

HILLSBOROUGH TOWNSHIP PLANNING BOARD

PUBLIC MEETING MINUTES

March 09, 2017

Chairman Sean Lipani called the Planning Board Regular Public Meeting of March 09, 2017 to order at 7:33 pm. All stood for the Pledge of Allegiance. The meeting took place in the Courtroom of the Hillsborough Township Municipal complex.

Chairman Lipani 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 Carl Suraci – Absent
Robert Wagner, Jr. – Present
Committeeman Frank DelCore – Present
Robert Peason – Present
Stephanie Forrest – Present
Neil Julian, Vice Chairman - Present

Sally Becorena – Present
Shawn Lipani, Chairman - Present
Kenneth Hesthag, Secretary – Present
Ron Skobo (Seat Alt. #1) – Present
Sam Weinstein (Seat Alt. #2) - Present

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

DISPOSITION OF MINUTES

- March 02, 2017

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

Roll Call: Mr. Peason – yes; Mr. Wagner – yes; Mr. Hesthag – yes; Mr. Skobo – yes; Mr. Weinstein – yes; Vice Chairman Julian – yes; Committeeman DelCore – yes; Chairman Lipani – yes. Motion carries.

DISPOSITION OF RESOLUTIONS

- Yannuzzi Group, Inc. – File 16-PB-11-SRV

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

Roll Call: Mr. Peason – yes; Mr. Hesthag – yes; Ms. Forrest – yes; Ms. Becorena – yes; Vice Chairman Julian – yes; Committeeman DelCore – yes; Chairman Lipani – yes. Motion carries.

PLANNING BOARD BUSINESS

- Resolution of Appreciation to Sam Conard

Chairman Lipani stepped down from the dais and asked former Planning Board Member, Mr. Conard, to join him as Chairman Lipani read the Resolution of Appreciation for Mr. Conard service to the Board.

Committeeman DelCore also spoke on behalf of Mayor Suraci and the Township Committee, in appreciation for Mr. Conard's outstanding service to the community over the years.

Chairman Lipani announced the agenda would be taken out of order. Chairman Lipani called for the public hearing to proceed.

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).
Adjourned from February 02, 2017 without further notice.

William B. Savo, Esq. of Savo Schalk Gillespie, O'Grodnick, Aquilio & Fisher, P.A., appearing on behalf of the Applicant, stated preliminary and final approval had been granted in June, 2012 for the project commonly referred to as "Green Village". He said this is the Township's primary affordable housing project. The standard set-aside is 15% but this project has a 25% set-aside.

Mr. Savo said the project has taken longer to construct than anticipated. As a result, it has been more difficult to obtain financing. The site plan is not being changed in any way, other than the variances now required due to the subdivision and internal road.

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Robert B. Heibell, PE, LS, of Van Cleef Engineering, was sworn in, accepted by the Board and provided the following testimony:

Mr. Heibell said as stated, the Green Village application was approved without variances and/or waivers in 2012, and has been under construction since that time. The proposal is to subdivide the 50-acre tract into three lots. One of the lots would comprise all of the now under construction buildings. The second residential lot would comprise of all of the buildings previously approved as residential, not yet started. The third lot would be comprised of the non-residential components: the executive suits, and 20,000 sf. of retail. In doing so, this creates internal and external variances. The external are for minimum lot area.

Mr. Heibell said in his opinion, the original ordinance was drafted without thought of future subdivision. The minimum tract area is 40 acres. The entire site is 50 acres so that would preclude a subdivision, given that one would have to have over 80 acres. The subject site is the only property in Hillsborough within the GV Zone. The ordinance calls for 300 ft. of frontage on Route 206. Two of the three proposed lots do not have the 300 ft. frontage. The lot that has access to the two existing roads that bisect with Route 206 has over 300 ft. of frontage. Cross-access agreements would be required for the two proposed rear lots in order to be able to get to the center lot which has the two accesses to Route 206.

Mr. Heibell said all of the buildings within the site plan have the appropriate distance building to building. There were no issues with side yard setbacks. However, once subdivision lot lines are drawn, variances are created from the lot lines to the buildings. As the buildings stand today, there are no two buildings that are too close but once you place the lot lines, internal side yard variances are created. There are a total of ten buildings that would not have the 50 ft. requirement from the internal lot line.

Mr. Heibell said the last variance has to do with the parking. Overall, there is enough parking on the entire site. Once the lot lines are drawn, the lot where the buildings are under construction has fewer spaces than required by the ordinance. Therefore, a cross-access easement would be required for parking.

Mr. Heibell said the application has been submitted for preliminary and final subdivision to the SCPB. The SCPB issued a report on August 31, 2016 which was approved by the County. The application was before the Environmental Commission. He said the Commission had no issues with the application. An application has been submitted to NJDOT since the lot fronts onto Route 206; an approval letter has been issued.

Mr. Heibell addressed the Maser Engineering report, dated September 22, 2016. He said Mr. White has a series of 14 items related to the subdivision plat. Should the Board approve the preliminary and final subdivision, the Applicant will abide by all of the comments as to the filing of the final plat.

Mr. Heibell reviewed the Planning Report, September 21, 2016 from Mr. Maski. The report outlines the variances and parking waivers discussed. The report notes this is a project that has 117 affordable units. Three of those buildings are on the one residential lot currently under construction.

Vice Chairman Julian asked Mr. Heibell to address Mr. White's comment regarding the riparian buffer.

Mr. Heibell said it is represented on the map but there is a dimension or two that need to be added to the final plat. The appropriate riparian buffer was on the site plan at the time of the site plan approval. There is a riparian buffer and a separate wetland buffer. All will be shown on the final plat.

Mr. White said that was acceptable.

Open to the Public.

No questions.

Mr. Savo said the Traffic Engineer, Mr. Dean, is present but will not be called to testify unless there are questions from the Board. He said the NJDOT letter will be provided to the Board secretary. NJDOT required a cross-access easement so that all of the lots use the existing ingress and egress. The cross-access easement was reviewed and accepted by the County.

Mr. Bernstein asked Mr. Savo if the Applicant would be willing to grant, as a condition of approval, review of the cross-access easement and NJDOT letter, by the appropriate Board professionals.

Mr. Savo agreed.

Anatol Hiller, Principal with Route 206 Enterprises, LLC, was sworn in and gave the following testimony in response to questions asked by Mr. Savo: Mr. Hiller said the project is under construction.

Mr. Hiller said there are eleven buildings in various stages of construction. Two buildings are currently occupied; a third is on the verge of being CO'd. Three buildings are 100% complete.

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Mr. Hiller acknowledged he has constructed similar projects in other townships in New Jersey. He said this project has been under construction for a little over four years, which is an extensive amount of time for this type of project. He said the delays have caused difficulties with the financing. Mr. Hiller explained the construction loan is for the entire 469 units. It is a 3-year loan with a 6-month extension.

Mr. Hiller said he has completed similar projects of this size throughout the State in less than 3 ½ years but this project is taking longer to get building permits and CO's in place. He said even though the project is moving forward, it is difficult to finance a project with a 25% set-aside for affordable units. He said the only way to lock in the interest rate for the first section of 264 units for permanent financing is through subdivision. Permanent financing for the remaining sections can be locked in upon completion of each. The remaining residential section, consists of 204 units. Mr. Hiller said if he were to continue floating the construction loan, he will be paying considerably higher rates. He said it is standard in mixed-use developments, such as this, to have the commercial portion carved out because commercial financing is handled completely differently than residential. There is a proposed hotel on this site. They usually look for an owner/operator to build the hotel.

Mr. Hiller said he had originally proposed the subdivision at the time of site plan but decided to amend the application to not include the subdivision after speaking with the Township Planner at the time, Robert Ringelheim. He said Mr. Ringelheim suggested he not try to figure out the timing in advance, but come back at a later time to address the subdivision.

Mr. Hiller said the lines are only on paper; they do not change the project. The reason for the subdivision is strictly financial. Mr. Hiller presented a letter from PNC Bank, dated March 2, 2017, which he said further supports his position on the financing.

Mr. Hiller stated he has built similar projects throughout the State. He said he has been in business for over 45 years and has never sold a residential project for rent. He confirmed he will continue to own the project even after subdivision.

Chairman Lipani asked Mr. Hiller if he had anticipated to build out the entire project within 3 ½ years or only the residential portion.

Mr. Hiller said he expected to have all 469 residential units constructed by this time. He said the hotel could have been finished within that time also, if he could have found an interested party. Mr. Hiller said they are currently in negotiations for the hotel site.

Committeeman DelCore asked if there was any other rationale other than the financing prompting the request for subdivision.

Mr. Hiller said the only rationale is to secure permanent financing for 264 units. He said they have a little over half of the residential units in the ground, approximately 27% of which are affordable units.

Committeeman DelCore asked Mr. Hiller to explain what he refers to as "in the ground".

Mr. Hiller said the buildings are at various stages of construction; some are completely finished, some are frames, some are sheet-rocked.

Committeeman DelCore asked how many buildings and how many units are complete at this time.

Mr. Hiller confirmed three buildings are complete, containing 72 units. He said the number of units to be completed is much closer than having to wait for the entire 469 units to be able to secure permanent financing.

Committeeman DelCore asked how long before all 264 units are completed.

Mr. Hiller said possibly by the end of the year, if all goes well. It is not only the building permits but the inspections that take time. These are large buildings that take time to inspect.

Mr. Bernstein asked that the PNC letter previously referenced be marked into evidence.

The PNC letter dated March 2, 2017 was marked as **Exhibit A-1**.

Chairman Lipani asked how long the time frame was from the time of approval to the time the first shovel was put in the ground.

Mr. Hiller said about 6 months' time. He said the time was much longer than usual, based on his experience. He said it took about 6 months for the Building Department to finish their reviews for the first building.

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Mr. Bernstein asked Mr. Hiller if he has financing for proposed Lot 30.01, which is the commercial hotel piece of property.

Mr. Savo responded that right now there is only one lot.

Mr. Bernstein said the Applicant has testified that if the subdivision goes through, he will be able to secure financing for the 469 residential units. He asked what about the non-residential?

Mr. Hiller said he will be able to get non-residential financing because it stands on a separate lot and block number.

Mr. Maski asked Mr. Hiller if there was anything he is aware of, either on the prior approval or agreements with the Township that would prevent him from selling off any of the three lots, if the subdivision were approved.

Mr. Hiller said he did not know of anything.

Mr. Savo said he handled this project from the beginning and did not see anything from a legal perspective, on any resolution or agreement that would prevent Mr. Hiller from selling anything. Anything sold would be subject to the existing zoning and approvals. If whoever bought it wanted a change, they would have to come before the Planning Board.

Mr. Maski said the testimony provided indicated any hotel would want to be an owner/operator. He asked if the intension is to sell off proposed Lot 30.01 to build a hotel.

Mr. Hiller said not necessarily.

Mr. Maski said the Township wants to see this property developed as approved, according to the agreements, but recognizes the Applicant has every right to sell. He said since there are so many cross-access arrangements, shared facilities, maintenance, and the affordable housing component, he would be more comfortable to see an outline, or summary, of how these properties would be managed, if split into three. There are property lines actually cutting parking spaces in half. Conceivably, these three lots could be under different ownership but would still need to function as one.

Mr. Savo said it would be no different than a condo where you have different ownership and a home owners' association. He said here there will be cross-access easements for parking, as well as for use of the roads.

Mr. Maski asked if the Applicant would agree to submit some sort of access / maintenance / usage plan for the Board's professionals to review.

Mr. Savo said they will submit a copy of the cross-access agreement required by NJDOT. An access easement will be done for parking as well.

Mr. Maski asked if that would include shared parking, use of the Clubhouse by everyone on-site.

Mr. Hiller said as an example, the Gateway project has 698 units. The situation is similar; the difference being the subdivision was done before the final site plan approvals. That project has 132 townhouse rental units on one lot; 383 rental apartments; and 315 age-restricted homes. Mr. Hiller said all of the 383 apartments were completed right away, including the affordable units. He said the homes sales are very sluggish there; only about 45 units have been closed on. He said right now, his total set-aside comes to about 42%. He said he made a promise to the Board, and did it; all of the affordable units are up, regardless of the slow sales. The Clubhouse is also finished. Mr. Hiller said that should be a guarantee.

Mr. Savo commented that there are cross-access easements on that project as well.

Committeeman DelCore asked if a property were to be sold, if it would impact the requirements in any way.

Mr. Bernstein replied that the zoning in place would remain. The zoning in place is specific to this site. The site remains in its current capacity. If anyone were to seek changes to the current zoning, they would have to come back before the Planning Board, and potentially the Township Committee to create a zone change. He said Mr. Maski has indicated he is looking for something more than just the cross-access agreements.

Mr. Savo said the Applicant will provide a shared easement / parking / maintenance / use agreement.

Mr. Hiller agreed.

Chairman Lipani asked if the application was not looked upon favorably, what steps could be taken with regards to financing.

Mr. Hiller said he would fulfill his obligation and build the project but would pay higher interest rates. He said he would

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not walk away from the project. He said providing 25% affordable housing is difficult, and asks the town to cooperate with him on the application.

Questions from the Public.

Susan Gulliford – Hunt Club Road

- Ms. Gulliford said she reviewed the application file. She said although she hoped the financial difficulties are temporary for the Applicant, any approval would be permanent.

Mr. Savo said an approval would be permanent. He said the important thing to recognize is that what is being built out there today, will be built out there tomorrow; you will not see anything different. The variances are due to some lines being drawn. The zoning and resolution stay the same; nothing changes.

- Ms. Gulliford said the Applicant knew he had 25% affordable housing, which he agreed to. She asked Mr. Hiller if he had built affordable housing units before.

Mr. Hiller said he had but never at 25%.

- Ms. Gulliford asked Mr. Hiller to clarify his previous statement regarding selling property.

Mr. Hiller reiterated he has been in business for 45 years and has never sold a residential rentals project.

- Ms. Gulliford asked Mr. Hiller if he had sold commercial projects.

Mr. Hiller said he recalled only selling one small 20,000 sf strip commercial center.

- Ms. Gulliford asked if each of the subdivided lots would have some component of affordable housing.

Mr. Hiller said there are two lots created for residential housing. Each would have a proportionate share of affordable housing.

Mr. Bernstein asked for review the subdivision plan.

Mr. Heibell clarified that the entire site plan has the applicable 117 affordable units out of 469 total units. Three of those five buildings are under construction. One of the lots will have three of the affordable buildings; the other residential lot has two buildings. Each lot, for the purpose of the affordable, has the appropriate number.

Mr. Bernstein asked Mr. Heibell, for the purposes of the record, if it is correct to say that of the three lots in questions, two of the lots will have the affordable units and one lot will have none.

Mr. Heibell agreed. He said for the record, the lot that is under construction, has 72 affordable apartments on it. The one that has not been started has the remaining 45 affordable units.

- Ms. Gulliford asked if having a lot with no affordable housing on it would have any impact for change.

Mr. Hiller said it would not have any impact because the number of affordable housing was based on 469 residential units. It has nothing to do with the commercial lot.

- Ms. Gulliford said the tree clearing was allowed because of the affordable housing. She asked if there would be any legal change if one of those lots has not affordable housing on it.

Mr. Savo said a waiver from the Tree Mitigation Plan had been requested at the time of the original application, and granted. The Applicant put up \$45,000 for tree replacement. The lot was not “clear-cut” because of affordable housing. Mr. Savo said he disagreed with the premise of the questions.

- Ms. Gulliford said she would have to go back to her notes from the time but recalled the exchange of information in 2012 differently.

Mr. Savo reiterated the site plan is not being changed. He said whatever was approved by the Board previously is the same. Lot lines are being placed to separate the property to accommodate financing. There is no change at all to the site plan.

Chairman Lipani asked the reason for proposing three lots, as opposed to two.

Mr. Hiller said the commercial component has to stay on its own. Having 469 units on one lot does not allow any flexibility

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for financing. Those 469 units were split the best way possible. Otherwise, the subdivision would be meaningless for the residential.

Mr. Savo said when the first phase is done, Mr. Hiller will be able to secure permanent financing, and then start construction on the next lot. Once construction has been completed on that lot, permanent financing can be secured on that lot, then onto the next lot.

Chairman Lipani said the financing was all on one lot so it was all together anyway.

Mr. Savo said the COAH rules encourage this type of relief for variances and waivers to accommodate construction. He said the Second Round rules are still in effect. This project is a substantial portion of Hillsborough's Affordable Housing Obligation. Mr. Savo said it is important to the community that this project proceeds. He said this project will happen either way but the Applicant is asking the Board to help accommodate fulfillment of the obligation.

Mr. Hesthag spoke in favor of having the property be split into two lots, suggesting some residential on both since the current approval has a mix of commercial and residential. He asked if the commercial will only be approved if it stands alone.

Mr. Savo said having the commercial lot on its own "facilitates" financing.

No other questions for the Witness.

James Kyle, PP, was sworn in and provided the following testimony:

Mr. Kyle stated he had reviewed the site plan and is familiar with the application. He said one of the proposed lots is 8.416 acres; one lot is 14.56; and one lot is 27.06 acres, where 40 acres is the required tract size. For lot frontage, one lot is conforming; one lot has 257.71 ft.; and one has 89.69 ft., where 300 ft. is required. Side yard variances are required for Buildings #1, #4, #6, #8, #9, #10 & #11 on (Proposed) Lot 30.02; and for Buildings #2, #3, and #22 on (Proposed) Lot 30.03.

Mr. Kyle said when the tract is divided into three separate lots, there is more parking on some lots and less on others. Overall, the parking balances on the site, in accordance with the ordinance but one of the lots is deficient based on the buildings that are specifically on that lot. (Proposed) Lot 30.02 has 383 spaces vs. the 527 required.

Mr. Kyle said all of the variances fall under the "flexible 'c'" variance where the purposes of the zoning are promoted and the benefits of granting the variance outweigh the detriment. He said the benefit to promote the public welfare is the provision of the affordable housing to help the Township get to its goal and constitutional obligation. Mr. Kyle said most projects have a set-aside of 15% so this project almost provides double the credits. Mr. Kyle said the granting of the subdivision allows and assurance that this project can continue to move forward as it should. Cutting this property into manageable pieces for financing helps facilitate the development.

Mr. Kyle addressed the potential negative impact. The project will be built, as approved. No variances were required under the previous site plan. He said putting the subdivision lines on the paper does not change anything on the ground, which is the important thing. The subdivision will not change any of the impacts to the project either.

Mr. Kyle said the frontage of the lots on Route 206 will continue to function together. The NJDOT has restricted access for any of the subdivided lots. The two access points will be maintained on a single lot. The lots that do not have access will be assured access through a cross-access easement.

Mr. Kyle said in terms of the parking adequate cross-access easements will be in place so that will ensure people can park adequately. All of the parking will function, as intended. The subdivision will not affect development of the tract or the outcome of the project in any way, other than to facilitate the financing. The impact to the side yard variances is all internal.

Mr. Kyle said creation of the three discrete lots in this case will have no impact to the purpose of the Green Village Zone. He said the COAH rules that are still in place suggest that municipalities should grant reasonable variances and waivers to construct affordable housing. Mr. Kyle said given the benefit to the Township with the high set-aside, these variances are reasonable. He said the Board would be justified in granting the bulk variances requested.

Chairman Lipani said the Board has more to consider than drawing lines on paper. He asked Mr. Kyle if he has seen this type of request in order to facilitate financing before.

Mr. Kyle said it is not uncommon to have to divide things this way, especially for a project of this size. The plans for the maintenance concerns will be addressed.

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Chairman Lipani asked if there was porous pavement with this project.

Mr. Savo said the Porous Pavement Agreement has already been recorded for the whole site.

Mr. Kyle said the Stormwater Management Plan will still stand in place.

Questions from the Public:

Susan Gulliford – Hunt Club Road

- Ms. Gulliford commented that Mr. Kyle's testimony indicated the benefits and detriments are a wash.

Mr. Kyle clarified that he does not see any detriments so the benefits outweigh any detriment.

- Ms. Gulliford asked, if you subdivide and now have a lot that is not mixed-use, if it still meets the Green Village requirements.

Mr. Kyle said the lines do not affect the overall composition of the project. Even though not on the same lot, they are on the same tract and in close proximity so it would still be considered a "mixed-use project" and still meet the intent of the ordinance.

Mr. Bernstein noted there was a Developer's Agreement for this project.

Mr. Savo agreed.

Mr. Bernstein said that Agreement would then need to be amended.

Mr. Savo said it can be amended or done as a separate agreement.

Mr. Bernstein said another condition of approval would call for a separate agreement.

Mr. Savo agreed.

Mr. Maski asked for confirmation that a management plan for the tract that addresses cross-access agreements, any mutual agreements for the use and maintenance of roads, shared parking, landscaping, utilities, recreational facilities, etc. will be provided for review.

Mr. Savo said yes.

Mr. Maski added it will also need to address the affordable housing component, and how it will be managed and maintained over time.

Mr. Savo said it is in the same ownership and will address so that if there is a change of ownership, that will address your concerns. As long as it is in the same ownership, there are no issues.

Mr. Maski said at some point, we have to assume the property will be sold. He said the Township needs to be assured that the affordable housing will be properly maintained and managed over the time period it has to be.

Mr. Savo said yes.

Chairman Lipani restated all of the variances and waivers requested, and called for a motion, with all conditions.

A motion to approve application 16-PB-12-MJV, with all conditions, was made by Mr. Wagner, seconded by Ms. Forrest.

Roll Call: Mr. Peason – yes; Ms. Becorena – yes; Ms. Forrest – yes; Mr. Wagner – yes; Mr. Hesthag – yes; Mr. Skobo – yes; Vice Chairman Julian – yes; Committeeman DelCore – yes; Chairman Lipani – yes. Motion carries.

CONSIDERATION OF ORDINANCES

■ **Ordinance 2017-02**

AN ORDINANCE AMENDING CHAPTER 188 OF THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, COUNTY OF SOMERSET, STATE OF NEW JERSEY TO DEFINE AND REGULATE CERTAIN UTILITY FACILITIES IN THE TOWNSHIP

Planning Director, David K. Maski, PP. AICP, said this ordinance had been reviewed by the Board previously and sent to the Township Committee defining utilities and regulating their placement within the Township. The Township Committee

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sent the ordinance back to the Board for any additional comments. There have not been any changes from the ordinance sent up.

Mr. Maski said everything that is underline is new language, everything crossed out has been revised. All of the regulations and definitions are in one section on utilities, and deleted all of the other references in all of the other sections so that there is no confusion going forward.

Mr. Bernstein concurred saying this puts everything in one section so now you do not need to make a determination depending on the zoning.

Committeeman DelCore thanked Mr. Maski for his work in cleaning up the ordinance.

Chairman Lipani called for a motion.

A motion to send the ordinance back to the Township Committee, without changes, for consideration and potential adoption, was made by Committeeman DelCore, seconded by Mr. Wagner.

Roll Call: Mr. Peason – yes; Ms. Becorena – yes; Ms. Forrest – yes; Mr. Wagner – yes; Mr. Hesthag – yes; Mr. Skobo – yes; Vice Chairman Julian – yes; Committeeman DelCore – yes; Chairman Lipani – yes. Motion carries.

■ **Regulating Trucks in Residential Districts** – for discussion

Mr. Maski said he tried to include as many of the items from the previous discussion in his revised memo. The consensus was to switch to a GVWR, Gross Vehicle Weight Rating, and that 10,000 lbs. would be the cap, to allow for trucks that fall under 10,000 lbs.

The Board can decide on Option A, or Option B. Option A, as it was originally written, prohibits these vehicles in the front yard. They can only be in the side or rear yard. If the Board agreed it is appropriate to have a truck under 10,000 lbs. in the front yard, Option B provides some qualifications. The vehicle would have to be parked at least 10 ft. from a sidewalk, or 20 ft. from the edge of pavement if there is no sidewalk so that the vehicle would not be blocking pedestrians and sight triangles. The remainder of the document is fairly unchanged, including no parking on grassed / lawn areas, and otherwise landscaped areas. No business can be conducted from the vehicle. No outside storage is permitted.

Item “C” was enhanced to state “Overnight parking of any vehicle exceeding 10,000 lbs., including non-recreations trailers, construction equipment, truck tractors, and buses is prohibited in residential zones.” The last phrase in Item “A” was changed to say “... with the exception of passenger vehicles designed to carry 15 passengers or less, which are exempt from this provision.” So, one could have a van that could carry 15 passengers or less, and be exempt from this provision.

Mr. Maski referenced the Federal Highway Administration Vehicle Weight Classifications. The table shows they categorize “Light Duty” vehicles as less than or equal to 10,000 lbs., which include various types of vehicles shown on the following chart.

Mr. Wagner asked whether or not a vehicle such as a Chevy 3500 (“Duly Pick-up”) that has 4 wheels on the back and 2 on the front, would be allowed to be parked in a residential zone.

Mr. Maski said if it was not a commercial vehicle, it would not be covered by this ordinance. Private vehicles are permitted anyway you want. If it had a sign on it and/or commercial plates, it would be regulated by the ordinance.

Chairman Lipani suggested the requirement of having the vehicle be 10 ft. from the side yard may not be achievable by some of the smaller homes in town where the lots are small and the driveways are right at the property line.

Ms. Forrest said there are properties in town where the “front yard” may not follow the requirements and thereby disallow someone from parking their vehicle in their driveway. That could present a problem for a lot of people. She said “Option B” would seem to give a little more flexibility. So long as it is on a private driveway, it should be permitted.

Mr. Bernstein commented that the intent is to avoid having residential neighborhoods looking like parking lots for various commercial vehicles. A certain amount of screening is so that not everyone has to look at it every day. Obviously, there are certain situations where that cannot occur, such as with condos and apartment type situations where there is a common parking area. But for the standard residential home, that is the issue. The other part is that they do not end up in places where they do not belong, such as the front lawn.

Chairman Lipani said it is important to limit it to one vehicle per residence.

Mr. Maski said the intention is to address these types of vehicles where the resident uses it to commute to and from work.

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Ms. Forrest said she does not disagree but there are many homes in town where the homes are older and smaller and do not have the ability to park their vehicle on the side or rear yard. This ordinance would infringe on their rights to run their business and use their vehicles on a day to day basis.

Mr. Bernstein said the draft Mr. Maski prepared takes into consideration those types of properties. The provision of having some form of landscaping for those who have “nowhere to hide” the commercial vehicle anywhere else, be it with a few trees, low fence or the like. This problem is facing almost every suburban municipality in the State, by the way in which people conduct business, be it their own or for others. There was a time when you never brought the vehicle home. Now it is almost stock and trade where people are driving commercial vehicles more than personal vehicles.

There was additional discussion on “front yard” setbacks.

Mr. Hesthag said many developments have a front facing garage with the driveway in front of it. If you had a vehicle less than 10,000 lbs. that by the standard would be allowed, would then be subject to the standard of “Option A” or “Option B”. He said very few homes would qualify to either standard so because of that, those effected would be denied, if they live in a traditional house where the driveway is in front of the garage.

Mr. Maski said “Option A” basically prohibits trucks in the front yard.

Board members discussed various distances for the second option.

Mr. Bernstein said the Board could decide to say “a vehicle shall not obstruct pedestrian nor vehicular traffic.”

Chairman Lipani held up the chart and read through the types of vehicles included. “Class One 6,000 lbs. or less: Full Size Pick-up; Mini Pick-up; Minivan; SUV; Utility Van” “Class Two 6,001 lbs. to 10,000 lbs.: Crew Size Pick-up; Full Size Pick-up; Mini Bus; Minivan; Step Van; Utility Van”.

Mr. Bernstein said there are mini buses that are over 10,000 lbs.

Chairman Lipani said the vehicle is precluded by the GVW as much as what the van looks like. He reviewed the next class of vehicles, 10,001 to 14,000 lbs.: City Delivery Truck; Mini Bus; and Walk-in Truck, such as a UPS truck. These types of vehicles and large are not permitted to be parked in residential districts.

Chairman Lipani said the Board was leaning toward “Option B”. He said a Duly Pick-up would fall under Class 2, but would have four wheels in the back. It could also be smaller than a full crew size truck but with a larger axle. He asked Mr. Maski if the language could be amended to address this.

The Board discussed some of the details with Mr. Maski. They agreed the ordinance should include weight Class I and Class II; two axles; and that the number of tires be stricken.

Committeeman DelCore commented that in the previous discussion, it was said that the weight itself was not necessarily the best indicator.

Mr. Maski said that was when the consideration was on the payload capacity. With payload capacity, you can have two trucks look exactly the same from the outside but one could be fitted out for a higher payload capacity with a different axle and suspension. Payload capacity varies but the GVW is a set weight for the vehicle, fully loaded. GVW seemed to be a more acceptable way to measure a truck.

Mr. Maski said the next thing for the Board to consider is where the vehicles will be allowed to be parked.

Board members agreed parking would need to include the front yard to be fair to all.

Mr. Maski asked if the Board would like the “10 feet” and “20 feet” references regarding the front yard stricken and replaced with more subjective language.

Board members agreed.

After discussion, it was agreed to reduce the minimum distance from side and rear yards from 10 ft. to 5 ft.

Mr. White noted the requirement for a driveway is no closer than 5 ft. off of a property line.

Chairman Lipani suggested the screening should be provided “where possible”.

After discussion, Mr. Bernstein said the objective is to have these types of vehicles put in a garage, wherever possible. We are only allowing this when the vehicle does not fit in the garage.

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Committeeman DelCore asked who would be responsible to track that. That brings up an issue of whether or not a vehicle could or should be in a garage.

Mr. Bernstein said the Township will not be expending funds and resources on this matter. The vast majority of issues will be raised by the neighbors.

Committeeman DelCore reiterated that the Board should be trying to find a happy medium between the homeowners that want to have a nice view of their neighborhood, and the people who have a business and want to keep a relatively small commercial vehicle in their driveway. The Zoning Officer will not be going out to make a determination on whether or not someone is parked correctly in their driveway. But, you cannot overhang into the right-of-way.

Mr. Bernstein said the other question is if there should be language in the ordinance that “encourages” vehicles to be garaged, wherever possible. The majority of these vehicles will not fit into a garage.

Committeeman DelCore suggested the language gives some flexibility such as a “should” not a “must” so that the Township is not then forced to deal with that.

Chairman Lipani said the ordinance is easy for the public to understand, and easy to enforce.

A motion to recommend the draft ordinance, with all amendments, to the Township Committee for review and potential introduction, was made by Ms. Forrest, seconded by Mr. Hesthag.

Mr. Peason questioned the placement of the ordinance.

Mr. Maski said Section 188.51 is currently three sentences, which addresses a totally different subject. Section 188.51.1 would follow in succession in the ordinance.

Roll Call: Mr. Peason – yes; Ms. Becorena – yes; Ms. Forrest – yes; Mr. Wagner – yes; Mr. Hesthag – yes; Mr. Skobo – yes; Vice Chairman Julian – yes; Committeeman DelCore – yes; Chairman Lipani – yes. Motion carries.

Mr. Bernstein pointed out that Committeeman DelCore’s vote is not binding for adoption, merely for sending the draft to the Township Committee for review and introduction.

SPECIAL COMMITTEE REPORTS

None

BUSINESS FROM THE FLOOR

None

CORRESPONDENCE

- SCPB – 2017 Planning Partners Forums (via e-mail)

Chairman Lipani made mention of the forum meetings.

Chairman Lipani said there is a business meeting scheduled for March 23rd but there is no activity scheduled.

A motion to cancel the March 23rd meeting was made by Mr. Wagner, seconded by Ms. Forrest. All were in favor; none were opposed. Motion carries.

Chairman Lipani said the following meeting is scheduled for April 6, 2017, which will remain open at this time.

ADJOURNMENT

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

The meeting was adjourned at 9:10 pm.

Submitted by:
Debora Padgett
Administrative Assistant / Planning Board Clerk