

Meeting called to order by Chairman Mr. Bell @ 7:30 pm

All saluted the flag & the Presiding Officers Statement was read.

Roll Call:

Present: Bell, Waterbury, Burden, DeNofa, Derasadourian, Gardella, Martinelly,
Carroll, Siciliano

Absent: Teller
Donato - Attorney
Cranmer - Engineer

Minutes:

A motion was made by Mrs. Siciliano, seconded by Mr. DeNofa to adopt & memorialize the minutes from the January 19, 2011 meeting minutes as submitted. All approved.

Mr. Carroll was given the oath of office

Correspondence:

- Disclosure Statements are due ASAP (3 original signatures are required)
- **Model Ordinance Small Wind Energy** - Ms. Siciliano pointed out there is reference to these issues in the MLUL 4055D-66-11 & 4055D-66-12. There are concerns with this type of use on residential properties i.e. setbacks and height. Mr. Cranmer agreed that the height needs to be carefully considered.

Ms. Derasadourian also pointed out that the wind must be an average of 10mph, and if not they would not be beneficial. She advised that Shrewsbury is trying to attain the Sustainable New Jersey Certification through a point system, and an Ordinance would give them something towards the point system. She explained that it's not only a visual concern, people also complain of the strobe effects and shadowing from the tower. She also feels that the town must do this carefully. Most homes do not have the space to install these towers with renewable energy.

Ms. Waterbury has had some experience with these wind mills in Ocean Gate and after sitting there and getting a sense of the noise, the residents are complaining about the noise.

Ms. Waterbury also asked that the Planning Board consider some changes to include solar panels, she explained that currently the Ordinance does call for screening for a standard utility, and she suggested that this use be considered to allow them in the residential areas with some type of restrictions, to make the Ordinance "more user friendly" eliminating residents from coming to the Zoning Board. There may be some areas that are suitable for wind systems which would have a larger piece of property

Ms. Donato stated that the technology has advanced with these systems, and these systems are an inherently beneficial use and would come before the Zoning Board with a preferred status and it's similar to the cell tower applications with the inherently beneficial use status. She feels that the applicant would have to demonstrate that there is sufficient wind energy to make them work; the tower is not obstructed etc. Criteria would have to be set to for this evolving situation.

Mr. Burden suggested that some research be done on other towns that have qualified for the Sustainable New Jersey points and what they did to qualify.

This issue was discussed and reviewed, it was decided that this issue must have additional research done and could be included worked into a renewable energy ordinance which could include the new turbine technology and solar panels.

Planning Board Business:

Article X: Hold until the end of meeting.

Sea Shore Estates:

Developers Agreement - First Amendment

Bl: 70.02, Lot: 6

Mr. Michael Bruno, Esq represented the applicant.

Mr. Bruno explained that this is the Amendment to the Developers Agreement to include the approved Phasing Plan approved by this board.

Mr. Bruno reviewed the changes that he wanted to discuss with the board:

3a: Mr. Bruno wanted to have the 3 phases included in the agreement giving the developer 5 ½ years (maximum) to complete the project. After a lengthy discussion board members agreed to change the wording to what Mr. Bruno has indicated in his email, and will be included in the Developers Agreement.

3c: To be deleted

Mr. Bruno asked to have the definition of completeness of the project. Ms. Donato stated that the developer could complete Phase I in 9 months and not ask for the release of the Performance Guarantee until 18 months are left, which will not preclude him from starting Phase II posting the bonds for Phase II.

Ms. Donato asked for a clarification on completion of improvements, is it the release of the Performance Guarantee? Mr. Cranmer said that it would be the applicant's petition for the release. Mr. Bruno said that the Performance Guarantee will not be released until the Phase is done.

6a: Mr. Cranmer said that he would agree to add the words “reasonably determined by the Borough Engineer”

Mr. Kenny Desai, Seashore Estates, was sworn. Mr. Desai brought the issue of the Bonds that will be issued to him by the bank and the timing of the releasing of bonds during the phasing process.

Mr. Bell said that once the improvements are completed he would be able to ask for release of the bond. Mr. Bruno stated that he will need the full 5 ½ years to build out the project. Ms. Donato explained that the board does not control what the bonding company wants to do. If the phase is complete then you will have a partial or a full release. Mr. Cranmer said that “completion is defined” is when the Performance Guarantee is release by the governing body NJSA4055:- 53 permits the Borough to reduce the Performance Guarantee to no lower than 30% of the original amount.

Mr. Cranmer said that they do not have to build one house to get the Performance Guarantee back, you have to build the roads, storm sewers, curbs, sidewalks, landscape, buffering, once that is done the Borough will reduce the Performance Guarantee to 30%, and then they can begin Phase II and secure the bonding.

Ms. Donato stated that the developer can return for an extension. She also stated that the issue that the applicant brings up to the board is not a land use issue but a financial issue. Mr. Bruno agreed, he feels that an additional statement should be included that **“the foregoing does not preclude the applicant from requesting further extension, which the Planning Board would consider based on current market conditions, not to exceed 5 ½ years from the date of commencement of Phase I completeness”**. All board members agreed. Mr. Cranmer feels that once the developer starts Phase III this would be a “moot” point.

Mr. Cranmer asked Mr. Desai when he is planning to start? Mr. Desai said approximately March 1, 2011, since he is closing this week on his loan.

A motion was made by Ms. Waterbury, seconded by Ms. Martinelly made a recommendation that the Planning Board forward the First Amendment to Mayor & Council for their adoption as amended All approved.

Letter to be forwarded to Mayor & Council.

A motion was made by Mr. DeNofa, seconded by Ms. Waterbury to open the meeting to the public for items not before the board. All approved.

There were comments/questions

A motion was made by Mr. Burden, seconded Ms. Waterbury to close the meeting to the public. All approved.

Unfinished Business:

M/M Richard Doelger:

Bl: 30, Lot: 2

Adoption of Resolution

new roof over deck

A motion was made by Mr. Burden, seconded by Mr. Carroll motion was made to adopt & memorialize the resolution of approval for Certificate of Appropriateness.

Motion withdrawn Mr. Carroll not in attendance at the January 19, 2011 meeting

A motion was made by Mr. Burden, seconded by Mr. Gardella to adopt & memorialize the resolution for a Certificate of Appropriateness for a new roof over an existing deck to Mr. Richard Doelger as submitted.

Roll Call:

Affirmative: Waterbury, Burden, DeNofa, Derasadourian, Gardella, Martinelly,
Siciliano

Negative: None

Contd: Planning Board Business:

Article X:

Board members reviewed the Ordinance which will be passed on to Mayor & Council for adoption. Ms. Donato referred to her memo of February 22, 2011

1. Houses of Worship
2. Parking for Restaurants (Section 8.26) - Ms. Donato will delete
3. Other Criteria for Restaurants
4. Village Center Zone

Discussion on Village Center - Ordinance which was prepared by Thom Thomas was forwarded to Ms. Donato and she recommends that the Village Center be discussed under a separate review since the existing Ordinance needs to be revisited.

Mr. Cranmer stated that the Village/Commercial Zone was not included on the new Zoning Map, but when it is ready it can be added on since the map has not been adopted.

Ms. Donato suggested that the board do a re examination report in order to cover the uses of restaurants in the B2 zone, since this is a change in the use in the zone. Mr. Cranmer suggested that the Marc Court, LIR-88 zone, renewable energy also be considered while doing the Master Plan review. Ms. Donato agreed that the Master Plan should be reviewed every 6 years and this should be done.

- Master Plan should be reviewed and determine if the Master Plan meets the Planning Boards objectives, define the problem areas, and make the recommendations in the Re examination for future amendments to the Master Plan. This will allow the board to meet the 6 year period and cut off any potential

challenges to the validity of the Ordinance based on the “rebut of presumption standard” in the MLUL.

Mr. Bell suggested that a subcommittee for Reexamination be formed to go through the Master Plan make recommendations and bring them back to the board, and then adopt the Reexamination Report. Ms. Donato also advised that there isn't any notice on a Reexamination Report.

Ms. Donato said that this process is not that difficult the board would have to address:

- What are the major problems and objectives relating to land development since the adoption of the last Re examination Report.
- How were these problems been reduced or increased since the last report
- Were there changes in the assumptions, policies, and objectives that formed the basis of the Master Plan or Development Regulations (density uses etc.)
- Recommended changes to the Master Plan and Development Regulations
- What would the board recommend if they want to have any redevelopment in the Borough
- Articles II, IX & X need to be incorporated, which a lot of the work is done
- The annual report of the Zoning Board would need to be included

Ms. Donato explained that the board is not looking at major changes. The biggest change was already done for affordable housing and village/commercial. This is not a big undertaking.

Mr. DeNofa asked if the cost of the engineer needs to be forwarded to council?

Mr. Cranmer said that are things that need to be addressed:

- Newman Springs Road needs to have some esthetic standards for redevelopment along the corridor
- Shrewsbury Ave (industrial section)

Ms. Donato explained that all the Reexamination Report needs to have is:

- Newman Springs Rd has a number of non conforming uses with controversy regarding those uses, there is a desire to have some street scape and improvements and changes to that area. That is all the board needs to do for re examination purposes. You are not writing the Ordinance and not changing the Master Plan. The board is making recommendations for future word in a broader context. It doesn't need to be as much as it is being suggested.

Mr. Cranmer said that the town has a lot of key issues that are being death with here and there, and he feels that it needs to be looked at with a broader scope.

Mr. Bell said that the board needs to do a re examination report and for the board to approve a re examination report we need to know what the cost is going to be and present it to counsel. He is asking Mr. Cranmer what his cost is going to be and present it to Counsel and if approved put together a committee. He feels that the following people should be on the committee Mr. Cranmer, Ms. Donato and 3 board members and Mr. Bell will sit as ADHOC member.

Mr. Cranmer suggested rolling the Re Examination into the Master Plan and include the Storm Water Management Plan, which was never made part of the Master Plan. The last Master Plan was done in 1991 with the Re examination Report in 2001 & 2006 (COAH) & 2008 (COAH).

Ms. Donato stated that this is only what the board should address and not how the board will address and not exactly how you would do it or how you would amend the Master Plan, but rather the board should revisit the zoning on Newman Springs Road, look at "XYZ" sites. This only sets the stage for going to the next round. Her concern that she has with biting off too much with the Master Plan issue is that this board has started the amendments Article V which were put on the "back burner" which has been funded already by Counsel. She feels that the board should try and do the Re examination Report, do Article V do the Master Plan.

Ms. Donato explained that if the board wants to adopt the Ordinance that was reviewed tonight, due to the notice that would be required, she advised that the board must do a Re Examination report in order to do this, and since we moved this Ordinance ahead due to the Governor signing the Time of Application Law, effective May 2011, which would change the zoning now. She doesn't feel that the Re examination will take a year, a good job can be done if everyone just "brain storms", the board would want to include alternate energy facilities, esthetic improvements on Newman Springs Road, Nursing Home site, etc.

Ms. Donato said that Article V has a lot of technical issues, and she feels that there should be a provision that states that "amendments to the MLUL are incorporated by reference", rather than go through every single item. Ms. Donato feels that every board member should review the Master Plan.

Ms. Donato said that the board should send this Ordinance over to Mayor & Council and while they are reviewing it the board should start working on the Re examination Report and it should be done expeditiously and it should meet the Statutory Criteria, and do it as quickly as possible to relieve Council of notifying of the Ordinance changes.

Mr. Bell asked we can appoint a committee tonight to work with Mr. Cranmer and herself on the Re examination Report to bring back to the board before we have an estimated cost and approval to do this. Ms. Donato feels that we can proceed with he existing Ordinance Revision monies, and it will not stop the board from proceeding.

A motion was made by Ms. Waterbury, seconded by Ms. Martinelly to forward the draft Ordinance for amendments to Articles II, IX & X to Mayor & Council.

Roll Call:

Affirmative: Bell, Waterbury, Burden, DeNofa, Derasadourian, Gardella, Martinelly,
Carroll

Negative: None

Abstained: Siciliano

Committee for Re Examination for Master Plan, dates of the meetings will be determined next month:

- Ms. Waterbury
- Mr. Carroll
- Ms. Derasadourian
- Bell (ADHOC member)
- Mr. Cranmer
- Ms. Donato

Mr. Bell advised that a copy of the Master Plan will be made for board members.

Check List for Use Variance:

Mr. Cranmer explained the Check List and feels that the “draft” application should be included in the Check List as well.

Ms. Donato pointed out that there are no requirements in the proposed Checklist to cover Bulk “C” variances. After a discussion it was agreed that Mr. Cranmer should add the checklist that the Zoning Board requires under a bulk “c” variance and it will be presented back to the board on **March 16, 2011**.

Amended Check List will be forwarded to board members.

KHovnanian Developers Agreement:

Ms. Donato suggested that a committee be set up to meet with the developer to go over the draft, and forward the changes or suggestions to the Planning Board and they in turn will forward the Developers Agreement to Council.

Committee:

- Mr. Bell
- Mr. Burden
- Mr. DeNofa
- Ms. Donato

Mr. Cranmer explained the contribution to the Traffic Calming Trust Fund, after an extensive discussion board members conveyed to Mr. Cranmer that the monies that K Hovnanian will contribute to the fund will be used for **traffic calming only** and not to be used for road improvements for Patterson Ave. Mr. Cranmer stated that their fare share to be contributed to the trust fund would be \$65,000.00, in addition to the sidewalks to be constructed. Board members felt that since the developer is constructing and

destroying surfaces on Patterson Ave, they would have to repair the areas at their own expense (curbs, roads, railroad crossing etc) anyway.

Ms. Donato asked if Mr. Cranmer does the specifications for the repairs of the Patterson Ave how will K Hovnanian pay for that? Mr. Cranmer said that they don't, the Borough would have to bear that expense.

Ms. Donato suggested that the wording should be that the "applicant has to post a sum of money that pays for your cost so the Borough is not out of pocket for that set of improvements".

Ms. Donato agrees that the board said that the money was for traffic calming, and if there is improvements from Shrewsbury Ave to the railroad and there is no traffic calming even though you took the entire length of Patterson Ave, she feels that the public will feel that they were short shifted out of the traffic calming, that was a big issue with the public was the speeding on Patterson Ave. Be prepared that someone will get ramifications if there are no traffic calming devices.

Mr. Cranmer said that they are giving Hovnanian the option to fix this portion of Patterson Ave. We have other developers who are unknown right now; if we build the project this year and other projects are built we will loose the ability to get the money from them for this section.

Mr. Gardella asked if they tear up Patterson Ave for sewer and utility hook up isn't it their obligation to fix it anyway? Mr. Cranmer said yes it is.

Mr. Bell feels that Hovnanian will be getting a break if the costs from a private entity could be \$65,000.00 they could do it for \$35,000.00 and the tax payers are getting short shifted financially.

Ms. Donato said that she has referred to the resolution of approval and it cannot be done, the resolution gave KHovnanian an alternative: to assess the conditions for 2 years and decide what needs to be done, alternatively the "developer may accept the off tract contribution into the trust fund for traffic calming calculated by the Borough Engineer". She doesn't feel that they have this hybrid opportunity.

Mr. Bell said that Mr. Cranmer was trying to get "us" to offer the hybrid opportunity they didn't ask us to do the hybrid. Mr. Cranmer said no. Ms. Donato said that she has a problem and she is asking everyone to review page 33, paragraph "h" . She said that she didn't know about the hybrid. Ms. Donato explained that they can monitor for 2 years, and they never agreed with Mr. Cranmer's orientation of traffic, one alternative was to look at it for 2 years after all the c.o.'s are issue to see where all the traffic went, alternatively they can accept Mr. Cranmer's figures for off tract contribution into the trust fund for traffic calming.

Mr. Bell said that they can either wait 2 years or they pay the original \$95,000.00 that Mr. Cranmer first figured was their share, and the resolution doesn't say that.

Ms. Donato said that the contribution goes into the Trust Fund, since that was what the board decided. Ms. Donato said that the contribution that was agreed upon basically states that they pay as much as they want to, the Borough absorbs the engineering costs and there is no traffic calming. She feels there has to be some sensitivity to the language.

Mr. Bell said that if the board was to agree to that it should be a \$65,000.00 out of pocket, the Borough should get their equal dollar. From the traffic calming, when people put money into the sidewalk fund, sidewalks never get built. Its possible that the \$65,000.00 gets put into a traffic calming account and 10 years from now there is no traffic calming. Ms. Martinelly said that the board was told the residents that there will be traffic calming as a condition of this approval.

Ms. Donato suggested that the Borough take the \$65,000.00 from Hovnanian and put it into the trust fund, they install a certain amount of improvements, Mr. Cranmer puts in his bill for engineering, they put in the improvements and some traffic calming on the other side of the tracks and if they only spend \$45,000.00 then the balance goes toward traffic calming, if the board wants.

Mr. Bell stated that the road needs to be improved, and the Borough may have to bond for the road repairs, and he agrees with Ms. Donato and board members that we did look at the residents and we did say that the money was for traffic calming. This may be part of the traffic calming, even if we do what Ms. Donato suggests. Mr. Bell feels that the residents may come in and complain about that there is not traffic calming on Patterson Ave.

Ms. Donato said that the \$65,000.00 represents the cost of improvements from Shrewsbury Ave to the railroad, based on Municipal expenses, which is approximately 30% higher. Mr. Cranmer's fees will be deducted, and the balance could be used for traffic calming.

Mr. Cranmer feels that the application should put the money into traffic calming and then the Borough will have to make a decision in the next couple years to advance the project.

Mr. Burden asked where is the traffic calming planned for? Mr. Cranmer said, after the railroad starting around Trafford St. Mr. Bell asked if the council has authorized Mr. Cranmer to look into any grant money for a center median? Mr. Cranmer said that he has made applications for grant funding for Patterson Ave on 2 occasions, which preceeded the trust account, which he feels now will be a benefit to the Borough.

Mr. Bell asked if it is the general consensus of the board as to not to allow Hovnanian to make the change and not give them the option, the money must go into the traffic calming trust fund as stipulated in the resolution. All board members agreed.

Ms. Donato asked if a sub committee will be formed for the Developers Agreement.
Mr. Burden suggested a meeting be held on March 9, 2011 @ 1:00 pm & March 16th at
4:30 pm. committee members will be:

Ms. Donato
Mr. Cranmer
Mr. Bell
Mr. DeNofa
Mr. Burden

A motion was made by Mr. Gardella, seconded Mr. DeNofa to adjourn the meeting at
10:30 pm. All approved.