

MANSFIELD TOWNSHIP LAND USE BOARD

JUNE 18, 2018

MINUTES

Official notice of the time, date and location of this regular public meeting, where formal action may or may not be taken, was given by publication in The Express Times. In addition, notice of this meeting was posted on the bulletin board in the Municipal Building, publishing on the Municipal web site, and given to the Township Clerk.

The regularly scheduled meeting of the Mansfield Township Land Use Board was called to order by Chairman Vaezi at 7:30 PM.

The meeting was opened by stating that adequate notice of this public meeting had been provided in accordance with the Open Public Meetings Act by:

1. posting a notice of this meeting on the bulletin board of the Municipal Building;
2. causing said notice to be published in The Express Times;
3. furnishing said notice to those persons requesting it pursuant to the Open Public Meetings Act; and
4. filing said notice with the Township Clerk.

Present: Farino, Hayes, Spender, Jewell, Keggan, Vaezi

Alternates present: Creedon, Cruets, Petteruti, Reagle

Absent: Hight, Barton, Minter

Also present: William Edleston, Esq.; Chris Kastrud, P.E.

Pledge of Allegiance was recited by all.

VAEZI noted some discussions were missing from the minutes. First, under Meadows Completeness it was mentioned tax payments would have to be resolved before granting building approval, second during testimony Mr. Hotz mentioned he was going to provide the Board a copy of the NJ American Water extension agreement, third there was testimony that the clubhouse basement bathrooms would be pumped out, also related on Page 5 Mr. Kastrud asked for confirmation that the new lots and clubhouse drain down by gravity to the wastewater treatment facility then get treated and pumped to the fields but there is no answer, and lastly the water tanks for fire flow purposes were being installed based on some schedule.

MOTION was made by **VAEZI** to approve the minutes of the May 21, 2018 meeting minutes with changes.

SECONDED: JEWELL

Those in favor: Farino and Hayes except for the Meadows Hearing, Spender, Jewell, Keggan, Cruets, Petteruti, Vaezi

Opposed: None.

Abstained: Reagle.

APPLICATIONS:

Case 16-04 – Rhodes-Sheninger - Minor Subdivision – Block 1101 Lot 5.01 Re-approval

No one was present for this application.

Mr. Edleston, Esq. explained that this application has been granted two prior extension for a total of one year. Based on Mr. Kastrud's memo regarding outstanding conditions having not been adhered to it is recommended we do not re-approve until conditions are met satisfactorily.

MOTION made by **HAYES** to not approve **Case 16-04 – Rhodes-Sheninger - Minor Subdivision – Block 1101 Lot 5.01** until the conditions from the prior approvals are satisfied.
SECONDED: KEGGAN.

Those in favor: Farino, Hayes, Jewell, Keggan, Cruts, Petteruti, Reagle, Vaezi

Opposed: None.

Abstained: Spender.

Case 18-02, Joseph Callari – Use Variance - Block 301 Lot 28.02 – Hearing

Present for the applicant: Owners Joseph Callari and Minyi Lin

Mr. Edleston, Esq. confirmed with Secretary Griffith that all noticing requirements were met.

Mr. Edleston, Esq. swore in owners Joseph Callari and Minyi Lin.

Mr. Callari explained they suffered a house fire on March 3, 2018 which resulted in a total loss. Mr. Kastrud approved the zoning application for temporary placement of housing trailers and requested approval for them to remain on site for approximately 12 months from the date construction begins.

Mr. Edleston, Esq. asked about the construction timeline.

Mr. Callari stated he is hopeful to have a demo permit in about three weeks.

Mr. Edleston, Esq. asked if the Health Department gave permission to hook up the trailers temporarily.

Mr. Callari stated that After Disaster Corporation has handled all of the Board of Health and Zoning permits and all approvals have been provided to the Township.

Mr. Edleston, Esq. reminded the Board that this is something the Township Committee should look into amending the zoning ordinance to address this type of situation for special reasons.

Chairman Vaezi requested the Board's approval of the resolution include the condition until 30 days after CO for the new house.

MOTION made by **JEWELL** to approve temporary trailers to remain on the property no longer than 30 days after the CO for the new hone for special reasons for **Case 18-03, Joseph Callari – Use Variance - Block 301 Lot 28.02.**

SECONDED: KEGGAN.

Those in favor: Spender, Jewell, Keggan, Cruets, Petteruti, Reagle, Vaezi

Opposed: None.

Abstained: Farino, Hayes

Mr. Callari thanked everyone and handed out Thank You cards to the Secretary, Engineer and Board.

Case 18-01, Meadows at Mansfield - Amended Preliminary Major Site Plan – Block 1501 Lots 9.01-07, 9.111 & 9.112 – Hearing Continuation

[Mr. Hayes and Mr. Farino stepped down, Mr. Creedon and Mr. Petteruti took their place]

Mr. Schnieder, Esq. of Vogel, Chait, Collins & Schnieder recalled a number of witnesses testified at last month's meeting, tonight being a continuation with two additional witnesses to hopefully conclude tonight. The applicant respectfully and strongly considered some of the concerns that came up with certain aspects of the application which will hopefully be looked upon favorably.

Mr. Dennis Keenan presented Exhibit A12 Amended Preliminary Subdivision Site Plan last revised 6/18/18 addressing the Board's concerns regarding the separation between buildings and from the right of way to the clubhouse. Originally the distance between buildings was 10 ft which has been revised to 11 feet. This extra one foot per unit distance caused an additional revision to the cul de sac area, which originally had a 19 foot separation between the curb and right of way, but now has an 11 foot separation which also avoided a front lot setback variance for Lot 7. All new lots are now above the 6000 sf area required by ordinance

Mr. Schnieder, Esq. clarified that notwithstanding the variance condition for the minimum separation distance the settlement authorized the 40 additional lots uses language that the lots must be comparably sized lots. The chart to the right of Exhibit A-12 shows the proposed eight lots do not significantly exceed 6000 square feet.

Mr. Schnieder, Esq. also referenced a Board member's question regarding the setback of the clubhouse to Redwood Run.

Mr. Keenan spoke regarding the original 12 foot offset of the clubhouse to Redwood Run which is now 20 ft between the clubhouse and the ROW accomplished by shortening up the clubhouse corners. The total clubhouse square footage has been lessened from 5,958sf to 4,860sf. Ms. Strassheim had indicated the total square footage at 10,000 sf which was incorrect.

Mr. Schnieder, Esq. provided his opinion, as mentioned last month that the 25 foot front yard setback is not applicable to the clubhouse.

Mr. Schnieder, Esq. confirmed with Mr. Keenan that the clubhouse now has a 20 ft setback where the requirement is 25 ft, if required, and is still at least twice the size required by ordinance.

Mr. Hayes asked how many parking spaces there are.

Mr. Keenan stated there are 43 spaces.

Mr. Creedon asked what the deviations are.

Mr. Keenan stated the variances are front yard setback for corner lot 1, 15 ft is required, asking for 10 ft, side yard setback 15 ft is required, requesting 11 ft, minimum distance between buildings 15 ft is required requesting 11 ft, minimum front yard setback 25 ft required asking for 20 ft. The only deviation from the last meeting is the minimum distance between buildings was 10 ft and is now 11 ft. along with the clubhouse setback difference.

Mr. Edleston, Esq. explained that bulk variance relief is not being sought but rather relief from standards that apply to conditional use.

Mr. Schnieder, Esq noted that adult communities defined by ordinance is a conditional use with the underlying use being permitted. Whenever you do not comply with all of the conditions of the conditional use the Board then acts as a Board of Adjustment requiring 5 affirmative votes. Essentially, can the site accommodate any problems associated with the deviations.

Mr. Petteruti asked about the size of the 2 bedroom versus 3 bedroom which was deferred until the next witness.

Chairman Vaezi expressed safety concerns due to the distance between homes.

Mr. Keenan stated safety concerns are generally related to access which he does not see an issue with.

Mr. Keenan explained there are certain areas that are not able to handle a 50 ft unit without a variance, if a 40 ft unit is purchased this variance is not needed.

Mr. Kastrud confirmed that these variances were not requested for the original lots and how the additional 8 were determined.

Mr. Keenan mentioned that the extension of Redwood Run was the most logical to accommodate a portion of the additional lots approved in the settlement requiring only that the lots sizes are comparable and sewer capacity.

Bill Hotz spoke to the fact that this is market driven and pointed to the backyards of those proposed homes showing the lots all line up. Mr. Hotz asked for flexibility given this issue will depend on the unit size the buyer chooses.

Mr. Schnieder, Esq. spoke about the 20 year history and recognized there is a mutual respect and goal that both parties want this project to succeed. The Board has a legitimate objective making sure that it meets the standards while it should be recognized that things have evolved over 20 years. Both parties got something out of the settlement agreement. The Township got

its request for deed restricted units and the applicant received the right to obtain up to 40 additional lots to sewer capacity.

Mr. Farino asked for confirmation that the original plans for Phase I, II and III will each be changed to address the additional allowed homes instead of just adding a Phase IV.

Mr. Hotz spoke regarding the original plan versus the market driven demand for more units.

Chairman Vaezi asked for confirmation that 8 homes are all that will be added to Phase I.

Mr. Hotz stated never say never but it is not the intention to add more.

Mr. Petteruti asked when this strip became viable for these new lots.

Mr. Hotz indicated that land use studies were conducted and this area was unique being immediately adjacent to the clubhouse so it was decided to shift the clubhouse south and back these lots up to it.

Chairman Vaezi asked about extending the cul de sac to build more lots.

Mr. Keenan confirmed that the grade drops off significantly which does not seem viable with the amount of fill that would have to be brought in.

Mr. Kastrud asked for confirmation that none of the retaining walls have moved with these additions lots.

Mr. Spender asked if the clubhouse is on a separate lot.

Mr. Keenan stated that it is part of open space.

Chairman Vaezi open to public, seeing none
Chairman Vaezi closed public portion

Mr. Edleston, Esq. swore in Mr. Battaglia, NBR Inc. Ryan Homes as the NJ Central Division Area Vice President responsible for Central NJ, Ocean County up through Sussex County.

Mr. Battaglia provided his background with NBR Ryan Homes as Manager responsible for the land, sales & marketing, production and service having familiarity with the types and styles of homes perspective buyers would be interested in.

Mr. Schnieder, Esq. asked about active adults currently in NJ and the interests they have in staying in NJ.

Mr. Battaglia explained an active adult in NJ is one of the more under served markets with a migration out of NJ. These communities promote closeness of family, provide for entertaining of guests and social aspects with the clubhouse, while being able to remain close to their doctors all contribute to keeping this demographic in NJ. A similar community was referenced

in Delaware.

Mr. Battaglia also spoke to Ryan's 40 ft and 50 ft products. A 50 ft streetscape is more appealing with a more open interior with a dining room and more storage to accommodate downsizing from larger home.

Model plans:

Exhibit A13 40 ft Bramante

Exhibit A14 50 ft Springhaven & A15 Winterbrook

Mr. Battaglia stated that out of 14 units that sold only one was a 50ft unit as the current Phase I lots are limited with only 35 of 91 will fit a 50 ft home which is why asking for flexibility for new lots.

Mr. Hotz spoke to the original Phase I lots which were laid out with a variety of Toll Brothers 43 ft and 50 ft units with the 15ft separation which is why there is a disproportionate amount of 40 ft, now Ryan Home units, versus 50 ft units.

Mr. Battaglia mentioned that if a purchaser wants a certain lot with a 50 ft home they will be turned away.

Mr. Cruts asked about building in Warren County and stated that pricing in Delaware may not work well here.

Mr. Battaglia spoke about Washington Boro townhomes and stated they are starting in the low 300's.

Several Board members asked Mr. Battaglia about his experience building adult communities of this size in NJ.

Mr. Battaglia explained he just finished a townhome community in Burlington County and has built in Lakewood, Marlton and a few in Winslow Township.

Mr. Cruts asked about the lots for Phase II and Phase III having designated lots for 50 ft units.

Mr. Hotz spoke of the lots 7 & 8 being only able to accommodate 40 ft models while the other 6 are suitable for 50 ft units.

Chairman Vaeza opened to public - none
Chariman Vaeza closed

[Break] 9:14pm - 9:21pm

Mr. Cruts asked the timeframe for building the clubhouse.

Mr. Schnieder, Esq. stated once 60 homes are built.

Chairman Vaezi asked about the square footage of the homes.

Mr. Battaglia stated that the average is about 2000 sf but there are several extension options that would increase that amount.

Mr. Edleston Esq. swore in Mr. John McDonough, Professional Planner

Mr. McDonough provided his professional background.

The Board accepted Mr. McDonough's credentials.

Mr. McDonough explained that a standard planning analysis was conducted with a review of zoning ordinances and Master Plan, and met with the applicants to become familiar with this tracts long history and current request for additional units. It was determined that a neighborhood and a micro neighborhood with a distinct roadway and cul de sac are being created with a recreation facility giving a distinct quality to the development.

Mr. Schnieder, Esq. referenced the settlement agreement authorizing up to 40 additional homes subject to lots being a comparable size and sewer capacity and unlike most applications Mansfield Township has zoned adult communities as a conditional use.

Mr. McDonough explained that a use variance does not apply here for particular suitability of the site. On the negative side the omission of the use from the Master Plan is also not relevant.

Mr. Schnieder, Esq. requested that Mr. McDonough explain why this application meets the statutory criteria for a conditional use variance.

Mr. McDonough cited two cases, on the positive side, the Coventry Square case where use is not an issue, can the site accommodate any problems associated with the deviation from the conditional use standards, and the negative side recent Case Law TSI Case clarifies enhanced proof ordinarily required is not. Four deviations from conditional use standards are two interrelated related to separation between buildings and likewise side yard setback in aggregate.

Under purpose A of the Land Use Law there are a number of positive public benefits, real world demand in the marketplace to provide for a variety of housing options dealing only with a 5% portion of entire development. Having an active use immediately opposite new homes while back yards abut other residents' yards providing enhanced privacy and marketability.

On the negative side ordinance 65-89.1 allows for projections into yards as zone plan says may have sills, chimneys, cornices, bay windows, ornamental features none of which will be attached maintaining distance between homes.

This is a distinct neighborhood in and of itself having no impact on school services, environment or traffic.

Mr. Schnieder asked Mr. McDonough about the relocation of the wastewater treatment and

sufficient buffering.

Mr. Farino asked if a/c units will be going in the rear of the homes.

Mr. McDonough answered in the affirmative

Mr. Farino referenced Brookfield of Belvidere bylaws by which you can plant 4 feet out from the sides of the buildings and asked if that is the case here.

Mr. Battaglia indicated that the HOA does not restrict the owner from landscaping or gardening.

Mr. Petteruti asked about the fireplace depicted on the side.

Mr. Battaglia confirmed they will restrict the fireplace placement to only the rear.

Chairman Vaezi asked if the HOA is more restrictive than Mansfield's zoning.

Mr. Hotz explained that it will follow the Township's zoning ordinance but can be more restrictive.

Mr. Battaglia stated there will be no appurtenances of a structural nature.

Chairman Vaezi opened to the public - none

Chairman Vaezi closed

Mr. Edleston Esq. confirmed with Mr. Schnieder, Esq. that there has been no movement on the tax issue. This will become a condition of Certificate of Occupancy.

Mr. Hotz explained when lots are closed on with Ryan Homes taxes are brought current. A subset of Phase I, 31 of 91 lots, taxes were brought current.

Mr. Kastrud asked about the clubhouse tower height.

Mr. Hotz did not remember that coming up but can be addressed.

Mr. Petteruti asked if the Board's approval of these additional 8 lots is holding up anything.

Mr. Hotz replied yes, the construction of the relocated clubhouse.

Mr. Schnieder, Esq. cited the HOA 'completion of community building shall occur no later than the CO of the 60th unit.'

Mr. Petteruti suggested separating variance approvals for clubhouse, utility and new lots.

Mr. Schnieder, Esq. requested 3 separate votes, #1 - building separation for lots 1, #2 - creation of 8 additional lots, #3 - site plan approval for relocation of the wastewater treatment facility.

Mr. Hayes mentioned fire department approval spoke about earlier.

Mr. Hotz asked for making fire official feedback a conditional of approval as his experience has been mixed with getting feedback.

Mr. Schnieder, Esq. suggested as a condition that if the fire department issues an adverse determination the Board retains jurisdiction.

Much discussion was held regarding who would make the determination regarding the fire department's approval.

Mr. Hotz indicated this is being built based on Standard Building Codes administered by the Construction Code Official.

Mr. Jewell asked Mr. Battaglia regarding his experience with setbacks like this.

Mr. Battaglia believed anything less than 5 feet requires fire rated drywall, anything more does not required any specific protection.

Mr. Hotz stated NJ American Water established the needed fire flow based on ISO standards based on the distance between buildings which 20 ft or 11 ft has the same requirement.

Mr. Kastrud asked about the tower light.

Mr. Hotz indicated the tower is intended to be lit decoratively and will be subject to the Township Engineer's approval.

Mr. Kastrud restated that NJ American Water is meeting the fire flow but asked when the fire flow tanks going in.

Mr. Hotz stated they are ordered and will be going in next week.

Mr. Kastrud asked about the pump house looking like a container and asked about masking the appearance.

Mr. Hotz stated the shipping style containers with corrugated sides will be bermed and screened.

Mr. Schnieder, Esq. recapped A12 addresses concerns raised by the Board and appreciates the desire to make this project successful. This proposal provides a fair balance with each party, when entered into settlement, gave up something. Reflecting on the totality of the application continuing the success and respect the need for flexibility urging Board to believe the site continues to accommodate any issues associated by the 4ft deviation and continues to be appropriate for this use. Approve variance application as submitted with the following conditions, subject to approval of a supplemental landscaping plan and post construction tower light to the satisfaction of the Township Engineer.

Testimony rests - 10:32pm

MOTION made by **CREEDON** to approve variances for **Case 18-01, Meadows at Mansfield - Block 1501 Lots 9.01-07, 9.111 & 9.112.**

SECONDED: SPENDER.

15 ft aggregate side yard
11 ft between each unit
10 ft front yard setback for Lot 1
20 ft frontyard setback to clubhouse

Those in favor: Spender, Jewell, Keggan, Creedon, Cruets, Vaezi

Opposed: Petteruti.

Abstained: Hayes, Farino

MOTION made by **VAEZI** to approve creation of 8 additional lots as part of Phase I **Case 18-01, Meadows at Mansfield - Block 1501 Lots 9.01-07, 9.111 & 9.112.**

SECONDED: JEWELL

Those in favor: Spender, Jewell, Keggan, Creedon, Cruets, Petteruti, Vaezi

Opposed: None.

Abstained: Hayes, Farino

MOTION made by **CREEDON** to approve **Case 18-01, Meadows at Mansfield - Amended Preliminary Major Site Plan Phase I – Block 1501 Lots 9.01-07, 9.111 & 9.112.**

SECONDED: KEGGAN

Those in favor: Spender, Jewell, Keggan, Creedon, Cruets, Petteruti, Vaezi

Opposed: None.

Abstained: Hayes, Farino

MOTION made by **SPENDER** to approve Amended Preliminary Site Plan Wastewater Treatment Plant for **Case 18-01, Meadows at Mansfield – Block 1501 Lots 9.01-07, 9.111 & 9.112.**

SECONDED: PETTERUTI

Those in favor: Spender, Jewell, Keggan, Creedon, Cruets, Petteruti, Vaezi

Opposed: None.

Abstained: Hayes, Farino

DISCUSSION/CORRESPONDENCE:

Discussion ensued regarding the Township Committee proposed Accessory Structure Ordinance based on two pending applications.

Recommendation to Township Committee not to approve without modifications.

Mr. Keggan was going to dig out the prior ordinance recommendations.

Two pending denied zoning applications were discussed.

MOTION made by **CREEDON** to instruct Mr. Kastrud to approve two previously denied zoning applications subject to compliance of all setback and height requirements.

SECONDED: FARINO

Those in favor: Keggan, Creedon, Petteruti, Hayes, Farino

Opposed: Cruts, Jewell, Spender, Vaezi

Abstained: None

MOTION made by **HAYES** to approve Resolution 2018-001 Professional Services Contract for Joseph Layton, P.P., AICP of Maser Consulting for Master Plan Re-examination not to exceed \$8,000.

SECONDED: VAEZI

Those in favor: Spender, Jewell, Keggan, Creedon, Cruts, Petteruti, Hayes, Farino, Vaezi

Opposed: None.

Abstained: None.

Chairman Vaezi appointed a Subcommittee consisting of Creedon, Cruts and Jewell to work with Joseph Layton, P.P., AICP on the Master Plan Re-examination.

OLD BUSINESS: None

NEW BUSINESS:

Mr. Hayes mentioned that an ordinance will be adopted requiring all products be American made while Meadows is using India made.

INVOICES:

William Edleston, Esq.

Invoice-777 6/18 Meeting attendance \$500.00

Invoice-778 Rhodes Sheninger memo review \$80.00

Pennoni Associates, Inc

Invoice-92899 Land Use Board Meeting Attendance \$187.50

GRAND TOTAL \$767.50

MOTION was made by **SPENDER** to authorize payment by the Township Committee of the invoices submitted by the professionals.

SECONDED: CRUTS

All member present voted in the affirmative:

Mr. Cruts asked who is responsible for development sidewalks and trees.

Mr. Farino stated the homeowner owns them and can take down trees if they want to.

The Chairman adjourned the meeting at 11:20 pm

Respectfully submitted,

JoAnn Griffith, Clerk