

**UPPER TOWNSHIP PLANNING BOARD
MEETING MINUTES
OCTOBER 19, 2006**

The regular meeting of the Upper Township Zoning Board was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 7:30 p.m.

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Daniel Bready, William Brown, Robert Caldwell, James Kelly, Curtis Corson, Gary Riordan, James Schroder, Renee Scrocca.

Absent: Mayor Palombo, David Mason, Bruce Thompson.

Also present were Paul Dietrich, Board Engineer; Dean Marcolongo, Board Solicitor; Shelley Lea, Board Secretary.

SWEAR IN PAUL DIETRICH

APPROVAL OF THE SEPTEMBER 21, 2006 MEETING MINUTES

A motion to approve the minutes was made by Mr. Schroder, seconded by Mr. Caldwell, and approved. Abstain: Brown, Kelly, Riordan.

APPLICATIONS

1. STODDARD & MARJORIE BIXBY – BLOCK 348, LOTS 88, 88.01 & 92 – SD13-06

Application is for preliminary approval of a 22 lot major subdivision at 1479 Route 50 in Tuckahoe.

Mrs. Scrocca stepped down during this application since she owns property within 200 ft. Mr. Caldwell acted as Chairman.

Joseph Maffei, Professional Engineer, was sworn in. Stoddard and Marjorie Bixby, 1479 Route 50, Tuckahoe, were sworn in.

Mr. Maffei testified the purpose of the subdivision is for farmland preservation. There are no variances requested. There are wetlands in the rear of the property. A 150 ft. buffer is required from the wetlands.

Mr. Dietrich stated that the plat meets the township standards and the RSIS standards. If the applicants decide to actually create the subdivision rather than the farmland preservation he will have to do a technical review for the proposed drainage. The wetlands on the site would have to be verified by the NJDEP.

The meeting was open to the public. Hearing no response the meeting returned to the board for finding of facts.

MR. BROWN – Stoddard and Marjorie Bixby are the owners of 1479 Route 50 in Tuckahoe also known as Block 348, Lots 88, 88.01 & 92. They are requesting preliminary approval of a 22 lot subdivision. There are no variances required. The intent of the applicants is to determine value for farmland preservation.

MR. KELLY – The property is located in the Commercial and Residential zones. If the applicants develop the property a technical review will have to be done by Mr. Dietrich for the proposed drainage.

MR. RIORDAN – The proposed subdivision meets the standards in the ordinance.

MR. SCHRODER – He believes farmland preservation is a phenomenal program. The applicants have been accepted into the program.

A motion was made by Mr. Corson and seconded by Mr. Bready, to grant preliminary major subdivision approval with the conditions that if the property is developed a technical review would be done, the wetlands on the site would be verified and the standard conditions. In favor: Bready, Brown, Kelly, Corson, Riordan, Schroder, Caldwell.

2. BARRY WETZLER – BLOCK 453, LOTS 10 & 11.01 – SD14-06

Application is for preliminary approval of a 9 lot major subdivision at 797 Dennisville/Petersburg Road in Petersburg.

Mr. Caldwell stepped down since he is a property owner within 200 ft.

James Pickering, Esquire, represented the applicant. Barry Wetzler, 979 Route 610 and Joseph Maffei, Professional Engineer, were sworn in.

Mr. Pickering stated the applicant is proposing a to create 9 lots from 2 existing lots. The applicant's home is on the property. There are no variances required. The property is almost 11 acres and is located in the residential zone.

Mr. Maffei testified there is a 700 ft. road proposed as part of the subdivision. The road will be located off of Dennisville/Petersburg Road. The applicant will maintain the existing residence. The proposed cartway is 28 ft. wide. The road will be lined with trees and there will be streetlights. The proposed road meets the RSIS standards. There is a sidewalk proposed on the north side and along the cul-de-sac. He described the proposed drainage. They propose to install a split rail fence with wire mesh around the basin. They feel the fence will fit in with the residential neighborhood. The existing pool on lot 10.09 meets the setbacks. The shed on this lot will be removed.

Mr. Dietrich referred to his letter dated October 4, 2006. There are items on the plan that must be amended. The street trees must be moved 5 ft. inside the proposed lot line not in the right of way, an additional street light must be added between lots 10.07 and 10.08, no outlet sign, stop sign, fire and recreation funds need to be addressed.

Mr. Dietrich recommends the split rail fence have chain link posts. He calculates the fire capital improvement fund to be \$7,000.00. He will calculate the recreation fund in time for final approval.

The meeting was open to the public.

John Long, 7 Wyncroft Drive, Petersburg, was sworn in. He would like some of the vegetation replanted by the basin. He is in favor of the plan.

Jeffrey Trulli, 11 Wyncroft Drive, Petersburg, was sworn in. He has no problem with the development. However, he would appreciate some type of a buffer.

Mr. Maffei will determine if there is room to plant trees along the basin.

Hearing no further comments the meeting returned to the board for finding of facts.

MR. KELLY – Barry Wetzler is requesting preliminary major approval of 9 residential lots. The subject property is located at Block 453, Lots 10 & 11.01. The property is zoned residential. The applicant resides at 979 Route 610. James Pickering, Esquire, represented the applicant. Joseph Maffei, Professional Engineer, gave professional testimony in regards to the subdivision. There are no variances required. John Long and Jeff Trulli requested trees be planted along the drainage basin. The applicant has agreed to comply with the recommendations in Mr. Dietrich's letter dated October 4, 2006. He also agrees to pay the recreation and fire funds. The recreation fund will be determined prior to final approval. Chain link posts will be added to the fence around the basin for extra support.

MR. CORSON – He would like the applicant to plant a row of evergreens to restore the buffer.

MR. SCHRODER – The applicant's engineer will hopefully find a tree that will survive by the basin.

A motion was made by Mr. Corson and seconded by Mr. Kelly, to grant preliminary major subdivision approval with the standard conditions and that the applicant comply to the items in Mr. Dietrich's review letter. In favor: Bready, Brown, Kelly, Corson, Riordan, Schroder, Scrocca.

3. CLAYTON DEVELOPMENT ASSOCIATES LLC – BLOCK 453.10, LOT 335

Rehearing on a 2 lot minor subdivision application at Peach Orchard Road and Laurel Ridge Road in Seaville.

Mr. Caldwell stepped down during this application. The board members that were not present at the previous meeting were given transcripts of the meeting to read. These board members have testified that they have read the transcript.

Sal Perillo, Esquire, represented the applicant. He does not believe the board has the jurisdiction to rehear the application according to Cox.

Solicitor Marcolongo believes case law confirms that the board can rehear the application. The planning board secretary sent notice of the meeting to property owners within 200 ft.

Mr. Perillo stated that the board memorialized the resolution approving a 2 lot minor subdivision on this property. This is a large parcel and is unique due to the creation of a lake. The approved plan shows an 8.68 acre and a lot depth of 25 ft. Once the approval was granted in January the applicant began to work on the improvements. He feels this is no different than digging a drainage swale. The zoning officer interpreted the removal of dirt from the site to be a mining operation and a violation notice was issued. The applicant has stopped hauling dirt from the site.

Mr. Perillo stated that the applicant is willing to discontinue removing soil from the site. The applicant is proposing to re-grade the site and create the outline of the same size lake that was approved in January. The depth of the lake would be 12 ft. rather than 25 ft. There would be 5:1 side slopes to the bottom of the lake. They also propose to extend the fence around the entire site with a link on the bottom to make it more difficult to climb.

Mr. Perillo submitted a set of 6 photographs showing the project. The photos were taken within the last two weeks and show the grading that has been done. The photos were marked as Exhibit A-1. There is substantial buffering around the property with the exception of one home that would not be buffered. The proposal would stop the removal of soil from the site, create a safer lake half as deep with 5:1 slopes to the bottom. The entire area will be fenced. He believes this is a positive and practical solution.

Ralph Clayton, Cedar Hollow Court, Beesleys Point, was sworn in. He testified that he is the Principal of Clayton Development. He stated that 50% of the slopes are done. He believes it will be a maximum of 2 months to complete the project.

Mrs. Scrocca stated that she was not present when the application was heard. She has read the transcript of the meeting. She is not sure if she would have conceived the amount of material that would need to be taken off site. She would not have envisioned the number of trucks.

Solicitor Marcolongo stated that the board did not understand the magnitude of the application. He apologized for Mr. Brown and Mr. Bready both indicated that they knew by the depth of the lake that a lot of dirt would have to be removed from the site.

Mr. Dietrich stated that approximately 12 homes could be constructed on this lot. Mr. Schroder stated that the monetary gain would be dramatically larger for 12 lots than 2 lots. Mr. Clayton testified that the dirt from the property was sold to help pay for digging the lake. He stated that he is conforming to the approval granted by the planning board. They have stopped the trucking with a third of the dirt left to remove. This means extensive re-sloping and regrading of the site. There will be occasional trucks bringing supplies and other items but there will be no more trucking of bulk material off the site.

The meeting was open to the public.

Gerard Ward, 6 Mariners Cove, was sworn in. He read correspondence from the State Attorney General and the N.J.D.E.P. He is opposed to the application by Mr. Clayton. He believes this was a misrepresentation. He is worried about the quality of life because of the trucks. He stated that the noise begins early in the morning. He is not here to decide on the proposal but to get back their quality of life and make sure they do not lose their wells. He is not here to justify or not to justify the proposal by the applicant. He still hears noise on the property early in the morning even though the trucks have stopped. He does not want any trucks on the property at all.

Robert Cross, 24 Laurel Ridge Road, was sworn in. He stated that in early March when the project started he sent emails to township officials. He spoke to the zoning office in regards to a noise ordinance in effect for operation and use of certain motor driven vehicles on private property. He was told it does not pertain to construction vehicles.

Mark Cassidy, 23 Laurel Ridge Road, was sworn in. He feels this is a good proposal as long as there are stipulations. He wants the natural barrier replaced. He feels work on the site should not begin until 9 a.m. He has no water pressure at his house since the digging started and the water is dirty. He believes that a bond should be posted.

Kathleen Cross, 24 Laurel Ridge Road, was sworn in. She stated that all the trees have been cleared on the property. She wants the trees replanted.

UPPER TOWNSHIP PLANNING BOARD

OCTOBER 19, 2006

Page 6 of 9

Randy Leiser, 22 Laurel Ridge Road, was sworn in. He is in favor of the proposal although he is concerned about the water quality. He feels the board should require a performance bond.

Joseph Gleason, 15 Mooring Circle, was sworn in. He feels this is a fair proposal. He would rather have the lake than 8 additional houses. The work on site is temporary. He cannot recall work starting at 7 a.m. or before. The applicant should have to plant some type of vegetation to prevent erosion. He believes the project has the potential to be very attractive. The lake will increase the property values.

Mark Lonesky, 5 Mariners Cove, was sworn in. He has concerns about the quality of the water. He asked about recreational vehicles on the lake.

Mr. Clayton stated that the lake would be a common area between the two property owners. He agreed to a deed restriction to prohibit jet skis on the lake and limit the horsepower of the boat engines. He intends to stock the lake with fish.

Barbara Stohlecker, 4 Mooring Circle, was sworn in. She stated that the water is low in the existing lake on Somers Avenue. She doesn't believe the applicant will be able to maintain the water level in the newly created lake on Peach Orchard Road. She wants the applicant to post a performance bond in case the improvements are not completed.

William Ferry, 47 Peach Orchard Road, was sworn in. He believes the lake will lower his property value. He read a list of concerns. He is upset that the trucks are utilizing Peach Orchard Road for access since it is a one-lane dirt road. He believes the values of 13 homes have been diminished. The applicant has created a dangerous attraction in a residential neighborhood filled with children. When asked what he thought of the proposal by Mr. Clayton he responded that it is not for him to comment on it is for the board to decide. He is too furious to think about the proposal.

Carmen Greto, 6 Sea Grape Lane, was sworn in. He stated that the work begins on the site at 7 a.m. The water at his house is dirty as a result of the project. His water pressure has also been affected. He is disappointed that the board did not protect the residence in the area.

Robert Malkiewicz, 4 Sea Grape Lane, was sworn in. He testified that his water quality has been affected by the project. He feels the board should require a performance bond.

Lance Balderson, 11 Inlet Terrace, was sworn in. He has lived at this location for 21 years. As a professional he does not believe that Somers Avenue is a legal road since one road services many residential properties. The trucks are also using Peach Orchard as access to the site.

Andrew Chopek, 4 Laurel Ridge Road, was sworn in. He feels the applicant should be responsible for repaving Peach Orchard Road. Mr. Dietrich stated that the applicant is

required to make some repairs to the road where he has accelerated the deterioration. He requested grant money to widen Peach Orchard Road. The road should be paved in a couple years. Mr. Clayton testified that he would re-grade Peach Orchard Road when he is finished.

Rafael Attiya, 19 Laurel Ridge Road, was sworn in. He believes that going forward with the project is best at this point. He feels the applicant's proposal is reasonable. He agrees that a bond is needed.

Betsy Murphy, 46 Peach Orchard Road, was sworn in. She has lived here for one year. Her house and windows are dirty and moldy. She called the zoning office since April complaining about the noise. She is appalled that the board has made such an over site in approving the application.

Karen Larson, 2 Laurel Ridge Road, was sworn in. She is happy that the truck traffic has stopped. She feels that a performance bond is needed.

Hearing no further comments the meeting returned to the board for findings of fact.

Mr. Clayton stated that buffers were established during the previous application. The property has not been cleared to the property line. There is at least a 25 ft. wide buffer existing along the fence except by one house at the end of Laurel Ridge Road. They will be planting trees evergreens by Mr. Cassidy's house to provide a buffer. He agreed to look into power washing Ms. Murphy's house since she her house was affected the most. He stated there would be no more commercial hauling. They need to reconfigure the site that requires digging. He agreed to limit the hours of operation to 8 a.m. until 5 p.m. five days a week. Work will not be done on the holidays or weekends.

Mr. Kelly has gone to the site and has seen that the houses in the area are dirty due to the truck traffic. He feels that 8 a.m. starting time is best for the quality of life for the public. He agrees a performance bond is needed.

Mr. Corson feels that additional screening should be added along the cul-de-sac at the end of Laurel Ridge Lane.

Mr. Dietrich will visit the site to determine the engineer estimate for the project based on the work that has been done and how many hours are left to complete. The estimate will also include the trees that need to be planted.

The board members gave their findings of fact.

MR. BROWN – This is a rehearing of a 2 lot subdivision created by Clayton Development. The property is located on Peach Orchard Road in Seaville also known as Block 453.10, Lot 335. The applicant was represented by Sal Perillo, Esquire. Mr. Perillo does not believe the applicant has the jurisdiction to rehear the application.

MR. CORSON – The applicant is trying to rectify the situation.

MR. RIORDAN – A number of the public have concerns about noise, dust and water quality. Numerous residents did agree with Mr. Clayton's proposal. Residents requested the applicant post a performance bond.

MR. SCHRODER – He originally based his decision on what he thought was a good project. He is not particularly happy with the compromise and apologizes for the end result. His vote was based on the information provided to him. He thinks it will look nice when it is done.

MRS. SCROCCA – She believes this is a good proposal since it will make the site safer and will stop the truck traffic. The lake will be safer due to the slope. She agrees the applicant has never left a project in the township unfinished and has never created a project in the township that didn't end up being beautiful. She is insisting on a performance bond to make sure the work is done and the residents are comfortable.

Mr. Perillo stated that the applicant is acceptable to the conditions being required by the board.

A motion was made by Mr. Kelly and seconded by Mr. Brown, to grant the proposal by Mr. Clayton, with the standard conditions and that there will be no more removal of soil from the site and no more commercial hauling; the lake will be reconfigured so that it is only 12 ft. deep; hours of operation are 8 a.m. until 5 p.m. five days a week; modify the side slope to a 5:1 ratio to the bottom; tree buffer to the Laurel Ridge side of the property to the satisfaction of the board engineer; fencing along the entire property; posting of a performance bond; vegetation will be planted suitable to the Cape Atlantic Soil Conservation requirements; deed restriction that there will be no jet skis and no watercraft over 3 horse power is permitted on the lake; regarding of the dirt portion of Peach Orchard Road and repairing Peach Orchard Road to the township engineers requirements. In favor: Bready, Brown, Kelly, Corson, Riordan, Scrocca. Opposed: Schroder.

RESOLUTIONS

1. STODDARD & MARJORIE BIXBY – BLOCK 348- LOT 88, 88.01 & 92 – SD12-06

A motion to adopt the resolution was made by Mr. Caldwell, seconded by Mr. Kelly, and approved.

2. EDWARD F. BIXBY – BLOCK 12, LOT 4.02 – SD10-06

A motion to adopt the resolution was made by Mr. Schroder, seconded by Mr. Riordan, and approved.

3. BARRY WETZLER – BLOCK 453, LOTS 10 & 11.01 – SD11-06

A motion to adopt the resolution was made by Mr. Kelly, seconded by Mr. Riordan, and approved.

GROWTH BASED AFFORDABLE HOUSING AND RELATED ISSUES

Marcia Shiffman was present to review the possible revisions to the Master Plan and Housing Plan.

She reviewed Sections 20-5.8 Performance Standards for All Uses. There are additions to this section that the board should review. She also discussed additions to Section 19-7.16 Environmental Assessment. She also reviewed an Environmental Assessment Checklist.

Ms. Shiffman discussed several other issues including the 2006 Master Plan, Reexamination Report, recommended changes to the zoning ordinance, Housing Element and Fair Share Plan, HEFSP and Growth Share Strategies. Her presentation also highlighted future land use districts, proposed development tools and Centers design

ideas and Villages. The information that she passed out contained photographs of other centers located in New Jersey. There were also maps.

Ms. Shiffman will be present at the November meeting to discuss these issues further.

Submitted by,

Shelley Lea