

**WASHINGTON BOROUGH PLANNING BOARD
MINUTES OF SPECIAL MEETING HELD ON
JULY 25, 2005**

The special meeting of the Washington Borough Planning Board was called to order by Chairman Miller at 8:10 P.M. in the second floor Court Room/Council Chambers of the Borough Hall. Mr. Miller read the following statement into the record: "The requirements of the "Open Public Meetings Law", P.L. 1975, Chapter 231, have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and posted on the Bulletin Board of the Borough Hall stating the time, place and purpose of the meeting as required by law." Chairman Miller led the Board in the Pledge of Allegiance.

ROLL CALL:

Present:	Turner, Post, VanDeursen, Schlader, Sheola, Boyle, Miller
Absent:	Opdyke, Gleba
Also Present:	Robert Miller, Board Engineer Stuart Ours, Board Attorney Carl Hintz, Planner

Bob Opdyke will not be in attendance due to a conflict of interest and Bill Gleba is on vacation.

PUBLIC HEARING:

Chairman Miller stated that this was a continuance of the joint meeting with Council. There was a lot of input given from citizens. Chairman Miller reviewed and commented on the issues that were raised.

Rich Sheola arrived at 8:12 p.m.

Fire safety – site plan issue

Rush to settlement – Borough is being sued. It is time for a decision. Trial scheduled for September.

Railroad crossing – site plan issue. Approval is done with a team from the railroad.

Homeowner's association – subject to site plan review and approval

Additional costs – schools and services cannot be used to deny an application

Impact fees – illegal to charge

Geological, etc, concerns – valid concern. Would be discussed at site plan.

Traffic – site plan issue. Cannot be used for denial unless a severe detriment

Legal fee and park contributions – Planning Board cannot say if illegal or not. Has to be left up to Council and attorneys.

Ridge, slopes, forests – site plan review

Change in policy/Master Plan – if settlement is approved, these items would have to be changed

Walk to Lenape Trail – site plan review

Sewer – site plan review

Mill Pond Road access – condition of settlement. Cannot be imposed on Township. Only a condition from Borough.

Stormwater – site plan issue

Nunn Ave homes – site plan issue. Governed by set back zoning.

Townhouse zoning – governed by settlement

Recreation for Shabbecong Village – not in settlement

Increase in crime - cannot assume or be used for denial

Wetlands recharge, open space, construction blasting, endangered species – site plan issue

Chairman Miller stated that he has heard from the public that this is a nice site with beautiful landscapes but the property owner has a right to develop it.

WASHINGTON BOROUGH PLANNING BOARD
SPECIAL MEETING OF JULY 25, 2005
PAGE 2

Several developers over the years have brought plans before the Board but the site still has not been developed. Access to the site is the developer's problem. Chairman Miller asked if there were any comments from the Board regarding public comments at the last meeting. Ron and Marianne agreed with Chairman Miller's assessment of the last meeting. Carl stated that all concerns were covered. Some items of the settlement the Board has no say on such as fees for legal work or recreation. These were Council conditions. No further comments from the Board.

Opened to the public.

Attorney Ours stated that there was a notice for land use plan amendment/zoning map change. The hearing should be held. Chairman Miller stated that a vote on the settlement had to be done first. If declined, there would be no need for hearing on land use plan amendment.

Larry Cohen came forward. He represents Warren Washington Association. He started out with Board procedures first. He stated that the Planning Board defeated the resolution in support of the settlement and adoption of the ordinance. Thought the Planning Board was going to consider the settlement agreement and then all the rest should follow. Does not agree on some of the issues Chairman Miller discussed.

Traffic – agrees with the statement that this would be discussed during site plan review. But, it should be taken into consideration when reviewing master plan amendments.
Slopes, ridges – are very important when reviewing ordinance. It is important to look at proposed ordinance. Does not have restrictions where homes should be located.

Attorney Cohen feels scare tactics are involved in this settlement. The statement has been made that if the Borough loses the suit, developer could build 220 units and affordable housing to be by the Borough.

Old resolution – Board heard a lot of testimony at that time. Mr. Cohen read some of the facts outlined in the resolution. Applicant filed an application for use variance with the Township. They must show proofs. Board has no power to make conditions as to access. Baker must have access before approval. One of the original reasons for denial was inadequate access. The Superior Court must find no basis for denial on Board's findings. Feels Court will uphold resolution. Thinks Borough could win. His client will sue if the settlement is entered into. Does not think Board will have to provide affordable housing.

Chairman Miller stated that the Board has to take into consideration Mr. Cohen's position. He represents the garden apartments in the litigation. Borough professionals feel differently. Chairman Miller questioned if the garden apartments would allow access through the apartment complex if Baker makes application the way the property is zoned currently. Mr. Cohen stated the he would still uphold that Baker has no access to the site whether it was one or 220 units.

Chairman Miller stated that the Board has to decide if the settlement is in the best interest of the Borough. He asked Mr. Cohen whose scare tactics he would like the Board to succumb to. Council is looking for support from the Planning Board. All issues from original denial still need to be mitigated.

Attorney Cohen handed out a brief to Board members. The brief states that the Planning Board cannot approve an application if there is no access.

Recess at 9:32 p.m.

Reconvened at 9:43 p.m. All members present after roll call.

WASHINGTON BOROUGH PLANNING BOARD
SPECIAL MEETING OF JULY 25, 2005
PAGE 3

Attorney Ours stated that he had a chance to review the brief. He disagrees with Attorney Cohen. Feels conditions regarding access is viable for approval.

Attorney Cohen stated that the amendment to the Master Plan is in compliance with the settlement agreement but is a contradiction to the M-3 zone. He read a letter from the Mayor to the Planning Board from 2003. Attorney Cohen stated that he would bring this argument up at the time of the public hearing for the land use plan amendment.

Gina Appleby came forward. She stated that she was not sure what this meeting is about. She heard differently at the June 29 meeting. No one from Council heard any testimony from the original application. The private road through the apartment complex would not require a diagnostic team for the railroad crossing. Items in the settlement will prevent those issues from being changed/discussed at site plan time. The Planning Board worked hard on rezoning to the M-3 zone. Gina refuted a few points Chairman Miller had made in the beginning of the meeting.

Ed Pell came forward. He feels procedure very frustrating. He has been told that the decision had already been made. This was the public's perception. He asked that the Board please listen to the public.

Joseph Kreshefski – Sees the concern on the citizens' faces. He read a statement regarding a lawsuit that Baker had lost against another planning board.

Harlin Parker – Asked Attorney Ours if he felt that the denial was on solid legal ground. Attorney Ours stated yes.

Martha Potter – Talked about traffic. Borough needs more parking and stores, not homes.

Anthony Pasquini – Feels development will stand out like the Budd Lake area.

Mr. Franks – Feels some type of scare tactic is being held.

Mark Murray – Board should consider if settlement is good for the Borough.

Attorney Cohen – feels 43 homes in the M-3 zone is wrong. Asked Carl what he thought. Carl stated that perhaps it would be 41 or 42.

Executive Session at 10:36 p.m. was approved by all Board members.

Meeting reconvened at 11:07 p.m. All members in attendance after roll call.

Chairman Miller asked for a motion from the Board. Therefore, it was moved by Turner, seconded by Boyle to deny the settlement.

ROLL CALL: Turner, Post, VanDeursen,
Schlader, Sheola, Boyle, Miller
Ayes: 5; Nays: 2 (VanDeursen, Sheola); Abstentions: 0
Motion carried.

Chairman Miller stated that the land use amendment/zoning map change issue was mute.

ADJOURNMENT:

The meeting was adjourned at 11:11 p.m.

Respectfully submitted by Patricia L. Titus, Planning Board Clerk