

**WALL TOWNSHIP PLANNING BOARD
MINUTES - REGULAR MEETING
MUNICIPAL MEETING ROOM
MAY 18, 2009**

Chairman Aromando called to order the regular meeting of the Wall Township Planning Board at 7:40 P.M. Members present were Ralph Addonizio, Laurie Aromando, second alternate George Bednarski, Michael Clayton, Timothy Clayton, first alternate Kristin Coman, Dominick DiRocco, Timothy Farrell, Mary Hearn, Todd Luttmann, George Newberry, Attorney Cramer, Engineer Rooney, Planner Bergailo, Planning Board Secretary Lang, Planning Board Recording Secretary Schinestuhl and Court Reporter Arnone.

Chairwoman Aromando announced the meeting was being held in accordance with the "Sunshine Law" and a resolution adopted on January 12, 2009.

SALUTE TO THE FLAG

Chairwoman Aromando explained we are here tonight for the amendment to the COAH plan. There will be discussion of COAH obligation and Mount Laurel housing for Wall Township. The last time we met regarding this was in December. We told you we had to approve a plan so we would not be subject to builder's remedy lawsuit. We thought this was a good time to talk to the public.

At tonight's meeting we have Jeffrey Surenian, COAH attorney; Cheryl Bergailo, COAH planner; Joseph Oxley, Township Attorney; Joseph Verruni, Township Administrator and Jeff Cramer will fill in for Tom Hirsch.

Attorney Cramer said no one has to be sworn in this is an informational meeting.

Chairwoman Aromando asked Attorney Surenian to explain where we started back in December and where we are today.

Attorney Surenian said he has been working with affordable housing since 1983. This is my exclusive area. He explained the Township is in lawsuits now. We are suing COAH regarding COAH regulations and we have been sued by the Wyckoff Group. We are in negotiations with various developers so he said he has to be cautious as to what he says publicly.

Attorney Surenian said in terms of where we are, Wall Township was sued by several developers back in the 1980's. The town had to negotiate settlements. Since that time we have been diligent. We are moving forward and implementing an approved plan. Phase I and Phase II have been very successful. We have a high number of approved units. In 2004 for Phase III they were the subject of the lawsuits. May 6, 2008 and September 22, 2008 those regulations are problematic and they are up on appeal. We need to make sure we have a plan.

Attorney Surenian explained the Township has a Mount Laurel Sub-Committee and there is a Citizen's Committee on Affordable Housing group as well. They have made some suggestions. They suggested removing the site on West Hurley Pond Road and Hurley Pond Road and change

the Wyckoff site from 72 family units to 35 age-restricted units. He explained the Olympic Limousine site and Schwartz property were in the twelve sites in the plan. We are in negotiations with those developers and we are moving forward.

Attorney Surenian explained the Atlantic Manor Apartments we had included a portion of that site in a plan using 32 units in front of the apartments. COAH objected to that. He said he thinks we have a way of solving that and get the 32 units. In addition to Atlantic Apartments there is an excellent site at Holly Boulevard. Also age restricted at Colfax we are in discussion with them and they will be deed restricted. Bearmore will have an extension of 37 units. If he agrees we will have 37 units on that site.

Chairwoman Aromando said when you extend the existing units you are going to get credit for Round III. Attorney Surenian said correct. We looked at all the sites to see if we can do that but this is the only site we can do that with. Following the submission of our plan in December 2008 we received a letter regarding the Schwartz site. There were a number of concerns. He said he is trying to get a meeting with DEP.

Attorney Surenian explained every two years the plan is checked to make sure you are meeting your responsibility.

Chairwoman Aromando said once approved in two years they are going to check if 667 units are built. Our plan has not been accepted. Attorney Surenian said two years from the date the plan is accepted. That is where we are in this process. We have been meeting with the sub-committee trying to move forward. When we adopt that amended plan we want it to be as solid as possible. Maybe in about 60 days we will have an amended plan.

Chairwoman Aromando asked what a builder's remedy lawsuit is. Attorney Surenian said the Supreme Court set up a system. If you comply you are protected if not you are not protected developer's can sue you and say I don't like what's going on I want higher density. For example, Howell in two acre zone the developer was able to get it revised. They demanded very high density and do very little regarding low income housing. You want to avoid that. You want to have control.

Attorney Surenian explained at a point in time 490 units and 98 affordable out of 500 units you can get 100 units. Prior when those were constructed there was no share obligation. That same project would do nothing to help your obligation. Now 25% is set aside. It is more inefficient in Phase III.

Chairwoman Aromando said Round III we had 25% set aside. If we build 100 market that would add another 25 to our 667. That is what we want to avoid. Not only will we loose control we also will loose control as to how many. Attorney Surenian said this is a more difficult process.

Mr. Luttman said you said that the COAH board assessed us at 667. How did they come up with that number? Attorney Surenian said they put the information in a computer and they said for every four new market units you owe one unit for affordable housing, every sixteen jobs you

have one unit for your obligation. No expert can tell us how they came up with that number.

Chairwoman Aromando asked Ms. Bergailo in other towns they challenged the plan and said they had land that could not be used. There was an open window in 2008. Did we have a chance to do that? Ms. Bergailo said because Wall has so much undeveloped land it is not likely. It is not based on the town's zoning.

Mr. Luttmann asked about wetlands and sites set aside by State Green Acres. Ms. Bergailo said Wall has six acres for every one unit. COAH is six to eight units per acre. You can come up with the obligation they have assigned to us. What we question is the phases. Accept COAH's numbers and phase the plan. The current zoning in town will not let that to happen. We can't object to the overall number.

Chairwoman Aromando said they have over estimated what land we have. Why is it that some towns met and COAH reviewed all their land? Why didn't we do that? Ms. Bergailo said we did ask COAH for a meeting. We have to meet with the court master. Attorney Surenian said we don't think that is going to be productive.

Mr. Luttmann asked how they came up with our numbers. Ms. Bergailo said they did not look at the towns zoning. They looked at land. They looked at West Belmar. Their numbers are not based on reality.

Chairwoman Aromando said she thinks it is very important for us to go meet with the court master. Ms. Bergailo said she thinks if you look at all of the approvals Wall has on file if we meet with the master it is going to be greater than 667.

Mr. Luttmann said we should be looking at the phasing development and senior housing. You said we had to meet 90% of our obligation by the end of two years. What happens if we fall short on that? Ms. Bergailo explained it just has to be in reading not built by that time.

Mr. Addonizio asked wouldn't the first step against COAH be to look at our zoning and land and go to the master. We have miles that are open space. We want that taken out. We have sections of open spaces on the medians on the parkway. This is getting counted for our obligation. Why hasn't this been taken care of? Attorney Surenian said they do not look at your zoning. We did look if we could challenge their numbers and we could not.

Mr. Addonizio asked how these sites got on this plan. Ms. Bergailo said Colfax Senior that was existing. Sunnyside Manor is an approved assisted living facility that would provide some of the units. Bearmore those credits are expiring and we can renew them. Schwartz was in the 2005 plan and we are continuing with that. Olympic the property owner approached the town. It was a good site and close to the Schwartz site. Holly Boulevard she said she doesn't remember. A prospective developer approached the town.

Mr. Addonizio said we have all professionals deciding what is good except for our chairwoman. We don't have any outside input. Is that standard? Ms. Bergailo said it is typical procedure. It is

a mix of professionals and Planning Board members.

Chairwoman Aromando said this plan was put in front of us and we had a deadline so we had to vote.

Ms. Bergailo said Committeeman Hoffman has a citizen's group and they have some input. I don't know any towns that have had extreme public input. It is a tough job.

Chairwoman Aromando asked what are the rules and qualifications for the site. Ms. Bergailo said they are very broad, clear title, access to appropriate streets, water and sewer would have to be available. Chairwoman Aromando said there are sites that do not have water and sewer. Why? We have 32 miles and there are no other sites in town but Schwartz/Olympic. Ms. Bergailo said they are in a water/sewer service area. Chairwoman Aromando said she spoke to Jessica Kalata from the Monmouth County Planning Board and she said these were removed. Why do we have those sites on the plan? She said Ms Kalata talked to someone from the township. Ms. Bergailo said we are working with DEP and the County to have them remain in the sewer service area. Attorney Surenian said he did not speak with anyone. Attorney Oxley said it was not him.

Chairwoman Aromando said the COAH attorney, Mr. Verruni, Ms. Kohri, the township attorney, Matt Zahorsky, John Hoffmann, Cheryl Bergailo, Charlie Rooney, Tom Hirsch that is a lot professionals sitting on the committee. That is a lot of money. My professional opinion is that it is a waste of money. There are developers we have not gotten back to. Why are we pushing the Schwartz/Olympic sites? Ms. Bergailo asked what other alternate sites? We will look at them. Chairwoman Aromando said that is not my job it's yours.

Mr. Addonizio said for what we are spending we should have sites coming out our noses. We are wasting money. We are not getting anywhere. There are sites that should have never been put on the plan.

Attorney Surenian said when we put them on the plan we thought we could solve these problems. We received a letter and that raised some questions. We thought these were good sites.

Chairwoman Aromando said she has objected to this plan for the last three months.

Deputy Mayor Newberry said it was the 2008 sub-committee that put this together. In their defense December 22nd was the date the State told us we had until December 30th to comply. Attorney Surenian said that is correct. In 2008 there was rage against these COAH regulations.

Deputy Mayor Newberry explained the committee put together a plan that was brought to the Planning Board. We saw the flaws in the Hurley Pond and West Hurley Pond Road sites. We realized there were some flaws but we had to get something in place by December 2008. We have three chances to amend the plan. We don't want to exhaust that. The plan that will have to be put in place will not look like the plan that was done in 2008. There are some deficiencies in that plan. We advertised for other sites. There are other sites being looked at now. The sub-

committee and CCAH we listened to their opinion as we put this together. We have a plan and that plan is going to change.

Attorney Surenian said you can only amend your plan so many times then it stops. We want to make sure that the amended plan is as tight as possible. We want a plan as strong as possible.

Chairwoman Aromando said that is her major concern two sites do not have water/sewer. Attorney Surenian said it is that concern we are addressing.

Chairwoman Aromando said she contacted three of the sites that she was given and two out of the three said no one has returned their calls. Attorney Surenian said every time we get a letter we reach out and see what the developer proposes. If there are others give them to me. Deputy Mayor Newberry said we get back to everyone.

Mr. Addonizio asked how long have we know about Round III. Attorney Surenian said we have known for a number of years. We had a plan in 2005 and did not address the amendments until September 2008. We were put under a crunch to comply with these rules. NJLOM they thought the rules were unreasonable and asked COAH to release the December 31st deadline. We thought the governor would release the date line. We were hoping for a reprieve.

Mr. Addonizio asked what sites were in mind before they handed down their plan. Attorney Surenian said a number of sites that came up with the 2008 plan. Ms. Bergailo explained 50% RCA's in 2005 and the rest would be on the Schwartz site.

Chairwoman Aromando said sometimes the builders don't get much tax credits. We are going to subsidize them with what? On August 12, 2008 Attorney Surenian approached the sub-committee with a builder that would build 225 and he would handle our COAH obligation. He was going to charge the township \$9 million and give him market rates. The total amount of units was 725. We would get 225 out of our 667 obligation. Are we going to have to hire additional Police/Public Works? It is an expensive thing. You said this report did not include building new schools. Ms. Bergailo explained that a developer brought in 400 market rate units and would build 225 affordable units. The affordable units would be a mix of one, two and three bedrooms. The market units would all be three bedrooms.

Chairwoman Aromando said her rule is to look out for the taxpayers. She said it is not only the sites she also sees the cost. She said we don't want to have any market rate at this point.

Attorney Surenian explained we are in discussions now. There is a price tag involved. Chairwoman Aromando said at the last meeting we continually told you no to these sites you are paid by my taxes. Attorney Surenian explained he is just the lawyer it is not his decision. He said he gives his recommendations, that is what my job is. It is the town's job to decide.

Chairwoman Aromando said the 2005 plan it was going to be 50% RCA and 50% on the Schwartz property. Ms. Bergailo said yes but it is different in this round. In 2005 the project was 86 affordable senior rentals and 327 family rentals for a total of 413.

Chairwoman Aromando said she has asked to have Schultz/Olympic removed but it keeps getting put on the plan. You are fighting with DEP to get water/sewer. Ms. Bergailo said we are working with them.

Chairwoman Aromando said Roger J. McLaughlin was the township attorney at the time and now he represents the Schwartz's. That is a conflict of interest. For the record I never liked the site. You worked with Attorney McLaughlin for seventeen years. Attorney Surenian said when he was the attorney I worked with him just as I do with Attorney Oxley today.

Chairwoman Aromando read an e-mail from Attorney McLaughlin. In the e-mail Attorney McLaughlin was supporting Jeff Surenian as Mount Laurel Counsel.

Chairwoman Aromando said we are number seven in the State. We have \$20 million in outstanding bonds. I don't consider this a great plan. You don't think Roger McLaughlin representing Schwartz is a conflict of interest. Attorney Surenian said why don't you ask your town attorney.

Deputy Mayor Newberry said Mr. Beyer asked to be Mount Laurel attorney. He said he spoke with Mr. Beyer. He said it was his opinion Mr. Beyer did not seem to be the person. He said he could not recommend to the Township Committee a person that was not going to benefit us. He was interviewed. He said he thought it was necessary to have someone to show new ideas.

Mr. Addonizio said 413 units for the Schwartz property. Out of that how many children? Ms. Bergailo said we don't do projections like that. Chairwoman Aromando said she can tell you about the Mews. It is a 95 to 100 unit complex. Mr. Addonizio said taxes are going to go through the roof with the children projected. Ms. Bergailo said the Schwartz site the 300 affordable units that number will be adjusted. Mr. Addonizio said that would kill Central School. Building another school and many other costs are associated with this. How is this good planning? Ms. Bergailo said they will be built according to COAH's rules, one to two & three bedrooms.

Mr. Addonizio said one of the problems is that we are packaging everything in one end of town and we are going to destroy that end. We have a board of professionals, that can't be the problem. I would encourage the Township Committee that we add more members to this committee. This is not acceptable.

Ms. Bergailo said we are trying to build as few units as possible.

Mr. Addonizio said two or three meetings ago the impression I had was stick a shovel in the ground.

Ms. Bergailo said that is not correct. We have to fix the plan, address the obligation that is due today. No one wants to build one more unit than necessary.

Chairwoman Aromando said this is based on our current obligation. I don't want to put a shovel in the ground. I want to know what our true obligation is. I don't want to build immediately.

Attorney Surenian said as soon as possible means two years. We are looking to take full advantage of the phases.

Chairwoman Aromando said I don't want a shovel in the ground.

Mr. Bednarski said if these two lots do not meet the criteria why don't we put them in abeyance we must have other lots that meet the criteria. Attorney Surenian said we had a site in the plan and we were looking to see if we could fix the problem. Mr. Bednarski asked why the property owner can't do all this.

Chairwoman Aromando said she doesn't want her taxes dollars spent to get to DEP to approve this site.

Mr. Bednarski said put these in abeyance and put other sites on the plan.

Attorney Surenian said the county is going to find that they are acceptable or not. The owner has been doing most of the work.

Chairwoman Aromando said Monmouth County Planning Board said it is dead in the water until you get a letter. Remove it. Stop negotiations. Attorney Surenian said it is the town's decision not mine. Chairwoman Aromando said I am the town remove the site.

Mr. Addonizio said we are spending a lot of money here. I don't see any progress and we are not going in the right direction. We need to come up with a plan to benefit our residents. Have we ever looked at the State sites? Ms. Bergailo said that would not be easy to do. We purchased them with open space money you would have to get State use conversion.

Mr. Addonizio said the southwest interchange have we looked to see if we can develop that land. Ms. Bergailo said the subcommittee looked at a list of sites.

Chairwoman Aromando said we don't want the Schwarz/Olympic site on. Take them off.

9:30 P.M. the Board recessed.

9:35 P.M. the meeting resumed.

Paul Draper asked the Schwartz site building what are we getting. Attorney Surenian said 100 regular and 300 affordable units.

Roger J. McLaughlin, Esq. said you made a misstatement of fact. I did not represent Schwartz until January 2009. Mr. Megill was their attorney. There is no conflict of interest. Regarding my e-mail I am entitled to my opinion. I am entitled to my opinion that Jeff Surenian has done a

great job. The Planning Board and Township Committee have already committed to amend the plan. Be honest with the public where are you going to put those units. Before you direct certain things to happen I think the plan has to be adopted by the Township Committee. Tell the public where you are going to put those units.

Chairwoman Aromando said my opinion \$20 million in bonds and seventh in the state is not great and that is my opinion.

Attorney McLaughlin said your statement was not accurate. You said at the time Mr. Surenian was retained I was representing the developer that is not true. I did not represent the developer until a month later. You made it a statement of fact that based on that Mr. Surenian had a conflict and nether of those things are true. You should know your facts. You insulted both of us. Unlike me who had sent an e-mail you did not bother to ask me. You owe Mr. Surenian an apology.

Chairwoman Aromando asked why we have this site on. On February 12th Mr. Verruni informed me that you were the attorney.

Chairwoman Aromando said Mr. Verruni said we are keeping the site on because Attorney McLaughlin is the attorney. She said she still thinks it is a conflict of interest.

Attorney McLaughlin said six months after leaving the township I could take cases but I waited a year before taking any clients.

Chairwoman Aromando said Mr. Verruni told me the Schwartz brothers were in litigation with the township. Attorney McLaughlin said the brothers are in litigation with each other not with the town. He did not tell you the town was involved in litigation with the Schwartz brothers.

Gail Quinn said this is her first Planning Board meeting and she doesn't want to come back. To Chairwoman Aromando she said she doesn't like her undermining the Township Committee or our professionals. She said you may have a personal agenda and I do not like it. She said you took the chairperson and used it for your personal use. I do not like everything in this area either. Things should be spread throughout the town. When you take something off you have to have a replacement. She would like some suggestions from Chairwoman Aromando before this site is removed.

Chairwoman Aromando said that is what she has been fighting for. We did not look at all the sites in the town. I live in South Wall. I think we should look at all the sites. I don't know if a site is viable. Look at all 32 square miles.

Ms. Quinn said you are not a professional. You should not demand a removal of a site. Chairwoman Aromando said I am trying to remove the Schwartz site.

Ms. Quinn said instead of allowing our committee and professionals to do their due diligence. You have done everything you could to undermine one site.

Gary Schecker, contract purchaser of the Schwartz property. He said an LOI was done in October 2007. It was not until one of your residents, Tim Middleton, who went and hired an engineer to write a letter to DEP to have DEP look at the property. I wrote a letter that there may be endangered species on the site. It is not environmentally sensitive. You can't dispel all the work that has been done because he wants his property included in the plan. There are no endangered species on the property. We went beyond that. We checked all the swales to make sure that the property conforms to the regulations. There will be five acres of build able property. Let the Township Committee finish what they are doing.

Jean Karol said she lives on the north side of town. She is a member of WHIP. I do not want to see overdevelopment in the north side of town. I do not wish to leave. As a senior citizen now I will be forced to leave this community. You have a right to let people know what is going on. This town has been overdeveloped. I have seen the area change. They never finished Route 18. The State messed that up and now we are stuck with a traffic problem.

Robin Cervantes said she is on the COAH committee. She said she spends a lot of time trying to do what is best for the town. She asked other members to come to the meeting. There are issues. Why can't I be at private sessions? She is concerned about the density of the Schwartz site. This town needs to distribute COAH through all sections of town. All areas of town have to share the burden.

Henry Spance, 1726 Azure Drive echoes what Ms. Cervantes just said. Our plan is way too top heavy. South Wall needs to be looked at. He said he mentioned several sites at previous meetings. By developing North Wall we are destroying our education system. There are trailers behind Central School. We are paying more and more in property taxes that go to the schools. This whole situation is making Wall unattractive.

Mr. DiRocco said we have done a terrific job. He said he knows you think we are overdeveloped and some areas are. He said he wishes he had known some of the issues being discussed tonight. He said he thought this meeting was going to be informational.

Mr. Luttmann said I think the discussion here tonight just helps. For the past 20 years what we are paying in bonding issues affects our taxes. It shows the concerns we all have in Round III. This is difficult for the township.

Mr. Bednarski said this is a large project. We don't have a project plan in place. It should be something that the public can see. I would like to see a project document.

Chairwoman Aromando said I constantly ask Mr. Surenian where are we. How much is this really costing? There are questions I was not getting the answers to. I am sorry I am passionate about this.

Mr. Addonizio said to Mr. Verruni there seems like a lot of miscommunication. Maybe there is a way without compromising litigation where we can get updates on the sites. We were caught off-guard in December in having to approve the plan that night. Maybe we can find better sites.

Attorney Surenian said Attorney Hirsch has been asked to attend these meetings so I can inform him. He attended the last one.

Chairwoman Aromando said that is another professional that we are paying for.

Attorney Surenian said it was such an important issue so that you would have the information.

Mr. Addonizio said I did not know he was a member. Mr. Addonizio said Mayor Clayton and Deputy Mayor Newberry could bring us back the information. You want to spend more money and the Township is talking about furloughing their employees. You are sitting here saying bring more professionals in when it could be done in a letter.

Mayor Clayton said nobody is happy about this COAH. We are trying to deal with it. It wasn't until October 2008 that we were given the plan. They removed the RCA's and we had to go back to the drawing board. A lot of these sites were discussed. Again, after going through our professionals, we find what open parcels of land in the town that are at least ten acres that are able to be developed. We came up with a list of about 20 and that is it, four in the southern section and sixteen in the northern section. If there are problems with certain sites we are going to make amendments to the plan. We will research these that we are currently working on. It is not easy for everybody. We are trying to do our best.

Deputy Mayor Newberry said a lot of information came out tonight. Look at the structure of the sub-committee, who is on that, how it started. It was then that I came into office. Mr. Addonizio commented about expenses we are trying to cut expenses in every way. I see COAH as something that can damage our town. Have CCAH notify a Township Committee person so the Township Committee has access to what happens at those meetings.

Mr. Farrell said one thing that came out of this meeting is we are realizing that we rely heavily on our attorneys and engineers. We are relying too heavily on other people. It should go to the Township Committee and then to the taxpayers. There has to be a better way to decide this.

Attorney Surenian said you won't find many people in the state that would disagree. That is why we are fighting it so hard. Several other towns are fighting it. The whole thing needs to be re-thought.

There being no further business to come before the Board, a motion was made, seconded and unanimously approved to adjourn the meeting at 10:20 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary