

HILLSBOROUGH TOWNSHIP PLANNING BOARD
PUBLIC MEETING MINUTES
October 13, 2016

Vice Chairman Neil Julian called the Planning Board Public Meeting of October 13, 2016 to order at 7:36 p.m. All stood for the Pledge of Allegiance. The meeting took place in the Courtroom of the Hillsborough Township Municipal Complex.

Acting Chairman Julian announced the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

ROLL CALL

Mayor Frank DelCore – Absent
Robert Wagner, Jr. – Present
Deputy Mayor Carl Suraci – Present
Robert Peason - Absent
Seat #5 - Vacant
Neil Julian, Vice Chairman - Present

Sam Conard – Present
Shawn Lipani, Chairman – Absent
Kenneth Hesthag, Secretary – Present
Sally Becorena (Alt. #1) – Absent
Stephanie Forrest (Alt. #2) – Absent

Also present: David K. Maski, PP, AICP, Township Planning Director; John Kaplan, Esq., Covering Board Attorney (Eric M. Bernstein, & Associates); Eric Bernstein, Esq., Board Attorney (Eric M. Bernstein, & Associates) - *late arrival*; William H.R. White, III, PE, CME, Board Engineer (Maser Consulting P.A.); Lucille Grozinski, CCR, covering Court Reporter; and Caz Bielen, Board Videographer (Premier Media, LLC).

DISPOSITION OF MINUTES

■ September 01, 2016

A motion to approve was made by Mr. Conard, seconded by Mr. Wagner.

Roll Call: Mr. Conard – yes; Mr. Hesthag – yes; Mr. Wagner – yes; Deputy Mayor Suraci – yes; Acting Chairman Julian – yes. Motion carries.

■ October 06, 2016

A motion to approve was made by Mr. Hesthag, seconded by Mr. Conard.

Roll Call: Mr. Conard – yes; Mr. Hesthag – yes; Acting Chairman Julian – yes. Motion carries.

DISPOSITION OF RESOLUTIONS

None

PLANNING BOARD BUSINESS

None

SPECIAL COMMITTEE REPORTS

None

BUSINESS FROM THE FLOOR

None

CONSIDERATION OF ORDINANCES

■ **Definition and Location of Utilities – for discussion**

Planning Director, David Maski, PP, AICP, said he would be able to further review the contents of the memo distributed at the last meeting regarding the matter, when the Board has the time.

Acting Chairman Julian called for the first application.

PUBLIC HEARING – SUBDIVISION/SITE PLAN APPLICATIONS

- **Green Village** – File 16-PB-12-MJV – Block 141, Lot 30 – Easterly side of Route 206 Highway. Applicant seeking Preliminary and Final Major Subdivision approval; and 'c' bulk variances for relief from: insufficient lot area variances (Proposed Lots 30.01, 30.02, and 30.03); insufficient lot frontage variances (Proposed Lots 30.01 and 30.03); insufficient side yard setback variances (Proposed Lots 30.02 - Buildings #1, 4, 6, 8, 9, 10 and 11; and Proposed Lot 30.03 - Buildings #2, 3 and 22); and number of parking spaces (insufficient – Proposed Lot 30.02; excessive – Proposed Lot 30.03), to subdivide the existing 50.0016 acre tract into three lots: Proposed Lot 30.01 (8.4161 acres), Proposed Lot 30.02 (14.527 acres), and Proposed Lot 30.03 (27.0598 acres) where 40 acres is required. Development application for major site plan approval granted by Resolution dated June 7, 2012 for application 11-PB-11-SR, on Property in the GV, Green Village Zoning District. (EC Agenda: 09-26-16). **REQUEST TO ADJOURN to December 08, 2016 without further notice.**

PLANNING BOARD MEETING MINUTES
October 13, 2016

Alexander Fisher, Esq. of Mauro, Savo, Camerino, Grant & Schalk, representing the Applicant, asked that the Board take jurisdiction of the application and further adjourn the application to the December 08, 2016 agenda, without further notice, due to a scheduling conflict for the Applicant.
Mr. Fisher stated an extension of time to February, 2017 has been provided.

A motion to extend the application to December 08, 2016 without further notice was made by Mr. Conard, seconded by Deputy Mayor Suraci.

Roll Call: Mr. Conard – yes; Mr. Hesthag – yes; Mr. Wagner – yes; Deputy Mayor Suraci – yes; Acting Chairman Julian – yes. Motion carries.

Dukes Parkway, LLC / LEVONAITIS – File 16-PB-10-SRV – Block 58.03, Lot 1 (formerly known as Block 58, Lot 70) – 280 Dukes Parkway East. Applicant seeking Preliminary and Final Major Site Plan Approval; ‘c’ Bulk Variances for relief from minimum lot area; minimum lot width; minimum front yard setback for the existing building; minimum side yard setbacks for existing and proposed buildings; minimum buffers for the existing building and parking lot; parking waivers for parking stall size and parking aisle width; and application waivers from providing an Environmental Impact Study, Community Impact Study, and Traffic Impact Study; to renovate the existing 2,739 sf. building as an office and construct a 2,760 sf. pole barn in the rear of the property for storage, and construct ten parking spaces, on property in the I-2, Light Industrial Zoning District (EC Agenda: 07-25-16) **Continued from 09-08-16 without further notice.** (Revised Plans submitted 10-03-16).

Approved

PLANNING BOARD MEETING MINUTES
October 13, 2016

John Sullivan, Esq. of Vastola & Sullivan, representing the Applicant, said the application was last before the Board on September 8th. The plan has since been revised and submitted for review, bearing the date of September 29, 2016. The building size has been reduced and other changes have been made in order to be more sensitive to the neighbors. The Applicant has agreed to do a full improvement to the front of the building and parking lot to make it more esthetically pleasing.

David J. Schmidt, PE of D.S. Engineering, P.C., under Oath and qualified from the previous meeting, gave the following testimony in response to questions asked by Mr. Sullivan:

Applicant's Exhibits:

A-1 – "Site Plan, dated June 8, 2016" *(9-08-16 hearing)*

A-2 – "Grading Plan, Landscape and Lighting Plan, dated June 8, 2016" *(9-08-16 hearing)*

A-3 – Color photos of site / brochure cover of pole barn (mounted on display board) *(9-08-16 hearing)*

A-4 – "Site Plan, dated June 8, 2016; last revised 8/31/16" *(9-08-16 hearing)*

Approved

PLANNING BOARD MEETING MINUTES
October 13, 2016

A-4 – “Site Plan, dated June 8, 2016, last revised 9/29/16” (10-13-16 hearing)

A-5 – “Grading Plan, Landscape and Lighting Plan, dated June 8, 2016, last revised 9/29/16” (10-13-16 hearing)

A-6 – Photo of front façade of existing building, taken October 12, 2016 (per David Schmidt, PE) (10-13-16 hearing)

Mr. Schmidt said the Applicant is proposing to use the property for a pool & spa business by renovating the existing 2,739 sf. for use of an office, pump repair, and storage of high-end parts. The previous plan called for a 3,850 sf. pole barn at the rear of the building for storage of pool repair equipment and supplies. The pole barn has been reduced to 2,760 sf., which is at 28% reduction. The building height remains at 14 ft. The building has been pushed back 18 ft. from the building to accommodate a trash enclosure. The building has also been moved 14 ft. to the west to provide a 34 ft. buffer in order to allow more room for a buffer from the neighboring property. The impervious lot coverage was reduced from 47.10% to 45.79%. The allowable lot coverage for the zone is 60%. The proposal adds 3,695 ft. of new impervious surface coverage.

Mr. Schmidt said he previously reviewed the variances requested at the last meeting. There are a lot of pre-existing variances associated. There are changes to the side yard setbacks. The requirement for a side yard setback is 50 ft. The proposed is 34 ft. to the east, previously submitted for 20 ft. The second modified variance is for side yard setback to the west, previously 24 ft., now at 20 ft., which moves the pole barn closer to the pump station lot and further from the residential lots.

Mr. Schmidt said the Applicant is requesting a design waiver for off-street parking spaces dimensions. The Applicant is proposing 9 ft. x 18 ft. parking spaces vs. the 10 ft. x 20 ft. required. Also, a 24 ft. aisle width is proposed vs. the 25 ft. width required. The Applicant is trying to work with the existing paved area.

Mr. Schmidt said the new building is a pole barn but looks more like a shed. The height is at 14 ft. vs. 20-25 ft. which is the height of most pole barns. By shifting and moving the pole barn back, the Applicant is now able to avoid having to take down the two existing maple trees, 24 and 28 inches in diameter. Significant tree plantings have been added. It is likely that in two years' time, the barn will be entirely shielded.

Mr. Schmidt said the pole barn was moved back to allow for a 20 ft. separation from the trash enclosure, as per the Fire Marshal. Mr. Schmidt said the front façade and parking area is deteriorated. The parking lot will be repaved and resurfaced to the satisfaction of the Township Engineer. The parking lot will be restricted to one-way movements. Signage and painted directional arrows are provided. The traffic pattern will be in a counterclockwise direction, with the eastern driveway as the entrance. All outside storage will be removed.

Mr. Schmidt said the wetlands and wetlands buffer in the rear will be encompassed in a conservation easement with the required signage. The existing 13 ft. width cartway has been increased by 2 ft. to allow a 15 ft. cartway along the westerly access, to the satisfaction of the Fire Marshal. A 2% slope will be maintained in the handicap area in accordance with ADA standards.

Mr. Schmidt said the Township Engineer had concerns about insufficient lighting. He said the intention was to seek a waiver but instead additional lighting is now proposed. One light has been added in the center of the lot facing Dukes Parkway, and one light has been added to the rear of the property. The lighting fixture will be to the satisfaction of the Township Engineer.

Township Engineer, Mr. White said he is looking for cut-off fixture without a lot of outward glare. He said the pole proposed in the front parking lot needs an outside shield to prevent light spilling onto the roadway.

Mr. Schmidt said the Applicant will comply.

PLANNING BOARD MEETING MINUTES
October 13, 2016

Mr. Schmidt addressed the tree mitigation. He said since the two trees are now able to be saved, the number of replacement trees has been reduced. All of the trees previously placed in the wetland buffer area have been eliminated. Also, the species of the trees has been changed to Maples.

Mr. Schmidt reviewed the agency approvals. He said the Fire Marshal approved the latest plans. The Applicant is currently seeking an NJDEP Hazard Permit. A right-of-way dedication will be made to Somerset County. The SUSCD has approved the application but since the plans were changed, a recertification will be necessary. DRCC issues a letter of exemption. The Applicant has received a NJDEP LOI.

Mr. Schmidt said the Applicant agrees to comply with all comments in the Maser Memorandum dated October 12, 2016, the only exception being for the foundation plantings. The Applicant agrees to all comments in the Planning report dated October 7, 2017

Mr. Maski asked for more information on the screening for the trash enclosure.

Mr. Schmidt said the enclosure will be 10 ft. x 15 ft. with two gates in the front, surrounded by a board-on-board fence.

Mr. Maski said the testimony is that there will be no outside storage or storing of any chemicals in the shed.

Mr. Schmidt said that is correct.

Mr. White asked what type of delivery vehicles will be coming to the site.

Mr. Schmidt replied deliveries will be by single-unit vehicles such as FedEx or UPS trucks.

Mr. White asked if delivery and garbage trucks can easily make the turn in the back.

PLANNING BOARD MEETING MINUTES
October 13, 2016

Mr. Schmidt said he assumes they can.

Mr. White asked that Mr. Schmidt verify that on the plan as a condition of approval.

Mr. Schmidt agreed.

Mr. White asked to hear about the hours of operation.

Mr. Schmidt said the Applicant may be better to answer the question. He said the hours of operation are described on sheet two of the site plan as: Monday – Friday 9 am – 5 pm; Saturday 9 am – 3 pm; Sunday – closed.

Mr. Sullivan asked that the Applicant, already sworn from the previous meeting, to come forward to clarify the hours. He said the hours offered may only be office hours.

Mr. Levonaitis said the hours noted are office hours. He said his secretary works 9 am to 4:30 pm; non-office Staff arrives for 7:30 to get their schedules, load and are out by 8 – 8:30 Monday through Friday. Saturday hours are only during May and June. There are no Sunday hours.

Mr. Maski asked what time the trucks come back.

Mr. Levonaitis said the trucks come back various times depending on when the workers finish their day; anytime from 3:30 pm to 7:30 pm.

Mr. White commented that a flood hazard permit will be required.

Mr. Conard said when he visited the property, it looked to be a level lot. He said he would like to see the elevations. The

PLANNING BOARD MEETING MINUTES
October 13, 2016

neighbors had said at the last meeting that this is a very low-lying area. Mr. Conard said he did not see a significant slope between this property and the neighbors.

Mr. Schmidt said the slopes are between 1 – 2%; it is a flat piece of property. The flow is a sheet-flow from front to back. The flow goes to the wetland area.

Mr. White asked which way the flow will be flowing with proposed conditions.

Mr. Schmidt said it will stay in the same direction.

Acting Chairman Julian asked Mr. Schmidt if he was able to indicate the flood hazard boundaries on the map.

Mr. Schmidt said the 100-year flood hazard is on the map. Generally, the flood hazard is 1 ft. above the 100-year flood line. The floodway and flood fringe are in the front of the property. There is an overflow from the Raritan River when there is more than 6 inches of rain or more. Unfortunately, the surrounding homeowners have been exposed to two major storms which were anomalies. Hurricane Floyd brought 13 inches of rain. Twelve years later, Superstorm Irene brought 10 inches of rainfall. He said this past August was the wettest month on record, with 17 inches of rain. You would have to go all the way back to 1955 to find rainfalls even close to that amount.

Acting Chairman Julian commented that it is up to the NJDEP to monitor flooding.

Mr. Maski said this application went before the Environmental Commission (EC) on July 25th. The Commission provided comments but because the plan have been revised; it is recommended that this application go back to the EC for review at the end of this month.

Mr. Sullivan said based on the previous comments of the Commission, the Applicant expects to be able to comply. The Board could impose a condition for compliance with the EC. If the Applicant was not able to comply, then the application would be back before the Board.

Mr. Schmidt said he moved the building closer to the wetland buffer. He pointed out that he made a note on the plans that the orange fencing would be staked at the wetland buffer prior to any disturbance. The building is 7 ft. away from the buffer line, which should allow enough room for the corner of the building to be constructed.

Mr. Schmidt said he will be doing a more detailed study on the flood hazard area. If there is nothing on file, the flood hazard is 1 ft. away from the 100-year flood line.

PLANNING BOARD MEETING MINUTES
October 13, 2016

Open to the public.

Stephen Zacharco – Gress Street, Manville

- Mr. Zacharco asked for the “o” lot fill. The plans show the 100-year flood line is at 47 ft. According to the flood hazard level law, he is allowed to increase 1 ft. above the flood hazard law. The location of the pole barn is at 45 ft. on the plan, which would mean it needs to be raised 3 ft. Mr. Zacharco went on further to explain the calculations he came up with.

Mr. Schmidt commented that he did not know if Mr. Zacharco’s findings were correct. He said there are options to explore. If the plans change substantially, the Applicant will be back to the Board.

- Mr. Zacharco said the new location of the pole barn is now in the wetlands.

Mr. Schmidt disagreed.

- Mr. Zacharco referenced a photo which he said had been taken after Irene. The photo was said to show the entire area behind the original building flooded. He said a copy could be submitted into evidence.

Mr. Schmidt said the photo could be submitted but a puddle of water does not constitute wetlands. In addition to the water table, wetlands also take into account the vegetation and soil. Both did not comply to make that area wetlands. NJDEP went out to the site and agreed with that environmental assessment.

- Mr. Zacharco said when the NJDEP went out in December, at that point there had been less than ½ inch of rain, so they were not looking at what we see most of the time.

Mr. Schmidt said wetlands are not determined by the presence of surface water. An auger is used to sample the soil to see if the soil has organic growth, which would indicate if water has been standing there for a long time.

PLANNING BOARD MEETING MINUTES
October 13, 2016

- Mr. Zacharco said there is a difference in the height of the property. If you looked recently, you would see it is all overgrown. He said he could not even tell the difference as it looks now. He said there is a difference in looking at it from Gress Street, where you can see the level drop, which according to the elevation level; it drops about 2 ft. from the back of the property.

Mr. Schmidt said the elevation goes from 47 ft. to about 45 ft. A 2 ft. drop is not significant and still considered flat.

- Mr. Zacharco argued it could be significant with the additional impervious from the pole barn, if built and additional concrete.

Mr. Schmidt said they are adding no more than 4,000 sf. of impervious surface. After submitting to NJDEP, the building may need to be smaller but will not be larger.

Olga Zacharco – Gress Street, Manville

- Mrs. Zacharco said she had contacted NJDEP after Hurricane Floyd as to where the retention basin was in the wetlands. She spoke of photos taken after that time where she was in ankle-deep water. She said she had been told by NJDEP that even walking on the area was against the law.
- Mrs. Zacharco said the entire site is a wetland. She stated that the Applicant would be better off to keep everything inside of the existing building. Mrs. Zacharco offered a delineation map from the NJDEP website as **Exhibit O-1**, dated 2002.

Mr. Schmidt reiterated the Applicant has an application in with NJDEP for a LOI.

Mr. White asked how the line was determined.

Mr. Schmidt said it may have been a combination of aerial photography and soil mapping.

Mr. White said infra-red photography could also have been used. He said NJDEP would not accept that line being used to determine the LOI.

PLANNING BOARD MEETING MINUTES
October 13, 2016

Mr. Schmidt agreed. He said you need to provide field investigations and soil logs.

Mr. White said an LOI is more accurate.

Mr. Schmidt said very much so.

Christine Amen – Gress Street, Manville

- Ms. Amen asked Mr. Schmidt if he had ever driven through Manville after a flood and witnessed the devastation.

Mr. Schmidt said being a local engineer, he has witnessed and tracked the flooding. He said this application will not be worsening the situation.

- Ms. Amen asked if Mr. Schmidt had driven through town recently and seen how close the houses demolished and removed under the Blue Acres Plan come to this property.

Mr. Schmidt said he had not.

- Ms. Amen said there are properties that are within blocks of this property. She asked how the placement of another building in the only area the water has to go, will enhance the area. She asked how the Applicant will clean up the area after the next flood.

Mr. Schmidt said the building will be cleaner than the current conditions.

APPROVED

PLANNING BOARD MEETING MINUTES
October 13, 2016

- Ms. Amen said as much as she would like to see that area cleaned up, she would much rather have it remain an area for water to go rather than more impervious surface in.

Mr. Schmidt explained the pole barn will be 2,700 sf. building. The 4,000 sf. is the area of impervious. Flood vents will be added to allow the water to flow right through.

- Ms. Amen presented photos which she said showed the origination of the water being the property the Applicant plans to build on, taken during Hurricane Irene. Ms. Amen said there are multiple time-lapsed photos taken from August 28, 2011, each marked with the date and time taken. Ms. Amen stated she had taken all twelve photos. The envelope containing the photos was marked as **Exhibit O-2**.

Tom Reilly – Gress Street, Manville

- Mr. Reilly asked if repurposing the existing building had been explored. He said the testimony at the last hearing was that the majority of the work would be done on-site. The testimony provided that only a small fraction of the interior would be used for office space. Mr. Reilly asked why a new building needs to be constructed when the existing building is under or non-utilized.

Mr. Levonaitis said the existing building would not be large enough to house all of the equipment. The pump room would be used to do repairs and store some high-end parts but is nowhere near large enough for storage.

Steven Zacharco – Gress Street

- Mr. Zacharco said he also had photos to submit. He submitted 20 photos he stated were from Hurricane Floyd in 1999, after Irene, and also a storm in between the two. Mr. Zacharco said the photos show his property, neighboring properties, and the Applicant's property under water. He said he had taken one of the photos; the others were taken by his wife, also present at the hearing. **Exhibit O-3** was marked.

No other questions from the public.

Close public

Mr. Conard asked for a break in order to review the photos submitted.

PLANNING BOARD MEETING MINUTES
October 13, 2016

Acting Chairman Julian said the matter should stay open to the public.

Break 8:33 pm – 8:44 pm

Steven Zacharco – Gress Street

- Mr. Zacharco expressed his concerns regarding noise disruptions specifically to him, given the hours of operation and number of employees testified to.
- Mr. Zacharco asked if instead of building a pole barn that the storage materials be instead stored at an off-site location, such as a “Bob’s Storage” facility.

Close public

Acting Chairman Julian asked Mr. Sullivan if the application could be continued to a date after the October 24th re-review of the Environmental Commission to address any concerns the Commission may have, and to address the status of the NJDEP flood hazard permit.

Mr. Maski noted the next available Planning Board meeting would be November 10th.

Mr. Schmidt said he intends to file to the NJDEP right after approval from the Planning Board, if granted.

Mr. Maski asked if Board approval is required in order to apply for the flood hazard permit.

Mr. Schmidt said it is not required. When submitting, the Planning Board, Environmental Commission, and adjoining neighbors are notified.

Mr. Sullivan said the Applicant has no objection to coming back before the Planning Board on November 10th.

Mr. Maski asked the timeframe for submitting for the flood hazard permit.

Mr. Schmidt said it will likely be December, after the Board’s decision.

Mr. Maski asked why the delay.

Mr. Schmidt said it is very expensive to put the plans together to file for a permit, not knowing whether or not you have Board approval. He again noted that approval by the Board is not required for filing for a permit.

Acting Chairman Julian stated approval by the NJDEP would be a condition of any Board approval.

Mr. Schmidt agreed. He said as previously stated, notifications would be provided that an application had been submitted. The entire packet would be available for review with the Township Clerk’s office.

Board Attorney, Eric Bernstein, Esq. instructed the Board that a motion would be required to carry the application to the November 10th meeting without further notice.

A motion was made by Mr. Conard, seconded by Deputy Mayor Suraci. All were in favor; motion carries.

Acting Chairman Julian asked if the Board wanted to continue the discussion on the definition of utilities.

Mr. Conard asked that it be scheduled to the next meeting. Fellow Board members agreed.

Mr. Maski mentioned the Board could cancel the October business meeting since no business was scheduled.

A motion to cancel the Planning Board meeting of October 27, 2016 was made by Deputy Mayor Suraci, seconded by Mr. Hesthag. All were in favor; motion carries.

Mr. Maski noted the next meetings will be held on November 3rd and 10th.

CORRESPONDENCE

None

ADJOURNMENT

A motion to adjourn was made and seconded. All were in favor; motion carries.

PLANNING BOARD MEETING MINUTES
October 13, 2016

The meeting adjourned at 08:54 pm.

Submitted by:
Debra Padgett
Administrative Assistant / Planning Board Clerk

Approved