

**TOWNSHIP OF MORRIS
PLANNING BOARD
REGULAR MEETING MINUTES
AUGUST 4, 2008**

Call to Order

Meeting of the Township of Morris Planning Board was called to order on Monday, evening August 4, 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 July 29, 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. Leigh Tucker Doxsee
Mr. Anthony Romano
Mr. Jeffrey Grayzel
Ms. Linda Murphy, Alternate #1

Members Absent

Mr. Franz Vintschger
Mr. Kevin McNally, Alternate #2

Professionals Present

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

Resolutions

PB-12-08, Thomas Seneca, LLC

Final Major Subdivision

Block 5903, Lot 2 & 3, Westminster Place & Edgewood Road, RA-35 zone.

Final Major subdivision for the creation of one additional buildable lot and new road with a Cul-de-sac.

Mr. Burns stated that a question was raised at the last meeting as to whether the tree removal was consistent with what was approved at the preliminary and COAH related issues. I think it is appropriate for the Board to hear what needs to be said by the Engineer so that the Board acts on appropriate facts before granting an approval.

Summary of Testimony – James Slate, Township Engineer

Mr. Slate stated that he had heard from a neighbor that there were additional trees removed. He proceeded by asking the applicant for an updated tree removal plan. He stated that there were approximately twenty five additional trees that were removed which were not part of the original approval. Mr. Slate further testified that it's fairly common to have some adjustment to the approved plans during the course of the development. Mr. Slate stated he didn't agree with the amount of trees that were removed. During his site visit he also noticed other items that needed to be addressed by the applicant. The tree removal cash contribution maybe adjusted or trees can be planted in front of the new house on lot number three.

Mr. Burns stated that there is a violation penalty of \$500.00 in Chapter 57 but, this has to be imposed by a judge. This is an informal discussion. It is possible for the Board to have it handled administratively.

Meeting was opened to the public for comments and concerns; the following persons appeared to be heard.

Stuart Thomas	70 Overlook Road
Andrew Gregg	9 Westminster Place
Jacqueline Hinshaw	90 Overlook Road
Penelope Wise	12 Westminster Place

Summary of Testimony – Michael Hubner, Attorney for the applicant

Mr. Hubner stated that on July 21, 2008 him or his applicant were not aware of any violations regarding the application. He stated that Mr. Seneca called him on July 24, 2008 and informed him that there were some comments made after the meeting regarding tree removal. My client is willing to abide by the determination of Mr. Slate and the Board either by cash contribution, replanting of trees or a combination of both. From our perspective we had to fill the septic area of the stone cottage, there were some trees rooted on to the septic of the cottage that had to be removed in order for the cottage to be relocated and other trees had to be removed in order to place the overhead utility wires and road improvements. The property owner behind who asked the client for the removal of dead and falling trees,

frankly Mr. Seneca was accommodating a neighbors request and acting in good faith, making a condition better. We have learned that this is not the case. Mr. Hubner further stated that what has been done was wrong. The applicant has agreed to go from here however the Board directs. A discussion was carried regarding the tree removal and procedures among the Board members and the professionals.

Mr. Burns stated that if the direction of the Board is for the applicant to return to the Board with an amended preliminary approval, the Board should hold any action on the final approval. He also recommended that the Township tree ordinance be revised to change the standards for the homeowner and the developer.

Mr. Burns stated that the most appropriate procedure is for the applicant to submit the amended plan as the Board has requested. The appropriate Board action is to hold the action on the resolution pending the submission of the plan, along with a simple letter requesting amendment to the Preliminary. No need to return to TCC. The applicant's attorney abides by the Board directions.

Mr. Rosenbush moved, seconded by Mr. Romano, and roll call as indicated that the applicant is to return to the Board with an amendment to the tree plan (only) that was previously approved.

Roll Call (Voting Members):

Mr. Bobbin	YES
Mr. Loughman	YES
Mr. Goss	YES
Mr. Rosenbush	YES
Mr. Doxsee	YES
Mr. Romano	YES
Ms. Murphy	YES
Mr. Grayzel	YES
Mr. Haan	YES

A discussion was carried regarding a meeting date for consideration of the amendment of the tree plan. The amendment to the application and the final approval are schedule for the September 8, 2008 Planning Board meeting.

Mr. Rosenbush made a motion to referred to the Township Committee the situation that has come in front of the Board for their consideration of action in violation of Municipal Ordinance, seconded by Mr. Grayzel and roll call as indicated

Roll Call (Voting Members)

Mr. Bobbin	YES
Mr. Loughman	YES
Mr. Goss	YES
Mr. Rosenbush	YES
Mr. Doxsee	YES
Mr. Romano	YES
Ms. Murphy	NO

The following person sworn in by the Board Attorney appeared to be heard.
Michael Tobia, Professional Engineer

The following were submitted as exhibit during testimony.
A-5 Colored Rendering of the site plan dated August 4, 2008
A-6 Façade of the front of the building

Summary of Testimony – Michael Tobia, Professional Planner

Mr. Tobia stated that he will identify the changes made to the plan. There are seven changes made to the plan and they are as follows; NE corner around the proposed dumpster, three triangular areas will be pervious, west on the plan a 4th island has been placed and it will be lawn, the large area directly behind the building approximately 100 feet will be returned to a green area, the area behind the Lukeoil on the westerly side of the property will be returned to grass condition, in front of the property, SW corner will be grass as well, the results of this is that the impervious coverage will be reduced from 91.8% to 88.5% a 3.3% reduction. Another customer parking spot has been added in front of the building, the count now goes from 13 customer parking to 14. The septic tank has now been identified and is in an area behind Lukeoil, we will consent to an easement to be used by Lukeoil. A “do not enter” sign has been added to the easterly entrance. NW corner of the building the owner stated that the island was in the way of everything we are going to do. What we are proposing to do is return the island to asphalt meaning that there will be no obstruction to vehicular circulation. There will be no changes to the impervious coverage. Mr. Tobia further testified that the building will have a metal black façade with silver framing and tinted glass. It will also have the main sign with Mini of Morristown and a service sign this is well below the Township sign regulations. He further testified in relation to the variances that are being requested and they are ten in total, the impervious coverage variance the permitted coverage is 75% and we are proposing 88.5%, 2 loading stalls are required none are proposed on site, front yard parking, none are permitted we are proposing 14 parking spaces, stacked parking is not permitted and we are proposing employee parking behind luke oil, aisle width required is 25 foot we are proposing a 19 foot increasing to 24 foot in some areas, side and rear yard setback on the NE of the property for the trash enclosure we are proposing a 2.4 feet side yard setback where 10 feet is required and 1.5 ft for the rear where 25 feet is required, variance is required for the proposed sign, it is proposed to be moved to the easterly side driveway creating a front yard of 10 feet with adequate site triangle where 17.5 feet is required, wall signs, we are proposing two signs where one is permitted, storage parking stall, we are proposing 8 x 14 where 10 x 20 is required. This dealer will handle 20 % of what was previously on this site. Employees will go down from 100 to 25 full time. Some landscaping will be removed in the front yard and replaced with berm. This is an existing car dealership this site will operate from 7:30 am to 9:30 pm Monday through Friday; Saturday 8:30 am to 6:00 pm and Sunday is closed. The changes that are being proposed will not have any detriment to the public good.

Due to other items on the agenda this application is carried to October 6, 2008 Planning Board meeting without further notice. Applicant has granted the Board an extension of time until October 30, 2008.

Mr. Rosenbush made a motion to go on closed session seconded and unanimously carried at 10:13 pm.

Regular meeting reconvened at 10:50 pm.

Other Matters

Review of COAH Ordinance options – Mr. Slate stated that the TCC has made some recommendations that we resurrect the development fee ordinance that was introduced last December and was never carried forward because it went into a new year. We referred it to COAH and received a number of comments back. Adrian has addressed those issues in the development fee ordinance and incorporated the new items related to A-500 that was signed by the Governor which requires that a 2.5 % fee be collected by the Township on all non residential development. Since we have certification from COAH we are able to keep the fees we collect. As far as A-500 goes, projects that don't have certificate of occupancies will have to pay the 2.5% fee.

Mr. Humbert stated that a lot of the language in the draft ordinance is from the statute. COAH has not done a model ordinance. I expect more comments from COAH once the Township Committee refers it to them for their review and approval. The comments from COAH on ordinance 26-07 has been incorporated in the re draft.

Mr. Burns stated that the best thing to do is to submit it to COAH as soon as possible so that we could get a response. We also need to set up an account immediately for our Housing Trust Fund. A discussion was carried regarding establishing the account. Mr. Burns stated that he would refer it to Mr. Mills to act on.

Ms. Murphy moved, second by Mr. Rosenbush and unanimously carried the ordinance was referred to the Township Committee for consideration.

A resolution to obtain Special Counsel regarding COAH issues – Mr. Slate stated that Mr. Burns recommends that the Planning Board consider hiring a special counsel on the COAH issues there are so many regulations that have taken place and other implications.

Mr. Rosenbush moved, seconded by Mr. Doxsee and unanimously carried that the special Counsel be hired to assist with COAH related issues.

A lengthy discussion was carried regarding COAH issues among the Board Members and the professionals.

Mr. Rosenbush moved, seconded by Ms. Murphy and roll call as indicated that the Board on the advice of the Board Professionals recommends the Township Committee consider joining the law suit with the League of Municipalities regarding the COAH regulations.

Roll Call (Voting Members):

Mr. Bobbin	YES
Mr. Loughman	YES
Mr. Goss	YES
Mr. Rosenbush	YES
Mr. Doxsee	YES
Mr. Romano	YES
Ms. Murphy	YES
Mr. Grayzel	YES
Mr. Haan	YES

TH-4 Ordinance

Mr. Slate informed the Board that they had met with COAH personnel and discussed the issue of the vacant land analysis that was done and the credits that were lost.

Mr. Henshaw stated that his client has spent a large amount of time looking at housing alternatives. He suggested that the Board does not need to wait for the special counsel to come aboard to make a decision on Mr. Paragano's case. We would like to have a special meeting; we would take your offer to have your professionals meet with an experienced COAH developer to get ideas on cost and time realities. I will suggest to my client that I continue to pursue the County property. We are willing to commit to continue to work together to make it happen.

The Evergreen Cemetery owns a piece of property on Monroe Street and we have reached out to them with the possibility to buy it, we think is developable for eighteen units. We have one hundred units on the corner of Ketch Road and Hanover Avenue. Mayor Nace has approached the Freeholder Board about leasing a piece of property to the Morris County Housing authority. Some acreage to the west would allow the Housing Authority to build affordable housing units at this location. There are paved areas, driveways and infrastructure as part of the Housing Authority project. They can become useful to ease the construction of other affordable housing units. There is bus service and facilities and amenities to make it an appropriate location for affordable housing. We can't do any more than what we have done. A lengthy discussion was carried regarding COAH regulations, development fees and growth share.

Mr. Paragano stated that he has been talking to various builders who only build affordable housing units. I have been having conversations with someone who has worked with HMFA was responsible in developing affordable housing in the state of NJ and served as chair of the NJ Council of Affordable housing. She has informed me that they can build the unit at 92 dollars a square foot. I am willing to do whatever I have to do. He stated he is willing to make arrangements to meet with this representative and will set up a meeting for any one who is willing to meet with this person.

Mr. Burns asked the applicants attorney to grant the Board an extension of time to consider the application until October 6, 2008. Applicant has granted the Board the extension of time to act.

A motion was made; second and unanimously carried the TH-4 ordinance is tabled until August 18, 2008.

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 12:13 pm.

Respectfully submitted,

Sonia Santiago, Secretary
Township of Morris Planning Board