

MINUTES
TOWNSHIP OF FRELINGHUYSEN PLANNING BOARD
REGULARLY SCHEDULED MEETING
RE-ORGANIZATION
JANUARY 3, 2011

(Meeting Start Time: 7:30pm – no new testimony after 10:30pm)

CALL TO ORDER – The January 3, 2011 Re-Organizational Meeting of the Township of Frelinghuysen Planning Board was called to order at 7:30pm.

ANNOUNCEMENT OF PROPER NOTICE – Notice of this meeting was provided by advertising in the NJ Herald and the Express Times, both official newspapers of the Township of Frelinghuysen Planning Board. This notice was posted in the Township Municipal Building in Johnsonburg. As advertised, action may be taken at this meeting.

FLAG SALUTE

ATTENDANCE

Board Members Present

K Bailey R Barrow Corvino (Alt) C Calcagne A DeCarolis
F Desiderio D Eitner R Randolph R Young D Zilberfarb

S Drylie, Past Secretary

Professionals

J Golden, Engineer M Lavery, Attorney D Jay, Planner

APPOINTMENT OF MEMBERS

Appointment of Secretary – A motion to appoint Rita Bernstein as Planning Board Secretary was made by A DeCarolis and was seconded by K Bailey. All in favor – none opposed.

Election of Planning Board Chairman – A motion was made to appoint Kevin Bailey to Planning Board Chairman. Roll Call: Mr. Barrow, Mr. Calcagne, Mr. DeCarolis, Mr. Desiderio, Mrs. Eitner, Mrs. Randolph, Mr. Young, Mr. Zilberfarb. All in favor – none opposed.

Election of Planning Board Vice-Chairman – A motion was made by Mr. Bailey to appoint Robert Young as Vice Chairman. Roll Call: Mr. Barrow, Mr. Calcagne, Mr. DeCarolis, Mr. Desiderio, Mrs. Eitner, Mrs. Randolph, Mr. Zilberfarb. All in favor – none opposed.

Appointment of the Planning Board Attorney – Mr. DeCarolis made a motion to appoint Mr. Michael Lavery as Board Attorney, and was seconded by Mrs. Eitner. All in favor – none opposed.

Appointment of Planning Board Engineer – Mr. Barrow made a motion to appoint Mr. Joe Golden as Board Engineer and was seconded by Mr. DeCarolis. All in favor – none opposed.

Appointment of Planning Board Planner – Mr. Bailey reiterated that the rates for Maser Consultants were remaining the same as last year. He had misread the dollar amount and he will clarify the rates. Mrs. Randolph questioned Ms. Jay's title. She said that she was a Project Planner and the rate is \$110.00, same as 2010. Mrs. Randolph also questioned the \$120.00 rate and that would be in what instance? Ms. Jay stated, for example, that if she was dismembered and couldn't make it to a meeting, then John Madden would show up and you would have to pay that rate for him. Mr. Bailey said being that this is now resolved do we have a motion to accept Maser

Consultants for our Planner? Mr. Desiderio made a motion to appoint Darlene Jay of Maser Consultants and was seconded by Mrs. Randolph. All in favor – none opposed.

Approval of the 2011 Meeting Calendar – A motion was made by Mr. Desiderio to approve the meeting dates for the year of 2011 and was seconded by Mr. Barrow. All in favor – none opposed.

Approval of the 2011 Meeting Time – A motion was made by Mrs. Randolph to approve the meeting time as 7:30 pm and was seconded by Mr. Desiderio. All in favor – none opposed.

Approval of the 2011 Meeting Place – A motion was made by Mr. Desiderio to approve the Planning Board meeting place as the Township of Frelinghuysen Municipal Building, 210 Main Street, Johnsonburg, Warren County, New Jersey, and was seconded by Mr. Young. All in favor – none opposed.

Approval of the 2011 Planning Board Official Newspapers – A motion was made by Mr. Desiderio to approve the NJ Herald and the Express Times as the official newspapers of the Planning Board, and was seconded by Mrs. Randolph. All in favor – none opposed.

CORRESPONDENCE

There was no correspondence to review.

MINUTES

The minutes from the December 30, 2010 meeting were incomplete since the date of the last regular meeting was close to the Re-Org meeting. A new secretary was in training. The minutes will be emailed to all the members prior to the February 3rd meeting.

DEEDS

There were no deeds for review or signature.

RESOLUTIONS

There were no resolutions for signature.

FINAL MAJOR SITE PLAN

McEvoy/Johnsonburg Inn – Site Plan – App306-08 - Block 1001, Lot 2

Mrs. Drylie indicated that they would be coming in with a request for an extension & that they are fine with their escrow account. Mrs. Drylie specified that this was their second extension request. Mr. Golden stated that this was preliminary not final. Mr. Barrow asked if there is a specific time they need to do this. Mr. Lavery stated that they can only get 2 (1) one year extensions on their preliminary & for their final, they could do certain improvements for which they are allowed to do. Mr. Lavery will confirm whether they would have to bond while pending the approvals. Their protection would be for them to come in to get final and then they will have to bond for whatever is not done yet and that's what they are trying to avoid. I believe they would only get 2 extensions, and if this the end of their second one, then the town can work with them. Mr. Bailey indicated that instead of being an exuberant amount of money they can minimize it down for how much the bond actually is. Mr. Lavery has seen it in other towns where the boards work with them, depending on what needs to be done and the amounts. He believes this was done in the past with the James Alexander Corporation. Mr. Golden feels the continuing debate with final site plan approval is what are the applicants required to bond – many times they bond the entire outside improvement not necessarily public improvements so that if they don't stop halfway and you don't have a graded parking lot with no asphalt or you have curbing with no paving etc...some towns make them bond the whole thing and then as you all know, the as built drawings are a part of the final approval which they never have, so that becomes a condition of the final approval, and that's always been a little gray. Mr. Lavery stressed the final approval is the toughest hurdle. You wouldn't be able to change anything from the preliminary to final unless it is health, safety & welfare. People

resist because they have to bond whatever is not completed yet. You can make recommendations and estimates. Mr. DeCarolis questioned the time period they would have. Mr. Lavery said under the statute you can get up to (2) twelve month extensions after you get your approval & he believes it's a difference of 3 years of protection on a preliminary and then there's a two year on a final. Mr. Golden pointed out that one is a subdivision and one is a site plan. Mrs. Randolph also included that one is a minor and the other, a major. It was mentioned if an extension is granted because of some other government agency holding the applicant up. If you make the applicant come back and file again, which under the law, the board would be required to do, you are putting everyone thru the exact process unless the zoning has changed. If the zoning hasn't changed, you would be approving the same application as before. Mr. Lavery stated that he will search that and confirm. Mr. Golden mentioned "tolling" of time – as often question as time doesn't toll until all of the conditions of the resolution are met and sometimes it takes them 2 years to meet those conditions. Mr. Lavery stated that one of the conditions, for instance, is the LOI – the DEP was dragging it out, they don't really have their approval until they get that condition fulfilled and that may be no fault of their own. Mr. Golden feels that's another gray area. So you couldn't penalize them while they are being held up by another government enforcing agency for whatever the reason. Mr. Desiderio questioned whether they talked about having them bond just for the public part. Mr. Lavery stated that yes, it may be that none of those improvements are public at all, and they are all on their site plan, and you may then say you don't think there is any bonding at all. Mr. Desiderio expressed they were having that same issue at the township committee level with the nursing home and their catch basin issues. Mr. Golden stated that was a different bond – a maintenance bond, being more of a performance bond. You usually try to hold them at a minimum landscaping – that's the part dictated by the board. Mr. Desiderio also asked if the professionals have to review anything now. Mr. Golden believes that you can do those without the professionals even being at the meeting. In other words, you won't have to hit the escrow – that's his opinion. Mrs. Drylie reminded everyone that a lot of people here tonight weren't on the board the last time. Mr. Golden expressed that in another town, when someone requested an extension because they hadn't maintained their soil erosion measures and were falling apart, we said to maintain the soil erosion measures if you want the extension and so that was the limit of the report; otherwise, there really wasn't anything to say. (Mrs. Drylie had asked a question for which I was unable to hear on the tape) Mr. Lavery stated how their preliminary would be protected and the only thing that can change that is unless it is health safety & welfare. The Planning Board can deny them finals but usually the courts will overrule. Mr. Golden made a point that things are going to change after March 11th as of that date, application rules come into play. In other words, if you want to do an ordinance, you probably should get it done by that date, because whatever is in place the day of the application will carry throughout the application. Mr. Lavery stated that the time of decision rule will be gone – which was the nice thing about the decision rule is that the government always had the upper hand because if somebody came in with a development application, that somehow, you know, no ordinance is ever perfect, they were going to build some horrendous thing that the town didn't want, as long as we had an ordinance in place before they received their approval, they were now stuck with that new law & they couldn't stick to their original plan. After March 11th, what's going to happen is once they file the application, they're almost vested with the zoning this is in place at the time, and if you change your ordinance, it won't impact that application. It's all about beating the clock. Mr. Golden mentioned about a situation with an animal testing facility. Mr. Lavery also mentioned where they put a check-cashing in the town as the ordinance couldn't get changed fast enough. The construction permit was issued. Mr. Bailey stated the concern about the McEvoy Site Plan was about the opening onto a county road. Mrs. Randolph mentioned that was already approved; however, Mrs. Eitner did say she had notes on that. Mr. Golden suggested that in order to satisfy their preliminary approval, they should have a certain period of time to meet those conditions. Mrs. Drylie did state that they haven't asked for finals yet. Mr. Golden reiterated that if we want to push them, and if they want an extension, we should have them satisfy the conditions by making sure their plans have been updated etc...

Angeleri/NW Properties –Minor Subdivision- App#08-02– Block 1201, Lot 17.06

Mr. Bailey asked where they were with their escrow account. Mrs. Drylie said that no professionals did work on that. Mr. Golden reminded the board that he did do work and gave an invoice, which is somewhat old. Mrs. Drylie knew they would be cleaned out and would need to replenish their escrow account. She has asked them to refill, but hasn't heard from them. The subdivision in question is located at the corner of Dark Moon Road and County Road 519. Mr. Bailey believes this is the property with the drainage problem.

COMPLETENESS

There were no new applications submitted.

EXECUTIVE SESSION

No Executive session was necessary.

SUBCOMMITTEE/ LIAISON REPORTS

OPEN SPACE

Mr. Bailey asked who was chairing that committee. Mrs. Randolph responded she was currently chairing and they were having their re-org meeting on Wednesday. Mrs. Randolph stated they received funding from the state & county for the Lee & Yang Property (uncertain if that is the correct name). Mrs. Randolph stated they are having a "Beware of Bear" Program next Monday night at 7:00pm – a representative from Fish & Game will be there to educate them on the wonderful black bears.

ENVIRONMENTAL

Mr. Bailey pointed out that this committee needs a chair and a liaison person. Mr. DeCarolis stated that 2 people recently resigned and he was possibly asking for a volunteer to sit on that committee. Mr. Lavery indicated that the Township Committee has to appoint the chair to the committee as it's a class 3 appointment, either C or B. Mr. Golden asked if anyone approached our newly appointed alternate member, Mr. Simonetti. Mrs. Eitner reminded the board that they didn't even have a quorum. Mr. Lavery stated that they would have to put someone on as per the statute. Mr. Zilberfarb cannot be on the committee as his wife is secretary. Both Mr. Bailey & Mr. DeCarolis asked if we could put this on hold until next month.

SITE COMMITTEE

Mr. DeCarolis will remain as chair/liaison and there was nothing to report.

RURAL CHARACTER/ WIND ORDINANCE

Mr. Bailey asked if Mrs. Eitner will remain Chair person. Mrs. Eitner did specify that she would have to back down as chair; however, she did ask if Mrs. Randolph will do that. Mrs. Randolph accepted that offer. Mrs. Randolph said they would need to discuss to have the Wind Ordinance back on the Rural Character as it wasn't on this month's agenda and was that something that was decided on? Mr. Bailey asked Mr. Lavery if both can be combined as one. Mr. Lavery stated it was and then it was separated as to his understanding, after a talk with Mr. Wacks, was they were split due to the interest in the Solar as opposed to the Wind Ordinances. Mrs. Randolph stated that taking the Ordinance itself, whether it was just wind or solar, from underneath the guys of Rural Character occurred last year. It had been Rural Character for at least a year prior to last January. Mr. DeCarolis stated that he didn't see any reason why it couldn't stay under Rural. Mr. Golden asked where would it be otherwise. Mrs. Drylie commented about the subcommittee list. She stated that when she did that, everybody wanted the ordinances to be followed thoroughly, so she broke them out separately. Both Mr. Bailey & Mrs. Drylie stated that technically, it was still under Rural Character. Mrs. Randolph questioned the non-conforming ordinance was never listed separately and that it was an ordinance that was being followed up at one point. Mrs. Drylie confirmed and stated that it was Mrs. Randolph who requested to put them together. Discussion had been made as to who were the board members and that Mr. DeCarolis thought he was an alternate to that committee. Mr. Bailey requested that they should try to get that finalized – something that everybody can agree on so they can bring it before the Township Committee. Mrs. Randolph stated that they held back on the Wind part because the Solar was a concern at the time and that has gone through now. It was under the impression that the Township Committee has approved that but kept it open to be readdressed for a continue review. A discussion about the asterisk section of the ordinance was being reviewed. Mr. Desiderio stated that it was questionable as to how much can be sold back. There was a discussion as to the residential agricultural zoning. Mr. Desiderio was surprised by the comment made as to if they were against solar power and thought that was ridiculous. If the ordinance is revisited next year, and changes need to be made, it must come back to the Planning Board. Mrs. Randolph confirmed that but it never came back to the board. Mr. Bailey said the board has 30 days to review from the time the board gets it. Mrs. Drylie stated it never came back to the board. It appears that there are words being misinterpreted. Mr. Lavery indicated that anytime there is a change in

the ordinance other than a Scribner's error, it should come back to the board. Mrs. Randolph seems to think it's something that has caused confusion – different people are interpreting that statement differently. Mr. Desiderio said that he would speak to Brenda, the Town Clerk, to see about it getting back to the board. Mr. Bailey wants it to be known that there is a problem with that and it needs to come back to the board so they make corrections. (There was individual discussions carried on) Mr. Lavery stated that all's he knows is that it should come back to the board for a 30 day review and if it doesn't come back to the board, the Township Committee can adopt it.

FARMLAND

Mr. Bailey asked Mr. Young if he was staying on as chair/liason and he confirmed.

OUTDOOR BOILERS

Mr. Bailey asked Mr. Golden if he would get the ordinance typed up. Mr. Golden confirmed and that it would be emailed to everyone well in advance of the February 3rd meeting. Mr. Bailey said we will carry that over.

ROUTE 94 ZONING

Mr. Zilberfarb reported that nothing has happened since probably October, when they last met, that everyone was understandably busy, and had no information at this time. Mr. Bailey requested we get something moving on this and try to put this to rest as quickly as possible. It's been carried over for a long period of time. Mr. Zilberfarb stated that they would need to collect some of the time usage what was allowed there and go back to the original zoning laws...basically, we need more time to do homework on this and meet once again. Mr. DeCarolis stated that another thing was floating around was that they were trying to get part of the Township property put in on either side of Route 94 as part of the zoning ordinance. There had been some discussion as to zoning both sides of the road and also about the one piece – the 50 acre piece. It was also discussed about the restrictions on architecture. (There was a lot of laughter and chatter about the "trailer park" aka: charter school) We will carry this over once again.

VACATED/ABANDONED ROADS

There was no discussion on this.

DISCUSSION OF BUDGET 2011

Copies of the 2008/2009/2010 budget were given to all the members. Mr. Bailey asked Mrs. Drylie to explain the content of these. Basically, this does not list the escrow accounts. This is general planning invoices & billing statements that were submitted by the professionals. Escrows are totally a different thing. Mr. Barrow seems to think that 2010 looked terrific; however, Mrs. Drylie reminded the board that a lot of meetings were cancelled. Mr. Bailey reiterated that there was nothing going on but the ordinances. He did request that each subcommittee should report into Rita to let her know what is going on and if you had to present something, we should keep it moving along, but he doesn't want to drag people out if it's not necessary. Everyone's time is valuable and it's appreciated, but if we don't have to drag out the professionals, we won't want to, as all budgets are tight. Ms. Jay confirmed. Mr. Bailey stated he would have a copy of the proposed budget for everyone at the next meeting so that they can look over the dollar amounts and if there are any questions or concerns, it will be available. Mrs. Randolph asked what was budgeted on an average per Ordinance. There was a discussion as to a number amount per ordinance and if \$2500 was enough for everything including the advertising and support. Mrs. Drylie indicated the amount that was left over; however, that cannot be carried over to the next year. Mr. Bailey stated that there could be some outstanding bills that weren't paid and lingering bills out there to take in consideration of that amount left over. Mr. DeCarolis thought the board asked for \$15,000 and got \$12,000.00 last year. Mrs. Randolph thought you may want to add in some seminars and classes that members need to take. It was recommended to ask for \$20,000.00 this year. Mr. Barrow wanted to know what the expenses for the board in 2010 compared to 2009 & 2008 were. Mrs. Drylie said that she would ask Gene, the CFO for those numbers. Mr. Bailey stated that he needed to make some calls and find out cost of the courses to justify his numbers. Also he would check into the League and the courses that are done in Atlantic City. Mr. DeCarolis stated that he thought they were pretty reasonable; however, the member would have to pay for their own lodging etc.... Mr. Bailey thought he would just like to try to get some extra opportunities in there for the board members. Mr. Golden reminded the board that the Master Plan ordinances and

that these, in particular, will need consistency review – so don't underestimate your budget. Mrs. Randolph asked when is the master plan up for re-exam? Mr. Bailey reminded everyone to keep that in mind and some money will be required for that. Apparently, there may be some sort of a grant to cut the cost. There was a similar situation with Andover and that Mr. Golden will research and get back to us but he believes they got a very nice package.

VOUCHER SYSTEM

Mr. Bailey indicated that all vouchers & PO's should be reviewed and that we wouldn't hold up the vendor. It's just that someone needs to be aware of the checks and balances. Mr. Golden would like to see the escrows and feels more confident to have it all out on the table as representing your taxpayers in his opinion. Mrs. Drylie stated that everything is kept in the planning board/construction office file cabinet and is there for anyone to review. Also, all invoices are kept in the computer. Mr. Lavery expressed that if someone were to complain, there was a procedure in place and they would have to go to the construction board of appeals; however, it wouldn't be a bad idea for a member of the board to review the invoices or get a procedure in place before they go out. Mrs. Drylie stated that the new secretary, Rita, wouldn't be doing them until she gets familiar and that responsibility will stay with the CFO at this time. There was a question as to whether Brenda should make those copies. Mrs. Drylie reiterated that they have to be submitted a certain time and that the board has been slow with meetings being cancelled and all that would hold up payment. Mrs. Eitner feels the board has an issue with this and this is something that should be made aware of. Mr. Lavery suggested that when the escrow gets billed, the applicant gets the bill and know the proper procedures. It's up to the applicant to take action. Please don't take on this additional burden – you can list them, but copies aren't necessary. Mrs. Eitner stated just put them in a list and title it FYI. Mr. Golden expressed his opinion by stating that all the invoices should be in a file and pass them along to each member or to anyone who wishes to see them. Mr. Bailey stated that he will stop into town hall to review them for payment, especially if a meeting gets cancelled. If there is a RED FLAG, he will notify the board. Rita will have to speak to Gene about this. Mr. Desiderio wishes to see them. Mrs. Drylie assured this board doesn't have this problem and that she's kept on top. It will be up to Rita to continue this process. Mr. Lavery feels this is information that must be shared between the CFO and the Board Secretary. The board professionals who get their invoices in right away get paid. Mr. Golden feels that the professional contract with the board and that it's not the applicant's responsibility (no escrow/no payment) the board must stay on top of the applicants' escrow. Mr. Bailey assured the board that if he sees a problem with escrows, he will bring it to the attention of the board. Mr. DeCarolis wish is to review all the bills so that they will get paid accurately and mentioned of someone who got paid twice and was honest about it – all resolutions should be checked, the conditions etc...all fees must be paid. Mr. Golden stated that you can't hold up the application if the escrow is not paid. Mr. Bailey stated that they will put a procedure in place and wish to move on. (There was a lot of chatter and commotion on the tape) Mr. Bailey wanted to go onto public comment portion of the meeting.

PUBLIC COMMENT

There was no public comment at this time. Mr. Desiderio made a motion to close the public portion and was seconded by Mr. DeCarolis.

Mr. Bailey thanked all the professionals and they returned the thanks.
Mr. Bailey welcomed Rita Bernstein aboard.

ADJOURNMENT

A motion to adjourn was made by Mr. Desiderio and was seconded by Mr. DeCarolis. This meeting adjourned at 8:45pm.

Respectfully submitted,