



DELAWARE AND RARITAN
CANAL COMMISSION

MINUTES OF THE MEETING OF MARCH 15, 2006

TIME: 10:05 – 11:55 AM
DATE: Wednesday, March 15, 2006
PLACE: Canal Commission Office
Stockton, New Jersey

ATTENDING:

COMMISSIONERS: Chairman DelVecchio, Messrs. Jessen, Knights, Loos, and Albert; Mayor Marchand and Ms. Cradic
STAFF: Mr. Hahn, Ms. Guru and Ms. Holms
Mr. Lewin Weyl, Deputy Attorney General

GUESTS:

Stephanie Fox, D&R Canal State Park
Bill Bogosian, NJ Water Supply Authority
Joe Shepherd, NJ Water Supply Authority
Robert H. Barth, Canal Society of New Jersey
Jason Stypinski, Esq.
Nic Messina
Gregory Danese
Michael Haggerty
Sheryl Sussman
Barbara Ross, D&R Canal Watch
Mike Kruimer, East Coast Greenway Alliance
Anne Kruimer, East Coast Greenway Alliance

Chairman DelVecchio announced that this was a regular meeting of the D&R Canal Commission and that all provisions of the Open Public Meeting Law of 1976 had been met.

MINUTES OF THE MEETING OF FEBRUARY 15, 2006

Mr. Jessen moved approval of the minutes of the meeting of February 15, 2006;
Mr. Knights seconded the motion. The motion passed unanimously.

REVIEW ZONE APPLICATIONS

Mr. Jessen moved approval of the following "A" Zone applications:

1. 06-3337 – Niederer Garage Replacement – Hopewell Township

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
Jon Corzine, Governor Lisa P. Jackson, Commissioner

2. 06-3340 – Wygal Garage – Stockton Borough
3. 05-3273 – Handsel Company Townhouses – Lambertville
4. 06-3336 – Brookville House Expansion – Delaware Township

Mr. Knights seconded the motion and it passed unanimously.

Mr. Hahn presented the following “A” Zone project for review:

98-2464 – Route 29 Drainage Improvements – West Amwell and Lambertville

Mr. Albert asked whether the project would improve the quality of stormwater entering the canal; Mr. Hahn replied that it would, because there would be less road salt and more infiltration. Mr. Albert moved approval of the Route 29 project; Mayor Marchand seconded the motion and it passed unanimously.

Mr. Jessen then moved approval of the following “B” Zone applications:

1. 05-3198 The Gentry @ East Windsor, East Windsor Township
2. 03-2981 Princeton Research Lands, Hopewell Township
3. 05-666A Shopping Center Expansion, Ewing Township
4. 04-3068 Clearbrook Commons, Monroe Township
5. 00-2682 OHM Logistics, Monroe Township
6. 05-1704B Forsgate S-128, South Brunswick

Mayor Marchand seconded the motion and it passed unanimously.

Mr. Hahn presented two more “A” Zone applications for review:

1. 06-2521E – Sprint Telecommunications Tower at Marconi Self-Storage – Franklin Twp.

Mr. Hahn said that in 2004, the Commission approved the construction of a cell tower on Easton Avenue. The tower was proposed to simulate a flagpole. He said the current applicant is proposing to increase the circumference of the pole to accommodate additional carriers. The height will not increase.

Mr. Barth suggested making the tower simulate a radio tower instead of a flagpole, because this is the original site where Guglielmo Marconi established a radio transmitting station during the 1920’s. The Commissioners agreed to postpone discussion of the application until Mr. Loos arrived.

2. 05-3259 – Messina Residences – Stockton Borough

Mr. Hahn said the applicant is proposing to construct three single-family homes on .55 acre, adjacent to the Canal Park’s multi-use path, and has requested a waiver from the setback provision of the Commission’s regulations for visual and natural quality impact, based upon extreme economic hardship. He said the entire lot (presently undeveloped) is within the 200-foot

setback requirement for this part of the Canal Park. He said the regulations provide for waivers based upon economic hardship for sites in their present condition. He recommended the Commissioners deny the request for waiver based upon economic hardship for the construction of three houses. He further recommended that the Commission grant a hardship waiver based upon a proposal for one house, and that they approve a conditional application for one house.

Mr. Stypinski, the applicant's attorney, said the Commission's Regulations stipulate that the waiver could be granted provided the applicant demonstrates that the property would not yield a reasonable return if the proposed project was not approved. He went on to state that the most profit Mr. Messina could make for a single-building lot was between \$5,000 and \$15,000, and opined that this would not be a reasonable return. Mr. Messina said the subdivision has been approved by the Stockton Planning Board, was consistent with the current zoning and that the Borough's Master Plan encourages "in-fill" lots for the purpose of generating revenue as "Smart Growth".

Mr. Loos joined the meeting at 10:30 AM.

Mr. Messina went on to discuss the economic considerations for the waiver request. Mr. Stypinski reiterated that building a single-family house would not yield a reasonable return for Mr. Messina. Mr. Hahn corrected the attorney, stating that the "reasonable return" was based upon the property's present use being continued. Mr. Knights concurred, stating that as a builder, Mr. Messina should know that it is not the intent of the Commission's Regulations to guarantee profit for potential development projects.

Mr. Messina disputed some of the information that was in a Staff Report prepared by Mr. Hahn. Mr. Hahn agreed with Mr. Messina that his statement that this area is "comprised largely of single family houses on half-acre or larger lots" was incorrect; the lots are smaller, however the character of this section of Stockton is defined by lots with similar frontage.

Mr. Messina also questioned Mr. Hahn's reference to the New Jersey Flood Mitigation Task Force's recommendation to limit development within Delaware River's floodplain, stating that it was improper to consider what is only a speculative recommendation.

After further discussion, Mr. Knights moved waiver of the setback requirement and conditional approval for one single-family house on the Messina property, with conditions as recommended by Mr. Hahn in the Staff Report dated February 24, 2006. Mayor Marchand seconded the motion. Chairman DelVecchio, Ms. Cradic, Mayor Marchand, Mr. Jessen and Mr. Knights voted in favor of the motion; Mr. Loos abstained and Mr. Albert voted against. The motion carried.

EXECUTIVE DIRECTOR'S REPORT

Mr. Hahn reported that staff had conducted 26 application reviews and found them to be deficient; 13 application reviews for Commission action, 6 exemptions, 1 maintenance application, 5 inspections, and 11 jurisdictional determinations.

OLD BUSINESS

Mr. Hahn reported that PSE&G has filed an appeal with the Office of Administrative Law regarding the approval condition to construct a pedestrian bridge over the canal as mitigation for installation of a monopole and utility crossing of the canal. He also said that the developer for Canal Walk in Franklin Township has signed a new Memorandum of Agreement to fully restore the East Millstone Canal House and structurally rehabilitate the Weston Canal House.

Ms. Cradic reported that the former Canal Park headquarters in Blackwell's Mills will be occupied by Forestry staff.

The Commission then considered the previously-discussed cell tower/flagpole proposal on Easton Avenue in Franklin Township. Mr. Loos said he didn't know if Franklin officials would be in favor of a radio tower replica, but would find out, because he thought it was a good idea. Mr. Loos moved approval of the Sprint Telecommunications Tower as presented, conditioned upon exploring with Franklin Township officials the possibility of simulating a radio antenna instead of a flagpole. Mr. Albert seconded the motion and it passed unanimously.

CANAL PARK SUPERINTENDENT'S REPORT

Stephanie Fox, Naturalist for the Canal Park, said that roadways in the Bull's Island campgrounds have been rebuilt, and the campground will open April 1st. She said the Canal Park staff will hold an open house at the new headquarters on Mapleton Road on April 29th.

WATER SUPPLY AUTHORITY

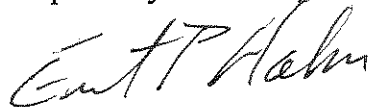
Mr. Shepherd reported that winter maintenance and tree removal was ongoing, as well as repairs to the floodguard embankment in Stockton. He said the Prallsville lock will be de-watered for inspection, and that a new pontoon excavator will soon be in use.

PUBLIC FORUM

Mr. Barth distributed postcards about the World Canal Conference to be held in Bethlehem, Pennsylvania from September 12th through the 14th. He said a tour of the Prallsville Mill site will take place on September 13th.

Mr. Knights moved adjournment; Ms. Cradic seconded the motion, and the motion passed unanimously. The meeting adjourned at 11:55 AM.

Respectfully submitted,



Ernest P. Hahn
Secretary