

Elk Township Planning and Zoning Board Meeting

Regular Business Meeting September 21, 2011

Minutes

Call to Order: The Board Chairman called the meeting to order at 7:34 pm.

Open Public Meeting Act: read by the Board Secretary

Roll Call:

Present: Phil Barbaro, Chuck Nicholson, Eugene Shoultz, Jeanne White, Ed Pearson, Bill Carter, Nicholas Yovnello, Rich Tondo

Absent: David McCreery, Wayne Swanson,

Also present were the Board's professionals: Leah Furey Bruder, Planner, Carl Gaskill, Board Engineer and Joan Adams, Board Solicitor.

➤ **Announcements:**

- Notice to Public and Applicants: Board policy is no new business will commence after 10:30pm and all testimony will stop at 11:00 pm, except for individuals wishing to speak during the general public session.

➤ **Postponement:** Estate of Bertha Fogg, block 10, Lot 26 completeness hearing postponed to October 19, 2011 meeting.

➤ **New member:** Mayor Barbaro swore in new member, Richard Tondo.

➤ **Approval of minutes:**

- None

➤ **Resolutions:**

2011-17 - resolution memorializing the approval of bulk variances from ordinance sections 96-80a(2) and 96-80(6) to permit construction of an accessory structure on property identified as 786 elk road block 41 lot 14.01 to applicants, Daniel and Susan Ferrazzano

Mr. Pearson moved to adopt resolution 2011-16, Seconded by Mr. Shoultz.

Roll Call:

In favor: Pearson, Barbaro, Nicholson, Shoultz, White

Against: None Abstain: None 5-0-0`

➤ **Old Business:**

➤ **New Business:**

- 1) Denise and Richard Kale, block 2, Lot 6, 429 Ewan Road, Certification of pre-existing non-conforming use for an In-Law Suite.

Denise Kale, 429 Ewan Road
Richard Kale, 429 Ewan Road

Mrs. Kale explained she and her husband are in the process of refinancing their home which includes an in-law suite and requests the in-law suite to be classified as a Pre-existing non-conforming use on the lot ("grandfather" status). Mrs. Kale submitted the following supplemental documents that were labeled as exhibits for the file. They included the following: survey of existing conditions, marked as applicant #1. One page of 6 photos, marked as applicants #2 and a Supplemental Addendum sheet from the Lender that was attached to the Kale's appraisal report, specifically the section entitled "zoning." The addendum was marked as applicants #3.

Mrs. Bruder referred to her letter of September 7, 2011. She summarized the lot is 4.21 acres located in the LD (Low Density) Residential district and is surrounded by other properties in the same zone. The Kales are seeking a certification from the Zoning Board that the use and structure existed before the adoption of the ordinance which rendered the in-law suite use as nonconforming. She added the certification would make the in-law suite in its current configuration a legal nonconforming use and therefore it would be permitted to continue unchanged into the future. Mrs. Bruder referred the board to page 2 of her letter which outlined the township ordinance code section 96-81.1 for in-law suites in residential zoning districts which was adopted in 2009. The Kales have had there in-law suite since 2001. Mrs. Bruder reviewed each item within the ordinance as outlined on page 2 of her letter.

Mrs. Kale provided the following testimony: Her father in-law lives in the suite. There is a separate electrical meter for the in-law suite that is tied into the 400amp service of the main house. Everything else is shared (ex. Propane, of which one bill is received). The unit is connected to the main house by an enclosed porch. The enclosed porch is connected to the main house's downstairs finished basement. Mr. Kale clarified the enclosed porch is a common entryway. He added you cannot enter the main house, in the rear, without going through this area. It is part of the habitable space for both the main house and the in-law suite. In addition, the closet for the in-law suite is located in this area. The in-law suite does have another exit from the living room area for safety purposes.

Mrs. Bruder added the applicant has provided a survey of the current conditions, zoning permit application, building permits and a copy of the certificate of occupancy from 2002. The applicant provided all these items to demonstrate their case that they received permits and relied on them in good faith. The applicant confirmed that since the time the permits were issued & the in-law suite constructed, there has not been any abandonment or interruption of the use and that the character, extent and intensity of the use has remained ongoing and unchanged. Further the applicant indicates they do not believe that the in-law suite poses a substantial detriment to the zone plan or the zoning ordinances and that the use dose not poses no substantial detriment to the public good.

Mrs. Adams issued a report to the board providing the legal standards of review to determine whether or not this use qualifies as non-conforming use. The primary issue is, was it legal when it was constructed, and if it was, did the use continue uninterrupted and unchanged. She provided the history of the LD zone and in 2001 & 2002 the LD Zone did not permit in-law suites. She added, that the way Elk's ordinances are crafted, if it is not specifically set out as a permitted use, then it is prohibited. However, you can convert a use to a conforming use. In the testimony provided by the Kales, this use is very close to conforming and it is up to the Board to make that decision.

Mrs. Kale explained they built their own home and prior to its construction they had met with the township officials at that time and discussed with them their intent to build their home that would include an in-law suite. Mrs. Kale testified they provided full disclosure and that they were clear and forthright with their intent.

She added, as previously mentioned, at that time there was no ordinance in place for in-law suites and that there are at least 3 other homes with in-law suites on their street. She added they went through the proper channels and relied on the information they received from the township at that time and that the in-law suite was legal to do. Their certificate of occupancy clearly states, "In-law suite."

The chairman added the only issue is the utility. Mr. Kale added the only reason there is a separate meter is at his father's request. He wanted to pay for his portion of his use.

Board member, Mrs. White, confirmed that the issue of having two electric meters is what's making this in-law suite non-conforming and asked if there was any way to make it conforming. Mrs. Adams replied the applicant could convert it to one meter. Mrs. Kale commented this would be an added expense for them. Mr. Kale was not sure how easy it would be to convert to one meter but if that is the issue, he will do so.

Mr. Shoultz moved to open to the public, seconded by Mayor Barbaro. With all members in favor the motion was carried. With no comment from the public, Mr. Nicholson moved to close to the public, seconded by Mrs. White.

Mr. Yovnello moved the in-law suite satisfies the conditions of the ordinance condition upon the conversion to a one meter electric service. Seconded by Mrs. White.

Roll Call:

In favor: Carter, Barbaro, Nicholson, Shoultz, White, Yovnello

Against: Pearson, Tondo Abstain: None 6-2-0' approved

Mr. Pearson commented he felt the ordinances at that time were ambiguous and the Kales should be able to keep the two meters. It was done 10 years ago and he didn't feel any additional cost should be passed on to the tax payer and therefore does not agree with the motion.

2) Craig and Carla Cerkez - Interpretation and modification/amendment of resolution 2010-31 for block 40. lot 11.01

Linda Levitsky, 39 East Avenue, Woodstown, NJ
Craig Cerkez, 620 Elk Road, Elk Twp., was sworn in.

Mrs. Adams explained the applicant is here for 2 reasons:

- 1) basic interpretation for some provisions of their prior approval, of which public notice is not required, and
- 2) potential amendment or change to their resolution. Under the law if you want an amendment or a change, and the original application required public notice, then the amendment or change request would also require public notice, unless the request is something minor, something that did not go toward the heart of the approval, then the board can handle it in an administrative fashion. If the change requested was an integral part of the approval, then you cannot go forward. The law is that the public has the right to come out and comment.

The first step would be for the board to hear the interpretation request, then determine whether or not the change request is substantial or not. If it is substantial, then the board cannot move forward with the amendment application without public notice.

Linda Levitsky, Esquire, explained the interpretation they request is for a loft in the applicant's pole barn. The zoning official characterized the present structure as having a second floor. Their original plans show a loft and it is their contention that is what exists in the structure.

Chairman Yovnello referred to page 3 of resolution 2010-31, paragraph number 11.

Mrs. Levitsky had a set of the original plans that were submitted that includes a loft and she said the existing structure is identical to this plan. The plan was submitted and marked as applicant #1.

Mr. Cerkez explained the loft is built exactly as it was submitted for the variance approval – attic trusses with ¾ inch plywood and an inside staircase, on the left side, going up to the loft. Mrs. Adams asked if there was a floor going all the way across and Mr. Cerkez confirmed there was. Mrs. Adams commented, then, it was not a loft. She added there was a lot of discussion on this issue at the time of the hearing and Board Planner, Leah Bruder, described to you what a loft was, and that was: an area for storage that's like a hay loft, it is

not a structure that has a floor all the way across. Mr. Cerkez responded that he wasn't sure how anything could be stored if there was not a floor. Mrs. Levitsky asked for clarification of "all the way across." She had photos and Mr. Cerkez explained the plywood did not go across the entire structure, just across the attic trusses of 13 feet. The photos were submitted and labeled as applicants #2 & applicants #3 for the file record. The Board referred to the transcript of the approval hearing held on August 18, 2010, pages 32 & 33. Mrs. Adams read into the record the following:

"do you plan to use it for storage on the second floor?"

Mr. Cerkez: No.

Mrs. White what second floor?

Board member: Trick question.

Mrs. Bruder: So the ordinance says that there can be no –how does it read again?

Board member: He can have a loft area.

Ms. Bruder: for storage only?

Board member: for storage.

Ms. Bruder: He can have that.

Board member: he can have a loft but not a full blown-out second floor.

Mrs. Bruder: so, for example, if you –yeah, like a – you know how they have in barns for hay. If you wanted to have a loft area to put storage and additional materials, that would be permitted."

Mr. Yovnell pointed out at the top of page 32, line 4, Mrs. Adams read:

"The Chairman: So is it a two-story building? One story?"

Mr. Cerkez: it's one story with provision that it could be two. But it won't, not now.

Board member: Or ever.

Mr. Cerkez: okay. Or ever. The biggest thing is the floor and I wanted the roof at a certain peak or—"

Mrs. Adams added that again, there was a lot of discussion on this.

Mr. Cerkez added, he spoke with Dave, the zoning officer, and was told it was not a second floor, it was a loft. The plans submitted were approved and stamped "approved" and that is exactly what was constructed, and inspected. Then he received a zoning violation for having a second floor, so he is confused.

The Chairman added, the plans shown at the planning board hearing had a second floor and that is why there was that extended discussion. Mr. Yovnell added the board was adamant about not having a second floor (there could be a loft). Mr. Cerkez responded that when he reads the transcript, he doesn't see it that way. He reads it as: "it's not a second floor, it is a loft."

Mrs. White added the concern was the second floor and the Board made it clear that what you proposed minus the second floor would be okay. She added Mr. Cerkez's comments, according to the transcript, were that he was not going to have anything, a loft nor a second floor. Mr. Cerkez disagreed, that was not his comment.

Mrs. Adams commented there in an inconsistency. The municipal official that cited Mr. Cerkez, was the Zoning Officer, Mr. McCreery, who said this is not a loft, it is a second floor. Therefore, Mr. McCreery felt, what was built was not approved. Mr. Cerkez stated he has plans and a final inspection, saying they are approved. Mrs. Adams stated there is a difference between the use that's permitted, in particular a use that is permitted by variance and what the construction official inspects on an inspection. The fact that a C.O. is issued, doesn't mean the "use" is a permitted "use" or a permitted structure. This is governed 100% by the variance.

Mrs. Levitsky referred to the photos submitted. Mrs. White commented that in viewing the photographs and based on the board's discussion, that there would be no second floor and that Mr. Cerkez was not interested in having a loft, and further that the approval was based on the fact that the second floor would not be there.

The photos show insulation and heating ducts on the second level. Mr. Cerkez explained there is no heat in the loft area. The ducts are facing down toward the first floor. Chairman added, the building is not supposed to have heat and that would be another violation. Mr. Cerkez stated that is another change he is requesting to his approval.

Board member Pearson added that at the approval hearing, the board made it very clear that the plans with a second floor were not acceptable and the building was not to be heated.

Mr. Cerkez also requests that the requirement of a conservation easement to be recorded on the land records be removed from the variance approval. Mr. Cerkez advised the Board that his father-in-law and mother-in-law are no longer willing to give consent for this easement.

Mrs. Adams explained that the Board could provide an interpretation, but they cannot change the approval without all owners consenting. Mr. Cerkez added he is looking for a way to satisfy the conditions of approval as then he intends to put the property up for sale.

Mrs. Adams summarized, the other changes Mr. Cerkez is requesting are: 1) to have other people come into the building with their cars and to work on their cars. The approval was for no other use except family use - now he wants the approval for some use other than a garage use. The board must determine whether this condition was a substantial condition of the original approval and 2) to allow other utilities, other than electric. Mr. Cerkez requests the board to amend that condition, to allow heat. Again, was this a substantial condition of the approval? If either of these were important and substantial to the approval, then formal public is required before the Board can make a decision to change them.

Mr. Nicholson felt all three were important and substantial to the approval and the board thoroughly discussed each one before granting approval. If Mr. Cerkez had a different intent, he should have made it know then, not come back later and ask for the approval to be tweaked. Mr. Nicholson further added, in his opinion, the loft in his building is a second floor, again this was thoroughly discussed. Mr. Pearson and Mr. Yovnello agreed. Mrs. White added it was clear at the time of approval that there would be no utilities to service the building and also agrees with Mr. Nicholson's comments.

Mrs. Adams confirmed with Mr. Cerkez that when he came before the board to request the variance, he testified that he was not in the business of automotive repair and that although he had a business name, he used that name to buy supplies for his own restoration work. Mr. Cerkez agreed.

Mrs. Adams explained she had a concern because Mr. Cerkez listed on a NJ State Fire Arms License Application (copy submitted for the file and labeled as PB #1) that his employer was "Cerkez Performance" and the employer's address is 620 Elk Road, Monroeville, NJ. This application is done under oath and this indicated that you are representing to the State that you run a business that operates at the 620 Elk Road address. Mr. Cerkez replied that he sells sheet metal. Mrs. Adams explained that sheet metal sales from that structure would be an impermissible because that would be a commercial use. Mr. Cerkez stated he is not using the structure for that use. He gets sheet metal delivered to his house.

Mrs. Levitsky stopped her client's testimony to protect her client from self incrimination, as she was aware he would be subject to this line of testimony. Mrs. Adams explained she brought this issue up because there is an indication in the public records that Mr. Cerkez is using this site for something other than a residential use. This large accessory structure was only granted approval as an accessory structure to a purely residential use and that is the reason for the inquiry.

Mrs. Levitsky added, from some of the board member's comments it seems the board is leaning toward deeming the modifications requested as those of a substantial nature and therefore no further action can be taken without making public notice. She continued stating Mr. Cerkez violated his approval, regrets it and is trying to make it right. He has paid construction fines and will be removing the heat in order to comply with the resolution.

Mr. Cerkez added he doesn't know what else to do. He is out of funds and just wants to sell the house and start over.

Mr. Yovnello moved that on the interpretation matter, the improvements installed as part of the accessory structure constitute a second floor and not a loft. Seconded by Mr. Pearson.

Roll Call:

In favor: Carter, Barbaro, Nicholson, Pearson, Shoulz, White, Yovnello, Tondo

Against: Pearson, Tondo Abstain: None 8-0-0`

Mr. Yovnello moved that the requested modifications to resolution 2010-31 approval are substantial and significant changes and require formal public notice. Seconded by Mr. Pearson.

Roll Call:

In favor: Carter, Barbaro, Nicholson, Pearson, Shoulz, White, Yovnello, Tondo

Against: Pearson, Tondo Abstain: None 8-0-0`

3) Silvergate – Request for a four year extension and applicability of State Statue, NJSA 40:55D-21

William Hyland, Esquire, 6000 Sagemore Drive, Marlton, NJ
Rick Clemson, PE, Pennoni Associates, 3071 E. Chestnut Avenue, Vineland, NJ 08361
Nick Casey, The Quaker Group, 1103 Laurel Oak Rd., Voorhees, NJ 08043

The Applicant is asking the Board to consider a 4 year extension of the vested rights period applicable to the overall general development plan from 16 years, as originally approved, to 20 years. Also to modify condition number 5 of the original approval to extend the time to submit the development applications for phases 5, 6 and 7 and complete the hearing on the application for phase 4 until May 16, 2016. In addition, the applicant asks for a determination by the Planning Board as to whether NJSA 40:55D-21 applies to this approval. (NJSA 40:55D-21 provides for a tolling of the period of vested rights for a development approval granted if the Applicant is prevented from proceeding with construction of an approved development project as a result of litigation, directive or order filed by a State Agency or other party to protect the public health or welfare) applies to this approval)

Board Secretary confirmed that Formal Public Notice was made. The applicant submitted the following items that were marked as exhibits:

- App-1 Overall Development Plan
- App-2 Phase I Plan
- App-3 Phase 2 Plan
- App-4 Phase 3 Plan
- App-5 Phase 4 Plan
- App-6 DEP Water Permit\
- App-7 DEP Water Allocation
- App-9 Gloucester County Utility Authority Waste Water Plan
- App-10 Notice of Appeal Sewer Litigation
- App-11 Matrix of outside agency approvals and development approvals granted pursuant to the GDP

Also submitted for the Board's review were the following correspondences:

- Letter from William Hyland, Esq. dated August 15, 2011
- Letter from William Hyland, Esq. dated August 11, 2011
- Letter from Board Solicitor, Joan Sorbello Adams, Esq. dated 9/21/2011

Nick Casey gave a brief review of each phase referring to a color display board marked as Applicants #1. The Applicant testified that they have been prevented from proceeding with construction on the project because of reasons beyond their control, specifically, the delays related to the outside agency approvals and ensuing litigation with the NJDEP over the water supply and the sewer service area.

In summary, the Applicant provided the testimony that:

- 1) the housing market is the most depressed it has been since 1973 and the current economic conditions have caused a marked drop in residential housing starts and the need for housing in the Township has been stagnant.
- 2) public water allocation was initially in dispute, but that has been resolved leaving an outstanding issue with securing sufficient sewer allocation. The Applicant testified that it has only been able to secure sewer allocation for 70,000 gallons per day from the County Utility Authority. This would not fulfill the needs of the seven projects contemplated under the GDP. The Applicant further testified that without an increase in the sewer capacity it would be economically unfeasible for them to continue with the projects as planned and that it has filed suit to challenge this limitation.
- 3) the Applicant has obtained their stream encroachment permits, wetland permits, and installed drainage improvements to facilitate this project. They have spent a large amount of money in securing their permits and installing required infrastructure and they continue to incur expense in paying for the water rents to preserve their allocation while the sewer issues are resolved and remain committed to completing this project.

Mr. Pearson moved to open to the public, seconded by Mayor Barbaro.
With all members in favor, ***the motion was carried.***

Wayne Streitz, Esquire, 10 Pitman Avenue, Pitman, NJ

Mr. Streitz was representing the Silver Lake Association which consists of 36 homes located down stream from the Silvergate Phase I development and will be impacted by the general development. The Lake Association has a concern in reference to surface waters and the applicability of state statute, NJSA 40:55D-21.

Jean Diehl, 550 Buck Road. Mrs. Diehl is concerned about the environmental impact- removal of trees, wetlands. She also had a complaint about water on Buck Road from the developer, Papparone.

William Ash, 965 Whig Lane Road. Is concerned about flooding and the protection they can offer in the future on Whig Lane Road. Mr. Ash pointed to his lot on the display board and he is located near phase II of the project.

Rick Clemson, Engineer for the applicant responded in response to stormwater for phase II. Phase II has already received preliminary approval and at the time of approval, the new State Stormwater regulations were already in place. Phase II is in compliance with all the current regulations and standards. The stormwater design has also been reviewed by the NJDEP and they have obtained a stream encroachment permit associated with this project. In addition, the applicant, at their own expense, is replacing one of the culverts under Whig Lane Road (which is a County facility).

Attorney Wayne Streitz,
Confirmed that the stormwater management plans applicable to phases I & III were approved to current regulations.

Mr. Clemson responded phases I & III were approved after the advent of Residential Site Improvement Standards and were based on the standards in effect at that time. Phase II was designed and is consistent with current standards. New standards deal with ground water re-charge issues. He further added that in terms of flood protection and water quality, those designs are consistent with the latest standards. The advent of the newer standards in place today, deals more with ground water recharge issues.

Dan Marchetti, 277 Clayton Aura Road. Inquired about a Septic application that was not approved last time and inquired about the status. Mr. Casey responded they have never applied for septic approval. Chairman Yovnello added that was in reference to another application.

Mr. Marchetti also inquired about the Affordable housing units and the new requirements, such as the availability of public bus service.

Board Planner, Leah Bruder, responded explaining the affordable housing requirements currently are in influx. As mentioned earlier, the COAH agency has been dissolved, but the obligation has not been abolished or the requirements. It was abolished in order to create more efficiency at the State level. Affordable housing in general is encouraged where it makes sense from a Smart Growth perspective, for example, near public transportation routes. Although there may not currently be public transit in Elk Township, the town still has the obligation to provide affordable housing. In this regard, Silvergate has been working with the township to provide that obligation.

Mr. Pearson moved to close to the public, seconded by Mrs. White.
With all members in favor, ***the motion was carried.***

In further response to the Silver Lake Association, Mr. Clemson added that back in the late 90's, when Silvergate Phase I came before the Board, the Lake Association was represented by an Engineer, Paul Gregger, and their concerns and comments were addressed.

In addition, representatives from the Quakergroup, along with Mr. Clemson, actually met in the homes of some of residents of Silver Lake (located in Clayton) and as a result of these meetings, took the Lake's recommendations and made modifications to their Phase I plan. Facilities and improvements to that particular design went well beyond the rules that were in place at that time when phase I was approved. The Silver Lake community has already offered their concerns and Silvergate has already worked with them and wanted the Board to be aware of that.

Mr. Hyland added in response to some of the flooding comments, there may be flooding conditions now, but none of their facilities have been constructed and onsite conditions will be addressed to ensure that home owners are not compromised.

Mrs. Adams summarized for the board, that the applicant is asking the Board to consider an extension of the overall period of protection given to them by the GDP approval, (that means they were given an extended period of time, in this case 16 years, where they were protected from any changes in zoning regulations that might occur.) Under the statute when they came in originally, the board could have given them up to 20 years for that protection. Tonight they are asking for 4 more years which is within the statutory requirement or permission for the time limit of a general development plan. They ask the Board to consider all the factors discussed tonight, their efforts to complete the project, the delays and obstacles encountered, and their efforts in justifying their extension. In the alternative, they are also asking the Board to consider whether or not a different section of the law applies, Section 21. If the Board finds this section does apply, then the extension is more open ended, holding everything in abeyance until their litigation or legal dispute is resolved.

Mr. Hyland disagreed with the term "opened ended." The information testified to, with respect to the DEP's involvement with the water permit, is that the delay period was for 2 years and 6 months-so there is finite period of time. In regard to the sewer issue, it is uncertain at this point with the appeal of the sewer, since the court case has not yet been heard. He added the Board needs to consider his arguments as well as their

Board attorney's (as expressed in her letter to the board of 9/21/2011) as to whether or not this statute applies based on the facts that have been produced. The statute 21 decision is different than the relief requested for the grant of an extension of an additional 4 years to the GDP, which is the maximum permissible term of a general development plan.

Mrs. Adams recapped that the period of protection, is the period of time when the approval is protected from changes in township ordinances. Under the law, it sets forth very specific periods of protection (a final subdivision has 2 years, a preliminary subdivision has 3 years and a GDP has up to 20 years). The reason there is really specific periods of protections set forth in the statute is because it is a burden on a township to have this laying around as times change, development changes approved so long ago when the facts were different. Section 21 is another special section and she read the aloud: "if the developer is barred by a legal action instituted by a State agency, political subdivision or other party to protect public health and welfare" that is the only time it applies. The other factor is that the direction must apply to one project. If it applies in general to the entire township, then section 21 does not apply. It is her position that any directive issued by the State regarding what the Elk Township sewer service area is, is equally applicable to every project in the township and it is not directed at the Silvergate project. The State's issuance of water allocation permits for the MUA (the Elk Township MUA) is applicable to all parcels in the township, not just to the Silvergate project. The law is clear that if the directive coming from the DEP applies in general to all the parcels in the township, section 21 does not apply. She continued to review other points in her letter of September 21, 2011.

Mayor Barbaro asked specifically what litigation was hindering the Silvergate project. Mr. Hyland responded it is the sewer litigation because his client cannot get the sewer it needs for its project. The water problem has been resolved. Additional discussion followed.

Chairman Yovnello commented the issue of water and of sewer has been a county problem, not just a specific township problem. The State and the County have been regulating for the entire county and the region, not for one individual developer. Yes, individual developers got caught up in each County and each application, but this has been a State, Regional issue and generally applicable to all developers. The Chairman further commented that his feeling is that the GDP would not be covered by section 21. Mrs. White agreed with the chairman in regard to the GDP and section 21.

Mr. Nicholson made the board solicitor aware that he is one of three executors of an estate property that received notice (within 200 feet). Mrs. Adams confirmed he has a conflict with this application and is not eligible to vote.

Chairman Yovnello moved the GDP is not covered under Section 21. Seconded by Mr. Pearson.
Roll Call:

In favor: Carter, Barbaro, Pearson, Shoultz, White, Yovnello, Tondo
Against: None Abstain: None 7-0-0

Mr. Yovnello moved the applicability of section 21 to the GDP for Silvergate Phases I, II and III does not apply. Seconded by Mayor Barbaro.

In favor: Carter, Barbaro, Shoultz, Yovnello, Tondo
Against: Pearson, White Abstain: None 5-2-0

Chairman Yovnello moved to grant an extension of the GDP for a period of 4 years. Seconded by Mr. Carter.

Roll Call:
In favor: Carter, Pearson, Shoultz, White, Yovnello, Tondo
Against: Barbaro Abstain: None 6-1-0

Mr. Yovnello moved to grant an extension for the General Development Plan for the Silvergate Project be extended until May 16, 2016 and the time period for the receipt of development approval for the subdivisions and site plans for phases 4, 5, 6 and 7 shall be extended until May 16, 2016 condition upon the applicant satisfying all conditions of the general development plan approval as modified and the preliminary and final subdivision and site plan approvals for phases 1, 2 and 3 previously granted as amended. Seconded by Mr. Pearson.

Roll Call:

In favor: Carter, Pearson, Shoultz, White, Yovnello, Tondo

Against: Barbaro Abstain: None 6-1-0

Mr. Casey requested to meet with the board planner regarding phase IV. A work committee was set up to discuss phase 4 and the COAH obligation with Mr. Casey. The work committee will include Chairman Yovnello, Mr. Pearson and Mr. Swanson.

Mr. Nicholson returned to the board.

➤ **General Public Portion**

Mr. Pearson moved to open to the public, Seconded by Shoultz. With all members in favor, the motion was carried.

With no comment from the public, *Mr. Pearson moved to close to the public, seconded by Mrs. White. With all members in favor, the motion was carried.*

➤ **Correspondence:** none.

➤ **Adjournment:**

Mrs. White moved to adjourn, Seconded by Mr. Pearson.

With all members in favor, *the motion was carried.*

Adjournment time: 11:46 pm

Respectfully submitted,



Anna Foley
Board Secretary