

TOWNSHIP OF LOPATCONG
PLANNING BOARD MEETING

July 24, 2013

The meeting of the Planning Board of the Township of Lopatcong was called to order by Chairman VanVliet at 7:00 pm. A silent prayer was offered followed by the Oath of Allegiance.

Chairman VanVliet stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Members Belcaro, France, Hall, Lance, McCabe, Nash, Woolf and Chairman VanVliet.

Old Business:

Minutes of June 26, 2013 – Chairman VanVliet approved the minutes as there were no corrections.

Ordinance No. 2013-08 – Highlands Checklist Ordinance referred to the Planning Board for consistency review. Planner Ritter stated that in the package is both the resolution that is being recommended to Council for adoption, the actual Checklist Ordinance, as well as a review for consistency with the Master Plan. As you will all remember, at the last meeting, the Board took action on adopting an amendment to the Master Plan incorporating the Highlands Element into the Master Plan and as part of that, as we discussed, was a Checklist Ordinance that will act as an interim check, and this is for consistency, between the Township opting into the Highlands in both Planning Area and Preservation Area and the actual adoption of the Highlands Land Development Regulations. The Ordinance was forwarded up to Council for first reading which they have done and they have recommended it back to the Planning Board. The brief report that we have in here is what is called a Consistency Report. Essentially what it does is recite the history of the Master Plan relating to the Checklist Ordinance. It references the fact that the Ordinance was part of the Highlands Element which was reviewed by the Planning Board and that it was part of a Resolution amending the Master Plan at our last meeting and this report will be sent up with the Ordinance to Council indicating we found that the proposed Ordinance is consistent with the Township Master Plan as it exists today. In terms of the Ordinance itself, it's identical to the one that you considered at the last Planning Board Meeting and recommended to Council for their consideration. But I do want to call your attention to one amendment, to this Ordinance, on Page 4. Looking at the Ordinance for the second time, the one thing that was missing from the Ordinance was actually tying it into the Township Ordinances as they exist today. So there was one paragraph added which has nothing to do with the content of the Ordinance, it just relates it to the actual Township Land Development Regulations. It's the paragraph that says “Now Therefore Be It Ordained by the Governing Body of the Township of Lopatcong that the Land Use Ordinance of the Township of Lopatcong Article VI, “Application Procedure”, Section 243-25, Contents of Application Be and Is Hereby Amended to Incorporate the Provisions of the Highlands Checklist Ordinance. All that's doing is tying it into the

Township Ordinance so that it fits within the same section of all the checklists that we currently use for applications are located. I don't believe it is a substantial amendment, it does not affect the content of the Ordinance so if the Board feels comfortable with this one amendment, I don't think it is of significance that it would require the Council to re-notice.

Chairman VanVliet: Mr. Palmer do you think there is any problem from this standpoint?

Attorney Palmer: No.

Chairman VanVliet: In that case, any questions from the Board? A motion to recommend this Report back up to Council to proceed with the second reading.

Member Lance: I'll make that motion Mr. Chairman.

Member France: I'll second it.

Chairman VanVliet: Roll call vote Beth please.

Secretary Dilts: Members Belcaro – yes, France – yes, Hall – yes, Lance – yes, McCabe – yes, Nash – yes, Woolf – abstain, and Chairman VanVliet – yes.

Chairman VanVliet: So you'll take this back up to Council Beth with this recommendation.

Secretary Dilts: Yes.

189 Strykers Road – Review of revised Preliminary and Final Major Subdivision Plan and Revised Final Plat submitted by 189 Strykers Road Associates, LLC for Lot 6 in Block 100 in Lopatcong Township, Warren County, New Jersey.

Engineer Sterbenz – Good evening Board Members. On this particular matter, as you may recall the Planning Board reviewed an application for multiple approvals relating to Lot 6 in Block 100 on Strykers Road that was submitted by 189 Strykers Road Associates and there were extensive hearings in February and March of 2012. Ultimately on March 5, 2012 the Board approved those applications. Among those applications were applications for Preliminary and Final Major Subdivision approvals and specifically related to that, the applicant had requested approval to subdivide Lot 6, Block 100 into three separate and distinct lots. Remainder Lot 6 which is the lot the asphalt plant, if it ever does get built, will be located on is an area of 8.78 acres. There was a second building lot that was created known as Lot 6.07 which would have an area of 5 acres and lastly, a third lot which would consist of a private road that would provide ingress and egress to these two particular lots, the remainder Lot 6 and Lot 6.07. The private road Lot which is 6.08 would have a lot area of 1.62 acres. So that was a subdivision that was proposed and approved on March 5th by the Board. Now within the resolution that was later memorialized by the Board in May of 2012, there was an extensive amount of conditions because we were looking at various approvals, most particular, the Site Plan approval. There were certain conditions a limited number of conditions that related to the subdivision and specifically conditions (1a), (1b) and (1c) and part of (1d) so the applicant had to address these particular conditions in order to perfect

the approval and I am assuming everybody has a copy of my July 16 memorandum and specifically condition (a) is the payment of real estate taxes, the second (lb) would be the payment of outstanding fees and assessment. Condition (lc) is the procurement of outside agency approvals and the resolution stated that the Planning Board, Warren County Health Dept. and NJDEP and then condition (ld) recited my review comments from my February 17, 2012 letter and specifically Section 2 of that letter dealt with the Subdivision Plan and comments 2.01 thru 2.08 of that letter were made conditions of that approval. On the top and the middle of Page 2 of my memorandum from last week spells out what those particular comments were. What has happened recently is the applicant approached me, because I am responsible to make sure these conditions are addressed, and indicated to me that they felt the conditions just read off to you in my memorandum were addressed and they were right to get an acknowledgement from the Township that they were addressed and if they got that acknowledgement, they would like the Board to sign the maps. There are two sets of maps; there is a Preliminary and Final Subdivision Plan which shows the lot lines and easements within this particular tract and then there is another plan known as the Final Plat and that is probably the more major of the two plans that would have to be signed if you concur that they have addressed the conditions of approval and the final plat is what's going to get recorded in the Warren County Clerk's Office and create the lot lines from the legal perspective after the map is signed. This particular subdivision was considered to be a Major Subdivision so you have to do it by map and they call that the Final Plat. You cannot record a major subdivision by deed. That is the second plan that was submitted to the Board and would have to be approved. That is the issue at hand. The applicant feels these particular conditions that are on page one of my memorandum have been addressed and want the Board to acknowledge that and if you do acknowledge that, they want you to sign the two sets of maps that have been submitted to support this particular subdivision request. I looked at the plans and if you go onto Page 3 and onto Page 4 I detail what my findings were as part of the review of this particular matter for resolution compliance and I have made findings that I believe those resolution conditions that relate to the Subdivision Plan have been addressed. Specifically condition 1a payment of real-estate taxes. The Tax Collector did issue a memorandum on July 16th indicating the taxes are current on Lot 6, Block 100. Condition (lb) there are no outstanding fees or assessments at this time. I get an account summary from the CFO every month giving me the balance in the escrow accounts and the escrow account for this particular project still has a positive balance in it at this point. There is no deficit in the account that would require money to be posted. That account is in positive condition. Condition (lc) the only outside agency approval that is applicable to this subdivision approval is the Warren County Planning Board approval. The Health Dept. approval is something that is related to the Site Plan approval and DEP approvals are related to the Site Plan approval. They are not applicable to the subdivision. The applicant has complied with that particular condition because the County Planning Board approved this matter on November 26, 2012 letter which I attached to my letter indicating all conditions of that particular approval were addressed. So the County Planning Board approval has been obtained and it's not conditional at this point and that leads to condition (ld) specifically, the portion that had to do with Section 2 of my letter of February 17, 2012, there were eight comments that had to be addressed. Comment 2.1 had to do with an error that they had in the signature block on Subdivision Plans they have corrected the subdivision block. The comment 2.02 was a requirements on the Subdivision Plans to note the current plan, the Storm water Management Report, that has been done. In comment 2.03 there are certain access limitations with respect to the lot across the private road which is the Precast property and there

needs to be notations put onto the Subdivision Plans that was consistent with the Final Plat. The two plans needed to be coordinated and that has been done. In 2.04 there were requirements to make modifications to the Zoning Table on Page 3 of 3 of the Subdivision Plans and those modifications of the Zoning Table have been made. In 2.05 there was a footnote to the Zoning Compliance Table on Sheet 3 of 3 of Subdivision Plans that had to be revised with respect to the height limitations for the storage silos. That footnote has been corrected on the plan. Comment 2.06 related to the signature blocks on the Final Plat that needed to be corrected and those corrections have been made. In 2.07 with respect to the Final Plat the Zoning Compliance Tables needed revisions to it to address comment 2.07 and those revisions have been made and then 2.08 with respect to the Final Plat there needed to be notation indicating that the roadway that was going to provide ingress and egress to these two building lots was going to be owned and maintained by the owners of Lot 6 and 6.07 and that they would be responsible for maintenance and repair and construction on that roadway and that the Township would not be responsible for that in any way, shape or form and particular notation has been added to the plan. So in summary I believe the conditions applicable to the Preliminary and Final Major Subdivision Plan that was granted by the Board on March 5, 2012 and outlined in the May 2012 resolution of approval have been addressed, that's my opinion and I would ask that the Board concur with my finding and if you do concur with the finding, I would request that you grant permission to Chairman VanVliet, Secretary Dilts and myself to sign the maps which would be the Preliminary and Final Major Subdivision Plan and the Final Plat at this point.

Chairman VanVliet: Board Members have any questions.

Member Belcaro: On Lot 6, if it does go, that's where the asphalt plant is going to be built, right? On Lot 6.07 which is the 5 acres, what is that property going to be used for?

Engineer Sterbenz: It was not specified during the hearings in February and March of 2012. It's a future building lot and it could be developed for any use that is permitted in the ROM District.

Member Belcaro: Lot 6.08 is an easement with regard to the egress correct?

Engineer Sterbenz: It's a lot that is going to include the private roadway that will provide access to Lots 6 and 6.07. There might be a question on this regarding the rest of the conditions in the May 2012 resolution. Those conditions relate to the Conditional Use Permit and the Site Plan approvals granted by the Board. We are not talking about that in any shape or form tonight. The applicant has done very little if anything to address those particular conditions since the resolution was adopted and they'll have to go through a separate process with the Township at a later date to prove that they have complied with those particular conditions in the resolution.

Member Hall: The Detention Basin that supposed to, and what have you, all that is still self-contained on this final piece of property, correct?

Engineer Sterbenz: Correct. It is actually on Lot 6.07.

Member McCabe: I have a question. Let's say that we, these plats, if they are signed and then they go to be recorded at the County Court House, let's say that the litigation ends up being that 189 is not successful and therefore, they're not now going to have this area. Does our recording these lots, these boundary lines affect the Township's ability to use these lots in the future because we don't know what the outcome is at this time, how will this affect it, if 189 loses?

Engineer Sterbenz: It's my opinion, and Ed will also respond, it's my opinion, if the court overturns the approvals, the lot lines will go away, it would be overturned as well and we would have one piece of property again, it's approximately 15.5 acres. I also don't think there is any risk in the Township doing this right now because the applicant asked us to access the compliance and sign the maps if we found to be compliant with the resolution. So the applicant's asked for this action and representatives of the applicant are here and maybe they will state that on the record tonight.

Attorney Palmer: The court has the final say and if they decided there was something that was done incorrectly, with reference to the subdivision and site plan, they will dissolve the lines and it goes back to the 15 acres as it is.

Member Nash: So it's the applicants deciding to take a risk.

Engineer Sterbenz: I don't believe there is any risk to us at all. I think we are doing our jobs. We approved this.

Attorney Palmer: This is the proper way to handle it. They are asking for what the statute allows and as I say, if the court overrules and decides this wasn't done properly in some way, they have the option that they can order that these lot lines go away.

Engineer Sterbenz: There is a resolution, there are certain conditions and if the applicant feels they've been met, which is what has happened here, and they can prove that, then I think we are obligated to review it and pass judgment on it. That is our job as a Board.

Chairman VanVliet: Any further questions for Paul? I'll entertain a motion to.

Member Lance: I'll entertain that motion Mr. Chairman.

Chairman VanVliet: For statement in conclusion that myself, Secretary and Paul be authorized to signed the plans and approve the Final Subdivision Plans.

Member Belcaro: I'll second it.

Chairman VanVliet: Beth, may I have a roll call please.

Secretary Dilts: Members Belcaro – yes.

Member France: Can I uh, I wasn't at all the meetings. Do I need to abstain?

Attorney Palmer: No you don't have to be at all the meetings; this is a specific question being answered tonight. Specific application, it's not rehashing the subdivision or the site plan or things of that nature. You heard everything there is today.

Member France: Yes.

Secretary Dilts: Member Hall – yes, Lance – yes.

Member McCabe – No I feel that since, even though the conditions we've been told that they been met, I feel this is kind of premature to sign plat and to record boundaries until we have the ultimate obligation, so, no.

Secretary Dilts: Member Nash –yes, Member Woolf – yes, Chairman VanVliet – yes.

Chairman VanVliet: There is one other piece of business before we go to public comment. Town Council has asked us to undertake a study of the history of the ROM area. I'll read the memorandum to everyone. The Council is aware there are questions about the pattern of recent development allowed within the Township's Research, Office Manufacturing "ROM Zoning District". In order to better understand the implications of the current zoning on both the business within the district and the larger community, the Township Council requests that the Township Planning Board undertake a study of the Township's industrially zoned lands. The study should address the historical evolution of the Industrial District and the zoning regulations that govern its use. This study should establish the existing pattern of development, the use of land, impervious cover, and the demands for infrastructure. Special emphasis should be placed on assessing the impact of the current zoning regulations on the future development of the district and its potential impact on the surrounding neighborhoods. The analysis should also identify any major problems and objectives relating to the use of the land within the district particularly emphasis should be placed on identifying the types of uses that can be support by the infrastructure resources that are available and their compatibility with the surrounding neighborhoods. The information obtained in this study could be used in the future by the Planning Board in preparation of a Master Plan Reexamination Report and the Township Council in preparation of the ordinance amendments.

At this time, those are the wishes of the Council. I tend to agree that it would probably be useful to have a history of the Township lands and at this point, I'd like comment from the Board if they have any questions on it. You want to proceed with it; you don't want to proceed with it. I think we should proceed with it. Along with that, I would offer our professionals, mainly our planner, to undertake a review. What the pattern of development was, I don't know if we want to go into interviewing some of the older residents in town but actually get a study of what has occurred on a legal basis, on the Planning Board basis, Council basis, on the history, as we come up. We would probably put the onus of this on you George.

Planner Ritter: I think our attempt, as I understand what Council's request is, is we will, under sort of the evolution of the district, how it was created, what the goals and objectives were, what uses have gone into the district and then how they've evolve. Also, we will look at what's there today in terms of what it is and what kind of industry and the infrastructure and how that match's

into the current Township goals and objectives for the development of the property and also look at the infrastructure that's there and the types of industry it might be able to support. We will do a general look at the potential impacts of those types of industries on the district itself and the surrounding areas. I think we can undertake that study.

Chairman VanVliet: Okay. Paul, I'm sure you will be involved a little bit too.

Engineer Sterbenz: Just for the Board's information. We are not just talking about the ROM District south of Rt. 57. We are talking about another two. We are going to look at all three ROM Districts. With one near Phillipsburg, one on Belview Road and one south of Rt. 57.

Planner Ritter: We will try to document the zoning changes as they've occurred over the years.

Member Hall: But we are taking the ROM as it exists today and working back.

Planner Ritter: Yes going back through the history of that. The three areas of the ROM Zones.

Member France: Is this required by anybody out there and why are you doing that; historical perspective versus, you know, doing that at the time of the Master Plan is updated.

Planner Ritter: We're really responding to a request from the Council.

Chairman VanVliet: This is a request of the Council. I don't know any regulation, rule or whatever that requires us to do it but Council wants, I guess, a better view of what the history of the Township zoning was in those zones.

Member Belcaro: Where we were and where we are today and anything in between.

Member McCabe: Right. I think part of the reason too is we want to see on a going forward basis what types of businesses we can start to market to. Who can we start to maybe attract, we have the three regions to work with, so we want a little history of how we got to where we are today, and potentially where can we go in the future, as who should we go after, instead of maybe big, big businesses which sometimes it can be a spectacular waste of time and energy. Maybe we should start focusing in or going after small business people and try and see who can best fit into our footprint and our ordinances.

Member France: I think moving, like to me, I'm not sure it's worth spending money just to see, whatever happened, happened. I think there is a benefit to look forward to say all right, what we have today and what do we want it to be in the future and how we do it, but to me, I don't see any benefit to going backwards. I think it is spending money unnecessarily is my opinion. I would just look forward, I wouldn't look backward.

Chairman VanVliet: As I say, it is a request from Council and let go of history.

Member McCabe: I think why some of the changes were put in when they were put in.

Engineer Sterbenz: How these uses got here.

Member France: What's the difference, we're here, we're where we are.

Member Lance: All that might be true, I think we, we serve at the pleasure of the Council and if the Council of Lopatcong is asking us to do this, I think it is our duty to do it. They're the ones asking. We serve, you know, under them.

Member McCabe: May help to tie it in the future, litigation issues.

Planner Ritter: The primary focus is going to be on now. We'll look at, as an example, the size of the lots in the district, how many of them are vacant. That will begin to tell you what types of industry you might attract, might not be able to attract. So we will be giving the current look at the district itself today and I won't call it an addendum but basically a run up of history but the primary focus is going to be what's there because quite frankly, that will set the pattern for what we do in the future and also will determine some of the impacts on the district and on the neighborhoods that will be occurring today and may occur in the future.

Member France: To me that's where the focus should be put on.

Chairman VanVliet: I think also in that respect what Fred is talking about looking forward, perhaps we should look at impervious cover in these existing lots or the lots that could be developed and make Council aware of a lot of the Highlands Regulations that are going to be incorporated and what type of buildings in the area of those lots can be supported and allowed by Highlands as long as we're in those areas. Maybe that would be useful to let them know. I mean if we are going to put a shopping center and pave 15 acres and it is a 15 acre lot, probably we are not going to get the approval of it from Highlands. I think they have a regulation now of 25% impervious cover on it most of the lots we looked at?

Planner Ritter: Except for the Town Center, they Industrial District fall within the Highlands and that gives a broader range in impervious covers. It does have guidelines and that's actually one of the steps that this report can help to support. One of the things we want to be doing for consistency, in terms of a Highlands aspect, is we are going to development a set of standards for development within the Town Center which will become part of Zone and Master Plan Department Regulations. That will be looked at over the next many months, it's not going to happen quickly but that, part of this study could be used to help support that review because we will be looking at the ordinances, the development pattern and the regulations in our now designated Highlands Center.

Member Belcaro: We can learn a lot from our history. I think that it is a good thing to have and will help us make right choices in the future to know our history.

Member Hall: Only two out of three Zones are in the Highlands. Town Center, correct?

Chairman VanVliet: They're all in the Town Center.

Planner Ritter: River Road, I think you're right.

Member Hall: I did not think that was in the Town Center.

Engineer Sterbenz: I think you are correct. The one on Belview is not.

Chairman VanVliet: Is Belview you the Highlands Preservation or ... That's what we need history for, so we know. I think we should at least have a vote on it and indicate to Council that we are going to undertake the history study. May we have a motion on that?

Member Lance: I make that motion Mr. Chairman.

Member McCabe: I'll second.

Chairman VanVliet: Roll call Beth please.

Secretary Dilts: Members Belcaro – yes, France – yes, Hall – yes, Lance – yes, McCabe – yes, Nash – yes, Woolf – yes, Chairman VanVliet – yes.

Public Comments: Questions and Comments were made from the public.

Chairman VanVliet asked for a motion to adjourn the meeting. Motion by Member Lance, seconded by Member Nash. All in favor.

Respectfully submitted,

Margaret B. Dilts
Secretary