

**TOWNSHIP OF FRANKLIN  
PLANNING BOARD  
COUNTY OF SOMERSET, NEW JERSEY**

**REGULAR MEETING  
April 5, 2017**

The regular meeting of the Township of Franklin Planning Board was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Chairman Orsini at 7:30 p.m. The Sunshine Law was read, the Pledge of Allegiance said and the roll was taken as follows:

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**PRESENT:** Councilman Chase, Carl Hauck, Alex Kharazi, Cecile Maclvor, Robert Mettler, Robert Thomas, Jennifer Rangnow, Godwin Omolola and Chairman Orsini

**ABSENT:** Mr. Mansaray and Mr. Brown

**ALSO PRESENT:** Mr. James Clarkin, Board Attorney, Mark Healey, Planning Director, and Vincent Dominach, Senior Zoning Officer

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**MINUTES:**

- **Regular Meeting – January 18, 2017**

Vice Chair Maclvor made a motion to approve the Minutes as submitted. The motion was seconded and the roll was called as follows:

**FOR:** Councilman Chase, Mr. Hauck, Mr. Kharazi, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow, Mr. Omolola and Chairman Orsini

**AGAINST:** None

- **Regular Meeting – February 15, 2017**

Vice Chair Maclvor made a motion to approve the Minutes as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

**FOR:** Councilman Chase, Mr. Hauck, Mr. Kharazi, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow, Mr. Omolola and Chairman Orsini

**AGAINST:** None

**RESOLUTIONS:**

- **Franklin Juliette, LLC / PLN-16-00010**

Vice Chair Maclvor made a motion to approve the Resolution as submitted. Mr. Kharazi seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Mr. Kharazi, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow and Chairman Orsini

AGAINST: None

- **S4 Estates / PLN-16-00006**

Vice Chair Maclvor made a motion to approve the Resolution as submitted. Mr. Kharazi seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Mr. Kharazi, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow and Chairman Orsini

AGAINST: None

- **928 Holdings, LLC / PLN-16-00008**

Vice Chair Maclvor made a motion to approve the Resolution as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow and Chairman Orsini

AGAINST: None

## DISCUSSION:

### *Vouchers:*

- **Clarkin & Vignuolo, P.C. – March Retainer - \$833.33  
April Retainer - \$833.33**

Vice Chair MacIvor made a motion to approve the Vouchers as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Mr. Kharazi, Vice Chair MacIvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow, Mr. Omolola and Chairman Orsini

AGAINST: None

- **Nomination of appointment to Township Wastewater Management Committee**

Councilman Chase explained that there was a vacancy for a Planning Board member on the committee. He offered that he could participate as the Planning Board representative, but wanted to give others on the Board an opportunity as well. He indicated that, in practice, Mr. Healey does the work involved with this committee. The Councilman then noted that the County was in the process of preparing a County Wastewater Management Plan and the Township Committee, therefore, receives communications from the County Planning Department that the Township Wastewater Management Committee was to respond to, and the Planning Board should nominate someone to the Council to serve as the Planning Board representative.

Chairman Orsini, seeing no others coming forward, nominated Councilman Chase as the Planning Board representative to the Township Wastewater Management Committee.

- **Ordinance #4197-17: Change the designation of certain properties from CMMU (Churchill Millstone Mixed Use) TO CMR (Churchill Millstone Residential)**

Mr. Healey explained that the ordinance was introduced by Council for the Municipal Land Use Law and had been deferred to the Planning Board for comments it may have in regards to consistency with the Master Plan and any recommendations it might bring. He stated that the gist of the ordinance was that this was the next phase of the RPM Re-development and noted that the next phase, which would be coming in the next few months, which was a 6,000 sq. ft. area, fell within the area of the Churchill Millstone Mixed Use Zone. Mr. Healey indicated that their development was going to be

residential only and created a zoning issue there, so they have requested that the 6,000 sq. ft. area be re-zoned to Churchill Millstone Residential. He stated that his opinion was that it didn't have any real impact or planning affect because the permitted densities in the two zones were exactly the same and was more technical in nature than anything else. Council just wanted to make sure the zoning line is more commensurate with the property use. A discussion ensued among the Board.

Chairman Orsini made a motion to recommend the Ordinance to Council for adoption. Vice Chair Maclvor seconded the motion and all were in favor.

## **PUBLIC COMMENTS:**

Chairman Orsini then opened the meeting to the public for discussion of anything related to Planning that was not the subject of a hearing that evening. Vice Chair Maclvor seconded the motion and all were in favor. Seeing no one coming forward, Mr. Mettler made a motion to close the public portion of the meeting that evening and Vice Chair Maclvor seconded the motion. All were in favor.

## **HEARINGS:**

- **RUPEN PATEL / PLN-17-00004**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Rupen Patel. He explained that they were before the Board that evening for Minor Subdivision & Appeal in which the Applicant was proposing to subdivide the property at 1991 Amwell Road, Somerset; Block 509, Lot 11, in the R-40 Zone.

Mr. Kharazi asked to be recused from the hearing due to a conflict of interest.

Mr. Anthony Gabriel, employee of Rupen Patel, who is currently out of the country. Mr. Gabriel indicated that he was actively involved in the subdivision with Mr. Patel. He explained that Mr. Patel purchased the property in 2015 and was currently a wooded lot. He added that there was a dwelling on the property years ago, but the structure burned down in a fire. Mr. Gabriel explained that the plan by Mr. Patel was to subdivide the lot into two lots, one a flag lot. He stated that Mr. Patel purchased the property in order to build two homes there for his family, both approximately 3,500 sq. ft. in size. He then marked into evidence as Exhibit A-1, the floor plans and elevations of the proposed homes and passed out copies to the Board for their edification. Mr. Gabriel then noted that the homes' square footage on the plan noted that it was 2,498 sq. ft., but stated that it was just the footprint of the home and did not include any second floor space. He testified that the two homes were basically identical, but that they would be changing the façade of one of the homes so that they didn't look exactly the same. Mr. Gabriel then indicated that the two homes would be serviced by public water and sewer. He then explained to the Board why the homes were going to be oriented on the property

as shown on the plans. Mr. Gabriel stated that for religious purposes, the homes' front doors needed to face toward the northeast quadrant on the property.

Mr. F. Mitchell Ardman, Engineer and President of the Reynolds Group, came forward and was sworn in. The Board accepted his qualifications. Mr. Ardman then entered into the record as Exhibit A-2, a colorized version of the Minor Subdivision plan set, with a revision date of 3/16/17. He also entered into the record as Exhibit A-3, which was a copy of the tax map of the Township of Franklin, with the subject lot colored in. Mr. Lanfrit handed out copies of this exhibit to the Board members. Mr. Ardman described the lot to the Board, stating that it was 191 ft. wide by 463 ft. deep, similar to all the lots in the area, and backs up to Township open space. He did state that the Township had an easement for their water transmission main, which was 25 ft. wide and ran in a north/south direction the entire length of the property as well as a small drainage easement in the front of the property along the County road (Amwell Rd.). He then described the properties surrounding the subject property, referring to Exhibit A-3, and indicating that most are of 1 acre sized lots. Mr. Ardman included descriptions of surrounding lots, noting their frontages, with the bulk of them being narrow lots ranging from 93 ft. wide to 127 ft. wide. He explained that they had discussed splitting the lot in half, creating two lots that each had about 95 ft. of frontage. Mr. Ardman explained that it would create two curb cuts on Amwell Rd. and one lot would have the 40 ft. water line easement on it, which would further encumber that property. The other option Mr. Ardman discussed was the flag lot that was being presented to the Board that evening. He gave the dimensions of each lot, with the front lot totaling 34,260 sq. ft., with 136 feet of frontage on Amwell Rd. and the rear lot including 52,895 sq. ft. (43,145 sq. ft. exclusive of the flag pole) with 55 feet of frontage on Amwell Rd. He stated that the homes fit well on both lots, with no setback variances required for either of them. Mr. Ardman then discussed how the water transmission line would be protected from the subdivision, including the suggestion from the Township staff to move the driveway away from the transmission line in order to better protect it. He went on to discuss the planted buffer that was required for the flag portion of the property to screen the proximity of the driveway to the neighbor. Mr. Ardman indicated that the variances required for the Application were only for frontage and flag lot. Mr. Ardman then entered into the record as Exhibit A-4, the plan sheet showing what the site would look like if they split the property down the middle to create two (2) lots. He discussed the size of the lots and how homes of similar size to what was proposed would fit on those lots. He included issues with where to place the driveway on the lot with the water transmission line and having to have a straight in driveway to front facing garages that would create difficulty in exiting the property.

Mr. Ardman then discussed the Technical Review Committee's (TRC) report, dated March 2, 2017, noting the issues raised on the first two pages regarding the variances, which they could deal with. He then discussed the suggestion of moving the flagpole portion of the lot to the other side of the property away from the adjoining driveway and out of the horizontal curve of Amwell Rd. to create better sight lines. Mr. Ardman indicated that he submitted the plans to the County and felt that the sight distances were equivalent from either place on the property. He noted that the County, in their

letter, preferred the driveway in the location that was presented that evening on the easterly side of the property. Mr. Ardman then entered into the record as Exhibit A-5, the Somerset County Planning Board report in reference to the preferred placement of the driveway on the easterly side of the property with the required 15 ft. distance from the property line. He then testified that they did address the items in the County's report and did resubmit the plans, but have not yet received a response. Mr. Lanfrit explained that they had addressed the Township's concern about making any improvements over the water transmission main easement by moving the driveway on the plans completely outside those parameters. Mr. Ardman indicated that they did not have any problems complying with the rest of the comments in the TRC's report. Once any changes have been made to the plan as a result of comments in the report, Mr. Ardman indicated it would not substantially change the plan that was before the Board that evening.

Mr. Lanfrit indicated that they would be requesting a waiver for sidewalks since there were none existing in the area and would not be in character with the rural nature of Amwell Rd. Mr. Ardman then spoke about the trees on the lot, noting that some would have to come down to do the grading plan, but that some would stay as street trees. He agreed to comply with the Shade Tree Commission's requirements for tree replacement. Mr. Ardman then discussed putting the roof drains from the proposed homes into a series of drywells on the property to accommodate for storm water runoff.

Vice Chair MacIvor inquired about the proposed fencing and what it would be made of. Mr. Ardman indicated that they would now be proposing a 6 ft. high solid fence as opposed to evergreen plantings, as suggested by Mr. Healey, so that the plantings would not encroach the water transmission main easement. Chairman Orsini asked that the fencing be made of pressure treated wood or cedar in keeping with the character of the area.

Mr. Mettler asked about whether there was a plan to include screening to the westerly property owner. Mr. Ardman stated that they would have to replace trees on the property, so they could work with Township staff to make sure that the bulk of any screening be placed on that side to screen the adjacent neighbor's property. A discussion ensued about the adequacy of the sewer system to work properly for the rear home. Mr. Mettler then opened a discussion about setting a precedent in the area to encourage flag lots seeing that other properties have a large enough lot size to accommodate such a scheme. A discussion ensued regarding what the Board deems a better planning proposal as it related to flag lots as opposed to subdividing properties down the middle of the lot and having the two homes in close proximity, side by side, to each other.

Mr. Hauck inquired about whether the utility easement was going to be placed in the same area as the water transmission main easement. Mr. Ardman stated that it would not be placed within the water main easement, but that he would make the plans clearer to reflect that.

Mr. Healey confirmed that the utilities easement would be outside of the water main easement and that it would be 15 ft. wide. He also asked if the 15 ft. would be enough separation between water and sewer utilities. Mr. Ardman concurred with both statements.

Mr. Kevin O'Brien, Planner, came forward and was sworn in. The Board accepted his qualifications. Mr. O'Brien summarized and reiterated Mr. Ardman's testimony as it related to the request for variances on the property. He indicated that the two rectangular shaped lots with flag pole would create more space for the homes. Mr. O'Brien then entered into the record as Exhibit A-5, an aerial photograph that showed the alignment of the front home in line with the other homes along the roadway and maintains the character of the neighborhood. He stated that it would also allow for only one curb cut for a shared driveway, maintaining more trees on the property and allowing for a better planning alternative than the side by side subdivisions in the area. Mr. O'Brien then discussed several passages in the Municipal Land Use Law (MLUL) that would encourage this type of application. In summary, he discussed how and why the bulk variances can and should be granted under the C-1 Hardship and C-2 Flexible Standard. He stated that he believed that the benefits outweighed the detriments and that the proposal provided a better planning alternative than a more conforming design.

Mr. Healey opened a discussion regarding the two homes meeting the density requirements of the zone. Mr. O'Brien also indicated that proposal accommodated better the 40 ft. water transmission main easement on the property.

Vice Chair Maclvor opened a discussion regarding the preservation of more trees between the homes on the property since their backyards would be facing neighboring properties. Mr. Healey agreed and added that the Applicant should add replacement trees along the westerly property line for more of a buffer.

Board Attorney, Mr. James Clarkin, asked for clarification regarding the C-1 Hardship that Mr. O'Brien discussed earlier. A discussion ensued among the Board regarding the two ways in which the property could be subdivided and the hardship created by the water transmission easement.

Vice Chair Maclvor made a motion to open to the public. Mr. Mettler seconded the motion and all were in favor. Seeing no one coming forward from the public, the Vice Chair made a motion to close the meeting to the public. Mr. Mettler again seconded the motion and all were in favor.

Mr. Lanfrit gave his summation to the Board, including the agreement to retain as many trees as possible on the site and to add to the tree replacement plan, buffering to the westerly property line.

Vice Chair Maclvor made a motion to approve the Application, with all the recommendations and conditions the Board has discussed. The motion was seconded and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Vice Chair MacIvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow, Mr. Omolola and Chairman Orsini

AGAINST: None

- **BRIAN KAYE / PLN-14-00016**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared on behalf of the Applicant, Brian Kaye. He explained that they were before the Board that evening for Relief of Conditions in which the Applicant must return to the Board for Relief of Conditions and approval of a Tree Mitigation/Reforestation Plan at 438 Girard Avenue, Somerset; Block 347, Lots 6.03 & 6.04, in an R-15 Zone.

Mr. Lanfrit explained that the Board spent a lot of time on the Application, the Resolution of which was adopted in March of 2015, with a significant portion of the discussion related to the preservation of certain trees. He went on to state that it involved a three-lot subdivision, with one of the lots having an existing single family home in which Mr. Kaye currently resided. Mr. Lanfrit told the Board that the project went forward and Mr. Kaye went about doing the things he agreed to do, but at some point things went awry.

Mr. Brian Kaye, Owner/Applicant, came forward and was sworn in. Mr. Kaye indicated that he resided on Lot 6.02, shown on the Tree Conservation and Replacement Plan. He agreed with Mr. Lanfrit when he stated that the Application included the construction of two (2) single family homes, one having access through a proposed driveway on Girard Avenue and the other one on Hamilton Street. He added that the Application included the preservation of certain trees on the subject property. Mr. Kaye stated that after the deeds were filed, he retained an individual to remove the trees on the property that were allowed to be removed, consistent with the approval that was granted by the Board. He then also testified that he gave the Tree Replacement Plan showing which trees were to be preserved to the contractor, but ended up taking down many more trees than what was allowed, according to the plan. Mr. Kaye stated that the contractor explained to him that most of the trees that were to be retained were already dead or dying, so he made a decision on his own that it was better to take the trees down than wait for Mr. Kaye's approval. He then explained that after the trees were taken down, he received a stop work order from the Township on January 5, 2016 and all work ceased. Mr. Kaye then testified that he went back to Mr. Miller, Landscape Contractor, to develop a Tree Replacement Plan to replace the trees that were mistakenly removed. He stated that the incident had caused him significant damage in terms of the amount of time lost to the project and additional money. Should the Board grant the Tree Replacement Plan approval, Mr. Kaye stated he would go ahead and replace the trees as per the approved plan, construct the two dwellings, and pay to the Tree Replacement Fund monies owed for the deficient number of trees he was not able to replace on the site.



Mr. Healey asked if there was any kind of fencing in place to delineate the areas of tree preservation on the site. Mr. Kaye answered in the negative.

Mr. Lanfrit indicated that they plan to replace 62 trees on each lot as was set forth on the Tree Preservation/Replacement Plan and intend to replace them with the species that was recommended, both by the Shade Tree Commission and by Mr. Healey, who recommended that they change certain species, which they agree to do. Mr. Lanfrit also indicated that there were 66 trees deficient on the property as a result of the removal and that they would be responsible to pay to the municipality for those trees into the Tree Replacement Fund.

Mr. Healey indicated that they did not have to bring Mr. Ford, Engineer, forward, but that they would have to discuss the exact amount of trees that needed to be replaced.

Chairman Orsini has made the request that some provision be made for the viability of the newly planted trees for two (2) years. Mr. Lanfrit agreed since Mr. Kaye would be living in one of the three homes on the property, to come back and unstake the trees once their root system had developed.

Councilman Chase recommended that watering the newly planted trees was of utmost importance, and Chairman Orsini added that the property needed to be properly cleared of all tree stumps and then the homes would be constructed, bringing them to the summer months. He highly recommended that any trees planted should be done in the fall months and the Applicant agreed.

Mr. Hauck stated that the trees that are to be replaced outside the limit of disturbance should be replaced now, before the homes were built and a discussion ensued among the Board and the Applicant. Chairman Orsini still held his opinion that the best time to plant trees was in the fall when the trees would be under the least amount of stress.

Mr. Steven Miller, Landscape Contractor, came forward and was sworn in. Mr. Miller testified that he was not the landscape contractor who took all the trees down. He then opined that he was in agreement with Chairman Orsini regarding the fall being the best time to plant trees to give them the best chance of survival long-term.

Vice Chair Maclvor made a motion to open the meeting to the public. Mr. Mettler seconded the motion and all were in favor. Seeing no one coming forward, Mr. Mettler made a motion to close the meeting to the public. The Vice Chair seconded the motion and all were in favor.

Chairman Orsini made a motion to approve the plan with all the conditions of the Shade Tree Commission and the Technical Review Committee (TRC) have outlined and to work out the exact replacement tree numbers with staff as well as do all planting in the fall. Vice Chair Maclvor seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow, Mr. Omolola and Chairman Orsini

AGAINST: Mr. Hauck

## **COMMITTEE REPORTS**

**There were no Committee Reports presented**

## **WORKSESSION/NEW BUSINESS:**

- **Draft RFP – Circulation Plan**

Mr. Healey explained that what was before the Board was a Draft Scope of Work for a Circulation Element of the Master Plan. He stated that last year they adopted a Re-Examination and that he was now starting to work on the Land Use Plan element of the Master Plan in-house. He added that there currently was a consultant working on the Economic Development Plan strategy for the Township, and as part of that, they wanted a Circulation portion of that in terms of how the roadways can be improved, opportunities for public transportation that was supportive of economic activity and economic development and the revitalization of Hamilton Street. He summarized the plan by saying that they were utilizing an outside consultant to help the Township put together a real circulation plan that would be done in concert with the Economic Development Plan and the Land Use Plan.

Mr. Healey then described the outline of the draft plan that included Vision, Goals and Objectives, Data Analysis/Issues Identification, Recommendations for Strategies and Specific Actions as well as Benchmarks and Self-Assessment Study. He stated that the consultant would be asked to prepare a draft plan for the Board's review and then a final plan. He also added that they incorporated eight (8) daytime meetings with different stakeholder groups, Township staff to identify issues and then three (3) evening meetings with the Planning Board that would include a brainstorming and identification of issues meeting, a preparation of a draft and then the hearing meeting. Chairman Orsini explained that the project would be put out to bid for a planning firm to take on.

Councilman Chase added that he wanted to make sure that the concept of complete streets came into consideration in the plan. A discussion ensued regarding other modes of transportation in the Township such as bicycle and pedestrian circulation. Mr. Healey added that under the section entitled, Recommendations for Strategies and Specific Actions, there was an item included for an evaluation of potential Complete Streets initiative.

Vice Chair Maclvor asked whether the initiative would include County roads within the Township, and Mr. Healey answered in the positive. The Vice Chair brought up the

analysis that was done on Easton Avenue years ago, and Mr. Healey indicated that part of the plan would include the evaluation of existing plans of the State, County and whatever the Township had conducted to identify what recommendations had been made before, what recommendations haven't been carried out as yet and deciding which ones should be done. He added that Items out of the Township's control would also be covered and included, indicating what the Township can and can't accomplish with the plan. A discussion ensued among the Board.

Mr. Dominach wanted to make clear that they were not sending the work out for bid, but for an RFP, which would mean that the Township did not have to accept the lowest bid and would incorporate price and other factors included within the RFP in the decision making process.

A discussion ensued regarding recommendations made for State and County roadways within the Township and any follow-up meetings that would have to take place with those entities. Mr. Healey indicated that those would be the stakeholders in the plan and meetings would have to be held with them.

#### **EXECUTIVE SESSION:**

The Board did not enter into an Executive Session that evening.

#### **ADJOURNMENT:**

Vice Chair MacIvor made a motion to adjourn the regular meeting at 9:00 p.m. Mr. Mettler seconded the motion and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
April 30, 2017