

**READINGTON TOWNSHIP BOARD OF ADJUSTMENT
MINUTES**

November 20, 2008

A. Chairperson Fort called the meeting to order at 7:36 p.m. announcing that all laws governing the Open Public Meetings Act had been met and that the meeting had been duly advertised.

Mrs. Fort	present	
Mrs. Flynn	present	
Ms. Hendry	present	- arrived @7:47 p.m.
Mr. Hendrickson	present	
Mr. Simon	present	
Mr. Stettner	present	
Mr. Shepherd	absent	
Mr. Thompson	present	
Mr. Denning	present	

**Donald Moore, Esq., Kelleher & Moore
Brent Krasner, Clark*Catton*Hintz
John Hansen, Ferriero Engineering
Stephen Souza, Princeton Hydro**

B. APPROVAL OF MINUTES:

1. October 16, 2008 - Mrs. Flynn made a motion to approve the minutes. Mr. Denning seconded the motion. *Motion to granted with a vote of Ayes all, Nays none recorded*

C. CORRESPONDENCE:

The board discussed the information that was received from the Readington Township Board of Health. The information listed the known contaminated sites within the township.

D. TECHNICAL REVIEW COMMITTEE:

**1. Cellco Partnership d/b/a Verizon Wireless
Preliminary-Final Site Plan &
Use Variance
291 US Rt. 22
Action date: November 28, 2008**

Madam Chair announced that the Technical Review Committee recommends that this application be deemed complete subject to the waivers requested for completeness only. Since this is a co-location on an existing site, the applicant has requested a waiver from submitting the Environmental Impact Statement.

Mrs. Flynn made a motion to grant the waivers requested as listed in the professional's reports. Mr. Denning seconded the motion.

There is another set of waivers which include existing and proposed contours as required by ordinance as listed in the professional's reports. Mrs. Flynn made a motion to grant those waivers for completeness purposes only. Mr. Denning seconded the motion. Motion to grant with a vote of Ayes all, Nays none recorded.

E. **VOUCHER APPROVAL:** (see attached) Mr. Denning made a motion to approve the vouchers as presented. Mr. Stettner seconded the motion. Motion to grant with a vote of Ayes all, Nays none recorded.

F. **OTHER BUSINESS:**

Mrs. Flynn announced that the Planning Board will have a joint meeting with the Township Committee on Monday, November 24, 2008, beginning @7:00 p.m. The topic is the COAH requirements and the adoption of the Master Plan amendment to endorse the Housing/Fair Share Plan.

G. **RESOLUTIONS:**

None

H. **PUBLIC HEARINGS**

1. **Hanna Saqa**
Variance and minor subdivision
Block 75, Lot 33

Lloyd Tubman, Esq., Archer & Greiner, stated that she is the attorney for the applicant. She stated that her client, Hanna Saqa has an agreement with the township for farmland preservation. This is an application for a variance to allow a duplex or a single family home and the enlargement of the existing 1980's farmhouse. The property consists of 118 ½ acres. He is proposing a 2 ½ acre non-severable exception area. In this area, buildings can be constructed. This is not a subdivision. It is also not a site plan. The development area cannot be severed from the larger parcel. A total of 115 acres will be placed in a permanent conservation easement.

She stated that there is an existing farmhouse on the property that will remain. There will never be more than 2 houses on the property. The duplex is an option that if the grantor of the easement selects, then the farmhouse will become an accessory structure and cannot become a residence. If that is the case, the kitchen would be removed so that there is no danger of an illicit tenant.

Mr. Moore swore in all of the witnesses, including the professionals.

Hanna Saqa stated that he is one of the partners that own the property. The application has a signed consent that he can represent all of the property owners. He purchased the property in 1991. He has a signed contract with the township that

possesses contingencies. One of the contingencies states that 2 residences will be allowed in the non-severable exception area. If that variance is not granted, he has the right to waive the agreement. The reason that he wants to have the 2 residences is so that his two sons can live on the property. If they determine that they do not want to live on the property, he still wants the right to have the two residences since he has other children that might take the houses. At some time in the future, the occupants of the two houses will not have to be related. The property is presently actively farmed. It is Mr. Saqa's desire that the property remain a farm.

Ms. Tubman informed the board that there are two variances sought. One is the right to have a duplex or a second residence on the property and the option would be with the property owner; the second variance would be from the critical areas section of the ordinance that requires a stream corridor easement. The reason for this variance request is two-fold. First agriculture use is permitted in the stream corridor, but more importantly, State funding is not available for property that is encumbered by an easement. In order to have the State fund the acquisition of the farmland preservation easement the appraisal has to be unencumbered by easement.

Ms. Tubman stated that this application is neither a subdivision nor a site plan. The plans that were submitted were illustrative only. She stated that the duplex cannot exceed by agreement 7,500 square feet or the addition to the farmhouse could not exceed 5,000 square feet.

Ms. Tubman referred to Mr. Hansen's report. He was concerned about the bridge that is currently on the property. She stated that this is an application for a building permit, not a site plan. The structural integrity of the bridge and its ability to support a fire engine would have to be provided to the Building Department and approved. The applicant has agreed that this is appropriate. The footprint of the structure has already been addressed. If the existing farmhouse is to be expanded, there will be NJDEP permits necessary and the applicant will evaluate this matter at that time.

Mr. Hansen stated that most of his concerns in his letter centered around the environmental constraints on the property. There are wetlands and flood plains. Mr. Hansen would like to add to the board that if this is approved, the plan should have the title signature block submitted so that there is a plan on record, even though this plan will not be used for the construction.

Ms. Tubman stated that the agreement with Readington Township requires a formal survey prepared by Readington Township; it also calls for a metes and bounds description of the non-severable exception area. Mr. Hansen stated that the proposed home location that is currently on the illustrative plan might be in a different area. Ms. Tubman answered yes, that is correct. Ms. Tubman stated that since Mr. Saqa is requesting a variance for a duplex, it is not a permitted use in the land ordinance. Mr. Saqa stated that the duplex, if built, would be an identical structure of two units that will be connected by a breezeway. The total living space would be 7,500 square feet.

Dr. Souza stated that in order to receive funding that there can be no easement added to the property, he wanted to know if a new bridge or NJDEP permit, a transition area or riparian buffer will be established, would that qualify as an easement. Ms. Tubman stated that those buffers exist by adopted rule today. Unless they performed a transition area averaging plan, there would be no easement required. There are utility easements located on the property and the appraiser took those into account.

PUBLIC COMMENTS;

There were no comments.

Ms. Tubman stated that the standard for granting the variances requested, would have to serve a purpose of the land use law. One goal of the municipal land use law is to provide sufficient space and appropriate locations for a variety of uses are NJSA 40:55D-2, g. The ordinance for the agricultural residential zone has as its first permitted use agricultural. Whereas the Rural Residential zone immediately opposite of this property has single family residence as the primary goal. The Master Plan emphasizes the preservation of farmland as well as open space. For property's over 30 acres in the AR and RR zone there is a mandatory cluster at 1 ½ acres in order to preserve 70% of the property as open space. On this property approximately 98% of the property would be preserved. On the issue of the duplex, with the mandatory cluster with the floor area ratio permitted of point one two, it is smaller in square footage than what a single family house that is permitted. In scale, the duplex is lesser in scale than the single family house. Regarding the negative criteria, she sees none. The visibility of the new house from the street is protected by a riparian buffer with a significant amount of woodland and cannot be removed. The scale of the house protected.

Mrs. Flynn stated that any of the detriments of this approval would be far outweighed by the preservation of the property.

Mrs. Flynn made a motion to approve the application. Mr. Thompson seconded the motion.

Roll call:

Mr. Denning	aye
Mrs. Flynn	aye
Ms. Hendry	aye
Mr. Hendrickson	aye
Mr. Stettner	aye
Mr. Thompson	aye
Madam Chair	aye - She stated that any negative impact is clearly outweighed by the preservation of the farmland.

Ms. Tubman requested clarification that the motion included the waiver of the stream corridor easement. Ms. Fort answered that the motion was to approve both variance.

Mr. Moore stated on the record that all items discussed will be included in the resolution which include: the signed and sealed survey; subject to a lot development plan approval approved by the township engineer; predicated all of the conditions of the agreement between the township and applicant.

The board took a 5 minute break.

**2 Winfield Management Corp.
Preliminary-Final Site Plan &
Use Variance
Action date: December 19, 2008**

Mark Peck, Esq., stated that he is the attorney for the applicant. This is a continued hearing. He stated that the Township Committee is conditionally including this site in the Third Round COAH affordable housing plan. They received the sewer allocation. The engineer has met with the board's professionals. The site has been lowered four feet has requested. They do have the possibility of a connection with the adjacent Walgreens site. The trash enclosure has been enlarged. The sidewalk on the southwest side of the building has been removed. A private walkway for the residents has been added. Four ground lights are proposed for the walkway. The footprint of the building is now on the plan. The gross area of the footprint is 14,678 square feet. Of those 1,008 square feet pertains to the residential accesses. The rental-able area of the first floor retail space is 13,673 square feet. A recreation area has been added that includes a playground. There has been additional storage space added. The circulation has been separated from the residential use and the retail use. The cupola is being proposed again. There is signage added to the renderings. They have a new traffic engineer that will be present at the next meeting.

Attorney Moore swore in the board's professionals and applicant's professionals.

Robert Zederbaum stated that he met with the board's professionals after last month's meeting. Some of the highlights that came out of that meeting were that the site will be lowered by 4 feet. This will allow the ability to connect to the adjoining site. There was worked on the stormwater management and water quality system. The underground basin has been redesigned. They have a mechanical system to remove the total suspended solids before the water gets into the basin. Some of the water quality swales have been removed.

Exhibit A-10 Sheet 5 of 19 – Grading and Drainage Plan revised 11-10-08.

Exhibit A-11 Sheet 4 of 19 - Site Plan for Cushetunk Manor revised date 11-10-08

With regard to the soil tests, Mr. Zederbaum stated that they had to dig deep to find soils with some permeability. There is mottling present. However, Mr. Hansen stated that even if Mr. Zederbaum is of the opinion that they meet the stormwater requirement, he is concerned that a problem could arise at this late

date. In order to avoid that situation, they should perform extra testing during the wet season to make sure that the ground water does not come up to a level that would impact the functionality of the stormwater system. Mr. Peck informed the board that this is a risk that his client is willing to take. Mr. Hansen stated that he is familiar with the types of soils in the township since he has been the engineer for the Board of Health for a number of years. Just to clarify, Mr. Zederbaum's opinion is that there is not a regional groundwater and that it is more of a perched groundwater problem, however, Mr. Hansen stated that there is groundwater present. The idea of performing the extra testing is to clarify if there is a regional problem or a perched problem.

Dr. Souza stated that this is a complicated situation. The applicant has met what needs to be met in terms of peak flow mitigation and pollutant removal. The issue revolves around recharge and also what happens in terms of the water that has been collected during a storm event, regardless of a storm event. A test was performed, and the results show that there was standing water at that depth. Dr. Souza stated that Mr. Hansen has a good solution. The site might have to be redesigned. Mr. Hansen stated that if you look at the site, you have mottling down at 5 feet to 6 feet and then on soil log number two it states that no permeability test was performed due to water. Mr. Hansen stated that this is a small site, you have perched zone of saturation down in the middle of the soil logs; you have got a soil log indicating that you did not permeability test due to water. He did not feel that the applicant had conclusive determination that you don't have a water problem.

Mrs. Flynn stated that Route 22 has always had a drainage problem. She is concerned that this site will increase the problem. It is up to the board to decide to take the advice of their professional. Mrs. Fort stated that she would feel better if the additional testing was performed and also she did not feel that the applicant would lose that much time.

The board took a 5 minute break at 8:59 p.m. to allow Mr. Peck to speak with his client.

The board returned at 9:04 p.m.

Mr. Peck stated that if the applicant receives an approval, they would ask that it be a conditional approval and if water does appear that they be permitted to redesign the system to the township's satisfaction and if that cannot be accomplished, then they would redesign the system. Mr. Peck stated that they would perform the test.

Mr. Flath stated that he didn't think that the entire site would have to be redesigned if there is water found. They can redesign the basin where it is located. He stated that they would perform the test in accordance with Mr. Hansen's recommendation.

Britt Simon stated that he spoke to his previous client, Pacesetter, and has learned that the matter has been resolved. Therefore, Mr. Simon would not have to

recuse himself from the application. Mr. Flath informed the board that he had no objection in allowing Mr. Simon to continue.

Mr. Souza stated that he is concerned about the functionality of the system. The stormwater ordinance does have an element to it that requires mitigation in the case that an applicant cannot fulfill in total the requirements of the stormwater ordinance on their site. There is another escape clause in the ordinance. Mr. Hansen stated that it is not an escape route during construction, it is an escape route during the planning process.

Ms. Fort stated that the applicant has agreed to perform the additional testing.

Dr. Souza stated that all of the conditions in his October report have been met. Besides the issue of the soil, there were some technical issues that should fall under housekeeping and could be cleared up with no problem.

Regarding Mr. Hansen's report, the traffic engineer issues will be addressed at next month's meeting.

Mr. Peck stated that regarding number 6 on page 4 of Mr. Hansen's report, he believes that the fire officer's John Barczyk recommendation for a twelve inch water main pipe was too large. Mr. Hansen answered that the water main has to be a minimum of eight inches pursuant to RSIS. Mr. Hansen stated that he will reach out to Mr. Barczyk for clarification.

Dr. Souza requested that the testing results should be provided to his office periodically. Mr. Zederbaum agreed to this request.

Mr. Zederbaum referred to Brent Krasner's report and he pointed out that no sidewalks are shown along either Route 22 or Haver Place. He did not want to promote pedestrian travel along Route 22. The board noted that there are pedestrians walking on busy roads in other municipalities. It is the board's call if they want the sidewalk plan included.

Mr. Krasner had another issue regarding obtaining access from the building to the proposed open space area. He stated that cross walks should be located and relocate some of the islands in the parking lot to allow cross walks. Mr. Zederbaum answered that they would relocate an island (pointed to plan but did not identify for the record) but could not relocate the other island. Another item was the swale in the parking lot. The last item was the access from the COAH units to the open space, perhaps a paved path. Mr. Zederbaum answered that he did not want to pave the path because of the impervious cover.

Mr. Hansen suggested that his topic be revisited once they address the parking lot.

David Chewey, Landscape Architect, Somerville, New Jersey, stated that he is a degree in architecture. He is a Certified Landscape Architect in the State of New Jersey.

Madam Chair stated that Mr. Chewey has performed work for her personally.

Exhibit A-12 Sheet 14 of 19 – revised 11-11-08 Landscape Plan

Mr. Chewey testified that his main concern was to lessen the appearance of the two uses. He proposed a four season landscape. He addressed the plan for the board's benefit indicating the layout of the landscape. He pointed out that they are proposing to use native plantings so that it will work with the environment. They could not plant shade trees on top of the drainage system so they were able to plant non-invasive shrubs. They designed a walkway for the residents that are located at the front of the building. This is located on the southern part of the building. The walkway is curved. It is done in a residential theme.

Mrs. Flynn wanted to know if the play area was located near the entrance. Mr. Chewey answered yes.

Mr. Krasner was concerned about the location of the play area. He suggested that this be located in the center of the space since there will be little privacy for the adjacent neighbor.

Mrs. Flynn wanted to know if pets would be allowed. Mr. Flath answered no.

Mr. Peck addressed the board that this is everything that they planned on presenting this evening. The only issue that is left is traffic. Mr. Peck signed an extension to December 31, 2008. This matter has been carried with no further notice to December 9, 2008, beginning @7:30 p.m.

H. ADJOURNMENT:

Mrs. Flynn made a motion to adjourn at 10:08 p.m. Mr. Henrickson seconded the motion. *Motion was carried with a vote of ayes, nays none recorded.*

Respectfully submitted,

Linda A. Jacukowicz