the record that support the decision. When there is no explanation at all and there is an appeal it would be very difficult to sustain any action that we take. If someone comes into the board with an application for a subdivision or site plan that complies with the ordinance the board would be required to grant it even if they don’t like it or if the public doesn’t like it. The only thing a board has authority over is granting or denying variances. The reasons for denying or granting applications has to be based on the law which consists of ordinances and the Municipal Land Use Law. It would be appropriate to reopen because the applicant has requested it and this is a continued public hearing. Since we put it to a vote as a “D” variance we need to keep it that way and only the people that were involved in the consideration should continue. Mr. Lewandowski, Mr. Denlinger and Mr. Pawline voted no. If they are still thinking the same way they should explain the rationale for their decision.

Ms. Moore asked if we reopen the discussion can what we are approving be clarified and if there are concerns we can restate the concerns and get some additional testimony from the applicant.

Mr. Germano stated that the applicant’s request to increase the size of building “S” and increase the number of units to 12 townhouses one over the other is on the table. There are two variances involving the building. One variance concerns changing the number of units from 6 to 12. The building is bigger and is shaped differently. It will be closer to the curb than what was previously on the approved plan. The variance for putting the building closer to the curb was granted at the last meeting. The “D” variance increasing the number of units from 6 to 12 is before the Board. Mr. Pawline stated that there was confusion when he voted last month and asked if there is any way to reopen what was voted on.

Mr. Germano stated that if any one of the three people that voted against the “D” variance makes a motion to reopen or reconsider and there is a second it can be reopened.

Mr. Lewandowski stated that he agreed with Mr. Pawline and made a motion to reopen which was seconded by Mr. Pawline.

Those voting in favor: Mr. Chafin, Mr. Lewandowski, Mr. Lord, Ms. Moore, Ms. vanGenderen, Mr. Denlinger.

Abstained: Mr. Matulewicz

Mr. Denlinger asked if the six additional units in the “S” building increases the number of units from 259 units to 265 units. He also stated that the “X” building doesn’t increase the total number of units.

Mr. Meiser stated that Mr. Denlinger is correct and that the number of units in the “X” building stays the same. All of the units will be low and moderate income senior citizen units. The town expressed its desire that the number of senior units be increased from eleven units to fourteen units. We are increasing the number of low and moderate senior units by three and decreasing the number of family low and moderate units by three.

Ms. Moore asked where the “S” building will be located and how many units are already built.

Mr. Germano swore in Patrick McGivern the Costing Manager for Ryan Homes.

Mr. McGivern stated that all of Phase I is completely built and certificates of occupancy have been issued. Buildings “J, K, M, N, and P” are complete. Buildings “L, Q, and T” are under construction. Building “S” is between building “Q” and “T”.

Ms. Moore asked how many units will be in building “S” and where the parking will be located.

Mr. McGivern stated that there will be 12 units in the building and they will be town over towns. The parking will be on Shad Ct. and all 12 units have a garage and a driveway.

Ms. Moore asked if there will be parking on River Lane.

Mr. Schweppenheiser stated that parallel parking will be permitted on one side.

Mr. Pawline asked on which side of River Lane parking will be allowed.

Mr. Schweppenheiser stated that parking will be allowed on the north side of River Lane. Parking for building “R” will be closer to River Lane and building “S” will be on the opposite side of River Lane further from the parking on River Lane.

Ms. Moore stated that she is concerned because she observed that they are currently parking on both sides of the road. She stated that it doesn’t appear to be a safe situation and it doesn’t appear since the homes are not occupied that the parking is going to be adequate. The parking spaces on Eagle Lane were almost completely filled. She asked how they will accommodate the parking for the “S” building when parking already appears to be inadequate and also asked how the snow will be removed from the private road and moved to another place.

Mr. McGivern stated that there are a lot of construction vehicles on the site during the day along with sales personnel and potential home buyers. The site plan was approved for 265 units with parking spaces.

Mr. Schweppenheiser stated that the site plan was approved with the number of parking spaces that met the State Residential Site Improvement Standards.

Mr. Germano stated that one of the spaces is the garage and is often not used for a vehicle.

Mr. Meiser stated that the RSIS allows a garage to be considered as one of the parking spaces. He stated that some towns make it a violation of their zoning ordinance for someone not to use the garage for parking and it has been upheld by the courts.

Mr. Germano stated that Mr. Meiser’s comments about the RSIS are true. If we would end up with a great deal of parking on the street there will be an impact on the variance that the applicant is requesting. If the results are an unsafe condition it would be difficult to get the variance.

Mr. Meiser suggested that they take a break to talk to the Board’s engineer about any concerns the Board may have since the application was expedited and there wasn’t adequate time to go over them.

Mr. Lewandowski stated that he voted against the variance allowing the building to come closer to the curb because it was creating an unsafe condition at an intersection.

Mr. Meiser asked if the Board has any other concerns.

Ms. vanGenderen stated that she has several concerns. The original applicant assured the Board that the parking would be adequate, there wouldn’t be a problem with snow removal, and there wouldn’t be a lot of school age children in the development. The project is being built and occupied and we are now seeing that some of the representations that were made may not have been completely accurate. Some recreational facilities were to be provided on site as well as a contribution for off-site facilities. The on-site facilities would not be suited to the existing demographics that are on the site now and should be addressed.

Mr. Germano stated that an amended site plan was requested.

Mr. Meiser stated that Mr. Germano is correct and that an amended site plan would be required because of the additional units. He also advised the Board that he was not present for the original application and that you cannot discriminate against families with children.

Ms. vanGenderen stated that it wasn’t a question of discriminating. Their market research showed that these units were not going to appeal to that segment of the market and therefore they

would not be purchased by people that were starting families or had young children. She along with several members of the Board felt that their research was not accurate. They wanted a putting green and bocce court and they were also going to make a contribution for recreation. Recreation for young children would be more appropriate at the site and should be discussed. Mr. Meiser asked if there are any other factors that were grounds for not granting the variance. Mr. Pawline stated that he voted yes for the placement of the building closer to the curb but did not vote properly and hoped that they could reexamine it and revote on it. Mr. Germano stated that the Board can't. When the applicant is granted a variance it becomes a vested right. You can re-open this variance because it was denied.

Mr. Meiser asked if this was a summary of the reasons. The expansion of the number of units was denied by three board members.

Mr. Germano stated that the reasons were parking, safety, and snow removal.

Mr. Denlinger stated that he was just trying to keep the density down and that since there are other buildings with the same density his "no" vote doesn't have a lot of humph to it.

Mr. Pawline stated that the size of the building is increased when the number of units is increased from 6 to 12 units. It also pushes it closer to the curb. If you don't increase the number of units the building size will not increase and the building will stay back away from the curb.

Ms. Moore stated that when the original application was approved we granted a variance for two of the blocks to increase the number of units to ten and included a green space between the two blocks. It looks like a big slab of concrete. Adding two units to go to twelve is a bad visual. There is no place for anyone to go. Even people that have their cars in the driveways are almost hanging out into the alley. There is only about a foot between the cars. It really is a high hazard area.

Mr. Pawline stated that he lived in one of the units for about two months during re-construction on his house and parking is a big issue.

Mr. Meiser asked the Board to make a motion to take a break.

Ms. Moore made a motion to take a break, seconded by Mr. Lewandowski. All members voted in the affirmative.

Ms. vanGenderen reopened the meeting at 8:49:13PM after the recess.

Mr. Meiser requested that the hearing be continued at the next meeting and that a meeting be setup with the Board's planner and engineer and the applicant's technical people to see if there are solutions to the concerns that the Board raised.

Ms. vanGenderen advised the public that the application will be continued at the November 6, 2006 meeting and that no notice will be required.

Master Plan Consistency Review:

Ordinance 2006-13

Amending Chapter 110-10 Governing "Conditional Uses" To Provide For Cellular Communication Facilities In The I-1 And I-2 Zones

Ms. vanGenderen stated that there were several issues discussed during the work session. Ms. Jass suggested that the I-1 parcels be eliminated because they are adjacent to residential developments. Mr. Matulewicz brought up the issue of the view shed along the Rancocas Creek and Delaware River. Ms. Taylor suggested that we could increase the minimum lot size from two acres to something a little bit bigger which would eliminate some of the smaller parcels from being adequate for a cellular tower. Ms. vanGenderen asked the Board if they wanted to continue the discussion and if they have any other issues that they would like to bring up. Ms. Mader asked what size lot would be appropriate to protect adjacent residences and or view shed.

Ms. Taylor asked the Board if the view sheds have been identified in the master plan.

Mr. Matulewicz stated that they have not.

Ms. Mader asked if it is under the master plan that they are still working on.

Ms. Taylor stated that it could be. She suggested that they could say the I-1 zones are not appropriate and site the reasons why. The view sheds have not been identified but are part of the County plan for the Rancocas Greenway. You could also include the bluffs and the development along the Delaware River. You could simply remove the I-1 zone. You wouldn't be restricting the use because the I-2 zone is sizeable. A telecommunications provider probably wouldn't argue that there isn't sufficient space. Two acres would be adequate.

Ms. Mader stated that you have to zone for it somewhere.

Mr. Chafin stated that it is currently zoned for in the C-3 zone which is by Holiday Lakes and that they would probably want it by Route 130.

Ms. Mader stated that the C-3 zone is in the view shed along the Rancocas Creek.

After some discussion the Board agreed that towers should be in the I-2 zone with a minimum lot size of two acres and asked Ms. Taylor to forward a written recommendation to the Township Committee.

Resolution 2006-28

Recommends that “the opportunity to construct cellular communications towers in the industrial districts of the Township...should be permitted as conditional uses...”

Motion by Ms. Moore to approve the resolution, second by Ms. Jass

Those voting in favor:

Mr. Chafin stated that the original intent was to keep it in the C-3 zone. As long as it is recommended that they eliminate the I-1 zone and we recommend the I-2 zone he would vote yes.,

Ms. DiCarlo, Ms. Jass, Mr. Lewandowski, Mr. Lord, Mr. Matulewicz, Ms. Moore, Ms. vanGenderen, Mr. Denlinger.

Ordinance 2006-14

Amending Chapter 110 Governing “Accessory Uses”

Ms. vanGenderen stated that an e-mail was received from the Mr. Corcoran the Township Administrator asking the Board to withdraw the request for a consistency review on behalf of the Township. The Board did not proceed with a consistency review.

Meeting Opened 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.

Correspondence:

The secretary advised the members that the correspondence distributed to the members are for meetings and that they need to respond to the deadlines if they plan to attend the meetings. Mr. Lord also sent an e-mail concerning scheduling a master plan meeting.

Mr. Lord advised the sub-committee members that there will be a meeting on October 10, 2006 at 6:45PM in the small conference room.

Comments From The Board:

Ms. vanGenderen advised the Board that she received an e-mail concerning RFP's for professionals. According to Township policy we are required to go out and seek proposals from professionals on an annual basis. I directed Mr. Corcoran to put out the request for proposals again and would like the same members that sat on the professional review sub-committee to

review proposals this year. Ann Moore, William Matulewicz, Jackie DiCarlo and Marlene Jass agreed to serve on the sub-committee again.

Mr. Chafin advised the members that he received comments from Mr. Matulewicz for the Burlington County Multi-Jurisdictional Natural Hazard Mitigation Planning Project. He requested that if anyone had a comments that they forward them to him because he was going to forward everything to the consultant by Monday.

Ms. vanGenderen advised Mr. Meiser that additional information needs to forwarded to the Board in a timely manner so that the Board has time to review it before the November meeting.

Adjournment:

A motion to adjourn the meeting was made by Ms. DiCarlo and seconded by Mr. Pawline. All members present voted in the affirmative.

Roseann M. Lameiras

Board Secretary

Approved: November 6, 2006