

**UPPER TOWNSHIP PLANNING BOARD
MEETING MINUTES
AUGUST 30, 2007**

The regular meeting of the Upper Township Planning 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, James Kelly, Curtis Corson, Gary Riordan, James Schroder, Donald Kissling, Renee Scrocca.

Absent: William Brown, Robert Caldwell, Duane Terwilliger, and Mayor Palombo.

APPROVAL OF THE JULY 19, 2007 MEETING MINUTES

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

APPLICATIONS

Applicant 3 on the agenda, Stardust Development Co., LLC, did not meet the jurisdictional requirements of their application because they did not supply the proof of service for mailing their notices to everyone within 200' of the property. The application will be carried over to the next meeting, to be held on September 20, 2007. No further notice will be given concerning this application. The applicant must republish notice.

1. RICHNAN GROUP – BLOCK 453, LOT 259.07 & 259.19 – SD13-07

Mr. Corson and Mr. Schroder stepped down from this hearing as they are neighbors of the property.

Application is for final approval of Phase II of a 19 lot major subdivision at Cirrus Lane Seaville. Arthur Ford, Esquire, represented the applicants.

Mr. Ford reminded the Board that the original application was brought by Clayton Construction for a 72 lot subdivision in 2002, finally given CAFRA approval for 36 lots, and approved by this Board on July 21, 2005, with conditions. Richnan Group purchased the property and came before this Board in December 2005 and requested to phase the development. The Board approved this request, again with conditions. Part of the Phase I final approval was a contribution to the Recreation Fund of \$47,500.00 and to the Fire Fund of \$9,500.00. As agreed to in prior resolutions, at the completion of Phase II, there would be a final contribution of \$52,500.00 to the Recreation Fund and \$10,500.00 to the

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Fire Fund, both payable at the issuance of the first C.O.

Mrs. Scrocca asked if any conditions of their preliminary approvals have not been met. Mr. Dietrich responded that other than the contributions to the Fire and Recreation Funds, which will be continued, all conditions have been met. Mr. Ford interjected that they have also supplied an updated Engineer's Estimate for the bond.

Mrs. Scrocca asked for any questions or comments from the Board.

Mr. Riordan asked about acreage that was deeded to Fish and Game. Was that part of the preservation area on the site plan? Mr. Ford said it was, and it was part of the CAFRA approval. He would inquire to see if it was transferred yet.

Mr. Dietrich wanted to note that the landscape buffer and easements adjacent to the campgrounds were shown on the final plat.

The meeting was opened to the public. Hearing no response the meeting returned to the Board for findings of fact.

Mr. Bready – Asked if the preservation area should be made a part of the motion. Mr. Marcolongo and Mr. Ford agreed to have the deed within the next 90 days.

Mr. Kelly – The applicant was the Richnan Group, located Block 453, Lots 259.07 and 259.19, SD13-07, plans dated 5/27/07. Applicant is looking for final approval of Phase II, located at Cirrus Lane in Seaville, represented by Mr. Arthur Ford, III, no variances required, have complied with all previous resolutions, construction has begun, numbering of the plat has been approved, landscape buffers are shown on the final plan, all conditions have been met from previous discussions. There is no public comment.

Mr. Riordan – Applicant represented by Arthur Ford, Esq., application originally presented by Clayton Construction, balance of \$52,500 will be contributed to the Recreation Fund and \$10,500 to the Fire Fund, payable at the issuance of the first C.O. for Phase II, final plat is in conformance to Township Land Use ordinance, 41.292 acres to be deeded to the NJ Fish and Game as required by CAFRA permit within 90 days of this approval.

Mr. Kissling – Concurr, noted he was not here for the first phase.

Mrs. Scrocca – The rest of the Board has adequately spoken

A motion was made by Mr. Bready and seconded by Mr. Kelly to grant the application with the conditions of the contributions to the Fire and Recreation funds, the performance bond and the deeding of the land to the NJ Fish and Game.

In favor: Bready, Kelly, Riordan, Kissling Scrocca.

2. DR. RITA SCHIAVO MEMORIAL LIBRARY AND MUSEUM, INC. BLOCK 823, LOT 4.01 PB08-07

Mr. Riordan and Mr. Schroder stepped down from this hearing as they are both property owners in Strathmere.

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Application is for site plan approval and front yard setback variance for a non-profit library and museum to be located at 2 Putnam Road, Strathmere. The applicant was represented by Arthur Ford, Esq.

Mr. Ford explained that the applicant is proposing to build a non-profit library and museum that will be open to the public at the current site of Dr. Rita Schiavo's home at 2 Putnam Road in Strathmere. He called Bruce W. Riordan of 1 Vincent Road, Strathmere, to testify. Mr. Riordan was sworn in.

Mr. Riordan is one of the Trustees in charge of starting up and operating the library and museum. He gave a brief history of Dr. Schiavo and her wishes to start a library in Strathmere. The library would be open to the public 6 days a week, and would be funded through a trust set up by her estate.

Mrs. Scrocca asked if there were any questions from the Board members.

Mr. Kissling – Will this be a regular library or a memorial to Mrs. Schiavo? Mr. Riordan explained it would be books, magazines, computers and a children's section as any public library would have.

Mr. Corson – The plans noted that an upstairs area is for staff. Would there be any overnight sleeping? Mr. Riordan said there would not be overnight accommodations.

Mr. Ford introduced Robert Bachich of Bachich Associates, 3323 Simpson Avenue in Ocean City, who was sworn in.

Mr. Bachich was retained by the applicant to design the library. The Foundation wanted to keep an old time look to the building, but not dated. Setbacks and parking were constraints in siting the building as well as the septic system in the rear of the lot. There are two front yards, one with a setback intrusion of an open porch and stairs, for which a variance is required. The porch was kept low to the ground and Mr. Bachich feels it will not impede any traffic or have any sight issues. The building is in keeping with the general architecture of Strathmere. He doesn't feel there is any detrimental effect on the community if the variance is granted. The scale was kept small to fit the neighborhood. There currently exists a single family home in a commercial zone, which is an existing non-conforming use, and the variance sought is de minimus.

Mrs. Scrocca asked for comments or questions from the Board.

Mr. Dietrich asked to have the trees set back to just inside the right of way line so they are on the property. He also pointed out a discrepancy with the paving detail. The top detail should show the asphalt with a 2" base and 2" surface to match the concrete curb and asphalt detail. The applicant is also requesting some waivers regarding stormwater facility, landscaping plan and lighting plan. He would like to see the builders tie in the gutters to a recharge system to offset the parking area that will create run off. He feels these requests for waivers are reasonable and justified.

The meeting was open to the public. There was no response from anyone within 200' of the area. There were people outside of 200' present.

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Dorothy Adario of 512 Bayview Drive, Strathmere was sworn in. She asked how much parking was allotted. There are 3, one of which is handicapped, with a ramp. She also asked if this would be part of the County library system? No. It is technically not a public library, but a non-profit library open to the public.

Will the funding go on forever or will taxpayers need to pick it up at some point? She created a trust to construct and maintain in perpetuity.

Has consideration been given to the loss of ratables? It is appropriate for the zone (commercial) and Mrs. Scrocca stated that the Board cannot deny the applicant based on the loss of ratables. Mr. Kissling pointed out that if it were part of the County system it would also be tax exempt. Mr. Corson stated we would also have an increase in the County tax rate if it were a County library.

Ed Tettermer of 26 Sherman Avenue, Strathmere was sworn in. Didn't know Mrs. Schiavo, but feels her library is a magnificent gesture and a great opportunity for information and communication. He serves on the Executive Advisory Board of the Free Library of Philadelphia.

Herb Hollinger of 113 Putnam Drive, Strathmere was sworn in. He has lived there for 45 years. He feels this is a great asset to the community.

Tony Adario of 512 Bayview Drive, Strathmere was sworn in. Will the library be open to all or just Strathmere residents? Anyone can go. He does feel parking may be a problem, especially in the summer. Mr. Corson stated that 90% of the people using the library will be residents and most of them will walk. Mr. Dietrich stated the parking does meet the ordinance requirements for parking spaces.

Mrs. Adario raised another question about who will run the library, who will select the books, and will there be an advisory committee? Mr. Corson said this was not part of this Board's responsibility. Mr. Ford said it would be run by the Trustees. Mrs. Scrocca stated that all plans are on file at the Township for the public and information can be gotten prior to the meetings.

Mrs. Scrocca indicated that there were approximately 25 people in attendance and all appear to be in favor of this application. Mr. Ford pointed out that Dave Schmidt brought in a sign from the original Brighton Shores Development Company of Strathmere that he is going to donate to the library.

Mrs. Scrocca closed the public portion of the meeting and returned to the Board for findings of fact.

Mr. Kissling noted that the City of Wildwood has a similar non-profit library that is open to the public as well.

Mr. Bready – thinks this is wonderful. One of the nice things the Board has to consider. He hopes it is successful.

Mr. Kelly – The applicant is the Dr. Rita Schiavo Memorial Library and Museum located at 2 Putnam Road in Strathmere, Block 823, Lot 4.01. Original plan is dated 4/21/07. They are being represented by Mr. Arthur Ford. They are looking for a front yard setback variance for an open porch and steps. There were comments by Mr. Riordan, a Trustee of the library, who stated the library would be open to the public 6 days a week, and Mr. Bachich, the architect, who discussed the design. Mr. Kelly liked the style. Mr. Dietrich asked for the trees to be placed on the property as opposed to on the curb line. The paving

detail needs to be corrected to show 2" base and 2" surface, and the gutters need to be tied in to a recharge system. A number of people spoke publicly, and all were in favor. He suggested adding a bicycle rack to the property.

Mr. Corson – This shows how much Mrs. Schiavo cared for the town of Strathmere.

Mr. Kissling – He concurs, and feels this will be an asset to the town.

Mrs. Scrocca – Agrees with everyone else, but feels the need to point out the technical requirements. It was difficult to site given the septic and parking restrictions. She feels the benefit of the design outweighs any potential detriment of the intrusion into the setback area. The engineer went through the waiver requests, and she feels they are also reasonable.

A motion was made by Mr. Corson and seconded by Mr. Bready, to grant the application with the conditions of any and all other governmental approvals, moving the trees, correcting the paving detail, and making an underground drain to tie in to the gutters.

In favor: Bready, Kelly, Corson, Kissling, Scrocca.

3. PROPOSED AMENDMENTS TO UPPER TOWNSHIP MASTER PLAN REEXAMINATION REPORT AND LAND USE PLAN AMENDMENT OF NOVEMBER 2006

Mr. Dietrich stated that the Township Committee felt it necessary, based on public comment, to tweak a couple of the buffer and setback requirements in the Mobile Home Park District. The Committee sent out a notice to make revisions to Ordinance #9-2007. It may impact the housing plan because some of the housing projects may not fit and may not be developable. The intent of zoning is to have conforming projects, not non-conforming. This is what the Township Committee is recommending. Mr. Marcolongo pointed out there will be no impact on the Master Plan. They are asking the Board to give their consent to the modifications they propose and to make a determination that these amendments are still consistent with the Master Plan, and for the Board's comments.

Mrs. Scrocca's comment is that the Board spent a couple of years trying to put this together with an awful lot of thought and the setbacks were well thought out. She feels the Committee is bowing to public pressure and she is not in favor of the revisions. Mr. Corson agreed. Mr. Schroder agrees. Mr. Dietrich said they could disagree with the recommendation but agree that it is consistent with the Master Plan. Mr. Marcolongo proposed a resolution stating the Board has reviewed the Committee's proposed amendments and believe it is consistent with the Master Plan. Mrs. Scrocca would like to send a stronger message. Mr. Kelly feels if the Committee is bashing their recommendations on public comments, the Board should agree. Mr. Marcolongo suggested a resolution stating the Board disagrees with the amendments regarding the buffers but finds it is consistent with the Master Plan.

Mr. Kelly made that motion, and Mr. Schroder seconded.

In favor: Bready, Kelly, Corson, Riordan, Kissling, Scrocca.

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Mrs. Scrocca pointed out the Board members can read the draft of the Cape May County Comprehensive Farmland Preservation Plan at their leisure. Mr. Schroder stated the Farmland Committee will not be meeting for 6 months.

At some future meeting the Board may have to face the deannexation of Strathmere. If a petition is presented to the Township Committee, they have 14 days to pass it to the Planning Board, which then has 45 days to hold hearings and render a decision on the positive and negative criteria of deannexation. Mr. Dietrich will have to step down and the Township will have to hire a Planner. Mr. Schroder and Mr. Riordan will have to step down since they own property in Strathmere, and the Township Solicitor feels Mr. Corson and Mayor Palombo would have to step down as well. Mr. Marcolongo stated that all these issues are being looked at, but members from the Zoning Board can be utilized if necessary. The Township is hiring special counsel to help hire a planner, and Mrs. Scrocca would like Mr. Marcolongo, Mr. Bready and herself to help choose a planner. If you look at the statutory requirements, it is a planning issue and must be heard before the Planning Board.

Case law allows for the extension of the 45 day period, with all parties concurring. It may involve many extra meetings if the Strathmere organization insists on compliance with the 45 day limit. However, it may not be in anyone's interest to force the 45 day limit. Mr. Kelly asked if a larger venue should be considered.

RESOLUTIONS

SD12-07 Lunsford

A motion to adopt the resolution was made by Mr. Schroder and seconded by Mr. Kelly. In favor: Bready, Kelly, Corson, Riordan, Schroder, Kissling, Scrocca.

SD11-07 Mashura Burger

A motion to adopt the resolution was made by Mr. Schroder, seconded by Mr. Kelly. In favor: Bready, Kelly, Corson, Riordan, Schroder, Kissling, Scrocca.

BILLS

A motion to approve the bills for payment was made by Mr. Kelly, seconded by Mr. Schroder.

All in favor.

Submitted by,

Janet McCrosson
Secretary