Approved

May 24, 2016

**Borough of New Milford Planning/Work Session**

**February 23, 2016**

Chairman DeCarlo called the Work Session of the New Milford Planning Board to order at 7:35 pm and read the Open Public Meeting Act.

**ROLL CALL**

Chairman DeCarlo Present

Mayor Subrizi Present

Ms. Scavetta-Homaychak Present

Council Liaison Colucci Present

Vice Chairman Pecci Present

Ms. Prisendorf Absent

Mr. DaCosta Absent

Mr. Mottola Present

Mr. Thomas Present

Mr. Seymour Present

Mr. Bresa Present

Mr. Leibman, Attorney Absent

Ms. Batistic, Engineer Present

Mr. Grygiel, Planner Present

Chairman DeCarlo spoke about Planning Board secretary, Maria Sapuppo, and her recent departure from her positions at the New Milford Borough Hall. He expressed the board’s thanks for her dedicated service as Planning Board secretary and borough employee and expressed the board’s best wishes to her in the future. Mayor Subrizi added Ms. Sapuppo continues to serve the borough as acting Zoning Officer, working remotely, with the support of the borough engineer, Margita Batistic, and DPW Supervisor, Vince Cahill. Mr. Cahill is currently attending classes to become a certified Zoning Officer and will take over the role upon successful completion of the course. Mr. Mottola offered to help Mr. Cahill while he takes classes to become certified Zoning Officer. Mr. Mottola stated he is part of the NJ Planning and Zoning Administrators Mentoring Committee.

All members introduced themselves and gave brief background information on themselves. A motion was made by Councilman Colucci, seconded by Mayor Subrizi to open the meeting.

**NEW BUSINESS:**

**Review Business Zone Ordinance**

Councilman Colucci reported the Business Zone Ordinance had been introduced at the Mayor and Council meeting on January 25, further discussed at the February 22nd meeting and then tabled. The Council wanted the Planning Board to have the opportunity to look at any changes in language since its introduction prior to placing the ordinance on a Mayor/Council agenda for adoption. After a discussion on how to proceed at this time, it was agreed that with the new language amendments, including the definition of “shopping center”, the ordinance is acceptable to the Planning Board. The new language for “shopping center” was read into the minutes by the secretary for the record:

“Shopping center shall mean one or more buildings, or parts thereof, designed as a unit to be occupied by one or more retail stores and/or other uses permitted in the zone district in which the shopping center is located.”

A motion was made by Councilman Colucci, seconded by Chairman DeCarlo to approve the Business Zone Ordinance’s minor amendments as they do not change the Planning Board’s opinion of the Master Plan consistency.

All present in favor, none opposed.

It was agreed the Mayor and Council can proceed with the adoption of the ordinance.

**Review of COAH Ordinance**

Mayor Subrizi gave a brief history for the new Planning Board members and the direction the borough is going in. In 2007-08 an ordinance was passed allowing a 1.5% fee through the building department for additions, new constructions and renovations but did not begin collecting the fees. There was no COAH fund set up. The building department is now collecting fees only for demos. Since the ordinance is written to collect fees on additions, new construction and renovations as well as demolition, the ordinance will need to be amended with the guidance of the Planning Board. The Mayor said that the board attorney thought 15% could be the percentage of the square footage in improvements of interior space or modifications that would change property value and could kick off the COAH fee.

Mr. Mottola said that it is his understanding that state statute reads the percentage charge is on the change in value of the property, the DELTA. The fees collected can be used in regulated ways including paying consultants for their work on affordable housing. Mayor Subrizi said the fees collected could be used to build or renovate units for affordable housing. The borough needs to have the ordinance worded correctly. The COAH fees apply to both residential and commercial. The commercial fees are higher than residential. Mayor Subrizi stated she will send the ordinance to the Planning Board attorney to be prepared to reflect the 1.5% fee for additions and new construction based on an increase of value. Some details to the language of the ordinance was discussed.

Mr. Grygiel said that some other municipalities have also not been collecting fees yet although they have an ordinance in place while others collect on everything. It is up to the Planning Board to make the amendments. Mr. Mottola said that Tenafly has a good ordinance that can be used for reference. The tax assessor makes the fee calculation by estimating the initial assessment increase and then gives the figure to the building department for collection. Tenafly takes 50% of COAH in the beginning of the project and 50% upon completion. The Assessor goes out to a property after the improvement and adjusts his estimate if necessary. Mr. Mottola gave examples of the types of projects involving COAH fees including new construction and additions. The fees are based on value change. He does not think that an interior remodel within the building envelope is being charged in Tenafly. It is important not to discourage residents from taking out permits.

Mayor Subrizi said she will send the current ordinance to Planning Board attorney Marc Leibman, and copy the Administrator, Mr. DeCarlo and the Acting Planning Board Secretary. She will ask Mr. Leibman to prepare an amended ordinance to reflect a fee for additions, and new construction based on an increase of value. This will include residential and commercial properties, in all zones, although a larger percentage can be charged to commercial properties. Some improvements can be specifically excluded.

The money collected will fund many of the things regulated by the affordable housing laws, including low and moderate income home renovations and consultants’ fees and special attorneys. A discussion ensued regarding the definition of major home alternations that would be considered chargeable under the ordinance. The COAH law is not specific on what is chargeable as long as the municipality has the money to fund the mandated housing needs. It was suggested that a renovation be charged if it exceeds a certain percentage of value. The Borough Engineer used 50% of an interior renovation as an example. Another example was if the renovation increased the value of a property by a certain amount, then the difference in pre-renovation and the after value could be used to calculate a chargeable fee. It was acknowledged that different towns charge based on their own guidelines.

Mayor Subrizi and the board members penned a letter to Mr. Leibman asking him to prepare the ordinance to reflect a 1.5% fee for residential additions and new construction. Fees are to be based on the increase of the value as per the tax assessor. Commercial development will be charged at a higher rate as allowed by statute. Language must be added to be able to collect payment “in lieu of”.

It was pointed out that New Milford, as well as many other municipalities, are before a judge and a special master at this time and there is a lot going on with State Affordable housing regulations. Things can change in the immediate future, which would result in changes to the ordinance. The fact that the current ordinance is not being followed to the letter was brought up and Mayor Subrizi suggested that an amendment be added narrowing the scope of fees and adding commercial fees.

It was decided that the Planning Board Attorney will draft the amendments and go over them with the Planner before coming back to the board. After approval by the Planning Board, the amended ordinance will go in front of the Mayor and Council for formal approval. If changes are recommended by the Council, it will return to the Planning Board to accept if it will change the Master Plan.

**Emergent Matter: Ridge Court**

Chairman DeCarlo told the board members that the Planning Board may get an application for a new house on Ridge Court on a property that merged three lots into one.

Ms. Batistic stated the applicants have applied for a height variance and a soil moving permit. The subdivision was done at least three years ago. It is unclear at this time if the Zoning Board or Planning Board would hear the application, but Ms. Batistic works with both boards and will speak to both attorneys to decide where the application will be heard. A brief discussion ensued regarding general soil movement provisions.

The next meeting is scheduled for March 15, 2016.

Motion to close was made by Councilman Colucci, seconded by Mr. Mottola and carried by all.

Meeting ended 8:38pm

Respectfully submitted,

Diane Grimaldi

Acting Planning Board Secretary