

**WALL TOWNSHIP PLANNING BOARD  
MINUTES - REGULAR MEETING  
MUNICIPAL MEETING ROOM  
DECEMBER 7, 2009**

Vice Chairman Luttmann called to order the regular meeting of the Wall Township Planning Board at 7:35 P.M. Members present were Ralph Addonizio, Michael Clayton, Tim Clayton, Dominic DiRocco, Timothy Farrell, Mary Hearn, Todd Luttmann, George Newberry, first alternate Kristin Coman, second alternate George Bednarski, Attorney Hirsch, Engineer Rooney, Planner Bergailo, Planning Board Secretary Lang, Planning Board Recording Secretary Schinestuhl and Court Reporter Arnone. Member Aromando was not present.

Vice Chairman Luttmann announced the meeting was being held in accordance with the “Sunshine Law” and a resolution adopted on January 12, 2009.

**SALUTE TO THE FLAG**

Chairman Luttmann explained the only thing on the agenda for this evening is the Amendments to the Housing Element and Fair Share Plan. He said Attorney Surenian will give us an overview of the amendments. We have had several meetings on the Mount Laurel Plan over this year. We have a CCAH committee that has reviewed this with the Township Committee and we are now at the point to approve the amendments.

Attorney Surenian explained COAH adopts regulations. In December 2008 the Township had to adopt and finalize their plan. Wall Township’s plan went through changes. The CCAH was kept in the loop so they would know what the thinking was. We are at a point where we have an amended Fair Share Plan that makes sense for the town at this time. It does not mean we can’t change it again. They permit phases. It allows you to meet your responsibility. We have to make sure we do what we need to do in Phase I.

Attorney Surenian explained we are at a time of great change. The regulations that COAH adopted in 2008 have been litigated. Last Tuesday there were oral arguments. These rules can change. There will be a new governor in January. He has made certain statements regarding his view on this. He will make some changes. It is important that we move forward. It is important to show our good faith.

Ms. Bergailo explained the proposed amendment to the plan adopted last December. The Hurley Pond Road and West Hurley Pond Road sites were removed. That was a major amendment to this plan.

Ms. Bergailo explained we finished meeting our 1986 – 1999 obligations but there is a three unit gap. The developer did not complete the project. The Atlantic Manor site will give us 36 units. We need three to fill the prior gap. She explained the Township needs one unit for every 16 jobs created and one unit for every four dwelling units co’d. According to State information there are 126 units accrued. This plan satisfies the obligation of 126 units.

Ms. Bergailo explained this plan started the obligation of 126 units. We are carrying forward credit from Atlantic Manor and Habitat. Habitat is built and occupied. Colfax is an existing project. Sunnyside's approved plan gives eight units. There is also the extension of expiring controls at Bearmore Mobile Home Park. That would be 37 credits. The last project is the Holly Blvd. site which has 150 units.

Ms. Bergailo also explained we don't know the timing because we don't know how growth will go. The Olympic site is 100% affordable, 50 rental units. The Schwartz site would also be 100% affordable. It would contain 213 family rental units. Those sites would be used if needed. The Wyckoff Road site would be 100% senior affordable units. It would contain 35 units. This would be used only if necessary.

Mr. Farrell said he is confused about the units. Ms. Bergailo explained the first plan contains 258 credits and one unit from Habitat. There will be 33 carry over from Atlantic Manor and 33 carried over rental from Atlantic Manor, 25 units at Colfax, eight units at Sunnyside, 37 units with the extension at Bearmore and 150 at the Holly Blvd. site.

Mr. Farrell asked when are we going to have to build these. A lot of them are already built. Mr. Luttman asked what is the time frame that this needs to be done in. Ms. Bergailo said the time frame is between 1999 and 2018. They do an evaluation every two years. If this was approved by the court seven months from now they would have to be ready to be constructed within two years and seven months from then. After the two years and seven months there is another evaluation and every two years after that. The courts will monitor you.

Mr. Farrell said Phase I we have to build 183 units, 35 at Atlantic Manor and 150 at the Holly Blvd. site the rest exist. Ms. Bergailo said Sunnyside will also be constructed.

Ms. Bergailo said she tried to get credits where things were constructed. We did plan for the Colfax 26 units. They are already constructed. The Bearmore already exists. The Olympic site, Schwartz site and Wyckoff site they would all be new construction.

Deputy Mayor Newberry said the Sunnyside is a larger project but eight will be set aside for COAH. Ms. Bergailo said correct. We get credit for eight beds in the assisted living.

Attorney Surenian said there are sites available to us. Sites will be available to be built sooner than later. The Holly Blvd. site is for seniors. Mayor Clayton said there would be no impact on our school system.

Mr. Luttman explained the Planning Board is now being asked to approve an amendment to a plan under rules that may very well change. Attorney Surenian agreed. In the event the law changes we would be in a position to make changes.

Mr. DiRocco said the builder's remedy lawsuit is what we are concerned about.

Attorney Surenian said the court has an expert to oversee the process. In this case it is the Master. The Township works with the Master showing the plan, where we are at and where we are going.

The meeting was open to the public.

Timothy B. Middleton was sworn. Mr. Middleton said he owns property throughout the Township. He said he has a number of questions. Did the Master make a decision? Attorney Surenian explained the plan we submitted went through changes. The Master is waiting to see the amended plan.

Mr. Middleton said his property has been withdrawn. He asked what the process is. Attorney Surenian explained the process is we had a plan and you asked us to consider your site and it was decided that it was not a good site.

Mr. Middleton said it is the process he disagrees with. DEP has issued an opinion that the Schwartz site has sewer issues. Attorney Surenian said there are issues. DEP issued a letter in March 2009 and July 2009 that raised questions about the Schwartz site.

Mr. Middleton asked Attorney Surenian to describe the issues. Attorney Surenian said whether the sewer was going to cover the site. The Schwartz site is in the sewer service area now. I think those issues can be overcome. DEP indicated that parts of that site would meet approval.

Mr. Middleton asked if the Master knows all the problems regarding the site. Attorney Surenian said he has been notified.

Mr. Middleton asked if the Judge is aware of the fact that the site may not be in the sewer service area. Attorney Surenian said he indicated to them that we were having a problem with the Schwartz site. Most of my dialogue is with the Master. We are trying to overcome the issues and that is why it is on the backend of the plan.

Mr. Middleton said when will you get an answer from the DEP. Attorney Surenian said we have years for that because of the phasing.

Gale Quinn 4001 W. Hurley Pond Road was sworn.

Ms. Quinn said she doesn't think this plan is perfect. People are up in arms as to what is going to be placed on the tax bills. It took one year for the Committee, Planning Board, Attorney Surenian, and Cheryl Bergailo to come up with an acceptable plan much better than the one of 2008. I like phasing. I know there are problems with all areas. Can we wait to see what Governor Christie will do? He may lessen, eliminate it or hold it in abeyance. We can't wait. It is the best we can do at this time. I like the idea of seniors going first. I am a taxpayer and I would like to see it done as cheaply as possible. This is such an improvement over the plan of 2008. It can also be improved in the future.

Gary Schechter was sworn. Mr. Schechter said he is the contract purchaser for the Schwartz property. It is a long process. It goes back to 2005. He said in a way he questions why he ever got involved. In 2005 he submitted a plan for a family rental development. 37% would be for COAH. The property is owned by Schwartz. Attorney Surenian asked me to come in and said the Township is interested in developing the property. It was going along until the letter from the DEP. The Engineer went out to Trenton. He was given a LOI. The letter that came in March 2009 was contrary to what was issued in 2007. It has been a year since the original plan had been filed.

Mr. Schechter asked if there should be an environmental study done on Holly Blvd.? Ms. Bergailo explained there was an approved development on that site for assisted living facility in 2001. We are relying on the approvals of that time. This site shows no limitations, a little wetland area. It is a small area.

Mr. Schechter said have you been on the property. Are there any drainage problems, no swales. Ms. Bergailo said so far as I know no problems.

Attorney Hirsch said that was a fully engineered site plan. There were issues about erosion. Lots of time was spent in coming up with a plan that would eliminate a bad situation and a lot of time spent on the drainage issues. This was a fully engineered site. Our engineer submitted reports. They would also have to meet the current regulations.

Attorney Surenian said we also had our planner and engineering department take a look at the site. There was a written report. Mr. Zahorsky looked at the site and he concurred.

Mr. Rooney said his firm has been involved in looking at the site. He said they have done some field inspections. In 2001 LOI isolated wetlands in the rear of the site. We looked at it and it is the same as it was in 2001. There is a drainage swale which we believe could be problematic. We have met with DEP and told them our findings. They indicated they would send someone out to the site. The site is okay to develop.

Mr. Schechter asked what happens if this is not full proof. Attorney Surenian said we would have to make up the units.

Mr. Schechter asked when are you going to go back to see the Judge. Attorney Surenian said he filed this week.

Mr. Schechter asked how many times do you get to change the plan. Attorney Surenian said there is latitude in the court to allow changes.

Mr. Schechter asked when will the Schwartz property be used 2014? Attorney Surenian said he doesn't recall but it is in the last phase of the plan. Ms. Bergailo said 2017.

Mr. Schechter said he is not going to sit around until 2017 to see if you are going to buy the property. If we can't do anything in the short time do not count on this site being available.

Attorney Surenian said he has no authority. He said he asked Mr. Schechter to write a letter and tell us what his proposal is. I can't make the decision.

Mr. Schechter explained after the plan was introduced in 2008 correspondence went back and forth. A developer's agreement went to Mr. Surenian and a reply was never given. An application would already have been before this Board. We would have made application immediately to DEP and this would not be an issue. Because of stalling no developer's agreement was signed and you allowed DEP to run over you.

Attorney Surenian said a letter was written asking for your best offer and no offer was put on the table that made any sense to the Township.

Sharon Larson was sworn. Ms. Larson said she was trying to stay on top of things. She has been attending the meetings. She said she was not at the most recent meeting where it was decided Holly Blvd. would be developed first. She said she is disappointed. You are doubling the size of the traffic on Ramshorn. Traffic is bumper to bumper and it is a winding road. It is not made for this type of traffic.

Mr. Vertis 1906 Hunters Lane was sworn. Mr. Vertis asked what happens if we don't meet the deadline. Attorney Surenian said if you have not started construction you may look at builder's remedy lawsuit.

Richard Smith Megill Road was sworn. Mr. Smith said the neighbors agreed against this. Wyckoff will be the last to be built and the first to be removed if possible. He read a statement. This is an inappropriate site and he asked it be removed.

T. Querns Belmar Blvd. was sworn. Mr. Querns asked about businesses going under. Are there any adjustments being made regarding businesses going under? I see growth going the other way. I see vacant buildings all over town. Ms. Bergailo said only if a building is demolished.

Attorney Hirsch said the attorneys have been trying to fight this. Those laws don't make sense but it is the law.

Attorney Surenian said if these stores remain vacant for at least a year we may be able to fight it. The way the laws are now we have to just move forward.

John Iannelli 2007 Tally Ho Drive was sworn. Mr. Iannelli said in the last two years there have been changes in our economy. Does COAH take any of this into consideration? I am upset and concerned about this. Attorney Surenian said we are litigating the liability of these rules. Wall Township's growth is not accurate. We are waiting to hear from the court.

Jason Menges 1608 Walton Way was sworn. Mr. Menges said in the last plan we identified sites. In this plan we are looking at an amendment. Attorney Surenian explained this is the amended plan. It shows the first phase and subsequent phases.

Mr. Menges asked once we amend the plan and identify the locations for the second and third phase does that limit our ability in the future to amend the plan. Attorney Surenian said there are very clear disclaimers in the plan. We are doing what we need to and we have given thought to how we are going to approach the other phases. Mr. Menges said the way you say it we have a lot of flexibility. Attorney Surenian said we are thinking through the first phase. We have a right to change our mind.

Mr. Menges said we have immunity now. He asked if this step we are taking tonight is necessary. Is there some type of deadline? Attorney Surenian said we are moving forward in good faith. Our concern is the court. This plan also has flexibility.

Mr. Menges said why do this now and not in a few months from now. Attorney Surenian said we have to keep moving forward.

Ms. Bergailo explained we keep track of every single credit we can get. We keep track of demos, etc. All that will be presented to the court.

Christine Hummel asked when she turns 65 can she get COAH. Attorney Surenian said if you are low income.

Robin Cervantes was sworn. Ms. Cervantes said she is a CCAH member. We had nothing to do with putting Holly Blvd. on because it was always in the plan and we did not put it first.

Ms. Cervantes said if there is a wetland issue would there be some problems with the site. Mr. Rooney said it would not impact the development.

Ms. Cervantes said we are pretty close to buying this site, before the end of the year? Attorney Surenian said yes.

Ms. Cervantes said you are going forward and buying a site that may not be needed. Attorney Surenian said COAH has come too far. I don't think it is going to go away. There is a need for affordable housing in this State. I think in a year there is going to be changes but it is important to go forward.

Ms. Cervantes said the plan was always to put Holly first. Attorney Surenian said the phasing was a logical development. When we did the plan in December 2008 we did not plan on getting that letter from DEP. We think there are issues we can overcome. Holly is a fully engineered site. We have a lot more confidence that Holly is real. It is logical to move it to the front.

Mr. Schechter said he received an e-mail from DEP. It appears there is a portion of the site that can be developed. There is a letter that has been written.

Clint Hoffman was sworn.

Attorney Hirsch said he felt there was no problem with Committeeman Hoffman speaking at the Planning Board meeting.

Committeeman Hoffman said regarding Holly Blvd., the price, 1/3 of it is monetary in form of a tax credit. It is a very good purchase price. If anything changes they can take that piece of property and make a profit on it. It will no longer be available after December 2009. All the properties in the plan are in the 2008 plan. Some have been removed. We have not added any new properties to the plan.

The public portion was closed.

Deputy Mayor Newberry thanked the Planning Board for their indulgences. It is vital issue. He said hopefully Governor-elect Christie will give us some adjustment but we have to move forward. He thanked the public. He said he does understand all of their concerns. Holly being a senior site is a good step for this plan.

Deputy Mayor Newberry told what happened in Hazlet when their Planning Board denied their plan. It was met with a round of cheer by the residents. Then the Judge finalized the builder's lawsuit. The development went triple in size. The 25% of open space is now low income housing. That is what we don't want to happen in Wall Township moving forward is a positive thing.

Mr. Farrell said he thinks things will change. He wants to thank Attorney Surenian. He put up with a lot and he did a fine job.

Mayor Clayton thanked everyone involved with this process. There were a lot of hours and meetings put into this plan. Everyone is concerned. He said he moved to Wall because of the open space and we don't want to take that away. We put together the best plan we could.

Mr. DiRocco moved to approve the Housing Element and Fair Share Plan. Deputy Mayor Newberry seconded the motion, which was unanimously approved by a roll call vote. (Messrs. DiRocco, Newberry, Addonizio, M. Clayton, T. Clayton, Mrs. Coman, Mr. Farrell, Ms. Hearn and Mr. Luttmann voted yes.)

Attorney Hirsch said the Board has to memorialize the resolution. He read the resolution.

Mr. DiRocco moved to adopt the resolution as read. Mr. Farrell seconded the motion, which was unanimously approved by a roll call vote. (Messrs. DiRocco, Farrell, Addonizio, M. Clayton, T. Clayton, Mesdames. Coman, Hearn, Messrs. Newberry and Luttmann voted yes.)

Mr. Luttmann thanked the public, Attorney Surenian and Ms. Bergailo.

There being no further business to come before the Board, a motion was made, seconded and unanimously approved to adjourn the meeting at 9:30 P.M.

December 7, 2009

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Respectfully submitted,

Betty Schinestuhl  
Recording Secretary