

**FRANKFORD TOWNSHIP LAND USE BOARD
OCTOBER 18, 2006 – 7:00 P.M.
MINUTES OF THE REGULAR MEETING**

CALL TO ORDER

The meeting was called to order by the acting board Chairman, Mr. Martin, by announcing that notice appeared in the New Jersey Herald and the New Jersey Sunday Herald in accordance with the requirements of The Open Public Meetings Act.

Flag Salute

ATTENDANCE

Those Present were: Mr. Zappile, Mr. Gstattenbauer, Mr. McDowell, Mr. Martin, Mr. Larson, Mr. Smolen, Mr. Dolan. Also present was Mr. Clark, the board attorney and Mr. Stoner, representing the board engineer.

Those absent: Mr. Ayers (excused), Mr. Hahn, Mr. Risdon (excused), and Mr. Romania (excused).

EXTENSIONS

Castle Storage, Inc. – LUB 04-29 – Block 48, Lot 20.10 – Preliminary & Final Site Plan Approval Extension:

A request was received from the applicant's attorney to extend the approval of the Preliminary & Final Site Plan for 2 years. The board discussed that this should be granted subject to the increase in the COAH fee of 2% of the assessed value. They were originally approved under the 1% fee.

A Motion was made by Mr. Zappile and seconded by Mr. Dolan to extend the approval for 2 years of the Preliminary & Final Site Plan Approval which will expire on **November 22, 2007** subject to the condition to increase the COAH fee to 2%. Roll Call:

YES: 7 Zappile, Gstattenbauer, McDowell, Martin, Larson, Smolen, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

BOARD BUSINESS

Route 565 Zoning (Highway Commercial to Agricultural Commercial):

Documentation was handed out by Paul Supten regarding this Zoning Change. Mr. Supten indicated that the information on this hand was a summary of the workshop done by the Land Use Board and the Stakeholders in 2005 at Harold Pellow's office. Mr. Martin asked the board to review this and no action will be taken on this matter until the board hears from the State Office of Smart Growth with regard to the Town Center Plan.

Correspondence:

The correspondence was reviewed. No formal action was taken.

COAH Mediation Report Update:

Mr. Clark indicated that the response time has expired this week for which COAH wanted a response to their mediation report. He indicated that his office has written to COAH for a 30 day extension.

BOARD BUSINESS CONT.

COAH Mediation Report Update:

Mr. Clark reviewed his Memo of October 17, 2006:

- 1) Units listed for counted credits for Rounds #1 & #2:
 - a. Regional Contribution Agreement (“RCA”) - 6 units
 - b. SCARC Group Home - 3 units
 - c. Willow Glen Group Home - 5 units
 - d. Township Two-Family – 2 units
 - e. Heritage/Methodist Manor Age-Restricted – 2 units

Total Credits for Rounds 1 & 2: 22 units. Mr. Clark noted that since the above units are rentals, the township receives 7 bonus credits. Therefore the total credits for Rounds 1 & 2 are 29 units.

Mr. Clark indicated that these credits include a Township Two-Family house which the township will have to deed restrict. He indicated that he needs to find out from COAH if there is someone already living in this rental house, will they have to be qualified for low or moderate housing.

Mr. Clark indicated that the 6 RCA’s are important for Rounds 1 & 2 because they will receive more credits this way. However, the township will have to pay for the RCA’s now because Rounds 1 & 2 are overdue. They feel this is better because it shows the township can put more rental units in Round 3 which was a concern.

- 2) Units listed for counted credits for Round #3:
 - a. Nora Group Home – 3 units
 - b. SCARC Group Home – 3 units
 - c. Heritage/Methodist Manor Age- Restricted – 4 units
 - d. Senior Group Home – 10 units (very low income)

Total credits for Round 3 is 20 units with 5 bonus credits for a total credit of 25 units.

- 3) Projected Growth for Round 3 (which includes the Town Center)
 - a. Misc. Lots – Growth Share – 11 units
 - b. Frankford Center Residential – 45 units
 - c. Frankford Center Commercial – 18 units

Total projected Growth Share units are 74 units.

Total overall COAH units will be 128 units.

- 4) Action to be taken by the township:
 - a. Complete execution of Deed Restriction for Township Two-Family Home.
 - b. Appoint a Municipal Housing Liaison
 - c. Appoint a Municipal Administrative Agent

Ms. Leo (Attorney from Mr. Clark’s office) indicated to the board that COAH requires that within the township they have a Municipal Liaison as well as an outside administrative agent that could be within the township. The township is required to submit resumes and basically proof this agent has a history of successful management of affordable housing. Typically this Administrative Agent is done from outside the

BOARD BUSINESS CONT.

COAH Mediation Report Update:

township. Different duties include items regarding Administration, the Marketing Plan, Household certification, rental requirements, processing requests. The Liaison and the Agent work together, however, the agent must be certified. The township will have to do a Resolution and an Ordinance for the Liaison and a contract and resolution for the agent. Mr. Clark indicated that COAH wants a name now. He further stated that some of the money collected for COAH fees can be used to offset this position. Mr. Clark recommended Linda Pinto who is qualified by COAH for this Administrative position and is currently running the project for the County.

d. Revise a Growth Share Ordinance
e. Revise Spending Plan – This depends on the Land Use Board and the Governing Body approval and approval from COAH.

5) RCA Consideration:

a. 6 RCA's proposed in the Plan
b. To date, Frankford Township has collected approximately \$162,500 in its affordable housing trust fund.
c. \$118,112 has been collected under the developer's fee ordinance, and \$44,375 has been collected under the growth share ordinance
d. Each RCA cost \$35,000. Mr. Clark recommends:

- The \$118,112 collected pursuant to the developer's fee ordinance can be used to purchase 3 RCA (\$13,000 remaining) and money should be bonded to acquire 3 additional RCA's. 3 additional RCA's will cost \$105,000. The sum of \$92,000 should be bonded.
- The Township is to collect \$346,125 from the High Ridge developer's fee ordinance; and 9 RCA's could be purchased with the High Ridge funds.

6) MTAE litigation update – Mr. Clark indicated that this litigation is on hold subject to COAH reviewing this report.

Mr. Clark stated that he needs an approval from the board that the above suggestions are acceptable which will be subject to the township committee approval in order for him to respond to COAH's report. This will satisfy the COAH obligation. It will show that the township has rentals, which is a big issue. If the board approves the above suggestions, he will put it into a spending plan and required resolutions. He also recommends that the governing body consider Linda Pinto who is qualified to be the administrative agent for the rentals and someone from the township must be appointed to be the administrative liaison.

The board members agreed that this was a good plan and Mr. Clark should move forward and prepare the necessary documents to submit to COAH.

Town Center Plan & Ordinance:

Mr. Martin referred to a letter sent by Mr. Collins which stated that based upon the input from the Office of Smart Growth and the consultants retained by the NJ DOT, he recommends to the Township Committee to delay in adopting the Frankford Center Ordinance until the township has had an opportunity to obtain input from the Office of Smart Growth.

Town Center Plan & Ordinance:

Mr. Gstattenbauer updated the board with regard the workshop meetings held at the County on September 27th, 28th and 29th.

PUBLIC PARTICIPATION

A Motion was made by Mr. Zappile and seconded by Mr. Gstattenbauer to open this meeting to the public. All were in favor. The Motion was carried.

Paul Supten appeared before the board regarding the summary given by Mr. Gstattenbauer about the charrette with the state on September 27, 28 & 29. He wanted to add that it was mentioned that the FAR of .2 that the township has suggested was too spread out for a town center.

Dr. Castimore appeared before the board objecting to the suggested Ordinance changes on Route 565 to Agricultural Commercial.

Mr. Olsen appeared before the board objecting to the suggested Ordinance changes on Route 565 to Agricultural Commercial.

A Motion was made by Mr. Gstattenbauer and seconded by Mr. Zappile to close this meeting to the public. All were in favor. The Motion was carried.

NEW APPLICATIONS

Richard P. Schindelar/Winding Brook Village – Block 8, Lot 2 and Block 9, Lots 2 & 3 – County Route 565 – Armstrong Tract & Fenwick Road – “D” Variance:

Mr. McDowell stepped down from this application because he is a Class III member of the board and this application is for a “D” Variance.

Appearing before the board was the applicant’s attorney, Glenn Kienz and the applicant’s engineer, Robert Tessier of Dykstra Associates. Mr. Tessier gave his qualifications to the board and was accepted as a witness. Mr. Tessier was also sworn in by the board attorney.

Mr. Kienz indicated that this is a Use Variance application. He indicated that this piece of property is just outside the proposed Frankford Center. A few years ago this property was included within the sewer service area. This property is approximately 140 acres of land. There is a soil mining operation currently on this property. The property is split by Route 565. He stated that the property could be developed with Highway Commercial in the front because they have the sewer allocated. They will have to through the State. He disagrees with Mr. Pellow’s comment that the sewer approval will be difficult to get. The applicant’s hydrologist stated to him that he will be able to get an approval between 90 to 100 days on this property because it is in the sewer service area. He feels this project should be an off shoot of the Frankford Center. They felt that senior housing would be an acceptable housing project on this property. He indicated that people could walk across Route 565 through the railroad bed which is going to be abandoned. They also propose the possibility of clustering down the development with some senior housing on the soil movement operation area of the property. The rest of the property would be dedicated to open space along with barns and other structures so that they can be used by the conservancy.

Mr. Pellow’s report dated June 20, 2006 was reviewed as to completeness only:

NEW APPLICATIONS CONT.

Richard P. Schindelar/Winding Brook Village – Block 8, Lot 2 and Block 9, Lots 2 & 3 – County Route 565 – Armstrong Tract & Fenwick Road – “D” Variance cont.:

The following checklist items were missing from the application; however, Mr. Pellow indicated in his report that since this application is for a “D” Variance only at this time, these items should be waived for purposes of hearing this application:

- ITEM “12”: Copy of Sussex County Planning Board Application
- ITEM “13”: Copy of Soil Erosion/Sediment Control Application
- ITEM “14”: Copy of NJDOT/NJDEP applications
- ITEM “15”: Copy of Sussex County Health Department application
- ITEM “16”: Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet.
- ITEM “28”: Existing structures within 200 feet and distance to property line.
- ITEM “34”: Key Map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow
- ITEM “36”: Metes and bounds of proposed lot(s)
- ITEM “37”: Area and frontage of proposed lot(s)
- ITEM “39”: Property lines to the nearest hundredths
- ITEM “40”: Bearings to the nearest second
- ITEM “42”: Building envelope
- ITEM “43”: Location of existing railroads, bridges, culverts, drainage pipe, water and sewer, utility poles.
- ITEM “70”: NJDEP Letter of Interpretation. A Letter of Interpretation will have to be applied for to know if the wetland buffer has changed since 1995 and will affect the placement of buildings. For now, it is recommended this item can be waived for purposes of hearing this application

Mr. Stoner reviewed ITEM “26” of Mr. Pellow’s report which indicated a Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area ratio, parking. The zoning information listed for the AR Zone does not reflect the current zone requirements for the AR Zone. The zoning data should be revised to agree with Frankford Township Ordinance No. 2003-07. Mr. Stoner indicated that this was revised on July 12, 2006.

A Motion was made by Mr. Zappile and seconded by Mr. Larson to deem this application complete with all the waivers stated in Mr. Pellow’s report dated June 20, 2006. All were in favor. The Motion was carried.

Mr. Kienz presented to the board Exhibit “A-1” a map labeled the Open Space Study prepared by Dykstra Associates dated June 27, 2006. Mr. Tessier reviewed the map submitted which shows the proposed Town Center Plan and the subject property within a mile of the town center. The map shows the arterial connection with the roadway linkage to the proposed center. The map also shows the railroad right-of-way which links into the center.

Mr. Kienz presented to the board Exhibit “A-2” an area summary and a build out plan with retail/commercial with 142,000 square feet dated June 27, 2006. The plan was prepared by Dykstra Associates. Mr. Tessier reviewed this property for his client as to the zoned use. He indicated that the front section of the property which is currently in the County 208 Plan allows 20,000 gallons. The present time this part of the property is zoned commercial. According to the zoning allowed, they came up with approximately 142,750 square feet of retail/commercial, 10,000 square feet of office space, and 10,000 square foot restaurant. This design is based on the 50’ buffer previously approved by the DEP.

NEW APPLICATIONS CONT.

Richard P. Schindelar/Winding Brook Village – Block 8, Lot 2 and Block 9, Lots 2 & 3 – County Route 565 – Armstrong Tract & Fenwick Road – “D” Variance cont.:

He does assume this would change when they reapply to a 150' buffer. They took an area out for a package treatment plant to get the 20,000 gallons per day that is permitted in the 208 Water Quality Management Plan. This is what gave them the traditional commercial center. He pointed out to the board the area of the property that could meet the zoning ordinance for some additional single family homes. They have proposed 8 units which they used the clustering option of the ordinance. Mr. Kienz indicated this plan is an allowed use in the Frankford Township Ordinance. Mr. Gstattenbauer questioned Mr. Tessier as to where the Papakating Creek is on the plan. Mr. Tessier indicated that this proposal is not utilizing any of the property across the street which is where the Papakating Creek is.

Mr. Kienz presented to the board Exhibit “A-3” which is a Use Variance Map prepared by Dykstra Associates dated May 17, 2006. This plan is a traditional neighborhood plan by clustering all the density in the existing soil removal pit and setting up the rest of the property, the environmentally sensitive property, the wetlands, and some of the up lands that can be developed, as open space. They have split the piece into approximately 20 acres of developable property and proposed approximately 118 acres as open space. Mr. Tessier indicated that on the north side of Route 565 where the Papakating Creek is, is approximately 45 acres, which includes the barns and will be totally dedicated to open space. The rest of the open space is on the south side of Route 565 outside of the soil removal area. He indicated that the concept of this open space dedication will be either held by the association, dedicated to the township or a conservancy. If the house across the street and the barns are left there, it is a possibility that this can become some environmental center or ecological instructional center. The property would still have a heavy landscape buffer and centralize a pretty town center type density. The map shows a zone line which shows the portion of the property in the C2 Zone and the rest of the property is the AR Zone. Mr. Tessier indicated that this map also shows the connection with the proposed Town Center. Mr. Kienz indicated that the County Plan wants to show linkage through bike paths and the like. He stated that this property has that linkage to the Town Center so that people do not have to walk along Route 206 or Route 565.

Mr. Kienz presented to the board Exhibit “A-4” an aerial map labeled Conceptual Layout Plan prepared by Dykstra Associates and dated May 17, 2006. Mr. Tessier indicated that this map shows the applicant's proposal overlaid on the existing aerial topography. They are proposing 132 age restricted/55 and older home community clustered together at the highest density that they could get to keep the maximum open space. He indicated that the overall density is less than 1 unit per acre on the whole site. They are proposing a traditional neighborhood community center. This development as they propose it is within the disturbed area of the property.

Mr. Kienz presented to the board Exhibit “A-5” which is a Conceptual Layout Plan prepared by Dykstra Associates dated May 17, 2006. Mr. Tessier indicated this map shows the details of what they proposed to be clustered, buffered and off the road, which is 39 age restricted town homes and 93 homes split up into 3 structures all linked with a trail and pedestrian access to a gathering place. The gathering place would be in the center of the housing. This is the type of development that they are encouraging in the State Plan where everyone can walk to some activity. In this community area, they proposed to have some adult community center, some outdoor dining area, indoor pool, fitness center, and a fountain feature in the center, and an active recreation and event area. Mr. Tessier indicated that he arrived at the number of units on this property based on the 20,000 gallons and also the township had a planned residential option in the Zoning Ordinance which is .8 units per acre. The applicant tried to stay within this. They tried to make enough units to have a viable adult community with a lot of activity

NEW APPLICATIONS CONT.

Richard P. Schindelar/Winding Brook Village – Block 8, Lot 2 and Block 9, Lots 2 & 3 – County Route 565 – Armstrong Tract & Fenwick Road – “D” Variance cont.:

and interaction. There is also shown a bike path to the future connection on the railroad. They also show an area for a package treatment plant.

Mr. Kienz indicated that this development would be on approximately 20 acres. They are also offering the remaining approximately 120 acres would be dedicated open space so that no one would have to put up any money for acquisition costs for this open space. The money set aside for acquisition of open space can then be used to acquire additional open space in the environs.

Mr. Kienz questioned Mr. Tessier why the applicant is proposing senior housing. Mr. Tessier indicated that it is a positive tax ratable for the community. It is a significant amount of money without the school children. He further indicated that in Sussex County there are a significant number of baby boomers who will need this kind of development. He further indicated that this development is a positive impact because of the dedicated open space to be preserved at no cost.

Mr. Kienz indicated that the proposed Frankford Center is only going to survive if the town has enough massing to get people in it. He feels this property will support the center because of its location.

Mr. Clark questioned the applicant what are the “D” Variances that they are requesting. Mr. Tessier indicated that they will need a variance to construct an adult age restricted active adult community for 132 units in an existing C2 and AR Zone. Mr. Clark questioned Mr. Tessier what is the density permitted in this zone. Mr. Tessier indicated under the planned residential option of the Ordinance, it allows .8 units per gross acre. Mr. Stoner indicated that the planned residential option of the Ordinance does allow .8 units per gross acre if you have 100 acres in the residential zone. The applicant does not have 100 acres in this parcel. Mr. Tessier indicated that they have approximately 90 acres of residential, plus the piece across the street. Mr. Stoner indicated that this is another Block and Lot. Mr. Kienz indicated that it is, but it is not because it is a contiguous farm with a road bisecting it. Mr. Clark indicated that the statute says that it can be considered contiguous if it is divided by a road only. Mr. Stoner indicated that this is not only a road it is also a zone. Mr. Clark indicated that he would have to review this. Mr. Clark questioned Mr. Tessier under the traditional zoning how many homes could be placed on this piece of property. Mr. Tessier indicated that there is 68 acres in the AR Zone which would allow 13 or 14 homes. The numbers of homes proposed is 132 units on the south side and nothing on the north side of the property.

A Motion was made by Mr. Gstattenbauer and seconded by Mr. Dolan to carry this application to the November 20, 2006 at 7:00 p.m. Land Use Board meeting without further notice. All were in favor. The Motion was carried.

ADJOURN:

A Motion was made by Mr. Zappile and seconded by Mr. Larson to adjourn the meeting. All were in favor. The Motion was carried.

Respectfully submitted,

SHARON M. YAROSZ
Land Use Administrator