

JOINT LAND USE BOARD
Regular MEETING
June 5, 2014

“MINUTES”

Chairman Schwager called the meeting to order at 7:00 pm.

Adequate notice of this meeting had been provided in accordance with the Open Public Meetings Act.

Chairman Schwager led all present in the Pledge of Allegiance.

Roll call of the Members Present:

John Casella – Present, Frank Costantini – Present, John Fein – Present, Blair Hannigan – Present, John Juliano – Absent, Mayor Maccarone – Present, Chief Marino – Present, Joe Maugeri – Present, Sue O’Donnell – Absent, Alan Schwager – Present, Randy Rossi – Present, Bob Rushton – Present.

Next are the Minutes from the Regular meeting of May 15, 2014. J. Maugeri made a motion to approve the Minutes as written and was seconded by B. Rushton. All were in favor except for Mayor Maccarone, Chief Marino and John Casella who all abstained.

Next on the Agenda was Resolution #2014-17 Granting a Minor Site Plan Approval to JPO Lexington, LLC for property located on Auburn Road designated as Block 3, Lot 7 commonly known as Lexington Mews at Weatherby.

J. Maugeri made the motion to approve the Resolution which was seconded by F. Costantini. Roll was as follows:

B. Rushton – yes, J. Maugeri – yes, F. Costantini – yes, B. Hannigan – yes, Randy Rossi – yes, Chairman Schwager – yes.

Next on the Agenda is New Business which is the Schmidt Application, Block 38 ~ Lot 5.05. This is a Minor Site Plan.

R. Rossi recused himself from this portion of the meeting.

Mr. Don Schmidt, Jr. was sworn in by Mike Aimino.

Chairman Schwager continued stating that Mr. Schmidt filed an application for a Minor Site Plan. After the Board Planner did his review of the application it was determined that a Use Variance is required in addition to several other Bulk Variances. He believes that Mr. Schmidt was told this information by the Board Secretary several days before this meeting. Since a Use Variance is required, Mr. Schmidt will have to handle that

first before he attempts to go through Site Plan and the problem with this is that he will have to Notice for a Variance.

Mr. Schmidt stated that he is aware of this information. He stated that this all started with the Zoning Office, Mr. Mark Fruits, stating things that were not true. First off, this property is commercial and he has a Manufacturing Variance on the property since 1990.

Mr. Aimino stated that we do not have this and there is no record that it was ever filed in Woolwich.

Mr. Schmidt stated that there were plenty of copies sent in to Mr. Fruits in the past year. There were numerous applications that were submitted to him about this and he also has County Approvals that Mr. Fruits said he didn't have.

Chairman Schwager stated that the only thing that we have as part of this application is a Site Plan that he submitted, but it was a Site Plan for the County, it just has to do with the road and nothing with the Site. We received a letter from the County that this was not approved until curbing was done and an easement was granted.

Mr. Schmidt stated that an easement was granted and he submitted that paperwork to Mr. Fruits.

Chairman Schwager stated that we do not have that and it was not submitted as part of this application. We really don't even have jurisdiction to go down this road at this point. He stated that he will give Mr. Schmidt an option; he has the option to withdrawal this application or we will have no choice but to Deny this application without prejudice.

Mr. Schmidt stated that all this application was is an update on the Site.

Chairman Schwager stated that they do not see it that way; they see it as a Use Variance is required and other Bulk Variances, we don't have jurisdiction because there are Variances required and the application was not "Noticed". He gave Mr. Schmidt his choices; he can withdrawal, he can continue the application and waive all time or he can Appeal the Board Planners decision with a separate application. Whichever way requires Public Notice.

Mr. Schmidt asked why the Public needs to know what he already has. Chairman Schwager stated that the Municipal Land Use Law says they do. Mr. Schmidt stated that he already has approvals for this.

Mr. Aimino stated that the Board does not have anything that would suggest that he does have an approval. Nothing submitted to the Board shows that he has an approval. The only documents submitted are from the County and the County document in front of him says it was not approved.

Mr. Schmidt stated that the Board needs to contact the County. Mr. Aimino stated it is not the Boards obligation to do that, which is why they are giving him the opportunity.

Mr. Schmidt stated this was approved back in 1990 and the County has records. He stated that all his records were destroyed in a flood in the old Municipal building.

Chairman Schwager stated that they have no record of him having an approval on his property to distribute and sell mulch.

Mr. Schmidt stated that he has been doing it since the beginning of time. Chairman Schwager stated that doesn't make it legal.

Mr. Schmidt stated that this doesn't make any sense after 30 years.

Chairman Schwager stated that he submitted his Site Plan done by Henry Haley back on December 20, 1988 and that Site Plan doesn't show anything about stocking Mulch Piles.

Mr. Schmidt stated that it was pre-existing, non-conforming.

Mr. Aimino stated that if this is what he is contending, that it is a pre-existing, non-conforming Use, he has to Notice the public, come in front of the Board, make his arguments as to why it is pre-existing and seek a certificate of non-conformity. Once he is able to establish that, then he can move on to a Site Plan. Right now the Board has nothing and it is his burden/obligation to submit those documents to the Board so they can make those determinations.

Mr. Schmidt stated that he would have to go home and think about it, he cannot make that decision here.

Chairman Schwager stated, unfortunately the Board will have to make it for him because they have to act on this application.

Mr. Schmidt stated that he will withdrawal the application without prejudice.

T. Kernan asked, just to be clear, that Mr. Schmidt stated that there were a number of documents he submitted to Mark Fruits. Mr. Schmidt stated "yes". Mr. Kernan talked about a County Easement that Mr. Schmidt said he submitted to Mark Fruits. Mr. Schmidt stated "yes". T. Kernan stated that there was also a County Easement type document submitted with this application. Mr. Schmidt stated "yes". Mr. Kernan asked if the things Mr. Schmidt stated that he gave to Mark Fruits are the same documents that were submitted as part of this application. Mr. Schmidt stated that he has submitted so much stuff between this and Fruits on that matter, so trust him there is a ton of paperwork in this Township on everything he has done. He has crates of stuff. Mr. Kernan stated that the stuff that was submitted as part of this application was related to a different property and those documents have no bearing on this property.

Chairman Schwager stated that he applicant has agreed to withdrawal the application without prejudice.

J. Maugeri made a motion to accept the withdrawal without prejudice which was seconded by J. Casella. Roll was as follows:

B. Ruston – yes, J. Casella – yes, Chief Marino – yes, J. Fein – yes, Mayor Maccarone – yes, J. Maugeri – yes, F. Costantini – yes, B. Hannigan – yes, Chairman Schwager – yes.

R. Rossi rejoined the meeting.

Next on the Agenda is dealing with the recommended revisions to Chapter 203 Zoning for Rear Yard Setbacks in all residential zones.

T. Kernan went over his memo regarding the setbacks.

B. Hannigan asked why they would not go with a 30' setback. T. Kernan stated that it was a number that started with Mr. Blake and when you are filing for permits with the DEP, they like to see a 20' zone around a footprint of a proposed dwelling partly for construction purposes knowing that you're going to have impacts on the soil. We went with 25' which seemed to be a decent number.

A brief discussion over the distance of the setback took place.

F. Costantini made the motion to approve and send back to Township Committee. J. Casella seconded the motion. Roll was as follows:

B. Ruston – yes, J. Casella – yes, Chief Marino – yes, J. Fein – yes, Mayor Maccarone – yes, J. Maugeri – yes, F. Costantini – yes, B. Hannigan – yes, Chairman Schwager – yes.

Next on the Agenda is the Sign Ordinance. Chairman Schwager stated that this was looked at once before and now it is in table form. The Board proceeded to go through each of the different types of signs, where they can be located and the fees charged for each sign and make any changes they thought were necessary.

A vote was taken on whether to keep the temporary directional signs for subdivisions, either 4 signs per subdivision or no signs at all. The vote was as follows:

B. Ruston – 0, J. Casella – 0, Chief Marino – 0, J. Fein – 4, Mayor Maccarone – 0, J. Maugeri – 4, F. Costantini – 4, B. Hannigan – 0, Chairman Schwager – 0.

6 – 3 – no directional signs allowed.

Chairman Schwager stated for clarification that the only change on the "Permanent Signs" is to add a mechanism where it says no signs shall be placed on any street, electric pole etc. Other than that the permanent signs appear to be unchanged.

Brief conversation took place over the permanent signs.

T. Kernan stated he will clean up the Ordinance and send it over to M. Aimino who will then get it over to Township Committee.

With nothing further to discuss, J. Maugeri made a motion regarding the sign ordinance to send this back to Committee with the changes and suggestions that were made here this evening. B. Rushton seconded the motion. Roll was as follows:

B. Ruston – yes, J. Casella – yes, Chief Marino – yes, J. Fein – yes, Mayor Maccarone – yes, J. Maugeri – yes, F. Costantini – yes, B. Hannigan – yes, Chairman Schwager – yes.

T. Kernan continued stating that an informal request has been made by Mr. Steve Wolfson wanting to get his 3 development areas in an area of redevelopment and then have some redevelopment plans prepared so he can take advantage of some recently enacted State legislation which he believes is called “The Economic Opportunity Act of 2013”. He recently put this request in writing and Township Committee directed Matt Blake and himself to look at that area and other areas in the regional center along the 322 corridor that might make sense to be studied to be put in an area in need of redevelopment.

F. Costantini made a motion to authorize T. Kernan to do the study which was seconded by J. Maugeri. Roll was as follows:

B. Ruston – yes, J. Casella – no, Chief Marino – yes, J. Fein – yes, Mayor Maccarone – yes, J. Maugeri – yes, F. Costantini – yes, B. Hannigan – yes, Chairman Schwager – yes.

With nothing further to discuss, J. Casella made a motion to adjourn which was seconded by B. Hannigan.

The JLUB meeting adjourned at 8:04 pm.

Respectfully submitted,

Christina M. Marquis
Joint Land Use Secretary

***Minutes not verbatim
Audio recording on file***