

TOWNSHIP OF PLUMSTED
LAND USE BOARD
MEETING MINUTES
April 4, 2023

Meeting Began: 7:30pm Meeting Ended: 8:18pm

1. FLAG SALUTE:

- a. Led by Chairman Doug Hallock.

2. OPEN PUBLIC MEETING ACTS STATEMENT:

- a. Open Public Meeting Act Statement was read by Counsel (Greg McGuckin)

3. ROLL CALL

PRESENT	ABSENT	
<u> X </u>	<u> </u>	Bill Fox
<u> X </u>	<u> </u>	Jim Garrigan
<u> </u>	<u> X </u>	James Hagelstein
<u> X </u>	<u> </u>	Bernard Haney
<u> X </u>	<u> </u>	John Neyenhouse
<u> X </u>	<u> </u>	John O'Callaghan
<u> X </u>	<u> </u>	Robert O'Neill
<u> </u>	<u> X </u>	Dustin Horowitz
<u> X </u>	<u> </u>	Wendy Galloway
<u> </u>	<u> X </u>	Mayor Robert Bowen
<u> X </u>	<u> </u>	Douglas Hallock
<u> </u>	<u> </u>	
<u> X </u>	<u> </u>	Cynthia MacReynolds, Secretary
<u> X </u>	<u> </u>	Joseph Hirsch, Engineer
<u> X </u>	<u> </u>	Greg McGuckin, Attorney

4. MINUTES TO BE CONSIDERED FOR APPROVAL: 3/7/23 & 8/2/23

- a. Motion to adopt the March 7, 2023 minutes was made by Mr. Fox and 2nd by Mr. Haney.

Roll Call:

Approved:

Fox
Haney
Neyenhouse
O'Callaghan
O'Neill
Galloway

Hallock

Abstained:

Garrigan

- b.** Motion to adopt the August 22, 2022 minutes was made by Mr. Fox and 2nd by Mr. O'Neill.

Roll Call:

Approved:

Fox
Garrigan
Haney
O'Neill
Hallock

Abstain:

Galloway

5. RESOLUTIONS:

- a.** No resolutions to approve at this time.

6. OLD BUSINESS:

- a.** NO OLD BUSINESS

7. NEW BUSINESS:

- a.** **Stockton Land Company, LLC, Tower Rd., Plumsted Township, NJ 08514. Block 61/Lot 23, Application for Variance Relief.**

Mr. Bill Stevens from Professional Design Services, LLC advised the board that his client was unable to attend tonight's meeting because the applicant's attorney failed to send the notices to the residents within the 200'.

Chairman Hallock asked Mr. Stevens if his client would be willing to appear at the May meeting. Mr. Stevens said that he would like to attend the June meeting.

On a side note, Mr. Fox addressed a concern with regards to any dedication of open space to the township. He said that it creates a management responsibility in the township and asked if it was legal or appropriate to proceed with the open spaces, but attach it to individual lots so that it would be the responsibility of the homeowner so that it would be the responsibility of the Home Owner's Association.

Counsel advised that the board can say no and that they do not want it to be dedicated to the township, and request that they be conservation easements on each of the lots and that it would remain in the ownership of the property owner.

He further advised that if the planning board decides on the application, and the township does not have to accept the dedication and if the board could prefer it be done by easement and remain with the property owners.

Mr. Fox recommended that the board ask the township to not accept the open space. The board was advised by Counsel that they cannot advise the township on what to do in that matter.

Counsel does not recommend Home Owner's Associations because it is not maintained and that taxes will not be paid and the township will end up with it anyway.

A motion to carry this application to the June 20th meeting was made by Mr. O'Callaghan and 2nd by Mr. Haney.

Roll Call:

Approved:

Fox
Garrigan
Neyenhouse
O'Callaghan
O'Neill
Galloway
Hallock

b. MDR Developers, Inc., Block 65/Lot 22, Block 68, Lots 80-83, Block 69/Lots 64-78, Plumsted Township. Informal Application

Jan Wouters opened the discussion for his applicant. He introduced Mr. Bill Stevens. He said that the property is in the R-40 zone and that it is the desire of the applicant to develop the property in to approximately 5 building lots of houses. He said that there are 2 undersized lots because their depth is not the size of what is required by the township zoning law. The applicant is proposing to combine the properties and to give the township 6 acres as open space. He understands the challenge of donating the lots to the township, given the previous conversation, and said that the applicant is willing to take suggestions.

Mr. Stevens took the floor and presented several exhibits to assist him in the application.

The first exhibit, A-1, shows the aerial of the properties highlighted in yellow. Those are the properties that MDR has purchased along Kuzyk Rd. and beyond.

The applicant wants to develop on the two blocks along Stoyk Rd. and the rest of the land was proposed to be dedicated to the township for open space.

Mr. Stevens said that they would need a variance for the lot depth with the two lots in the narrow block along Stoyk Rd. because they have a depth of 150 ft. where 200 ft. is required.

Mr. Stevens said that there is a piece of property that cannot be utilized for much because it is surrounded by houses built around it. Chairman Hallock suggested that Natural Lands would probably be interested in that piece of property and that the applicant might want to check with them.

Mr. Stevens moved on to show the Development Plan. The plan showed the two blocks that they desire to develop. They are proposing to extend Stoyk Rd. across Kuzyk Rd. and build a col de sac at the end to create 5 residential lots. Mr. Stevens also presented a Letter of Interpretation from the DEP with regards to the lot that is environmentally constrained. The applicant wishes to join some of the lots to make bigger lots. The only requirement that they cannot fulfill at this time is the depth and that is what they would seek a variance for.

Mr. Haney asked Mr. Stevens if the applicant has conferred with the Township Committee about vacating the stub road. Mr. Stevens said that they have not, but they will have that conversation if the board suggests that they do so.

The board engineer was asked to weigh in on the proposal. Mr. Hirsh said that he liked the bigger lots as opposed to all of the smaller lots. He suggested that they put in a col de sac at the left most lot that they are offering to dedicate where Postol Rd. ends. He suggested applying for a variance for the lot depth. He said that the only negative impact is the reduced backyard space for the homebuyer.

The board and the applicant went on to discuss the retention basin on the property. There were suggestions what to do with the basin such as attaching it to a homeowner's lot, or making them grow back again to make them the best stormwater basins.

Counsel was asked to give his thoughts. Mr. McGuckin said that he agrees with Mr. Stevens about how Jackson Township handled that, but they assessed a fee by ordinance, that if you are going to dedicate a basin to the township that you have to make a one-time contribution in the amount of \$15-18,000, depending on the size of the basin and that the fund would be used for further maintenance purposes, but it needs to be in an ordinance first.

The board and the applicant discussed how to make the basin maintenance free or have a land owner maintain it. Mr. Stevens suggested that he and the Board Engineer have a discussion about the vacations and where and what they are going to donate. He was also advised to speak with Mr. Hirsh about the possible uses of the area.

The applicant was advised by Mr. Neyenhouse, who is also part of the Environmental Committee that the Woodlands Ordinance would apply because it is a major subdivision. He asked that the applicant supply the Environmental Committee Review portion of the application so that the EC could discuss the application.

There were no comments from the public.

8. MATTERS FROM THE PUBLIC:

No other comments from the public. Public comment portion was closed.

9. MATTERS FROM THE BOARD

- a.** The board discussed how to proceed with Informal Applications. The question was if the applicants need to come before the entire board, or could they have a meeting with the Board Attorney, Board Engineer and the Board Secretary.

Mr. Hirsh said that he believes that it would serve the board to have a Pre-application/Informal Meeting with the Board Attorney and himself. The meeting would be an advisory to the applicant as to what they are required to apply for and to give them some clarity.

Chairman Hallock asked how and what the applicants be charged for the meetings. It was suggested that there would be a small escrow for the Board Engineer and Counsel's time, and whatever is not used could go back to them or be rolled over towards the applicant's formal application. The Board Engineer said that he will make more recommendations once he looks at the process. He also said that it might also be dependent on what is required of certain applications, such as requiring applications for major site plans or major subdivisions to have a pre application meeting.

Counsel was asked if the proposed fee for an Informal/Pre application review needs to go before the township committee. Mr. McGuckin advised that it does have to go before the committee once the board has established the fee so that they could amend the ordinance. The board would submit a letter asking for an ordinance to provide for a pre application meeting specifying the fee for the application and the fee for the escrow or other attachments.

If the committee decides to change to ordinance based on the board's recommendations, the board will have to create a process for Pre Application meetings, and that would include the Board Attorney, the Board Engineer and the Board Secretary. This might also include only one member from the board to attend, but it will not be required.

Mr. Hirsh said that he will look at the ordinance and give the information to Mr. McGuckin so that Counsel could make any additional suggestions. Mr. Hirsh said that he will then draft a letter to submit to the Township Committee.

At this time, if there is a request for an Informal Application, the current process will still continue unless it is something major.

The time that the professionals put into researching and reviewing the Informal Applications will also be a consideration for the fee.

It was noted that the ordinance is not clear on the process and what is entailed in an Informal/Pre-Application meeting.

Mr. Haney made a motion that Informal hearings will be held between the application and the board professionals and that they will not be heard in front of the board. Mr. Fox 2nd the motion.

Roll Call:

Approved:

Fox
Garrigan
Neyenhouse
O'Callaghan
O'Neill
Galloway
Hallock

- b.** The board discussed the requirement of taxes being paid on the property by the applicant prior to an application coming before the board. At this point in time, the application checklist has a requirement that the property taxes must be paid in full in order for the application to be deemed complete. Counsel said that is illegal to make that a requirement, and by law, the board has to hear the application, but does not have to adopt a resolution until the taxes have been paid.

Counsel was asked that if it is discovered that information regarding taxes were not included in the application, could the board secretary include it in the application packet. Counsel said that since it is public record that it could be included.

There was question as to who's responsibility it is to deem the application "complete" and as to what the requirements are for an application to be "complete" so that it may be heard before the board.

Mr. Hirsh said that his letters to the applicant would say that the application is complete upon submission of appropriate notice and any submission of paperwork is related to the engineer.

Mr. McGuckin said that under the law, an application is deemed complete when all of the checklist items have been submitted. Once they are deemed "complete", they are complete for purposes of a clock running under the Land Use Law. If

there is something on the list that is asked for by the board or the board's professionals and it is not provided, the application is still deemed complete and the board could say that they cannot render a decision until the information has been provided. The applicant could choose to pursue a decision and take a chance on the outcome of the application.

The Land Use Board Application is being revised to change the outdated information and requirements. The revision will also include an Informal/Pre-Application form.

Counsel was asked by the Board Engineer what the determining factor would be for the applicant to be on the agenda. Mr. McGuckin reiterated that if the applicant completes the checklist, they are deemed complete and if the additional requested items have not been provided and they are not on the checklist, they could still be placed on the agenda. He said that the checklist may need to be revised, but the applicant is entitled to be heard. The board has the authority to hold them off for a month or two, but they still need to make a decision within the timeframe.

Counsel also advised the outside agency letters, i.e., DOT are outside agency approvals, and that the applicant has a right to defer that after the board makes a decision and could make that as a part of the conditional approval.

They were also advised that the applicant would need a letter from the Pinelands Commission that says that they can come before the board, and that Pinelands is not included as an outside agency.

Counsel said that as they are revising the ordinance that a person has to designated to make the determination as to if the application is deemed complete. The Board Engineer said that he can do the completeness in their review letter for a variance application, but if it is something large, sometimes they will be heard for just completeness, especially if there's waivers. The hearing could be split so that the board can deem an application as complete and or to grant any waivers, then a second hearing will be for the actual application.

Mr. Neyenhouse asked if the board approved an application, but the applicant is not adhering to the conditions of the approval/resolution, is there a formal process that the board needs to follow or does that go before Code Enforcement. The board was advised that the Zoning Officer or Code Enforcement needs to be notified and that the board should stay out of it.

The board asked the board secretary if there was anything else that needs to be clarified. The secretary said that her questions were answered and thanked the board for their help and support.

No other matters from the board.

10.ADJOURNMENT

- a.** Board unanimously voted to end the meeting.

Minutes were prepared by Board Secretary, Cynthia MacReynolds