

**Borough of Ho-Ho-Kus
Bergen County, New Jersey
Planning Board Minutes
February 19, 2015
Public Session**

Meeting Called to Order at: 7:35 PM

Open Public Meetings Statement: Read into the record by the Board Secretary.

Roll Call: Messrs. Berardo (absent), Pierson, Reade, Cirulli, Newman (absent), Councilman Rorty, Chairman Hanlon, Mayor Randall (absent)

Also in Attendance: Gary J. Cucchiara, Esq., Board Attorney; Mr. Ed Snieckus, Borough Planner; Ms. JoAnn Carroll, Board Secretary.

Ongoing Business:

Hollows at Ho-Ho-Kus, Chamberlain Developers, W. Saddle River

Road/Van Dyke Drive, Block 802, Lots 1, 2, 3, 4 and 10: major subdivision application; the applicant proposes to construct and market single family dwelling units on each of the properties; major soil movement application.

Chairman Hanlon: introduced application; gave instructions regarding meeting procedures; Mr. Snieckus made a presentation on January 22, 2015; follow-up questions by Mr. Inglima; hope to have time for residents to ask questions of the Planner; if not completed this evening, the next meeting will be held on March 5, 2015.

Mr. Cucchiara: stated Mr. Lemanowicz has visited Borough Hall to review the documents on file; he has been instructed not to review any reports issued by Mr. Hals or his firm; has been advised the transcripts from the prior hearings will be available next week; Mr. Lemanowicz will then review the transcripts to be brought up to speed in regards to testimony, evidence and circumstances involving the prior hearings so he will be in a better position to prepare a report; while the exhibits relating to Mr. Hals' reports were admitted into the record to the extent the Board members reviewed those, should be disregarded, as well as the comments made by Mr. Hals; the Board should rely on any reports or comments/testimony presented by Mr. Lemanowicz going forward; basically like a jury instruction; Mr. Hals' comments/reports will no longer be a part of the record; they will be stricken from the record.

No Board questions regarding Mr. Cucchiara's instructions.

Mr. Snieckus/Mr. Inglima: discussed definition of lot frontage for Lot 9; reviewed ordinance; conferred with an associate in his office; one of the lot

frontages had to comply; Lot 9 complies; looked at and reviewed again the Master Plan as it relates to the utilities element; Mr. Fooder's letter speaks about a looped water line; Mr. Pattman provided calculations for the volume of water used per day; used a formula of 2.5 people per home based on 125 gallons per day per person; 2.5 people is a reasonable amount to use per a planning standpoint; is a good reference to start with; discussed number of bedrooms per lot; number of persons living in each home; firm capacity for water; relied on Mr. Pattman; in 2011 the municipality sought additional capacity to be drawn from wells from NJDEP; asked questions regarding through lots; identified Stouts Lane; Mr. Snieckus did not look at Stouts Lane; long driveway leads to the back to the railroad; Mr. Inglima showed a picture of Stouts Lane.

Mr. Whitaker: objected; no relevancy to photograph; doesn't require variance relief.

Mr. Cucchiara: stated Mr. Snieckus had not been to Stouts Lane; not sure how much could be elicited from him.

Mr. Whitaker: objected to the photograph of Stouts Lane being marked as an exhibit.

Mr. Cucchiara: stated he did not see the purpose of introducing the photograph into evidence; it would not be marked.

Mr. Snieckus/Mr. Inglima: discussed landscape architecture; referred to the Master Plan's goals and objectives; trees installed along the north boundary of the site would buffer vehicles along Hollywood Avenue; inspection performed; variety of plan material; discussed what was found at the site; three options of a buffer along that edge; tree removal plan comparison to what was done by Mr. Snieckus; tree removal/replanting plan; majority of trees currently located on Hollywood Avenue are deciduous; discussed height of trees; applicant's frontage on Van Dyke Drive plant height; densely wooded area along the east side of Van Dyke Drive closest to Hollywood Avenue; retainment of trees in that location; 2 phase approach recommended; recommendation includes planting of trees along the easterly line of Van Dyke Drive; proposing landscaping buffer along the frontage on WSRR; Mr. Snieckus looked at the lots indicated on the plans; feels the lots meet the intents and purposes of the zoning; physical requirement of the zone; creation of lots on a cul-de-sac that have regular shape or dimensions advancing the objectives of the Master Plan and the Zoning Ordinances; whole site part of a neighborhood plan; the site is south and west from the R1 zone; offering to the Board as an approach of lot arrangements on Hollywood Avenue; was not speaking of the lot sizes themselves being transitional.

Mr. Inglima: asked Mr. Snieckus if he felt the current configuration of proposed lots 5 and 11 are not inconsistent with that particular concept.

Mr. Whitaker: asked what the particular concept was.

Mr. Inglima: stated the concept was the idea of creating lots that are somewhere between the R2 requirements and the R1 requirements in areas where the two zones abut each other.

Mr. Whitaker: objected; irrelevant; the concept and the requirement of the applicant is to meet the R2 requirements; no requirement in the ordinance for a transition zone.

Mr. Cucchiara: stated the intent to create transitional lots has never been part of the record; Mr. Snieckus had commented in that regard at one point, but it was not the purpose or objective of the applicant.

Mr. Inglima: stated the applicant has never suggested that his plan advances some type of transitional zoning objective; it was Mr. Snieckus who raised the issue.

Mr. Cucchiara: stated he understood this but Mr. Inglima's question suggested that; possibly Mr. Inglima would like to rephrase his question particularly in regard to Mr. Snieckus' testimony.

Mr. Whitaker: stated there is no requirement or objective for a transition zone, so the concept of exploring a transition zone is irrelevant in and of itself in regards to this application.

Mr. Cucchiara: stated he believed Mr. Inglima's question should be more directed to Mr. Snieckus' comments to the extent of the relevancy, but he does not see the purpose of it.

Mr. Inglima: asked Mr. Snieckus if he wanted to withdraw his comments or testimony with regards to transitional areas and/or lot sizes.

Mr. Snieckus: stated that is where the confusion lies; he was not referring to transitional lot sizes; he was referring to the lot arrangements themselves as they relate to Hollywood Avenue; that was all that he was offering to the Board.

Mr. Inglima: asked if it was the fact that they abut Hollywood Avenue with their rear yards.

Mr. Snieckus: stated that was correct.

Mr. Inglima: stated there are lots in the R2 zone in the area of the applicant's site that are larger than the minimal lot size of 10k square feet.

Mr. Snieckus: stated yes.

Mr. Inglima: stated there are many lots that are located between Hollywood Avenue and Pitcairn Road that are larger than 10k square feet.

Mr. Whitaker: objected; criteria is 10k sq. ft.; where the lots in the area are larger or not is not the litmus test for the applicant's proposal for a subdivision.

Mr. Inglima: stated he was asking what the neighborhood plan looks like and that is what the questions are addressed to.

Mr. Cucchiara: stated Mr. Inglima has as much leeway as he likes, but to ask Mr. Snieckus to describe the plan when the documents speak for themselves, not sure what the purpose is; asked if Mr. Inglima had an offer with this line of questioning.

Mr. Inglima: stated he is asking what he knows about the neighborhood in which the applicant's site is located; asked Mr. Snieckus at the last meeting about the report that was issued by Mr. Timsak from the County Planning Board; Mr. Snieckus stated he had reviewed that report; asked if there was anything in that report that Mr. Snieckus deemed, in his opinion as a Planner, as an unreasonable requirement imposed upon a developer of single family home lots in a subdivision.

Mr. Whitaker: stated Mr. Snieckus' testimony is going to be limited to the Planning issues that Mr. Timsak raised, not engineering issues.

Mr. Snieckus: stated there was nothing unreasonable from a Planning aspect.

Mr. Inglima: stated that was assuming that the County had jurisdiction over the application.

Mr. Snieckus: agreed.

Mr. Snieckus/Mr. Inglima: discussed moving the sidewalk along Hollywood Avenue; root systems of the trees in that area; sidewalk can remain behind the curbline; Mr. Inglima asked Mr. Snieckus regarding the applicant seeking a waiver from the subdivision application for a 500' drainage plan.

Mr. Whitaker: objected; beyond his expertise.

Mr. Cucchiara: stated this is an engineering issue.

Mr. Inglima: stated it is a waiver and Mr. Snieckus certainly has the ability to opine as to whether waivers should be granted from subdivision ordinance standards.

Mr. Whitaker: stated Mr. Snieckus can only render an opinion based upon a waiver that pertains to a planning aspect.

Mr. Cucchiara: stated this is a site plan issue not a planning issue; in his view it is an engineering issue unless Mr. Inglima can offer some sort of comment otherwise; he doesn't see how Mr. Snieckus' testimony in regards to that issue assist the Board with making a decision in this case.

Mr. Snieckus/Mr. Inglima: Mr. Snieckus reviewed Planning aspects; did not look at drainage; does not know the condition of the damaged pipe at the intersection of WSRR and Brandywine; did not review; heard all of Mr. Steck's testimony; does not agree with Mr. Steck in regards to setback requirements; the corner lot should have been included in his calculations; discussed sidewalk waiver, width of roadway; non-structural systems.

Mr. Whitaker: objected; there was no review of RSIS in regards to drainage by Mr. Snieckus; he already testified to that fact.

Mr. Inglima: stated he is asking questions in regards to Planning; asked Mr. Snieckus if he had done any independent analysis of the RSIS for the non-structural drainage system and/or utilities.

Mr. Snieckus: stated no to both.

Mr. Snieckus/Mr. Inglima: asked if Mr. Snieckus agreed with the concept that a zoning ordinance and a Master Plan in the State of NJ should work in tandem with one another and complement each other in terms of the objectives of the regulations themselves.

Mr. Snieckus: stated in general they should be synchronized; there are instances when in fact a re-zoning is being considered that may be inconsistent with the Master Plan and the MLUL permits it; that is subject to a greater scrutiny at the time of review.

Mr. Inglima: asked if, in regards to this application, you would have to look past the zoning ordinances in order to determine if the development is appropriate for an area.

Mr. Snieckus: stated in that instance it is advisory; what is more important to look at is the actual criteria in the zoning ordinance; that is the definitive law that the applicant has to comply with and/or seek waivers or variances from; the Master Plan comes into play if in fact someone is seeking to deviate from

the zoning ordinance; it advised the actual land use ordinance and he has also provided that relationship to the Master Plan as indicated in his memorandum.

Mr. Inglima: stated Mr. Snieckus must have felt the Master Plan objectives were notable in the context of this application because he included them in his report.

Mr. Snieckus: stated that was correct.

Mr. Inglima: asked if it was correct, in regards to the three goals and policy statements that Mr. Snieckus cited, Mr. Snieckus said they were being advanced by this application because it complies with the minimal lot size requirements of the zone.

Mr. Snieckus: stated that only applied to certain ones; not necessarily just the minimum lot size but also the bulk criteria; goal #1 speaks to the R2 zone requirements; goal #2 talks about being responsive to the environmental conditions and physical characteristics of the subject; he did note the proposal is largely consistent with this goal, although it will have an impact on trees therefore having some impact on the environmental objectives; it is noted that the applicant should include specific preservation measures to minimize this impact; goal #3 talks about the residential character and scale it was found it was largely consistent with the character and scale as a result of its compliance with the bulk criteria in the R2 zone.

Mr. Inglima: stated there are no proposed buildings for the site; asked how Mr. Snieckus was able to determine that there would not be “overbuilding of residential structures that are out of scale with their neighborhoods.” (taken from goal #3)

Mr. Snieckus: stated the reason why is that they are meeting the requirements in the current zoning code that address those issues; such as lot coverage, setback requirements and the second floor setback requirements as well.

Mr. Inglima: asked if the applicant had offered any agreement that it would never seek variances.

Mr. Whitaker: objected; irrelevant from the standpoint of seeking a subdivision application; nothing to do with a subdivision application.

Mr. Cucchiara: stated he doesn't disagree but this is cross-examination in connection with prior testimony; Mr. Snieckus' report has taken variance positions based on the fact the various dimensional requirements would be complied with; doesn't know if there is something different with regard to his testimony; believes Mr. Inglima should have the right to explore it to that limited extent.

Mr. Inglima: asked Mr. Snieckus if he would like to remove from his report any reference to the objectives of the Master Plan.

Mr. Snieckus: stated, no he would not.

Mr. Inglima: asked if it were true that Mr. Snieckus was not looking into the future in regards to goal #3.

Mr. Snieckus: stated he is responding to what is being provided to the Board; the indications that have been provided on the plans, as well as, the zoning table; the zoning table elaborates that it will comply and/or be less than the bulk requirements.

Mr. Inglima: asked about goal #2.

Mr. Snieckus: stated he believed the applicant needed to address the issue of tree removal more succinctly so the preservation could be understood better; soil removal from the site is based on the conceptual grading associated with the conceptual footprints of the building; did not specifically opine if it was excessive removal, left that to the engineering review.

Mr. Inglima: asked about goal #4; asked if streets are part of the infrastructure discussed in goal #4.

Mr. Snieckus: stated they can be; further stated that what goal #4 is describing as far as infrastructures, infrastructure plan are implemented to expand a level of development that can be supported by current infrastructure; doesn't believe that is what is being referenced as to infrastructure being designed in order to deal with stormwater drainage of a specific development; not infrastructure that would expand the zone plan beyond the intensity of development that is anticipated by the zone plan/R2 standards.

Mr. Inglima: stated if the applicant was to subdivide the site, in a manner that doesn't require the creation of the new street, both of which would have to be maintained by the municipality that would reduce the impositions from infrastructure on the municipality.

Mr. Snieckus: stated he still does not think that is what is referred to in his interpretation of goal #4; goal #4 is more directed towards increased water line capacity, sewer lines, things of that nature in order to expand on the intensity of the development beyond what is contemplated by the plan; "as identified in this plan"; believes it is being taken out of context when you compare a new road and the drainage associated with that new road as expansion of infrastructure beyond what is planned in the Master Plan.

Mr. Inglima: asked if Mr. Snieckus felt, from a common sense perspective, if the property can be developed in accordance with the zoning ordinance without creating these types of burdens on the municipality that should be pursued.

Mr. Snieckus: stated he would disagree; this goal is talking about the expansion of infrastructure above and beyond the zone plan; gave examples.

Mr. Inglima: asked if Mr. Snieckus felt there was any burden being imposed on the municipality by virtue of a detention system that is being placed in the public right of way below grade.

Mr. Snieckus: stated there is additional burden with any development.

**Please Note: a 15 minute break is taken at this time, 8:40PM.
Meeting reconvened at 8:55PM.**

Roll Call: Messrs. Berardo (absent), Pierson, Reade, Cirulli, Newman (absent), Councilman Rorty, Chairman Hanlon, Mayor Randall (absent)

Meeting opened to the public at this time; 8:55PM; Chairman Hanlon explained what could be asked of the witness.

Mr. Paul Lewis, 14 Brandywine Road: did not ask questions of Mr. Snieckus; cited a case which was taken out of context; objections raised by counsel; Mr. Lewis was instructed again that questions need to be asked in relation to Mr. Snieckus' testimony.

Mr. Cucchiara: stated Mr. Lewis had persisted in making legal statements and asking the Planner to comment on them; Mr. Lewis needed to ask questions of Mr. Snieckus' testimony; legal opinion is not relevant to the Board; the authority of the Board is contained in the MLUL statutes.

Mr. Stanley Kober, 919 Washington Avenue: asked questions of Mr. Snieckus.

Mr. Jim Albes, 31 Valley Forge Way: asked questions of Mr. Snieckus.

Ms. Kim Mitchell, 934 Washington Avenue: asked questions of Mr. Snieckus.

Ms. Victoria Petrock: asked questions of Mr. Snieckus.

Public portion of the meeting to ask questions of Mr. Snieckus is closed.

Mr. Inglima: asked Mr. Snieckus a follow-up question regarding tree viability.

Mr. Whitaker: objected to more questions being asked at this point.

Mr. Snieckus: stated he indicated that he had not gone to that detail yet because it is not clear as to what the buffer might actually be.

Mr. Cucchiara: spoke to Mr. Whitaker; stated the issue of time limitations for the Board to render a decision needed to be addressed.

Mr. Whitaker: stated he will stipulate until March 5th.

Chairman Hanlon: stated the next meeting regarding this application is scheduled for March 15, 2015; the engineer will come to that meeting; please check the website just in case there is a change; the target date for the engineer to present to the Board is March 15, 2015.

Mr. Cucchiara: confirmed that Mr. Whitaker was available on March 5th.

Mr. Whitaker: confirmed his availability on March 5th for both the engineer and to provide a very brief summation for a decision.

Mr. Inglima: stated he is available on March 5th; does not know when the Board will receive a report from the engineer; obviously it will be very important.

Motion to Adjourn: Cirulli, Rorty
All in Favor

Meeting adjourned at 10:30PM

Respectfully submitted by:

JoAnn Carroll
Planning Board Secretary
July 13, 2015