

CHESTERFIELD TOWNSHIP PLANNING BOARD

August 13, 2013

The meeting of the Chesterfield Township Planning Board was called to order by Chairman Panfili at 7:35 PM. The Open Public Meetings Act statement was read and compliance noted.

Roll call was taken showing present: Donald Coover, Jeremy Liedtka, Joseph Malison, F. Gerry Spence, Gerard Hlubik, Chairman Panfili. Absent: Richard LoCascio, Glenn McMahon, John Nunziato, and Mary Acevedo. Professional staff present: Chuck Patrone, Township Solicitor; Joe Hirsch, Township Engineer.

AGENDA MATTER(S) REQUIREING RECUSAL(S)

None

MINUTES

June 11, 2013 Regular Minutes

A motion was made by Mr. Spence seconded by Mr. Coover to approve the June 11, 2013 Regular minutes. All were in favor with exception of Mr. Hlubik who abstained. Motion carried.

RESOLUTIONS

2013-09 RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF CHESTERFIELD GRANTING MINOR SUBDIVISION AND BULK VARIANCE APPROVAL TO CHESTERFIELD TOWNSHIP, FOR PROPERTY AT BLOCK 202.07, LOT 56 AT 17 FENTON LANE.

**CHESTERFIELD TOWNSHIP
PLANNING BOARD**

RESOLUTION NO. 2013-09

**RESOLUTION OF THE PLANNING BOARD
OF THE TOWNSHIP OF CHESTERFIELD
GRANTING MINOR SUBDIVISION
AND BULK VARIANCE APPROVAL
TO CHESTERFIELD TOWNSHIP,
FOR PROPERTY AT BLOCK 202.07, LOT 56
AT 17 FENTON LANE**

WHEREAS, Chesterfield Township (the “Applicant” or the “Township”) has applied to the Planning Board of the Township of Chesterfield for Minor Subdivision approval and related variances for property (“the Property”) located at 17 Fenton Lane, known as Block 202.07, Lot 56, in order to create three lots as proposed Block 202.07, Lots 56.01 (.16 acres), 56.02 (.03 acres) and 56.03 (.04 acres); and

WHEREAS, Environmental Resolutions, Inc. serves as the engineer for both the Township and Board, and as such, recused itself from this matter; and

WHEREAS, Robert R. Stout, P.E., was appointed by the Township as its engineer on this matter, and Dante Guzzi, P.E., was appointed by the Board as its engineer on this matter; and

WHEREAS, the Property is located within the Planned Village District -2 (PVD); and

WHEREAS, the Applicant submitted its application pursuant to Chapter 130-98, et seq. and N.J.S.A. 40:55D-47, et seq. governing Minor Subdivision approval, as well as Chapter 130-41 governing the PVD2 Zone; and

WHEREAS, the Application is dated May 29, 2013, received on May 30, 2013, and included the following:

1. A Completed Application Form, Explanation of Application, and Checklist (marked administratively by the Board as Application 2013-03);

2. A Minor Subdivision Plan of Block 202.07, Lot 56, prepared by Robert R. Stout, P.E., Stout & Caldwell Engineering and dated April 15, 2013; and

WHEREAS, a June 4, 2013 review letter was issued by Dante Guzzi, P.E., Board Engineer on this application; and

WHEREAS, Board Member Liedtka recused himself as a member of the governing body and Board Member Acevedo recused herself as she is within 200' of the Property; and

WHEREAS, the Applicant appeared before the Planning Board on June 11, 2013 for a public hearing on its application, which hearing was duly noticed by the Applicant in accord with the certified list; and

WHEREAS, the Applicant was represented by Victoria C. Fannon, Esquire, who appeared with the Applicant's engineer, Robert R. Stout, P.E., who was sworn; and

WHEREAS, Mr. Stout provided the following testimony and overview:

1. The proposed lots will include one lot that will be retained by the Township, Lot 56.02, which covers an existing asphalt walkway;

2. The other proposed lots, while undersized, are proposed to be offered for sale to neighboring property owners in accord with the Local Lands and Buildings Law, N.J.S.A. 40A:12-1, et seq.;

3. The variances for the undersized lots are necessary at this time for the subdivision. It is the intention of the subdivision as to the two undersized lots that will be sold off, that upon a proposed sale, the conveyance of each undersized lot will ultimately be joined with neighboring properties to become conforming lots;

4. The Applicant also requested a variance for lot depth on Lot 56.03 of 81+/- feet where 100 feet is required;

Upon subdivision and subsequent sale, Lot 56.03 will ultimately be joined with a neighboring property, so the lot depth granted will be temporary in nature; and

5. The Applicant also requested a variance for impervious coverage of 58% where 50% is required, as to Lot 56.02, as the purpose of the lot is to cover the walkway to be retained by the Township; and

WHEREAS, the application was opened to public comment and the following comments were received:

1. Syeda Hasan: Donlonton Circle, a bordering property owner to proposed Lot 56.01. Ms. Hasan testified that she had been told by the developer that the lot was her open space and they have been maintaining it for the Township. The Board Chair explained that the Board cannot control any representations made by her developer;

2. Amit Joshi: Donlonton Circle, a bordering property owner to proposed Lot 56.03. Mr. Joshi testified that he believed the subdivision would have an

adverse impact on this property, that there is a parking problem on Fenton Lane associated with the sports fields across the street from the subject parcel, and that there is an unexplained structure at the back of his lot that may fall on his property or on the subject parcel;

3. Syed Hasan: Donlonton Circle, husband of Ms. Hasan (above). Mr. Hasan indicated that the developer charged them a premium for their lot because of the presence of Lot 56 behind them. The Board Chair again spoke to the lack of control by the Board over developer representations;
4. David Sass: Fenton Lane, neighboring property owner to proposed Lot 56.01. Mr. Sass asked questions about fencing and the Verizon easement on proposed Lot 56.01;
5. Iris Rivera: Fenton Lane, neighboring property owner to proposed Lot 56.03. Ms. Rivera indicated she has been maintaining the portion of Lot 56 that is proposed to become Lot 56.03. She is interested in the Township's sale of Lot 56. She also asked questions about what fencing could remain and what fencing would be allowed going forward.

WHEREAS, the Board closed the public hearing; and

WHEREAS, the Board, carefully considered the evidence presented by the Applicant, in support of its application, as well as the public comment and questions; and

WHEREAS, based upon the above, the Planning Board has come to the following conclusions:

1. The Chesterfield Township Planning Board has jurisdiction over this application pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.;
2. The Applicant sought Minor Subdivision approval with bulk variances;
3. Based upon all testimony received the Board grants the Minor Subdivision approval with the requested variances, subject to the following **CONDITIONS**:
 - A. The Applicant will comply with the Board Engineer's review letter of June 4, 2013 except as modified herein;
 - B. The Applicant will set monuments; and
 - C. The Applicant will agree to include a restriction on the sale of Lots 56.01 and 56.03 that fencing installed along the property lines of those properties and Lot 56.02 (the walkway lot to be retained by the Township) shall meet the following requirements: (a) solid fencing up to only 4' in height maximum, (b) however, if solid and more than 4' in height, set back at least 5' off of the lot line. The intention of this condition is to ensure that the fencing along the public walkway does not create a "tunnel" effect.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Chesterfield, following close of the public hearing on the 11th day of June, and memorialized by this Resolution on the 13th day of August, 2013, that the application for Amended Site Plan approval to permit the above referenced items is hereby **GRANTED**, subject to the **CONDITIONS OF APPROVAL** contained above, as well as the following:

1. Complying with all comments and requirements of the Board Engineer's written report except as modified herein.

2. The Applicant shall produce a certification from a licensed engineer/surveyor that the setting of the monuments was carried out properly and meets all applicable engineering standards.

3. The Applicant shall obtain County Planning Board approval and any other outside agency approval that may be required.

MOTION BY: Spence

SECONDED BY: McMahan

ROLL CALL VOTE

Those In Favor: 6

Those Opposed: 0

Those Abstaining: 2 (Liedtka and Acevedo due to conflict)

BE IT FURTHER RESOLVED that a certified copy of memorialization be sent via regular mail to the Applicant within ten (10) days of the date of adoption, and a copy of this Resolution shall be filed with the Township Clerk, Tax Assessor, Construction Official, and Zoning Officer. A brief notice of this decision shall be published in the official newspaper of the Township.

A motion was made by Mr. Coover seconded by Mr. Malison to approve Resolution 2013-09. The vote was in the affirmative, with the exception of Mr. Liedtka and Mr. Hlubik who abstained, motion carried.

APPLICATIONS FOR ACTION

Joseph and Margaret Rizzo Block 202.24, Lot 5, Bulk Variance

Joseph and Margaret Rizzo were sworn. Mr. Rizzo testified that he is requesting a variance on property 10 Susanna Drive, he purchased the property in November 2006. After he and his wife moved in they noticed the back yard was no longer flat but sloped therefore when it rains it causes a drainage issue. He hired a landscaper to construct a retaining wall in 2009 and believed that all requirements were being met. They received a letter from the Zoning Officer stating that the wall did not meet the set back requirements nor the height requirements.

During Joe Hirsh's review of the application it was discovered the wall is on private property and is on the Township right of way. Chairman Panfili stated that because of this the Planning Board could not make any decisions until the applicant had a survey of the property to determine the property line. The board asked the applicant to have the survey done and the applicant asked the board for an extension until the September meeting.

Chairman Panfili opened the meeting for public comment. There being none the public portion was closed.

The applicant was granted an extension until the September meeting without notice.

CORRESPONDENCE

None

DISCUSSION

The board had a short discussion on the sale of the old elementary school. Mr. Liedtka stated that the Township gave them the option to do due diligence because they are under contract with the school board.

The board had a short discussion regarding an ordinance from the Historical Society. Mr. Malison stated that the Historical Society had drafted an ordinance regarding Historic Preservation and the TDR for the Village Zone and then had asked the Township Planner to review. The secretary will look into this with the Township Clerk to see what the status is.

INVITATION FOR PUBLIC COMMENT

Chairman Panfili opened the meeting for public comment, there being none the public portion was closed

ITEMS NOT ON AGENDA

None

ADJOURNMENT

A motion was made by Mr. Spence seconded by Mr. Malison to adjourn. All were in favor, meeting adjourned at 8:30 PM.

Respectfully submitted,

Aggie Napoleon, Secretary