



**BOROUGH OF NEW MILFORD
PLANNING BOARD
COMBINED SESSION MINUTES**

July 21, 2015

Vice Chairman Pecci called the public session portion of the New Milford Planning Board to order at 8:00 pm. The Vice-Chairman read the Open Public Meetings Act. All recited the Pledge of Allegiance.

ROLL CALL

Chairman DeCarlo	Absent
Mayor Subrizi	Present
Secretary Scavetta	Present
Council Liaison Colucci	Absent
Vice Chairman Pecci	Present
Mr. Appice	Absent
Mr. DaCosta	Present
Mr. Mottola	Present
Mrs. Prisendorf	Absent
Mr. Tsakalis	Present
Mr. Prendergast, Alt. 2	Absent
Mr. Leibman - Attorney	Present
Mrs. Batistic – Engineer	Present
Mr. Grygeil - Planner	Present

OFFICIAL MINUTES

Board Member Frank Mottola wanted to amend the May 26, 2015 minutes to state he referred to the NJ Builder's Association regarding the 149 COAH units.

Motion by Mr. Mottola, seconded by Mr. Tsakalis, and carried by all, to approve the May 26, 2015 minutes with the change.

As there was no public at this point of the meeting the Board continued right into the work session portion of the meeting.

WORK SESSION

COAH Status

Mr. Grygiel updated the members regarding the COAH status. He said the Supreme Court set a timetable that provided direction. Mr. Grygiel said that the Borough of New Milford submitted their Housing Element and Fair Share Plan however we did not receive certification. Mr. Grygiel said that it was not at fault of the Borough for whatever reason the COAH did not take action of New Milford's affordable housing plan. He said this does give more rights and protections since the Borough filed their plan however, he said we were one class behind the towns that had received certification. He said the Borough Attorney did file declaratory judgement on June 16th with the court outlining the arguments in favor of New Milford's action with regard to affordable housing. Which included what steps that have been taken and asked for immunity from lawsuits consistent with Supreme Court decision. He said there are numbers and obligations floating around such as in various newspapers etc. He said despite what some may say the fair share housing numbers do not mean anything as of yet. In answer to Mr. Mottola who questioned if he knew when Mr. Bruchell would issue his numbers. Mr. Grygiel said Bruchell numbers also do not mean anything at this time and he didn't know when his numbers would be available. He said, at this point in time no one has assigned New Milford official numbers. He said, assuming no action taken in Trenton or a Judge rulings, New Milford should proceed to amend their housing plan. Mr. Grygiel said some things have to be changed in our housing plan and the Planning Board needs to adopt this new document within five months of the declaratory judgment being filed. He said the target date for adopting a revised Master Plan would be sometime around the end of October of this year. Mr. Grygiel said publishing and noticing would be required for an October meeting. Mr. Grygiel said he is shooting for attending our September 15th meeting to start discussing this new document. In answer to Mr. Mottola, Mr. Grygiel said a lot of housing numbers are floating around from Rutgers, and Mr. Bruchell, as well as in various newspapers.

Board Attorney asked Mr. Grygiel if he thought regional contributions would be reestablished. Mr. Grygiel said there was a federal Supreme Court case pushing to keep affordable housing into your own jurisdiction. Board Attorney said that was not set for New Jersey and Mr. Grygiel stated no. He said he would consider thinking about researching regional contribution agreements (RCA). In answer to the Board Secretary, Mr. Grygiel said regional contribution agreements was where a town made an agreement with another municipality to provide funds to provide that municipality with housing. He used the example of New Milford having an agreement with Bayonne in which Bayonne would receive funds that had to be

used for affordable housing.

He said the Planning Board should make the determination on where the COAH requirements should go. He said the Planning Board recently moved a big part of the COAH obligation from the United Water property to Brookchester. He said United Water still needs to be included in the plan due to it being an undeveloped tract of land even if the 200 unit obligation is removed, he said it still could be utilized to have fifty (50) single family homes with a set aside for COAH units. He said 10% would be five (5) affordable housing units but the courts are pushing more for 15% - 20% or ten (10) affordable housing units.

He said plan has been recently revised to include the RC zone which included the Brookchester. He said the Sarna property/ Gramercy project has been in the plan since the beginning of the third round plan. He said they also recently added group homes to the latest plan for New Milford. He said the Planning Board should determine and recommend to the Mayor and Council how they want to address the housing obligations.

Vice Chairman Pecci said he heard of a program in which if mechanical systems were more energy efficient and updated credit would be given. Mr. Grygiel said he would look into it. Mr. Grygiel said rehab units have to comply to certain criteria in order to be considered. Mayor Subrizi asked if a homeowner put solar panels on the roof would the Borough receive credits. Mr. Grygiel said a municipal source must pay for the rehabilitation. In answer to Mayor Subrizi who questioned if COAH credits would be given if the Borough incorporated green technology into a municipal building. Mr. Grygiel said no, however it could possibly receive federal grants or program for that type of project.

Borough Attorney stated that he doesn't believe the Borough is currently collecting affordable housing fees. He said he would be updating the building department and tax assessor office to follow up. In answer to the Zoning Officer, who questioned if a developer was proposing ten (10) new housing units to be built how many would be obligated to be COAH units. Board attorney said the courts are deciding that now. He said he would review the Borough ordinance to see if it needs to be revised. Borough Attorney gave an example of Fort Lee's ordinance where ten new units would be proposed 10% must be set aside, and the town has determined that an affordable housing unit value was approximately \$180,000.00. He said for example, if a developer builds ten new housing units they would either have to propose one unit for COAH or supply a check for \$180,000.00.

Board Attorney stated if any current developer were to appear before a board and get granted approval, the developers agreement and resolution should say the

applicant would comply with whatever the affordable housing obligation is determined to be at the time the certificate of occupancies were issued.

Mr. Grygiel said he would prepare amended fair share and housing element plan. He said at October 20th Planning Board meeting a new plan should be adopted. Mr. Grygiel said he would appear at the September 15th meeting with a draft and the October meeting should be noticed and published for the public session including the adjoining towns and Bergen County Planning Board. He said copies of the revised plan should be available to the public in the building department.

Business Zone

Mr. Grygiel said he was retained by the Mayor and Council to do a short study and offer some recommendation for changes to the business zone ordinance. Mr. Grygiel said it is outdated which is why the Planning Board reviewed the 2014 Master Plan where they recommended some changes. Mr. Grygiel said the business ordinance basically reads that it is not prohibited then it is permitted. He said most towns list what is permitted and not prohibited. He said in order to promote more of a business friendly town to attract development but to keep regulations to not overwhelm neighbors or change the character in the town and yet still attract businesses who want to invest in New Milford.

Mr. Grygiel said the Borough is near the bottom of the seventy towns in the County as far as percentage of the non-residential tax base. He said under five percent of the municipality's ratable fall in that category. He said the idea is to build upon where we have business zones in place or slightly expand the zones. He said one thing the board has talked about was potentially having a professional office/service zone. He said some non-residential uses are already existing on the East side of River Road and the Light Industrial zone on Henley Ave. He said he also would recommend getting rid of the Industrial Zone to utilize more of a professional office zone.

Mr. Grygiel handed out a draft document to the Board Members. Mr. Grygiel said one recommendation would be to allow PSE&G site and changing the entire area by Henley Avenue into a new office/service zone. He said another recommendation would be by Graphic Boulevard on the East Side of the River Road to allow a designation for professional offices. He said he would maintain the business area on Main Street and River Road. He said the draft was an overview allowing the Zoning Officer's determination with regard allowing to certain permitted businesses. He used as an example of a retail store going to another retail store which would obviously be permitted.

The Mayor had an issue with a proposed permitted use of personal services. She

felt that was too vague of a category. Mr. Grygiel suggested to define it more carefully. He used an example once again of a retail store and excluding, thrift shops, check cashing etc. The Mayor was concerned about the existing small business areas next door to residential areas. Her concern was parking issues for the neighbors.

Mr. Grygiel said the existing ordinance for conditional uses included public, private and parochial schools and houses of worships in any zone in the Borough. He would recommend listing that in the business zone as conditional uses. He said a thing to think about is motor vehicle fueling stations. He said right now they are prohibited however if you wanted to permit with exemptions such as not allowing motor vehicle repair or only to allow pumping gas. He said or they could not permit the gas stations at all and to send all proposals to the Zoning Board of Adjustment.

Mr. Grygiel said he would like to come up regulations on Main Street to provide for and encourage a pedestrian friendly vibe for buildings close to the street. He also would like to allow outdoor seating to restaurants as an accessory use. He said it would have to be regulated as far as setbacks. In answer to the Mayor, He said right now a residential use is permitted in a business zone with the same coverage requirements as a business use. He said he would recommend to not allow a residential use but only to allow a residential use on top of a store.

In answer to Ms. Scavetta who had questions regarding nightclub, cabaret, dance halls, etc. Mr. Grygiel said standards would have to be included under the restaurant category to prohibit those type of uses. He said those type of issues is what the Board has to consider when drawing up the ordinance for what would be permitted or prohibited and to add exemptions.

Mayor Subrizi recommended that Mr. Grygiel appear before the Mayor and Council meeting to discuss these changes with the governing body. Mr. Grygiel said he would call the Borough Clerk to get an agenda date.

Motion to open to the public by Mayor Subrizi, seconded by Frank Mottola, and carried by all.

Hedy Grant, 175 Boulevard questioned if the current status of COAH affected any of the Planning Board lawsuits regarding the United Water property. Board Attorney said not at this time. In answer to Ms. Grant's question if the lawsuits have been consolidated. Board Attorney said the lawsuits have been consolidated as far as the calendar purposes however they are still separate lawsuits. Mr. Leibman said the lawsuit involving the Zoning Board of Adjustment would be heard shortly. He stated the COAH case could be consolidated due to the

declaratory relief action, but it may not. Board Attorney stated the two cases that were filed to challenge the adoption of the Residential C zone ordinance have been dismissed. He said part of the settlements that resulted of those dismissals was that the town and land use board could not raise as a defense the affordable housing provided in the remaining properties. He said but they couldn't do that anyway because the applicant is protected by the time of application rule. He said he can't see how a Judge can ignore what's happening with all the declaratory relief and hear a builder's remedy lawsuit at the same time. He said they are integrally related. He said the testimony is going to be the same. He said all the developer's that you would expect to bring the developer's rights lawsuits and Mount Laurel cases are all actively demanding to be on service lists and getting served with copies of the complaints and filing papers to intervene. He said it is going to get interesting.

Motion to close to the public by Mayor Subrizi, seconded by Frank Mottola, and carried by all.

As there was no further business to be conducted by the Board, a **motion** to adjourn was offered by Mayor Subrizi seconded by Theo Tsakalis, and carried by all. Vice Chairman Pecci said there was nothing on the agenda for the July 28, 2015 agenda so the next meeting will be held on August 18, 2015.

Respectfully submitted,



Maria Sapuppo
Recording Secretary