

**TOWNSHIP OF MORRIS
PLANNING BOARD
REGULAR MEETING MINUTES
FEBRUARY 4, 2019**

Call to Order

The regular meeting of the Township of Morris Planning Board was called to order on Monday evening February 4, 2019, at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Morris, Township of Morris, N.J.

The Pledge of Allegiance was led by Mr. Rick Haan, Chairman

Statement of Adequate Notice: The Chairman issued the following statement:

"I hereby announce and state that adequate notice of this meeting was provided by the Secretary of this Planning Board by preparing a notice dated January 30, 2019, specifying the time, date and place of this meeting, posting such notice on the bulletin board in the Municipal Building; filing said notice with the Clerk of the Township of Morris; forwarding the notice to the Morris County Daily Record and the Morris News Bee, and forwarding, by mail, the said notice to all persons on the request list, and I hereby hand a copy of such notice to the Secretary of the Planning Board for inclusion in the minutes of this meeting, all of the above actions being in accordance with N.J.S.A. 10:4-6, et seq., Open Public Meetings Act."

Roll Call of Planning Board Members and Professionals

Members Present

Mr. Rick A. Haan
Mr. Anthony Romano
Mr. Franz E. Vintschger
Mr. Jesse Kaar
Mr. Jeffrey Grayzel, Mayor - 7:35 pm
Ms. Linda Murphy
Mr. Laurence D. Bobbin
Mr. Jeremiah Loughman
Ms. Catherine Wilson, Township Committee – 7:35 pm
Mr. Edward Benoit, Alternate #1
Mr. Todd Goldberg, Alternate #2

Members Absent

None

Professionals Present

Mr. Steven Warner, Board Attorney
Mr. Paul Phillips, Board Planner
Mr. James Slate, Board Engineer
Ms. Sonia Santiago, Board Secretary

Consideration for approval of minutes of the November 19, 2018, December 3, 2018 regular meetings and January 7, 2019 reorganization and regular meeting.

On a motion duly made by Ms. Murphy, seconded by Mr. Romano and unanimously carried the minutes of the November 19, 2018, December 3, 2018, with modifications, regular meetings and January 7, 2019 reorganization and regular meeting were approved as circulated and placed on file in the office of the Planning Board.

Public Hearings

**The following members recused themselves from the following application
Mr. Haan, Ms. Wilson, Mr. Grayzel and Mr. Benoit
Mr. Vintschger is seated as Chairman.
Mr. Goldberg was seated.**

PB-12-18, Philip & Barbara Sellinger

Minor Subdivision

Block 8304, Lot 28, 2 Old Glen Road, RA-15 zone.

Applicant proposes a minor subdivision to create one additional lot.

Proof of publication and affidavit of service filed and approved by the Board attorney.

Mr. Blake Width, attorney for the applicant entered his appearance and presented the application to the Board.

TCC report dated December 28, 2018 was read into the record by Mr. Paul Phillips, Planning Board Planner.

EC report dated January 23, 2019 was read into the record by Mr. James Slate, Twp. Engineer

Site Inspection report dated January 23, 2019 was read into the record by Mr. Jesse Kaar.

The following professionals were sworn in by the Board Attorney.

Richard Schommer, Professional Engineer
Paul Phillips, Township Planner
James Slate, Township Engineer

The following exhibit was submitted during testimony.

A-1 Colorized Rendering of the Site Plan dated 2-4-19

Summary of Testimony – Richard Schommer, Licensed Architect

Mr. Schommer used exhibit A-1, titled Minor Subdivision Exhibit, a colorized version of the submitted Site Plan, dated 2-4-19, to describe the existing conditions and what is proposed to give the Board a sense of the project. Mr. Schommer stated that the property is in the RA-15 zone and it is an oversized lot. The neighboring properties to the west and north are in the RA-15 zone and to the east are in the OL-5 zone. It is irregularly shaped, with about 240 feet of frontage along Old Glen Road, and it is about 470 feet in depth. The area of this property is over 3 acres. This lot is oversized by 9 times the required lot area of 15,000 square feet. The adjoining lots are conforming, but much smaller than the subject property. The minimum lot width is 100 feet and the minimum depth is 100 feet. There is an existing house on the property. It is currently served by a driveway off of Old Glen Rd and comes up to a courtyard area up to the house, then continues up to the garage on the left side of the house. It has a side-loaded garage. There is a carriage house at the rear of the property. The lot is fairly mild in terms of topography, there are no steep slopes, no wetland area, flood plain areas or environmentally sensitive areas, and it is fairly straight forward. The existing house is set back 150 feet from Old Glen Rd, and it sits back much further than adjacent houses as the front yard setback in this zone is only 50 feet.

The proposal is to take this lot and subdivide it. The proposed new lot will be 44,367 square feet, and the mother lot (lot 28) will be 94,277 square feet. It is fully conforming to all of the zoning criteria. The lots will share a driveway coming off of Old Glen Road. The existing driveway will be extended

to serve the new residence and will encroach upon the side-yard setback, although same does not result in a nonconforming condition for which a variance would be necessary. Mr. Schommer further explained that the current residence would also have a second access from the new lot by way of a proposed access easement. The plan shows a conceptual new house and how the lot is of sufficient size and shape to support a new single family home in conformance with the ordinance and zoning criteria. The existing carriage house will be removed and a lot grading plan will be submitted to the Engineering Department prior to any construction. There will be 2 homes, 2 curb cuts and nothing additional beyond what is normal. The access easement would serve both lots. The turnaround area for the side load garage will extend over the property line; this is an easement situation. Each lot will be served by public utilities.

Mr. Schommer further stated that no tree removal is proposed, and in the event there is a need for tree removal, we will conform to the tree removal and replacement ordinance at the time of the individual lot grading plan. There was a generator mentioned in the TCC report and we can provide information to confirm it will meet the noise criteria. We will have to demonstrate it will conform, and add any other attenuation to buffer the noise if necessary. We will agree to the noise criteria as a stipulation of approval.

After subdivision, we will have two oversize lots with two driveways, and we are not seeking relief or variances. The lots would be fully conforming.

A discussion was carried between the Board and the applicant's professional. The plan is that both lots will have their own utilities. The driveway length is 250 feet, and is under the minimum length of 300 feet where it would need to be widened for emergency access. Snow removal on the first 50 feet easement will have to be handled by an agreement by the two owners. New pillars are not planned for the new driveway. Mr. Slate stated that the house numbering will be an issue as the existing house is #2 and the tax assessor would like to keep even numbers on that side of the road; possibly it could be #2A.

Mr. Warner reviewed the condition of sound attenuation and the applicant has agreed that they will meet the noise criteria and all stipulated conditions set forth in the reports and on record.

The meeting was opened to the public for questions of the witnesses; no one appeared to be heard.

Public portion closed at 8:02 pm

The meeting was opened to the public for comments of the witnesses; no one appeared to be heard.

Public portion closed at 8:05 pm

Mr. Width made closing remarks stating that in light of the recommendations and the stipulated conditions of sound attenuation, he asked that the Board consider this application, and would ask that you would determine it under the standards set forth in Pizzo Mantin Group v. Township of Randolph 137 N.J. 216, and we would welcome a vote at this time.

Ms. Murphy moved, seconded by Mr. Kaar that approval be granted to the application of Philip and Barbara Sellinger, thereby permitting the minor subdivision to create one additional lot on Block 8304, Lot 28, with the conditions stipulated and that the Board Attorney be authorized to prepare a formal resolution memorializing action taken by the Board, same to be presented for consideration at the March 4, 2019 Board meeting.

Roll Call (voting members)

Mr. Romano	YES
Mr. Kaar	YES
Mr. Goldberg	YES
Ms. Murphy	YES
Mr. Bobbin	YES
Mr. Loughman	YES
Mr. Vintschger	YES

7 Ayes 0 Nays 0 Abstain

**Mr. Grayzel and Ms. Wilson were reelected.
Mr. Haan was reelected as Chairman.**

PB-13-18, Paglianite / Merrywood Development, LLC

Minor Subdivision / Variance

Block 1201, Lot(s) 9, 9.01 & 9.02, 4-8 Merrywood Court, RA-35 zone.

Applicant proposes a minor subdivision, lot line adjustment creating a front yard setback on one of the lots and a rear yard setback for another one of the lots.

Proof of publication and affidavit of service filed and approved by the Board attorney.

Mr. Lawrence A. Calli, attorney for the applicant entered his appearance and presented the application to the Board.

TCC report dated December 28, 2019 was read into the record by Mr. Paul Phillips, Planning Board Planner.

Site inspection report dated January 23, 2019 was read into the record by Mr. Jesse Kaar.

Environmental Commission report dated January 23, 2019 was read into the record by Mr. James Slate, Twp. Engineer

The following professionals were sworn in by the Board Attorney.

- Paul Ferraro, Professional Engineer
- Kent Fox, Professional Planner & Architect
- Paul Phillips, Twp. Planner
- James Slate, Twp. Engineer
- Samuel Paglianite, Property Owner

The following exhibit was submitted during testimony.

Exhibit A: Colorized Version of Amended Final Plat Merrywood Ct revised subdivision plan dated 1/12/19

Summary of Testimony – Paul Ferraro, Professional Engineer

Mr. Ferraro provided a brief background and oriented the Board with the subject property. It is along Sussex Turnpike, next to the Rose Arbor subdivision. Merrywood Court is the new road that was constructed. The lot was subdivided in 2003 into 3 lots. The proposed lots are in the R-35 zone. When it was originally subdivided, lot 9 had 60,464 square feet, Lot 9.01 had 37,618 square feet, and lot 9.02 had 120,427 square feet. Under the proposed conditions, the impacts on the lots are:

Lot 9 is reduced by about 3800 square feet to 56,676 square feet. Lot 9.01 increases by about 1100 square feet to 38,729 square feet. Lot 9.02 increases to 123,115 square feet. All lot sizes are well in excess of the zone requirements.

Mr. Ferarro referred to the rendered Amended Final Plat Merrywood Ct Revised Subdivision Plan dated 1/12/2019. Starting with lot line 9.02, there is a significant amount of wetlands and wetland transition areas at the rear of the property and the object is to create a better building envelope. Additionally we want to move the lot line on 9.01 closer to Sussex Turnpike to make that lot a little smaller, to make a dwelling fit better and reduce the impervious coverage.

Mr. Ferarro stated that there are three variances. The first is the shed along the western property line on lot 9. It is too large as it is 106 square feet instead of 100 square feet due to a construction error. The second for the rear yard on lot 9 as it is proposed to be reduced by 30 feet. This is a corner lot, with 2 front yards a side yard and a rear yard. The way the house is oriented, the practical front yard is to Merrywood Court. The side yard that is 30 feet is functionally a rear yard; the rear yard is functionally a side yard. It would comply with the side yard setback which is the real side yard although the rear yard is a deviation of 5 feet versus the 20 feet if we looked at it the other way. The bottom line is that this is a corner lot and it looks better if we flip the rear and the side yards on that property. The third variance we are requesting relates to the front yard on lot 9.01. It is a lot that sits on a cul de sac and what we propose is to reduce the front yard setback to 55 feet, following the arc. That allows the house to be closer to the road and further from Rose Arbor subdivision, reduces the length of the driveway, and looks like it fits better on the property because of how the cul de sac bulb creates an exaggerated set back.

Mr. Haan asked if the transition area is the same as in 2002 as it is now. Mr. Ferarro answered they are still the same, as 150 foot buffers. 16 years' worth of lack of sales is indicative that there needs to be movement to make the lots more marketable. Mr. Haan continue to asked that regarding lot 9, does the applicant have the option of defining which is the rear and side yard? Mr. Phillips explained that the purpose of switching is to reduce the relief from 20 feet to 5 feet. The testimony is that if they switched it, it would be a lesser degree of variance if the rear yard was switched but there is still a rear yard variance no matter which way the front yard is determined.

Summary of Testimony – Samuel Paglianite, Home Owner

Lot 9.01 is currently under contract. Lot 9.02 is for sale, but we have had no luck in selling it as there have been 4 potential owners walking away over the last 15 years specifically because of the narrowness of the lot line due to the conservation line. The small bit of relief we are requesting would allow us to adequately put a saleable structure on the lot to sell the last lot. The shed was contracted to be built stick framed 9x11, the 2x4's were studded out inaccurately, creating 6 feet of overage.

The meeting was opened to the public for questions of the witnesses; the following person appeared to be heard.

Helen Yun 84 Hancock Dr.

Public portion closed at 8:35 pm

The meeting was opened to the public for comments of the witnesses; no one appeared to be heard.

Public portion closed at 8:35 pm

Summary of Testimony – Ken Fox, Professional Planner and Architect

Mr. Fox submitted Exhibit A, a Colorized Rendering of the Site Plan dated 1/12/19. He colored the lots to show the division and graphically showed 2 potential 2000 square foot diagrammatic homes with garages that might be able to fit on the lots, to give a sense of how they could fit. Mr. Fox stated that the lot on the right shows that any home that will be constructed will have a desired width with a garage on one side, conventional design. By shifting the line over, the benefit of this is that it pulls the house forward and creates less impervious coverage by making the driveway shorter. On the second lot it somewhat does the same thing; we have asked for relief on the center lot for 55 feet front yard setback where 75 feet are required. The irregular configuration of the cul de sac line makes the request of 55 feet setback to the right side of the house to the irregular shaped arc of the cul de sac, where the left side of the house will be 100 feet setback. The neighborhood really is just the 3 homes. There is no negative impact to the distance between the homes in this location and we have increased the distance between the homes in the subdivision to the rear, creating a better situation.

The original lot utilizes Merrywood Ct as the front door, and the proposed change of the 2 setback lines would make the setbacks conforming, except the rear yard setback of 45.1 feet where 50 feet are required.

Mr. Fox stated that we are asking for relief for the front yard setback, the rear yard setback and the shed is an error in construction and that is a di minimus exception. The irregular shape of the center lot gives us a C1 justification. There is no negative impact to anyone, no irregular street line, and it creates pleasant setbacks to the homes. It gives backyards and keeps the houses away from the development behind. With the relocation of the lot lines, the benefits outweigh the detriments and allow the minor lot line relocation.

Mr. Calli asked Mr. Fox if the boxes representing the potential new homes on lot 9.01 and 9.02 are typical of lot sizes in this part of the Township. Mr. Fox responded that yes they are similar with a 2000 square foot lower level, and the second floor will have a smaller footprint giving the house a step aspect, making the impact of the front yard less. By pulling the house forward and creating a larger back yard, it reduces impervious coverage and creates a benefit. Regarding the shed, it is Mr. Fox's opinion that it is a relatively imperceptible deviation that is allowed to be in that setback. It is in a heavily wood area, and you would not be able to notice the extra six feet even if you were standing close to it.

Mr. Vintschger asked if the detention basin is working properly. Mr. Ferraro answered that there has not been any issues, it has been well maintained, and it was designed for the full development of those lots. Mr. Paglianite stated the lot containing the detention basin has been dedicated and deeded to the Township. Mr. Slate stated that the Township will assume maintenance of the detention basin once the development is fully completed.

A discussion was carried between the Board, Board Professionals and Applicant's Professionals regarding the front yard setback of 55 feet where 75 feet are required and the shape of the irregular bulb of the cul de sac. There would not be any impact of actual development of a home as there is no one on the other side. There is no impact to the adjacent property owner. The cul de sac preferred design is right hand or central tangent, not a left hand tangent as it would direct traffic the wrong way. There is a very substantial mature buffer between Rose Arbor development and the Merrywood subdivision. A grading plan and tree removal plan will have to be filed to develop on each of those lots but once the lot becomes homesteaded, it becomes the homeowner's choice to remove trees.

The meeting was opened to the public for questions of the witnesses; the following persons appeared to be heard.

Diane Holland 26 Northbridge Pl

The meeting was opened to the public for comments; no one appeared to be heard.

Public portion closed at 9:03 pm

Mr. Calli provided a summation that the net change is zero, all lots will remain oversized. This is a classic C1, in many respects where you have a large amount of land but there are many deviations. The lots are irregularly shaped and there are environmental constraints. This supports the C1 and C2 variance. An owner on 9.01 will not orient their house facing straight at the cul de sac; it is self-governing. You are getting better yards on 9 and 9.01, building houses where you haven't been able to for the past 16 years and across the street there is nothing. It will not look out of character with the area. These are relatively nominal variances.

Regarding the front yard setback of lot 9.01, Mr. Warner stated he fully recognizes that the Board has the authority and jurisdiction to grant the relief along that reduced magnitude with regard to lot 9.01's reduced front yard setback. Mr. Calli agreed that it was accurate. Mr. Slate stated that it is easier to state that a 55 foot yard variance was granted than complicating it with the 75 foot leg as that area cannot really be used.

Mr. Grayzel asked for a condition stipulating that if the shed was destroyed by anything more than 50%, the applicant would have to comply with bulk yard requirements.

Ms. Murphy moved, seconded by Mr. Kaar that approval be granted to the application of Paglianite / Merrywood Development, LLC, thereby permitting the minor subdivision with variance on Block 1201, Lot(s) 9, 9.01 & 9.02, with conditions stipulated and that the Board Attorney be authorized to prepare a formal resolution memorializing action taken by the Board, same to be presented for consideration at the March 4, 2019 meeting of the Board.

Roll Call (voting members)

Mr. Romano	YES
Mr. Vintschger	YES
Mr. Kaar	YES
Mr. Grayzel	YES
Ms. Murphy	YES
Mr. Bobbin	YES
Mr. Loughman	YES
Ms. Wilson	YES
Mr. Haan	YES

9 Ayes 0 Nays 0 Abstain

Other Matters

Mark Development, Inc., Block 10501, Lots 2 & 3 255 Speedwell Avenue / 9 E. Hanover Avenue, request to withdraw pending application without prejudice.

On a motion duly made by Mr. Vintschger, seconded by Ms. Wilson and upon a roll call, the resolution, attached hereto and by reference made part of the official minutes of this meeting, be adopted as circulated and placed on file.

Roll Call: Mr. Romano, Mr. Vintschger, Mr. Kaar, Mr. Grayzel, Ms. Murphy, Mr. Bobbin, Mr. Loughman, Ms. Wilson, Mr. Haan. Motion carried.

Footes Lane, LLC, Block 6302, Lot 51, 1 Footes Lane, request for extension of the deed filing deadline.

On a motion duly made by Ms. Wilson, seconded by Mr. Romano and upon a roll call, the resolution, attached hereto and by reference made part of the official minutes of this meeting, be adopted as circulated and placed on file.

Roll Call: Mr. Romano, Mr. Vintschger, Mr. Kaar, Mr. Grayzel, Ms. Murphy, Mr. Bobbin, Mr. Loughman, Ms. Wilson, Mr. Haan. Motion carried.

Resolution authorizing the retaining of a Special Planning Consultant – Mr. Slate stated that this is for the Atlantic Health property located on Mt. Kemble Avenue, as you recall we did a redevelopment plan for the property there is continued work and Paul Phillips has a conflict so we continue to use Heyer and Gruel Associates for that.

Ms. Murphy made a motion seconded by Mr. Kaar and upon a roll call the following Resolution, attached hereto and by reference made part of the official minutes of this meeting, be adopted as circulated and placed on file in the office of the Planning Board.

Roll Call: Mr. Romano, Mr. Vintschger, Mr. Kaar, Mr. Grayzel, Ms. Murphy, Mr. Bobbin, Mr. Loughman, Ms. Wilson, Mr. Haan. Motion carried.

Committee Reports / Discussion

Ms. Wilson commented that the vegetation bill was tabled last Thursday; it was opposed by the League of Municipalities. The bill would allow the utility companies to have authority over the vegetation on the Right of Way and supersede the Municipality. What was concerning was that it came suddenly without a lot of background. It has been tabled, but we are aware of it. Ms. Murphy commented that we have put a lot of pressure on electric companies recently because of power outages caused by overgrown vegetation along the Right of Way and I think they were trying to preempt future power outages by having a rigorous vegetation management process. This bill was intended to help them with the execution of their preventative maintenance. The concern was the municipalities were losing control over vegetation management themselves. A discussion was carried regarding trees trimming and maintenance. Ms. Wilson stated that opposition to the bill was that the language was too broad. Mr. Warner stated that the comments may be sent directly to the legislature.

2019 Board Rules – Draft rules to be distributed / general discussion (no action to be taken)

Mr. Haan stated that Mr. Warner provided draft by-laws for the Planning Board. The Board reviewed and discussed the rules among themselves. One suggestion was to place public commentary on the agenda and that public commentary section should be limited to a time frame; that is the responsibility of the Chair to control the meeting. Further discussion could be carried at the next meeting.

Planning Board Educational Session – Discussion generally and scheduling of session (no action to be taken)

A discussion was carried regarding an education session to educate the public on the role of the Planning Board and at the same time it would be a refresher to the Board members. Mr. Haan stated

that the informal session would be dedicated to the public; the primary goal is to give residents an opportunity to learn about the process. Mr. Warner reviewed some of the Board's responsibilities, and then spoke to preparing and conducting a session for the public. It could be beneficial to combine an education session addressing both the Planning Board and the Board of Adjustment. The Board agreed that the next meeting on March 4, 2019 could contain this education session. Mr. Warner will reach out to the BOA Council, Mr. Oller, to confirm whether members are available for March 4, 2019.

Update on the Master Plan Re-Examination Report implementation plan progress- Mr. Slate stated that they are making progress but have nothing new at this point. They are working on items such as the Cube Smart signs and how the sign matches the incorrect Honeywell sign; there was some miscommunication. Design standards need to be discussed by the Planning Board and challenges that come up with those. Another item discussed has been the walkability of people to get out of cars, circulation, and the trails and recreation plan. Mr. Slate stated that there is also a Transportation Advisory Committee being formed.

Ms. Murphy stated that she has been recording the amount of acreage associated within each of the zones up throughout the Honeywell development and passed the matrix over to the Engineering department. Ms. Murphy asked if that could be updated to accurately reflect the amount of acreage we have that is associated with industrial/commercial versus our various residential zones, and how much is low density versus high density. That it could also be a part of the training session, to show people how we are using our land in the jurisdictional boundaries of our community. Mr. Slate stated that it has been discussed to update the paper zoning map. We have run into many discrepancies between all of the data that when we looked at the totals it didn't add up to the size of the Township; it has been a monumental task. Ms. Murphy stated that she would like to see that being updated and is willing to assist with the update, even if it is 95% accurate it will show how our land is being used. Mr. Slate stated he will take a look at it and see if he can put together something before the next meeting.

Ms. Wilson spoke to the Complete Streets Program, and asked for Mr. Slate to comment on that. Mr. Slate stated that when we are reconstructing a roadway, we try to make more pedestrian friendly, if we are adding sidewalks, or certain elements of bicycling that we try to incorporate. Some towns have done lanes specifically dedicated to cycling to share the road. We have specific guidelines that call for a certain lane width for cycles and not have parking in some instances and if someone is injured we open ourselves up to serious liability.

Mr. Haan announced that he will be moving out of State as of February 20, 2019 and will be submitting his resignation to the Mayor. He has been serving the Township Boards since 1988.

Villa Walsh - Mr. Slate stated that Villa Walsh has approach him regarding a turf field on their softball field. The softball field is all clay, the field to the north is all clay, there is another one sandwiched between the turf lacrosse field and the tennis courts that has a grass infield. I let them know that if they were to change that to turf, that they would have to come to the Planning Board. They asked if it was possible to do a turf diamond and then they would follow up with the overall turf field application, as they would like to be able to use it this spring. Mr. Slate stated that he would like to get the Planning Board's opinion to see if it could be handled administratively. The Board recommended that Villa Walsh submit a full application, as the Board has concern of presumption of approval for the whole field if a portion of it is done.

Delbarton - Mr. Slate stated that they would like to put a 400 square foot ADA vestibule and access linking the Vincent house to the church. It would require a site plan waiver, is rather di minimus and Mr. Slate asked the Planning Board if it could be handled administratively. The Board agreed that it

could be handled administratively as the proposed development does not include substantial site plan development.

With no further business for consideration by the Township of Morris Planning Board, on motion duly made seconded and unanimously carried the meeting was adjourned at 10:27 P.M.

Respectfully submitted,


Sonia Santiago, Secretary
Township of Morris Planning Board
Approved: March 4, 2019