

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 7:30 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, with virtual meeting information updated on November 19, 2020.

ROLL CALL

Present: Class I Charlie Herman  
 Class II Elliot Gray  
 Class III ~~Joe Voecke~~  
 Class IV Joan Bailly, Dave Bond, Larry Coffey, Kathy Katz,  
 Richard Macomber, Rosalind Westlake  
 Alternate Mark Wright  
 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

APPROVAL OF MINUTES FROM THE MEETING of October 6, 2020

Prepared minutes were distributed to members for review. Member Macomber made a motion to approve the minutes from the noted meeting. Member Bond seconded the motion, and members unanimously approved the minutes as written and corrected, with an abstention by Member Westlake.

Correspondence: BILL LIST

Members reviewed the Bill List, as follows.

**Bill List, Escrow Charges, Legal Bills: Parker McCay, P.A.**  
 58/4.01, Habig #3122129 \$69.40

**Bill List, Escrow Charges: Engineering Bills: Maser Consulting, P.A.**  
 19/29 and 29.01, Opdyke, #613000 \$474.87

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

**Bill List: Engineering Bills: Maser Consulting, P.A.**

For Professional Services through October 11, 2020

For Line Item #111-266, invoice #612985

\$140.00

Member Katz moved to approve payment of this bill, Member Gray seconded the motion.

**Roll Call Vote**

Aye: Herman, Gray, Bailly, Bond, Coffey, Katz, Macomber, Wright, Westlake

Nay: None

Abstain: None

Absent: Vocke

CORRESPONDENCE – Old Business, to include Memorializations – None

CORRESPONDENCE – New Business, to include Applications

Estate of Joyce Opdyke, Block 19, Lots 29 and 29.01, boundary line adjustment, for lot reconfiguration.

Mr. Patrick Fatton was sworn in. He stated that he prepared the maps presented for a boundary line adjustment. Mr. Fatton stated that he has been licensed for 30 years and has appeared before this Board. The Board qualified Mr. Fatton.

Mr. Fatton stated that he prepared the survey for Mr. Steve Opdyke, executor of the estate for Joyce Opdyke. Mr. Fatton stated that the applicants wish to realign the boundary so that the vacant lot is less encumbered by environmental constraints.

Mr. Steve Opdyke and Mr. Tony Hajjar were sworn in. Mr. Opdyke is the applicant. Mr. Hajjar is an engineer, working for Land Solutions Engineers. Mr. Hajjar stated that he is also qualified as a professional planner.

Mr. Opdyke gave a history of the property. He noted that the farm has been in the family for eight generations. He noted that there is a stone on the foundation of the house that is dated September, 1892. Mr. Opdyke stated that his dad grew up there and he grew up there. He stated that it is the family's intent to make a buildable lot for his son.

Mr. Fatton stated that there are existing two lots. He noted that existing Lot 29 has the house on the property with 6.86 acres. He noted that this lot also includes a pond on the south side of the house. He noted that existing Lot 29.01 has 6.117 acres and a larger pond located towards Route 519. He noted that the existing lot line is in the middle of the two lots. He noted that existing Lot 29.01 is south along Hewitt Road.

Mr. Fatton stated that proposed Lot 29 will still have the existing house on the property of 6.413 acres, with a net acreage of 6.284 acres. He also noted that 4.928 acres will be held in a conservation easement. He noted that this conservation easement matches the wetlands areas and C-1 creek buffer. Mr. Fatton stated that a wetlands delineation was prepared in October.

Mr. Fatton noted that proposed Lot 29.01 will have 6.390 acres, with a net acreage of 6.347 acres. He further noted that there will be a conservation easement on this property of 3.28 acres, aligned with the wetlands area delineation and buffers. Mr. Fatton noted that proposed Lot 29.01 will be able to

support a standard disposal system. Mr. Fatton noted that the wetlands delineation is per the flags set by Mr. Tareila. Mr. Fatton noted that a variance is needed for proposed Lot 29.01 for the lot frontage.

ZBA Liaison Cline asked about the soil logs and percs. Mr. Fatton noted that these were done in March 2020, and are located east of the house where the contour lines are shown. Mr. Fatton noted that pit bail tests were also done. Mr. Fatton noted that the soil logs were done for both the primary and the reserve systems.

Chair Westlake noted that there is a spigot shown on the map, on proposed Lot 29.01. Mr. Opdyke stated that he is not sure if it functions. Mr. Opdyke noted that there is a well on the north side of the existing house. It was further noted that no well has been done for proposed Lot 29.01.

Board Engineer Roseberry suggested that the Board review his memo of November 30, 2020. Mr. Fatton noted that signature and sealed copies have been distributed to the Board, to which Chair Westlake noted that she has a copy that is signed and sealed. It was noted that there has been no response from D&R Canal Commission about jurisdiction. Mr. Fatton stated that an application was submitted to them.

Board Engineer noted that waivers can be granted for following items:

34. Contours and survey benchmark
39. Streams and adjacent floodplains, wetlands, and steep slopes within 300 feet of the site.
40. Other physical features within 200 feet of the tract.
44. Location of existing and proposed wells and septic systems.

Board Attorney Goodell stated that no separate vote is needed to accept the waivers.

Other items of Board Engineer Roseberry's memo were discussed.

It was noted that the existing septic tank of the existing house is located to the east of the house. It was noted that the septic system includes a lateral and not a cesspool, per the applicant. Board Engineer Roseberry suggested that a subsurface exploration needs to be done, or some method needs to be used to determine the location of this lateral.

Mr. Opdyke noted that the septic tank is pumped on a regular basis and that the system seems to function properly.

Board Engineer Roseberry reminded the Board that there is an Ordinance section that does not allow a new system within the setback area. Board Engineer Roseberry stated that the location has to be found to make certain that it is not on the other property.

ZBA Liaison Cline stated that there could not be a variance to put a lateral on someone else's property.

Board Attorney Goodell discussed the Board's options. He noted that the Board can make a condition that a variance must be sought if the lateral is outside of the building envelope. He noted that there could be a disposal easement or condition upon sale of the property. He also noted that if it needs to be replaced, the new system must comply.

Board Attorney Goodell stated that there could be a variance to go outside of the building envelope; or an easement if the system is on the other property. He noted that the Board must solve the issue within the resolution.

Board Engineer Roseberry stated that NJ State regulations allow a septic field to be ten feet from the property line, with 50 feet between disposal fields.

Board Attorney Goodell noted that state regulations do not allow a disposal system to go on another property. Board Engineer Roseberry noted that there needs to be a review by the Health Department.

Mr. Fatton stated that proposed Lot 29.01 has been laid out so that there will be 50 feet between the two septic designs. He noted that they will add pitbail tests, #1 and #2, to the plan. He noted that there were no other tests other than the soil logs.

Board Engineer Roseberry stated that the plan shows the lateral to be about five feet from the property line; he stated that such a location does not meet the State code.

Mr. Fatton stated that they can televise the lateral line from the tank to determine its location. It was noted that the lot line could be moved to accommodate this ten-foot requirement and that both lots would still be over six acres. It was also noted that this could be considered a de minimis exception.

Mr. Opdyke stated that they will seek clarification and stated that they could agree to a condition to best resolve the lateral line issue.

Mr. Fatton noted that the second issue noted by Board Engineer Roseberry is about lot width and a shed location. He noted that these two issues will be covered by the planner. Mr. Fatton further noted that the applicant is aware that if sheds need to be removed, that they will be removed; as a condition of approval. Board Engineer Roseberry stated that the shed would have to be removed before the deed is recorded.

Board Engineer Roseberry's memo, items #4 and #5 have been done. It was noted that item #6 is related to a driveway and shed on Lot 32, north of proposed Lot 29.01. It was noted that an easement needs to be granted, including an appropriate maintenance easement to avoid conflict between neighbors. It was noted that this lot is small, at 0.23 acres; measuring 133 feet by 87 feet. It is owned by Mr. Opdyke's brother and his wife.

Item #7, of the memo, will be corrected for both the plan and the deed, showing proposed Lot 29 at 6.413 acres.

Item #8 involves NJ DEP, for a future house on proposed Lot 29.01. Mr. Fatton noted that the wetlands have been delineated on the map, using data from Mr. Jeff Tareila.

Item #9 involves the Affordable Housing fee, to which there was no objection.

Mr. Tony Hajjar gave his background. He stated that he has been a licensed engineer since 2004 and a licensed planner since 2014.

Mr. Hajjar discussed the variances being requested. He noted that the first variance is for the front yard setback for the existing house on proposed lot 29. He noted that there is 31.8 feet where 50 is required. He noted that the lot width for proposed Lot 29.01 is 218.89 feet where 250 is required.

Mr. Hajjar noted that the house cannot be moved to get the 50 feet that is required. Mr. Hajjar noted that the lot frontage is only 32 feet short of what is required. He noted that there are 81 lots in Block 19, 20% are flag lots and 16% are deficient in lot width. He noted that creating this lot width that is 32 feet short of the requirement is not a substantial detriment as similar conditions exist in the area. He noted that granting this variance does not impair the intent and purpose of the zone plan.

There was a discussion about the original road frontage of each lot compared to the proposed road frontages. It was noted that one proposed lot has a road frontage that is less conforming. It was noted that this variance is needed so that proposed Lot 29.01 can be a building lot. It was also noted that the new configuration provides better protection of the Wickecheoke Creek, a C-1 creek. It was further noted that the proposal includes eight acres of buffering.

Board Attorney Goodell stated that any variance issues were self-created to get two building lots. He noted that the original lots met zoning and that this lot line adjustment is requested for the purpose of getting full use of both lots. He noted that this could be considered a c-2, utility variance that is supported by the dedication of the conservation lands.

Member Bond made a motion to approve the application as presented, with testimony from the applicant's professionals. The motion was clarified to be a lot line adjustment with variances.

Board Attorney Goodell asked that the septic question be resolved. Chair Westlake suggested that the lateral line be measured and that this portion of the property line can be moved to make sure that the lateral end is not less than 10 feet from the property line. It was noted that if this action is needed, the property line can be changed and reviewed by Board Engineer Roseberry. It was noted that Board Engineer Roseberry finds fault with the results, the applicant will have to return to the Planning Board.

Other conditions were discussed, as follows:

- Access easement for adjacent Lot 32
- Remove three sheds
- Acceptance of the conservation easement (deed language)
- Add zone classification from D&R Canal Commission to the plan

Member Macomber seconded the motion.

**Roll Call Vote**

Aye: Herman, Gray, Bailly, Bond, Coffey, Katz, Macomber, Wright, Westlake

Nay: None

Abstain: None

Absent: Vocke

## COMMITTEE REPORTS

### **Scheduled Committee Meetings**

Subdivision and Site Plan Review Committee - second Wednesday, 7:00 p.m., as needed per applications submitted. *Member Baily to report.* Members: **Baily**, Katz, Westlake; with Easement Monitoring Committee of the Environmental Commission  
Nothing new to report

Agricultural Advisory Committee – first Tuesday, 7:00 p.m.; *Member Coffey to report*  
Members: Bond, Coffey; non Planning Board: Bench  
Preservation funding is being discussed for the Curtis Farm.

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 there is an issue with the survey for the Lee Lau property. He noted that preservation discussions are still preliminary for the Curtis Farm. He noted that the Yerk property on Route 523 (formerly the Darling property) is being considered for preservation by the Hunterdon Land Trust.

### **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)  
No meeting

Stormwater Management Committee – *Member Gray*  
No meeting

## LIAISON REPORTS

Board of Adjustment – second Thursdays, 7:30 p.m., *Liaison Cline*  
Liaison Cline noted that the Board will next be hearing the final subdivision application of the Locandro property on Sandbrook Headquarters Road.

Environmental Commission – third Wednesdays, 7:30 p.m., *Liaison Katz*  
Member Katz reported that there was a trail clean up on White Oak Trail. She also noted that the Environmental Commission is considering a tree planting grant for Dilts Park.

Historical Advisory Committee – second Wednesdays, 7:30 p.m., *Liaison Vocke*  
Not present

Shade Tree Commission – fourth Thursdays, 7:00 p.m., *Liaison Coffey*  
Meeting on December 5

**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 Katz wished everyone a Safe and Happy Holiday season. Member Macomber did the same, as did Member Coffey.

NEXT MEETING: January 5, 2020

Reorganization

Budget

ADJOURNMENT: 8:28 p.m

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

Respectfully submitted,

Kathleen E. Klink,  
Administrative Officer