

Township of Manalapan

120 Route 522 & Taylors Mills Road
Manalapan, NJ 07726
(732) 446-8350

Planning Board Minutes

Virtual Meeting

December 10, 2020

The meeting was called to order with the reading of the Open Public Meetings Act by Chairwoman Kathryn Kwaak at 7:30 p.m., followed by the salute to the flag.

Roll Call: Daria D'Agostino, Secretary

In attendance at the meeting: Barry Fisher, Todd Brown, John Castronovo, Daria D'Agostino, Kathryn Kwaak, Jack McNaboe, Barry Jacobson, Richard Hogan, Steve Kastell

Absent from meeting: Alan Ginsberg, Brian Shorr

Also present: Ronald Cucchiaro, Planning Board Attorney
James Winckowski, Alternate Planning Board Engineer
Jennifer Beahm, Planning Board Planner
Lisa Urso-Nosseir, Recording Secretary

Mr. Cucchiaro swore in James Winckowski, Professional Engineer and Jennifer Beahm, Professional Planner.

Minutes:

A Motion was made by Chief Hogan, Seconded by Mr. Fisher to approve the Minutes of November 12, 2020 as written.

Yes: Fisher, Brown, Castronovo, D'Agostino, Kwaak, McNaboe, Jacobson, Hogan, Kastell

No: None

Absent: Ginsberg

Abstain: None

Not Eligible: Shorr

Resolution:

A Motion was made by Mr. Castronovo, Seconded by Mr. Fisher to approve the Resolution for Planning Board Application PBM1514A, Monmouth Heights Community Association as written.

Yes: Fisher, Castronovo, D'Agostino, Kwaak, McNaboe, Hogan, Kastell
No: None
Absent: Ginsberg
Abstain: Brown, Jacobson
Not Eligible: Shorr

A Motion was made by Mr. Castronovo, Seconded by Mr. Brown to approve the Resolution for Planning Board Application PMS1846, OLUUD Corporation, "Something New Salon and Spa", as written.

Yes: Fisher, Castronovo, Brown, D'Agostino, Kwaak, McNaboe, Jacobson, Hogan, Kastell
No: None
Absent: Ginsberg
Abstain: None
Not Eligible: Shorr

Mr. Cucchiaro explained that he received a call from Todd Cohen, the attorney for the neighboring property owner of OLUUD Corporation claiming that his client had not received notice of the application. However, Mr. Galvin, who represented the applicant, was able to provide a copy of the notice that was sent out to the neighbor. The Board has to act on the resolution tonight and Mr. Cucchiaro explained the options that Mr. Cohen could pursue.

Applications: PPM2031~ K. Hovnanian at Manalapan V, LLC,
"Pinebrook Crossing"
Wilson Avenue @ Sobeckko Road
Block 30 / Lots 2, 3.01, 3.02, 4 & 7.01
Preliminary and Final Major Subdivision
Preliminary and Final Major Site Plan

Mr. Cucchiaro explained that we received a request from the applicant's attorney that the matter be carried since they are working on revising their plans. We will be carrying this application to January 14, 2021.

**PPM1823 ~ Countryside Developers, Inc.,
'Manalapan Logistics Center'
203 HWY 33 ~ Block 78 / Lot 12.02
Preliminary and Final Major Site Plan
*Carried from February 27, 2020 to
April 23, 2020: Meeting Cancelled.
Carried to June 11, 2020 - Applicant Requested to be Carried to July 9,
2020 - Applicant Requested to be Further Carried to
August 13, 2020; Carried to September 10, 2020
Carried to September 24, 2020; Carried to October 8, 2020
Carried to October 22, 2020; Carried to November 12, 2020***

Salvatore Alfieri, Esq. of Clearly, Giacobbe represented the applicant this evening. The objectors attorneys have finished their rebuttal and were not present this evening. Mr. Alfieri said he has three brief witnesses to attest to environmental matters concerning the stream corridor buffer.

Dr. Raymond Walker remained under oath. Dr. Walker heard the testimony of the rebuttal environmental expert, as well as reviewing the report that he submitted. Mr. Alfieri said one of the things that the expert testified to is that there weren't enough site visits and the DEP might not visit the site. Mr. Alfieri asked Dr. Walker how often the site was visited, and by whom? Dr. Walker said in 2013, the DEP visited the site on three occasions as part of their research for a Letter of Interpretation and Wetlands Delineation Application. The site was inspected again in the Fall of 2018 as part of an extension request. The property was also inspected by the Maser Consulting landscape architectural experts. There was also a survey done identifying tree species. Over the last seven years, there have been eight inspections of the property. Mr. Alfieri asked Dr. Walker about the Environmental Impact Statement which was prepared by Maser Consulting. Dr. Walker said the original application requested certain encroachments into the stream corridor waiver for the improvements. However that site plan was revised in May 2020 to exclude those encroachments based on the comments that the applicant had received from the Board. The comments that were brought up by the objectors expert were greatly based on a previous plan, that in fact, was no longer before the Board. They didn't realize the applicant had modified their submission.

Dr. Walker continued that the comments in the objectors expert report were that he was recommending that additional studies needed to be done on the site in order for the Planning Board to access the impacts of granting that stream corridor buffer waiver. The objectors expert assumed we had a 50' wetland buffer, but we have 150' wetland buffer. He wasn't aware that Maser had already recognized the presence of bald eagles on the site, etc. In May 2020, the DEP did issue Flood Hazard Area permits and Freshwater Wetlands for the project that recognized that the applicant had prepared a revegetation plan of the stream corridor buffer. The applicant prepared a vegetation plan to protect the stream corridor. The site plan, along with the stormwater management plan, will result in an overall water quality improvement. Dr. Walker

reiterated that the comments in the objectors report were not relevant. Mr. Alfieri added that the experts witness had never reviewed the NJ DEP permits that were issued.

Julia Algeo, engineer for the project remained under oath. Mr. Alfieri said that there were a set of exhibits that are currently on the Township website, but he wanted to get the items on the record. Mr. Cucchiaro said they are part of the record because they were placed on the website. He said Mr. Alfieri could list the items and we would give it an identifying exhibit number. Mr. Alfieri stated each of the following:

A20 - October 2018 Resolution for K. Hovnanian Four Seasons at Manalapan Brook

A21 - April 2019 Resolution for Manalapan Crossing

A22 - March 14, 2019 Resolution for Skeba Warehouse

A23 - October 23, 2014 Resolution for Field of Dreams

A24 - May 9, 2019 Resolution for Stavola Asphalt Company

A25 - 1989 Resolution for the Village at Manalapan Brook

A26 - October 14, 2020 Emails between Jim Carr of WMUA and Applicant

A27 - Reference to an administrative code

A28 - NJ DOT Application for Utilities

A29 - October 14, 2020 Letter from Julia Algeo

A30 - November 9, 2020 Letter from Creigh Rahenkamp

Ms. Algeo said we could not put the utilities within the DOT ROW because they are private utilities. We had no choice but to cross over onto the other side of the property in order to get to the west in order to connect to the existing utilities. Mr. Alfieri asked does the DOT accept the privately owned lines within the ROW? Ms. Algeo said that is correct, it would have to be a public utility, not a private utility. Mr. Alfieri asked Ms. Algeo to summarize the findings in her letter.

Ms. Algeo stated on August 13, 2020, Mr. Sherman testified on various plans that he obtained from the Planning Office and following the testimony, she was asked to review those plans and to opine as to whether those disturbances were in keeping with the Ordinance, or similar to what we are proposing. What she found was that all of them had similar, or more intense intrusions into the stream corridor buffer than what we are currently proposing.

Mr. Cucchiaro swore in Creigh Rahenkamp, Professional Planner with over 25 years experience in the field. Mr. Rahenkamp issued his letter dated November 9, 2020 which has been marked as Exhibit A30. He was present for the virtual meetings wherein the objectors planner gave testimony. Mr. Rahenkamp stated this application is clearly a permitted use. We have a point of entry for utilities coming into the site and connecting from east to west across a small stream crossing and a roadway which crosses that would be slightly widened. Stormwater water management is located within the DEP requirements. None of these issue relay to the use, or the intensity of the use. Mr. Rahenkamp stated relief is not necessary. First is the structure of this section of the ordinance as it is written. It is improper for a governing body to tell a Planning Board what they can or cannot do when they are granting relief. Mr. Rahenkamp referred to Ms. Algeo's letter wherein all five of the developments she reviewed had stormwater outfalls that would have encroached on this buffer area. One of them had a road crossing very similar to our application. It is clear that this Board has reviewed other applications that are similar to ours and have come up with the conclusion that relief was not necessary. Mr. Rahenkamp said the relief is not related to the use. Utilities have to enter the site and have to happen - no matter what the use is. Preventing any productive development of the site goes far beyond the threshold of impracticality.

Mr. Winckowski stated that the applicant has not submitted an application to the Township for the water system. There has been no input as to whether or not it is acceptable.

The floor was open to the public for questions.

Ann Mazzara, of both 63 and 59 Route 33 wanted to make a statement since she lives on Route 33. Ms. Mazzara stated that she recalls someone testifying that development should be for public benefit, not personal benefit. She is extremely concerned with the volume of the traffic that would be placed on the residents. She is also concerned with her water, which is well water.

There were no other members of the public that wished to speak.

Mr. Cucchiaro wanted to give his legal opinion. His view is that the application has the burden of proof for a stream corridor relief. This is not in lieu of granting relief. It is his legal opinion that waiver relief is required for this application. He referred to the 1989 resolution wherein the Township was sued and the court had granted a builder remedy and that particular application was under a court order. That application was required to be adopted by the Township. The other resolutions were part of an affordable housing application and the Township is required to grant approval. Those are differences between the applications.

Mr. Alfieri stated the applicant has a long history with this property. He went before the Zoning Board years ago for an active adult community with affordable housing and that

was a denial. He went back to the Zoning Board with a mixed use project with retail and senior housing and again, it was denied. Now this application is variance free and we take the position that relief is not needed and it is fully conforming. We have agreed to address all the technical comments in the professional reports, we've made efforts to acquire land, we've revised the plans, etc. We obtained all the NJ DEP permits, the area of disturbance will be in a better environmental position than what it is today. There is no other way to get utilities to this site. Nothing can be developed without the waiver relief. We justify waiver relief, if waiver relief is actually required. We provided an acoustical expert who explained the proposed project in detail. This Board cannot consider off-site traffic conditions as a basis for denial. The Zoning Board adopted a resolution on the interpretation and we have complied with the use. We are requesting a positive vote or this property cannot be developed.

A Motion to deny PMS1823, Countryside Developers, Inc., "Manalapan Logistics Center" was made by Mr. McNaboe because the applicant has not met the burden of proof for waiver relief and therefore cannot gain site plan approval and Seconded by Mr. Jacobson.

Yes: Fisher, Brown, Castronovo, D'Agostino, Kwaak, McNaboe, Jacobson,
Hogan, Kastell
No: None
Absent: Ginsberg
Abstain: None
Not Eligible: Shorr

Chairwoman Kwaak opened up the meeting to the public for any non-agenda items; seeing none it was closed.

Mayor McNaboe thanked the Board for their work during the course of the year.

Adjournment

A Motion to adjourn the meeting was made by Mr. Fisher and agreed to by all.

Respectfully submitted,



Lisa Urso-Nosseir
Recording Secretary