

Meeting Minutes

Carneys Point Township Planning Board

The Meeting of the Township Planning Board was held on May 22, 2012 at the time of 6:30 PM. In attendance were S. Apessos, A. DiTeodoro, K. Dennis, D. Jim Sassi, E. Sparks, L. Marini, and B. Scaffiro Absent was E.J. Shockley, W. Pelura, D. Wright, C. Weigle, J. Venello and M. Morrison Also in attendance was Board Professionals; Solicitor, Joan S. Adams, Engineer Kerry Engelhardt and Planner, Robert G. Hall.

Chairman Apessos called the meeting to order; he read the Open Public Meeting Act and led the Pledge of Allegiance to the Flag. Roll call was taken.

Under Meeting Minutes

Approval of Meeting Minutes for April 17, 2012

Member	Moved	Seconded	Y	N	Abstain	Absent	Conflict
S. Apessos			X				
EJ Shockley						X	
W. Pelura						X	X
A. DiTeodoro			X				
K. Dennis			X				
L. Marini		X	X				
D. J. Sassi	X		X				
E. Sparks			X				
D. Wright						X	
C. Weigle						X	
M. Morrison						X	
J. Venello						X	
B. Scaffiro							X

Approval of Meeting Minutes for April 24, 2012

Member	Moved	Seconded	Y	N	Abstain	Absent	Conflict
S. Apessos			X				
EJ Shockley						X	
W. Pelura						X	X
A. DiTeodoro		X	X				
K. Dennis	X		X				
L. Marini			X				
D. J. Sassi			X				
E. Sparks			X				
D. Wright						X	
C. Weigle						X	

Meeting Minutes

Carneys Point Township Planning Board

M. Morrison						X	
J. Venello						X	
B. Scafiro							X

Under Public Hearings:

Application No. 2012-01
 Timothy P. Hesser / Use and Bulk Variances
 Block 66, Lot 32 / 369 Harding Highway

1. Completeness Review

Ms Adams – the applicant is missing a request in writing of waivers and variances he is requesting and why. Mt. Hesser is asking for a waiver of that requirement. Ms. Engelhardt – the applicant did not indicate that that he was also requesting a use variance. He only requested bulk variances. Ms. Adams – The Board can waive that Mr. Hesser did not submit the required application and correct fees. Ms. Engelhardt wanted clarification from the applicant what the pole barn was going to be used for. Mr. Hesser indicated that the pole barn will be used just for storage, residential. Ms. Engelhardt – the survey was only a photocopy and not the complete survey. Ms. Adams concern with this is that the applicant is requesting setback variance and absent of some professional document that the measurements are correct making it hard to given him variances. The Board can waive that requirement. The problem may be that the construction office relies on that and if the measurements are inaccurate it may cause problems in the future. Normally this would not be accepted for bulk variances but Mr. Hesser is asking for a waiver from this requirement. Ms. Engelhardt asked Mr. Hesser if anything has changed on the property since the survey is over one year old. Mr. Hesser, other than the shed being removed, nothing has changed. The 200 foot list is missing from the survey as well. Ms. Adams explained to Mr. Hesser at this point it is important to tell the Board why he thinks the waivers are appropriate to proceed with the application tonight. Mr. Sparks said that he has no objections proceeding with the application but on the backend of the application they would be asking Mr. Hesser for certain conditions if the rest of the Board is alright with that. Ms Adams – before they vote on the waiver requests, Mr. Dennis cannot vote. Ms. Adams explained to the applicant that if he needs to appeal, he would go before the Township Committee of which Mr. Dennis is a committeeman.

The Application was deemed complete with requested waivers.

Member	Moved	Seconded	Y	N	Abstain	Absent	Conflict
S. Apessos			X				
EJ Shockley						X	
W. Pelura						X	
A. DiTeodoro		X	X				
K. Dennis					X		
L. Marini			X				
D. J. Sassi			X				
E. Sparks	X		X				
D. Wright						X	
C. Weigle						X	
M. Morrison						X	
J. Venello						X	

Meeting Minutes

Carneys Point Township Planning Board

B. Scaffiro			X			
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2. Technical Review

Mr. Hesser sent notice to the newspaper and the 200 foot list notices. For the record Ms. Adams said the notice to the newspaper was a little light. Under the law the applicant is to state in plain English with some specifics what relief he needs so the public reading it will know what the Board is hearing. Mr. Hesser notices were very bare bone, but legally she sees has no objections to continue on the caveat that Mr. Hesser acknowledge that any approval he is given and is challenged that he defend the Board in terms of the decision. Mr. Hesser said he understands. Ms. Adams wanted to bring to Mr. Hesser attention that with a Use Variance he needs five affirmative votes from the Board, normally we try to have seven voting members here and tonight we only have six, it is the Boards obligation to offer Mr. Hesser not to go forward tonight but come back to the next meeting when we might have seven so you don't have to get five out of the six. It is Mr. Hesser choice as the odds are a little different. Mr.Hesser choice is to go forward. Ms. Adams did tell Mr. Hesser that the standards for a use variance is very difficult and it he recommended that he seek the assistants of an attorney because it is technically very difficult. If that is something he wanted to do now is the time to do that before he starts his case. Ms Adams let Mr.Hesser know that he only gets one bit of the apple, if he puts his case on tonight and don't have the right kind of evidence and he doesn't understand what he needs to tell the Board or if he misses something and you don't get what you want you can't come back. Ms. Adams wants Mr. Hesser to know that before he precedes that he has all his ducks in a row. Ms. Adams explained to Mr. Hesser what the legal standard for a bulk variance is and Mr. Hall explained the standard for a use variance. Mr. Sassi commended that he has a concern about the short coming of the notice. He doesn't see any of Mr.Hesser's neighbors out here either for or against. He is not sure the proposed use was made clear. Ms. Adams stated that she would never suggest that the matter go forward if she thought it was on its fact completely legally deficient. She said there was enough in the notice that it alerted his neighbors to what he wanted. Her only concern about the notices was the specifics were not there. Leally he is not prohibited from going forward but she has concerns. Mr. Sassi stated he had concerns as well. Mr. Hesser stated several of his neighbors support this and wanted to know if it would be better to come back next month with those neighbors here. Mr. Apossos said the one problem already is that we only have six members here and there are already concerns. Ms. Adams mentioned that if the neighbors come, any concerns about the notices would be put to rest and the neighbors saying they don't mind are really good in terms of getting approval. With what you need for a variance, without anyone here the Board is left to say do they care or not. Mr. Apossos said it really would be better if he had some support from the neighbors. Patricia Ann Robinson (who lives at the property as well) of 369 Harding Hwy stated that two of the neighbors didn't come because they approve it. Ms. Adams told Ms. Robinson the Board can only make their decision on the evidence they submit and not hearsay. Mr. Hesser asked if there is anything they could discuss tonight to save some time at the next meeting. Ms. Adams said almost the entire application can be discusses and just continued next time. Mr. Apossos asked Mr. Hesser to tell the Board a little more about what he is doing. Mr. Hesser referred to the letter from Mr. Hall and the suggestion that he turned the building 90 degrees, Mr. Hesser said this would put the gable end facing the street and doors facing the neighbor's yard. The two reasons he did not want to do that is number one, security, he would not be able to see the entrance to the building from his house and aesthetically it has more of a footprint when you are looking at the gable ends of the building and up the slope of the roof it's going to stand out more. He feels the less impact on the neighbors it would go through with the Planning Board. It is back where it is so it blends in more its back where nothing else can be done back there because there is a lake back there. He couldn't see bringing it closer to the house where there was wasted space back there where no neighbors back there for several hundred feet back to the other street. Mr. Apossos asked Mr. Hesser what he is going to be storing back there. Mr. Hesser said he has four trailers, two snowmobiles, a motorcycle and his brother's camper and boat. He said they would only be going back there several times a month. Ms. Adams asked Mr. Hesser what he did for a living; Mr. Hesser said he excavates pools. Ms. Adams asked if any of those trailers were for business. And how long has his brother's stuff been there and is there some reason why he keeps his stuff there. His brother's lot is postage size, too small. Ms. Adams indicated that technically residential storage he is not allowed to store any type of equipment or vehicles that is not titled in his name. So his brother's storage is in violation of residential storage use Ms. Adams explained to the applicant the difference between the existing residential use in the GC zone and the commercial use, the permitted use. Ms. Engelhardt asked if he was planning of putting a driveway to the building; he said he was afraid to ask that because of increase of the footprint and the fact they will not be driving to the building very often. Mr. Hall explained the reasoning behind a driveway, but if he will not be driving back there often the dust and potholes would not occur. At the time the house was build it was zoned residential up until 2006 when the zone changed which than make it non-conforming. Mr. Hall about the easement in the back; Mr. Hesser was told it was a paper street. Ms. Adams said that is probably wrong; if it was a paper street it would show on the tax map. If the easement showed up on

Meeting Minutes

Carneys Point Township Planning Board

his title search it would have the purpose of the easement and who owned it. Mr. Hesser had a search done but doesn't know as the title company took care of all that. Mr. Hall asked if the building was going to have any water, sewerage or utilities. Mr. Hesser said no. A Board Member asked if he was sure he didn't want electric. Ms. Adams told Mr. Hesser that he will only get what he asks for (if approved), if he didn't ask for it now he would have to come back for another variance. As the applicant can modify his application, he asked that electric be included. Mr. Hesser chose to stop at this point in the hearing and continue at the next meeting. Ms. Adams mentioned that the Board has concerns and the legal standard to get the use variance is hard and you need to put certain evidence in. Board professionals, Ms. Engelhardt and Mr. Hall commented on their reports to get them on record. Ms. Adams asks how close neighbors are. Mr. Hesser elaborated. There was some discussion about the setbacks and the size of the building.

Under Public Comment

Gregg Zoccola of 36 East End Ave. – wants to know why the applicant wants to put the pole barn so far back near the property line and not closer to his own house. (Note: Mr. Zoccola came to the hearing late and missed most of Mr. Hesser's testimony). Mr. Zoccola said that if he moved the building closer to his own home it would still meet his needs and his own need to still have view. Mr. Zoccola's concerns are that Mr. Hesser is pushing the building back from his own home but closer to his property. Mr. Hesser replied that with the easement back there it was not buildable and he thought pushing it back there reduces the visible impact of the side neighbors rather than closer to this home where it is more open space. Mr. Zoccola discussed the setback and what Mr. Hesser is asking for. Mr. Zoccola asked why not put the building sideways, and Mr. Hesser again stated he wanted the doors facing his house for security reasons. Mr. Marini asked Mr. Zoccola if he was for or against Mr. Hesser's application; Mr. Zoccola said he had no opinion either way. Ms. Adams stated that it is hard for one neighbor to say that, but Mr. Zoccola has expressed his concerns. Mr. Hesser asked Mr. Zoccola if he would be more comfortable with a 40 foot setback; bring it another 20 feet closer to his own home. Mr. Zoccola stated that with that size of building he is not really sure it matters. At this point Mr. Apeossos said he thought the applicant should come back next month with more neighbors that are alright with this project and be more prepared and that he concerns he may not get his five votes. Mr. Hesser asked if he had a smaller building and met all the setbacks so there were no bulk variances required and only the use variance would that be more likely to go over with the Board. Ms. Adams stated that it is really hard for the Board to give speculations, that being said everyone would be more comfortable with less variances. Ms. Adams told Mr. Hesser that with him coming back next month to continue his application has time to talk to the neighbors and he can always modify his application. Mr. Hesser stated that is where he is headed. Ms. Adams, for the public, we are going to have a continuation of this hearing on June 12th, 2012 at 6:30 in this room. This is the only notification given you will not get another certified mailing.

Under Old Business

1. Renewable Energy Ordinance Draft Number Two.

Mr. Hall incorporated into the second draft the comments that were made on the first draft. Mr. Hall briefly went through those changes. There were comments from the construction official, Lou Pelena and a letter from John Jordan, Esquire which had some concerns (from the first draft) from attorney Richard Milstead who has represented applicants in matters pertaining to renewable energy facilities. Mr. Milstead first question after reviewing the first draft of the Ordinance was should the standards for preserved farms in Section 212-48.5.3C.1 also apply to unreserved farms? Yes it should apply to both as long as it is an accessory use and Ms Adams has no objection as well. Mr. Milstead second questions the limitation in Section 212-48.5.3C.4.b (5), which requires that ground arrays not exceed a gross area of 1,000 square feet. This section pertains to residential use and that is enough for residential use, you don't want to generate more than a home can use, Solar Farms are addressed in another section. The following are questions from the construction official, Lou Pelena. 1.212.48.5.2 - B. Should a zoning permit be required. Yes, with any of the facilities, a zoning permit should be required to make sure the applicant complies with the standard here and with all cases a construction permit too. Ms. Adams stated it should be a requirement of any construction permit, that you get a zoning permit too. If the Ordinance isn't that way it should be. E. Is the soil stabilization required under or around mounted panels? The intent of that paragraph was that ground mounted solar panels, the area around it have soil that is stabilized so it is just not dirt with some kind of grass on the surface. So this should be revised to say that. H does this mean a fence and if so how high and what kind of signage? This refers to the equipment box so it would be whatever is required by building codes and electric codes which could be labeling for high voltage and a security lock. Mr. Hall stated that it is what is intended here and not a fence, around solar farms there are requirements for a fence. As to 212-48.5.3 Mr. Pelena also asked if the Township would consider buying a sound meter. That was a question that Mr. Hall

**Meeting
Minutes**

**Carneys Point Township
Planning Board**

could not answer. Ms. Adams commented that a lot of towns deal with it, if there is a complaint, they contact the property owner and say gives us proof of what your decibels are; she doesn't feel a lot of towns have sound meters. Mr. Hall will make some minor changes from tonight's discussion and believes the Ordinance is ready to go to be passed to the Township Committee. The two sub-committee members present also recommend that the Ordinance be sent to the Township Committee for consideration. All members were in favor.

2. Discussion of the limited budget for review of the Master Plan as pertains to Land Use.

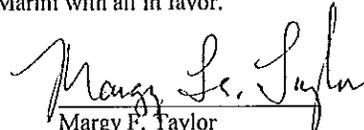
Mr. Sparks said he would like to get started at least to get some discussion started. Ms. Apeessos asked who would like to be on a sub-committee, Mr. Sparks and Mr. Sassi volunteered with Mr. Wright being appointed, in his absence by his fellow committeemen. Mr. Hall said he would sit down with the sub-committee to discuss what the Master Plan should deal with, specific to Land Use.

Under Comments from the Board Members

Mr. Sassi brought up the subject and discussion of some invasive species in the area and the lack of an Environmental Committee in the Township.

Motion to adjourn @ 8:19 pm made by Mr. Sparks and seconded by Mr. Marini with all in favor.

Approved: June 12, 2012


Margy P. Taylor
Planning Board Secretary