

**Borough of Watchung  
Planning Board Meeting Minutes  
June15th, 2010**

Salute to the Flag.

Chairman Speeney called the meeting to order at 7:36PM and stated that notice of this meeting had been posted in Borough Hall, filed with the Borough Clerk and given in the way of notice to the Courier News, Echoes Sentinel, 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[X] Boyd[X] Havas[X] Haveson[X]Addario[X] Pennett[X] Schaefer[X] Beck-Clemens[X] Panzarella[X] Ellis[X] Pote[A] Also present was Board Attorney Frank Linnus and Board Engineer Tom Herits. Mayor Ellis arrived at 7:38

Havas Read: PBIR10-2 Informal Hearing proposed residential subdivision  
Cidalia & Joe Cuhna Block 6009 Lot's 25 & 28 Oakwood Road

Mr. Joseph Jaworski PE,CM of Dynamic Engineering. Mr. Jaworski said he was a civil engineer representing the applicant. Mr. and Mrs. Cuhna were also present. Mr. Jaworski explained that they are proposing a two-lot subdivision of lot 28. Mr. Jaworski handed out a plan of the site and it showed lot 25, which was the lot with the Cuhna's current home, and next to it was lot 28, which is the larger piece of property to the south. The application actually calls for 3 lots because lot 25 would also have a minor lot line adjustment to the rear lot line. Mr. Jaworski explained that the required lot area in the RR zone is 60,000 sq. ft.. Lot 28 has enough area when divided into two lots that each would meet the 60,000 sq. ft. minimum. Lot 28A, which would be the northern lot, would be about 66,281 sq. ft. and lot lot 28B would be about 70,345 sq. ft.. Mr. Jaworski explained that there are two issues with this proposal. The first is the requirement by ordinance to do a density calculation for steep slopes. Based on a category 2 with slopes of 10% and 20%, which are throughout lot 28, the slope factor is 2/3 of the actual area. The allowable lot yield for these three proposed lots comes out to 2.36. Under the ordinance, there is enough area to meet the 60,000, but when the steep slope calculation is factored in, the ordinance says that 2.36 lots would be allowed for this area. The second issue is access. Currently, the existing lot 25 is accessed from Birchwood Lane to the west. The existing house on lot 28 is accessed off Oakwood Road that crosses a PSE&G right of way. What the Cuhnas would like to do is propose access off Birchwood Lane to both proposed lots 28A and 28B. In order to do that, a driveway easement would be created. Regarding lot 25,

the minor lot line adjustment for the existing lot is shown at 32 feet, and a 3-foot shift would bring that measurement to 35 feet for the rear yard.

The current rear yard line for lot 25 is only 12.7 feet from the back of the house, and would be shifted further away and eliminate an existing non-conforming condition.

Chairman Speeney advised the applicant not to go for a variance. The discussion of the board was that with this proposal a flag lot would be created on lot 28 and slopes and density were issues.

Mr. Linnus said that if this proposal were applied for, it would technically not be a minor subdivision due to the fact that there is an access easement and under MLUL, all lots must have vehicular access to an existing street and the applicant should take that into account. The Chair explained to the applicant that they have the right to apply formally, and that the issues that the board brought up, should be defended at that time. Mr. Jaworski thanked the board for their time.

The board watched the JIF video, which was a mandatory video to be watched by all volunteers on the rights and duties of volunteers in local government.

The Chair sought a motion to waive the reading of and approve the minutes of April 20<sup>th</sup>, 2010. Mr. Addario made the motion to approve, seconded by Mrs. Pennett. The Chair asked for a voice vote and everyone who was eligible approved. The minutes were accepted.

Mr. Linnus said that regarding the Ritchie litigation; they have agreed to settle the case based on the fact that the appeal is going to be dismissed. The Planning Board's decision was vindicated. The procedure that was employed by the objector's attorney was rejected by the Appellate Division. The appellate division had no problem settling the litigation. In order to dismiss the litigation, they would have had to go back down to the trial court and have the trial court approve the settlement. They decided to settle and will file and sign a stipulation of dismissal with prejudice, which means that the decision of the planning board was upheld. It can never be appealed. Mr. Linnus told the attorney for the appellant that would need authorization to do two things. One to sign the settlement agreement previously agreed to. Mr. Linnus said he also needed authorization to sign off on the stipulation of dismissal with prejudice. The settlement agreement indicates that the real party in interest (new owner) no longer seeks the relief previously granted. The new owner will withdraw the application submitted by the prior owner and the plaintiffs and the new owner indemnifying and holding us harmless in the event there are any actions taken by the planning board of the borough in response to any attempt by new owner or successors to perfect the approval. The withdrawal of the application doesn't prohibit the owners of the real property from applying for relief from any provisions of the Borough of Watchung zoning ordinance at any time in the future.

Mayor Ellis congratulated Mr. Linnus. The Chair asked for a motion to authorize Mr. Linnus to sign the settlement agreement and the stipulation of dismissal in the Ritchie litigation. Mr. Haveson made the motion, seconded by Mayor Ellis. Hearing no discussion, the Chair asked for a call of the roll. The roll call vote was as follows:

Speeney[yes] Boyd[yes] Havas[yes] Haveson[yes]Addario[yes] Pennett[yes]  
Schaefer[yes] Beck-Clemens[yes] Panzarella[yes] Ellis[yes]

The motion carried.

Chairman Speeney discussed the new affordable housing legislation. In the current Master Plan and zoning, there are several parcels of land that are earmarked RML(Residential Mount Laurel) such as Ness properties, East Drive and off Bonnie Burn Road. The Chair said that he would like to see these zoning ordinances dismissed, and the underlying zoning prevail. The Chair said that the Borough still has the basic obligation to provide affordable housing. The Chair said that he would like to see any development that we have will be responsible for it's inclusive affordable housing obligation or pay monies into some sort of account that either we keep at the Borough or goes to the DCA from which we could eventually provide affordable housing. The Mayor said his personal opinion would be to wait until the Borough gets sub-certification for round three and see what the final version of S-1 is going to be.

The Chair brought up the Master Plan re-examination. Chairman Speeney said that there is money in this year's budget that we can use to hire a planner for the last quarter of this year, and the first quarter of next year. The Chair asked the board to embark on the re-examination work this year. The Mayor agreed. The Chair said that the plan would be to get a RFP and proposals. He wanted to assemble a sub-committee to do a lot of the re-exam work, and asked Mrs. Tracee Schaefer to lead that sub-committee. The members of the re-exam subcommittee will be Mrs. Schaefer, Diana Beck-Clemens, Chairman Speeney and Peter Havas.

The Chair opened up discussion from the public. Hearing no discussion the Chair adjourned the meeting until the next meeting of July20th, 2010.

Respectfully Submitted,

Carolyn Taylor  
Planning Board Clerk