

**TOWNSHIP OF MORRIS
PLANNING BOARD
REGULAR MEETING MINUTES
JUNE 16, 2008**

Call to Order

Meeting of the Township of Morris Planning Board was called to order on Monday, evening June 16, 2008 at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice: The Vice 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 June 9, 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. Franz Vintschger, Vice Chairman

Roll Call of Planning Board Members and Professionals

Members Present

Mr. Franz Vintschger, Vice Chairman
Mr. Jeremiah Loughman
Mr. Scott Rosenbush
Mr. Leigh Tucker Doxsee
Mr. Anthony Romano
Mr. Jeffrey Grayzel – 7:36 pm
Ms. Linda Murphy, Alternate #1
Mr. Kevin McNally, Alternate #2

Members Absent

Mr. Rick Haan, Chairman
Mr. Laurence Bobbin
Mr. Craig Goss

Professionals Present

Adrian Humbert, Board Planner
Brian Burns, Board Attorney
James Slate, Board Engineer
Sonia Santiago, Secretary

Resolutions

PB-01-08, Roberta & Steven Duty

Site Plan

Block 7003, Lot 15, 54 Blackberry Lane, RA-35 zone.

Applicant proposes to convert a professional home office approved by the Planning Board on July 5, 1998 to an accessory apartment.

Mr. Rosenbush moved, seconded by Mr. Romano, 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 June 2, 2008, meeting.

Roll Call(Voting Members):

Ms. Murphy	YES
Mr. Loughman	YES
Mr. Rosenbush	YES
Mr. Romano	YES
Mr. McNally	YES
Mr. Doxsee	YES
Mr. Grayzel	YES
Mr. Vintschger	YES

**PB-10-08, ORM Motor Com., LLC -Open Rd. Mazda of Morristown
Plan/Variance/Waiver**

Amended Site

Block 10201, Lot 19, 108 Ridgedale Avenue, I-21 zone.

Applicant proposes to reconfigure the existing Nissan dealership and install a new dealership for Mazda in the former auto-service area of the Nissan dealership. A new service area will be installed in the one-story masonry building to the rear of the existing service facility. Applicant also seeks various variance relief.

Ms. Murphy moved, seconded by Mr. Rosenbush, 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 circulated, memorializing the action taken by the Planning Board at the June 2, 2008, meeting.

Roll Call(Voting Members):

Ms. Murphy	YES
Mr. Loughman	YES
Mr. Rosenbush	YES
Mr. Romano	YES
Mr. McNally	YES
Mr. Doxsee	YES
Mr. Grayzel	YES

Mr. Rosenbush recommended that the TCC review our sign ordinance particularly with regard to how we calculate square footage of signs.

Public Hearings

PB-12-06, Dr. Joel Meer

Major Subdivision/Variance

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

Continuation from the May 5, 2008 public hearing. Applicant proposes to subdivide the property into three lots, two of which are proposed for new construction. Applicant also seeks many other variances for insufficient lot depth and setbacks, waiver relief for steep slope disturbance and a de-minimums exception from RSIS is also being requested.

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

The following person previously sworn in by the Board Attorney appeared to be heard.
Richard Schommer, Professional Engineer

The following were submitted as exhibit during testimony.
A-4 Aerial photograph

Summary of Testimony-Richard Schommer, Professional Engineer

Mr. Schommer stated that at the last meeting we got through a fair amount of testimony. We talked about the property, the location, what's around it, and the proposal which is to subdivide the property into three lots. There is an existing dwelling where the Meer's currently reside. The existing dwelling is on the easterly side of the property that would remain on one lot, and two new lots will be created. This property is bisected by a zone line which runs roughly through the middle of the site. The property to the east side of the zone line is RA-15, and the west side OSGU. There is disparity of lot sizes between those two, and there was a recommendation to consider subdividing it, not strictly along that zone line, but with more of a look at the neighborhood that this property is in. The largest lot still proposed is lot 7.03 and the other lots would be smaller. They would exceed the minimum required lot size in the RA-15 zone. Proposed lot 7.03 would be under the three acres required in the OSGU. At the last meeting there was a question regarding the wetlands delineation. The letter of interpretation was issued by NJDEP on August 20, 2004. LOI s has a five year shelf life and can be extended for five additional years. There is a transition area which does extend into the property on the northwestern corner, but the delineation does remain valid, and we have relied on that as we are permitted to do. Mr. Schommer proceeded to review exhibit A-4 which consists of an aerial photograph. He stated that he took the federal flood study and over laid that over the property and outlined the 100 year flood plain based on the Federal Emergency Management Agency, flood study for the river, which lies in the open space property to the west. The flood study indicates that the flood elevation is approximately 323. The lowest point of our property is at a elevation of 344 or about 21 feet higher than the 100 year flood elevation. This was prepared to show that the property is not within a flood hazard area. A lengthy discussion was carried among the Board members and the applicant professionals regarding steep slope and drainage on the property.

The meeting was opened to the public; the following persons appeared to be heard.

David Scalera, Attorney for the objectors	Nahama – 32 Valley View Street
	Reardon – 26 Spencer Drive
James Shaw	34 Valley View Street
George DeMarco	9 Lawndale Avenue
Debra Richards	30 Valley View Street
Donna Munther	9 Shadyside Street
Dan O'Shea	19 Shadyside Street

A discussion was carried between the objector's attorney and the applicant's attorney as to what is to be expected in further testimony from Mr. Schommer in order for the objector's attorney to cross examine him.

Application carried to August 4, 2008 Board meeting without further notice.

A recess is taken at 9:04 pm
Meeting reconvened at 9:20 pm

PB-07-08, James Street, LLC
Block 7101, Lot 1, 250 James Street, TH-4 zone.

Amended Site Plan/Variance/Waiver

Applicant proposes to construct ninety-two (92) townhouse units in twenty-three (23) buildings of four (4) units each. Other site accessory uses and structures are to include pergolas, a gazebo, and a bocce court in the center of the site. Applicant seeks various variances and waivers.

As per Mr. Douglas Henshaw, attorney for the applicant, he requested that the application be carried to the July 21, 2008 Board meeting without further notice.

Other Matters

Ordinance Amending Chapter 95 Article V of the Zoning Ordinance of the Township of Morris. Mr. Brian Burns stated that this ordinance amendment will change the title of Article V from supplementary use regulation to other supplementary regulations. There is no change in the substance of the ordinance. It simply clarifies an issue that claims to be a jurisdictional one in a pending litigation. The motion would be that the Board recommends this ordinance to the Township Committee for consideration.

Mr. Rosenbush moved, seconded by Mr. Romano unanimously carried that the ordinance be referred to the Township Committee for consideration.

Ordinance Amending Chapter 95-18.2 TH-4 Townhouse Residential Zone of the Zoning Ordinance of the Township of Morris – Mr. Burns stated that this is something that came up at the last meeting. We made it clear to the Board that the COAH situation in the Township has change dramatically with the new COAH rules that were effective June 2, 2008 and we went from a substantial surplus of credits for affordable housing to a substantial deficit. The

Board asked the TCC to draft an ordinance that will make sure that this application carries its weight in terms of COAH obligations that it would generate. The density is four units to the acre which will be short for carrying its COAH obligation. COAH's current rules allow for a 20% set aside at 8 units to the acre. This ordinance will provide a 15% set aside; there will be a short fall, of four to five units. With the density at four units to an acre the 15% set aside is the presumptely valid set aside that COAH sets forth in their regulations for that density. A lengthy discussion was carried regarding COAH regulations and calculations.

Mr. Humbert stated that the numbers have been changing periodically since January. The total Fair Share obligation of the Township is now comprised of three components. The first component is a prior round need. That is a need from 1987 to 1999. That number was and is 293 units. The second component is the rehabilitation share and it is calculated as of April 1, 2000 for the Township at 37 units. The third component is called Growth Share. That number under the new rules is 211 units. When you tally those numbers from Jan 1, 2004 through December 31, 2018 the count is 541 units. In the next 60 days there will be a change in the total growth share and it will be 224 units. The total amount for the third round is 554 units. There will be some crediting against that number based on the past Township performance. The deficit that the Township now faces is approximately 150 units. A lengthy discussion was carried regarding credits and deficits and what the state will be requiring and what the municipality would have to do in order to meet the COAH obligations. Mr. Humbert stated that the idea was for developers to carry their obligations.

Mr. Slate stated that we have a letter that will be going to COAH in reference to the mapping that was done and as it was stated they show 1,660 acres in Morris Township that they show as developable. A lot of that information that is vague, my office has reviewed the developable property in the GIS and I have marked up the zoning map and marked up properties that are potential developable. I want to say it was about 300 plus developable acres. I just wanted to show COAH that we have more accurate numbers and that the information they submitted it was bogus.

Open to the Public for the questions; the following persons appeared to be heard.

Frank Zupa	23 Canterbury Way
Frederick Ricciardelli	19 Homewood Drive
Ronald Goldberg	4 ½ Hilltop Circle

A recess is taken at 10:40 pm
Meeting reconvened at 10:43 pm

Mr. Douglas Henshaw, attorney for the James Street application. I will ask Mr. Tobia to address the Board in regard to inclusionary development and what happens when you have four units per acre and try to introduce rental units or something else into that mix.

Summary of Testimony – Michael Tobia, Professional Planner

Mr. Tobia stated that it has been two years since they have plan the James Street project. This site was approved for zoning at four units per acre. The majority of the other Mt. Laurel projects in town have higher densities than what we are proposing here, some of those are in the double digits. If it means 20% set aside that is fine that is what COAH is advising these days. It will seem that this is forcing a whole reconsideration of this particular project.

I know that the Town is in a tough spot and every town is in a tough spot. Should we change the project to 8 units to the acre and ask Mr. Paragano not to build the million dollar units? I don't think it is appropriate to recommend this proposed ordinance as composed for consideration by the Township Committee.

Mr. Paragano stated that he understands the position that the Town is in. He needs the Town help and we need to work together.

Mr. Burns stressed to the Board that what he hears from the developer is that he is requesting us to give him time to sit and talk. They are entitled to the time and to come back and talk to us and for us to listen to their proposal. We need to be aware of how the developer feels about this matter. Mr. Burns stated that the additional time is needed to further consider the ordinance.

A recommendation to our professionals is to consider the ordinance further and add language that the developer must meet the COAH obligations that are in place at the time of development.

There was a recommendation for the Technical Coordinating Committee to further review the COAH regulations.

The proposed TH-4 growth share ordinance is to be carried to the next Planning Board meeting.

C. Extended Stay Ordinance – Carried to the next Planning Board meeting

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 11:11 pm.

Respectfully submitted,

Sonia Santiago, Secretary
Township of Morris Planning Board