

February 13, 2008

The monthly meeting of the Greenwich Township Planning Board was held on the above date and was called to order by Tom Bolger, Chairwoman, at 7:30 P.M. in the Municipal Building. The meeting opened with the Pledge of Allegiance.

Pursuant to the Open Public Meetings Act, Chapter 231, PL, 1975, adequate notice of this meeting has been given in accordance with the Open Public Meetings Act by:

1. Mailing a notice of scheduled meetings of the Greenwich Township Planning Board to the Express-Times and Star-Ledger.
2. Posting a notice thereof on the Township bulletin board.
3. Filing a copy thereof with the Township Clerk.

Board members present: Jim Adams, Helio Carvalho, Elaine Emiliani, Tim Gale, Frank Marchetta, Deborah Pasquarelli, Joseph Schiller, Doris Rayna, Tom Bolger, Michael Black. Also present were Michael Finelli, Engineer and Jonathan Drill, Esq. Absent was Charles Stillman.

East Coast Energy Solutions has been adjourned to another meeting.

Deborah Pasquarelli made a motion, seconded by Jim Adams, to adopt the minutes from the January 2, 2008 meeting. The vote is as follows:

IN FAVOR: Adams, Gale, Marchetta, Pasquarelli, Rayna, Bolger.
OPPOSED: None.
ABSTAINED: Carvalho, Emiliani, Schiller.

Motion carried.

Elaine Emiliani made a motion, seconded by Doris Rayna, to adopt the minutes from the January 9, 2008 meeting. The vote is as follows:

IN FAVOR: Adams, Carvalho, Emiliani, Gale, Marchetta, Pasquarelli, Schiller, Rayna.
OPPOSED: None.
ABSTAINED: Bolger.

Motion carried.

February 13, 2008

Page 2

Application #247-08, Minor Site Plan, Block 2, Lot 10, Michael Sassman. The applicant is submitting the application solely because of a change in use in accordance with township ordinance section 14-2.1a. The change contemplated is from the former use as a hair salon on the first floor of the two-story building to a proposed use as a karate school. The township Zoning Officer has made the determination that the intended use is permitted in the B-1 Zone.

Based upon Mr. Finelli's recommendation in his report of February 11, 2008, Doris Rayna made a motion, seconded by Tim Gale, to deem Application #247-08, complete. The vote is as follows:

IN FAVOR: Adams, Carvalho, Emiliani, Gale, Marchetta, Pasquarelli, Schiller, Rayna, Bolger.

OPPOSED: None.

ABSTAINED: None.

Motion carried.

Deborah Pasquarelli made a motion, seconded by Jim Adams, to schedule a Public Hearing on Application #247-08, Minor Site Plan, Block 2, Lot 10, for March 12, 2008. The vote is as follows:

IN FAVOR: Adams, Carvalho, Emiliani, Gale, Marchetta, Pasquarelli, Schiller, Rayna, Bolger.

OPPOSED: None.

ABSTAINED: None.

Motion carried.

Medarex Extension Request. Michael Selvaggi, Esq. was present, along with Bryon Smith of Medarex, and Attorney Selvaggi stated that the planning board had adopted a Resolution on April 3, 2005, granting preliminary and final site plan approval and bulk variance relief to Medarex, Inc. In 2007, the board granted a one year extension which extended its approval until April 13, 2008. Attorney Selvaggi is before the board requesting a two year extension rather than a single year. Medarex believes a two year period of repose would be appropriate and sufficient to enable it to proceed with its addition within the next 12 to 18 months. Under the Land Use Law, Attorney Selvaggi stated that this two year extension request would be the last extension that Medarex would be able to request.

February 13, 2008

Page 3

Attorney Drill stated that final approval gives the applicant a protection against changes in zoning. If the developer has followed the standards prescribed for final approval, the planning board may extend such period of protection for extensions of one year but not to exceed three extensions. The MLUL further stated that the planning board shall grant an extension if the developer proves that the delay in proceeding with the development was due to having to obtain some other approval. If there is no change in the zoning, which Attorney Drill stated is the case here, and the applicant has followed all of the conditions of the final approval and if the board is still in favor of the application, then the planning board could grant the request. It is up to the board if they want to grant a one year extension or a two year extension.

Discussion was held regarding the COAH obligation and Attorney Selvaggi stated that Medarex will pay the 2% , which is part of the approval and Medarex is willing to comply with all of the conditions of approval. Attorney Drill stated that if the board extends the request for two years and the COAH ordinance obligation percentage changes, the applicant would be protected against that change. The Chair stated that COAH changes are forthcoming and if the ordinances changes, the township would be stuck and have to find another way to make up the difference.

Attorney Drill stated that the board could ask the applicant's attorney that, as a condition of the extension, if the ordinance does change and there is a more extensive, stricter obligation, which they would agree to be bound by it. Tom Bolger stated that Medarex has been a good development and a good township citizen. Medarex has worked well with the board and does the type of development that the board is looking for. The land is zoned ROM. The township is looking for non-residential development, but there is a concern about the COAH obligation.

Attorney Drill stated that nobody can project the COAH figures. One thing for sure, it is going to be different than it is now. It could be less. Attorney Selvaggi stated that listening to planners, when the COAH rules are adopted sometime in June or July, the housing advocates will challenge the figures.

Michael Finelli stated that when it comes to the impact fees, if construction is going to start in 6 months, COAH is a mute point. If the extension is not granted and they don't build, they are at a greater risk of a much greater impact on COAH fees. The Resolution states that the applicant shall pay to the township an Affordable Housing Impact Fee of 2% prior to the issuance of a Certificate of Occupancy. Michael Finelli stated that they will pay half at the point when they go for a building permit, according to the ordinance and pay the other percent when they go for a Certificate of Occupancy.

After discussion on the COAH issue, Jim Adams made a motion, seconded by Tim Gale, to grant a second one year extension. When that one year is up, the applicant would have to come back to the board for their third and final request, if they have not pulled a

building permit. This extension would give Medarex the protection period extended to April 13, 2009. The vote is as follows:

IN FAVOR: Adams, Carvalho, Emiliani, Gale, Marchetta, Pasquarelli, Schiller,
Rayna, Bolger.
OPPOSED: None.
ABSTAINED: None.

Motion carried.

Budget discussion. Chairman Bolger addressed the board by saying that the township, along with the Planning Board, has to watch their expenses. Elaine Emiliani stated that the planning board should list all projects that the board will be working on and getting costs from the board's professionals. In some departments, the mayor has asked for a 20% reduction in spending. In other departments, the township will have to spend the money. The planning board is a department that the mayor looks at as having to spend the money to defend the township accordingly with the COAH regulations, Highlands Act, etc.

Tom Bolger stated that one thing that impacts the board's budget is professional's fees. Mr. Bolger stated that there are times when e-mails and communications are sent directly to the board's professionals which start to generate billing to the township. Mr. Bolger is asking members to curtail the communications that go directly to the professionals. When there is an application involved, that comes out of their escrow account. When it comes to township business, any e-mail starts the clock ticking and generates a bill to the township. If a board member has things not applicant specific, please send it to the chair and copy Elva and also send to vice-chair. Elva will make sure that the chair and vice-chair act on them in a timely manner. The mayor stated that any discussion about billing, Elva should talk directed to Elaine and she will have discussion with the professionals. The chair stated that he wants to limit the amount of money that is spent on professionals. Regarding e-mails, if there is a lawsuit, all e-mails would be summoned. The board has to watch what they say about certain things and certain topics in e-mail.

Time line and comment period for Highlands, Farmland Preservation Plan and COAH. Highlands is due by February 28. The board or township hasn't heard anything from the State regarding Farmland Preservation Plan. This plan was due to the State by December 15, 2007 and as far as the board knows, the deadline was made. There was a 60 day comment period for the board to make any changes that needed to be made. Michael Finelli will contact Tim Brill regarding the status of the Farmland Preservation Plan.

The comment period for COAH is due March 22, 2008. Carl Hintz is to prepare a letter

of Greenwich Township comments to be reviewed by the planning board at the March planning board meeting. If any changes are needed, Mr. Hintz will make them and submit them by March 22, 2008. Attorney Drill suggested that Mr. Hintz work with Stuart Koenig, Esq. on COAH.

The Chair would like to have Carl Hintz provide planning board comments to Stuart Koenig, Esq. and Attorney Koenig will write comments for the township that will be reviewed at the March planning board meeting. Any final changes will be made and resubmitted to the Mayor for signature and then sent to the State. At last months meeting, Mr. Hintz left early and Michael Finelli was requested to advise Mr. Hintz of what the board had told him to do regarding COAH. This was done by Mr. Finelli. Mr. Hintz is already in the loop on getting comments prepared about COAH. Mr. Finelli will be meeting with Carl regarding the ordinance update and COAH will be mentioned to him.

Codification review. Attorney Drill stated that the first thing that should happen is codification of existing ordinances should go first. Codification is the entire township's amended ordinances, a township budget item, would have to be sent to the township's codification company. They have to take the amended/or new ordinances and convert into codification form and produce these inserts. This has not been done for a number of years. Then the books can be updated. In talking to the codification people, the township clerk informed Attorney Drill that this could take 6 to 8 months. Once that is done, the codification company will notify the township with a list of things that they pick up. After the codification is done, Mike Finelli and Carl Hintz will submit proposals and go through the ordinances and do the review and make recommendations. This process will bring the code book up to speed. The planning board does land use ordinances along with planner, engineer and attorney. The rest should be the responsibility of the township.

Deborah Pasquarelli mad a motion, seconded by Jim Adams, to have Land Use Ordinances reviewed by the planning board, paid for by the planning board. The vote is as follows:

IN FAVOR: Adams, Carvalho, Emiliani, Gale, Marchetta, Pasquarelli,
Schiller, Rayna, Bolger.
OPPOSED: None.
ABSTAINED: None.

Motion carried.

Redevelopment/Community Facilities Plan. Tom Bolger questioned whether the planning board or the township committee should be doing these plans. The Community Facilities Plan is an element of the Master Plan and is lacking from the Master Plan.

Mayor Emiliani authorized Mike Finelli and Carl Hintz to work with the capital projects group. Tom stated that, apparently, the township authorized professionals to get the information that is needed to make the decisions without creating the Master Plan elements that would further protect the township. Jim Adams stated that a lot of people were doing a lot of different things and the township just wanted to consolidate the efforts to help the Capital Projects Committee. Joe Schiller stated that the Capital Projects Committee is an advisory committee only. The committee will develop recommendations as to what we do with the facilities and that includes court, administration, police, department of public works, fire department. Tom Bolger stated that if we have these elements in our Master Plan, it makes for a better Master Plan and if the township is paying the professionals to provide information, why not pay them to get the elements completed and include them in the Master Plan to protect the township. Attorney Drill stated that if a community facility was going to be on private property, not public property, if that was in a Community Facility Plan and a developer came in and proposes something on privately owned land but there is a community facilities shown on the Master Plan, there is a one year period that the township, basically, has the right to take it. Deborah Pasquarelli stated that the township is in the midst of a major capital project strategic plan and feels it is premature to be doing an element to the Master Plan until that is complete. Joe Schiller stated that anything under consideration will be on township land, not on private land.

Highlands Regional Master Plan. Carl Hintz drafted a letter to Thomas A. Borden, regarding comments on the final draft of the Highlands Regional master Plan. The “Septic Limitations” paragraph was discussed and questions were raised regarding the wording and what the paragraph really means. Tom Bolger stated that there are discrepancies between the Highlands mapping and a hydrology report for the same land area. The board would expect the Highlands report to better reflect the high quality water recharge areas. Deborah Pasquarelli stated that it is not demonstrating a high value resource adequately. Other items discussed were:

Conservation Priority Area. Greenwich Township would propose that the maps accurately reflect the value.

Farmland Preservation. The township is actively pursuing the open space still available and preserve farmland. The word “purchase” should be changed to “preserving” farmland.

The Conservation Zone should have the same protection as afforded the preservation area.

Jim Adams made a motion, seconded by Elaine Emiliani, authorizing Tom Bolger to contact Carl Hintz with the discussed changes to the letter. The vote is as follows:

IN FAVOR: Adams, Carvalho, Emiliani, Gale, Marchetta, Schiller,
Rayna.
OPPOSED: None.
ABSTAINED: Pasquarelli, Bolger.

Motion carried.

Elaine Emiliani made a motion, seconded by Jim Adams, that once the changes to the letter are made, Tom Bolger is authorized to send out the letter, without further review from the board.

IN FAVOR: Adams, Carvalho, Emiliani, Gale, Marchetta, Schiller,
Rayna.
OPPOSED: None.
ABSTAINED: Pasquarelli, Bolger.

Motion carried.

Excused Absences. Tom Bolger stated that he feels there has not been a problem with absences that we have to take the time to vote and approve absences. Tom proposed that the absences are provided to the Chair and the Secretary and that it would be up to the discretion of the chair as to whether it was an excusable absence. Doris Rayna stated that if people don't have time to serve on the board, they should not accept the position. Tom feels the wording should be different. Elaine Emiliani stated that this was just a proposal and it is the board's chose whether or not they want to adopt that section. Attorney Drill stated that the board has to be comfortable with the wording.

Crib Sheets. Attorney Drill prepared the crib sheets as advice to the planning board and informing the board what relief the board has to go through. The applicant will be given a copy of the crib sheets to follow. These crib sheets can be put on the web site so when an applicant comes in before the board, they can see what the board's attorney advises to the board would be on the standards that the board should apply. This would, also, be available to the public through the web site. These crib sheets are Attorney Drill's opinion on the standards that apply to the relief. Joe Schiller questioned the statutes that are cited and where does he go to find them. Attorney Drill stated that the statutes that are cited are in the Municipal Land Use Law and are on a website in New Jersey. Joe feels that the applicant would need some type of link to these statutes. Board members stated that a land use attorney would know where to get the information and know what the requirements are. Michael Finelli stated that the township ordinances will be posted on the web site, but they are not to that point as of yet. Elaine Emiliani made a motion, seconded by Tim Gale, to authorize Attorney Drill to put the crib sheets on the website

to further assist in providing information to potential applicants and the general public.
The vote is as follows:

IN FAVOR: Adams, Emiliani, Gale, Pasquarelli, Schiller, Bolger.
OPPOSED: Carvalho, Rayna.
ABSTAINED: Marchetta.

Motion carried.

Rules and regulations. Most members want reports electronic, but Doris Rayna stated that if more than ten (10) pages, she would like the printed copies. Frank Marchetta, Deborah Pasquarelli, Elaine Emiliani and Jim Adams also would like printed copies if more than ten (10) pages.

Reviewed Part II, Procedures. New text is listed below:

- 2:1-2. Scheduling. “by the board unless delegated to the Board Secretary by the board. Delete: or its designees.
- 2:1-4. Notice of Hearing. “be specific as to what the application is – example: “shopping center” – specific what type of uses.
- 2:2-2. Testimony Under Oath. “The board attorney or the Board Chair or the Chair’s designee”.
- 2:2-3. Order of Presentation. “All witnesses are to be sworn in at once, including the board’s professionals”.
Discussion: The only people that have the right to cross examine are an interested party. If you don’t want to let a member of the public cross examine the applicant, the board is within their rights not to. If the public wants to make comments, the board has to let anyone, under oath, make a comment on the application.
- 2:2-7. Testimony from Expert Witnesses. “The applicant shall reimburse the municipality through its escrow account for the fees incurred”.
- 2:2-8. Site Visits. “The Board may make site visits of the property that is the subject of an application upon reasonable notice to the parties and subject to the Open Public Meetings Act. If the board visits the site in a group, more than a quorum, it is a public meeting and has to be noticed and put on the record what was seen, ie: topography, etc.”. Doris Rayna stated that when she attended a planning course, they stated that a board

member should go out by themselves and not with a group.

2:2-11. Letters and Petitions in Objection. Cases say that boards are not suppose to take letters or petitions. If one comes in, the board secretary is not to distribute them to board members. They are suppose to be returned to the author with a note saying that if you want this information shared with the board, come to the hearing. That person can, under oath, read the petition.

Frank Marchetta made a motion, seconded by Jim Adams, to adjourn the meeting. Motion carried. Meeting adjourned at 10:30 p.m.

Elva N. Pomroy
Planning Board Secretary

Tom Bolger
Chairman