

**TOWNSHIP OF MORRIS  
PLANNING BOARD  
REGULAR MEETING MINUTES  
MAY 5, 2008**

Call to Order

Meeting of the Township of Morris Planning Board was called to order on Monday, evening May 5, 2008 at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice: The Chairman issued the following statement:

"I hereby announce and state that adequate notice of this meeting was provided by the Secretary of this Planning Board by preparing a notice dated April 28, 2008, specifying the time, date and place of this meeting, posting such notice on the bulletin board in the Municipal Building; filing said notice with the Clerk of the Township of Morris; forwarding the notice to the Morris County Daily Record and the Morris News Bee, and forwarding, by mail, the said notice to all persons on the request list, and I hereby hand a copy of such notice to the Secretary of the Planning Board for inclusion in the minutes of this meeting, all of the above actions being in accordance with N.J.S.A. 10:4-6, et seq., Open Public Meetings Act."

Pledge of Allegiance was led by Mr. Haan, Chairman

Roll Call of Planning Board Members and Professionals

Members Present

Mr. Rick Haan, Chairman  
Mr. Laurence Bobbin  
Mr. Jeremiah Loughman  
Mr. Craig Goss  
Mr. Scott Rosenbush  
Mr. Anthony Romano  
Mr. Jeffrey Grayzel 7:38 pm  
Mr. Franz Vintschger  
Mr. Kevin McNally, Alternate #2

Members Absent

Ms. Linda Murphy, Alternate #1  
Mr. Leigh Tucker Doxsee

Professionals Present

Adrian Humbert, Board Planner (seated at 8:40 pm)  
Brian Burns, Board Attorney  
James Slate, Board Engineer  
Sonia Santiago, Secretary

## Resolutions

PB-14-07, Abbey Wood at Delbarton  
Block 4501, Lot 2, 230 Mendham Avenue, OS-GU zone

### Amended Site Plan/Variance

Applicant seeks an amendment that pertains only to improvements related to the active open space facilities previously approved by the Planning Board. Applicant is also seeking various variance relief.

Mr. Haan, Chairman stated that we have received a letter from Dr. Lynn Seibert and a letter from Mr. Broderick, attorney for the applicant responding to Dr. Seibert. One of the issues that Dr. Seibert raised was a condition made after the public portion was closed in reference to the widening of the road in the area of the entrance to the ball field. Mr. Burns and Mr. Broderick have responded to Dr. Seibert's letter.

Mr. Burns stated that with respect to the question weather it was in anyway a violation of the public rights to the due process to compose a condition regarding the widening of the road after the public portion was closed. He suggested that in every case the Board's decision is made after the Public has spoken. He did not see any due process violation what so ever with respect to this matter. He stated to have reviewed carefully the claim of impropriety in Dr. Seibert's letter. The action that the Board took on March 31, 2008 was a formal action on the application. The action to be taken tonight is the formality of memorializing that decision. If the Board were to vote to re open this hearing they will be voting simultaneously to vacate a decision that was made on March 31, 2008. He also advised the Board that there should be a formal disposition on Dr. Seibert's request by a motion. It should be treated as a request to vacate the request to re open the preceding.

Mr. Rosenbush moved seconded by Mr. Romano and roll call as indicated that Dr. Seibert's request to re open the preceding be denied.

#### Roll Call (voting members)

Mr. Bobbin	YES
Mr. Loughman	YES
Mr. Goss	YES
Mr. Rosenbush	YES
Mr. McNally	YES
Mr. Romano	YES
Mr. Haan	YES

Mr. Burns proceeded to review the resolution of approval with the Board.

Mr. McNally moved, seconded by Mr. Bobbin, and roll call as indicated that resolution of approval, attached hereto and by reference made part of the official minutes of this meeting, be adopted as amended, memorializing the action taken by the Planning Board at the March 31, 2008, meeting.

Roll Call (Voting Members):

Mr. Bobbin	YES
Mr. Loughman	YES
Mr. Goss	YES
Mr. Rosenbush	YES
Mr. Romano	YES
Mr. McNally	YES
Mr. Haan	YES

PB-17-07, Frank Brown/Bull Construction

Minor Subdivision

Block 8905, Lot 3, 1 Woodside Road, RA-11 zone.

Applicant proposes to subdivide the property to create two lots. The municipal boundary of Morristown and Morris Township divides the property. Subdivision approval is required in both municipalities. No new structures are located in the Township portion of the property.

Mr. Rosenbush moved, seconded by Mr. Grayzel, and roll call as indicated that resolution of approval, attached hereto and by reference made part of the official minutes of this meeting, be adopted as amended, memorializing the action taken by the Planning Board at the April 7, 2008, meeting.

Roll Call (Voting Members):

Mr. Bobbin	YES
Mr. Loughman	YES
Mr. Goss	YES
Mr. Rosenbush	YES
Mr. Romano	YES
Mr. Grayzel	YES
Mr. Vintschger	YES
Mr. Haan	YES

**Certified Shorthand Reporter (CSR) was present for the following application.**

**See transcript attached.**

**Mr. Adrian Humbert, Township Planner has stepped down on this application due to conflict of interest.**

**Public Hearings**

PB-12-06, Dr. Joel Meer

Major Subdivision/Variance

Block 2802, Lot 7 & 9, 22 Valley View Street, RA-15 & OS-GU zones.

Applicant proposes to subdivide the property into three lots, two of which are proposed for new construction. Applicant is seeking variance relief for insufficient lot depth and building setbacks. Waiver relief is requested for steep slope disturbance and a de-minimums exception from RSIS is also been requested for a 40 foot right of way where 50 feet is required, 20 feet pavement width where 28 feet are required and a cul-de-sac radius of 36 feet where 40 feet is required .

Proof of publication and affidavit of service filed and approved by the Board attorney.

Mr. Douglas Henshaw, Attorney for the applicant entered his appearance and presented the application to the Board members.

TCC reports with various dates were reviewed for the record by Mr. James Slate, Township Engineer.

The following persons sworn in by the Board Attorney appeared to be heard.

Mr. Richard Schommer, Professional Engineer

The following were submitted as exhibit during testimony.

A-1 Subdivision Plan October 2004

A-2 Subdivision Plan dated June -06

A-3 Colored Major Subdivision plan dated 5-05-08

**Summary of Testimony** – Richard Schommer, Professional Engineer

Mr. Schommer stated that the property is approximately 3.5 acres that fronts on Terrace Avenue to the East which is a paper street, the property also fronts on Valley View Street which is partially unimproved. The Shadyside Street on the south of the property is identified as lot number 9. This property is bisected by the zone line. The Westerly side of the property is in the OS-GU zone and the easterly side of the property is in the RA-15 zone. Mr. Schommer proceeded to review exhibit A-1 which consisted of a subdivision plan to create four lots. He stated that after attending the TCC meeting they went back to the drawing table and developed another plan which then consisted of a subdivision plan to create two additional lots leaving the existing dwelling on one lot. We now have three lots, 7.01 which consist of 49,988 square feet and is in the RA-15 zone, 7.02 which consists of 27,936 square feet and is mostly in the RA-15 zone and lot 7.03 which is the largest lot consisting of 68,071 square feet and is within the OS-GU zone. We have taken this concept of lot averaging and transitioning from RA-15 to the East and coming across with the largest lot to the West next to the existing OS-GU zone which is primarily open space to the West. The road that is being proposed is a 24 foot roadway with a cul de sac at the end. In order to create the cul de sac at the end of Shadyside Street there will be a dedication of land and that will be part of this application. When we go through the zoning requirements we come up with a need for variances largely because of the OSGU zone requirements. The issues on lot 7.03 are lot area because we are in the OSGU zone the three acre minimum standard applies for a single family lot where only 1.56 acres exists. Other variance items are lot width, lot depth, front yard setback, side yard setback and rear yard setback. The other lots 7.01 and 7.02 conform to all of the requirements of the RA-15 zone with the exception of zone line setback on lot 7.02 because of the zone line that goes through the property. The general slope of the property is from the southeast to the northwest; we basically have a flow towards the northwest and it is consistent with what is around the property. Mr. Schommer stated that they have done a wetland delineation there are some wetlands delineated off site to the west. There are no wetlands or open waters or other features on the property itself.

Mr. Burns reviewed the role of the Technical Coordinating Committee (TCC) as requested by the Chairman of the Board. He stated that the TCC does not review and approve plans or judge the substance of plans in any way. The TCC is a technical body and it is comprised of Mr. Slate, Township Engineer, Mr. Humbert, Township Planner and myself as the Planning Board attorney. Our job is to review applications to make sure they are complete prior to coming before the Board. That is our function and that is what we have done. The fact that the TCC may have said or not said anything, doesn't in any way impact on how the Board views an application when it comes before the Board.

A lengthy discussion was carried regarding the proposed application between the applicant's professionals and the Board.

Due to other matters on the agenda this application is carried to June 16, 2008 Board meeting without further notice.

**Recess is taken at 8:34 pm**  
**Meeting reconvened at 8:42 pm**

### **Other Matters**

County presentation on Highlands, COAH and State Planning  
Ray Zabihach-Planning Board Director for Morris County. The issues we are going to talk about briefly tonight are the Highland Act, COAH, State Plan and the County Wastewater Management Plan. We will describe the process, how it works and how it will impact the Highlands.

Tony Soriano-The Highlands plan is due to be adopted by July 17, 2008. The last draft of the Regional Master Plan was released back in November 2007. They have received comments and are in the process of reviewing those comments and making changes to the Plan. There will not be a new draft to be reviewed. Mr. Soriano proceeded to review the Highlands map with the Board. The zones are important because mainly they will dictate the location of infrastructure, public water and sewer. They also have implications with regard to the amount of septic systems that will be permitted in your community if you decide to opt in. Mainly the plan deals with environmental resources and the protection for those resources. The intent is to prohibit the disturbance of environmental resources as much as possible with the focus on the protection zone. The Highlands council released two memos, one plan conformance and one basic plan conformance. The basic conformance is what they designed for the preservation area communities which they have to comply within a nine to fifteen month plan adoption. The full conformance is the second memo, is available not only for preservation area community but planning area communities that don't have to comply within the nine to fifteen month period, but can comply within a number of years. The full conformance memo is much longer than the basic conformance memo. It includes a number of things that are in addition to basic conformance. Each town will have to do a municipal assessment report indicating how their plans relate to the Highlands development regulations. Municipalities will have to provide updates to their regional master Plans. Basically there are fifty one data sets that the Highlands have put together and they want all towns that are conforming to use that data.

They also will have towns adopting environmental resource inventories that they adopted and is a requirement of conformance. Towns will also be required to adopt the Highlands element goals and objectives or make an amendment to the municipal Master Plan to incorporate all the goals and objectives. If towns decide to opt in and at later time decide to opt out they may do so. But, they would have to pay back the Highlands all the monies received. A lengthy discussion was carried regarding opt in regulations.

Christine Marion, Assistant Planning Director – stated that Morris Township is the only municipality in Morris County that has completed their Wastewater Management Plan (WMP). Morris Township WMP remains current and it will remain in effect until June 16, 2014. Morris Township WMP can be incorporated as is into the Morris County Wastewater Management without making any changes. However, you have the option to modify your plan to meet the current guidelines and regulations including the Highlands standards. The Highlands and DEP staff are in discussion about what it means to be consistent with the Highlands. What that means is that there is a difference of interpretation between the State and the Highlands. There is one area that we thought they would come to an agreement and that is the expansion of sewer service areas. DEP and the Highlands have agreed that extend of sewer service area will be limited to the existing community zones. Ms. Marion stated that the County had to submit their Wastewater Management Plan for determination of consistency to the Highlands. A lengthy discussion was carried regarding the sewer service area and the County Wastewater Management plan.

COAH – Ms. Marion stated that on Tuesday, May 6, 2008 at 9:30 am COAH will adopt a resolution to approve the third round rules as is. At the same meeting they will be proposing amendments to the same rules and that all plans are due by December 31, 2008. A vacant land analysis is to be submitted by municipalities. COAH will be working with municipalities to correct the Rutgers vacant land analysis. The vacant land analysis was not used to determine the growth share number. The University of Pennsylvania did the growth share number based on the statistical information they received. Mr. Humbert, Township Planner stated that the Township went through the third round calculations and all the calculations were based upon the building permits that were issued. Without going through all that calculations the number that we came up for the 2004-2014 growth share number was 58 units that was our municipal Fair Share obligation as calculated per third round regulations. We identified 255 surplus credits based upon the Townships prior efforts that resulted from all the zoning that was done per court decisions per the certification that we obtained when we transferred from court jurisdiction to COAH during round one. Again in round two we got certified by COAH taking all those units that were built under that scenario plus all the other units that were not included in those which we believed under the round three rules qualified. We had calculated that of the 255 surplus units, 203 units were built and CO'ed. That information was submitted to COAH in December 2005. The only thing we have heard from COAH is that they needed additional information. The new COAH numbers with the new calculation as of March 2008 projected until 2018 which is the new target year is 212 units. We do not know if any credits will be applied. The other questions that arise are if we have 258 units left what is the density that applies? What does the new COAH number translates into in terms of actual work that municipalities have to do between June and December 31<sup>st</sup>? Is COAH going to provide an outline for the calculations?

Mr. Tobia stated that there is no memorandum of understanding between the Highlands and COAH. There are numerous discussions on this issue and COAH is to take into consideration by law the Regional Master Plan whether the municipality opts in or not. Ms. Marion stated that in terms of conformance Municipalities are required to have a housing plan. A lengthy discussion was carried regarding the new growth share calculation process.

State Plan – Ms. Marion stated that Dr. Marty Bierbound was hired by the office of Smart Growth to complete the State Plan. There is however new plan endorsement rules to be published. You may find the State Plan on the website; we just don't know when it will be available for review.

Mr. Slate informed the Board that since Adrian Humbert will be stepping down on the Joel Meer application. We need to authorize by motion to retain Mr. Chuck Latini as Professional Planner for the Meer application.

Mr. Rosenbush moved, seconded by Mr. Vintschger and unanimously moved.

The Provident Bank signs – Mr. James Slate, Township Engineer informed the Board that the Board had heard this application a few years ago which was the First Morris Bank and now is Provident Bank. The applicant came before the Technical Coordinating Committee with a proposal to place a wall mounted sign that wraps around the corner of the building. Square footage of the sign meets our sign ordinance. We do have provisions that states if the cost of the sign does not exceed five thousand dollars and there is no significant site issue we can handle this administratively. The TCC would like to have the Boards opinion on how to handle this matter. The Board agreed to have this matter handled administratively.

Mr. Rosenbush moved and unanimously carried, the following resolution was adopted authorizing a closed session:

**WHEREAS**, this meeting is duly and property called regular meeting of the Planning Board of the Township of Morris, and adequate public notice has been given as provided for by the “Open Public Meetings Act,” and

**WHEREAS**, it is now necessary that this Planning Board consider matters involving:

a. Personnel or other legal matters

All of which fall within the exceptions set forth in the Open Public Meeting Act, and therefore are matters, which this body determines should be discussed at a closed, meeting.

**NOW, THEREFORE BE IT HEREBY RESOLVED**, by the Planning Board of the Township of Morris as follows:

1. That this body shall conduct a closed meeting concerning the above referenced matters, all of which involve exceptions set forth in said “Open Public Meetings Act,” and are matters which this body hereby determines are of such a nature that they cannot be discussed at an open meeting, and

this Body is at this time unable to determine when the matters under discussion can be disclosed to the public. However, this body will make such a disclosure when circumstances permit.

The regular meeting was called back to order at 10:21 pm.

A discussion was carried regarding the Ford sign on Ridgedale Avenue. Mr. Slate stated he would have the Zoning Officer follow up on this matter.

With no further business for consideration by the Township of Morris Planning Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:25 pm.

Respectfully submitted,

Sonia Santiago, Secretary  
Township of Morris Planning Board