

FEBRUARY 4, 2008

The regularly scheduled meeting of the Mansfield Township Zoning Board of Adjustment was called to order by Chairman Rosemarie Hight at 7:30 PM.

The meeting was opened by stating that adequate notice of this public meeting had been provided in accordance with the Open Public Meetings Act by:

1. posting a notice of this regular meeting on the bulletin board of the Municipal Building;
2. causing said notice to be published in The Star Gazette;
3. furnishing said notice to those persons requesting it pursuant to the Open Public Meetings Act; and
4. filing said notice with the Township Clerk.

Present: Hight, Harris, Creedon, Rosenblum, Smith, Mills, Spender.

Absent: McGuinness.

Also present: Lyn Paul Aaroe, Esquire; Douglas Mace, P.E.

The Pledge of Allegiance was recited.

MOTION was made by **SMITH** to approve the minutes of the January 7, 2008 meeting, as written.

SECONDED: CREEDON.

Voice vote: ALL IN FAVOR.

Case #Z07-01, Natural Stone Traditions, Inc. John Malyshko & Jean Bonnet

Present for the applicant: Stuart Ours, Esquire

Aaroe presented the resolution for action by the board, and explained that a question arose as to the use of the adjacent property. Aaroe stated the adjacent property is to be used for cross-easement access only.

Christopher Brynildsen of 518 Route 57 stated that he didn't receive notice of the hearing, and he is within 200 feet of the adjacent property. Brynildsen stated he has concerns with truck access to the subject property. Brynildsen stated he has a child that is picked up by bus at Cheerio Lane, and he is worried about truck conflict.

Aaroe and Mace indicated the applicant presented their case over several public hearings, and the truck access was discussed at great length. Mace stated the applicant doesn't have a land disturbance permit, and other conditions of approval must be met.

John Thompson of Route 57 had questions regarding access.

February 4, 2008 minutes

Page 2.

Carol Thompson of Route 57 asked questions regarding the resolution of approval, and what property is referenced.

Smith stated the board owes the neighbors answers if the use is to go beyond the scope of the original application. Smith stated the applicant should have renoticed if the application was for an additional lot.

Aaroe stated it is unclear if a roadway access necessitates additional notice, but if the board is concerned the board should direct the applicant to return and discuss the matter further.

MOTION was made by **SMITH** to table the resolution for Case #Z07-01, Natural Stone Traditions, Inc. John Malyshko & Jean Bonnet, subject to supplemental notice being given for Block 401, Lots 5.01 and 5.02.

SECONDED: ROSENBLUM.

Those in favor: Harris, Creedon, Rosenblum, Smith, Mills, Spender, Hight.

Opposed: None.

Abstained: None.

Case #Z07-02, Dick Appleby

Present for the applicant: Dick Appleby; Tom Fischer, Esquire; Jess Symonds, P.E.

Mace indicated the remaining items in his report are minor in nature.

Symonds explained the details of the site plan, such as: screening, loading area, access, circulation pattern, etc.

Mace indicated a letter should be received from the County regarding their knowledge of the residential access component.

Symonds stated they will basically comply with the items in Mace's report. Mace and Symonds discussed buffering and landscaping the site. Mace stated a landscape plan would have to be provided.

Appleby stated that 100 square feet of signage was allowed, but wanted to know if he could have 200 square feet. Mace stated the board typically only approves what is allowed.

Smith asked if a proper stopping area was provided for the mail drop box. Appleby indicated the drop box would probably be located on the building's front porch, and not on the roadway.

February 4, 2008 minutes
Page 3.

There were no questions or comments from the audience.

MOTION was made by **CREEDON** to grant preliminary and final site plan approval, and to authorize a resolution draft, and subject to the comments in Mace's letter and revised plans.

SECONDED: SMITH.

Those in favor: Creedon, Rosenblum, Smith, Mills, Spender, Hight.

Opposed: None.

Abstained: Harris.

Case #Z02-08, Abram Simoff/Hal Simoff

Present for the applicant: Douglas Steinhardt, Esquire; Hal Simoff, P.P.

Zotti indicated that all Mills, Spender, and Harris all listened to tapes of prior meeting, and were now eligible to vote on the matter.

Simoff indicated the latest revised drawing date being discussed is 1/21/08.

Steinhardt explained the applicant is not before the board for the use variance application, but strictly for site plan approval for 79 lots. The pool variance has been eliminated, thus the application is variance free.

Aaroe agreed any comments should be restricted to technical comments, since the use approval was granted by the litigation settlement in August of 2004.

Simoff explained the size of the club house would remain the same as originally proposed, and the pool would be installed to meet the required Olympic size. Simoff explained other details of the plan, such as: street width, sidewalks, recreational vehicular parking, common and recreational areas, lighting, etc.

Steinhardt indicated that Warren County Soils Conservation District and DEP approval had been received by the applicant, and the extension of the sewer service area was received in August of 2007.

A brief discussion was held regarding the classification of the Musconetcong River as a Class I stream, and Mace indicated the applicant might have to further deal with that at some point.

Smith asked questions regarding the proposed pool, such as: chemical storage, pool house, hours of operation, lighting, etc.

February 4, 2008 minutes
Page 4.

A discussion was held regarding the inclusion of the property in the Mansfield Township Wastewater Management Area. Mace indicated the property is in the area designated to be studied for inclusion in the plan. Aaroe explained the history behind the issue, and stated a “will serve” letter from HMUA would be a major condition of any approval.

Mace indicated the applicant couldn't break ground without a land disturbance permit, and in order to receive that, all conditions of approval would have to be met. Aaroe stated that, technically, construction could occur on preliminary approval, but the lots couldn't be conveyed. Aaroe stated the project would be non-buildable without water and sewer.

Creedon commended the applicant for their diligence, and asked if the tennis courts would be installed. Simoff replied a space for the tennis courts has been shown, but the opinion of the Township Committee will be sought regarding the contribution of the courts to the Township. Mace indicated the Township Committee didn't want to make the decision prior to the action before the board.

Creedon asked if the Olympic size pool is the right decision. Simoff stated it could be changed at the time of final approval if the board wanted to.

Creedon asked questions regarding the wetlands and wetland buffer.

Smith asked questions regarding the utilities that would service the project.

The hearing was opened to the public.

Paul Tarlowe of 40 Brookside Ave. stated there are traffic issues accessing Route 57 already. Tarlowe distributed prepared packets of information to the board members.

Entered as Exhibit O-1 – Tarlowe's packet of information, including HMUA minutes and letters, etc.

Tarlowe reported his findings based on attendance at HMUA and Township Committee meetings. Tarlowe indicated it was his opinion the applicant would be unlikely to receive HMUA approval. Tarlowe further related his opinions and concerns over the subject development.

Aaroe asked clarifying questions regarding Tarlowe's opinion.

It was Tarlowe's recommendation that the board should dismiss the case, without prejudice, and allow the applicant to reapply once water and sewer service are provided by HMUA.

February 4, 2008 minutes

Page 5.

Creedon stated it was his understanding that the board had to act on the application, or find themselves back in Court.

The Chairman called for a brief recess at 9:35 PM.

Upon reconvening at 9:45 PM, Agust Gudmundsson of 303 Grand Avenue, and Chairman of the New Jersey State Council on Trout Unlimited, stated the Musconetcong River is an important resource. Gudmundsson stated he is not for, or against, the proposed development, but hoped the Township would take their responsibility to protect the river seriously.

Bill Leavens of Washington Township, Morris County, and a Washington Township Planning Board member, stated he is a big fan of the Musconetcong River. Leavens explained his interest in the matter, and stated he thought the applicant would have to reapply to the DEP. Leavens stated that Green Acres is also interested in acquiring the property.

Tim Ryan of 36 Brookside Avenue stated he too attended HMUA meetings. He stated that it was his opinion that HMUA wants to provide service to their existing customers, and that it would be highly unlikely to provide service to this project. Ryan related his experience with the Diamond Hill sewer connection fees.

Steinhardt stated that HMUA's expansion isn't a prerequisite to the Board's decision on the project. Steinhardt stated HMUA approval would be a condition of any approval granted by the Board.

James Kesler of 135 Karrville Road asked questions regarding TDR credits.

Susan Dickey, a Washington Township resident and active proponent of the preservation of the Musconetcong River, voiced her opinion on the value of the Musconetcong River, and the preservation of said river.

Bob Miller of 33 Meadow Lane and President of the Homeowner's Association related the 20-year battle with water and sewer service. Miller stated that traffic on Route 57 is also a concern.

There being no further comments or questions from the audience, the public portion was closed.

Mace asked the applicant to supply his office and the Zoning Board office with copies of the DOT approvals and any extensions.

February 4, 2008 minutes
Page 6.

MOTION was made by **CREEDON** to grant preliminary major site plan approval for Case #Z02-08, Abram Simoff/Hal Simoff, subject to no land disturbance permit being issued without sewer and water being provided by HMUA, the tennis court issue being resolved, the pool size being resolved, C1 river consideration if possible, protection of the river where possible, the items in Mace's letter.

SECONDED: SMITH.

Those in favor: Rosenblum, Smith, Mills, Spender, Harris, Creedon.

Opposed: Hight.

Abstained: None.

MOTION was made by **SMITH** to adjourn the meeting at 10:25 PM.

SECONDED: CREEDON.

Voice vote: ALL IN FAVOR.

Respectfully submitted,

Patricia D. Zotti, Secretary
As Written