

**MONTGOMERY TOWNSHIP PLANNING BOARD  
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY  
REGULAR MEETING  
JUNE 2, 2014**

Chairman Conforti called the meeting to order at 7:35 p.m. and read the opening statement that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

**BOARD MEMBERS PRESENT:** Chairman Conforti; Vice Chairman Matthews; Ms. Davis; Mr. DeRochi; Mr. Sarle; Mayor Smith; Mr. Trzaska; Mr. Wilson, Mr. Glockler, Alternate #1

**ALSO PRESENT:** Mr. Linnus, Board Attorney; Mr. Cline, Board Engineer; Ms. Coppola, Board Planner; Mr. Bartolone, Board Landscape Architect; Ms. Savron, Secretary

**I. SALUTE TO THE FLAG**

**II. PUBLIC COMMENT**

There being no public comment, a motion to close the public comment period was made by Ms. Davis and seconded by Mr. Sarle. The motion carried unanimously.

**III. RESOLUTIONS**

**Case PB-01-14                              Applicant: Princeton Aero Corporation**  
Block 34001 Lot 57  
Submission Waivers Associated with an Amended Site Plan Application

A motion to memorialize the resolution was made by Mr. Sarle, which was seconded by Mr. DeRochi. This was carried on the following roll call vote:

Ayes: DeRochi, Matthews, Sarle and Conforti  
Nays: None

**Case PB-03-14                              Applicant: Sharbell Building Company, LLC**  
Block 28003 Lots 59, 60, 61, 113, 117, 142, 144, 145, 147 and 156  
Amended Preliminary and Final Major Subdivision with Variance

A motion to memorialize the resolution was made by Mr. Sarle, which was seconded by Vice Chairman Matthews. This was carried on the following roll call vote:

Ayes: DeRochi, Matthews, Sarle and Conforti  
Nays: None

**IV. APPLICATIONS**

**Case PB-04-14                              Applicant: Belvedere Homes, LLC**  
Block 6001 Lots 39 & 40  
Final Major Subdivision – Phase I  
Expiration Date: 7/31/14  
Affidavit of Notification and Publication Required

Notice was in order. Richard Schatzman, Esquire represented the applicant. Mr. Schatzman explained that the application is for final but there are amendments to the preliminary. Preliminary approval was granted on March 13, 2006 but the project could not be built until the Pike Brook Plant was upgraded. There is now a phasing plan, some minor grading plan changes and a request to change one aspect of a previous Board Engineer review memo. There are two "C" variances; one for the height of three dwellings and one for the setback of the temporary construction sign. The property is within the R-2 zone but under Footnote 7 of 16-4.2d the R-1 standards apply.

Cyril Kucera, 500 State Road, was sworn in. Mr. Kucera gave his qualifications and was accepted as an expert engineer. Mr. Kucera referenced a plan showing the 17 lots which was marked Exhibit A-1. The plan was colored to show the first phase which consists of six residential lots and one detention basin lot. The previous Board Engineer wanted the metes and bounds descriptions of the wetlands which the applicant is seeking relief

from. The previous engineer requested a chart describing the courses and ties for the wetlands. A conservation easement has been filed with the DRCC and with the DEP to protect the areas. The wetlands are within the easement areas so there is no need to provide the metes and bounds for the wetland areas.

Mr. Kucera referenced a location plan and three views with a superimposed berm which was marked as Exhibit A-2. The proposed berms are the main change to the grading plan. The subdivision was approved in 2005 and the existing treatment plant was further back on the Township lot. The treatment plant expansion was done towards the subdivision. The plant sits on high ground and the applicant is trying to screen the treatment plant. The applicant will work with Mr. Bartolone on the type of screening; it will not be White Pines. Ms. Coppola noted in her memo the concern with the berm on the residential lot (40.03) and the impact it would have on the rear yard area and she suggested an 8' fence instead. Mr. Kucera responded that there would be almost no screening with an 8' high fence.

Mr. Kucera discussed the other grading changes. He marked a grading sheet from the set of plans as Exhibit A-3. There are 3 lots which are part of Phase II whose terrain is sloping toward the stream. At the time of preliminary, the applicant was requested to preserve the existing trees in the area. In order to protect the tree line the best solution is a walkout basement type house. Saving the trees by providing the walkout basements and raising the height of the 3 houses outweighs any detriment of the height variance.

Mr. Kucera discussed Exhibit A-4 which shows the three variance lots. The plan shows the elevation of the houses and how they will look from the street. The dwelling height on Lot 40.06 will be 37.05', on Lot 40.07 it will be 36.69' and on Lot 40.08 it will be 36.75'. The variance request will be amended from 3' to the calculations on Exhibit A-4.

Mr. Kucera discussed the grading change at Montgomery Park and referenced Exhibit A-3. The entrance to the subdivision is at the bend on Harlingen Road. The applicant is re-grading the corner of the park property to help with the site distance. Three trees will be removed and the area will be slightly leveled. The DEP Green Acres Program approved the improvements.

Mr. Glen Huttar, 184 Harlingen Road, was sworn in. Mr. Huttar confirmed that there is poor sight distance on the curve.

Mr. Kucera referenced the plan showing the intersection of the proposed new street and Harlingen Road which was marked Exhibit A-5. The plan shows the proposed re-grading as well as the temporary sign location. The ordinance requires the sign to be placed 15' from the right-of-way. In this area the right-of-way is 33' and they are dedicating land for the future 54' right-of-way. If the sign was placed 15' from the dedicated right-of-way it would not be visible due to the topography of the site. The proposal is to have the sign 1' from the proposed right-of-way line. Mr. Schatzman noted that the sign variance is temporary since the sign will be removed as required by the Township Ordinance.

Mr. Schatzman noted that the grading and berms on the Township property and the parking on one side of the road will be taken up with the Township Committee in a Construction Sequence Agreement.

Mr. Kucera referenced the final map which was marked as Exhibit A-6. Mr. Schatzman noted that the final map complies with the map filing act. All outside agency approvals have been obtained except the Treatment Works Approval. The new road has been graded up to the sub-base elevation so they can install the water in the future location. Two retaining walls have been constructed as part of the stream crossing. The detention basin, outfall structure and wall between the detention basin and right-of-way have been constructed. The conditions of the preliminary approval will be met or have been met.

Mr. Schatzman discussed three issues that were raised in the memos to the Board. The required roof recharge devices are contained in easements. The instrument for these easements will reference the final map instead of metes and bounds for each. There are DRCC, DEP and Montgomery Stream Corridor easements. Since there are already two easements that prohibit development and preserve the buffer the applicant would like place the Township deed restricted conservation area outside of the DRCC and DEP easements.

Ms. Coppola said it appears that the portion toward the treatment plant is encumbered with the DRCC easement. She asked how the specific language of the DRCC restriction compares with the Township's. Mr. Schatzman said it is the same. Ms. Coppola asked about the NJDEP easement language which is much less restrictive than the Township's. Mr. Kucera said he will provide the DEP and DRCC agreement to Ms. Coppola. Ms. Coppola asked who monitors the DRCC and DEP easements. Chairman Conforti asked if our local restrictions are more

restrictive than DEP. Ms. Coppola believed they are. Mr. Kucera did not agree. He said the DRCC and DEP restrictions are at the same level. Mr. Linnus requested the language of the existing NJDEP easement and DRCC easement be provided to Ms. Coppola, Mr. Cline and himself. The language will be compared to the Township's standard easement language.

Vice Chairman Matthews asked why the applicant can't accept the Township's conservation easement. Ms. Savron noted that it is helpful when the Township has the easement.

Ms. Coppola noted that she has a copy of the DEP and DRCC easements and they are not as restrictive as the Township's language. It is typical to have an easement over another easement. Ms. Coppola recommended that the easement be granted to the Township over all of the stream and stream corridor area. It should be an easement where it is contiguous to the Township open space and a conservation deed restricted area where it is a buffer on the individual lots. There is an area of compensation for the stream corridor for the outlet structures on the basin and that compensation area for the stream corridor extends 20' east of the DEP conservation area.

Mr. Kucera pointed to three areas on an exhibit and agreed to provide the description and protect them with a Township easement.

Chairman Conforti said the recommendation was to place all the property in a Township easement. Mr. Linnus opined that the Board is within their purview to require the conservation easement based on Ms. Coppola's statements.

Mr. Schatzman discussed the maintenance of the existing retaining walls. There was discussion about placing the retaining walls in an easement but the Township Attorney would rather have an agreement or do it through an ordinance at the time that the road is dedicated to the Township. The detention basin retaining walls are being maintained by the Homeowners Association. All three retaining walls will be included in the agreement.

Mr. Schatzman summarized the April 25, 2014 Coppola and Coppola memorandum. The TWA should be a condition of approval, the Montgomery Park grading should be addressed in the Construction Sequence Agreement, the final map zoning requirement chart for the setbacks for 40.01 will be updated, the final grading plan will note the condition that the dwelling on Lot 40.18 has been moved forward, the deed restrictions on limiting the impervious coverage will be filed, roof recharge systems are subject to the Board Engineer's review and approval, the basin is to be maintained by a Homeowners Association and the Homeowners Association documents are subject to the review and approval of the Township Attorney and Board Planner. Ms. Coppola noted that the size of the temporary sign has been reduced so it now meets the ordinance.

Mr. Schatzman discussed the Remington Vernick and Vena memorandum. The last soil tests were from 2005 and since they are so old they can't be provided. Mr. Cline agreed. The applicant has a certification of what the tests actually were. The right-of-way width of Harlingen Road will be identified on the plans and bench marks will be provided.

Mr. Huttar said he saw the plan for lessening the driveway and fanning it out. He asked if the radius of road is being lessened and pushed back. Mr. Kucera responded that the curve will be a little bit further away from Mr. Huttar and the curve radius will be bigger so the entrance to the subdivision will be smooth. Mr. Huttar's existing driveway will be extended a little, the mouth will be a little wider and there will be a depressed curb. The applicant will relocate Mr. Huttar's mailbox.

Mr. Schatzman asked Mr. Cline if he went to see the soil stabilization of the detention basin. Mr. Cline replied that the stability is adequate. Mr. Cline agreed that the dam safety provisions of the NJDEP don't apply. Mr. Schatzman agreed to Comments 1-16 under "Additional Comments" in the Remington Vernick and Vena memorandum as conditions.

Mr. Schatzman said the applicant agrees with the comments in Mr. Bartolone's memo dated May 12, 2014.

Mr. Bartolone asked what happens if the homeowner who purchases the lot with the berm takes the berm away. Mr. Schatzman said there will be a provision in the Homeowners Association documents that will prevent the berm to be removed.

Mr. Schatzman noted that there has to be a condition for the dedication of the small right-of-way of Harlingen Road.

Vice Chairman Matthews asked what is being done to protect people from going over the wall. He wondered if there will be a protective fence. Mr. Kucera replied that there will be a DOT standard guide rail. Ms. Coppola said the plans show it to be a rough cut timber guide rail.

Ms. Davis asked what kind of traffic the treatment plant generates and what kind of vehicles. Mr. Kucera said he has not done a study but guessed probably 25 to 30 trips per day between the commercial trucks and the employees.

Mr. Wilson asked if the Homeowners Association will have the responsibility to maintain the tree buffer and berm in perpetuity. Mr. Schatzman said it will be included in the documents.

Chairman Conforti opened the meeting for further public comment. There being no further public comment, a motion to close the public hearing was made by Mr. Trzaska, which was seconded by Vice Chairman Matthews and carried unanimously.

Mayor Smith said he has a little bit of a problem with the berm next to the Treatment Plant. It will be difficult for the Public Works Department to mow. There was discussion about planting a meadow mix that gets cut once a year. The applicant will work with the Landscape Architect.

Mr. Linnus summarized that the application for an amendment to preliminary approval and for final subdivision approval for a phasing plan for Phase I. The applicant is also looking for three height variances and the setback for the temporary sign. The applicant has agreed to certain conditions. The condition they did not agree to that the Board is going to impose is the conservation easement. The DRCC and NJDEP have in effect taken the property by virtue of the easements they required. The Township has a stream corridor ordinance that appears to be more restrictive. There is a public interest in enforcing the ordinance and it also give the Township the ability to enforce the ordinance. The Board has indicated they are going to impose the conservation easement/deed restricted conservation areas in the areas that are covered by the ordinance. The Board professionals will review the language of the NJDEP and DRCC restrictions and compare it to the Township easement language.

Mr. Trzaska made a motion to approve the application subject to the conditions, which was seconded by Ms. Davis. This was carried on the following roll call vote:

Ayes: Davis, DeRochi, Glockler, Matthews, Sarle, Smith, Trzaska, Wilson and Conforti

Nays: None

## **V. MINUTES**

### **April 7, 2014 – Regular Meeting**

A motion to approve the minutes was made by Vice Chairman Matthews, which was seconded by Mr. Sarle. This was carried on the following roll call vote:

Ayes: Conforti, Matthews, DeRochi and Sarle

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 8:50 p.m.