MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
FEBRUARY 24, 2020

Mr. Franko called the Regular Meeting of the Planning Board to order at 7:34 P.M.

Adequate notice of the meetings of the Planning Board of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a Resolution setting forth the schedule of meetings for the year 2020, and January, 2021 was published in the *Chatham Courier* and the *Morris County Daily Record*, a copy was filed with the Municipal Clerk and a copy was placed on the bulletin board in the main hallway of the Municipal Building.

Answering present to the roll call were Mr. Franko, Mrs. Ozdemir, Mrs. Ewald, Ms. Hagner, Mr. Hoffmann, Mr. Kelly, Mr. Nelson, Mr. Sheth and Mr. Coviello.

Mr. Travisano and Mr. Tarasca were absent.

Also present were Township Planner Frank Banisch and Attorney Robyn Wright, filling in for Board Attorney Steve Warner.

Approval of Minutes

Mr. Hoffmann moved to approve the January 6, 2020 meeting. Mr. Nelson seconded the motion, which carried unanimously with an abstention by Ms. Hagner.

Hearing

PB: 20-001 (January 15, 2020) **Rolling Hill CO., Tree Top Lane, Block 35 Lot 8**
Waiver request from a condition in the final subdivision approval (Resolution dated 7/17/1995 to Harvco) to forego replacing the asphalt sidewalks with concrete sidewalks

Attorney Steve Mlenak representing Rolling Hill Co. provided a summary of the project that was approved in 1995. He said that the approval included a requirement for a sidewalk on Meyersville Road. The sidewalk has not been installed, and the applicant is requesting that the condition be removed.

Mr. Mlenak introduced Jim Holson of the Rolling Hill Co., who was the project manager at the time of construction. Mr. Holson was sworn in to give testimony.

Mr. Holson explained that in order for the sidewalk to be installed, several trees along Meyersville Road would have needed to be removed. He said that there was a public outcry against the tree removal, and the Township also did not want the trees removed.

Exhibit A-1 was entered into the record, which was a packet of photographs of the site and where the sidewalks would be installed. Mr. Holson reviewed the different pictures in the exhibit with the Planning Board. He also addressed the grading work that would need to be done for the sidewalks to be accessible and ADA compliant.

Mr. Coviello asked who owns the detention basin. Mr. Mlenak said that developer owns the detention basin, and ownership can only be transferred to the Township once the project is fully complete. He said that the unresolved issue of the sidewalk has to be addressed before the project can be complete, and the application for a waiver was submitted to resolve the matter.

Mr. Hoffmann asked if an arborist has looked at the trees to assess their health. Mr. Mlenak said that the trees have not been inspected by an arborist, and there is not any reason to suspect that they are not healthy.

Ms. Hagner said that there was an outcry several years ago against the tree removal.

Mr. Mlenak said that discussions have been held with Township professionals to address if the condition should still be in place, and also the applicant is endeavoring to wind down the company.

Mrs. Ozdemir asked if there was any discussion about having an asphalt path instead of a concrete sidewalk. Mr. Holson said that the sidewalk would need to be handicapped accessible, which is why it would need to be a concrete sidewalk. Mr. Mlenak said that the original proposal had been for an asphalt sidewalk, and was changed to concrete for ADA compliance.

Mr. Coviello raised a concern about the health of the trees, and said that they may be at the end of their life expectancy. He also said that the Township may need to pay for their removal. Mr. Hoffmann said that the Township could ask the County's arborist to look at the trees, and it would be the Township's responsibility to remove them.

Ms. Hagner asked about how bonds work, and if the money could be used toward maintenance of the trees. She also said that if the sidewalks were desired, then the Township should not have waited 25 years to address the matter. Mr. Mlenak said that the proper use of the bond would be for the required work to be performed. Mr. Franko noted that the amount of the bond would not be enough money to pay for the sidewalk installation.

Mr. Coviello said that for the applicant to allow the bond to go toward tree maintenance would be cheaper for them than to install the sidewalks. Mr. Mlenak said that for the past 25 years the Township did not want the sidewalks, and he asked that the decision to not have the sidewalks installed be memorialized. Ms. Hagner noted that the project cannot be closed out until either the sidewalk is installed or the waiver is granted. She also commented on connectivity, and questioned the purpose of the sidewalk.

Mr. Banisch was sworn in to give testimony. Mr. Banisch said that the sidewalk was required by ordinance rather than by special condition.

Mr. Franko read into the record the memorandum from Mr. Ruschke dated January 29, 2020.

Mr. Banisch addressed sidewalk connectivity, and said that there are gaps in the sidewalk between the subject area and Fairmount Avenue. He also said that there were other sidewalks in the area and that the new sidewalks would be part of a broader network. He also said that there was a public safety issue regarding the sidewalks. Mr. Kelly said he would like to know the health status of the trees, and noted that a sidewalk could be constructed at the appropriate time. Mr. Mlenak noted that the Township would have to fund the difference between the bond amount and the cost of sidewalk construction.

Mr. Coviello asked about the condition of the detention basin. Mr. Holson said that it is in good condition.

Mrs. Ewald asked if the Township is obligated to install the sidewalk. Mr. Mlenak said that there is not an obligation. Mrs. Ewald said that she is not a fan of an applicant not honoring a commitment. Mr. Mlenak said that the Township would have enforced the requirement over 20 years ago if there was a desire for the sidewalk to be installed. Mr. Coviello warned against putting in a sidewalk without tree removal, as falling branches present a safety concern.

Mr. Kelly asked if it is normal for the Township to take ownership of a detention basin after completion. Mr. Banisch said that the current normal practice would be for the detention basin to be accepted. Ms. Hagner noted that some applications have the formation of homeowners associations to own and maintain common elements.

Mrs. Wright asked about a 2002 resolution. Mr. Mlenak said that he and Mr. Holstein recently learned about the resolution. Mrs. Wright asked about a guard rail that is a condition of approval, and asked if the applicant is intending to install the guard rail. Mr. Mlenak said that the guard rail is unrelated to the sidewalk, and will be installed. Mrs. Wright asked about the conveyance of the detention basin and as-built survey. Mr. Mlenak said that they conveyance is part of the closure of the project.

Mrs. Ozdemir questioned the cost of completing outstanding items listed in Mr. Ruschke's completeness review memo dated Jan 28, 2020. Mr. Mlenak said that it is estimated to be $10,000. Mrs. Ozdemir stated that the $20,000 bond waiver should not granted just for completing the punch list items.

Mr. Franko opened the floor to the public.

1. Rich Sloane, 124 Meyersville Road, said that he has lived in the Township for 80 years. He said that there used to be blacktop sidewalks on Meyersville Road. Mr. Sloane was sworn in to give testimony. Mr. Sloane said that the sidewalk disappeared when Tree Top Lane was built, and was likely buried. He also asked about an oak tree that would have to be removed to install a sidewalk. Mr. Sloane further noted that when the blacktop sidewalk was installed, there was not any digging involved.

2. Michael Sebra, 130 Meyersville Road, was sworn in to give testimony. Mr. Sebra said that the trees in the subject area are not in bad health, but do need to be cleaned up. He also said that the sidewalk would not have much value.

Seeing no further comment, Mr. Franko closed the floor to the public.

Mr. Franko said that if the waiver is granted, nothing further will happen. If the waiver is not granted, Rolling Hill Co. would probably default and the Township would be able to use the bond to build the sidewalk. Mr. Hoffmann noted that the Township could seek grants to fund the balance of the cost of sidewalk installation. Ms. Hagner asked if the sidewalk condition could be traded for a requirement to use the bonding for pruning of the trees. Mr. Mlenak said that there is a reason why the Township did not enforce the installation of the sidewalk. Mrs. Ewald asked about the extent of the opposition for tree removal. Mr. Mlenak said that the Township's administration did not enforce the condition. Mr. Hoffmann said that if the bond is not used for sidewalks, it would have to be returned. Mr. Mlenak noted the inconsistency between concrete and asphalt sidewalks on Meyersville Road.

Mr. Hoffmann asked if the Master Plan has a Circulation Plan. Ms. Hagner said that there is a Circulation Plan. She also said that when she was on the Township Committee, sidewalk gaps were often identified so that new lengths of sidewalk could be installed. She also opined that the condition should be waived, as the applicant was often told by the Township not to install the sidewalk.

Mrs. Ewald asked if it would be possible to take the time to have an arborist investigate the health of the trees. Mrs. Wright said that the applicant could be asked for their consent to carry the hearing to another date. Mr. Nelson said that this issue should have been dealt with years ago. Mr. Coviello said that if the trees are in bad shape, then there might as well be a sidewalk.

Mrs. Wright asked if the Board wants to table the existing motion so that a new motion could be made to use the bond to have an arborist assess the health of the trees.

Mrs. Ewald moved to table the motion. Mr. Kelly seconded the motion.

Mr. Mlenak said that neither he nor Mr. Holstein have the authority to consent to carrying the hearing. Mrs. Ewald withdrew her motion to table Ms. Hagner's motion. Mr. Mlenak also said that the Applicant would default rather than spend additional money on the project.

Mr. Kelly said that so long as there are still items needing to be completed, the Township should not release the bond. Ms. Hagner asked if the items are covered by the same bond. Mr. Kelly said that he does not want to see healthy trees removed, but eventually they will need to be removed and he does not think the bond should be released when the Township knows there is a future need.

Mr. Sebra clarified his prior comment that he does not think the sidewalk would have value, however the trees need major work.

Mr. Mlenak asked that the Planning Board not consider the condition of the trees, as the applicant was not under any obligation to maintain them.

Mr. Sloane said that there is inconsistency on Meyersville Road with different sections having an asphalt sidewalk, a cement sidewalk or an absence of any sidewalk. He also noted that there are inconsistencies in the road width, presence of curbing and regarding catch basins. Mr. Sloane said that it does not look very nice for a main road into the Township to have so many

inconsistencies. Mr. Hoffmann asked Mr. Sloane if he thinks there should be sidewalks. Mr. Sloane said that there should be sidewalks due to the speed of traffic on Meyersville Road.

Ms. Hagner moved to amend the resolution to waive the sidewalk condition. Mr. Nelson seconded the motion.

Roll Call: Mr. Travisano, Absent; Mr. Franko, Aye; Mrs. Ozdemir, Nay; Mrs. Ewald, Nay; Ms. Hagner, Aye; Mr. Hoffmann, Nay; Mr. Kelly, Nay; Mr. Nelson, Aye; Mr. Sheth, Aye; Mr. Coviello, Nay; Mr. Tarasca, Absent.

Other Business

Master Plan Subcommittee

Mr. Franko said that the Master Plan is in need of review. He reported that the Chairman has proposed that a subcommittee consisting of Mr. Travisano, Mr. Franko and Mr. Hoffmann be set up to oversee the revisions to the Master Plan. A vote of the Planning Board is needed in order to formally create a subcommittee.

Ms. Hagner asked if other members of the Planning Board have been asked if they would like to participate. Mr. Franko said that anyone interested in participating can indicate their interest, and there may need to be additional subcommittees as part of the process. She also said that the Circulation Plan updates are ready for discussion.

Mrs. Ewald asked if the whole Planning Board will get to review the updates. Mr. Franko said that the proposed updates will be brought before the whole Board, and appropriate action will be taken if a particular element needs more a intense review.

Mrs. Wright noted that proper procedure is for the Board to authorize the subcommittee, and for the Chair to appoint the membership.

Ms. Hagner asked if a proposed budget should be discussed. Mr. Banisch said that the subcommittee will first determine what portions of the Master Plan need to be updated, and he will submit a price quote on the scope of work determined by the subcommittee.

Mrs. Ewald moved to create a Master Plan Review Subcommittee. Ms. Hagner seconded the motion.

Roll Call: Mr. Travisano, Absent; Mr. Franko, Aye; Mrs. Ozdemir, Aye; Mrs. Ewald, Aye; Ms. Hagner, Aye; Mr. Hoffmann, Aye; Mr. Kelly, Aye; Mr. Nelson, Aye; Mr. Sheth, Aye; Mr. Coviello, Aye; Mr. Tarasca, Absent.

Mr. Franko appointed Mr. Travisano, Mr. Hoffmann and himself to the Subcommittee.

Ms. Hagner moved to excuse those members of the Board who were absent. Mr. Nelson seconded the motion, which carried unanimously.

Mr. Nelson moved to adjourn at 8:52 PM. Ms. Hagner seconded the motion, which carried unanimously.

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Gregory J. LaConte
Planning Board Recording Secretary