

PRINCETON TOWNSHIP COMMITTEE MEETING  
January 28, 2008

A meeting of Township Committee was held on this date at 7:00 p.m. in the main meeting room of the Princeton Township Municipal Complex, 400 Witherspoon Street.

**NOTICE OF MEETING**

The Deputy Clerk read the following statement.

The following is an accurate statement concerning the providing of notice of this meeting and said statement shall be entered in the minutes of this meeting.

Notice of this meeting as required by Sections 4a, 3d, 13 and 14 of the Open Public Meetings Act has been provided to the public in the form of the 2008 Schedule of Regular Meetings. On January 6, 2008 at 1:15 p.m., said schedule was posted on the official bulletin board in the Municipal Building, transmitted to the Princeton Packet, the Trenton Times, the Trentonian, and the Town Topics, and filed with the Township Clerk.

**ROLL CALL**

The Deputy Clerk then called the roll.

Present: Mayor Marchand and Mrs. Bergman and Messrs. Goerner, Liverman and Miller.

Absent: None

Also Present: Messrs Kiser, Pascale, Schmierer and Lt. Henderson

**MINUTES**

Mr. Miller offered a motion to approve the minutes of December 2, 4, 17 and 27 and January 6, 2008 as corrected. The motion was seconded by Mrs. Bergman and carried unanimously. Mr. Liverman and Mr. Goerner abstained from vote on the meeting of December 27, 2007 as they were absent from that meeting.

**CONSENT AGENDA**

Contains items of a routine nature, which are approved by a single vote.

- a. Bills & Claims
- b. Maintenance/Performance Guarantees  
-Princeton University, Lawrence Apartments: Completion Time Extension for the  
Maintenance Guaranty Agreement to May 31, 2008.

- Roman Barsky, Barsky Homes, LLC: Completion Time Extension for the Performance Guaranty Agreement to May 31, 2008.

c. Professional Services Agreements

Community Grants & Planning, 2007 COAH Trust Fund Monitoring Report for a sum not to exceed \$3,000.00

John Gloss Maintenance, LLC, for continued maintenance and repair services within Griggs Farm and Washington Oaks for a sum not to exceed \$7,500.00

d. Appointments: PSOC Lands Reuse Committee, Bernard Miller and Victoria Bergman

e. Resolution: Authorizing an agreement with the Institute for Advanced Study for the purpose of installing storm water drainage improvements along a portion of Olden Lane.

f. Resolution: Accepting Storm Drainage Easement, Block 6902, Lot 2, Princeton Township Tax Map

Mr. Liverman offered a motion to approve the consent agenda. The motion was seconded by Mrs. Bergman and carried unanimously. Mr. Goerner abstained from voting on item f as he resides across the street from the easement.

(Bills and Claims and Resolution appended to this set of minutes)

## **ORDINANCE INTRODUCTION**

### **Vacation of Storm Drain and Sanitary Sewer Easement**

Mayor Marchand read by title a proposed ordinance entitled: AN ORDINANCE AUTHORIZING THE VACATION OF A STORM DRAIN AND SANITARY SEWER EASEMENT ON A PORTION OF BLOCK 5706, LOT 5, PRINCETON TOWNSHIP TAX MAP BY THE TOWNSHIP OF PRINCETON.

Mr. Kiser explained that when certain storm water improvements to the property located at 40 Overbrook Drive were completed it was determined that an existing easement which runs along the easterly side of the property was no longer necessary. He said appropriate drainage and the sanitary sewer line now runs along the westerly side of the property. In addition to vacating the easement on the easterly side of the property, the proposed ordinance would permit the Township to amend the easement language along the westerly side of the property to provide that within the existing easement both storm drainage and sanitary sewer pipe are permitted.

Mr. Goerner moved approval of the proposed ordinance on first reading. The motion was seconded by Mrs. Bergman and carried unanimously. The public hearing was scheduled for February 11, 2008.

## **ORDINANCE PUBLIC HEARING**

### **Senior Overlay, RSC-2**

Mayor Marchand read by title on second reading a proposed ordinance entitled AN ORDINANCE CONCERNING THE RESIDENTIAL SENIOR COMMUNITY-2 ("RSC-2") OVERLAY ZONE AND AMENDING THE "CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968".

Mayor Marchand began the public hearing noting that this was the eighth meeting on this ordinance and that Township Committee would begin by responding to the questions from the Regional Planning Board in their referral memo dated January 18, 2008.

Mayor Marchand started by responding to the question regarding the change of age, she said that the Township Committee has considered public comments including expert testimony during the course of seven (7) public meetings changing the age requirement to fifty-five (55) for both occupants and that Township Committee is satisfied that such a change (both occupants fifty-five (55)) will in fact lead to the construction of a community for "seniors" who wish to remain in Princeton.

Mr. Miller responded to the second question regarding the Princeton preference. He said that he feels very strongly that there is a compelling need for housing to be available to people with a Princeton preference and the developer must maintain two (2) lists. One list of those present residents of the Township or Borough or that have lived in Princeton within the last five (5) years, to parents and children of current residents, current active emergency service volunteers of the fire department and first aid and rescue squad, current employees of either the Township, Borough, or joint agencies, the Library or schools. The second list would be all others.

Mr. Goerner replied to the question concerning the middle income designation.

Mr. Goerner said that middle income is usually a demographic that is over looked and the Ordinance currently caps the middle-income definition at two hundred (200%) percent of the median gross income. It is expected that a number of seniors interested in this category of market-rate housing will fall into a range below the two hundred (200%) percent cap. Consequently, we believe that there will be a range of middle-income purchasers.

Mr. Schmierer responded to the affordable housing/COAH question. He said, COAH guidelines are still very much in flux and not likely to be adopted by June 2, 2008. The language in the revised RSC-2 Zone has a developer providing the construction of onsite affordable units and will also be committed to satisfy any other terms and conditions of the Township's "Growth Share" Ordinance which will have to be adopted once the COAH guidelines are in place. Mr. Schmierer also said the proposed ordinance protects the Township more under the new methodology, much more so than what is currently on the books.

Mrs. Bergman responded to the question concerning the balance between the environment and senior housing. She said that the Regional Planning Board has a 25% dedicated open space target and we have achieved that target and we also have a target for senior housing – we have no senior housing. The RSC-2 Zone is an overlay zone to the underlying OR-1 Zone. When the design standards in the new Ordinance are taken into consideration, the amount of common open space and undisturbed space within the zone is analyzed and that is compared to development permitted under the OR-1 and under the current RSC-2 regulations, the current Ordinance is much more environmentally responsive to the need to appropriately develop on the Princeton Ridge area of the Township, she said.

Mr. Liverman in response to the question concerning the use of the three (3) acre parcel said that he knows that land is scarce and he felt very strongly to not let the opportunity slip by to accept the 3 acre parcel.

In regards to the question concerning the prior settlement agreement with the Friends of Princeton

Ridge, Mr. Schmierer said that there is no requirement in the prior settlement restricting units in the RSC-2 Zone to one hundred fifty (150) units. The one hundred fifty (150) unit reference is in the current RSC-2 zoning regulation which is being changed by this Ordinance.

Mr. Schmierer continued that if committee chooses to adopt the proposed ordinance he will need to prepare a resolution for Township Committee to adopt since the ordinance is inconsistent with the Master Plan.

Mr. Schmierer also said that he had met with John Pettenati, Construction Official, concerning clarifying the barrier free language within the ordinance and as a non substantive change the reference to N.J.A.C. 5:23-7 will be added.

Mr. Miller moved approval of the addition of the barrier free language reference. The motion was seconded by Mr. Goerner and carried unanimously.

Being that it was almost 8:00 p.m. the Mayor recommended taking comments from the audience on items not on the agenda at this time and continue with the public hearing on the ordinance after that.

Henry Frank, 126 Valley Road spoke to Committee about signs in the right of way and asked Committee to please enforce the ordinance. The signs are visual pollution he said.

Martin Lombardo, 327 Nassau Street addressed Committee concerning situations that he had encountered with the Police Department. After hearing Mr. Lombardo, Mayor Marchand and Mr. Liverman recommended that he contact the Human Services Department since they do have a complaint procedure in place.

Olivia Applegat, Random Road, addressed Committee in regards to the severe erosion and flooding along Harry's Brook.

Yvonne Bleiman, 9 Campbell Woods Way, asked about camera placement within the Main Meeting Room, as well as, placement of name plates, speaking into the microphones and re-showing on TV 30 the Township Committee meetings and Planning Board meetings.

Casey Lambert, 115 North Road, asked Committee members when will someone engage with Olivia Applegate? She has been here over and over again concerning the flooding issue of Harry's

Brook, and someone needs to say something.

There being no further comments from the audience, Mayor Marchand reopened the public hearing on the proposed ordinance.

Jerry Berkelhammer, Allison Road, gave an overview of the development nature of Bunn Drive. He continued that Bunn Drive is already developed and if this area is not developed by Hillier there could be professional buildings and parking lots. He said he commends Township Committee for their commitment to provide senior housing and urges them to pass this ordinance and not let the only plan for senior housing slip through our fingers.

Katherine V. Dresdner, Hopewell, and representing the Campaign to Save Princeton Ridge, said that she basically had three major legal issues to discuss: 1. The Federal Fair Housing Act; 2. Existing case law in reference to the Pond Run Watershed Ass'n v. Twp of Hamilton; and 3. The proposed ordinance violates both the 2<sup>nd</sup> and 3<sup>rd</sup> round COAH rules.

After discussion, Mr. Schmierer responded that the proposed ordinance does not violate the Federal Fair Housing Act as it allows for each resident to be 55 years of age and that he saw no connection between the Pond Run case and the proposed Ordinance.

Mr. Schmierer reiterated again that the COAH guidelines are still very much in flux and, one thing that was not mentioned is that Princeton University is out of the mix and will have no growth share on the Township. The language in the revised RSC-2 Zone has a developer providing the construction of onsite affordable units and will also be committed to satisfy any other terms and conditions of the Township's "Growth Share" Ordinance which will have to be adopted once the COAH guidelines are in place. Mr. Goerner asked Mr. Schmierer that if the Township adopted a growth share ordinance under the proposed rules then the developer under this ordinance would be responsible for the full remaining in-lieu payment of \$150,000-\$160,000 per unit for their additional obligation outside of the 12 units, expansion of the detention basin and the contribution of the three (3) acre parcel. Mr. Schmierer responded yes.

Daniel Harris, Dodds Lane, reported to Committee that he had distributed to them and given to the Deputy Clerk a Memorandum of Intent to Bring Suit against Princeton Township, Princeton

Township Committee and the Regional Planning Board if Committee passes the proposed ordinance. He said he was there on behalf of the Campaign to Save Princeton Ridge and that they have prepared a summary of statements which he and others will read. He continued by reading from the Memo of Intent to Bring Suit concerning the *Development of the Ridge*.

Sheila Berkelhammer, Allison Road, said the Master Plan requires a “spectrum of housing” and what we don’t have is senior housing. She said she supports the ordinance and asked Township Committee to base their decision on what is best for the community.

Chuck DiSanto, Mt Lucas Road, said that reference is made to office buildings and parking lots because of the existing underlying zoning but this has not produced an office building. He said he does not feel Township Committee has made a significant argument for this ordinance.

Tim Sheehan, The Great Road, asked about target numbers for senior housing and Payment in Lieu’s, Regional Contributions Agreements (RCA) and the Federal Fair Housing Act and how this will affect the ordinance to which Mr. Schmierer responded.

Jane Butters, Dodds Lane, reported on the number of signatures on the petition. She also read from the Memo of Intent to Bring Suit concerning *LEED Requirements; Spot Zoning and Illegal Number of Dwelling Units Per Acres*.

Wendy Ludlam, South Harrison Street, also read from the Memo of Intent to Bring Suit concerning *Unrestrained Buildings* and that deed restrictions be put in place and enforced for the amount of acreage to be left undisturbed.

Carol Haag, Ridgeview Circle, read excerpts from the 1996 Master Plan and Land Use Element. She said that the land here under consideration tonight has historically been regarded as delicate and endangered. She also asked Committee to include in the proposed ordinance a “Deed Restriction” on the undisturbed acreage on the Lowe tract.

Mr. Goerner said that he understood that leaving the 8 ½ acres in an undisturbed state was the consensus of Committee.

Mr. Schmierer stated that the “Deed Restriction” should not be part of the ordinance and that it

could certainly be part of the developer's agreement at the Planning Board level.

William Flemer, Ewing Street, also read from the Memo of Intent to Bring Suit concerning the *Danger of Construction to Properties and Houses Downstream*.

Lily Harish-Chandra, Battle Road said she supported the ordinance amendment and that we need senior housing.

Yvonne Bleiman, Campbell Woods Way, spoke to Committee about other sites for senior housing such as Merwick and said that senior housing is essential but not on this site. She then also read from the Memo of Intent to Bring Suit concerning the *Destruction of the Ridge Environment*.

Mr. Miller responded that yes he did think Merwick was an appropriate site for senior housing, but it is in the Borough and the Township has no control over Borough Zoning.

Mayor Marchand said that many have also mentioned the Hospital site, but that too is Borough.

Shirley Dwork, Philip Drive, said that she resents that people who are opposed to this development, implying that those of us who want it are not environmentalists. She said she feels a very strong need for senior housing and Bunn Drive is a good site.

Cecil Marshall, Moore Street, also read from the Memo of Intent to Bring Suit concerning *Housing on Ridge*.

Bill Enslin, Herrontown Lane, said that he has heard a lot of comments tonight and at least one good thing is that no one has suggested putting it at the Shopping Center site. The Shopping Center site is only for 44 units and that we are approaching 10,000 people that are 55 and over in Princeton and we need a significant amount of senior housing – its needed at Bunn Drive, PSC, Merwick and the Hospital site.

Heidi Fichtenbaum, Carnahan Place, said that the ordinance could still state “No less than 8.5 acres be deed restricted” and then that would not limit the Planning Board. She said she understands the officials are looking for way to increase revenue and to provide diverse housing, but she would like them to balance environmental concerns in a meaningful way.

Ted Vial, Skillman said he was a Princeton resident for over 40 years and had 5 children go through the school system but when it came time to down size there was nothing available in Princeton. He said he urges Committee to pass this ordinance and to do what you can to move this on.

Jim Waltman, Executive Director of the Stony Brook Millstone Watershed, said that 10% of the households of Princeton are members of the Watershed and he thanked Committee for their time and patience on this matter. He questioned the need for 62+ housing. He continued by asking Committee if they are setting a precedent for the 3 acres on the east side by allowing the developer to take those 3 acres and moving the allowable density to the west side. Mr. Goerner responded by saying he is on record for pushing to keep the 3 acres open space but a compromise was reached by capping the density at 158 units and to decide what to do with the parcel at a later date. Mr. Waltman urged Committee to err on the side of extreme caution and said he appreciates the acknowledgment that this would constitute a change to the Master Plan and that this requires a resolution of Township Committee and urges Committee to vote against that resolution and uphold the Master Plan.

Pei Hsiang, Tyson Lane, thanked Committee for all their time and energy and said that those interested in the proposed development are also interested in the environment as well and from what she understands this development is not going to add to the problem of flooding at Harry's Brook. She also asked Committee to adopt the ordinance.

Charlie Yedlin, Beech Hill Circle, said he supports the previous speaker's comments and commends Committee for introducing the amendment to the ordinance and encourages Committee to pass the ordinance.

Sarah Hollister, 437 Ridgeview Road, said she was against the plan to build high density development falsely labeled senior housing on the Ridge in contradiction to the Master Plan. She continued by showing two posters of the trees on the ridge and said that destruction of this or any forest to obtain ratables is a tragedy.

Lincoln Hollister, 437 Ridgeview Road, read from a prepared statement from Professor Henry S. Horn, which described the ecology of the Ridge and said that he would like to live in town and still have the woods nearby to wander.

Harold Lowe, Overbrook Drive, said he was making a personal plea, the pros and cons have been said and he asked Committee to help us stay in Princeton. He has lived here for over forty years and he and many others sitting there have made Princeton what it is today.

Sandra Persichetti, Trewbridge Court, said that she applauded Committee for listening to everyone comments and she had spoken before and just wanted to again urge Committee to adopt the ordinance.

Ann Neumann, Alexander Road, Princeton Borough, asked Committee to protect the environment. She said she is strongly in favor of senior housing but urges Committee not to pass this ordinance – it is not senior housing – it is age restricted housing and not a good location for seniors.

Ruth Bronson, Murray Place, said she does not think Bunn Drive is a remote location and that it is a good site.

Patty Soffronoff, Bertrand Drive, said that they have been here over 30 years and that they have to put their home on the market and have not been able to find suitable housing and asked Committee to pass the ordinance to provide market priced senior housing.

Theresa Stimple, representing the Sierra Club said that the Ridge is environmentally sensitive and that development should stop. Don't damage an important environmental treasure.

Olivia Applegat, said that she is not against the older people here – she is just concerned about the flooding and also provided pictures of flooding conditions along the Harry's Brook Basin.

Susan Lowe, Overbrook Drive, said that people that live on the Ridge don't want it on the Ridge. Princeton is a town not an arboretum, it is time for people to be considered and she hopes Township Committee passes the ordinance.

Tim Sheehan spoke again saying that there is not any senior housing here – what are you going to do? Cut down the trees or keep sending people to Montgomery Township. He said the Sheehan family

last year planted 300 trees and again they will plant 300 trees again this year. There is no more property in town.

There bring no further comment from the public, the Mayor closed the public hearing.

Mr. Kiser said that in reference to the stormwater management issue on the Lowe tract, if anything is constructed on that tract a detention basin would have to be constructed. What has been proposed in order to save trees is to move it over to the PVC side expanding and improving the PVC basin to present day standards.

Mr. Miller said that what is before Committee is an amendment to an existing ordinance that is on the books. He continued by saying the ordinance on the books permits certain development on the site. The question before us is not a developer, not a conceptual development, but whether or not the amended ordinance is better than the ordinance that is on the books. Mr. Miller said that yes it is better and he fully supports the amending ordinance.

Mr. Goerner said that he has approached this with a balance in mind. We have increased open space from 40-60% , leaving 8 ½ acres undisturbed; it reduces the impervious coverage; adds both low and moderate income housing on site; capped the density at 158 units, middle income units added to the site; pushed for LEEDS certification and feels that this is a good balance and he will vote for it.

Mr. Liverman said that he wanted to clarify some things that he has heard – that we are almost “in bed” with Robert Hillier. He said that he has never met or spoken with Robert Hillier in regards to this – it is not a done deal. He continued that in regards to the restricted land - the 8.5 acres – it is not deed restricted – but it is mentioned and clarified in the ordinance. He said that in reference to the trees – there are still a lot of trees there and they are very healthy and that the basin improvements are going to be helping a situation that is occurring today and that he is supporting the ordinance.

Mrs. Bergman, said that this is what are community is about – balance and options. She continued that the Bunn Drive site is in the State Plan Zone 3 development because it has sewer, water, and it has a transportation route. Mr. Hillier came before Township Committee in an open session and offered a better vision for this site and that she supports the ordinance.

Mayor Marchand said that we owe and have an obligation to all sorts of people, and we have fulfilled a lot of those obligations, we have a fabulous affordable housing program, we have saved acres and acres from development but we have no market senior housing. We are not a ratable chase community and objects to those comments, and if a law suit does occur, it will be very sad, it is an expense and we have done everything that we can to be legally, morally and ethically correct in everyway. The Mayor also thanked all other members of the Committee for all their hard work and compromise.

Mayor Marchand again read by title: AN ORDINANCE CONCERNING THE RESIDENTIAL SENIOR COMMUNITY-2 (“RSC-2”) OVERLAY ZONE AND AMENDING THE “CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968”.

Mr. Miller offered a motion to approve the proposed ordinance on second reading. The motion was seconded by Mr. Liverman and carried unanimously.

There being no further business the meeting was adjourned at 11:30 p.m.

Kathy Brzezynski, Deputy Clerk