

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
NOVEMBER 8, 2021**

Mr. Franko called the Regular Meeting of the Planning Board to order at 7:31 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 2021, and January, 2022 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.

Roll Call

Answering present to the roll call were Mr. Franko, Mr. Nelson, Mrs. Ozdemir, Mrs. Abbott, Mr. Choi, Mrs. Ewald and Mr. Neibert.

Mr. Coviello, Mr. Hoffmann and Mr. Kahn were absent.

Also present were Board Engineer John Ruschke, Planner Joanna Slagle in place of Township Planner Frank Banisch, Board Attorney Steve Warner and his assistant Attorney John Kaplan.

Approval of Minutes

Mrs. Abbott moved to approve the minutes of the October 18, 2021 meeting. Mr. Nelson seconded the motion, which carried unanimously.

Hearings

PBA -21-005 (September 19, 2021) Toll NJ I, LLC, 351 Hillside Avenue, Block: 66 Lot: 1. Amended Preliminary and Final approval associated with the previously approved Dixiedale Residential development, for the disturbance of additional steep slopes within the subject property from those previously granted by the Board

Peter Flannery, an attorney representing the applicant, gave a summary of the application and asked that the Planning Board take jurisdiction. Mr. Warner confirmed that the Planning Board has jurisdiction over the application.

Mr. Flannery stated that the development was originally approved by the Planning Board on October 21, 2019. He noted that the project is associated with a 100% affordable development on Southern Boulevard referred to as Arbor Green. Sterling/Sun received Preliminary and Final Major Site Plan and Variance Approval for 53 townhouse and multi-family units as well as other site improvements. The approval included bulk variances and steep slope variances. There was also a temporary use permit granted by the Planning Board to Toll Brothers earlier in 2021 for a sales trailer and model home. The current application is for Amended Preliminary and Final approval for the disturbance of additional steep slopes and bulk variances in connection with the stormwater basin and other infrastructure. Mr. Flannery stated that although this application is

technically for additional disturbance of steep slopes, the net effect is that there will not be any further steep slope disturbance.

Patricia Ruskan, an engineer representing the applicant, was sworn in to give testimony. Mr. Ruschke and Mrs. Slagle were also sworn in. Mr. Flannery asked that James Holtz, a principal of the applicant, to also be sworn in to give testimony. All were sworn in by Mr. Warner.

Mrs. Ruskan provided her qualifications and was accepted as an expert witness.

Mrs. Ruskan presented the overall grading plan that was approved as part of the Dixiedale Application. The plan was entered into the record as Exhibit A-1. She stated that the changes in the steep slope areas are for infiltration basin 2 and infiltration basin 3. Sheet C9 was presented, which was entered into the record as Exhibit A-2. Mrs. Ruskan noted that Exhibit A-2 shows the original design. Mrs. Ruskan also presented Exhibit A-3 which showed the comparison of the originally approved limit of disturbance and the proposed additional disturbance. Exhibit A-4 was also entered into the record, which was a cross section of the slope for the retaining walls. Mrs. Ruskan stated that there are six trees greater than 12 inches in diameter that are proposed for removal so that the retaining walls can be built.

Mr. Flannery stated that there is a comment in the review letter about alternative solutions, and Mrs. Ruskan stated that the proposed solution is the only practical solution and there needs to be disturbance beyond the wall. Mr. Flannery reiterated testimony that the entire site design minimizes the impact to and disturbance of steep slopes. He also noted the conservation easement and repurposing of the Mansion. Mr. Flannery asked about the minimizing of the height of buildings and use of retaining walls. Mrs. Ruskan showed the original design to demonstrate efforts to minimize the impact of the project.

Mr. Ruschke asked why the additional limit of disturbance was not proposed earlier. Mrs. Ruskan stated that when the original design was put together, the retaining walls had not been designed yet. She stated that the walls are designed as part of a building permit application, and it was not known what kind of walls would be built. Mr. Ruschke said that the design is more practical from a cost perspective rather than an engineering perspective. Mrs. Ruskan said that time is also a component of practicality.

Mrs. Abbott asked if the Allan Block wall segments shown on the plan are the walls seen from River Road. Mr. Holtz stated that the additional walls will be the same material as the existing walls. Mrs. Abbott asked if there will be any attempt to hide the walls. Mr. Holtz stated that they cannot be hidden. Mrs. Abbott said that she does not think that Allan Block is the level of attractiveness that she would expect for the Enclave. Mrs. Abbott also asked why the change to the limit of disturbance is at the top of the basins if the work to be done at the bottom of the basins. Mrs. Ruskan presented the cross section plans to explain the construction process for the basins.

Mr. Choi asked about the original limit of disturbance in relation to the proposed limit of disturbance. Mrs. Ruskan showed the two limits on the engineering drawing. Mr. Choi asked what the original assumptions were for what type of retaining wall would be built. Mrs. Ruskan said the original intent was for a modular wall, concrete or a sheet pile in order to limit

disturbance. She also said that the retaining wall system was not fully designed when the original plans were submitted.

Mrs. Abbott asked about an item on the plan near the limit of disturbance. Mrs. Ruskan stated that it is the storm sewer utility line. Mrs. Abbott spoke in favor of adding landscaping and trees. Mr. Neibert spoke in favor of avoiding cutting down mature trees and having them replaced with small trees. Mr. Holtz noted that the landscaping and fencing have not been completed.

Mrs. Ozdemir asked for specificity on tree replacement. Mr. Warner said that Mr. Ruschke's review memo addresses that, and asked if there could be a condition of approval stipulated to by the applicant regarding tree replacement and landscape buffering. Mr. Ruschke said that he commented about additional trees being removed, and that modifications to the landscaping plan need to be reviewed. Mr. Warner suggested that the Board Professionals could be authorized to review the landscape plan and tree replacement updates. Mr. Franko stated that it makes sense to have the Board Professionals review the landscape plan and tree replacement plan. Mrs. Slagle stated that any concerns can be brought back to the Board.

Mr. Warner suggested that the applicant stipulate that the tree replacement and modifications to the landscaping plan be subject to the review and approval of both the Board Engineer and Board Planner. Mr. Flannery expressed the applicant's agreement to the stipulation.

Mrs. Ewald asked how long the construction of the wall would take. Mr. Holtz said that Basin 2 and Basin 3 would take 3-4 weeks each. Mrs. Ewald asked about stormwater management during Hurricane Ida and if extra measures will be taken. Mr. Holtz described extra measures that will be taken. Mrs. Ewald asked what the process is for enforcing a temporary disturbance. Mr. Ruschke said that there is a grading plan that would be verified. Mrs. Ewald asked if the wall system will improve stormwater management. Mrs. Ruskan said it will complete the construction of the infiltration basins so they can function as designed. Mrs. Ewald asked if the failure of the system during Hurricane Ida was due to the basins being still under construction. Mrs. Ruskan stated that once construction is complete and the basin is stabilized, it will be able to accept the runoff for which it is designed, and Hurricane Ida took a toll on many sites around the State. Mrs. Ewald asked why Basin #1 is not addressed in this application. Mrs. Ruskan stated that the slopes behind Basin #1 were already proposed to be disturbed and no additional disturbance is needed to make the approved grading work.

Mrs. Abbott asked about the conduits for underground electrical service. Mr. Flannery stated that confirmation has not been received from JCP&L, however the Board required underground utilities. He stated that there will need to be further Board approval if JCP&L wants the utilities to be overhead on utility poles. Mr. Warner asked if the applicant is acknowledging that they will need to come back before the Board for an amended approval application. Mr. Flannery confirmed the acknowledgement.

Mrs. Ewald asked if the additional disturbance affects the acreage of the Conservation Easement. Mrs. Ruskan stated that it does not.

Mr. Choi asked if there are any proposed changes to the specifications of Basin #2 and Basin #3. Mrs. Ruskan stated that there are not any proposed changes.

Mr. Ruschke asked that the applicant address the size of the proposed units as they appear to have changed. Mr. Holtz said that there has been a change, with some units being larger and some smaller. He also stated that the applicant is not prepared to address that issue as part of this application. Mr. Warner asked if there is a net increase in the building coverage. Mr. Holtz stated that there is not a net increase. Mr. Warner asked if the applicant would agree to address that matter with Mr. Ruschke and come back to the Board if necessary. Mr. Flannery stated that the applicant agrees to Mr. Warner's request. Mr. Ruschke addressed the amount of latitude he has and the need for the Board to review changes. Mrs. Abbott asked for the Board to be able to review the changes to the foundations. Mr. Flannery said that the applicant can work with Mr. Ruschke to see if this is an issue and asked for the discussion at this meeting to focus on the current application. Mr. Warner said that compliance for prior approvals is ongoing, and it is in Mr. Ruschke's discretion if Board approval is needed for field changes. Mr. Flannery agreed with Mr. Warner that the Board would have to approve amended site plans.

Mrs. Ozdemir asked about the impact of additional disturbance on sediment and erosion control. Mr. Ruschke stated that the Township has the authority to issue Soil Erosion and Sediment Control permits, and the application for the permit will need to be updated to account for the amended limits of disturbance.

Mr. Ruschke stated that the applicant is in compliance with the Treatment Works Approval.

Mrs. Ewald asked if there is a Plan B if the Board does not grant approval. Mrs. Ruskan stated that a Plan B has not been developed, and an option would be to consider a different retaining wall system that might look different from the retaining walls that have already been constructed. Mr. Holtz stated that several alternatives have been investigated, and the alternatives would involve pushing back the limit of disturbance. Mr. Warner asked if any would have less disturbance than what is proposed. Mr. Holtz stated if they did it would be minor, and there needs to be an adequate safety zone for the workers. He also said that there is a modular block detail of the wall on the approved plans. Mr. Flannery said that the project would be delayed if this application is not approved.

Mr. Franko opened the floor for questions from the Public.

1. Morse Wilkenfeld, 6 Conifer Drive, Mendham Township, asked where the walking trails will be located on the property. Mrs. Ruskan said that the internal trails were removed and a perimeter sidewalk was proposed. Mr. Wilkenfeld asked about the sidewalk on River Road. Mrs. Ruskan said that the sidewalk will be from the west side of Eden Road toward Hillside Avenue and along the perimeter of the project site on Hillside Avenue. The sidewalk will only be adjacent to the project site and will end at the municipal boundary. There will be a crosswalk at Eden Road and also at Hillside Avenue.
2. Keith Johnson, 9 Sentinel Court, asked about permeable surfaces. Mrs. Ruskan addressed the permeability of the proposed area. Mr. Johnson asked how permeable the site will be once trucks have been at the site. Mrs. Ruskan said there is a requirement to maintain the compaction so that water can still infiltrate.

Seeing no further questions, Mr. Franko closed the floor for questions from the Public.

Mrs. Ewald asked if the current plan accounts for the internal walking trail if the DEP does not approve the perimeter sidewalk. Mrs. Ruskan stated that the DEP approved the sidewalk therefore the plan does not include internal sidewalks.

Mr. Franko opened the floor for Public Comment.
Seeing no comment, Mr. Franko closed the Public Comment session.

Mr. Flannery gave a closing summation. He stated that the applicant requests that the Planning Board grant the amended site plan approval for the stormwater improvements and steep slope variances. Mr. Flannery said that Mrs. Ruskan has provided testimony in support of the variances, and the benefits outweigh the detriments. Mr. Flannery also stated that steep slope disturbance is minimized, and he addressed how detriments will be mitigated.

Mr. Warner addressed the stipulated conditions including those set forth by Mr. Banisch's report, Mr. Ruschke's report, and the tree replacement and landscaping supplementation to be reviewed by the Engineer and Planner, and the stipulation that there will be no net increase in building coverage.

Mrs. Abbott moved to approve the application subject to the stipulations addressed on the record. Mr. Nelson seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mrs. Abbott, Aye; Mr. Choi, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Mr. Hoffmann, Absent; Mr. Kahn, Absent; Mr. Neibert, Aye.

PBA-21-006 Fairmount Country Club, 400 Southern Boulevard, Block: 128 Lot: 10.01.
Minor site plan to allow addition of a fifth paddleboard court on the site. Escrow 28491

Steven Tombalakian, an attorney representing the applicant, provided background on the application. He stated that the application is for a fifth paddleball court to be added next to the four existing paddleball courts.

Mr. Ruschke, Mrs. Slagle and Geoff Lanza were sworn in to give testimony.

Mr. Warner stated that personal notice was not required for this application.

Mr. Lanza, an engineer representing the applicant, provided his qualifications and was accepted as an expert.

Mr. Lanza presented Exhibit A-1 which was a site plan showing the location of the proposed paddleball court. He also presented Exhibit A-2 which was a close up of the location along with a photo showing what paddleball courts look like. Exhibit A-3 was an aerial map of the site. Mr. Lanza stated that the new court will operate the same as the existing courts.

Mr. Lanza asked if the fifth will not be demonstrably different from the existing courts. Mr. Lanza confirmed that it will not be different.

Mr. Ruschke asked if any grading will be proposed. Mr. Lanza confirmed that there will not be any grading. Mr. Ruschke asked if stormwater will flow underneath the courts. Mr. Lanza confirmed that the water would flow underneath and infiltrate at that location. Mr. Ruschke asked about DEP Permits. Mr. Lanza stated that the courts are outside the riparian zone, and a General Permit #10 rue is in effect.

Mr. Tombalakian stated that the applicant is seeking to begin foundation work when it is still warm enough to pour concrete. Mr. Ruschke stated he will reach out to the Construction Official to see if permits can be issued before the memorialization resolution has been adopted.

Mr. Franko opened the floor to questions from the Public. Seeing none, Mr. Franko closed the floor to the Public.

Mr. Franko opened the floor to Public Comment. Seeing none, Mr. Franko closed the floor to the Public.

Mrs. Ewald moved to approve the application subject to the memorialization resolution. Mr. Nelson seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mrs. Abbott, Aye; Mr. Choi, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Mr. Hoffmann, Absent; Mr. Kahn, Absent; Mr. Neibert, Aye.

Mrs. Ewald moved to adjourn at 9:12 PM. Mrs. Ozdemir seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary