

**Planning Board Meeting
Borough of Watchung
October 17th, 2006
Minutes**

Chairman Speeney called the meeting to order at 7:42 p.m. and stated that notice of this meeting had been posted at Borough Hall, filed with the Borough Clerk and given in the way of notice to the Courier News, Echoes Sentinel, the Reporter and Star Ledger in conformance with the N.J.S.A. 10:4-6 et seq.

Present at the call of the roll were: Speeney, Boyd, Havas, Haveson, Page, Addario, Pennett, Schaefer, Spratford. Also present were Tom Herits-Borough Engineer, and Robert Rusignola-Board Attorney.

Chairman Speeney asked for a motion to waive the reading and approve the minutes of the September 19th, 2006 meeting, which Mr. Havas did make, seconded by Mr. Addario. There was no discussion and the motion was approved on voice vote.

CINGULAR WIRELESS

Mr. Rusignola asked if there was any commentary from Mr. Quinn, attorney for the Applicant since changes were made that afternoon in the draft of the resolution, and there was none. Mr. Page asked if the plantings to be made could be “deer proof.” Mr. Quinn asked Mr. Anthony Suppa, Engineer for the Applicant what he had in mind, and he said that leather leaf vibernum would be acceptable to First Energy, owner of the property as well as “deer resistant”. The Board found that acceptable.

Havas read:

PB06-R15 Cingular Wireless
799 Mountain Avenue Block 2.02 Lot 7.01

Mr. Haveson asked about what kind of louvers were in the shed, and how that would keep the noise level down from the fans. Mr. Suppa explained that they were special noise reduction louvers. Mr. Rusignola said that noise was the primary issue with this application as far as residents and Planning Board Members alike. He said that there would be 3 tests in the day, and 3 at night to make sure that they met the criteria, and if there was a problem, there was a government process to correct it. There was a discussion about the 20-foot buffer and concealing the equipment by landscaping. There was no more discussion and the Chairman accepted the reading of the resolution as a motion to approve, seconded by Mr. Haveson. A roll call vote was taken and it was unanimously approved.

K&R

Havas called :PB06-05 K & R Valley

113 Valley Drive Block 65.02 Lot 14

Preliminary Major Subdivision & Variance

Mr. Joseph Murray of Schiller & Pittenger, P.C. representing the Applicant was present and requested an extension based upon information that was supplied to him that afternoon from Mr. Healy, Borough Planner from Heyer & Gruel. Mr. Healy supplied his analysis of the steep slope provisions of the ordinance, and has concluded that based upon the steep slope provisions of the ordinance, the entire tract is capable of subdivision into 1.85 lots. He said that they may be required to seek relief, and in doing so, re-noticing is necessary. In addition to that, pertaining to Lot 13 and how this application affects it, it is not the obligation of the Applicant to resolve, cure, or otherwise seek relief by way of the Planning Board. A memorandum was sent to Mr. Rusignola. Mr. Murray said that this application does create a corner lot. Mr. Murray asked that the case be adjourned until November 21st 2006. Mr. Murray agreed to an extension until the end of November was granted Chairman Speeney asked that all board members be given all correspondence from this week within one week. Chairman Speeney asked for a motion to adjourn this case until November. Mr. Haveson made the motion, seconded by Mrs. Spratford. The Board unanimously agreed.

Havas called: PB06-08 Phyllis Rohling

Rt 22 Block 57.03 Lot 2.01 & 3.01

Lot Line Adjustment

Mr. Robert Fodera from Gebhardt and Keiffer was present representing the Applicant. Also present was Angelo De Rose, surveyor of the property. Mr. Fodera said that this application was a minor subdivision, lot line adjustment for a portion of the area at 1529 Rt. 22 through a contractual agreement between Mrs. Phyllis Rohling and the owners of Watchung Square Mall, Watchung Square Associates. He said Mrs. Rohling had granted several easements over the years through the application that was made by the Mall. Part of that presented an option by Mrs. Rohling to permit a subdivision, which allowed for the lot line to be adjusted. Chairman Speeney asked if Watchung Square needs to be represented and Mr. Rusignola said no. Watchung Square Associates LLC owns the property of the Mall. Mr. Rusignola asked if they are looking to take property from Watchung Square, and Mr. Fodera said yes, through deed. Mr. Fodera said he has been in contact with the Attorney for Watchung Square Associates. Mr. Fodera said it would be increasing Mrs. Rohling's Lot 2 by 8,382 sq. feet. The new lot of Watchung Square Mall will be 79.56 acres. The old lot was 79.76 acres. The loss of the square footage does not impact the requirements of parking spaces for Watchung Square Mall in any way. Mr. Herits said that the lot line adjustment affects the pump station that is located there that was maintained by Watchung Square Mall that has since been turned over to the Borough of Watchung. Mr. Fodera said there is no change of use in Lot 2, no utilities are affected and no variances are requested the application is consistent with good planning, and actually makes lot 2 a more conforming lot. Mr. Herits said the pump station is on Watchung Square Mall property, but is accessed through Rohling's property.

There are easements for that, and those easements are not impacted by this change and will remain. Mr. Fodera entered exhibit A-1 which is a blown up area of the southeastern portion of the Watchung Square Mall area also Lot 2. It was prepared by Angelo DeRose, the Applicant's surveyor. It shows the lot line looking to be moved. It was dated 08/26/05. Exhibit A-2 was the actual survey map.

Mr. DeRose, a licensed Land Surveyor came to the microphone and was sworn in and recognized as an expert in his field. Mr. DeRose went over his history of former work on the Watchung Square Mall. Mrs. Phyllis Rohling's property would be extended. Mr. Rusignola asked if Mr. DeRose was prepared to certify that the area is the same as depicted in the 8/26/05 exhibit and Mr. DeRose certified that fact. Mr. Rusignola asked if there was a metes and bounds for this area prepared by Mr. DeRose, and Mr. DeRose presented the Metes and Bounds as exhibit A-3. Mr. DeRose said that it would be the basis, which will be utilized as part of the deed that would be transferred. Mr. Rusignola said that since it will be done by deed and not map, what he needs to see in the deed is the appended portion in a metes and bounds description and then a final metes and bounds description of the Rohling property. Mr. DeRose said he would prepare that. Mr. Rusignola asked if the appended portion of the lot that will be created would be a building lot, and Mr. DeRose said that there are already two existing buildings on the lot and that he didn't believe it created a lot that is sufficient to build on within the zone. Chairman Speeney said that he felt it was important for the board to make sure that it would not be creating a new building lot for the future. He said that they are not creating a subdivision, but that it doesn't mean that in the future someone can't come back before the board to try and do something else to the lot. Mrs. Spratford said that the lot was going from .069 acres to .088 acres.

Mr. Herits said that the original access to the pump station was through the Watchung Square Mall property, but through easements, it is now through the Rohling property, and there will also be a storm sewer easement on the sewer, which will now be on the proposed Rohling property. Mr. DeRosa said that he had not been contacted as far as transferring the easements, which were to Mrs. Rohling, and transferring them to the Borough of Watchung for access to the pump station. Mr. DeRosa said that there would have to be a right of ingress/egress granted to the Borough to get to the pump station. Mr. Herits said that he wanted to make sure all of these things happen, and Chairman Speeney said that the Board would have ample time to review this before any vote is taken. Mr. Fodera said that the plan doesn't require any easements, doesn't require any variances, and no change in use, or impact any utilities, and that the storm water easement would certainly be granted by Mrs. Rohling, and represented good planning. Chairman Speeney asked for a motion to ask the Attorney to draft a resolution in the affirmative. Mr. Haveson made that motion, seconded by Mr. Boyd. There was a voice vote, and the entire Board voted to direct the Attorney to draft the resolution in the affirmative. The application was carried until the November 21st meeting. Mr. Rusignola asked the Board members if they wanted any deed restriction on this lot. A discussion ensued and the Chairman thought that a deed restriction should be put in as a system of checks and balances. Mr. Fodera said that the arrangement that was between Mrs. Rohling and Watchung Square Associates was an arrangement that Mrs. Rohling would assist during the time of their application with regard to easements that were required. At no time did she anticipate that her property was going to be 'impaired' by a future

subdivision of her property. He said that this is simply a transfer of properties between parties, and there is no intent of using the property in any other fashion at this time than it is currently being used. He said that the Applicant wouldn't really support such an inclusion of that in the resolution. Chairman Speeney noted the objection. Chairman Speeney asked the Board to include the deed restriction. Mrs. Spratford made a motion to include the deed restriction not to subdivide that lot in the resolution, seconded by Mr. Boyd. A roll call vote was taken and the vote with a yes vote to include that restriction was as follows:

**Speeney [yes] Boyd [yes] Havas [no] Haveson [yes] Page [no] Addario [yes]
Pennett [yes] Schaefer [yes] Spratford [yes] Ellis [] Mobus []**

The motion carried and a deed restriction was going to be put into the draft. Mr. Fodera agreed to an extension until the end of November.

Chairman Speeney sought a motion to approve vouchers made by Mr. Havas, seconded by Mrs. Pennett and approved unanimously on roll call vote.

Chairman Speeney gave an update on the cross acceptance committee, and the P.I.A. (Planning Implementation Agenda) was discussed. There was a committee of Mark Healy, Don Speeney, Councilman Mobus, Tom Herits, and Lauren Fellin that had met. Input was given by all, and Mark Healy drafted the PIA. The deadline for the state was met, and the documents were sent on to the State of NJ Office of Smart Growth.

Mr. Rusignola gave an update on Stone Creek Realty. Mr. Rusignola said that the matter was litigated and he argued it on Oct. 5th before a judge. Mr. Rusignola said he argued on a remand back to the Planning Board based on the fact that the storm water detention system was rejected by Somerset County. The opposing attorney argued that there were other issues pertaining to steep slopes. Mark Healy testified that he felt there were only two conforming lots. The Court found in favor of the Planning Board, and this application will be remanded back to the Planning Board for additional findings with regards to drainage. They will propose an entirely new drainage system, and the court suggests that the Planning Board may want to address the interpretation of the ordinance as it relates to the creation of lots.

Chairman Speeney called the meeting at 9:43 p.m. until the next meeting of November 21st, 2006.

Respectfully Submitted,

Carolyn Taylor
Planning Board Clerk