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## **CHESTERFIELD TOWNSHIP PLANNING BOARD**

November 9, 2010

The meeting of the Chesterfield Township Planning Board was called to order by Chairman DeFelippis at 7:30PM. The Open Public Meetings Act statement was read and compliance noted.

Roll call was taken showing present: Donald Coover, Lawrence Durr, Deborah Kelly, Glenn McMahon, Joseph Malison, Gerry Spence, Brian Wilson, John Nunziato, Chairman DeFelippis, Matthew Weismantel (7:40) Absent: Brian Kelly and Lido Panfili. Professional staff present: Frederick Hardt, Solicitor, Nancy Jamanow, Engineer.

### **MINUTES**

October 12, 2010

A motion was made by Ms. Kelly, seconded by Mr. Coover, to approve the October 12, 2010 Regular Minutes. The vote was in the affirmative, with the exceptions of Mr. Spence, who abstained, and the motion carried.

### **INVITATION FOR PUBLIC TO SPEAK – Matters not on the Agenda**

Chairman DeFelippis opened the meeting for public comments.

Brian Wilson removed himself from the board to sit with the public for the reason that he works with Mr. Dan Kennedy. Mr. Kennedy, Coordinator of Burlington County Farmland Preservation Program, serves as the Administrator of the Burlington County Agricultural Board. He came before the Board to give information on the right to farm laws. If a situation arises on whether a farm is in compliance with the right to farm act, the Ag Board or the SADC would have a public hearing. The counties approach is Education first, go to meetings and provide education materials. Second is speaking with the Township to make sure things are done correctly. Third would be to recommend mediation between both parties (land owner and township) to discuss the situation and come to an agreement. The SADC recommends that if any issues between Township and land owner which cannot be resolved than either party could file a complaint to the County Ag Development Board. There would be a public hearing and a decision will be made within 60 days of the complaint. Appeals can be made within 10 days of the Ag Boards decision.

Fred Hardt gave a short explanation as to the situation between the township and Holloway Land Farm. Mr. Hardt received a letter from the attorney for Holloway Land Farm stating that the agricultural process is exempt and should be sent to the Ag Board. He also received a letter from the attorney general recommending the situation be heard at the county. He asked that if anyone has an interest to give their name, address and telephone number to the Board Secretary and he will send copies of documents pertaining to the situation.

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Mr. Kennedy will forward the policy of the conflict resolution process and the site specific A&P process to Mr. Hardt. Mr. Hardt could then pass it along to all the board members.

Mr. Wilson returned to his seat on the board.

Chairman DeFelippis opened the meeting to public comment.

Beverly Mills – 44 Chesterfield-Georgetown Road. Expressed her frustration on not being able to be heard. Ms. Mills has concerns with the safety issue of entering and exiting her driveway, she asked how she would be notified of where and when a hearing will take place so that she as a homeowner can be a part of it. Mr. Hardt informed her that if the application is referred to the Ag Board that on the cover letter he will list all interested parties in this matter.

Ms. Mills asked Mr. Kennedy if she should be sending her complaints to the county and he informed her that there is a form she could fill out. He insured her that he will make sure the process is transparent and that they will have an opportunity to be heard.

Kevin Broderick – 47 Chesterfield-Georgetown Road. Spoke to Mr. Kennedy in regard to the adopted practices and asked if they are available on the website. Mr. Kennedy informed him they are on the State Ag Committee Website. Mr. Broderick asked about mediation and if it's binding and also who enforces it. Mr. Kennedy stated that it would be up to both parties to comply with the decision.

A motion was made by Mr. Spence, seconded by Mr. Coover to send the Agricultural issues to the County Ag Board on the appeal made by Holloway Land on the Zoning Officers decision. Mr. Hardt will do this in writing with notice to everyone that has an interest in this issue. A roll call was taken, Mr. Coover-yes, Mr. Durr-abstain, Ms. Kelly-yes, Mr. McMahon-abstain, Mr. Malison-yes, Mr. Spence-yes, Mr. Weismantel-no, Mr. Nunziato-yes, Chairman DeFelippis-yes; motion carried.

A motion was made by Mr. Spence, seconded by Mr. Malison to table the hearing on the denial of the Zoning Officers decision for 90 days. A roll call was taken, Mr. Coover-yes, Mr. Durr-yes, Ms. Kelly-yes, Mr. McMahon-abstain, Mr. Malison-yes, Mr. Spence-yes, Mr. Weismantel-yes, Mr. Nunziato-yes, Chairman DeFelippis-yes; motion carried.

## RESOLUTIONS

Ms. Jamanow stated she had some revisions to Resolutions 27-2010; in the sentence beginning with This fence the word **be** should be included, also on page 2 the word (elev.) the e was missing; the words **across the street** should be removed.

27-2010      On the application of Brian and Yasmin Maher for a variance to construct a 5-foot-high fence along a landscape buffer at property identified as Block 202.28, Lot 8, also identified as 20 Singleton Drive, within the Township of Chesterfield

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A motion was made by Mr. Coover, seconded by Mr. Wilson, to approve Resolution 27-2010 with changes. The vote was in the affirmative, with the exceptions of Mr. Spence who abstained, and the motion carried.

28-2010 On the application of Tracey A. Davis for a variance to replace asphalt driveway with pavers and also replace walkway with same pavers at property identified as Block 202.110, Lot 6, also identified as 224 Recklesstown Way, within the Township of Chesterfield

Ms. Jamanow stated she had some revisions to Resolution 28-2010; she suggested to the board to include the following: **The area to be feathered down is from the front setback of the porch to the existing driveway apron. The applicant shall remove the pavers from this area, creating an arc in the pavers to extend from the existing edge of the driveway at the front porch setback to match into the edge of the driveway apron.**

A motion was made by Mr. Coover, seconded by Mr. Wilson, to approve Resolution 28-2010 with changes. The vote was in the affirmative, with the exceptions of Mr. Spence who abstained, and the motion carried.

#### **APPLICATIONS FOR ACTION**

T-Mobile Northeast, LLC: Block 103, Lot 21; 101 Hogback Road; Minor Site Plan and Conditional Use for the Installation of a Transport Dish Antenna in the Agricultural District.

Ms. Debra Shulski, Attorney for T-Mobile along with Michael Fahey, Real Estate Project Manager; Glen Villanueva, Radio Frequency Engineer; William Gilmore, Special Engineer; James Kyle, Professional Planner were sworn and all were recognized for their profession and are qualified to testify. Exhibit marked.

Mr. Villanueva presented a chart to show the purpose of adding the antennas is to increase the use of in-building and in-vehicle coverage. Ms. Shulski stated the site contains an existing 190 foot lattice tower to which there are other carriers already on the tower. One carrier is at 150 feet the other at 125 feet, T-Mobile would like to install 6 panels at 135 feet center line. In addition the associated radio panels would be located at the base on a 10 x 20 concrete pad. A structural evaluation report was prepared to show that the tower could support the additional antennas.

Ms. Jamanow informed the board that in regard to her letter dated October 29<sup>th</sup> on page 2 a height variance is not required under ordinance 130-142, antennas are allowed to be 200 feet in height therefore this application should be a site plan and a conditional use.

Ms. Shulski was informed that another structural analysis report will need to be completed and submitted to the Engineers Office.

Mr. Hardt stated that an annual report needs to be completed and submitted to the Township on all existing towers to comply with the Township Ordinance. A letter will be sent to the owners of the towers by Glenn McMahon informing them of such.

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Chairman DeFelippis opened the hearing for public comment. There being none, the public portion of the hearing was closed.

A motion was made by Mr. Coover and seconded by Mr. Spence to approve the application with the condition that another structural analysis report will be completed. A roll call was taken, Mr. Coover–yes, Mr. Durr–abstain, Ms. Kelly–yes, Mr. McMahon–yes, Mr. Malison–abstain, Mr. Wilson–yes, Mr. Weismantel–yes, Mr. Nunziato–yes, Chairman DeFelippis–yes; motion denied.

## **DISCUSSION**

### School Sign:

Ms. Jamanow informed the board that the Board of Education would like to put up a sign at the new school site. A minor site plan and an approval of the architectural design are what are needed to be approved by the board. Ms. Jamanow stated that it is a permitted sign in the receiving area; it is similar to the sign already in place at the existing school. The Board of Education has asked to have all fees be waived to which the professionals have agreed. It was suggested that the Board of Education attend the December 14, 2010 Planning Board Meeting with a formal application.

### Solar Ordinance

Mr. Hardt suggested that this be postponed until the state has made a decision. A motion was made by Mr. Wilson, seconded by Mr. Spence to postpone the Solar Ordinance. All were in favor, motion carried.

## **CORRESPONDENCE**

### Letter from ERI in regard to Traditions at Old York, revised Boulevard Detail.

Ms. Jamanow sent a letter to Renaissance asking them to include the changes that have been discussed when they submit their plans for final approval. The changes being: widening the parkway of the Boulevard and narrowing of the center islands.

### Letter from ERI in regard to Crosswalks on Saddle Way

In preparation of the new school opening, Environmental Resolutions have been contacting the developers to get their crosswalks in. December 17<sup>th</sup> is the target date for the schools CO.

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Letter from Fred Hardt in regard to the Liptak decision

Mr. Hardt informed the board that Mr. Liptak's attorneys have 45 days to appeal the decision and that we should wait to post the final decision. The decision was made on October 4, 2010.

Letter from Holloway Land Attorney

Mr. Hardt informed the board that the letter was requesting the withdraw of the application and asked that all fees be returned to them. Mr. Hardt stated that no monies will be returned it will be used to cover the cost of the appeal.

**INVITATION FOR PUBLIC TO SPEAK**

Chairman DeFelippis opened the meeting for public comment.

Mr. John Ratico – 245 Recklesstown Way. He was cited for commercial plates in a PVD zone. He lends the vehicle out as a courtesy vehicle and for insurance purposes it has to be registered commercial. The issue is commercial tags in a residential zone. Mr. Ratico has 20 days from the date of the citation to appeal the zoning officer's decision. A formal application must be obtained from the planning board secretary.

Ms. Beverly Mills – Asked the board the definition of a flag lot. The definition was read: "The flag lot configuration is one of reduced frontage on an approved street with the enlarged buildable portion located at the rear of the lot".

Ms. Mills inquired about the injunction towards Holloway Land so they could expand their business. Ms. Mills stated her main concern is the safety of entering and exiting her driveway. Mr. Hardt stated that this is pending in court and he suggested that she could go the Judge assigned to that case and ask for relief. Mr. Hardt stated that the Planning Board cannot go above the Judge assigned to the case.

Mr. Wilson removed himself from the board and sat with the public @ 9:30

Mr. Durr stated that the zoning officer had made a decision that the fence is in violation and will be heard at the county, however the Township should take action on the safety issue. The Township should ask Ms. Jamanow, Township Engineer to verify if the rock is on the Township right of way. Mr. Mills stated that the rock is partially on his property and they have been advised not to touch it for liability purposes. Ms. Mills has concerns with snow and the possibility of the damage it could cause by not being visible or hit by a plow and be pushed into their vehicles or oncoming traffic. Mr. Hardt suggested that they explain the traffic hazard and safety issues to the Judge and the injunction should come from him. Mr. Hardt explained that until the application is referred back to Township for a hearing we have no jurisdiction.

Chairman DeFelippis stated that if the Engineers survey determines the rock is in fact in the Township right of way a letter then could be sent to the Judge from the Chief of Police stating that there is a safety issue.

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Mr. Wilson returned to his seat on the board @9:50

Mr. Brian Meincke – 13 Bullock Way. Has a concern with the intersection at the corner of Preservation Boulevard and Bordentown-Crosswicks Road. The parking along Bordentown-Crosswicks Road has created line of site hazard. He was inform that it is a county road and Ms. Jamanow has contacted the County.

Mr. Kevin Broderick – 47 Bordentown-Chesterfield Road. In regard to a letter sent to the Planning Board Secretary from Holloway Land LLC. The letter states that Honey Brook Farm is the operator and Holloway Land LLC is the property owner. He would like to know who Holloway Land actually is. Mr. Hardt stated that the board does not know until it is referred back from the Burlington County Ag Board. It was suggested that he research the web.

### **EXECUTIVE SESSION**

At 10:10 PM a motion was made by Mr. Spence, seconded by Mr. Nunziato to enter into executive session. The vote was unanimous, motion carried. At 10:20 PM the Planning Board returned to open session.

### **ADJOURNMENT**

There being no further business, a motion was made by Mr. Weismantel, seconded by Mr. Wilson, to adjourn. All were in favor, meeting adjourned @10:25 PM.

Respectfully submitted,

Aggie Napoleon, Secretary