

**Borough of Watchung
Planning Board Meeting
June 18th, 2013**

Minutes

Salute to the Flag

The Chair called for a roll call. Present at the call of the roll were:
Speeney (X) Schaefer (X) Haveson (A) Ellis (X) Pennett (X) Boyd (X)
Pote (X) Nehls (X) Desnoyers (X) Hartmann(X)
Mayor Pote arrived at 7:37

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.

Desnoyers Read: PB13-01 Elite Homebuilders, LLC
391 Valley Road Block 4309 Lot 13
Minor subdivision with any and all variances

David Checchio, Attorney for the applicant came to the microphone. Mr. Checchio explained that he was the council for the applicant, as well as being a member of the LLC. Mr. Checchio explained that the other members of the LLC are his father Amerigo Checchio, Thomas Powers, his brother Michael Checchio.

Mr. Checchio explained that this property is in the RR zone. The property is 3.5215 acres. The applicant is requesting a minor subdivision to create 2 lots where one creates currently. There are no variances requested. The only design waiver being requested is the sidewalk requirement where the applicant be permitted to make a contribution to the sidewalk fund in lieu of building sidewalks where there are no sidewalks adjacent to the property. Mr. Checchio said that his only witness was Engineer Leland Titus and he called him to the microphone.

Licensed Professional Engineer W. Leland Titus of 618 Somerset Street, North Plainfield came to the microphone. He was sworn in by board Attorney Frank Linnus and recognized as an expert in his field. Mr. Titus referred to sheet two of the plans previously submitted. The proposal is to remove the house, pool and barn on the property and construct two single family dwellings that front on Century Lane. Mr. Titus said that since Valley Road is a county road, it will be subject to the county requirements as well as a setback easement. Century Lane was constructed in the 1940's. It has a ditch along both sides of the road for storm water runoff. It collects drainage from Ridge Road. They are proposing to place a 24" drainage pipe to conduct the water. (The tape is almost indiscernible at this point) Mr. Titus said that some trees

will have to be removed. 15" Cherry and some maples will have to be removed. Mr. Titus said that some damage to the trees will be done when the drainage pipe is put in, but he thought that the drainage is necessary to improve the situation on that road. Mrs. Pennett said to Mr. Titus that if they were to remove these trees the applicant would have to file a tree removal permit. Mr. Titus replied that the trees within the right of way are subject to different rules. Mr. Hartman asked what the tree removal rules were, and Mr. Herits explained that when the applicant comes in to Engineering, they will file a land disturbance permit and a tree removal permit and that will be taken care of through engineering as part of the process before the building permit is issued. The applicant stated that 24:4D exempts the replacing of trees in a right of way, and Mr. Linnus confirmed that 24:4D exempts the pruning the removal of trees in a utility right of way. Chairman Speeney said that he thought that he thought that applied to either the Borough or the Utility Company, but not the applicant. Attorney David Checchio said that the existing house is facing Valley Road, but the proposed two homes to be created, would face Century Lane. Mr. Checchio said that a 3 to 1 slope would be preferable to maintaining that embankment. The applicant is proposing to soften the grade to make it more maintainable in the future. Mr. Checchio said that there is a public interest in clearing the trees in the right of way since down the road, they may grow into the power lines or piping that would require addition pruning or removal. He said if the applicant is required to take down the larger trees and has to replace all the trees in the right of way according to the ordinance, he would have incentive not to take down these trees in order to avoid a replacement fee. Mr. Titus said that the road is maintained by the Association but doesn't know who owns the right of way. Chairman Speeney said that the applicant's position is that this is a private road and doesn't come under the definition of an off-site improvement. Mr. Linnus said that it is clear that 24:4D states that the exemption only applies to the government or the Utility company so if the applicant is going to remove trees, they are subject to the tree replacement ordinance. Mr. Titus said that if the applicant didn't propose the pipe on the plans, that it would have been required by the Engineering Department anyway. Mr. Checchio agreed with Mr. Linnus' interpretation. Mr. Titus said that there is a pond to the north of the property, and the applicant had Mr. Cook, a wetlands expert look at the property in terms of wetlands, and he determined that the bulk of the pond is in the wetlands, but the edge of the pond should have a conservation easement at that corner of the property to protect that pond. Mr. Titus said that the wetlands easement requires a 50' transition area. Mr. Linnus asked Mr. Titus if they are proposing a L.O.I. Mr. Titus said that wasn't necessary if they were staying out of that area, which they are. The conservation easement would encompass 6360 sq. ft... Mr. Linnus asked if Mr. Cook submitted a report. Mr. Titus said no, it was a verbal report over the phone. Mr. Checchio said that this was a greater buffer than any D.E.P. regulation would require. Mr. Checchio said that essentially the applicant is proceeding with any D.E. P. regulations at it's own risk, and is offering this for the board's consideration. He said that if at any time there were a determination that an additional buffer be required, the applicant would agree to comply. Mr. Linnus said that if the applicant had a non-jurisdictional statement and an

approval tonight, that would be the end of it until the applicant builds. Mr. Herits said that he would be comfortable with a letter from Mr. Cook for the file with his professional opinion. Mr. Checchio said that the applicant would be happy to submit a letter from Mr. Cook to the engineering dept. That would become a condition of approval. Also a condition would be that the applicant would abide by the tree replacement ordinance. Mr. Titus said that both proposed homes would be serviced by sewer, water, gas and electric.

Mr. Ellis brought up the report from the Watchung Fire Department talking about the width of the driveway being at least 15' wide for the first 30' to allow accessibility for fire apparatus to have access to the two homes. Mr. Checchio said that the applicant would comply with that recommendation.

Hearing no further questions from Mr. Titus, the Chair opened up to questions from the public. Mrs. Janet Kinney of 28 Redmont Road came to the microphone. Mrs. Kinney asked Mr. Titus why he is worried about the pond. Mr. Titus explained that the D.E.P. has certain regulations that apply to wetlands. He explained that by creating this conservation easement, the property closest to the pond will not be able to build anything within that buffer, such as a tennis court or swing set, and will keep any construction away from this pond. Mrs. Kinney asked Mr. Titus if he was aware that the runoff from the pond goes into the brook coming down from Ridge Road. Mr. Titus said yes, he was aware of that. Mr. Herits said that they could put in a resolution that any storm water runoff management is part of the land disturbance permit, and that the overflows are directed toward Century Lane.

Attorney George Cannellis came to the microphone. Mr. Cannellis said he represents Mr. and Mrs. Leonard Young who are part owners of the pond. Mr. Cannellis asked what the feasibility of access and egress of the proposed homes to Century Lane as opposed to Valley Road. Mr. Titus said that Somerset County will not allow the applicant to access the new homes from Valley Road which is a county road. He said that the County would make the applicant put in one common driveway that would have to be used for both new homes if they would even allow it at all, which he didn't think they would because Century Lane is there and is another access. Mr. Cannellis asked what the feasibility is to use one common driveway to service both proposed lots. Mr. Titus said that it is obviously feasible, but that the applicant does not want to do that. Mr. Cannellis said that it would avoid another opening on Century Lane. Again, Mr. Titus said that is not something the applicant wants to do. Mr. Cannellis asked if it was an aesthetic reason or a functional reason since it would be cheaper to do. Chairman Speeney said that is not Mr. Titus' question to answer. He said it was feasible.

Roger Stine of 365 Valley Road came to the microphone. Mr. Stine asked if in the event the board does accept the 50 foot right of way, will that be imposed on all adjacent properties. Mr. Linnus said that if the applicant is not proposing that, then the answer is no. He said that this board does not have the authority to impose that easement on other properties.

Hearing no further questions or comments from the public, Chairman Speeney asked Mr. Checchio if he had any further testimony he wanted to give. Mr. Checchio said that

the applicant received the memorandums from the Borough Engineer, the Fire Department and the Police Department. Mr. Checchio said that he didn't believe the applicant had any issues with anything in any of these memorandums. Chairman Speeney asked Mr. Checchio if the board could assume that the conditions set forth in Mr. Herits letter could be applied in the resolution. Mr. Checchio said yes. Mr. Linnus said that the board has standard conditions to be considered. Mr. Linnus said that he applicant would comply with any and all conditions and agreements as set forth in the resolution, as well as any and all conditions set forth in testimony before the board. The applicant also has to comply with any and all conditions and requirements set forth by any government agency, and shall not take any action until all requirements are met. The applicant is proposing to file a plat as per Mr. Herits condition. Mr. Linnus proceeded to go through the standard conditions and mentioned that the applicant is agreeing to make a contribution to the sidewalk fund, in lieu of putting in a sidewalk. Mr. Checchio said that he didn't think that the applicant should have to make the sidewalk contribution calculated on the frontages of both Century Lane and Valley Road due to the fact that there is already a sidewalk on the southerly side of Valley Road. He said that there is no sidewalk on the northerly side of Valley Road, which seems to be a planning decision that was made some time ago. He said that he felt that to make a sidewalk contribution along the northerly side of Valley Road seems inequitable. Mr. Linnus said that in the ordinance under section 28:606K states that sidewalks may be waived by the board. Chairman Speeney asked board members if they had any objection to waiving the Valley Road portion of the sidewalk fund. No one on the board voiced an objection to this request.

Mrs. Schafer cited some of the trees noted on the Site Committees site visit. Mr. Titus explained that those in the outer area of where the home would be built would probably be saved. The 30" sycamore on the southerly side by the pool will be very difficult to save. Hearing no further comments from the board, the Chair opened up to comments from the public. Hearing none, by voice vote, the public portion was closed.

Hearing no further comments, the Chair asked for a motion to accept this application as a minor subdivision and approve the application with the conditions agreed upon. Mrs. Schafer made a motion to approve the application, seconded by Mrs. Pennett.

Chairman Speeney recommended to the board that they approve this application and asked the Clerk to call the roll. The roll call vote was as follows:

Speeney (yes) Schaefer (yes) Ellis (yes) Pennett (yes) Boyd (yes)

Pote (X) Nehls (yes) Desnoyers (yes) Hartmann(yes)

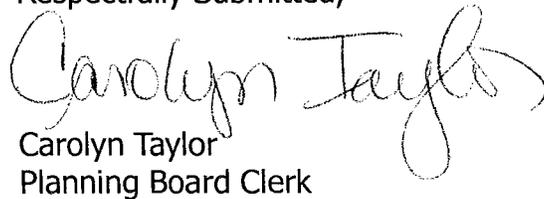
The motion carried.

Mr. Checchio thanked the board for it's time and Chairman Speeney wished the applicant luck with the project. Chairman Speeney said that the resolution of memorialization would be done at the following meeting. Mr. Linnus said it would be sent ahead of time to Mr. Checchio for his review.

Chairman Speeney said he met with the county the prior week made a on the access and mobility study. Chairman Speeney said that last month, he specifically asked that he Mayor and Council look into forming an Economic Development Committee that

could sit down and meet with the County, Weldon and asked Councilman Nehls for feedback on the request. Councilman Nehls said that he brought it up with the Mayor and Council and everyone was looking favorably on it and they look forward to sitting down and talking more regarding this topic. Chairman Speeney said that some Planning Board members should be on this committee, as well as some members of developers from the Borough. He said that a committee such as this would not necessarily have just one agenda, but could look at other issues in the Borough. Chairman Speeney said that a finalized report of the access and mobility improvements should be coming out next week or so from the County. Hearing no more discussion, the Chair adjourned the meeting until the next meeting of July 16th, 2013.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Carolyn Taylor". The signature is written in black ink and is positioned above the printed name and title.

Carolyn Taylor
Planning Board Clerk