

**MINUTES OF THE PARSIPPANY – TROY HILLS  
PLANNING BOARD – REGULAR MEETING  
MONDAY APRIL 21, 2008**

Chairman Parikh called the Special Planning Board Meeting of Monday April 21, 2008 to order at 7:30 PM.

Members Present: Ms. Baldwin, Ms. Banks, Ms. Bronfman Mr. Burns, Mr. Corcoran, Ms. Elbin, Councilwoman Grossi, Mr. Keller, Mayor Luther, Mr. Purzycki, Chairman Parikh

Also Present: Anne Marie Rizzuto, Planning Board Attorney  
Edward Snieckus, Burgis Associates  
Michael Pucilowski, Township Engineer

Absent:

Announcement is made that adequate notice of this meeting has been given, that it is being conducted in accordance with N. J. S. A. 10:4-6 et seq. of the New Jersey “Open Public Meetings Act”.

The meeting was opened to the public on any issue not on the agenda. Ruth Pace, 469 Troy Road said she wished to make public that employees of the Wilf family and Mr. Mosberg came and lowered the level of Forge Pond. Mr. Pucilowski explained reasons why but she said this is just such a bad time this time of year with water fowl nesting. There have also been bald eagles sighted, although they do not know where the nests are. The pond is not totally lowered but it is lower.

Ms. Grossi asked how much it was lowered. Ms. Pace estimated about one foot. The pond had been left alone for a number of years.

Mr. Garofalo who represents the developers explained what happened. He said someone was going in and building up the dam to hold back more water. They were directed by Dam Safety or Fish & Game to lower the pond so the boards which were placed in the dam were removed. Mr. Purzycki when the instructions came. Mr. Garofalo did not remember exactly when but he has copies of the letter in his office and will forward them to the board. Apparently the boards used to raise the dam have been in and out several times.

Mr. Pucilowski said these problems go back more than five years. The dam safety section instructed them to lower the pond. The pond has come back but not to the levels before all the development started. The dam safety section had determined a level for the pond that they say is safe for the dam. He noted that the Dam Safety division is only looking at the dam and has no concern about any other environmental issue.

Ms. Rizzuto asked if there was anything currently before the Board regarding this issue and Mr. Garofalo confirmed that there is not. She said that the Township Engineer is aware of the issue. She asked that any correspondence be forwarded to his attention. If there is any town action to take place it would be an engineering issue. Mr. Pucilowski said he would talk to Ms. Rizzuto about some of the history of the issue.

Chris Clayton, a member of the environmental advisory commission said she lives on Troy Road and has seen the development of the area. She and her family document the endangered species in the area. Now it is her understanding that the dam has been declassified. When it was a high level hazard dam nothing was done so now that it is a lower level the developer does not have to do the repairs and she thinks the situation is ridiculous. She said the dam and the pond are a big issue for her and she wants the issue dealt with by the township.

Joe Sperone, 400 S. Beverwyck Road, said he was out in his yard on Saturday when the rush of water came down. There is a lot of wildlife in the pond. He also asked the Township to look into the issue.

There was no one else in the public wishing to speak.

The next item on the agenda is the appointment of the new Planning Board Attorney. Chairman Parikh said that last week there was a meeting with a closed session when he explained to the board members the process and the selection. The Board had appointed Anne Marie Rizzuto of McManimon & Scotland. Mayor Luther gave Ms. Rizzuto the oath of office. The resolution presented has a typo which will be corrected.

Chairman Parikh announced that Avis Budget Group will be carried to May 19, 2008 at the request of the applicant. The application for L.P. Thebault will also be carried to May 19, 2008 at the request of the applicant. There will be no further notice for the two cases carried.

Ms. Baldwin made a motion to approve the resolution granting Minor Site Plan and "C" Variance approval to Circuit City Stores Inc. Application # 07:522/07:5A subject to corrections in the letter received from Giordano and Halleran. Motion seconded by Mr. Keller. Ayes: Ms. Baldwin, Ms. Banks, BMs. Bronfman, Mr. Burns, Mr. Corcoran, Councilwoman Grossi, Mr. Keller, Mr. Purzycki, Chairman Parikh.

Ms. Baldwin made a motion to approve the minutes of the Workshop meeting of February 4, 2008. Motion seconded by Mr. Keller. Ayes: Ms. Baldwin, Ms. Banks, Ms. Bronfman, Mr. Burns, Mr. Corcoran, Ms. Elbin, Councilwoman Grossi, Mr. Keller, Mr. Purzycki, Chairman Parikh.

Ms. Baldwin made a motion to approve the minutes of the Minor Site Plan and Subdivision Committee meeting of February 25, 2008. Motion seconded by Ms. Banks. Ayes: Ms. Baldwin, Ms. Banks, Ms. Bronfman, Mr. Burns, Mr. Purzycki.

Ms. Baldwin made a motion to approve the minutes of Monday March 17, 2008. Motion seconded by Mr. Corcoran. Ayes: Ms. Baldwin, Ms. Banks, Ms. Bronfman, Mr. Burns, Mr. Corcoran, Councilwoman Grossi, Mr. Keller, Mr. Purzycki, Chairman Parikh.

Under correspondence there is a letter from Bernard Berkowitz requesting an extension of six months for Alison and Robert Bogad, Application # 07:007 to September 7, 2008 for filing of deeds. Ms. Rizzuto said she had not reviewed the resolution but did check the statute to see if the board could grant such an extension. The Board can extend a resolution for a minor subdivision as long as the applicant proved that the delays required approvals from other governmental agencies. In this case the problem was delayed over a question of the location of the existing dwelling on the property. They have now agreed to demolish the structure. The existing building straddled the property lines of the subdivision.

She said she would like it on the record that the applicant will demolish the buildings and how long it will take, and whether six months is necessary. Three months may be more than sufficient. Mr. Snieckus agreed three months is well advised. Ms. Mader noted that the committee approved the minor subdivision so there is no resolution. Ms. Rizzuto said three months from tonight would be good.

Ms. Baldwin made a motion to grant an extension of three months to July 17, 2008 to Alison and Robert Bogad Application # 07:007 for filing of deeds. Motion seconded by Mr. Corcoran. Ayes: Ms. Baldwin, Ms. Banks, Ms. Bronfman, Mr. Burns, Mr. Corcoran, Ms. Elbin, Councilwoman Grossi, Mr. Keller, Mayor Luther, Mr. Purzycki, Chairman Parikh.

There is a memo from Judy Silver, Township Clerk requesting a recommendation on Ordinance 2008:07 – regarding Off Street Parking – parking at religious places of worship. Mr. Snieckus confirmed that the ordinance is consistent with what the Planning Board recommended. Ms. Baldwin made a motion to recommend to the Township Council passage of Ordinance #2008-07. Motion seconded by Mr. Keller. Ayes: Ms. Baldwin, Ms. Banks, Ms. Bronfman, Mr. Burns, Mr. Corcoran, Ms. Elbin, Councilwoman Grossi, Mr. Keller, Mayor Luther, Mr. Purzycki, Chairman Parikh.

The only item on the agenda is **Kenneth Garrity**, Block: 452 Lot: 1, 160 Parsippany Blvd. Final Major Subdivision, Application #08:002. Robert Garofalo represented the applicant.

Reports for the record:

Burgis Associates dated April 4, 2008

Township Engineer dated April 17, 2008  
Tax Assessor dated February 19, 2008.

Mr. Garofalo said the applicant will comply with all reports. There are no other issues unless the Board has any questions. There were no questions from the Mr. Pucilowski, Mr. Snieckus or the public.

Ms. Baldwin made a motion to approve the Final Major Subdivision for Kenneth Garrity, Block: 452 Lot: 1, Application #08:002 subject to the reports of Burgis Associates dated April 4, 2008, Tax Assessor dated February 19, 2008 and Township Engineer dated April 17, 2008. Motion seconded by Mr. Keller. Ayes: Ms. Baldwin, Ms. Banks, Ms. Bronfman Mr. Burns, Mr. Corcoran, Ms. Elbin, Councilwoman Grossi, Mr. Keller, Mayor Luther, Mr. Purzycki, Chairman Parikh.

Mr. Pucilowski had a report. He has received a map of the developable land from COAH. He noted there are areas along highways, office campuses, and some watershed property that the Township lost a tax appeal on that it is not buildable.

Mr. Snieckus said there is an appeal process. In June the Third Round rules for COAH will be adopted on June 2. After there will be a period to prepare a Housing Element of about two or three months. He feels that an actual Capacity Analysis should be prepared where we evaluate the data COAH has prepared and contest their numbers with our analysis. The numbers COAH has used is based on what they see as open space which is obviously flawed. He said COAH was under a court mandate to get the analysis out so they worked from information they had.

The municipality now has to contest what COAH has said and we have to provide all of the data. He will prepare a study on what is realistic for development and they overlay the zoning on top of that to get a sense of what the actual build-out will be. He will prepare a presentation to the Board as a power point. Ms. Grossi said she already asked for a presentation to the Council but the Mayor suggested waiting until after the June date.

There is also an issue of Development Fees which will be increased in the new COAH regulations. He recommends that the Council consider pursuing the fee amendments but don't adopt anything until June. The fees also offset the cost of a consultant doing the analysis. Ms. Grossi asked who would prepare the document.

Ms. Rizzuto said she is quite familiar with the COAH rules and agrees that the Board will have to do a lot of work to repetition for certification. The work can be started now, knowing the rules will be adopted. They may be challenged but that does not get any municipality off the hook. It is important to stay within COAH to avoid Builders Remedy lawsuits. She recommends prepare a new Development Fee Ordinance and recommend it to the Council and Mayor just like any zoning or land use ordinance. It can be submitted to COAH unadopted for their approval

to get a head start on the process. The Planning Board does have some money budgeted for COAH work. She will talk with Mr. Snieckus on the current filings and can make a presentation on the legal changes.

Mr. Purzycki asked who starts the procedure, the Council or Planning Board. Ms. Rizzuto recommends that the Board Chairman go to the Council to say what the new obligations are and the Planning Board is ready to start the process because we ultimately make the recommendations to them.

Mayor Luther said he would like to see a presentation like the one done for the last third round regulations after the adoption in June. They can say this is what the projections were; this is how we had proposed to meet the third round obligation and what the changes are from our old third round plan. Then we have a roadmap on what COAH will be doing. We will have until December to adopt our revised third round plan. It is December since we had already submitted and COAH commented although they had not given certification.

On the issue of the ordinance the Township Attorney is working on it already. By waiting until after June 2 there will be a definitive plan to work with. Mayor Luther said it is well known that everyone plans to sue COAH. The builders say the projected need is understated and the municipalities say it is overstated.

Mr. Snieckus said there is some discussion over whether you should do anything at all. He feels we should to show a good faith effort is being made.

Chairman Parikh said he will speak with Mr. Snieckus and he will schedule a workshop meeting what he will be ready to make a presentation.

There was no further business. Motion to adjourn at 8:22 PM.