

TOWNSHIP OF WASHINGTON, BERGEN COUNTY
 PLANNING BOARD MEETING
 September 26th, 2018

CALL TO ORDER

SALUTE TO THE FLAG

OPEN PUBLIC MEETING ACT

In compliance with the Open Public Meetings Act of the State of New Jersey, notification of this meeting has been sent to The Ridgewood News, our official newspaper in the Township of Washington and notice has been posted on the bulletin board at Town Hall.

ROLL CALL: Mr. Golick (Absent), Mr. Pinnick , Mr. Sabino , Mr. Scudieri , Mr. Sears, Mr. Vinagre (Absent), Mayor Calamari, Councilman Cumming, Chairman Murphy

Board Engineer- Paul Azzolina

Board Attorney- Louis Lamatina, Esq.

Mr. Murphy opened the meeting by explained the Planning Board has a full Agenda for the meeting ahead and stated the Board would hear testimony and from the Public until 10:00pm.

Mayor Calamari Appointment of a new Class II member to the Planning Board, Dan Scudieri, Director of the DMF Department. Mr. Scudieri is an Officer of the Town.

Mr. Sears requested that the Planning Board go into closed session to discuss a legal matter.

MOTION TO GO INTO CLOSED SESSION

ROLL CALL:

MOTION		SECOND			AYES	NAYES	ABSTAIN	ABSENT
Mr. Golick		Mr. Golick		Mr. Golick				X
Mr. Pinnick		Mr. Pinnick		Mr. Pinnick	X			
Mr. Sabino		Mr. Sabino	X	Mr. Sabino	X			
Mr. Scudieri		Mr. Scudieri		Mr. Scudieri	X			
Mr. Sears	X	Mr. Sears		Mr. Sears	X			
Mr. Vinagre		Mr. Vinagre		Mr. Vinagre				X

Mayor Calamari		Mayor Calamari		Mayor Calamari	x			
Councilman Cumming		Councilman Cumming		Councilman Cumming	x			
Chairman Murphy		Chairman Murphy		Chairman Murphy	x			

BACK IN OPEN SESSION- 7:43PM

MOTION TO OPEN THE PUBLIC PORTION

ROLL CALL:

MOTION		SECOND			AYES	NAYES	ABSTAIN	ABSENT
Mr. Golick		Mr. Golick		Mr. Golick				X
Mr. Pinnick		Mr. Pinnick		Mr. Pinnick	X			
Mr. Sabino		Mr. Sabino	X	Mr. Sabino	X			
Mr. Scudieri		Mr. Scudieri		Mr. Scudieri	X			
Mr. Sears	X	Mr. Sears		Mr. Sears	X			
Mr. Vinagre		Mr. Vinagre		Mr. Vinagre				X
Mayor Calamari		Mayor Calamari		Mayor Calamari	X			
Councilman Cumming		Councilman Cumming		Councilman Cumming	X			
Chairman Murphy		Chairman Murphy		Chairman Murphy	X			

MOTION TO CLOSE PUBLIC PORTION

ROLL CALL:

MOTION		SECOND			AYES	NAYES	ABSTAIN	ABSENT
Mr. Golick		Mr. Golick		Mr. Golick	X			X
Mr. Pinnick		Mr. Pinnick		Mr. Pinnick	X			
Mr. Sabino		Mr. Sabino	X	Mr. Sabino	X			
Mr. Scudieri		Mr. Scudieri		Mr. Scudieri	X			

Mr. Sears	X	Mr. Sears		Mr. Sears	X			
Mr. Vinagre		Mr. Vinagre		Mr. Vinagre				X
Mayor Calamari		Mayor Calamari		Mayor Calamari	X			
Councilman Cumming		Councilman Cumming		Councilman Cumming	X			
Chairman Murphy		Chairman Murphy		Chairman Murphy	X			

OLD BUSINESS

DONALD F. BECKER, 10 Woodfield Road, Block 3402, Lot 3 Application approved for the removal of 13 trees at August 29, 2018 Planning Board meeting. Applicant submitted a plan for replacement of trees for Board’s approval.

Mr. Becker asked Mr. Chris Ramundi, Horticulturist, to testify on his behalf. Mr. Ramundi drew up plans for tree replacement on Mr. Becker’s property.

Swearing in of Chris Ramundi

Mr. Ramundi stated he had drawn plans for replacement of 9 trees on Mr. Becker’s property and selected 2 types of trees to replace the removed trees. Sizes are noted on the plans submitted to Planning Board. Trees will go in in the fall of 2018; or spring of 2019 depending on timing

MOTION TO APPROVE THE PLAN

ROLL CALL:

MOTION		SECOND			AYES	NAYES	ABSTAIN	ABSENT
Mr. Golick		Mr. Golick		Mr. Golick				X
Mr. Pinnick		Mr. Pinnick		Mr. Pinnick	X			
Mr. Sabino		Mr. Sabino	X	Mr. Sabino	X			
Mr. Scudieri		Mr. Scudieri		Mr. Scudieri			X	
Mr. Sears	X	Mr. Sears		Mr. Sears	X			
Mr. Vinagre		Mr. Vinagre		Mr. Vinagre				X
Mayor Calamari		Mayor Calamari		Mayor Calamari	X			
Councilman Cumming		Councilman Cumming		Councilman Cumming	X			
Chairman Murphy		Chairman Murphy		Chairman Murphy	X			

RESOLUTION APPROVED.

NEW BUSINESS

WASHINGTON TOWNSHIP HOUSING PLAN ELEMENT AND FAIR SHARE PLAN

ORDINANCE NO. 18-12: AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING ARTICLE VI, ENTITLED "CLASS AA DISTRICT," OF THE TOWNSHIP OF WASHINGTON ZONING ORDINANCE. ESTABLISHING THE REQUIREMENTS FOR AN INCLUSIONARY MULTI FAMILY AFFORDABLE HOUSING OVERLAY DISTRICT IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF WASHINGTON.

Mr. Murphy stated, The Planning Board, Having considered Ordinance No. 18-12, pursuant to Section 26 of the Municipal Land Use Law finds the proposed ordinances are in conformity with the Township's adopted and endorsed Housing Element and Fair Share Plan are consistent with the Township's Master Plan.

MOTION TO AUTHORIZE MR. MURPHY TO SIGN THE ORDINANCE

ROLL CALL:

MOTION		SECOND			AYES	NAYES	ABSTAIN	ABSENT
Mr. Golick		Mr. Golick		Mr. Golick				x
Mr. Pinnick		Mr. Pinnick		Mr. Pinnick	x			
Mr. Sabino		Mr. Sabino	x	Mr. Sabino	x			
Mr. Scudieri		Mr. Scudieri		Mr. Scudieri			x	
Mr. Sears	x	Mr. Sears		Mr. Sears		x		
Mr. Vinagre		Mr. Vinagre		Mr. Vinagre				x
Mayor Calamari		Mayor Calamari		Mayor Calamari	x			
Councilman Cumming		Councilman Cumming		Councilman Cumming	x			
Chairman Murphy		Chairman Murphy		Chairman Murphy	x			

MOTION APPROVED

NEW BUSINESS

JAMES A. VIVIANO, Current Application for 463 Van Emburgh Ave. Lot 2, Block 1306; Lot 1.05, Block 1305

AMENDED PRELIMINARY MAJOR SUBDIVISION/FINAL MAJOR SUBDIVISION APPROVAL, AMENDED PRELIMINARY MAJOR SITE PLAN/FINAL MAJOR SITE PLAN APPROVAL AND MAJOR SOIL MOVEMENT PERMIT.

Mr. Murphy excused Mr. Lou Lamatina Esq. and introduced Mr. Allen Bell Esq. to represent the Planning Board in capacity of Special Council for the balance of the Agenda.

Mr. Murphy explained to the public that the meeting would be limited to addressing the American Dream Estates application which has some history. Stated that the only person on dais who has been involved in this process from the beginning is Mr. Azzolina, as a result, Mr. Bell has been brought on as he has taken over as Special Counsel for the Township on this project.

Mr. Bell explained the Planning Board is hearing an application to amend preliminary approval to the application, and to apply for final sub-division site plan approval. Suggested that Applicant's attorney provide a history to the Planning Board. Mr. Bell also advised the public and Planning Board that the application before the Planning Board is limited to an amendment to the previously approved application. Stated that this is a Mt. Laurel project, but there are no Mt. Laurel units proposed for the site. The Applicant and the Township used a "RCA" to the city of Bayonne and no affordable housing units are being built on this site. The only change to the application is in respect to the sewage treatment which was initially a gravity system. The Applicant is now proposing to construct a pumping station on the site and a forced main to get sewerage to Van Emburgh Avenue; and then into the Ridgewood system. All other aspect of the application remains binding.

Mr. Shimanowitz, Esq., attorney for the Applicant, stated the Applicant is seeking amended preliminary sub division approval and final major sub-division approval as well as amended major approval and major site plan approval. Mr. Shimanowitz stated the Settlement goes back to July 2001 and he gave a history and details of the application. After the preliminary approval was granted in 2004; the proposed gravity system, which went through Kennedy Park, could not be done because it would have crossed Green Acres land. The Applicant then designed a pump station/forced main system which they are seeking approval for by way of amendment to the original Settlement Agreement.

Swearing in of the Site Engineer for the Applicant, Mr. Brian Murphy (hereafter referred to Mr. Brian Murphy).

Mr. Brian Murphy was accepted as an expert in the field of Civil Engineering in the original hearing and accepted by the Planning Board as an expert for this hearing.

Mr. Brian Murphy introduced Exhibits A-1 (4/29/16); A-2 (11/21/05), and A-3 (4/17/13).

Exhibit A-2 depicts the layout of the property and the surrounding areas with the original gravity system as well as the orientation of the property including Van Emburgh Ave., The Garden State Parkway, sub-divisions to the south and the Ridgewood town line as well as single family homes to the North. Stated the homes on the property will have access from Van Emburgh Avenue and will consist of single family homes and town houses.

Discussed the originally propose gravity lines which would have gone out to Kennedy Park and would have landed on Green Acres property rendering this sewage treatment method no longer feasible. Mr. Azzolina and Mr. Brian Murphy had met with Green Acres officials to determine if the line could cross the Property, but this was not permitted, eliminating the possibility of a gravity system.

A pumping station and force main ending at Genevieve Ct. and as depicted in Exhibit A-3 is now being proposed. Mr. Brian Murphy detailed for the public and the Planning Board how a forced main and pump station operates. Pointed out that the Homeowners Association must have a licensee operator to oversee the pumping station; and there is going to be a backup system and generator in the event of a power failure.

Mr. Bell asked Mr. Shimanowitz to go through the conditions of the preliminary approval and let Planning Board know what has been met and what has not been met so the Board knows what still needs to be accomplished.

Mr. Sears stated the Planning Board should have received a copy of the original Planning Board Resolution adopted on June 30, 2004, in order to make a comparison of what was agreed to in the Resolution and what was being proposed to determine what has been changed from settlement.

Mr. Sabino asked Mr. Bell if the Planning Board is required to have reviewed the Resolution and any other related documents prior to voting on the amendment being sought.

Mr. Sears stated that before any approval can be given the Board must see what has been changed and must see any documentation regarding Green Acres denial of the gravity system.

Planning Board took a 15 minute break in order to obtain copies for all of the Planning Board members.

Copies of Resolution distributed to the Planning Board.

Mr. Shimanowitz suggested that rather than the Applicant go through each of the 21 outstanding issues, the Applicant draft a Report on the status of all outstanding issues for the official record. This would give the Planning Board and the Public an opportunity to review in advance. Mr. Bell agreed this would be more efficient and asked to have it done in advance of the next meeting to afford Mr. Azzolina an opportunity to review. Mr. Azzolina was in agreement with this. This was the end of Applicant's testimony.

Mr. Azzolina concurred with Mr. Brian Murphy's testimony that there was no written denial from Green Acres. Stated that he was in attendance at a meeting with Green Acres and they did state it would be a difficult application and likely hood of approval was slim. Mr. Azzolina agreed it would be a difficult process to obtain Green Acres approval, but could not say it was impossible. The only way to determine that would be to have gone through the approval process which would be a costly undertaking for the Applicant and the Township.

Mr. Murphy opened the Meeting to public comment:

Diane Grimaldi (441 Van Emburgh Ave.) – discussed concern over Phase 1 soil studies having been done.

Discussion ensued about the relevance of this question to the application being made. Mr. Bell stated if there are no environmental issues within the 21 outstanding conditions this would not be the appropriate place to address environmental issues. If there are environmental conditions in the 21 outstanding conditions then they would be addressed.

Ms. Grimaldi had emailed Green Acres inquiring about the possibility of the sale of the Kennedy Green Acres property to a developer. Offered them a suggestion for a piece of property that seems ideal for Green Acres. Green Acres responded that these sales are generally not permitted unless these are compelling public need and/or overwhelming public benefit without feasible alternative. Questioned if this possibility had been fully explored.

Mr. Shimanowitz asked that the letter dated 8/12/2018 and response letter dated 8/15/2018 be marked into evidence.

Mr. Brian Murphy stated the Applicant had properly explored the Kennedy Park option as a gravity system is their preference but the pump station was considered to be the "feasible alternative" cited by Green Acres. Acknowledged that Green Acres did not give a definite "no" and discussed the multiple criteria to apply for Green Acres approval. Mr. Brian Murphy stated all experts are saying that it would be a futile effort to get approval from Green Acres; and it is

unreasonable to ask Applicant to do this. It would be a great expense to the Applicant and to the Township.

Ms. Grimaldi asked if the Applicant or the Township could get a more formal response from Green Acres on this question; and asked Applicant to do the due diligence of going through the process.

Mr. Murphy asked Mr. Azzolina if we had a record of the meeting held in the township with Green Acres. Mr. Azzolina will review his files for this but believes there was no written correspondence on file. Mr. Azzolina did concur with Mr. Brian Murphy on the chances of getting approval but reiterated that the only way to be sure is to go through the application process.

Mr. Shimanowitz-stated this is less about the cost and more about the futility of the effort as experts on both sides agreed it is virtually futile to ask the Applicant to move forward with something like this.

Mr. Sabino asked about the process in case of malfunctions.

Mr. Brian Murphy stated that the pumping station will only be allowed if run by a licensed professional. Additionally, there is a backup system with storage capacity and generators in the event of power outage.

Discussed ensure regarding soil testing. Ms. Grimaldi asked if soil tests could be done before digging starts as she is concerned about water contamination. Cited removal of numerous items from the property already. Mr. Azzolina did not believe site remediation was discussed as part of the original conditions of approval. Ms. Grimaldi asked if the Resolution can be amended to test the soil.

Mr. Bell stated this cannot amend the Resolution with respect to issues not being sought to be amended.

Mr. Sears asked if the DEP can be called by the township to do an investigation.

Ms. Grimaldi further inquired about the oil tank on the property. Mr. Azzolina spoke with the environmental contractor and stated the Applicant did have permits to do the work and there was no leakage from the tank pictured in a photo presented by Ms. Grimaldi. Stated that the process for tank removal goes through the Building Department and work being done is permitted at part of the conditions of the Agreement.

Mr. Sears asked if there was a DEP report on clean up. Mr. Azzolina stated DEP cleanup is not part of the function of Township Engineer and offered that anyone can call DEP as to a

dangerous condition. Phase 1 Report will not typically contain soil reports and anyone developing site should do testing for own protection.

Ms. Grimaldi stated she would like to see a soil report as a condition of the Resolution. Inquired if there is currently a Developer for this property and about the township landscaper to approve work being done. She was told the landscaper is currently retired, but the Township will have to hire someone to review this.

John Snyder (Pascack Press and town resident) had questions about procedures for the approval process and the extension after so much time has passes. Stated that the conditions on the ground in regard to the environment may have changed since the initial approval.

Mr. Shimanowitz stated that the preliminary approval is in full force and effect under land use law and do not expire. Zoning has been issued under Court Order by way of settlement Agreement.

Mr. Bell outlined the Permit Extension Act, which extended all approvals until the act expired in 2016, in the intervening period the Applicant received an extension of the approval from the Planning Board.

Mr. Bell stated that if environmental issues are in the 21 outstanding conditions they will be addresses; but if they are not, the Planning Board is not the place to address these at this point. The Applicant has the right to apply for this amendment to the application.

Mr. Sabino asked that since approval was given in 2004, have any Zoning rules changed since that time that would affect this project. Mr. Shimanowitz stated there have been no zoning changes; and the Applicant will comply with any laws that apply to the project.

Megan Callea (6 Katharina Place) Asked about noise studies being done on the pump station. Voiced concern that this kind of development will change the Township into a high density community.

Mr. Shimanowitz stated all equipment is underground and noise will not be an issue.

Ralph Schumann (495 Van Emburgh Ave.) Inquired about how the pumping station will affect well water in his neighborhood, concerned about contamination.

Mr. Brian Murphy stated waste from any leak would come out of the top; will all drain toward GSP; and a licensed professional operator will be in charge to oversee in event of leak. Inspections and reporting will be done by a license operator.

Mayor Calamari questioned Joseph Martone (4636 Fox Lane, Wall Township); Mr. Martone has a C4 collection system and pump station license and a S4 license, and is considered an expert on operation of sewer systems. The Planning Board agreed with his status as an expert.

Mayor Calamari asked what the minimum and maximum time frame to get to the pump station would be if there is a leak. Mr. Martone stated alarm systems are extremely sophisticated and estimated it would take a maximum of 1 hour to address issues. Stated there are two pumps, and a generator.

Louis Melendez (5 Katharina Place) Stated he had no issue with development on the property but hoped that the Viviano family would consider less dense development. Thanked the Planning Board for their efforts in keeping the well-being of the residents in mind.

Robert Madlinger (11 Katharina Drive) Told the Planning Board that ice on the road has been an ongoing issue. Inquired if traffic studies have been done. There is a significant concern about the high volume of traffic on that road. Mr. Azzolina stated that Van Emburgh Ave. is a county road and Bergen County did not request a study. Planning Board could request a review to ensure safety concerns are addressed with the anticipated volume of traffic.

Julian Lipnick (184 Finity Place) Made a statement regarding the Oil tank and the Building Department. Stated the Building Dept. does not close out permits until applicant puts in a manifest. State law requires that they supply Building Dept. with manifest for the sludge/oil/metal that was in the tank. All hazardous waste report must be supplied to Building Department before the permit can be issued and it is up to the applicant to file the State for review of the soil and then State should determine if no further action required. A permit can sit open until all info is supplied to Building Department and the State. Commented on the danger of heavy traffic on Van Emburgh intersection and high risk; and what the impact will be on the schools.

Mr. Sabino suggested the Township legal team be brought in to determine what, if anything, can be challenged on the existing application.

Mr. Sears agreed; also asked if the Planning Board can file with DEP to determine if tanks have left town without proper permits.

MaryAnn Ozment (960 Adams Place) stated it is important for Planning Board to be able to review any previous meeting minutes; Concerned about problems if the Homeowners Assoc. does not live up to its financial obligations. Asked if this has been discussed by the Mayor and Council.

Mr. Bell stated in the event the Homeowners Association does not live up to its obligations there is an Agreement for \$73,000 in escrow and the township has right to put lien on the property to get repaid.

Mayor Calamari stated the applicant Engineer presented this to the Mayor and Council in closed session in May 2018.

William Giordano (650 Kennedy Dr.) Discussed the heavy traffic and the heavy machinery that will be coming in from Route 17. Concerned about the roads being ripped up again and asked if this development will lower taxes and the construction schedule.

Mr. Bell offered some background on this type of application. Cited 2-3 year old Supreme Court decisions and discussed the Mt. Laurel litigation; as this application was been part of Mt. Laurel. Mr. Bell cited more recent Supreme Court decisions requiring towns to meet a wholly different obligation from Mt. Laurel. The dysfunction of COAH and the lack of guidance that town were faced with in determining their obligations. The Township has benefitted as the affordable units are being built elsewhere but getting credit toward its Mt. Laurel obligations. Planning Board and Town Council have limited control over some of these issues.

Mercedes Ribalaigua (505 Van Emburgh Ave.)- Noted that the original plan presented by Mr. Viviano was for a much smaller development.

Mr. Murphy thanked the public for their testimony. Stated that this matter will have to be reconsidered at another Planning Board meeting.

A Planning Board Special Meeting was scheduled for Oct. 24th at 7:30 to review the 21 outstanding issues.

MOTION TO CLOSE THE MEETING

ROLL CALL:

MOTION		SECOND			AYES	NAYES	ABSTAIN	ABSENT
Mr. Golick		Mr. Golick		Mr. Golick				x
Mr. Pinnick		Mr. Pinnick		Mr. Pinnick	x			
Mr. Sabino		Mr. Sabino	x	Mr. Sabino	x			
Mr. Scudieri		Mr. Scudieri		Mr. Scudieri	x			
Mr. Sears	X	Mr. Sears		Mr. Sears	x			

Mr. Vinagre	Mr. Vinagre	Mr. Vinagre					X
Mayor Calamari	Mayor Calamari	Mayor Calamari	X				
Councilman Cumming	Councilman Cumming	Councilman Cumming	X				
Chairman Murphy	Chairman Murphy	Chairman Murphy	X				

MEETING ADJOURNED