

**TOWNSHIP OF COLTS NECK
PLANNING BOARD MEETING
MAY 8, 2007 MINUTES**

The Chairman called the meeting to order by reading the following statement: “As Chairman and Presiding Officer of this meeting of the Planning Board, I hereby declare that the notice requirements of the law have been satisfied by prominently posting on the Township bulletin board a notice of this meeting, and that there has been transmitted by regular mail a notice to the Asbury Park Press and that a copy is on file in the Office of the Township Clerk. I further order that this public announcement be placed in the minutes of this meeting.”

Salute the Flag

Roll Call

Present: Barbagallo, Malinowski, Stuart, Hennessy, Kostka, Orgo (five minutes late), Robinson, Lear and Eastman (five minutes late)
Absent: Crossan and Thompson
Also Present: Timothy Anfusio, P.P., Glenn Gerken, P.E., Mike Steib, Esq., and Ruth Leininger

Approval of Minutes:

April 10, 2007 Minutes Approved:

OFFER: Hennessy

SECOND: Stuart

AFFIRMATIVE: Barbagallo, Stuart, Hennessy, Kostka and Robinson

NEGATIVE: None

RESOLUTIONS:

Application PB637 – Furman – Block 33, Lot 7.01 – Muhlenbrink Road

Memorialization of Resolution granting Preliminary Major Subdivision approved for a two lot subdivision in the A-1 Zone.

Motion to Memorialize the Resolution:

OFFER: Robinson

SECOND: Kostka

AFFIRMATIVE: Barbagallo, Stuart, Hennessy, Kostka and Robinson

NEGATIVE: None

Application PB647 – Gerhard/Due Process Golf Club – Block 51, Lots 2 & 2.21 – 2 Deputy Minister Drive

Memorialization of Resolution granting Minor Site Plan approval to install a tennis court and dismissing the Minor Subdivision application without prejudice in the AG Zone.

Motion to Memorialize the Resolution:

OFFER: Kostka

SECOND: Stuart

AFFIRMATIVE: Barbagallo, Stuart, Hennessy, Kostka, Orgo, Robinson and Eastman

NEGATIVE: None

ADMINISTRATIVE ITEMS:

None

OLD BUSINESS:

None

NEW BUSINESS:

Application PB633 – Clemente/Colts Neck Township – Block 10, Lots 9.01 & 9.06 – Western Drive

Application for Deviation to Minor Subdivision with Variances to amend Special Condition No. 4 of the Resolution of Approval and waive the requirement to place greenway markers along the Conservation Easement. Applicant also requests a one year extension of time to the Minor Subdivision Approval. The extension will begin on September 20, 2006 and expire September 20, 2007.

A letter was received from the applicant's attorney stating Mr. Clemente is requesting this application be dismissed without prejudice.

Motion to Dismiss the Application Without Prejudice:

OFFER: Hennessy

SECOND: Kostka

AFFIRMATIVE: Barbagallo, Malinowski, Stuart, Hennessy, Kostka, Orgo, Robinson and Lear

NEGATIVE: None

Application PB629A – Flancbaum – Block 33, Lot 20 – Route 537 East

Application for Final Major Subdivision Approval to create five lots in the A-1 Zone.

Mr. Steib, Esq. stated that this is an application for Final Approval and notice is not required. Ten items were marked as exhibits – application, final plat major subdivision, letter from Sal Alfieri, Esq., Architectural Review letter, Board of Health report, Environmental Commission report, Township Planner's report, Township Engineer's report, record drawing and a revised record drawing.

Sal Alfieri, Esq. represented the applicant. A.J. Garito, Engineer – sworn. Mr. Garito explained the Board previously gave preliminary approval for this application. The only variations that they are seeking is to use a low marker instead of a lolly column on Lot 2.04 so that the grass can be mowed and for Mr. Flancbaum to be able to continue to live in the existing home while constructing the four houses. One of the homes will be for Mr. Flancbaum, after he moves into the home he will demolish

the existing home. Morris Flancbaum, applicant – sworn. Mr. Flancbaum agreed to post a bond for the demolition. Open to the public with no comments.

The Board felt using the lower markers on Lot 2.04 around only the detention basin was a reasonable request, however they had concerns allowing all homes to be built prior to the demolition without some type of restrictions. The Board wanted to be fair to the applicant however they wanted to protect the interests of the Township. After much discussion it was agreed that the house must be torn down within five years or prior to the issuance of a permanent C.O. for the third home.

Motion to Approve the Application:

OFFER: Orgo

SECOND: Kostka

AFFIRMATIVE: Barbagallo, Malinowski, Stuart, Hennessy, Kostka, Orgo, Robinson , Lear and Eastman

NEGATIVE: None

Application – PB652 – John Kling Custom Homes – Block 11, Lots 3.03 – 3.10 – Mockingbird Drive

Application for a Deviation to Final Major Subdivision Approval to amend Condition No. 11 of the Resolution of Approval to dissolve the Homeowners Association and assign the detention basin and landscape berms maintenance responsibilities to the owners of Lots 3.03 and 3.10.

Sal Alfieri, Esq. represented the applicant. Nine items were marked as exhibits – application, Statement of Purpose, subdivision plans, Resolution for subdivision, Architectural Review comments, Board of Health comments, Environmental Commission comments, Township Planner’s review letter and Township Engineer’s review letter.

Mr. Alfieri explained this subdivision was created in 2000 with a condition of approval that a Homeowners Association be created for the maintenance of the detention basin. The Homeowners Association was created however it was not filed on the individual deeds and none of the owners were aware of this. Mr. Kling owns three lots, including the one with the detention basin on it. He would like to dissolve the Association and have Lots 3.03 and 3.10 be responsible for the maintenance.

Mr. Anfuso had concerns because there are new Stormwater Management Regulations that prohibit the responsibility from being assigned to an individual homeowner. Although this subdivision was created prior to this regulation he felt the exemption period had expired and Mr. Steib, Esq. concurred. Mr. Gerken stated the applicant could apply to the NJDEP for an exemption or waiver from the DCA for a determination of de minimis exception.

John Kling, applicant – sworn. Mr. Kling stated he bought three lots from a realtor and never knew of the homeowners association until one of his clients was reviewing old Planning Board meeting minutes discussing the subdivision came across this information. None of the current property owners were aware of the Association and they have all signed consent for it to be dissolved. Mr. Kling said that nothing was being maintained so he has been doing so since he purchased the lots. He is trying to fix the problem before lawsuits start flying.

The Board admitted this was a unique problem that will likely cause many law suits, but felt it was clearly written in the Stormwater Management Regulations that the maintenance could not be assigned to an individual homeowner. They did agree however, that if the applicant could get an exemption from the NJDEP or a waiver from the DCA they had no problem with the allowing the Homeowners Association to be dissolved and assign the detention basin and landscape berms maintenance responsibilities to the owners of Lots 3.03 and 3.10.

Motion to Approve the Application:

OFFER: Malinowski

SECOND: Stuart

AFFIRMATIVE: Barbagallo, Malinowski, Stuart, Hennessy, Kostka, Robinson, Lear and Eastman

NEGATIVE: Orgo

DISCUSSION:

None

MOTION TO ADJOURN

A motion to adjourn was made by Mr. Stuart at 9:40 p.m. and this was seconded by Mr. Orgo and unanimously carried.

I hereby certify that the above is a true and exact copy of the Planning Board Meeting minutes for the meeting conducted on May 8, 2007 adopted by the Planning Board of the Township of Colts Neck at its meeting held on June 12, 2007.

Ruth Leininger, Secretary
Planning Board of the
Township of Colts Neck of Colts Neck