

**TOWN OF STILLWATER  
PLANNING BOARD MEETING MINUTES  
STILLWATER TOWN HALL  
April 23, 2018 @ 7:00 PM**

**Present:**

**Vice-Chairman John Murray (JM)**  
**Frank Bisnett (FB)**  
**Peter Buck (PB)**  
**Heather Ferris (HF)**  
**Kimberlee Marshall (KM) Alternate Member**  
**John Murray (JM)**  
**Dale Smith (DS)**  
**Marybeth Reilly (MR) Alternate Member**

**Also Present:**

**Daryl Cutler, Town Attorney (DC)**  
**Lindsay Zepko, Director of Building and Planning (LZ)**  
**Ellen Vomacka, Town Board Liaison**  
**Sheila Silic, Secretary**

**Absent:**

**Chairman Randy Rathbun (RR)**  
**Carol Marotta (CM) Member**  
**Kimberlee Marshall (KM) Alternate Member**  
**Paul Male, Town Engineer (PM)**

**Pledge:**

Vice-Chairman Murray called the meeting to order at 7:00 PM and led everyone in the Pledge to the Flag.

**Review and approval of minutes of Planning Board meeting:**

Vice-Chairman Murray stated that the March 26, 2018 Planning Board minutes are not completed and will be tabled until the May 29, 2018 Planning Board meeting.

**Discussion of PDD Referral Procedure Changes**

Vice-Chairman Murray stated that Mr. Cutler will summarize what was not incorporated into the changes of the PDD Legislation from the Planning Board recommendations.

Mr. Cutler stated that Mr. Trainor took all the comments and tried to incorporate all the recommendations into the PDD Legislation and submitted the proposal to the Town Board. Mr. Cutler stated that there was one comment that Mr. Trainor did not incorporate into the legislation because he did not believe it was in the existing law. Mr. Cutler stated that Mr. Murray asked if I

would inquire into that recommendation further. Mr. Cutler stated that he would inquire about the recommendation after this evenings meeting. Mr. Cutler stated that Mr. Murray spoke about if a super majority would be needed to override a Planning Board recommendation. Mr. Cutler stated that he will have to research this because the current law states if there is an unfavorable report the Town Board can choose to hold a public hearing or they can choose not to hold a public hearing. Mr. Cutler stated that if that is the case then the Town Board would need a super majority to hold a public hearing and move the project forward, but if they choose not to hold public hearing the project is dead.

Vice-Chairman Murray stated it was a super majority that would be needed if the Planning Board made a negative recommendation. Vice-Chairman Murray stated that he wants to enter Ms. Marotta's comment letter dated April 22, 2018 and Mr. Male's comment letter into the record. Vice-Chairman Murray stated that the Town Board and Planning Board joint public hearing to review the application before the project is voted on and referred to the Planning Board should be an intricate part of the process. Vice-Chairman Murray stated that the Town Board does not support that objective. Vice-Chairman Murray stated that he has concerns with Ms. Marotta's statement regarding optional referral and how it is submitted. Vice-Chairman Murray stated the reasons for not referring the application to the Planning Board will not be revealed by the Town Board which is arbitrary and capricious. Vice-Chairman Murray stated that he believes when a project is referred to the Planning Board the applicant needs to come before the Board and present the project. Vice-Chairman Murray stated that Ms. Zepko will have most of the information for the Planning Board and that the Town Board minutes must be the approved minutes. Vice-Chairman Murray stated that if the Planning Board does not have the additional information needed to make a recommendation it then puts the Planning Board members in a position that they would have to give a negative recommendation for the project.

Ms. Zepko stated that the public hearing for the PDD Legislation process is scheduled for May 17, 2018. Ms. Zepko stated for clarification that if the Town Board refers a project to the Planning Board, they would need to see a formal presentation from the applicant. Ms. Zepko asked the Planning Board for clarification in regard to adding the word shall instead of the word may on page 13 under paragraph C of the PDD referral Procedure. Vice-Chairman Murray and the Board members agreed to the changes. Ms. Zepko stated that she believes if an applicant's project is on the agenda then the applicant should be present at the meeting. Ms. Zepko asked if under the time limit of the two meeting schedule that additional language for an extension could be added "in the event that additional review is needed and the Planning Board is unable to make a recommendation". Ms. Zepko stated that she attended a Town Board meeting where a PDD Project was on the agenda and the applicant did not present the project to the Town Board. Ms. Zepko stated that she believes the applicant should be giving a presentation of the project before the Town Board. Ms. Zepko stated that on page 12 paragraph 3 under Town Board Presentation it states "the Town Board may require the developer to present the proposed PDD at a regular Town Board meeting". Ms. Zepko asked if the Town Board would consider changing the word may to the word shall require the developer to present the proposed project. Ms. Zepko stated that where it states "the Town Board may schedule a public hearing" that should be changed to "shall". Ms. Zepko stated that the Town Board is required to hold a public hearing for adoption of PDD legislation.

Councilwoman Vomacka stated that the Town Board takes the PDD process very seriously and that the Town Board cannot be arbitrary and capricious. Councilwoman Vomacka stated that if an extension of time were needed by the Planning Board for review that it would be based on a case by case referral of a project and the Planning Board would have to explain the reason for the requested extension. Councilwoman Vomacka stated that she agrees that the applicant should give a presentation to the Town Board before the public hearing regarding the project. Councilwoman Vomacka stated that would give the Town Board members and the public a better understanding in regards to the project.

Mr. Cutler stated that one comment the Planning Board recommended to Mr. Trainor was incorporated into the legislation on page 13 under Section 210-19 B5 stating specifically “that if the Town Board is not going to refer to the Planning Board the meeting minutes and the resolution will reflect the Town Boards rational for that decision.” Mr. Cutler asked the Planning Board if they would agree with adding the language “and a presentation to the Planning Board by the applicant.” Vice-Chairman Murray and the Board members agreed to the adding the changes. Mr. Cutler stated that if the applicant is not at the meeting then the Planning Board cannot act on the application. Vice-Chairman Murray stated that the Planning Board has a time constraint on the project of 60 days. Mr. Cutler stated that he had proposed additional language that specifically allowed for an extension of that time and one of the Town Board members rejected that language. Mr. Cutler stated that he can refer the Planning Boards request for a time extension to Mr. Trainor. Vice-Chairman Murray and the Board members agreed to the request. Mr. Cutler stated that it would then be up to the Town Board to make a determination to grant or not to grant the extension. Mr. Cutler stated that the Planning Board would have to track the time limit closely in order to request an extension from the Town Board.

Ms. Ferris stated the fact that option is not defined in the legislation and asked what criteria is the Town Board using to decide whether to refer or not to refer to the Planning Board because there are no parameters.

Mr. Bisnett stated that it makes sense to extend the 60 day time limit because if there is additional information that is requested by the Planning Board for the project the time constraint is counterproductive for the Planning Board.

### **Old Business:**

#### **White Sulphur Springs**

Ms. Zepko stated that the White Sulphur Springs proposal will be back before the Planning Board. Ms. Zepko stated that the project was proposed as a Major Subdivision, then was submitted as a PPD and now is proposed as a Cluster Conservation Subdivision. Ms. Zepko stated that the reason the project has been changed to a Cluster Conservation Subdivision is because of the Zoning Code changes that were adopted in 2017 and the project is now within the Zoning Code criteria. Ms. Zepko stated that they asked for additional engineering than what was provided with the materials that were submitted in April. Ms. Zepko stated that it may be another month before the review is finished on the proposed project. Ms. Zepko stated that she has requested more detailed information on the project. Ms. Zepko asked if the Board wished to proceed with referring the project to the Chazen Companies for additional review. Vice-

Chairman Murray stated that he has spoken to Supervisor Kinowski with a recommendation that the roadway drawings and the drainage drawings be reviewed by the Chazen Companies, because this is such a unique project and for the highway standards.

Mr. Buck stated that he walked the property and there are steep slopes, questions regarding the drainage and the roadway. Mr. Buck stated that the topography of the property needs to be reviewed. Mr. Buck stated that he agrees with Mr. Murray that the Chazen Companies should review this project.

Mr. Bisnett asked if there is a creek that flows through the parcel. Ms. Zepko stated that is correct. Mr. Bisnett asked if core samples have been done where the proposed roadways are going. Ms. Zepko stated that has not been done yet. Mr. Bisnett asked if they are going to be doing them because if there is a weakness under the roadway that could eventually lead to the road collapsing. Ms. Zepko stated that if the Board wants the information on the core samples they can request that the applicant furnish the information.

Mr. Smith asked if there is a condition that can be added to the resolution so if there is a problem with the project it can be addressed. Ms. Zepko stated that all should be addressed before the project receives Site Plan approval.

Mr. Cutler stated that if the Chazen Companies is going to be involved in the review process then the Planning Board should make a decision so that Chazen can be brought in on the project.

Mr. Bisnett made a motion to enter into executive session, seconded by Ms. Ferris at 7:14 PM. Ms. Ferris made a motion to exit executive session seconded by Mr. Bisnett at 7:40 PM.

Vice Chairman Murray made a motion to refer the White Sulphur Springs project to the Chazen Companies seconded by Mr. Bisnett. A roll call vote was taken.

Vice-Chairman Murray	YES
Member Bisnett	YES
Member Buck	YES
Member Ferris	YES
Member Marotta	ABSENT
Member Rathbun	ABSENT
Member Smith	YES

### **New Business:**

Ms. Zepko stated that she is working with Chazen Companies, Mr. Cutler and Mr. Trainor to set up a joint work shop with the Town Board, Planning Board and the Zoning Board. Ms. Zepko asked the Board members if there is a topic the Board would like more information on to please send her an email regarding the topic.

Mr. Buck asked Ms. Zepko if she would take comments this evening. Ms. Zepko stated she would take comments if the Board members had comments this evening. Mr. Buck stated that there are residents within the Town of Stillwater that are operating a business which is not zoned for businesses. Mr. Buck stated that the Building and Planning Department is going to become busier with new developments in the town and could use some part-time help. Mr. Buck stated that he had visited Saratoga Hills Mobile

Home Park and there are some code issues that need to be addressed. Ms. Zepko stated that Mr. Eric Rutland Building Inspector/CEO has been working with the owner of the mobile home park to correct the issues.

Vice-Chairman Murray stated that Chairman Rathbum is resigning his position as Chairman of the Planning Board and also as a member of the Planning Board effective May 1, 2018.

Motion to adjourn: made by Mr. Bisnett, seconded by Mr. Buck motion passed at approximately 8:30 PM.