

**READINGTON TOWNSHIP PLANNING BOARD
MINUTES
May 29, 2007**

A. Chairman called *the meeting to order at 7:10 p.m.* announcing that all laws governing the Open Public Meetings Act had been met and that the meeting had been duly advertised. The Board saluted the flag.

B. Roll:

Mrs. Allen	present
Mr. Cook	absent
Mrs. Duffy	present
Mrs. Filler	present
Mr. Gatti	present
Mr. Klotz	present
Mr. Monaco	absent
Mr. Smith	absent
Madam Chair	present

**Michael Sullivan - Clarke – Caton & Hintz
John Hansen, Ferriero Engineering
Valerie Kimson, Esq. Purcell, Ries, Shannon, Mulcahy & O’Neill
H. Clay McEldowney, Hatch, Mott & McDonald
Geoff Goll, Princeton Hydro**

C. APPROVAL OF MINUTES

- 1. May 14, 2007– Mrs. Duffy made a motion to approve the minutes. Mrs. Allen seconded the motion. *Motion* was carried with a vote of *Ayes all, Nays none recorded.***

D. CORRESPONDENCE:

Mrs. Allen addressed the correspondence from Lloyd Tubman regarding the procedure for preliminary and final site plans. Mr. McEldowney informed everyone that he insists signatures on preliminary drawings.

E. RESOLUTIONS:

- 1. Deborah Koch
Minor Subdivision
511 Locust Rd.
Block 65, lot 18.02**

Attorney Kimson stated that the draft resolution had been previously circulated. Some of the information was missing only because there was additional discussion regarding the stormwater management. There were no review letters regarding this matter. There were some recommendations made by the township engineer. The board granted a waiver from the township's stormwater design standard for 90% TSS removal to allow a minimum TSS of 80%. Mr. McEldowney also recommended that a certificate of occupancy not be issued on Lot 18.05 until the proposed stormwater management plan improvements have been completed. Additionally, the conservation easement signs conforming to schedule C of the land use ordinance shall be placed at locations approved by the township engineer prior to the issuance of a CO for lot 18.05 and signed details shall be added to the subdivision drawings. Mrs. Filler suggested that prior to getting a building permit the delineation of the conservation easement must be completed.

Mrs. Filler made a motion to approve the resolution with the aforementioned changes. Mr. Klotz seconded the motion.

Roll call:

Mrs. Allen	aye
Mrs. Duffy	aye
Mr. Gatti	aye
Mrs. Filler	aye
Mr. Klotz	aye
Madam Chair	aye

- 2. Wilmark Building Contractors, Inc.
Amended Resolution for Final Major Site Plan
6 Lake Drive
Block 21.12, lot 46.08**

This was previously discussed and approved. It will be circulated again and will be adopted at the next meeting.

- 3. Aurora R. Pipeling
Minor Site Plan
118 Main Street
Block 34, lot 7
Action date: May 24, 2007**

Madam Chair announced that this matter is carried to the next meeting.

4. **Sprint Spectrum
Preliminary & Final Major Site Plan
Block 64, Lot 31.03
1110 Barley Sheaf Road
Action date: May 14, 2007**

Madam Chair announced that this matter is carried to the next meeting.

F. TECHNICAL REVIEW COMMITTEE:

- 1 **Mountain Woods
Preliminary Major Subdivision
Block 4, lot 57
Action date: June 2, 2007**

Mrs. Filler stated that the TRC recommended that this matter should be deemed complete.

Mrs. Filler made a motion to deem the application complete. Mrs. Duffy seconded the motion. *Motion was carried with a vote of Ayes all, Nays none recorded.*

2. **John Nichodemus
Lot Line Adjustment
45 Pleasant Run Rd.
Block 64, lot 36
Action date: June 3, 2007**

Mrs. Filler stated that the TRC recommended that the application not be deemed complete. A survey must be submitted.

G. NEW BUSINESS:

1. **Ordinance - amend Article IV §148-27.4
“Solberg-Hunterdon Air Safety & Historic Airport District”**

Mrs. Duffy read into the record some minor clerical errors and suggested that they be corrected.

Mrs. Filler made a motion that this ordinance is not inconsistent with the Master Plan and should therefore be forwarded to the Township Committee for approval with the minor clerical corrections. Mrs. Duffy seconded the motion.

Roll call:

Mrs. Allen aye
Mrs. Duffy aye
Mr. Gatti aye
Mrs. Filler aye
Mr. Klotz aye
Madam Chair aye

H. VOUCHERS:

Mrs. Filler made a motion to approve the vouchers as submitted. Mrs. Duffy seconded the motion. *Motion was carried with a vote of Ayes all, Nays none recorded.*

I. PUBLIC HEARINGS:

1. Adner Ebeb Realty Corp.
 Minor Subdivision
 Block 39, lot 8.01
 Action date: May 29, 2007

H. Clay McEldowney stated for the record that he has recused himself from this application. The board had previously retained the special engineering services of John Hansen, from Ferriero Engineering.

Ernest Renda, Esq., stated that he is the attorney for the applicant. He stated that the application is for a minor subdivision. The property is located on the easterly side of Ridge Road. It is adjacent to the Conrail Rail Line and to the Ernest Renda Industrial Park and some residential properties. The applicant seeks to create 2 lots. A new residential building lot with approximately 3 ½ acres and the remainder lot of approximately 5 acres upon which there is an existing single family residence, and several farm buildings and an accessory residential unit which will be retired upon approval of this application. A variance is requested for the front yard set back for the single family home and for the accessory farm building.

James Mantz, Engineer was sworn. Additionally, Attorney Kimson swore in the board's professionals.

Mr. Mantz stated that he is a licensed professional engineer and land surveyor in the State of New Jersey. He has previously qualified as an expert before this board.

Exhibit A-1 Minor subdivision plan for Block 39, Lot 8.01 dated revised 2/21/07

Mr. Mantz referred to this exhibit. He stated that they are proposing to create Lot 8.02 which would be a 3 ½ acre lot that would be located to the south of the existing building. Soil logs and perk tests were performed for primary and reserve systems

on proposed Lot 8.02. Additionally, they performed soil testing on proposed Lot 8.01. Currently there is an application pending before the Readington Township Board of Health.

Mr. Mantz stated that since they are not proposing road improvements, the applicant will contribute to the township the appropriate dollar amount that it would cost to install these improvements. He addressed the soil erosion and sediment control plan. He stated that the stormwater management regulations are triggered at a disturbance of more than one acre, or an impervious area of more than ¼ of an acre. He has indicated that they are below the limit of disturbance.

Mr. Mantz stated that a wetlands application has been submitted to the NJDEP. There are wetlands on the easterly side of proposed Lot 8.01 along the existing wall. The wall blocks the water from flowing in an easterly direction that was the natural path of the runoff. The ditch that runs along the wall came into existence by virtue of the wall being constructed. The building and parking lot on lot 53.18 appears to be filled to a height of 3 to 4 feet and the wall is an integral part of the grading. The water naturally finds its way and hits the wall and creates the ditch. There is an existing swale on proposed lot 8.02 which travels in an easterly direction. There is a swale running along the toe of the concrete block wall that is located on lots 53.18 and 53.19 traveling in a southerly direction. These two swales combine and the water then travels easterly along the rear of Lot 53.18.

Mr. Klotz asked if the existing conditions are problematic and whether they are natural or would they be exasperated by this development. Mr. Hansen answered that in his review letter dated May 23, 2007 it speaks to this issue. He stated that he inspected the property and he would characterize it to be more like a drainage ditch. It is 2 feet wide. As far as existing conditions versus proposed conditions, they have to show that the approval of the subdivision would exasperate the runoff. A swale design should be completed as a condition of approval. He also suggested tying into the railroad right-of-way.

Mr. Hansen stated that consideration should be given to the location of the swale regarding how close it is to the block wall and the property line.

PUBLIC COMMENTS:

Anthony Koester, Dilts & Koester stated that he represents Triad Tool & Die Company. Mr. Koester wanted to know if Mr. Mantz had ever observed ponding on this property. Mr. Mantz answered yes. Mr. Mantz stated that if the disturbance area or impervious area exceeds the threshold, they would have to design a stormwater management plan for lot 8.02.

Mr. Goll clarified that right now the application is under the threshold for requiring management of stormwater runoff. However if they did something on either lot to increase impervious coverage over the quarter acre threshold, or 1 acre disturbance

threshold, it would be required. Mr. Mantz testified that they have already agreed that if that would be the case that they would design a water quality swale. It would be moved away from the wall. They would also contact Conrail to inquire if they could connect to their swale.

Mrs. Duffy had a question regarding the wall. She stated that what she is hearing is that there is a wall that divides lot 8.01 and lot 8.02 from lot 53.18. She wanted to know how the water would get to lot 53.18 from the 2 other lots. John Hansen stated that if there was a significant storm and the capacity is exceeded, it could go through the wall. The wall is built on grade. The swale is designed for a 25 year storm.

Mr. Hansen recommended that the board consider a condition to impose a lot development plan on any future development on Lot 8.01. The board has already discussed imposing the condition of a development plan on the newly created lot. This way the township engineer can observe that the combination of development on the two lots is not exceeding the lot development plan.

Mr. Renda stated that for housekeeping purposes, he wanted to address a condition in Mr. Sullivan's report regarding the shade trees. If the applicant is going to make the in lieu payment, they do not want to plant shade trees. Mrs. Flynn stated that she agreed. The cost of what it would be to plant the shade trees could be a line item when calculating the cost of the road. Mr. Sullivan referred to the apartment. He stated that there should be a condition of approval that the apartment must be abandoned pursuant to the construction code.

PUBLIC COMMENTS:

Anthony Koester, Esq., stated that he would like to ask his client some questions. Eric Wichelhaus was sworn. He is the president of Triad Tool and Dye. He stated that he is the tenant on Lot 53.18. This is a contract manufacturer business. He identified to the board where his septic system was located on the property. Mr. Wichelhaus testified that he has observed the conditions during rain storms.

**Exhibit O-1 Photographs consisting of 2 photos of the septic system area
Showing ponding taken June 2006**

**Exhibit O-2 Photographs consisting of 3 photos of the septic system area which is a
duplicate of O-1 – taken June 2006**

The photographs were taken by Mr. Wichelhaus one year ago. He informed the board that one year ago there was a problem with their septic system. The first photograph shows pits that were excavated prior to opening the septic system.

Mr. Koester stated that the reason his client is appearing this evening is because there is ponding on the property due to the sheet flow coming across the applicant's two lots which is creating flow along the block wall.

Exhibit O-4 Photograph taken from on top of wall, showing ponding taken June 2006

Exhibit O-3 Photograph taken June 2006 – detailed shot of stream of water that runs parallel to the railroad

Mr. Wichelhaus testified that their septic is pumped every 6 months.

Madam Chair asked if Mr. Wichelhaus had gone to the County Board of Health. He answered no.

Mr. Renda asked Mr. Wichelhaus if the photographs were taken approximately one year ago. Mr. Wichelhaus answered that was correct. Mr. Renda stated that this application was filed September 2006 and whatever was photographed is a result of conditions that have nothing to do with this development. Mr. Wichelhaus answered yes. Mr. Renda asked if a new septic system had been installed. Mr. Wichelhaus answered yes. Mr. Renda stated that Mr. Wichelhaus's complaint to the board is with regard to a system that had failed and is now repaired. Mr. Renda stated that he is before the board testifying that he had a failing system, not that the system is failing now, so what is the objection? Mr. Wichelhaus answered that he does not have an objection now except that if the water runoff from the adjacent property would continue to maintain the same level of runoff he believes that he would have additional problems with his septic. Mr. Renda stated that Mr. Wichelhaus is using this board to establish a posture with his private dispute with his landlord.

Geoff Goll wanted to know when the septic system was repaired. Mr. Wichelhaus answered one year ago.

Mr. Hansen testified that the design of the swale is going to maintain the path of the flow and would prevent that section of the property from undergoing any more soil erosion. It would not reduce the amount of flow going on to the property currently. He is recommending that the applicant's development control the water. There is still going to be water going to that property.

Geoff Goll wanted to clarify that the swale is not only for drainage, but for stability and water quality.

Exhibit O-5 – Photograph taken June 2006

Mr. Wichelhaus stated that this photo depicts the conditions after the new septic was installed after a heavy rain storm.

Madam Chair asked if this was the completed septic system was it inspected by the county. Mr. Wichelhaus stated that this was prior to the final inspection. Madam Chair asked if the county saw these pictures. Mr. Wichelhaus answered no.

PUBLIC COMMENTS:

There were no comments from the public.

Madam Chair stated that she has confidence in the board's professionals that they have reviewed the stormwater calculations and that it would not negatively impact the neighbor's property. If the neighboring property owner had concerns about their septic, they should have addressed these items with the county at the time it was being repaired. She stated that the applicant has agreed to abide by the conditions recommended by the professionals therefore she would be in favor of approving the application.

Mrs. Duffy concurred with the chair. She stated that they have to look at if the proposed subdivision would add to the current runoff. The testimony that was presented was that it would not add to the runoff. Therefore she would also approve the application.

Mr. Klotz stated that should the board allow any runoff into the stream. Mr. Goll stated that since the applicant is not disturbing more than one acre or increasing more than one-quarter of an acre impervious coverage, then you cannot regulate the generation of stormwater runoff.

Mr. Hansen suggested that the board could require as a condition of approval that additional drainage measures be applied. It would amount to a few additional drywells to get the numbers down to zero.

Mr. Renda stated that he would have no problem with that condition. When the lot is developed, the engineer would review these issues. If part of that assessment is that drywells should be installed, then the builder would have to construct drywells. Mr. Hansen stated that this will be a condition that prior to issuance of a building permit a lot development plan must be approved that the engineer.

Mrs. Filler did not want anymore runoff coming off of the property.

Mrs. Filler made a motion to approve the applications pursuant to the following: prior to the issuance of a building permit the applicant shall install drywells or like mitigation device to control driveways stormwater runoff when the lot is developed; the application shall contribute the cost of improvements to Ridge Road and trees; the applicant shall re-design the ditch as a swale pursuant to Hunterdon County Soil Erosion Standards; the applicant shall investigate the feasibility of connecting to the drainage swale in the railroad right-of-way, which is recommended but not required

subject to the railway giving permission; the applicant shall allow for a future planting area in the buffer along the swale near the existing concrete wall; if a future development of either lot or combined lots the applicant must meet the stormwater management requirements; a lot development plan shall be submitted for lot 8.01 and lot 8.02; there should be a deed notification regarding the stormwater management; the applicant shall abandon the use of the apartment and make it uninhabitable pursuant to code enforcement before the issuance of a building permit. The applicant shall comply with the recommendation set forth in planning and engineer's comment letters; there is a variance for the front yard set back for an existing condition for the house and accessory building; Mrs. Duffy seconded the motion.

Roll call:

Mrs. Allen	aye
Mrs. Duffy	aye
Mr. Gatti	aye
Mrs. Filler	aye
Mr. Klotz	aye
Madam Chair	aye

- 3. Saint Elizabeth Ann Seton Roman Catholic Church
Final Major Site Plan
Block 95, lot 15
Action date: June 7, 2007**

Mrs. Duffy recused herself from this application.

Mark Mako, Esq., stated that he is the attorney for the applicant.

Attorney Kimson swore in Robert J. Clerico and the board's professionals.

Mr. Clerico stated that they are in agreement with the professionals' reports. He stated that Mr. McEldowney requested the re-numbering of the plans. The application will comply with the request and they will resubmit the plans.

Mr. Sullivan had no comments.

PUBLIC COMMENTS:

There were no comments from the public.

Mrs. Allen made a motion to approve the application. Mrs. Filler seconded the motion.

Roll call:

Mrs. Allen **aye**
Mr. Gatti **aye**
Mrs. Filler **aye**
Mr. Klotz **aye**
Madam Chair **aye**

- 3. Heather Liardo
Minor Subdivision
92 Dreahook Rd.
Block 51, lot 25
Signed extension to May 29, 2007**

Daniel Matyola, Esq., stated that he is the attorney for the applicant. He informed the board that at the last hearing the engineer completed his testimony.

Mr. McEldowney informed the board that he did a rough sketch demonstrating a different lot configuration for this subdivision. He objected to the applicant's plan. The rear portion of the lot to the left has rear lands that are not contiguous with other lands other than by a very narrow tongue. This is a poor lot design. The preferred arrangement would be to put back the rear land as a part of the front land.

Exhibit:

B-1 Mr. McEldowney's alternate sketch

The variance that would be required for Mr. McEldowney's plan would be for the failure to meet the minimum lot circle and one for the lot circle being too far from the front lines.

Mr. Decker stated that he looked at the same type of configuration as Mr. McEldowney with the exception of rather than shifting a lot line over the ten feet, they picked a point in line with the existing carriage house. It is essentially the same design. The difference is that the barn is not on the lot suitable for farm land assessment.

Ken Schiller, Esq., from Schiller & Pittenger, informed the board that he represents some of the neighbors. He was confused as to why Mr. McEldowney presented a plan. Mr. McEldowney stated that the plan was for informational purposes only.

Mr. Sullivan stated that the area has a rural character. The houses are tucked back. Per this proposal, it appears that there is going to be an additional driveway that will require the removal of vegetation along the roadway. He would like to clarify as to what will be removed.

Mr. Decker stated that the township would benefit by the approval of this application because they would clean up two existing uses. Regarding the frontage, they agreed to work with Mr. Sullivan's office. There was a clearing where the driveway is currently proposed. At one time there was a driveway in this location. Mr. Sullivan suggested not putting in another driveway.

Mrs. Allen stated that she was concerned about the increase in intensity of the use on the property.

Madam Chair stated that she has not heard any positive benefits the way the application stands now. There is a non-conforming issue consisting of 2 dwellings on the property. The alternative creates 2 drastically non-conforming lots that do not appear to fit into the neighborhood. She requested that the applicant provide additional evidence to mitigate this matter.

Mr. Matyola informed the board if they were uncomfortable with the "jog" in the lot layout, they would take it out. It would have been nice to maintain farmland assessment, but they will remove it. This was considered to help maintain the character of the area by keeping one lot in farmland assessment and therefore farmland use. The lot circle variances are minor variances. In Mr. Matyola's opinion, it would be in the best interest of the township to make these 2 homes conform to the character of the neighborhood and that would be single family houses on separate lots.

Mrs. Duffy stated that she does not have a problem with the "little jog" area and more to do with what is going to go on in the back portion of both of those properties. Testimony was given that there are steep slopes and it is heavily wooded. Mr. Matyola stated that if the approval was granted and a condition was imposed that there could not be any further subdivision, nothing more could be developed. Mrs. Duffy explained that they could put horses back there and they could cut down all of the trees.

PUBLIC COMMENTS:

Edward Polak 90 Dreahook Road - wanted to know what the reason was that they created a road from the farmhouse down to the corner of his property. He stated that 12 to 15 feet of woods was knocked down.

Mrs. Liardo stated that the only time that there was any work done back there was to remove the trees that had fallen.

Anthony Fazio 75 Dreahook Road – wanted to know if it the property is going to stay in farmland assessment, and what is the purpose of the driveway.

Mr. Matyola stated that only one lot will be farmland assessed.

Richard Pierce 13 Campbell's Brook Road – stated that for the group of the homeowners who are adjacent to this property, approving this application goes against their quality of life.

Julius Brandes 9 Campbell's Brook Road – stated that he has lived in the township for 30 years. He stated that there is a significant change in the water runoff coming from the property.

Joe Wolenski 11 Campbell's Brook Road – stated that he has resided at this property since 1978. He is lot 58. He stated that there was an easement installed when his subdivision was established. He stated that the benefits for approving this subdivision are zero for neighbors.

Attorney Schiller presented each board member with a letter that consisted of a summary of the testimony demonstrating how it is lacking in terms of meeting the requirements of the land use law in terms of granting the variance.

Exhibit O-1 – May 24, 2007 letter from Attorney Schiller's office together with the transcript from the May 14, 2007 meeting.

Attorney Schiller stated that the applicant's engineer and planner testified that the property is beautiful. It is in an area of single family homes. The applicant described the house and carriage house. Mr. Schiller stated that if you drive by the property, you would not know that both of these homes are on one lot. This arrangement functions. In order to obtain a variance, you are either going to get a C-1 or a C-2 variance. A C-1 is a hardship variance. A C-2 is a variance that has benefits to the community. The applicant's attorney stated that this is not a C-2 variance. There were no proofs submitted that would indicate this application to be a C-2 variance. The only thing it does is that it eliminates a use variance. In terms of a C-1 variance, there was no testimony that there is a hardship. The only hardship is that the applicant wants 2 lots.

David Simpson 651 Route 523 – stated that he has followed this hearing. He does not know why the minor subdivision cannot be granted.

Jack Weinschenk 77 Dreahook Road wanted to know why the old driveway was closed. He thought perhaps because it was on an "S" curve.

Mr. Polak stated that back in the 1980's the Barcarro's had a problem with the drainage.

PUBLIC COMMENTS CLOSED:

Mr. Matyola responded to the public comments. He stated that he testified that you cannot have a C-2 variance with a subdivision. He stated if the neighbors have a

drainage problem, it does not have anything to do with this subdivision. The applicant is willing to add a condition of approval that there will be no further subdivision. No trees will be removed to create the new driveway. If they are required to remove any trees, they would replace the trees. He stated the issue is whether a minor subdivision makes a better situation by conforming more closely to the zoning ordinance and whether that benefit outweighs the detriment of the 2 minor bulk variances and one waiver.

Mr. Klotz stated that he agreed that the board would never grant an application for a new development for 2 homes on one lot. He is trying to balance his decision. He informed the board that in his opinion if this is approved it would open the door to more development. He did not connect the stormwater issues on Campbell's Brook Road with this subdivision. The property is in farmland assessment, so technically this is a farm. There are farms in the township that have a main dwelling and have an accessory dwelling attached to the barn. This does not offend the character of the neighborhood, in the alternative it fits in. He did not see the inherent benefit to granting the relief.

Mr. Gatti stated that he did not see any benefit to installing a driveway on an "S" curve. He felt that it would change the character of the township.

Mrs. Filler stated that she agrees with everyone else. Her concern if this is approved would be to protect the trees at the rear of the property. She stated that she would not be inclined to grant the approval because she does not feel it enhances the public good.

Mrs. Allen stated that in her opinion the applicant did not show that the variance can be granted without substantial detriment to the public good. By granting these two variances it would not uphold the intent and purpose of the zone plan. By weighing the positive and negative criteria, the applicant did not make a case for the two variances.

Mrs. Duffy stated that she is in agreement with everyone else. On one hand, the board generally denies flag lots where the only issue is that the lot circle is too far from the street and everything else is conforming. So in that sense they regularly adhere to the requirements of the ordinance. On the other hand, the applicant's attorney stated that it solves the issue of two homes on one lot. She did not feel that the applicant demonstrated that this was not a detriment to the public good because it is simply a subdivision. She believes that there will be construction and building will happen in the future.

Madam Chair stated that she agreed with everyone's statements. She stated that the lack of information does not show that there would not be any detriment to the public good. The zoning ordinances are negatively impacted, notwithstanding the 2 dwellings. Many residences in the township have an accessory apartment situated on the property. She did not feel that the applicant met their burden of proof.

They have not demonstrated that the intent of the zoning plan or the Master Plan will not be negatively affected.

Mrs. Allen made a motion to deny the application. Mrs. Filler seconded the motion.

Roll call:

Mrs. Allen	aye
Mrs. Duffy	aye
Mr. Gatti	aye
Mrs. Filler	aye
Mr. Klotz	aye
Madam Chair	aye

- 4. Wilmark Building Contractors
Final Major Subdivision
Block 25, lot 38.01 –
Signed extension and carried to June 11, 2007**

Madam Chair announced that this matter was carried at the request of the applicant to June 11, 2007.

J. ADJOURNMENT

Mrs. Filler made a motion to adjourn the public meeting at 11:09 p.m. Mrs. Duffy seconded the motion. Motion was carried with a vote of Ayes all, Nays none recorded.

Respectfully submitted,

Linda A. Jacukowicz