

SUSSEX COUNTY PLANNING BOARD

MINUTES

NOVEMBER 3, 2014

The meeting was called to order by Chairman Borisuk at 4:02 p.m. The meeting is held in compliance with the Open Public Meetings Act, NJSA 10:4-2 of 1975, as amended. Present were:

MEMBERS PRESENT:

Andy Borisuk, Chairman
Wolfgang Gstattenbauer
Dan Flynn, 2nd Alternate
John Risko, Engineering Alternate
Rich Vohden, Freeholder Director
George Graham, Freeholder Member

MEMBERS EXCUSED:

Dr. John Ford, Vice Chairman
Michael Francis
Gene Crawford, 1st Alternate

STAFF PRESENT:

Eric Snyder, Planning Director
Alice Brees, Principal Planner
Dennis R. McConnell, Esq., County Counsel
Antoinette Wasiewicz, Recording Secretary

ALSO PRESENT:

Debra Nicolson, Esq. for Martorana
Lisa Fairclough, Fairclough Realty
Gregg Martorana
Joseph Martorana
Thomas Hayes, Debra Nicolson
Thomas Donohue, Donohue Engineering

MINUTES

A motion was made by Freeholder Rich Vohden to approve the Minutes of October 6, 2014 as presented. The motion was seconded by John Risko. All were in favor with abstentions from Wolfgang Gstattenbauer and Freeholder George Graham. Motion carried.

SITE PLAN/SUBDIVISION DEVELOPMENT REVIEW COMMITTEE REPORTS

A motion was made by John Risko to approve the Development Review Committee Reports for October 6, 2014 and October 20, 2014 as presented. The motion was seconded by Freeholder George Graham and carried unanimously.

PLANNING STAFF REPORT

Activity for October 2014 included: 1 Exempt Site Plan application.

APPEALS AND WAIVER REQUESTS

A. MARTORANA SITE PLAN FILE #15(CSS)12, ROUTE 616, NEWTON:

Eric Snyder said he wanted to update the Board on this application. At the present time the application is "Disapproved." The applicant is caught between the Newton Land Use Board and the County Planning Board. Newton approved the interior site, the access from which does not comply with County standards, particularly for pedestrian concerns. Mr. Snyder said the County is trying to come up with something that works for County Planning and Engineering. Both of the town's Engineering Consultants agree that the design, as currently proposed, should be redesigned to better protect pedestrians. The applicant is concerned that changing what was approved by Newton is going to entail some significant costs for mylars, etc. as well as another meeting.

Mr. Snyder said the County's Standards for centers specifically say that pedestrians shall receive priority. The design as it currently stands, does not meet that. It has a dual egress for the westernmost access point and the width of the sidewalk across that significant access is designed to accommodate tractor trailers, which are going to generate only about 1% of the total traffic. This design provides a huge sidewalk which does not take into account pedestrian priorities. Mr. Snyder said he is reluctant to recommend that the Planning Board waive pedestrian safety.

George Graham asked what the standard on that particular size egress is. Mr. Snyder said there are two standards. The first is for multi-family commercial developments. This is a 35' radius designed for tractor trailers. The second standard was adopted by the Freeholders in 2008 which says that in centers, pedestrian realm shall receive priority. Mr. Graham said the standard says "should," not "shall." Mr. Snyder said this issue should come to the Planning Board for action. Mr. Graham said he is concerned because this is a County of Sussex vs. Newton issue. He feels the County is asking the applicant to adhere to a standard and he does not see the County saying what that standard is. He said he visited the site and he does not see how that one lane will change anything. He said Mr. Snyder quoted tractor trailer traffic and asked what the pedestrian traffic in that area is. Mr. Snyder said there is pedestrian traffic but that the County has never measured it. There are 60 more residential units going in to that site and he hopes that this is part of a walkable community. It is also the connector between the end of the rail-trail at Hicks Avenue and the commercial district in Newton.

Mr. Snyder said there are two things going on. One is the 35' radius, the other is the two lanes. He has less of a problem with the 35' radius with just two lanes as opposed to three because it then becomes manageable. He said he spoke with Mr. Graham today about vehicles being able to make a relatively high-speed turn into that driveway with people who have their backs to them. This is a safety concern. The distance is roughly half again as much as crossing from the curb at Trinity/Water Street to the curb by Hayek's (60'+), or about 90'.

Mr. Vohden asked what the length of the sidewalk is now and what would make it legal. Mr. Snyder said there are two things to do with this sidewalk. First, if you push the sidewalk back too far, people won't use it. The only modification you can make to a sidewalk that will guarantee that it will be used is very minor. Moving the sidewalk back substantially also causes a sight distance issue from the stop bar. The stop bar has to be inboard of the crosswalk. Drivers then move forward and take a look from closer to the road. The County Standards require that the sight distance be taken from 5' behind the stop bar. Second, the 35' radius is of lesser concern if you can take 12-13' off the length of the sidewalk. Mr. Graham asked if a field change could be made without the application going back to the Newton Land Use Board. Mr. Snyder said he tried to do that. Newton's Attorney said to send it back to Newton's Board.

Wolfgang Gstatenbauer asked what it takes to be fixed. Alice Brees said regarding Rich Vohden's question about the length of the crosswalk, she has the latest revised plans which have been approved by Newton. The crosswalk is 77' wide with the sidewalk moved back a short distance. When asked, Mr. Snyder said the County does not have a specific standard.

Mr. Snyder said if the Board was going to discuss this in more detail, he would be more comfortable with having County Counsel present. The Board agreed to work on this today. Dennis McConnell was asked to join the meeting.

Mr. Vohden asked for a clarification from Dennis McConnell with regard to voting. If he votes on this waiver and it is appealed, does he have to abstain from the Freeholder vote. Mr. McConnell said, "No."

Mr. Snyder said this will be either a waiver of the pedestrian safety issue, a waiver of the 35' radius or the approval of two lanes as opposed to three which has nothing to do with any standards in the book. The two egress lanes are not a standards issue. It is a design issue. The 35' radius is a design standard that is in the County Standards. There needs to be some decision made by the Board on that issue. Mr. Risko said if it goes to two lanes and the crosswalk connects the sidewalks on each side, there is no issue of sight distance.

Mr. Vohden asked what the arguments for and against hearing this today are. Mr. McConnell said if the Board hears this, they are going to grant one of the two waivers, either for the radius or for the pedestrian sidewalk. One set of waivers will have the radius at either 35' or less or there will be a waiver from the pedestrian crossing and its length. They can also avoid it all if they go to two outgoing lanes instead of three.

Mr. Snyder said if the Board goes with the two 35' radii and two lanes, you get the sight distance met. They don't have to rule on a waiver for pedestrian safety.

Mr. Graham asked if there is any chance that the Board will push the applicant back into a "stop work" situation. Eric said, "Not as far as I know." The applicant was stopped and he spoke to the Town Deputy Manager and Land Use Board Administrator and the town's Engineers did so as well and all agreed that the applicant may continue work, even in the absence of an approval by the County Planning Board. It was confirmed that there are two points of access to this site. Mr. Snyder said he would like to see two identical points of access.

Mr. Graham said there is still the question on whether there will be a hearing on the waivers now. He asked if Mr. Snyder can have a conversation with the Newton Zoning Board. Mr. Snyder said he has been working on that for the last week or so. He has spoken to the town's Transportation Engineer, the Consulting Engineer, the Deputy Manager, the Community Development Director and the Land Use Board Attorney in an effort to make this work. Mr. McConnell said everyone agrees that the two lane egress is the best option. The problem is that this will hamper the developer because he will be required to go back to the town to have the application reviewed. Mr. McConnell said because this is a County road, the County controls access to the County road and that should be paramount.

Debra Nicolson said Newton has agreed that the access points are a County issue; however, they, during the course of all of the hearings, had major issues with the on-site circulation and the stacking onto the site as people are waiting to exit. That's why they've taken an interest in the two exit lanes. They believe that will improve the stacking. If this goes back to two exit lanes, the application has to go back to the full Board. This involves changing mylars and redoing the Notice to the Public; so it can't be heard in November. Newton is unsure of when their December meetings will be held. The town put a Stop Work order on the applicant last week when they received the "Disapproved" letter from the County. Ms. Nicolson said she received a call from the Land Use Board's attorney who said the Newton approval was being voided because the applicant does not have County approval. Ms. Nicolson said two years ago the applicant came before this Board with this design and the applicant received waivers to have the driveways. She feels this is the second bite of the apple. She questioned whether the County can redesign the entrances because it (the County) has evolved to center-based thinking. They had approval two years ago when that thinking was not a priority. The time to bring this up was when they received waivers the first time, not after they've received approval from Newton and they are shovel ready to build the project.

Mr. Graham asked for more information about the waivers that were approved two years ago. Ms. Nicolson provided him with a Resolution decided September 17, 2012 and memorialized October 1, 2012. This was for the design which they took to Newton. Mr. Snyder said our process can use some tuning up. The Resolution was for waivers for the left turn and others related to access location, not design. The County had asked that the access be a right in, right out. There were three waivers granted but not approval of the site plan.

Mr. Graham said he appreciates what Mr. Snyder is trying to do in terms of pedestrian safety. He asked if there was a way to maneuver the crosswalk so the safety issue is resolved and the application will not have to go back to Newton. Mr. Snyder said when we require that roads be wider, flatter, and straighter and the curves are broader, we allow people to feel comfortable making faster movements. He said the playing field between a two ton vehicle and a 200 lb. person is decidedly uneven at this particular point of exit.

There was some discussion on traffic calming and indicating devices, such as a flashing pedestrian crossing sign. There was also discussion on an island between the in and out lanes. Ms. Nicolson said it would have to be a mountable curb because of the ingress/egress vehicles. Also, she said Mr. Snyder does not believe an island provides a safety zone. Mr. Graham said in the absence of pedestrian data and the fact that the Planning Board has already granted waivers, he does not understand why the County is holding up this application. He asked if there was another way the Board can work with what it already has. Mr. Snyder said there is a waiver of something that needs to be granted. The Board can say, "This is fine." and grant the waiver from the pedestrian issue and move on. Mr. Vohden asked if the Board can grant a waiver for the length of a sidewalk when there are no standards. Mr. Snyder said it is not the length of the sidewalk; it is the priority for pedestrian realm. The question is, is the sidewalk, in and of itself sufficient for the Board to comfortably say the pedestrians have been given priority. Mr. Vohden asked how moving the sidewalk back would make it safer. Mr. Snyder said it doesn't help because the pedestrian won't use it. He feels design should be self-enforcing.

Mr. Graham said his biggest concern is dropping the sidewalk back, less so than the distance. With signage, moving the crosswalk is a safer solution, even though it is a long way across. Ms. Nicolson said they are up against the clock to start this project. If they miss getting the ground prepared, they will lose the entire project. She also said they can't afford going back to Newton, time wise and financially. New mylars would cost \$5,000; \$5,000-\$8,000 more into escrow and then there are expenses of going to meetings. Also, she is not sure Newton will allow them to remove one lane. Because the applicant relied on the 2012 granting of what they thought were the only approvals they needed on the driveway designs, they respectfully request that the Board grant the waiver for the pedestrian access issue for this particular matter based on how far along this project is. In this way, they are not establishing a precedent for any other matters coming before them.

Thomas Donohue was sworn by Dennis McConnell. Mr. Donohue is the Engineer for this project. He said having three lanes across and 35' minimum radii exiting and entering the site, creates a sidewalk of 77'. The need for the left and right turn out lanes was based on the traffic study that was done and presented to this Board in 2012. The sidewalk is now shown as being about 5' from the original design, which changed the width of the sidewalk from 90' to 77'. Also, initially the sidewalk was a painted crosswalk. After the waivers were granted by the Planning Board, they went back to Newton and received Site Plan approval. After making modifications that Newton wanted, they came back to the County with final plans. This is when the pedestrian issue came up. They met with the County's Engineer and Planner to come

up with some suggestions. The applicant agreed to change the sidewalk into a concrete sidewalk to meet County standards and to slide back the eastern driveway 5'. This was done for both entrances. Mr. Snyder asked what happens if you take the sidewalk that exists today along the front of the property, bring in significantly inward (closer to the parking spaces) so that the crossing can come back a little bit without it being so disjointed as to be dysfunctional. Mr. Donohue said that couldn't be done because it would be right between the exit left and right turn lanes. Mr. Snyder said if they pushed the sidewalk back toward the parking area, so that there is less of a jog when you get to the entrance at the eastern entrance, then maybe that sidewalk crossing becomes more functional than it would if you have to jump five or ten feet.

There was some discussion about sight distance. Mr. Snyder said the farther back you push the stop bar, the more difficult it is to get sight distance. Mr. Risko said the sight distance was 496' from the stop bar. The next time they measured, because of vegetation that the County can't touch, the sight distance went down to 370'. This would involve a waiver for sight distance. Mr. Vohden asked what possibilities exist which would both protect the pedestrians and not involve the applicant going back to Newton. Mr. Snyder said the County recommends two lanes but that would involve the applicant going back to Newton. Moving the sidewalk would protect the pedestrians and not involve Newton. He pointed out on a map the location where the sidewalk could be moved. When asked, Mr. Snyder said he would rather see a sight distance waiver than the pedestrian waiver. The sight distance would then be 320'. Mr. Risko said he did not believe having a shorter distance for walking pedestrians was safer than losing sight distance for vehicles. When you shorten the sight distance for vehicles coming down the road, you also shorten the sight distance for seeing the pedestrians in the relocated crosswalk. Mr. Snyder said drivers coming out onto Newton Sparta Road will not make their go/no go decision from the stop bar. They will make their go/no go decision from 5' back from the road. At that point there will be appropriate sight distance. Mr. Vohden confirmed that this action would not involve the approval of Newton and that all that was needed was a waiver for sight distance to the east. Mr. Snyder suggested that the Board also make a finding that the efforts of the Board, in this case, under these circumstances, would constitute conformance with the standard in our code giving priority to the pedestrian realm in centers. Mr. Snyder also suggested that from this point on, when the Board deals with waivers, we deal with the application for approval or not, just as you would at the municipal level.

As the Board was considering a waiver for sight distance, Mr. Risko went on record that the Engineering Division does not recommend this waiver.

Ms. Nicolson said the applicant will consent to the relocation of the sidewalk to address the pedestrian safety access issue. She also wanted assurance that County Engineering will allow this. Mr. McConnell said the Board is going to make a decision on a sight distance waiver. Mr. Risko has an opinion that the sight distance is insufficient; but there is a priority of pedestrian access vs. traffic control; and that is what the Board is going to be deciding---one waiver or the other. The Board is leaning to giving a sight distance waiver.

Mr. McConnell said he had a discussion with the applicant's engineer and the applicant's attorney. Going back to getting it down to two just lanes, one in and one out, would be the optimum situation. The problem is with the Town of Newton. Not only would the Town want it to go back for jurisdictional purposes but there is an issue with stacking. If there is any way that staff can have a meeting with the Town and the Town agrees that this is a field change and does not require the applicant to come back, Mr. McConnell feels both issues can be optimized. He also said he does not see any problem with the Board granting the waiver. Ms. Brees pointed out that staff has already had this conversation with Newton. Mr. McConnell said he was going to talk to the Town. Ms. Nicolson said if Mr. McConnell meets with the Town, it needs to be with the Chairman of the Land Use Board and the Board attorney as opposed to the professional staff. She also said she wants something in writing. Mr. Borisuk asked if the driveway goes back to two lanes, would that eliminate access by semi-trucks. Mr. McConnell said it would improve access for semi-trucks in both directions over what it is today.

The meeting was opened to the public. No comments were offered. The meeting was closed to the public.

MOTION:

A motion was made by Wolfgang Gstattenbauer to amend the agenda to include the consideration of the foregone application. The motion was seconded by Richard Vohden. A roll-call vote was taken. Results were as follow: Andy Borisuk-Yes; Wolfgang Gstattenbauer-Yes; Dan Flynn-Abstain; John Risko-Yes and George Graham-Yes. Motion carried.

MOTION:

A motion was made by Rich Vohden to grant a waiver for the Mortorana Site Plan to allow a 320' sight distance to the east rather than the required 521' and site plan approval. The waiver is granted because if the Board finds it appropriate that the sidewalk across the entrance be moved so as to improve safety for pedestrians crossing the aforementioned access. This is subject to the applicant relocating the existing sidewalk within the County right-of-way. The Board is requiring the applicant to reduce the accessway to two lanes if the Town of Newton acknowledges that that alteration would be a field change and would not necessitate an appearance before that body or a substantial amendment of the existing site plan, including mylars. The motion was seconded by Wolfgang Gstattenbauer. A roll-call vote was taken. Results were as follows: Andy Borisuk-Yes; Wolfgang Gstattenbauer-Yes; Dan Flynn-Abstain; Rich Vohden-Yes and George Graham-Yes. Motion carried.

John Risko asked if the town will agree with two lanes, will the sidewalk be moved to where it was first located. Mr. Snyder suggested that he, Dennis McConnell and John Risko meet tomorrow to discuss this.

DIRECTOR'S REPORT

Eric Snyder said because there are three members of the Board absent today, he decided to have the presentation on Rail-Trail Crossings and Complete Streets during the next meeting.

He also said there has been a time change to the presentation on the Economic Study, the Strategic Growth update. It is now scheduled for 4:30 p.m., before the regular Freeholder meeting on November 12.

There was a question about the Rail-Trail Crossing Study. Mr. Snyder said Autumn Sylvester and Abby Reza, the summer intern, looked at every rail-trail crossing and every crossing of the Appalachian Trail in the County. They took pictures and wrote a narrative about issues that could be addressed to make them safer. Rich Vohden asked Mr. Snyder if he had the Transportation Alternative Handbook. Mr. Snyder said the problem with the Transportation Alternatives program is that, as federal money, the administrative requirements are so onerous as to make application for any but a very large project unworkable. Walter Cramp's feeling is that unless we have a project worth about \$500,000, it is not worth the effort.

UNFINISHED BUSINESS

None

NEW BUSINESS

The items that were on the Agenda for today will be covered during the December meeting.

OPEN TO PUBLIC

None

ADJOURNMENT

All business having been completed, a motion to adjourn the meeting was made by John Risko. The motion was seconded by Wolfgang Gstattenbauer and carried unanimously. The meeting adjourned at 5:33 p.m.