

**TOWNSHIP OF MORRIS  
PLANNING BOARD  
REGULAR MEETING MINUTES  
SEPTEMBER 15, 2008**

Call to Order

Meeting of the Township of Morris Planning Board was called to order on Monday, evening September 15, 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 September 8, 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. Vintschger, Vice Chairman

Roll Call of Planning Board Members and Professionals

Members Present

Mr. Franz Vintschger, Vice Chairman  
Mr. Laurence Bobbin  
Mr. Jeremiah Loughman  
Mr. Craig Goss  
Mr. Scott Rosenbush  
Mr. Anthony Romano  
Mr. Jeffrey Grayzel  
Ms. Linda Murphy, Alternate #1  
Mr. Kevin McNally, Alternate #2

Members Absent

Mr. Rick Haan, Chairman  
Mr. Leigh Tucker Doxsee

Professionals Present

Charles Latini, Planning Consultant  
Adrian Humbert, Board Planner 10:00 pm  
Brian Burns, Board Attorney  
James Slate, Board Engineer  
Sonia Santiago, Secretary

Consideration for approval of minutes of the June 2, 2008, June 16, 2008 and July 21, 2008 regular meeting.

Mr. Rosenbush moved, seconded by Mr. Romano, unanimously carried the minutes of the June 2, 2008 were approved as circulated and placed on filed.

Mr. Romano moved, seconded by Mr. Loughman, unanimously carried the minutes of the June 16, 2008 were approved as circulated and placed on filed.

Mr. Rosenbush moved, seconded by Mr. Romano, unanimously carried the minutes of the July 21, 2008 were approved as circulated and placed on filed.

**Resolutions**

PB-25-04, Thomas Seneca, LLC Amended Preliminary Approval  
Block 5903, Lot 2 & 3, Westminster Place & Edgewood Road, RA-35-zone.

Applicant seeks approval for an amended tree removal and replacement plan.

Mr. Rosenbush moved, seconded by Ms. Murphy, 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 September 8, 2008, meeting.

Roll Call(Voting Members):

Mr. Bobbin	YES
Mr. Loughman	YES
Ms. Murphy	YES
Mr. Rosenbush	YES
Mr. Romano	YES
Mr. Grayzel	YES
Mr. Vintschger	YES

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. Rosenbush moved, seconded by Mr. Loughman, 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 July 21, 2008, meeting.

Roll Call (Voting Members):

Mr. Loughman	YES
Mr. Goss	YES
Mr. Rosenbush	YES
Mr. McNally	YES
Ms. Murphy	YES
Mr. Romano	YES
Mr. Vintschger	YES

**Public Hearings**

**A Certified Shorthand Reporter (CSR) was present for the following application, see attached transcript.**

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, June 16, 2008 and August 4, 2008 public hearings. 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. Burns, Board attorney gave the Board procedural background regarding an issue of density that the objector's attorney has brought to our attention by letter. Mr. Burns suggested to the Board that the matter be dealt with at the outset of tonight's meeting and give both parties the opportunity to put their views before the Board. The objector's attorney has agreed to put it in writing and give the Board an opportunity to review it before the next meeting; it is my recommendation to the Board that we carry any consideration of this issue and the motion to the outset of the next meeting. This will allow Mr. Henshaw and his client to move forward tonight with the knowledge that the Board has a pending motion, or a future motion to consider dismissing on jurisdictional ground. If the Board were to find that a density variance would be necessary, it would be appropriate to dismiss the application and start all over with the Board of Adjustment.

Mr. Douglas Henshaw, Attorney for the applicant entered his appearance and stated that if the Board feels it's appropriate or necessary to receive further information on the jurisdictional issue, or wishes to allow testimony he will allow it. But, that he felt it will take a substantial amount of time of the meeting. He further testified that he and his client will abide by Mr. Burns' decision to defer this action on jurisdiction until the next meeting.

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

Richard F. Smith Jr., Professional Surveyor  
Richard Schommer, Professional Engineer

The following were submitted as exhibit during testimony.

A-5 Colored Rendering Slope Map of 25% greater  
A-6 Tree Replacement Plan  
A-7 Cross Section

Summary of Testimony – Richard Smith, Professional Surveyor

Mr. Smith stated to have done research on the property and has found that the property was owned by Mr. Riley. Mr. Smith further testify that a 1924 and 1926 deed has a statement that lies inside the deed it is in fact a dedication to the public for use of the that road as a street. There was a dedication of the entire Shadyside road to the Township. A dedication can be done but, it doesn't become the Township's until the road is fully developed. In 1942 the land on the south side of the street, then owned by Jordan and today is Spencer Estates included lands conveyed that ran along the southerly side of the street extension as well, although as extended does not appear in the deed. The entire 40 foot width is not included on the deed. A lengthy discussion was carried regarding the ownership and dedication of Shadyside Road.

The meeting was opened to the public for questions to Mr. Smith; the following persons appeared to be heard.

Susan Strelec

George DeMarco

Brian Elliot

6 Lawndale Avenue

9 Lawndale Avenue

22 Spencer Drive

Summary of Testimony - Richard Schommer, Professional Engineer

Mr. Schommer proceeded to review exhibit A-5 the steep slope plan and summarized the steep slope requirements. He further testified that to develop any portion of the property means disturbing steep slopes. A lengthy discussion was carried regarding the amount of steep slopes to be disturbed on the proposed lots. Mr. Schommer further testified that lot 7.03 to the west is on the OSGU zone. The house is situated to the west of the steep slopes and that the building envelope was very small. The applicant is seeking relief for the front, side and rear yard setbacks in order to build away from the slope area. There is no issue in regard to lot 7.01 and lot 7.02, steep slope disturbances are in the 10 to 15% category. Mr. Schommer proceeded with the tree replacement plan. He stated that they had looked at ways where they could install additional replacement trees. We have reduced the amount of trees to be replaced to 242 instead of 265 by doing modifications to the lot grading. We plan to install 108 replacement trees throughout the lots. A contribution will be made to the Township for the remaining 134 replacement trees. Mr. Schommer proceeded to review exhibit A-7 entitled cross section. He further testified that the cross section runs through the site and continues to the dwelling on existing lot 4, neighboring property to the north. The distance between these properties is approximately 370 feet and there is a substantial buffer between the properties and height difference also helps to separate them. In the summertime with the leaves on the trees, it is minimal what you can see, largely it's a deciduous forest, 9 months of the year you have a vegetative natural screen with the trees that are there. In the winter it will be more visible. Even then with the distance from property to property and the trees that exist there it would be difficult to see. Mr. Schommer further testified that Mr. Meer went through the process and the time to develop something that he intends to build on this property. The plan shows the elevations as well as the floor plans of what is intended. Mr. Schommer identifies where the retaining walls would be placed and their heights. On lot 7.02 the retaining wall is on the right side of as you go up the driveway. On lot 7.03 the wall is inside of the property line parallel with Shadyside. There is a retaining wall on the right side of the driveway and there is a couple of short retaining walls on the

westerly side driveway on lot 7.03 and on the easterly side of the dwelling is another retaining wall. These retaining walls vary from 4 feet to 8 feet in height and in some areas they are terraced. A lengthy discussion was carried regarding the steep slopes, retaining walls and drainage.

The chairman postponed the questions to Mr. Schommer until the next Board meeting.

Due to other matters on the agenda this application was carried to December 1, 2008 with notice. Applicant attorney granted the Board an extension of time until December 30, 2008.

**Recess is taken at 9:35 pm.  
Meeting reconvened at 9:42 pm.**

**A Certified Shorthand Reporter (CSR) was present for the following application,  
see attached transcript.**

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

Amended Site Plan/Variance/Waiver

Continuation from the June 16, 2008, July 21, 2008 and August 18, 2008 public hearings, 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 a pergola, gazebo, and a bocce court in the center of the site. Applicant seeks various variances and waivers.

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

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

Michael Tobia, Professional Planner  
Richard Schommer, Professional Engineer

The following were submitted as exhibit during testimony.  
O-1 Colored Site Plan

Summary of Testimony – Michael Tobia, Professional Planner

Mr. Tobia stated that the deminimus acceptations that is being requested is for the reduction of the road to 20 feet where 24 feet is required by the RSIS. The proposed road is 20 feet wide. This means much less coverage for the property. It means more lawn area between the buildings and street which is vital on townhouse projects. Mr. Tobia proceeded to say that by reducing the distance between a couple of given buildings, front to front allows us to hold much of the buffer across the rear of the property to create opportunity at the back of the property for things like decks and patios. As well as more open space to the surrounding property owners means less storm water management we have to deal with. For these reasons we felt that 20 feet was defensible from a planning perspective. If we were to build

a 24 foot roadway it would have created an inadequate buffer at the back of the property or inadequate width of driveway pads. This is a community in and of itself and bounded by environmental issues which prevent it from getting bigger. There will be no parking allowed on these streets. A lengthy discussion was carried regarding the RSIS regulations and parking for the proposed project.

Summary of Testimony – Richard Schommer, Professional Engineer

Mr. Schommer referred to exhibit A-1 marked on July 21, 2008, it is a rendering of the existing condition. He stated that the exhibit shows the existing building, existing parking lot and at the back of the parking lot is a discharge for storm water runoff at the northeasterly corner of the property. There is a headwall which is a storm water runoff point from the existing parking area of the existing development on site. There is a storm water discharge and in designing the site plan we looked at that as a potential spot for maintaining a discharge, and we did just that. The 75 foot municipal riparian buffer applies to the Great Brook which runs along the back of the property. What we have done is we are going to maintain the discharge point that is there now for storm sewer discharge from the project. We have analyzed the runoff and we will actually be discharging less storm water at that point than what is discharged today. We attempted to stay away from sensitive areas such as wetlands, buffer areas and the stream in the back. We have maintained a buffer around the property to the south along the stream as well as maintaining a buffer to the north. We are asking for a waiver for the finger of water that comes out of the existing headwall into the riparian buffer for a portion of building eight. This is a waiver from the buffer requirements. Mr. Schommer also stated that they have designed other discharge points throughout the site. A lengthy discussion was carried regarding the discharging of the proposed project.

The meeting was opened to the public for questions and comments; the following persons sworn in by the Board attorney appeared to be heard.

David Budd  
Theresa Hudzina

80 Overlook Road  
44-38 Piedmont Court

Closing Arguments – Douglas Henshaw, Attorney for the Applicant thanked the Board for their patience and perseverance. This process began quite a long time ago. We began by asking for a rezoning of the lot to allow a townhouse development rather than an OL-15 type development as was previously zoned. I think this site is an example of how the planning process is supposed to work in the municipality, professional staff and indeed the Board, applicant and its professionals work hand in hand creating something here that we think is both a win for the Township in terms of the creativity, life style that should exist here. Our project is the product of a lot of time and energy on both sides. We've had the issue of COAH thrust upon both of us after a lot of time and energy had already been put into the project. We would be making a payment to the Municipality to help you satisfy your ever-changing COAH obligation. These will be good looking buildings and it is going to be a nice place to live. I thank you all for your patience in this, and working with us on it and your perseverance in the hearings. I think this is the right product at the right place and the right spot in the Township, and hopefully at the right time. Thank you.

A discussion was carried regarding the growth share and development fee ordinance that will be voted on at the Township Committee meeting and the Board rights.

The applicant was asked if he was willing to grant the Board an extension of time until action is taken on the ordinances that are before the Township Committee.

**Recess is taken at 11:05 pm  
Meeting reconvened at 11:10 pm.**

Applicant has denied the Board's request of granting an extension of time.

Mr. Grayzel made a motion to approve the application as presented with the variances requested, with the condition being that it be subject to any adoptions of ordinances taken by the Township Committee at their meeting of September 17, 2008 and to be subject to reasonable conditions based on the evidence submitted, seconded by Mr. Vintschger.

Roll Call (Voting Members):

Mr. Bobbin	YES
Mr. Loughman	NO
Mr. Goss	NO
Mr. Rosenbush	NO
Mr. McNally	NO
Mr. Romano	NO
Ms. Murphy	NO
Mr. Grayzel	YES
Mr. Vintschger	YES

3 Ayes and 6 Nays the motion fails the passing.

A discussion was carried among the Board members and the professionals regarding legal technicality.

Mr. Goss moved, seconded by Mr. McNally that approval be granted to the application of James Street LLC thereby permitting the construction of 92 townhouse with conditions stipulated; the Board Attorney is hereby authorized to prepare a formal resolution memorializing action taken by the Board, same to be presented for consideration at the October 20, 2008 meeting of the Board.

Roll Call (Voting Members):

Mr. Bobbin	YES
Mr. Loughman	YES
Mr. Goss	YES
Mr. Rosenbush	YES
Mr. McNally	YES
Mr. Romano	YES
Ms. Murphy	YES
Mr. Grayzel	YES
Mr. Vintschger	YES

**Other Matters**

A. Ordinance #29-08 Amending Chapter 57 Land Development, Adding Section 57-166, Development Fees for Affordable Housing

Mr. Grayzel moved, seconded by Mr. Rosenbush and unanimously carried Ordinance #29-08 is favorable approved and referred to the Township Committee for adoption.

B. Extended Stay – Carried to the next Board meeting

C. 2009 Calendar Review – Correction of the August meeting date.

D. Normandy Real Estate Parking Deck – Carried to the next Board meeting

E. Subaru on Ridgedale Avenue would like to add a chimney to the show room. We have the ability to do a waiver if the cost does not exceed \$5,000 but the cost of installing the chimney exceeds that amount for us to handle it administratively. I would like to have the Board opinion. The chimney is 8 x 4 with an overhang. Mr. Humbert stated that the overhang should be considered if this overhang encroaches into the setback; the application should come in front of the Board. The Board stated that if the overhang those not encroach on the setback it can be handled administratively.

Mr. Goss addressed the Board in regard to the application of Joseph & Christine Prestifilippo proposed cistern. At the last meeting the Board asked that the fire department review the proposed cistern and we have agreed with the 30,000 gallon cistern with the wet water pipe down the hill from the cistern to a hydrant to the old cul de sac. We looked into the New Vernon fire department and found that they use 30,000 gallon cisterns as we are requiring.

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 11:45 pm.

Respectfully submitted,

Sonia Santiago, Secretary  
Township of Morris Planning Board