

**TOWNSHIP OF ROBBINSVILLE PLANNING BOARD MEETING
TOWNSHIP OF ROBBINSVILLE, MERCER COUNTY, NJ
WEDNESDAY, MARCH 19, 2008 7:00 P.M.**

MINUTES

Present: *Chair McGowan, Ms. Caffrey, Ms. Lasky, Mr. Cettina, Mr. Calcagno, Mrs. Van Nest*

Absent: *Ms. Breyta, Mr. Lesniak, Ms. Burns, Ms. Fett, Ms. Ward*

Also Present: *John West, Township Engineer; Mr. Dasti, Board Attorney; Ms. Kooper, Planning Consultant; Ms. Post, Board Secretary; Ms. Persicketti, Recording Secretary*

Roll call for the above Board members was called and the Flag Salute took place.

“Adequate notice of this meeting has been provided as required under Chapter 231 P.L. 1975 specifying the time and place with such notice as being set to the *Times of Trenton* and the *Messenger Press* and posted in the Municipal Building Public notice meeting bulletin board.”

CORRESPONDENCE

Letter from Matrix regarding an extension of time for application PB03-11-05 – McMaster Carr Supply Co., Block 41, Lot 34 – Amended Preliminary/Final Major Subdivision. Matrix granted an extension of time for the Planning Board to act on this application through June 30, 2008. Matrix needs additional time to resolve various issues associated with this application.

BOARD COMMENTS

There were no Board comments given.

PLANNING UPDATE

Mr. West stated that Mayor Fried wants the Planning Board to take another look at the Master Plan, specifically the gateway into Allentown and the gateway South to possibly expand the Allentown gateway to include additional properties and uses. A subcommittee can be formed to address these issues or the Board can address the issues. Chair McGowan said that the Board can look at the Master Plan on April 16, 2008 to look at the framework. At that meeting, either a subcommittee will be formed or another meeting will be scheduled for discussion at the meeting of April 23rd.

Mr. West indicated that two buildings were razed on the King property located on Route 33.

PUBLIC COMMENT

A motion was made to open the meeting to the public for comment by Mrs. Van Nest and seconded by Mr. Lasky. All in favor. No public came forward; therefore, a motion was made to close the public portion of the meeting by Mr. Cettina and seconded by Mrs. Van Nest.

BUSINESS TO DISCUSS

(1) **Resolution PB2008-03 – Sharbell Building Company, LC – Approval of Bank Architectural.** Mr. Dasti commented that this resolution was being carried because he just heard back from the applicant’s attorney a day ago and Mr. West wanted additional time to review the resolution. The Board has until next month to approve the resolution. The final draft will be available to review by the April 16, 2008 meeting.

(2) **Proposed Ordinance 2008-16 – Amending Land Use Code – Office, Research, Hotel District to Add Flex Space Use – Review & Recommendation.** After a brief discussion, a motion was made to forward the ordinance to Council for adoption by Mr. Cettina and seconded by Ms. Caffrey.

ROLL CALL:

AYES: Caffrey, Lasky, Cettina, Van Nest, Calcagno and McGowan
 NAYS: None

There being six (6) “AYE” votes, the proposed ordinance was approved to be forwarded to the Town Council for adoption.

Chair McGowan reversed Item No 3 and Item No. 4 on the scheduled agenda due to the fact that Item No. 3 on the scheduled agenda - PB06-12-01 – Washington Woods may take a long period of time. Item No. 4 PB07-08-04 – Timothy M. Cunha has a deadline for taking action on March 23, 2008.

Application PB07-08-04 – Timothy M. Cunha
Block 1, Lot 29
80 South Main Street, Windsor
Zoning: H-2
Public Hearing for a Minor Subdivision

The applicant is proposing a minor subdivision to create three residential lots consisting of 1.37 acres, 0.581 acres and 0.598 acres.

David Coates, Esq., represented Tim Cunha in the above-captioned matter. Also present for this application were Mitchell Joseph Lasky and his wife, Brenda, who own the property; Tim & Joanne Cunha, Applicants; and Geoffrey Brown, P.E., from Princeton Junction Engineering.

Mr. Dasti swore in Mitchell Joseph Lasky. Mr. Lasky stated that he resides in the house. He testified that there is no extermination or cleaning business conducted on the property. His business is operated in Cranbury and he communicates to his customers through his cell phone. He does lawn maintenance and bug spraying. No pesticides are kept on site. The pesticides and equipment are stored on site in Cranbury. Mr. Lasky’s truck is his office. The name of Mr. Lasky’s business is “Lawnamation”. He has had this business for thirty years. Mrs. Lasky conducts a house and yard cleaning business. Contact is through the “yellow pages” in the phone book.

Another issue that was raised was the two structures on one lot, which are the house and outbuildings. The plan shows a second story apartment on one building. Mr. Lasky stated that currently a stove is plugged in the kitchen and a bathroom. Mr. Lasky was asked to remove the stove so the dwelling is no longer considered an apartment. Mr. West replied that currently the dwelling is being used as an apartment. Mr. Lasky agreed to remove the stove so it is not longer an apartment. Mr. West stated that if the application were approved, and the applicant puts the stove back in at a later date, he would be subject to zoning violations. Currently, there is a guest in the house and only family members will remain in the apartment. Mr. West said it can be used as a sleeping facility, but it cannot be used as an apartment with a kitchen. Mr. Lasky did not know he was in violation with respect to the stove. He discovered it when it was brought up in the meeting.

Geoffrey Brown, Professional Engineer, was sworn in by Mr. Dasti. Mr. Brown outlined the subdivision plan. The existing lot was approximately 2½ acres. Three lots were proposed (Lot 29.01 – 60,000 s.f.; Lot 29.02 – 24,000 s.f.; and Lot 29.03 – 26,000 s.f. There was an existing dwelling on Lot 29.01. The lots will be served by public water and sewer. The setbacks are five feet. Mr. West said that the definition of an apartment is that it has a kitchen. Garage space is located on site.

Mr. Cunha was sworn in by Mr. Dasti. Mr. Cunha's wife owned the property since the early 1960's. Mr. Cunha would like to preserve the easement that currently exists that goes under or over the railroad. If the easement was not used, then Mr. Lasky would have to remove the garage and Mr. Cunha would pay for it. Mr. Cunha took title to Lot 29 and his wife owns the lot behind the railroad. The land was sold to Mr. Lasky and Mr. Cunha reserved the right to subdivide the two lots. If the subdivision were approved, Mr. Cunha would own the two lots. Mr. Lasky currently owns the entire property and Mr. Cunha owns the right to subdivide. The one-story masonry garage still stands on the lot. Mr. Brown reviewed Mr. West's memorandum. One comment relates to the two weather station boxes, which are located to the north of the property and have been on site approximately since the mid 1960's. The applicant submitted for a Letter of Interpretation (LOI) back in October of 2007 per Mr. Brown. He reached out to DEP on several occasions to no avail. The property in question is located in the historic overlay zone, therefore, the applicant has to contact the Historic Preservation Committee to receive their input prior to building any homes on the property. The only wetlands are associated with the creek. Mr. West said that the applicant has to contact DEP because one open issue remains as to whether the area is considered a ditch or a stream. The applicant is proposing no buffers, but if DEP imposes buffers on the wetlands associated with the ditch, the applicant would have to reappear before the Board because Lot 29.03 would no longer be a conforming lot.

The Laskys' have owned the lot for one year. The apartment was on the property since the 1960's. The family worked on the farm for years. Mr. Dasti stated that as a condition of approval, there would have to be a suitable easement for the lot.

Mr. Lasky said that the mailing address for the business is a post office box, #718, in East Brunswick, NJ. There will be no home based business on the property.

Chair McGowan said that it is very easy to plug and unplug a stove. Mr. West said as part of the application it is to be made clear that it will not be a legal apartment.

Mr. Dasti outlined the conditions to be as follows:

- This is a three lot subdivision, which would have to comply with Mr. West’s review letter of 09/12/07.
- The removal of the stove from the apartment, and acknowledgment that the apartment is not a legal preexisting use.
- The applicant would go to the Township Historical Subcommittee for review for input as to color and design of the house and construction thereof.
- There would be no home-based business on any of the lots without proper approval.
- The applicant will remove a portion of the rear building to resolve the surveying encroachment.
- The owner of new Lot 29.01 will agree to provide an easement and take down more of the accessory building to provide access.

Exhibit A-1 – Subdivision Map prepared by Mr. Brown and last revised on October 8, 2007 was marked.

A motion was made to open to the public by Mrs. Van Nest and seconded by Mr. Cettina. All in favor. No public came forward. Therefore, a motion was made to close the public portion by Ms. Caffrey and seconded by Mr Lasky. All in favor.

A motion was made to approve PB07-08-04 – Timothy M. Cunha by Mrs. Van Nest and seconded by Ms. Caffrey.

ROLL CALL:

AYES: Caffrey, Lasky, Cettina, Van Nest, Calcagno and McGowan
 NAYS: None

There being six (6) “AYE” votes, PB07-08-04 – Timothy Cunha was approved.

**Application PB06-12-01 – Washington Woods, LC
 “Edinburg Village”**

**Block 9, Lots 1, 25.01 & 55
 Robbinsville-Edinburg Road**

Zoning: RR

Continued Public Hearing for Preliminary Major Subdivision

The applicant is seeking approval to subdivide a +220 acre site into forty-nine (49) clustered single-family detached building lots and carious open space lots.

Alan Frank, Esq. represented the applicant in the above-captioned matter. The Affidavit of Publication was provided and was found to be in order. The applicant’s professionals, Joseph Malison (Landscape Architect and Project Manager of the Washington Woods site application) of Truhan Consultant Engineers; John Truhan; Dan Fischer, P.E.; and Mr. West were previously sworn in at the last meeting.

Mr. Frank cited a brief summary of what had occurred at the last meeting. Two exhibits were previously introduced: **Exhibit A-1 Aerial View of the Property and Exhibit A-2 – Colored**

Rendering of Subdivision Plan. An issue previously discussed at the last meeting was that the applicant did not submit to DEP for an LOI. In December of 2007, the applicant submitted for an LOI, but he has not heard back from DEP regarding approval. The fill issue was addressed and the applicant said that 500 cubic yards could be imported. With the development, the applicant would be submitting significantly more fill, and the Board wanted the number reduced. (157 proposed acres are for open space and 60 acres of the 220 acres will be developed). Tree removal will take place.

Mr. Fisher said that the walkout space was reviewed and they need 8-9 feet for the back of the lots and the houses need to be raised. The applicant would prefer to bring in soil. **Exhibit A-3 – Soil Excavation Analysis** (prepared by Truhan) revised January 21, 2008 was marked into evidence. Changes have taken place per DEP guidelines and discussions have taken place since February 14, 2008 between the applicant and Mr. West. Instead of getting fifty lots at the site, the applicant would be entitled to 49 lots. The yield map submitted shows the 49 lots. **Exhibit A-4 Yield Map** was marked into evidence. A 150-foot buffer is being provided along both sides of the stream corridor.

Mr. Frank said the applicant will solve their COAH obligation on site. The applicant is the contract purchaser of the single family home on Route 526, which came onto the market as a result of foreclosure. Closing will take place by the end of March 2008. The applicant will address the COAH through the housing for the developmentally disabled where the COAH achievement is met by the bedroom and not by the unit. They are creating a bedroom count for the developmentally disabled. If the COAH regulations are produced on site, the applicant will be given a density bonus. The home is septic and consists of three bedrooms.

Chair McGowan has a concern because the applicant has to get their nine or ten units inside of the home.

At 8:35 p.m., the Board took a brief recess and reconvened at 8:40 p.m.

Mr. Malison said that with respect to the bike path, the lots were reconfigured to allow a bikeway connection. The bike spaces were moved to be located through the open or wooded area. The bike path will run from the development along Robbinsville Edinburg Road to the school.

The applicant received the most recent Remington Vernick memorandum dated March 19, 2008. Comment C. Notes #1 in the memo states that the “Applicant should provide testimony indicating the percentage of lands dedicated to open space.” Mr. Malison said that 71 acres of the site will be open space. The storm water ponds are included on site. As to the comment regarding Road B, if a road were created as an access, it would require a setback of 35 feet. The applicant is providing access from Lot 1. The applicant can make the road an emergency access, narrow it and make it a one way or it can be abandoned altogether. The applicant will do as the Board wishes with respect to the road issue.

Ms. Caffrey feels that it is important to have two ways into the development.

Mr. West suggested that the second street is not necessary. The one road with the boulevard does conform to the RSIS standard. The applicant will defer to final to meet with the police and fire

chief to see if they feel a need for an emergency access road. Mr. West indicated that a 12 foot wide paved driveway could be put in place for emergency access. Mr. West has concerns with respect to grading and impacts on the adjacent lots. Mr. Malison commented on No. 7, page 8, regarding the various open space lots that do not meet the minimum lot size of 2 acres for an open space lot. He said the open space lots were created for the connection to the bike path. The applicant elected not to do an easement. Either the Homeowners Association or whoever owns the open space will own the open space lots. Therefore, a lot variance or waiver is required. On page 8, regarding Streets and Roads, Roads B and C are the internal roads to service the residential cluster, consisting of a 50 foot right-of-way, 28 foot cartway and sidewalk on both sides of the street. There will be parking on both sides of the street. The applicant is willing to provide signage if the Board wants it. Mr. West commented that he would like for parking not to be restricted to one side of the street and leave it as a 28-foot wide road to allow for parking on both sides of the street. It will be plenty wide for emergency vehicles to get through. On page 9 there was a comment relating to lot lines being radial or 90 degrees. If the lot lines were radial, they would be strangely shaped. Mr. West said that the Board has granted waivers for it in the past where it makes sense. Page 10 regarding the comment on fences, fences are required around the three detention basins, which the applicant is proposing. Mr. West stated that the town is requiring a three rail split rail fence with pressure treated wood. Black wire mesh will be also added. The applicant agreed. The applicant indicated that the Community Impact Statement would be submitted prior to final. Regarding the comment on Plantings on page 11, the applicant has agreed to provide landscaping around the perimeter of the basin and to meet with the Landscape Architect from Ms. Kooper's firm. Chair McGowan stated that on Page 12, #16 should be changed to reflect "Township of Robbinsville". Regarding the comment on Lighting Fixtures on page 13, PSE&G has the final say on the lighting design. The applicant was in agreement with the rest of the items outlined in the Remington & Vernick memorandum.

Mr. West's memorandum dated October 15, 2007, stated that there are no open issues in his memorandum. Mr. Frank stated that under Section 7 – Roadways, Curbs and Sidewalks – item g- refers to "in lieu of widening and installing curb and sidewalk along the entire frontage of Line Road and Robbinsville-Edinburg Road", Mr. West commented that the money could be used anywhere at the town's discretion for improvements to be related towards transportation. Sidewalks will be coming from the development to the high school. Page 7 – #8.H of Mr. West's memorandum indicates that the applicant shall obtain all ROW necessary to construct the bike path. The applicant disagrees. Mr. Dasti said that the only outstanding issue regarding Mr. West's memorandum is that the applicant would reimburse the township if they have to acquire the ROW. The applicant would agree to put the bike path through their development, but feel that the town is seeking an off-tract improvement. Chair McGowan said that the bike path is due to the development, which the applicant is proposing.

A motion was made to open the meeting to the public by Mr. Cettina and seconded by Mr. Lasky. All in favor.

Todd Cohen, Esq., (attorney for Sandra Shulman) owner of Block 9, Lot 35 (184 Robbinsville-Edinburg Road), said that he would like an alternative access and agrees with Mr. West's and Ms. Kooper's memorandum. There is a hardship created in setback, if the road were constructed. The barn is 150 years old. Mr. Cohen feels that there will be a negative impact on his client's (Ms.

Shulman) quality of life. After a brief discussion, Mr. Cohen was comfortable with the sidewalk issue.

Jeff Gerdes, 1 Erin Court, asked the Board to consider the bike path behind Erin Court. There are no fences to the back yards. He asked that the bike bath be not constructed close to the houses.

Mr. Malison said that the bike path could be moved.

A motion was made to close the public portion of the meeting by Mrs. Van Nest and seconded by Mr. Cettina. All in favor.

Mr. Frank has no problem with the Fire Department's memorandum with the exception of dwarf trees to be planted (street trees – a variance will be needed). Mr. West indicated that the applicant does not want dwarf trees, but bigger trees to have the canopy (branches) lifted high up. The Environmental Commission made reference in their memorandum to three comments. One comment in which the applicant differs is that they would like to see more planned usage of the open space (157 acres of the property will be undeveloped open space and the bike path will go through it). The applicant is in compliance with Mr. West's memorandum dated February 22, 2007.

Board Comments:

Mr. Calcagno remarked there should be an emergency access rather than a regular road. He agrees with Mr. West regarding the sidewalks (in favor of sidewalks on Route 526 – where the bike path ends and acquiring the right-of-way).

Mrs. Van Nest agrees with Mr. Calcagno. Regarding fill, it has to be a balanced site. The soil results have not come back from DEP. The COAH issue has not been resolved with the proposal presented by the applicant.

Mr. Cettina would like some access provided, but not a road. The bike path should be the responsibility of the applicant because there will be 49 homes built and access is needed to go to the high school.

Mr. Lasky said that he is not convinced that the road should not be an actual road. He would like the secondary access for the neighbors and the emergency vehicles.

Ms. Caffrey stated that the next meeting would be continued to April 23, 2008 and the soil results should be in so that the fill issue can be addressed. Ms. Caffrey feels that the 12-foot emergency access has to be in place.

Chair McGowan would like a better idea of COAH in terms of what the applicant would truly be able to do with the property he is purchasing. She suggested that the applicant speak with several providers in order to get their regulations on the maximum number of clients' bedrooms that the provider would allowed to be considered in a home. Because if it is only going to be for them, then it not near the number of nine or ten homes that are needed, and the Board will need to know what the applicant will do for the rest.

Ms. Caffrey said that the Administration looks favorably upon developmentally disabled facilities; however, given the septic limits, a plan B needs to be in place.

Chair McGowan commented that the meeting will be carried to April 23, 2008 and the public portion of the meeting will be closed. However, if there is new testimony, the public comment portion of the meeting will be reopened to the public. The applicant agreed to extend and carry the meeting to April 23, 2008.

A motion was made to adjourn the meeting by Ms. Caffrey and seconded by Mrs. Van Nest. All in favor. Meeting adjourned at 10:00 p.m.

Respectfully submitted,

Phyllis Persicketti
Recording Secretary

ADOPTED: APRIL 16, 2008