

**TOWNSHIP OF DENNIS
CONSOLIDATED LAND USE BOARD**

**571 Petersburg Road
Dennisville, NJ 08214
(609) 861-9705**

JUNE 27, 2013

MINUTES

This meeting was published in accordance with the "Open Public Meetings Act". Notice of this meeting was published in an annual meeting notice in the Cape May County Herald and posted in Township Hall.

The meeting was called to order by Chairman Buto. The following members were present: Mr. Buto, Mr. Watson, Mr. Glembocki, Mr. Stafford, Mr. Cherry, Mr. Pettit, Mr. Germanio and Mr. Daniels. Also present were Jon Batastini, Esquire, Board Solicitor; Stephen Nardelli, P.E., Acting, Board Engineer, Michael Fralinger, Assistant Board Engineer, and Jack Gibson, P.E., Township Engineer.

Mr. Batastini administered the oath to Mr. Cherry as Alternate #2.

APPLICATIONS: None.

Other Business:

Resolutions:

Mr. Batastini advised that he was asked if it was possible that the Resolutions could be done first this evening and then proceed with the rest of the agenda.

ESTATE OF JAMES B. ANDERSON - Block 251, Lot 101:

Mr. Batastini explained and reviewed the contents of Resolution. A motion to approve was made by Mr. Stafford, seconded by Mr. Pettit and carried by all members voting on same.

AMERICAN ILEX, LLC - Block 117, Lot 3 and Block 119, Lots 15 and 17:

Mr. Batastini reviewed the Resolution for the Board. A motion to approve was made by M. Pettit, seconded by Mr. Germanio and carried by all members voting on same.

Discussion:

Ordinance #2013-03 (Amended) - Referral From Township Committee Regarding Zoning Changes And Pinelands Clustering Ordinance.

Mr. Batastini explained to the Board why this Ordinance was referred back to the Board. This is not a true referral. What happened that after a review of the Master Plan and its referral by the Board to the Township Committee, the Township Committee basically accepted portions of the recommendations of the Board and also made some changes of their own. The Township Committee doesn't have to send it back to the Board, but as a courtesy has done so. In summary, the Committee has decided to reduce the density from 5 units per acre to 3 units per acre in certain areas of the Township as they feel it is in the best interest of the Township to do so. Advise Board to review it and be given the opportunity to make comments or not. Another change is in the Pinelands and concerns clustering. Jack Gibson, Township Engineer, is here this evening to answer any questions.

Mr. Buto advised that Pinelands representatives had been contacted to attend this meeting, but will not attend.

Mr. Batastini administered the oath to Jack Gibson.

Mr. Gibson said he was invited to attend a meeting regarding Pinelands clustering. A

committee was formed in the Township, but he doesn't believe they ever met. Most objections were to clustering. Discussed options - all of which (about 4) are in the Ordinance. Options include "cultural housing", which is already in Ordinance. Another option is "agriculture". He said that if some one was farming in 2009, they will be able to increase the farm by 50% by complying with certain conditions and making certain concessions. He explained an example to the Board, as well as some options.

Mr. Batastini referred to the Pinelands Management Plan and read from section regarding re-examination of clustering development and benefits of same. Farmers would be allowed to subdivide 1 acre parcels off of their farmland and keep the balance for farming instead of having to subdivide all of their farmland and thereby lose a large portion of their farmland. Also advised that the Pinelands can elicit from other agencies and make it more difficult for the Township if the Township doesn't adopt the Ordinance. That is a decision for the Township Committee to make. He wants to find out what the Board's concerns are with adopting the Ordinance and possible solutions. The Ordinance also allows the creation of more lots and the creation of open space.

Mr. Germanio discussed his concerns with deed restricting farmland after selling off a 1 acre parcel and who ends up paying the taxes.

Mr. Batastini indicated that certain types of adjustments can be made in the program. Ultimately, the last word is the Pinelands, but no reason the Board can't put their objections on the record as to why something won't work.

Mr. Germanio advised that he has lived in the Pinelands for many years and has had to fight the Pinelands many times and their grandfather clause means nothing. He also said that it takes at least a year or two and a lot of begging to get anything from the Pinelands. Pinelands doesn't care, and forces everyone to give in to them. He said if you go to a Pinelands meeting, they feel the farmers are destroying everything. He also said when he

asked specific questions to the Pinelands representative, he couldn't get a straight answer.

Mr. Batastini advised that the Township doesn't have to accept the Ordinance, but will need to be ready to accept the consequences. There is an element in the Ordinance that if the Township feels that clustering doesn't work in an area, it can be addressed.

Mr. Germanio indicated that in his experience, the Pinelands doesn't listen, and he has been through it many times. If they want to deed restrict farm property, then the taxes need to go as well.

Mr. Gibson said that if an individual subdivides and deed restricts certain area as open space, he will still have to pay taxes on it.

Mr. Germanio said that he has attended a couple of meetings with the Pinelands and it was a joke. They say they are willing to negotiate, but they want to shove it down your throat.

Mr. Batastini again said that the Township Committee has to decide whether it will help or hurt and needs to hear from residents as to their thoughts.

Mr. Germanio asked why if some one wants to buy a 100 acres of land and farm, why can't he and get the benefits of farming. Mr. Gibson advised that he can, but must farm the land for 5 years.

Mr. Germanio said his understanding from Pinelands is if the property was not previously farmed, it couldn't be. Mr. Gibson made reference to a section and Mr. Batastini read from the section indicated by Gibson regarding deed restrictions with respect to subdivision of agricultural uses. He then summarize same for the Board.

Mr. Pettit said that he interprets Mr. Batastini as saying that the property has to be farmed for 5 years prior to applying for clustering. Mr. Batastini added that after reading the section, Mr. Germanio may be correct in his thinking. He added that he believes they are trying to stop a developer from coming in and buying, say 50 acres, subdivide/cluster and then say they will farm the land.

Mr. Gibson said he doesn't believe anything prevents some one from farming. If the farmer gives 1 acre to a relative, the farmer is not required to deed restrict the balance of his property.

Mr. Germanio advised that he has already subdivided a portion off for one of his children and the process cost him a lot of money dealing with the Pinelands.

Mr. Gibson said there are options - heritage clause, increase farming by 50%, increase density, and certain options by the Planning Board. There is no more negotiation room, all options are in the Ordinance.

Mr. Germanio said he still believes that the Township should negotiate with the Pinelands, and that giving in to the Pinelands is not an option he sees.

Mr. Batastini again indicated that this Board doesn't adopt anything, it is up to the Township Committee ultimately.

Mr. Pettit suggested getting a list of questions together over the next several days, submit them to Mr. Batastini and have Mr. Batastini approach the Pinelands with those questions, because we are not getting anywhere this evening.

Mr. Buto indicated that Pinelands representatives are willing to attend an informal meeting, but not a public meeting. Mr. Cherry asked why not make the Pinelands be on the record. He believes that not being willing to attend a public meeting shows a red flag right there; and that since the Board is acting in an advisory capacity, what do we have to gain/lose in signing off. He also added that if something happens down the road and you want to take a stand, it's too late because you have already agreed.

Mr. Gibson advised that there is a deadline. Plan endorsement is conditioned on accepting, as well as wastewater management. He strongly recommends that an action be taken that negates all of that hard work. He also said that he has an obligation to tell the Board the consequences. The time to object is when the rule is being drafted. After the rule is adopted (4 years ago) is too late to object.

Mr. Germanio said that he never heard about the rule.

Mr. Batastini read a letter from the New Jersey Farm Bureau. He is hoping that people from the Farm Bureau can answer the Board's questions.

Mr. Germanio advised that there are only a small portions of the State's farmers in the Pinelands, and somewhere along the line, some one has to look at the tax situation.

A discussion followed between Mr. Gibson and Mr. Germanio.

Mr. Buto asked Mr. Nardelli for this opinion.

Mr. Nardelli indicated that he agrees with Mr. Gibson. He doesn't think they are saying if you cut off a 1 acre parcel, that the farmer is deed restricting the rest of his property.

Mr. Germanio said he used the scenario of having 149 acres and cutting off 1 acre and was advised by the Pineland's representative that the remaining 148 acres would be deed restricted.

Mr. Batastini said that he can express in a letter to the Township Committee the Board's concerns. He made reference to the Pinelands Comprehensive Management Plan and that it does address certain issues.

Mr. Germanio said that he doesn't believe anything the Pinelands says and wants to see it in writing.

Mr. Batastini suggested that he be provided with questions and he will present them to the Township Committee at their next meeting.

Mr. Germanio said he wants confirmation that if some one buys land that hasn't been farmed, that that person can farm that land.

Mr. Batastini advised that the ramification to not adopting is that Pinelands will just take over.

Mr. Germanio continued by adding that we have no control over what the Pinelands does, and you can't even put up a mailbox without getting their permission.

Mr. Pettit asked what was the question about tax revenue. Mr. Germanio replied that if the Pinelands deed restricts property and you can't use it anymore, who pays the taxes. The property owner shouldn't have to pay taxes on what he can't use.

Mr. Gibson said he doesn't want to argue each point, but wants to defend the

Ordinance.

Mr. Batastini offered to meet with Mr. Germanio after the meeting to go over his questions. The Township Committee is looking for the Board's input. He said the Board can vote, instruct him to write a letter as to what the Board thinks, or do whatever we want. This is just an informal and courtesy request from the Township Committee.

Mr. Watson indicated that at the last meeting he provided a list of certain things he felt should be looked at. Page 84 - Signs - has been in the Ordinance for years and applicants have to ask for a variance. 10 feet off the property line is in every other zone, but 50 feet is listed here in the business zone and has been dealt with as a typo. Page 30 - commercial zone - the problem is set back from the property line (0 to 8 feet back from the property line). It might be more appropriate in certain areas that an option be given depending on what is being developed. Also, there are a couple of housekeeping items. Wastewater treatment plants - suggested change in language regarding "community" and "privately" maintained.

Mr. Gibson advised that Mr. Watson has done his homework and he's prepared to comment on each. He suggests forwarding comments to him and he can review with Committee. With respect to wastewater treatment, he suggested a definition that it is the intent of this Ordinance that any reference to wastewater treatment be privately maintained.

Mr. Glembocki said that if the Board wants to hear Mr. Gibson's comments, they should hear them.

Mr. Gibson said that 0 to 8 works in neighborhoods where traffic is moving slow, there are sidewalks and pedestrian traffic with small businesses and is not appropriate for Routes 47 and 83 and other areas where traffic is moving faster. He believes a 50 foot set back

only applies to such things as industrial parks and such.

Mr. Buto asked Mr. Gibson if he wants to take it up with the Committee. Mr. Gibson responded that he would.

Mr. Batastini will forward to Township Committee for review. He then asked for any other input with respect to Master Plan. He commented that the Master Plan is extraordinary and the amount of time that was put into it is commendable.

Mr. Gibson then discussed density reduction, had to change name from Township Center to Village Center, had to reduce allowable impervious coverage from 70 to 60%; got Plan Endorsement at the last minute; have been given certain tasks that must be done, but have time to do them. Will try to get questions answers and get matter resolved.

Mr. Batastini advised he will draft letter with respect to the Board's comments and suggested changes and provide it to the Township Committee for their consideration.

Mr. Buto said that the Pinelands does affect him, but he knows many people who have been affected and has sympathy for Mr. Germanio.

Mr. Gibson said he will request Pinelands representative to e-mail answers to Board's questions.

Mr. Daniels said that if people in the Pinelands are affected, it will eventually affect everyone in the Township with regard to the valuation of their property.

~ Butto -

Correspondence:

New Jersey Office For Planning Advocacy - Approval of Petition for Plan Endorsement:

Mr. Batastini referred to letter congratulating Mayor on Plan Endorsement.

Walter J. Noll - Referral from Township Committee Regarding ATV Usage:

Mr. Batastini advised that he has had an opportunity to review some of the information that has been provided, as well as the past history of this issue. He also briefly reviewed some of the volumes of information from Walter Noll. He is still not in a position to give an opinion as to whether or not this Board has any jurisdiction. He made reference to Mr. Corrado's letter. He believes that a Noise Ordinance may be the best means of dealing with the situation, which is not really a land use issue. He will try to have something available at next meeting.

Mr. Butto then opened the meeting to the public.

Louis Bianchino, Jr. came forward and said that he was just here to see what is going on with Mr. (Gary) Gibson, who has been in his neighborhood to see what is going on with respect to ATVs. Mr. Bianchino said he has lived here all his life; riding is way down and he is being harassed on his own property. He said he has seen Gary Gibson in other areas of the Township watching bike riders; doesn't feel he is trying to help anyone and doesn't know why this Board even listens to him. Mr. Bianchino further added that he has a track on his

property. He feels this whole thing is ridiculous. He added that he gave donation to the local fire company to spray water that they had to recycle anyway, but no one saw the good in that.

Mr. Batastini asked if there was any other public comment. There being, none, the public portion was closed.

Bills:

Mr. Buto read the list of bills to be approved. A motion to approve and pay the Fralinger bills was made by Mr. Pettit, seconded by Mr. Stafford and carried by all members voting on same. A motion to approve and pay Mr. Previti's bills was made by Mr. Watson, seconded by Mr. Daniels and carried by all members voting on same.

Mr. Buto asked if there was any further public comment. There was no public comment.

There being no further business to come before the Board, a motion to adjourn was made, seconded and unanimously carried to adjourn meeting.

Meeting adjourned at 9:06 p.m.

Carla A. Coffey _____

Carla A. Coffey, Secretary

Dennis Township Consolidated Land Use Board

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