

The regular meeting of the Delaware Township Planning Board was held on the noted date, in the Delaware Township Municipal Building, 570 Rosemont Ringoes Road (County Rt. 604), Sergeantsville, New Jersey. Chair Rosalind Westlake opened the meeting at 7:32 p.m.

PLEDGE OF ALLEGIANCE

All present recited the Pledge of Allegiance.

STATEMENT

Chair Westlake read a statement noting that the requirements of the Open Public Meetings Act have been satisfied. Notice of this meeting was properly transmitted to the Hunterdon County Democrat, Trenton Times, and Star Ledger, posted on the Delaware Township bulletin board and filed at Town Hall; all on February 5, 2020.

ROLL CALL

Present:	Class I	Charlie Herman
	Class II	Elliot Gray
	Class III	Joe Vocke
	Class IV	Joan Bailly, Dave Bond, Larry Coffey, Kathy Katz, Rosalind Westlake
	Alternate	Ron Tyranski, Richard Macomber
	Liaison from	Chuck Cline, Caine Fowler
	ZBA	
	Advisor	
	Administrative Officer	Kathleen Klink
	Attorney	Steven Goodell, Esq.
	Engineer	C. Richard Roseberry, P.E.

Absent: shown by strikethroughs

Sworn in: Richard Macomber as member and Mark Wright as Alternate II

APPROVAL OF MINUTES FROM THE MEETING of February 4, 2020

Prepared minutes were distributed to members for review. Member Coffey made a motion to approve the minutes from the noted meeting. Member Bailly seconded the motion, and members unanimously approved the minutes as written, with abstentions by Members Bond and Coffey.

Correspondence: BILL LIST

Members reviewed the Bill List, as follows.

Bill List

Legal Bills: Parker McCay, P.A.

For Professional Services for General Legal Matters

Through January 31, 2020, #3110454	\$48.00
Through January 31, 2020, #3110455	\$32.00

Member Coffey moved to approve payment of this bill, Member Macomber seconded the motion.

Roll Call Vote

Aye: Vocke, Bailly, Bond, Coffey, Macomber, Katz, Westlake
As alternates, aye: Tyranski, Wright

Nay: None
Abstain: None
Absent: Herman, Gray

Bill List, Escrow Charges,

Legal Bills: Parker McCay, P.A.

58/4.01, Habig, #3110453

\$97.00

Member Coffey moved to authorize payment of the noted bill(s) from the appropriate escrow account, Member Bailly seconded the motion, and members unanimously authorized payment.

CORRESPONDENCE – Old Business, to include Memorializations

- a. No memorializations
- b. Revised 2020 Budget, to include a new minutes book and a laptop, expense to be shared with the Board of Adjustment.

Member Bond made a motion to recommend the revised 2020 Budget to the Finance Committee of the Township Committee. Member Coffey seconded the motion, which was unanimously adopted by voice vote. Said Budget follows the minutes (in the minutes book).

CORRESPONDENCE – New Business, to include Applications

- a. Christopher Habig, Block 58, Lot 4.01, conditional use requested for farm rental unit with one bulk variance for location of proposed septic system.

Mr. Alan Lowcher was present to represent the applicant. He noted that the application is for conditional use approval for a farm rental unit and one (1) bulk variance for the proposed septic system. He stated that he was authorized to advertise for this meeting.

Attorney Goodell stated that public notice was properly given. Administrative Officer Klink stated that she verified the information on those notified.

Kelley O'Such was present as the applicant's engineer.

Applicant Habig and applicant Engineer O'Such were sworn in by Attorney Goodell.

Mr. O'Such stated that the map on the easel is the same map that was presented with the application.

Mr. Lowcher asked Mr. O'Such for his background. Mr. O'Such stated that he is licensed in the state of New Jersey. He stated that he has appeared before multiple land use boards, such as Union Township, Franklin Township (Hunterdon), and Milford. Mr. O'Such was qualified as an expert witness.

Mr. O'Such stated that he was involved in creating this plan. He noted that Wayne Ingram signed the plans, and that he, Mr. O'Such, worked on the plan. He noted that the site is in the A-1 zone and has 35.47 acres. He noted that it was subdivided from Lot 4, with a common access on Sandy Ridge Mt. Airy Road for both properties.

Mr. O'Such stated that the applicant is proposing to build a single family house of about 2000 square feet. He noted that the proposal includes a one-bedroom farm rental unit, which is permitted by Zoning Ordinance section §230-42.

Mr. O'Such described a new paved drive off of the gravel driveway access as parking for the proposed two buildings. He noted that there will be an on-site well and an on-site sewage disposal system for both dwellings. He noted that there will be two dry-wells to collect water off of the roof areas of both dwellings. He noted that all buildings are within the building envelope.

There was a discussion about the septic system. He noted that the original Hunterdon County Board of Health approval was for a single family dwelling. He noted that the applicant has to reappear before that Board with the farm rental unit as part of the system.

Mr. O'Such explained that the proposed location of the septic system does not meet the building envelope setbacks. He noted that there are topographic constraints on this property and that the proposed location is the best spot for the septic. He noted that while the proposed system is outside of the regulated area, the proposed location is a portion of the property that is relatively flat.

It was explained that health approvals were obtained when the proposal was for a single family unit. It was noted that there was approval from the Township Board of Health and the County Board of Health. It was noted that the application has to be re-approved by the County Board of Health. Mr. O'Such explained that the size of the proposed septic bed has been reduced making the requested relief now 22 feet, instead of the previously requested amount of 13 feet. Mr. O'Such explained that they are expecting to return to the Township Board of Health at their April meeting.

There was a discussion about the Township Environmental Commission report. The applicant agreed to place monument markers for the stream crossing, per this report's recommendation.

Attorney Goodell noted that the application for the conditional use meets all of the conditions of Zoning Ordinance §230-42. Attorney Goodell asked that the reasons for the variance for the location of the septic system be reviewed, as to why this is the best location for the septic system to be placed outside of the building envelope. He noted that this exception needs to be explained to the Board's satisfaction.

Mr. O'Such stated that the proposed location of the septic disposal bed is in a relatively flat location on the site. He noted that there is a 300-foot riparian zone buffer line and that there has to be NJ DEP approval for disturbance in the riparian zone. He also noted that the proposed septic location is south of the proposed buildings, which are south of an extremely steep slope area. He noted that if the system were to be within the building envelope, the area would have to be graded to further flatten the area for the system. Mr. O'Such stated that this grading would create more permanent disturbance to the area. Mr. O'Such also reminded the Board that the New Jersey State regulations for septic systems requires placed ten (10) feet from the property line.

When asked, Mr. O'Such stated that the nearest house is the one to the south of the subject property and about 400 feet south of the property line. He noted that there is a downward grade from the existing neighboring home to the location of the proposed septic. He noted that under these conditions, there would be no impact on the other house.

When asked, Mr. O'Such noted that the positive criteria for this proposed location is due to the topographic conditions that create a hardship for locating within the building envelope. He noted that the negative criteria are met because there will be no adverse effect on the neighboring property owner. Mr. O'Such stated that there would be minimal clearing of trees within the area of the proposed septic. He noted that within the vicinity of the lot line there is a wooded area between the house on Lot 4 and the lot line. He further noted that the proposed septic system will have a one-foot mound.

Chuck Cline was present, as the Liaison from the Board of Adjustment. He stated that he is an advisor to this Board. He questioned why the location of the proposed system and the reserve system could not be switched. Mr. O'Such stated that placing a septic system in the reserve area will create a greater disturbance to that area. He noted that they are also regulated by NJ DEP concerning that disturbance. Mr. O'Such further noted that a system in that location would have to be approved by both Boards of Health. He noted that this location was previously approved as a reserve area, not for the primary design. Advisor Cline asked questions about the well. Mr. O'Such stated that the location of the well meets the distance of being 100 feet from the proposed septic system. He further noted that the well will serve both units. When questioned, Mr. O'Such stated that the connection to the well for the farm rental unit will be decided by Mr. Habig.

Chair Westlake asked about the two drywells. Mr. O'Such stated that the dry wells will be connected to both roof areas.

Mr. O'Such stated that the proposed single family residence will have three (3) bedrooms and the farm rental unit will have one (1) bedroom.

Member Katz asked why the well and the septic system could not flip locations. Mr. O'Such stated that the well is within the 150-foot wetlands transition area and that the septic is within the riparian zone. He noted that there would be no grading within the wetlands area. He further noted that the soil tests were at the area of the proposed septic system and the reserve system. He noted that both locations were approved by both Boards.

Chair Westlake questioned if two variances are needed, one concerning the proposed septic system and once concerning the reserve (for steep slopes). She questioned if this is something to be considered now.

Engineer Roseberry asked about the requested conservation easement from the Environmental Commission. Mr. Lowcher stated that applicant Habig will address this issue.

Attorney Goodell asked Mr. O'Such about the slopes. He noted that there is a 12.5% slope in the area of the proposed dwellings. He noted that the slope becomes steeper as one goes east on the property. He noted that there is a 100-foot drop in about 250 feet of slope. He noted that it is a change of about 55 feet.

Engineer Roseberry noted that per the zoning ordinance, §230-116.B(5), "in areas of steep slopes that are above 15% but less than 25%, no land disturbance shall be permitted", except relief concerning a driveway crossing. He noted that if proposed, mitigation plans would have to be reviewed by the Board. He noted that slopes of 12.5% are not regulated.

Advisor Cline stated that the bulk variance could be solved by switching the two proposed systems. Advisor Cline asked about the capacity of the drywell system. Mr. O'Such stated that there is sufficient room for all of the roof run-off for both buildings, calculated at three (3) inches of run-off. He noted that the drywell system is providing 30 cubic feet more than is required.

Member Bailly asked about the number of bedrooms on the approved septic design. Mr. O'Such stated that State law requires that a system has to be designed for more than one bedroom, which is why five bedrooms are noted on this system.

There was a discussion about the "label" of two bedrooms on the farm rental unit. Mr. O'Such stated that a condition of the conditional use for a farm rental is that there can be no more than one (1) bedroom. He reiterated that the approval of a system cannot be for less than one bedroom.

Mr. Habig was introduced. He stated that he is the owner of the property. He stated that the property was originally purchased for his family's use. He stated that he is not a licensed engineer but that he has been in building and development for about 15 years. He noted that he is a civil engineer, but not licensed.

Mr. Habig stated that the County Board of Health approval "counted" the kitchen as a bedroom. He noted that as a conditional use there can only be one bedroom.

Mr. Habig discussed the location of the septic system. He stated that he has personal knowledge of the property. He noted that he has been involved with the design since the beginning of the project. He noted that with the topography, they could not find acceptable percs; he noted that 20 to 25 holes were dug. He noted that they were left with two isolated areas and chose the one that is less disruptive to the landscape. He noted that the topography of the area for the proposed septic system goes toward the proposed house, not to the neighbors' house. He noted that the area between the septic and the neighbors' house is heavily wooded, with lots of blowdowns in the neighbor's yard.

Mr. Habig noted that the original proposed system was conventional. He stated that by using a more advanced treatment system, the bed size shrank and the mound height decreased. He described the natural wooded area near the proposed house. He stated that it is their intent to protect that wooded area.

There was a discussion about the farm rental unit as a conditional use, ZO section §230-42B. Mr. Habig noted that the conditions of this use are noted on the map and that the proposed farm rental unit meets all of the conditions. The conditions were read aloud, into the record. Mr. Habig noted that the proposed dwelling sits lower than the neighbor's home, on Lot 4. He stated that the proposed farm rental unit sits lower than the proposed main house. Mr. Habig stated that the proposed development area is a 400-500-foot heavily wooded area. He noted that the proposed development area is 1600 feet from the road.

Mr. Habig discussed the view of the main house and rental unit. He noted that the main residence is designed to look like a modern farm house, with a simple design. He noted that the siding would be an agricultural type siding. He noted that the farm rental unit was designed to be integrated as a "garage" for the house. He further noted that the same materials used for the main residence would be used for the house. He pointed out the cupola on the farm rental unit. He stated that he feels that this proposed design "fits" the lot.

Mr. Habig noted that the buyers are building conditioned on this design view. He stated that the future buyers have had input into this design. Mr. Habig agreed to a condition that the proposed buildings will look like this submitted representation.

Mr. Habig stated that the farm rental unit is appropriate as the property is farmland assessed for woodland management.

There was a discussion about the conservation easement proposed by the Environmental Commission. It was noted that there is a riparian zone, protected by NJ DEP regulations. It was noted that a Township easement would serve the same purpose. It was noted that this property was the subject of one subdivision. It was further noted that if there is a conservation easement on the original subdivision that there should be one on this approval. It was proposed that the conservation easement should follow the riparian line. Mr. Habig stated that he finds this acceptable since it is in keeping with the spirit of the Township.

Chair Westlake stated the conservation easement should be placed on top of the riparian zone, thus restricting other applications to NJ DEP.

Advisor Cline noted that the current riparian zone would restrict future development and the conservation easement would exclude future structures.

There was a discussion about tree removal. Mr. Habig stated that he will remove as few trees as possible. Advisor Cline noted that on an application to the Board of Adjustment, there was a condition about replacing certain sized trees that are removed during the time of development. Said ordinance sections are as follows: 230-106D – protection of existing trees; and 230-106E – replacement of trees. Mr. Habig agreed to comply with ordinance requirements.

Mr. Habig agreed to monument markings for the stream crossing for farmland use. It was noted that this crossing complies with NJ DEP regulations.

Member Coffey asked about the intent on building. Mr. Habig stated that both buildings would be built simultaneously, which would be least disruptive to the property. He stated that if need be, the principal building would be built before the accessory unit.

Member Katz asked about electric feed. Mr. Habig stated that he felt that it would be less disruptive to feed the apartment from the main house.

Chair Westlake asked if members had any other questions. She then opened the discussion to the audience for public comment.

Ms. Kelly Swan was sworn in. She stated that she and her husband, Edward Winter, are the owners of the house on Lot 4, in front of the proposed dwelling and farm unit. She questioned the septic placement that is within a distance of 25 feet to the property line. Mr. Habig explained that using this area creates the least ground disturbance and tree clearing.

Ms. Swan asked about electrical service to the new house and farm unit. She noted that the transformer is on their property, Lot 4. It was noted that any changes will be up to the electricity server. It was noted that the transformer would probably be moved closer to the driveway.

Ms. Swan then asked if the shared driveway will be sufficient to allow construction vehicles. Mr. Habig stated that he feels that the shared driveway is acceptable and that they may need to improve the portion that goes to the proposed development.

Advisor Cline asked about a written agreement for the use of the shared driveway. It was noted that to the shared section is about 1000 feet; and that to the proposed development is 1600 feet. It was noted that the width of the driveway is 15 feet. It was further noted that per the easement for driveway use, there is a 50/50 split on maintenance and plowing for the shared portion of 1000 feet; and that the development property is solely responsible for the remaining 600 feet.

Mr. Lowcher stated that ground disturbance and tree removal near the property line will be of minimal disturbance; and that there will be no removal of trees on Lot 4.

Mr. Habig stated that the area of the proposed septic is fairly open, few trees will be removed there. He also noted that the view shed from Lot 4 to Habig is downslope and that much of the proposed development will not be visible.

There was a discussion about the electrical supply. It was noted that JCP&L is the supplier. It was further noted that they may have to put in another transformer. It was also noted that JCP&L will inform Mr. Habig about where to go with the lines, underground or otherwise.

Mr. Habig again noted that the driveway is fairly stable and should be sufficient for construction vehicles. He noted that he would take responsibility for repairing any damage.

Advisor Cline asked Engineer Roseberry about the driveway and the need for possible pull-outs. Engineer Roseberry stated that this is not a private access way, but that the regular driveway ordinance applies to this proposal. He noted that no pull-outs would be needed.

Chair Westlake closed the public portion of the hearing.

Attorney Goodell charged the Board. He noted that a conditional use approval can be granted as long as the conditional use conditions are met. He noted that on the submitted plan, the applicant explained how each condition has been met.

Attorney Goodell stated that a bulk variance is needed for the septic disposal within the setback area. He noted that this is a 'c' variance, needed for dimensional areas. He noted that the applicant has explained that there is a hardship due to the topography of the land and the steep slopes. He noted that it was explained that there was nowhere else to go. He noted that the positive criteria in this case have been met due to the hardship based on the topography of the land.

Attorney Goodell noted that the negative criteria must be met that there is no substantial detriment to the public good, the zone plan, and the zoning ordinance. He noted that in this case the public good is the neighbor. He noted that it has been testified that there will be no impact of this proposal to the neighbors, based on distance between the existing house and the proposed development and the tree cover found between the development and the existing house on Lot 4.

Attorney Goodell noted that it does not appear that there is any detriment to the intent and purpose of the zone plan and/or zoning ordinance. He stated that he feels that the variance is within the Board's discretion.

Mr. Lowcher stated wording of the required variance was included as part of the notice. Mr. Lowcher stated that Attorney Goodell approved the notice. Chair Westlake stated that she wanted that information clearly stated on the record.

Chair Westlake stated that she feels that the conditions needed for approval have been provided. There was a question about the soil borings, for which it was noted that the soil borings do limit the location of the septic system. She noted that this is another positive criterion for the 'c' variance. Chair Westlake stated that she feels that the negative criteria have been met as well, due to the distance between the existing house on Lot 4 and the proposed development; she also noted that the proposed development is downslope so that the proposed development presents little or no visibility to the home on Lot 4. Chair Westlake stated that she feels that the intent of statute has been satisfied.

Member Coffey raised the issue of a variance needed for the reserve septic if it has to be used. After some discussion, it was decided that this does not seem to be an issue for this approval.

The conditions were reviewed –

- Impose Township conservation easement to match NJ DEP riparian zone
- One bedroom farm rental unit, even though this agrees with the ordinance; detail in resolution
- Tree protection, §230-106D – Protection of existing trees;
replacement, §230-106E – Replacement of existing trees
- Meet conditions of Engineer Roseberry report, dated 01.22.2020
- Septic approval, County Board of Health and Township Board of Health
- NJ DEP – approval of modification – adding farm rental unit
- Monuments for stream crossing, per permitted NJ DEP farmland crossing
- Elevations submitted will be used; main house will be built first,
or both units will be built simultaneously
- Certificate of occupancy for the house must be issued first.

Member Coffey made a motion to approve the application as presented and conditioned. Member Katz seconded the motion.

Roll Call Vote

Aye: Vocke, Bailly, Bond, Coffey, Katz, Macomber, Westlake
As alternates, aye: Tyranski, Wright

Nay: None

Abstain: None

Absent: Herman, Gray

New Business

- b. Member Training by NJPO for Richard Macomber, \$135.00

Member Coffey made a motion to approve this payment. Member Coffey seconded the motion.

Roll Call Vote

Aye: Vocke, Bailly, Bond, Coffey, Katz, Westlake
As alternates, aye: Tyranski, Wright

Nay: None

Abstain: Macomber

Absent: Herman, Gray

COMMITTEE REPORTS

Scheduled Committee Meetings

Subdivision and Site Plan Review Committee - second Wednesday, 7:00 p.m., as needed per applications submitted. *Member Bailly to report.* Members: Bailly, Katz, Tyranski; with Easement Monitoring Committee of the Environmental Commission

It was noted that a meeting will be held for a boundary line adjustment for Mr. David Wingerter, Block 6, Lots 15, 15.01 on Boar's Head Road. Said meeting will be held on March 11, 2020 at 7:00 pm.

Agricultural Advisory Committee – first Tuesday, 7:00 p.m.; *Member Coffey to report*
Members: Bond, Coffey; non Planning Board: Bench

Member Coffey reported that they had a brief meeting in the parking lot before this meeting, but that there is nothing to report.

Open Space Committee – third Wednesday, 7:30 p.m., except January 14 and February 11;
Member Coffey to report. Members: Westlake, alternate Coffey

Member Coffey reported that the Cizek property near Plum Brook is nearing completion. He noted that for the Martin/Maresca property, SADC is still looking for an easement access to the cemetery found within this property.

Non-Scheduled Committee Meetings, please give me notice for proper newspaper notification, if needed

Master Plan Committee – *Member Westlake to report;* members: Coffey, Westlake
No meeting

Ordinance Review - *Member Coffey to report;* members: Coffey, Katz, Westlake
No meeting

Quarry Compliance Committee – *Member Bond* (Board Representative)
Member Bond reported that they will be meeting on March 19.

Stormwater Management Committee – *Member Gray*
Not present

LIAISON REPORTS

Board of Adjustment – second Thursdays, 7:30 p.m., *Liaison Cline*

Liaison Cline reported that Roger and Holly Locandro, owners of Block 41, Lot 1.10 will be returning to the Board of Adjustment for Phase II final subdivision.

Environmental Commission – third Wednesdays, 7:30 p.m., *Liaison Katz*

Member Katz reported that the EC met. She noted that one discussion concerned the website design that the EC will soon have. She stated that it is hoped that the new website will be up and running by April. She noted other items on the EC's 2020 schedule, as follows:

March 21 – Towpath Trek

April 8 – distribution of free trees, for the NJ Tree Recovery Program

April 15 – bluebird talk by Diana Allison, of the North American Bluebird Association

April 22 – Earth Day celebration in concert with the Delaware Township School Art Festival
EARTH FEST, in celebration of the 50th anniversary of Earth Day
Sponsors are being sought to promote “Green” products.

Historical Advisory Committee – second Wednesdays, 7:30 p.m., *Liaison Vocke*.

Member Vocke reported that Charlie Herman attended but did not provide any information to him to report.

Shade Tree Commission – fourth Thursdays, 7:00 p.m., *Liaison Coffey*

Member Coffey stated that the Shade Tree Commission is preparing a suggestion for the dying ash trees on the south side of the property, near a bridge crossing in the field. He also noted that the Annual Accomplishment Report has been submitted.

Meeting opened to the Public for Comments or Questions

There were no comments or questions from the public.

Meeting opened to the Board for Comments or Questions

Member Bailly stated her concern about the comment made about the “bouncing” between the County Health Department and the Township Health Department concerning septic approvals.

Chair Westlake thanked Mark Wright for joining the Planning Board.

NEXT MEETING: April 7, 2020

ADJOURNMENT: 9:10 pm

It was moved, seconded, and unanimously carried to adjourn at the noted time.

Respectfully submitted,

Kathleen E. Klink,
Administrative Officer