

**Borough of Watchung  
Planning Board Meeting  
September 20th, 2011**

**Minutes**

Salute to the Flag

Chairman Speeney called the meeting to order at 7:35pm. Salute to the flag. The Chair called for a roll call. Present at the call of the roll were: Speeney (X) Boyd (X) Havas (X) Haveson (A) Ellis (A) Pennett (X) Schaefer (A) Mobus (A) Pote (X) Beck-Clemens (A)

Chairman Speeney indicated there was a quorum to conduct business. The Chair stated that this meeting was being held in compliance with N.J.S.A. 10:4-6 of the open public meetings law and proper notification of this meeting has been made.

Chairman Speeney said that he would like to go into the draft ordinances created by Mark Healey, board planner.

Mark Healey came to the microphone and introduced himself as planner consultant to the Planning Board. Mr. Healey said that the first of three tasks he was given was to resolve the conflict between the driveway ordinance and the flag lot ordinance. Mr. Healey said that basically what the conflict is, is that the flag lot ordinance says that the access strip portion where the driveway is located from the street back to where the home is must be 20' wide. The driveway ordinance requires that the driveway must be a minimum of 12' wide. Then it requires that the driveway be setback from the side property lines equal to the minimum principal setback in the zone. So for example in the RR zone, driveways must be setback 15'. That would mean that you would have to have 12' for the driveway, 15' from either side, so in effect the driveway requires that that same area be 42'. Mr. Healey said that is essentially what is being called the conflict between the two ordinances. Mr. Healey said that he proposed something in between the division of the two ordinances which he thinks maintains the integrity and purposes of both ordinances. This solution would decrease the side setbacks of both residential driveways and residential parking areas to five feet. It would also increase the minimum width of the access pole to 40'. This would make the conflict go away. Mr. Healey said that this is a typical standard for most flag lot ordinances. He said that as far as the setback for residential parking areas, the ordinance is very strict. Mr. Healey said he has

never seen ordinances where the residential parking areas must be equal to the minimum setback of the principal building. He said that is, in his experience, extreme. Mr. Healey said that he thinks the reason for the driveway ordinance in Watchung was due to the grading issues due to people putting retaining walls right on the property line. He said that former Borough Engineer Richard Moody was trying to push through that ordinance at the time largely due to engineering matters. Chairman Speeney said that what was happening was the Borough was having destruction of natural habitat, such as trees and shrubbery and board members thought that there should be replanting of what was taken out, and there should be distance between the driveway and the property line. The Chair asked if this distance would be for all of the zones. Mr. Healey said yes. Mr. Healey said that the mathematical equation is not an exact science, but if you have five feet on one lot, and five feet on the next, there would always be at least 10' between all driveways. Chairman Speeney said that he has submitted this draft to Edward Bennett, Zoning Officer who has been away, and hasn't really had a chance to review it yet. Chairman Speeney said that he would like to table this particular proposal until he gets some additional input from Mr. Bennett to see if he thinks this will solve the problem. Mr. Healey said that also the residential lighting portion should also be reviewed by Mr. Bennett to see how big of an issue this is within the Borough. Mr. Healey said there is language in the ordinance that talks about glare and using cutoff fixtures, which could be used by Mr. Bennett to issue a violation if need be. The Chair said that they will get Mr. Bennett's opinion on each of these issues. Board Attorney Frank Linnus said that the option that Mr. Healey has laid out to resolve the conflict between the flag lot ordinance and the driveway ordinance is legal. He said also, pertaining to the residential lighting issue in section 28-401u2. He said that it reads there that no use shall produce a reflection of a dazzling light or glare. He said that language seems subjective and might be tightened up somewhat. Mr. Healey said that he agreed the word dazzling should probably be changed to be more specific.

Mr. Pote asked what the benefit was to go from 20' to 30' on the pole portion. Mr. Healey said the minimum width for the driveway is at least 12'. If you add 5' to either side that's 22' and to have a little bit of a fudge factor, he came up with 30'. Mr. Healey said that requiring 30' for the access strip is not uncommon. Chairman Speeney said that what they were thinking in terms of flag lots was that the pole would not count against the area required for the building lots. Chairman Speeney said that he thought that 20' minimum was generous, and by making the width 30', they are getting even more restrictive. Mr. Healey said that yes, it was more restrictive, but that the Borough is allowing flag lots, and 30' is an appropriate standard among towns. Mr. Havas

asked if there would be a compliance problem for existing flag lots. Mr. Healey said that those current flag lots that exist will be grandfathered. Mr. Linnus agreed that current flag lots might be affected. Mr. Healey said that it is important how it is worded. Mr. Linnus suggested that in the wording of the ordinance, the current flag lots could be exempted. Chairman Speeney suggested that in the residential lighting ordinance, basketball, tennis courts, swimming pools, patios and sports courts should be included so that something doesn't fall through the cracks. Chairman Speeney said that these two drafts are on hold until hearing back from Mr. Bennett.

Chairman Speeney said that the next issue is the RMLII zone discussion. Mr. Healey said that the ordinance does 4 things. The first thing was a request from the property owner to add three lots that are currently zoned RR to the RMLII zone on Bonnie Burn Road. These lots abut each other and abut the RMLII zone. Mr. Healey said that the property owners concept plan had a total of 21 lots. The existing RMLII zone limits the number of lots to 20 and the recommendation was to agree to expand the zone and keep the same 20 lot maximum. That might be something that the board wants to discuss. The second thing that the ordinance does, is that currently there is no impervious surface limitation in the RMLII zone at all. Mr. Healey said that is something that the Borough should address. 25% maximum impervious surface coverage is proposed which is the same as the requirement in the RR zone which has larger lots of 60,000 square feet, and the same as the requirement in the RB zone which has lots of minimum 20,000 square feet. He said that would be in keeping consistency among zones. He said it is the same standard that the Board of Adjustment has been using when they have applications before them for variances in the RML zone. Mr. Healey said it amends the language pertaining to the perimeter conservation easement. Since the zone is going to become larger, the language had to address the new land area. There is one change on the third page of the ordinance. The current language states that *No street or cul-de-sac or right of way or any part thereof shall be located less than 35' from the perimeter of the property line of the tract except as permitted by the certain section above* and that is talking about the portion of the road that has access, so obviously the portion of the road that provides access out to Bonnie Burn can go into the buffer. Mr. Linnus said that the property owner Mr. Lachs sent a letter to Borough Attorney Albert Cruz regarding the number of lots and asking if the number of 20 lots was a clerical error. Mr. Cruz in turned called Mr. Linnus who told him that the board would clarify this at this meeting. Chairman Speeney said that the board looked at the LDO which limited the number of lots in the RMLII zone at 20 single family home lots and to his knowledge that number has not changed from when the RMLII zone was first

created in 1988. Chairman Speeney said that he thinks that because Mr. Lachs is saying that they will throw an additional number of acres into the RMLII zone, therefore thinking they could do this with 21 lots instead of 20. The Chair said that the rationale on Mr. Lachs part is that he is giving a lot here but the board is saying that the current number is still 20 based on the developer's agreement. Chairman Speeney said that Mr. Lachs is changing the area that he can use, but that the board is not changing the developer's agreement. He said that only the Council could address that. Mr. Linnus said that the board can only recommend or not recommend, but that the Chair is right that they cannot change a developer's agreement. Mr. Havas said that he felt that this board gave Mr. Lachs the impression that if he added the additional acreage, that the board would agree to give him the 21 lots. He said that he could see why Mr. Lachs would have left with that impression. The Chair said that he did not feel as though the board had left him with that impression but that possibly they did. The Chair said that if the board felt that they had left the impression that 21 lots were discussed, to let him know. Mr. Linnus said from a brief review of the minutes, it doesn't appear that the board committed to 21. Mr. Healey said that 21 lots was definitely proposed, but that he put 20 in the draft based on what he had heard that evening. Chairman Speeney said that he had notes from the meeting of Mr. Lachs presentation that said 21 lots, no variances or waivers and no future subdivisions and 25% total impervious surface coverage from 12/14/10 meeting and stood corrected. Mr. Healey asked Mr. Linnus if the Planning Board recommends 21, how would that be worded. Mr. Linnus said that it must be substantially conforming with 20. Mr. Linnus said that after the first reading at a Mayor and Council meeting, it then comes back to the Planning Board, and language could be put in saying it is substantially conforming. The Chair asked the board if there is any objection from the board recommending 21 instead of 20. No one objected. Mr. Healey said that a change would have to be made in the draft in section 28-413a1. The Chair asked for a motion to change this section from a maximum of 20 dwelling units to 21. That motion was made by Mr. Havas, seconded by Mr. Pote. Hearing no more discussion, the chair called for a voice vote which was unanimous in favor. The motion carried. This would add roughly another 19 acres to the parcel. Chairman Speeney said that the board needs a final version with a memo explaining the ordinance. Mr. Healey said he would send this to the Council on behalf of the Planning Board. Chairman Speeney asked Mr. Linnus if they could vote tonight on sending the final version to the Council. Mr. Linnus said yes, that the board could vote on the final recommendation be. The Chair asked for a motion to recommend the ordinance to amend the code of the Borough of Watchung a revising the RMLII zoning district with a cover letter from Mark

Healey. He would be preparing the final draft and sending it on to the Mayor and Council. This motion was made by Mr. Havas, seconded by Mrs. Pennett and the hearing no more discussion from the board, the Chair asked for a roll call vote. The vote was as follows:

Speeney (yes) Boyd (yes) Havas (yes) Pennett (yes) Pote (yes)

The motion carried.

Chairman Speeney said this will now go directly to the Council as an action of the Planning Board with a recommendation to make these changes. Mr. Healey said that it will then come back to the Planning Board from the Council for the board to then say it is consistent with the Master Plan under Municipal Land Use Law.

Chairman Speeney reported to the board that sidewalks were voted on for the south side of Mountain Blvd. By the Mayor and Council, along with a request to have the north side of Mountain Blvd. graded in consultation with the Borough engineer. Chairman Speeney wanted to thank Tom Herits for getting that item in the resolution. Mr. Pote said that the council had a lot of discussion and did try. Chairman Speeney said that the law has changed regarding the re-examination of the Master Plan stating that a Planning Board can go up to 10 years without re-examination. Chairman Speeney said that there will be a meeting of the Somerset County Planning Board Chairs next Monday and there is an item on their agenda regarding Comprehensive Economic Development Strategy. They will be developing a plan to create economic sustainable development opportunities. He said all planning board members who wish to attend are welcome. He said that the quarry opportunities can be addressed. He said there is seed monies to build infrastructure. Hearing no more discussion, the Chair adjourned the meeting until the next meeting of October 18<sup>th</sup>, 2011.

Respectfully Submitted,



Carolyn Taylor  
Planning Board Clerk