

**MONTGOMERY TOWNSHIP PLANNING BOARD
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY
REGULAR MEETING
APRIL 4, 2016**

MINUTES

Chairman Cheskis called the meeting to order at 7:30 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 Cheskis; Vice Chairman Matthews; Ms. Davis; Mr. DeRochi; Mayor Graham; Mr. Mani; Mr. Sarle; Mr. Smith (left at 8:45 p.m.); Mr. Wilson; Mr. Glockler, Alternate #1; Mr. Chang, Alternate #2

ALSO PRESENT: Francis P. Linnus, Board Attorney; Jason Cline, Board Engineer; Emily Goldman, Board Planner; Joseph Fishinger, Board Traffic Engineer; Lori Savron, Planning Director

I. SALUTE TO THE FLAG

II. PUBLIC PARTICIPATION

There was no public participation.

Ms. Davis stepped down.

III. APPLICATIONS

Case PB-14-15 **Applicant: Steven and Margaret Davis**
Block 15001 Lot 49
Submission Waiver and Minor Subdivision with Variances
Expiration Date – 120 Days from Submission Waiver Approval
Affidavit of Notification and Publication Required

David Schmidt, PE, D.S. Engineering, represented the applicant. Mr. Schmidt, 77 Cairns Place, was sworn in.

Mr. Schmidt referenced Sheet 2 of the minor subdivision plan dated November 23, 2015 revised March 4, 2016. The lot is 10 acres, lies within the R-2 zone and is on the north side of Kildee Road. The property has 33.15' of road frontage along Kildee Road, has a 3,500 square foot house, a 2,050 square foot barn/garage, a swimming pool and patio areas. The proposal is to subdivide the property creating a flag lot. Lot 49.01 will be 5.1285 acres and will contain the existing structures. Lot 49.02 will be 4.8715 acres and is proposed to have a 4,000 or less square foot house constructed on the lot. Lot 49.02 requires a variance for lot frontage and width for the proposed 30' flag staff where 200' is required. A variance is required for the accessory building side yard setback on Lot 49.01. The existing garage/barn will be 5.5' off the new property line where 30' is required. A design waiver is being requested for a reduction in the number of trees to be planted. The applicant proposes to plant 38 trees only on Lot 49.02 and have the calculation based on area outside the critical area rather than total lot acreage. An application to NJDEP has been submitted for a Letter of Interpretation.

A submission waiver is being requested from providing architectural plans for the new house (Checklist #25). A colonial type house is proposed but the developer is not known at this time so plans cannot be submitted. As a condition of approval, the plans would be subject to the review and approval of the Planning Department. If they don't comply they will have to come back to the Planning Board or Zoning Board of Adjustment.

A motion to approve the submission waiver was made by Mr. DeRochi and seconded by Mr. Wilson. The motion was carried on the following roll call vote:

Ayes: Cheskis, DeRochi, Graham, Mani, Matthews, Sarle, Smith, Wilson and Glockler

Nays: None

Mr. Schmidt described the critical areas on the site. There are wetlands and a 50' transition buffer, 100-year flood plain and Montgomery Township Stream Corridor located in the rear of the property. An application to NJDEP has been submitted for a Letter of Interpretation. The stream has been mapped per the FIRM map. There are no critical slopes or soils.

To minimize the amount of impervious surface coverage, the driveway for the proposed dwelling will be a 10' wide gravel drive with 2' wide pavers on either side of the driveway for emergency access. This is acceptable to the Fire Marshal. The new driveway will be paved from the street to the right-of-way. There is adequate sight distance present for the existing and proposed driveway entrances. The existing house will continue to be served by the on-site well and the proposed house will tie into public water. Both lots will be served with on-site septic. Lot 49.02 also has a reserve system and a Septic Reservation Restriction will be filed as a condition of approval.

Mr. Schmidt testified that the property does not require stormwater management. The net increase in impervious surface coverage is 10,800 square feet and the area of disturbance is 43,500 square feet. There are areas totaling 928 square feet

on Lot 49.01 in the vicinity of the barn/garage that might need to be removed to accommodate the construction of a larger house on Lot 49.02 to keep from having to provide stormwater. He would like the approval to allow for the flexibility since they don't know what exactly will be constructed on the lot. The property slopes in a northerly direction and discharges to the stream in the rear. None of the drainage patterns will be changed.

Various subdivision alternatives were looked at and the flag lot is the best alternative. The Township policy for flag lots has been that the newly created lot should have twice the area of the zone. Other than frontage and width, all other zoning requirements have been met. Mr. Schmidt referenced two Tax Map sheets colored to show existing flag lots in the area which were marked as Exhibit A-1 (Page 28) and Exhibit A-2 (Page 41). A plan entitled "3 Lot Display Map" dated March 18, 2016 was marked as Exhibit A-3. The plan shows a conforming subdivision for 3 lots, 2 new lots and the existing lot all serviced by a cul-de-sac. With the proposed cul-de-sac design there would be an additional lot, a 13,000 square foot increase in impervious coverage, the maintenance of the road by the Township and construction of a detention basin. Photos of the existing barn/garage were shown and marked as Exhibit A-4 and Exhibit A-5. The barn/garage could be removed but it provides a nice viewshed. The applicant prefers to have it remain. The barn/garage would be restricted from housing livestock since it is not 100' from the property line.

Mr. Schmidt addressed the Board professional memos. The applicant agrees with all the comments in the Remington Vernick and Vena memo dated March 10, 2016. The driveway can be constructed to the satisfaction of the Fire Marshal without triggering Delaware and Raritan Canal Commission review. The applicant agrees with all the comments in the Clarke Caton and Hintz memo dated March 17, 2016. Adequate parking spaces have been provided. The applicant agrees with the comments in the Open Space Committee memo dated March 11, 2016. The applicant will provide conservation deed restricted areas. The Shade Tree Commission requested a landscape plan. The applicant will prepare a plan at the time of building permit. The applicant agrees with the comments in Mr. Bartolone's March 17, 2016 memo. Mr. Mondy issued a February 9, 2016 memo approving the 10' wide gravel driveway with 2' pavers on each side. The applicant will do the best they can to utilize LEED standards as requested in the Environmental Commission memo dated December 3, 2015.

Chairman Cheskis opened the meeting to the public. There being no public comment, a motion to close the public hearing was made by Mr. Wilson and seconded by Mr. Sarle. The motion carried unanimously.

Mr. DeRochi noted the barn should be preserved. The Board agreed the two lot subdivision was preferable over the three lot subdivision.

A motion to approve the application subject to the conditions was made by Mr. Wilson and seconded by Mr. Mani. The motion carried on the following roll call vote:

Ayes: Cheskis, DeRochi, Graham, Mani, Matthews, Sarle, Smith, Wilson and Glockler

Nays: None

Case PB-15-15

Applicant: Gurdon and Heather Hornor

Block 7013 Lot 22

Submission Waiver and Minor Subdivision with Variances

Expiration Date – 120 Days from Submission Waiver Approval

Affidavit of Notification and Publication Required

David Schmidt, PE, D.S. Engineering, represented the applicant. Mr. Schmidt remained under oath.

Mr. Schmidt referenced Sheet 2 entitled minor subdivision plan dated November 20, 2015 revised March 4, 2016 that was submitted as part of the application. The subject property is 25.8006 acres and is zoned R-1. The property has 250.005' of road frontage on Meadow Lark Lane. Lot 22.01 currently has a 3,500 square foot house, 2,320 square foot detached garage, a 658 square foot shed and an in-ground pool. The proposal is to subdivide a one acre lot with frontage along Meadow Lark in order to construct a 3,500-4,000 square foot dwelling with full basement. Lot 22.01 will contain 24.79 acres and Lot 22.02 will contain 1.01 acres. A variance is needed for lot frontage and lot width of proposed Lot 22.01 which will have 50' where 150' is required. A design waiver is required to minimize the amount of trees to be planted. Lot 22.02 will have 14 trees planted and no trees are proposed for Lot 22.01 since it will be used as a horse farm. There are no critical areas on the new lot. A waiver or variance is needed for the required 205' lot circle. Proposed Lot 22.02 has a lot circle width of 200'. It is impossible to inscribe 205' on a one acre lot that has the required 200' lot frontage. A submission waiver is required for the submission of architectural plans for Lot 22.02 since there is not a contract purchaser yet.

A motion to approve the submission waiver was made by Vice Chairman Matthews and seconded by Mr. Sarle. The motion carried on the following roll call vote:

Ayes: Cheskis, DeRochi, Graham, Mani, Matthews, Sarle, Smith, Wilson and Glockler

Nays: None

Mr. Schmidt testified that wetlands, wetland buffers and State Open Waters are present on Lot 22.01 and have been verified by NJDEP. Lot 22.01 also contains 100-year Floodplain verified by NJDEP and Montgomery Township Stream Corridor. Both NJDEP permits have expired but new permits are not being requested since there is no disturbance on Lot 22.01. A Freshwater Wetland Investigation conducted by DuBois Environmental Consultants, LLC dated August 19, 2015 concluding there are not wetlands in the vicinity of the proposed lot was marked as Exhibit A-1. There are

topographic slopes that are 15% and greater located within the flood plain and stream corridor but they are not affected by the subdivision.

Mr. Schmidt testified that the driveway access to the proposed house will be located 180' to the north of the driveway servicing the existing dwelling. The driveway will be located on the northern portion of the lot since that is the upside of the property and the driveway should be located on the high side of the lot. Proposed Lot 22.02 has existing sidewalk and street trees along the frontage. There is an existing detention basin located on existing Lot 12. Lot 22 was approved as part of the Grayson subdivision. All the paved roads, sidewalks and surrounding lot impervious surface of 15% maximum coverage approved as part of the Grayson subdivision discharge to the basin. Proposed Lot 22.02 was approved as part of the Grayson subdivision preliminary approval. Final approval was not granted for proposed Lot 22.02 because it would have required a variance since the people who purchased Lot 22 planned to use the existing horse barn which was closer than 100' to the lot. No stormwater management is required for this subdivision and there will be no increase in runoff to the neighboring properties. There is no net increase in impervious coverage since coverage has been removed from Lot 22.01.

Mr. Schmidt referenced the final map for Grayson Estates III – Section I which was marked as Exhibit A-2. At the time of final approval, Lot 22 was deed restricted from further subdivision except for the lot that is the subject of this minor subdivision as stated in the resolution for Case PB-14-95, which was marked as Exhibit A-3. The size of the lot noted in the preliminary approval resolution reflects the lot size of the remaining lands after the minor subdivision. This lot was contemplated at the time of preliminary. The positive and negative criteria have not changed since the original approval in 1995.

Mr. Schmidt referenced the stream encroachment plan dated October 31, 1997 which was marked as Exhibit A-4. The plan shows that proposed Lot 22.02 was approved as part of the original subdivision.

Mr. Linnus opined that the lot circle requirement is a variance. Mr. Schmidt testified that a 205' circle can't fit in a lot that is in the R-1 zone that has a frontage requirement of 150'. None of the lots had to meet the requirement at the time of the original subdivision.

Mr. Schmidt had no issues with the Clarke Caton and Hintz memo dated March 17, 2016, Richard Bartolone's memo dated March 17, 2016 and Jason's Cline's memo dated March 9, 2016. He reviewed the Shade Tree Committee memo. A landscaping plan will be submitted at the time of building permit. He reviewed the Open Space Committee memo. Since the lot is being farmed conservation easements around the critical areas were not requested. The applicant will follow best management practices for any farming activity on the site.

Chairman Cheskis opened the meeting to the public.

Lei Xie, 22 Meadow Lark Lane, was sworn in. Ms. Xie was concerned about the location of the new driveway for Lot 22.02. She asked if it could be switched to the other side of the lot to provide her with more privacy. Mr. Schmidt replied that he always puts the driveway on the high side of the lot so less fill is required. He suggested a berm be installed between the lots with trees to buffer the two properties. The house and driveway will be shifted 10' further on the lot to provide additional area for a landscape buffer. Ms. Xie preferred the driveway be moved.

There were no other public comments. A motion to close the public hearing was made by Mr. Wilson and seconded by Mr. Sarle. The motion carried unanimously.

There was discussion about the deed restriction and the exception to the restriction that allows the subdivision. The barn has been removed so the restriction against livestock is no longer needed.

Mr. Linnus recommended the applicant obtain a presence/absence determination from DEP as a condition of approval. Mr. Schmidt agreed to do it for Lot 22.02 only.

A motion to approve the application subject to the conditions was made by Mr. Wilson and seconded by Mr. Sarle. The motion carried on the following roll call vote:

Ayes: Cheskis, DeRochi, Graham, Mani, Matthews, Sarle, Wilson, Glockler and Chang

Nays: None

Ms. Davis returned to the dais.

Case PB-13-15

Block 34001 Lot 64

Submission Waivers and Preliminary and Final Major Site Plan

Expiration Date – 45 Days from Submission Waiver Approval

Affidavit of Notification and Publication Required

Applicant: Empire Holdings Cherry Valley 39, LLC

Richard Schatzman, Esquire represented the applicant. Notice was in order. The application is for site plan and conditional use approval for an Audi Service Center. A design waiver is requested to allow the land to be encompassed in a conservation deed restriction to be subtracted from the total tract area to come up with the required shade tree

plantings. A design waiver is requested to permit the installation of a street light at the intersection of the loop road and Cherry Valley Road only and not along the Cherry Valley Road frontage.

Clarke Caton and Hintz raised an issue of whether a variance is needed. Mr. Schatzman opined that they did not. The conditional use ordinance requires the applicant to construct the Master Plan loop road from PSE & G property to Cherry Valley Road and the REO-3 ordinance says there can be no disturbance of critical areas. In order for the loop road to be constructed wetlands will need to be filled in. The conditional use ordinance would trump the general ordinance and a variance is not needed. Mr. Linnus agreed that the conditional use ordinance trumps the general ordinance and a variance is not necessary. When there is a conflict in the ordinance and the specific requirements of the ordinance, the specific requirements control.

Mr. Schatzman described the submission waivers from providing the location of natural features within two hundred feet, delineation of critical areas within two hundred feet and submission of a grading plan at 1"=40' instead of 1"=30'. The Board professionals recommended the submission waivers.

A motion to approve the submission waivers was made by Mr. Wilson and seconded by Mr. Mani. The motion carried unanimously.

The applicant's four witnesses were sworn in:

Robert Heibell, Van Cleef Engineering Associates, the applicant's engineer.

Edward Kuc, Eastern States Environmental Associates, the applicant's ecologist.

Carmen Cerminara, Cerminara Architect, the applicant's architect.

Gary Dean, Dolan and Dean Associates, the applicant's traffic consultant.

Mr. Heibell gave the Board his qualifications and was accepted as an expert engineer, land surveyor and planner. The subject lot is 13.6 acres and is in the REO-3 zone. The proposed use is Princeton Audi Service Center consisting of 66,175 square feet. There are 341 parking spaces on site; 117 gated in the northern area for new car parking, 36 visitor parking spaces, 17 employee spaces, 9 internal to the building and 162 for service. The remainder of the loop road that connects Route 206 with Cherry Valley Road will be constructed and here is a pending application to fill the freshwater wetlands along the common property line in connection with the construction. There is a current Letter of Interpretation that has been extended under the Permit Extension Act to the end of June. General Permits for the construction of the prior approved office building and for the construction of the loop road had been issued. General Permit #10A was not covered by the Permit Extension Act and has expired. Applications for the general permits will be submitted.

Mr. Heibell discussed the circulation. There are three points of ingress and egress to the proposed service center area, all off the loop road. The number of parking spaces exceeds what is required by ordinance. The construction of the loop road will be coordinated with PSE & G. The fuel storage tank has been moved so it no longer requires variances for its location. The applicant agrees with all the comments in Mr. Cline's report. The applicant will come back to the Board for a soil removal plan.

The public sewer and water have been extended from PSE & G to the wetland areas. American Water determined that there is adequate pressure by the extension of the 8" main to provide fire protection to the proposed building. Mr. Mondy, Township Fire Marshal, is no longer asking for the looped system. Mr. Schatzman read Mr. Mondy's comments into the record and indicated the applicant agreed. Information for the largest delivery truck that will utilize the site will be provided as a condition of approval.

Somerset Union Soil Conservation District issued their approval letter on March 31, 2016. Somerset County Planning Board issued their approval letter on December 14, 2015. The Delaware and Raritan Canal Commission issued a staff report dated December 17, 2015. Stormwater management as to quality, quantity and recharge has been addressed.

Mr. Heibell testified the six foot wooden fence to screen the new vehicle parking will have a curved alignment to mirror the property line. The existing conditions sheet will be revised to reflect the existing onsite conditions regarding the previous work done in the wetlands. The inconsistencies in the parts drop-off between the architectural plans and engineering plans will be revised. There is a street light proposed at the intersection of the loop road and Cherry Valley Road. Since there are no other street lighting along Cherry Valley Road, the applicant is requesting a waiver to install additional lighting along Cherry Valley Road frontage. All the utilities are to be installed underground. The landscaping plan has been worked out with Richard Bartolone and he issued an approval memo dated March 24, 2016. Mr. Bartolone agreed that the fence between the two driveways was no longer needed since landscaping was provided.

Mr. Heibell discussed the Open Space Committee memo March 14, 2016. The conservation easements will be changed to conservation deed restricted areas. Three deed restricted areas are provided. Because trees are being planted along the loop road, the conservation deed restricted areas will begin ten to twenty feet from the right of way line of the road so the trees are planted outside the conservation deed restricted areas. Monuments to demarcate the conservation areas are subject to the Township Engineer and Township Open Space Coordinator review and approval. The Environmental Commission memo was discussed. There is a vegetated swale on the east side of the loop road.

Mr. Heibell described the landscaping design waiver. Conservation deed restricted areas total 4.586 acres. If those areas are subtracted from the total 13 acres they would be required to plant 127 trees and the applicant is proposing 144. The proposed number of street trees also is greater than what is required by ordinance.

Edward Kuc gave the Board his qualifications and was accepted as an expert ecologist. There is a Letter of Interpretation that has been issued for this property as well as a General Permit 6. The Letter of Interpretation and General Permit 6 are still valid under the Permit Extension Act. They will expire June 30, 2016 unless the Permit Extension Act is extended. The work under Permit 6 has been completed. The General Permit 10 was not extended under the Permit Extension Act. General Permit 10A will be utilized for the small disturbances of the wetlands associated with the loop road. Any NJDEP permit that requires extension beyond the Permit Extension Act will be provided to the Township. There are no vernal habitats associated with the wetlands.

Carmen Cerminara gave the Board his qualifications and was accepted as an expert architect. Mr. Cerminara described both the lower and upper level floor plans. Mr. Cerminara referenced the aerial view of Princeton Audi Service Center which was marked as Exhibit A-1 and described the circulation, parking, directional signage and service center area. He described the building materials. Mr. Cerminara referenced the alternate view northeast from connector road plan which was marked as Exhibit A-2. He then referenced the southeast view from Cherry Valley plan which was marked as Exhibit A-3. There are two facades facing the public road. Cherry Valley Road addresses it more through the aluminum, the two story volume and some of the shadow lines created. That same element, but stepped down, is used facing the loop road. The roof mass is broken up between the car wash and service area. The mechanical equipment on the rooftop will be fully screened with a material compatible with the building design. The signs meet the ordinance with regard to size and setbacks. The building mounted signs will be illuminated and will meet the ordinance standards. The building will not be LEED certified but there are LEED aspects to the project. The building will meet the height requirement.

Ms. Goldman asked about the directional signs on the detail sheets that are not shown on the site plan. Mr. Cerminara said it is the intent that directional signage be onsite so customers can safely get to the service area. The signage will be 4' tall and will be 2' x 2'. The freestanding sign is backlit.

Gary Dean gave the Board his qualifications and was accepted as an expert traffic engineer. Mr. Dean described the traffic flow of the site. The supplemental information requested by Mr. Fishinger has been provided. The road appears to have been designed for a 25 mph speed limit. The sight distance at the northern driveway is adequate for a 35 mph speed limit. The sight triangles will be added to the sight plan to make sure they will be appropriately maintained. The sight triangle easements will be recorded. Directional signs will be provided at each of the driveways to direct people to Route 206 south as requested by the Police Department. The car wash is for the exclusive use of service customers and is not open to the public. An exhibit will be provided to show the internal radii is adequate for car carriers. The cars will be dropped off in the interior area of the inventory or service storage area.

Chairman Cheskis was concerned about the lack of signage at the northern entrance and the applicant coming back in the future for a sign at that location.

Joshua Kalafer, owner of Princeton Audi, was sworn in. Mr. Kalafer testified the way the building is designed people will naturally see that the building is geared toward them entering at the southern entrance of the site. The customers will not be involved in the northern areas of the site.

Mr. Wilson suggested the applicant consider asking for signage that indicates "deliveries only" or something similar at that location in case it is needed in the future. The applicant agreed.

Mr. Kalafer described the proposed operation. The facility will be open from 7:30 a.m. to 8:00 p.m. Monday through Friday and from 7:30 a.m. until 6:00 p.m. on Saturday. The number of employees will be approximately 55. They will only service Audi's and no automobile sales will take place on location. On the northern portion of the site there is parking area for new car inventory to be sold at the other location. There is no public access to the new car inventory parking area. The area inside the center is for display of vehicles only. The signage lights will turn off 1 hour after close of business. There will be no outside storage other than what is shown on the site plan. Cars could be dropped off for service during times the facility is closed but it would be rare. The car wash is for customers only. Deliveries of new cars will be during the hours the facility is open and there will be no unloading of cars from the loop road. The storage of hazardous materials will comply with State and Federal regulations.

Mr. Linnus discussed the variance raised by the Planner. From a legal perspective if the Board were to deny the variance under these circumstances it would be arbitrary, capricious and unreasonable. He opined a technical variance is required. Mr. Schatzman said he noticed for any variances deemed necessary by the Board. The applicant requested the variance.

Chairman Cheskis opened the meeting to the public. There being no public comment, a motion to close the public hearing was made by Mr. Wilson and seconded by Mr. Sarle. The motion carried unanimously.

Mr. DeRochi asked about street trees along the whole loop road. Ms. Goldman said PSE & G is supposed to install street trees along the portion of the loop road that is on their property.

A motion to approve the application including the variance, design waivers, preliminary and final site plan and conditional use subject to the agreements on the record, the standard conditions and the comments in the professional's memos was made by Ms. Davis and seconded by Mr. Wilson. The motion carried on the following:

Ayes: Cheskis, Davis, DeRochi, Graham, Mani, Matthews, Sarle, Wilson and Glockler

Nays: None

IV. MINUTES

March 7, 2016 – Regular Meeting

Mr. Linnus noted corrections to the Thompson application.

A motion to approve the minutes with the corrections was made by Mr. DeRochi and seconded by Ms. Davis. The motion carried on the following roll call vote:

Ayes: Cheskis, DeRochi, Graham, Mani, Matthews, Wilson and Glockler

Nays: None

V. CLOSED SESSION

Chairman Cheskis read the resolution to go into closed session to discuss the Kosinski vs. Planning Board, 601 Corridor, LLC and Lanwin Development Corp. litigation. The Board voted unanimously to go into closed session.

The Board voted unanimously to come out of closed session.

There being no further business to come before the Board, the meeting was adjourned at 10:45 p.m.