

**TOWNSHIP OF MORRIS  
PLANNING BOARD  
REGULAR MEETING MINUTES  
NOVEMBER 3, 2008**

Call to Order

Meeting of the Township of Morris Planning Board was called to order on Monday, evening November 3, 2008 at 7:35 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 October 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. 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 – 7:40 pm  
Mr. Scott Rosenbush  
Mr. Leigh Tucker Doxsee  
Mr. Anthony Romano  
Mr. Jeffrey Grayzel  
Ms. Linda Murphy, Alternate #1  
Mr. Kevin McNally, Alternate #2

Members Absent

Mr. Rick Haan, Chairman

Professionals Present

Adrian Humbert, Board Planner  
Cheryl L. Ehrgott, Board Attorney  
James Slate, Board Engineer  
Sonia Santiago, Secretary

Consideration for approval of minutes of the August 18, 2008 special meeting.

Mr. Grayzel moved seconded by Mr. Doxsee, unanimously carried the minutes of the August 18, 2008 special meeting were approved and placed on file.

### **Resolutions**

Consideration of the following resolutions thereby memorializing the action taken by the Board at the September 15, 2008 and October 6, 2008 regular meetings:

PB-07-08, James Street, LLC

Amended Site Plan/Variance/Waiver

Block 7101, Lot 1, 250 James Street, TH-4 zone.

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. 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 September 15, 2008, meeting.

#### 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

PB-11-08, Villa Walsh

Site Plan/Waiver

Block 4101, Lot 1, 455 Western Avenue, OS-GU zone.

Applicant proposes to construct a synthetic turf soccer field adjacent to the existing field. Applicant also seeks a steep slope waiver.

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 circulated, memorializing the action taken by the Planning Board at the October 6, 2008, meeting.

Roll Call (Voting Members):

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

PB-13-08, Abbey Woods at Delbarton

Amended Site Plan/Variance

Block 4501, Lot 2, 230 Mendham Avenue, OS-GU zone

Applicant proposes modifications to the approved clubhouse floor area, construction of two batting cages and a variance relief for the placement of 20 foot netting adjacent to the parking lot.

Mr. Romano 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 October 6, 2008, meeting.

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

**Other Matters**

Housing Element & Fair Share Plan—Mr. Slate informed the Board that we are in a time constraint due to the fact that the plan is due to COAH by December 31, 2008. The report will be available for public review and it will be distributed to the Board by December 1, 2008. We need to hold a formal meeting in order to adopt the Housing Element plan and amend the Master Plan to incorporate the Plan. The Housing Element & Fair Share Plan is the Township plan on how to meet the current third round COAH requirements. We plan on establishing a special meeting to discuss this issue and open it to the public for any thoughts or input on the plan. This is an informational package to show COAH how we plan to meet the third round requirements. The plan is to hold a special meeting on December 15, 2008 to deal with this matter.

Mr. Humbert stated that the plan is going to be predominately what the Town has already done in terms of its affordable housing efforts. The rest of the meeting will be for public input. The Planning Board role is to hold a public hearing to adopt the plan as an

amendment to the Master Plan. Then the Township Committee must endorse the petition to COAH for this third round. It is the responsibility of the Municipality to send the application to COAH. A lengthy discussion was carried regarding the Highlands regulations and the 30 year deed restriction that exists on the existing low and moderate housing units. Mr. Humbert suggested to the Board that the issue related to the deed restriction should be handled by the Township attorney by a letter to COAH addressing the issue.

The Board has agreed on a special meeting to consider the Housing Element & Fair Share Plan for December 15, 2008.

**The following members recused themselves from the following application;  
Mr. Doxsee, Mr. Vintschger and Mr. Grayzel.**

### **Public Hearings**

PB-22-08, St. Mary's Abbey

Amended Site Plan

Block 4501, Lot 2, 230 Mendham Avenue, OS-GU zone.

Applicant seeks relief from a condition of approval for a 250 foot buffer along Sugar Loaf Road and Jockey Hollow Road.

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

Mr. Edward Broderick, Attorney for the applicant entered his appearance and presented the application to the Board members. He further testified that the purpose of this meeting was to seek relief from a condition of approval that was stipulated in the resolution of the Athletic fields' dated May 5, 2008 that reads as follows; paragraph 3 page 15 "*Prior to the issuance of a certificate of occupancy for the clubhouse and prior to the Township Engineer authorizing any use of the approved athletic fields and/or related improvements, Applicant shall have executed and delivered a conservation restriction in conformance with Ordinance Section 95-37.P(9)(a) covering the required 250 foot buffer within the OSGU-CCRC Zone abutting both Jockey Hollow Road and Sugarloaf Road.*" I also refer to an ordinance that refers to the 250 foot buffer. When that ordinance was adopted in 2003 it clearly focused on a concern that if a CCRC was to be developed in the Township there was a concern that the neighbors could be impacted by a massive development. Ordinance 95-37 adopted on March 25, 2003 there is a text in the ordinance that states "*a minimum passive open space buffer of 250 feet shall be required within the OSGU-CCRC zone along parallel to Jockey Hollow Road and Sugar Loaf Road.*" I have been given authority to publically declare here this evening before this Board that the Saint Mary's Abbey and the Order of Saint Benedict has abandoned any further effort to pursue a CCRC on its property. The Order came to this decision in July 2008. In order to accommodate and support the sale without creating any negative impact upon the appraisal of the sale we need to eliminate the 250 buffer by way of resolution.

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

Father Charles Hayes, CEO and President for St. Mary's Abbey  
Dene Lee, Project Manager for the Trust for Public Land

No exhibits were submitted during testimony.

Summary of Testimony – Father Charles Hayes, CEO for St. Mary's Abbey

Father Hayes stated that he was well aware of the rezoning of the parcel for the CCRC and the person who received word from the NJDEP and the Commissioner's office that the permits needed for the waste water management for the CCRC were rejected. He also stated that the Commissioners Office and the State Green Acres attempted to negotiate an open space purchase. It was declined by the Order because they wanted to obtain the property that we have been planning for many years to use for the athletic fields. These fields have been in the development plans for many years. We have been meeting with the County Park Commission and the Trust for Public Land to acquire an unspecified amount of the property. Mr. Hayes further testified that there has been an offer made by the Trust for Public Land. Morris County Park Commission will own the land. On the 13<sup>th</sup> of August 2008 the Order of St. Benedict signed a contract with the Trust for Public Land to sell the property for Open Space. Any future development of a CCRC is permanently abandoned.

The meeting was opened to the public for questions; none appeared to be heard.

Summary of Testimony – Dene Lee, Project Manager for the Trust for Public Land

Ms. Lee stated that TPL mission is to conserve land for people for uses as gardens, parks and natural land. We strive to ensure that the communities will be livable for future generations. A site like this one is very appealing to us because of all the factors for Open Space acquisition. One way is to work with willing sellers and buyers to convey private land into public land to be used for open space. We facilitate the transfer of land between private entities and appropriate long term public stewards. In this particular case the long term steward will be the Morris County Park Commission and the Township of Morris. The Township of Morris will be obtaining approximately 10 acres at the end of Wood Road. The Trust for Public Land holds an option agreement to purchase the property from the Order of St. Benedict, with the option in hand and provided that everything goes well TPL will exercise its options and will convey the property to the Township of Morris and the Morris County Park Commission at closing. In order for us to pull it all together we need to be taking title that is free and clear from all restrictions in order for us to purchase it. The presence of such a restriction will have a negative impact on the appraised value of the property. TPL has obtained an appraisal on the property. We have been working closely with the Morris County Park Commission and the Township of Morris to make sure their money is in place prior to the closing. A discussion was carried regarding the TPL responsibility assisting in the acquisition of the land sales.

The meeting was opened to the public for questions; none appeared to be heard.

Mr. Romano moved, seconded by Mr. McNally that approval be granted to the application of St. Mary's Abbey thereby removing the condition of approval stipulated in the resolution of approval dated May 5, 2008 and that the Board Attorney be authorized to prepare a formal resolution memorializing action taken by the Board, same to be presented for consideration at the December 1, 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

**Other Matters:**

Ms. Murphy addressed the Board and the Professionals in regard to an article in the September NJ Planner issue that relates to a tree removal ordinance and asked the TCC to follow up on the Tree Ordinance and to advise the Board on how it impacts the Township, also an open space ordinance requirement. Specifically, has to do with the requirement of a developer to set aside land for open space and recreational areas. We would like for our professionals to look into these issues and advise us on how it affects us.

Mr. Slate stated that his office is in the process of updating the Tree Ordinance for the Township. Brian has suggested adding language on contribution to be made to the Township for the trees that are not planted on site. We will be removing exemption for homeowners.

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 9:16 pm.

Respectfully submitted,

Sonia Santiago, Secretary  
Township of Morris Planning Board