

**TOWNSHIP OF MANSFIELD  
ZONING BOARD OF ADJUSTMENT**

**Monday, July 1, 2013**

**REGULAR MEETING**

The regular meeting of the Mansfield Township Zoning Board was called to order by **Chairman Tahirak** at 7:09 p.m. on the above shown date followed by the Flag Salute and the following opening statement:

The notice requirements provided for in the 'Open Public Meetings Act' have been satisfied. Notice of this meeting was properly given in the annual notice, which was adopted by the Mansfield Township Zoning Board on January 7, 2013. Said resolution was published in the Burlington County Times on January 11, 2013, e-mailed to the Burlington County Times, Trenton Times and Register News, filed with the Clerk of the Township of Mansfield, posted on the official bulletin board at the Municipal Complex, filed with the members of this body, and mailed to each person who has requested copies of the regular meeting schedule and who has prepaid any charge fixed for such service. All the mailing, posting and filing having been accomplished on January 8, 2013.

Amended notice was published in the Burlington County Times on Wednesday, June 12, 2013 as well as notification via e-mail to the Burlington County Times, Trenton Times, the Register News, the Clerk of the Township of Mansfield, the members of this body, each person who has requested copies of regular meeting schedules, posted on the official bulletin board at the Municipal Complex and to anyone who has prepaid any charge fixed for such service with all the e-mailing and posting being accomplished on June 5, 2013.

Those in attendance were as follows:

**Board Members:**

Randy Allen, James Blackwell, Robert Harrison, William Tahirak, Richard Tarantino, Ralph Wainwright, Jeanne Zalegowski and Michelle L. Gable, Secretary. James Soden and Alfred Vardalis were absent.

**Professional Staff:**

Thomas J. Coleman, III, Solicitor; Louis Glass, Planner; Harry McVey, Planner; Mark Malinowski, Engineer; and Arnold Garonzik, Traffic Consultant.

**PUBLIC COMMENTS:**

**Chairman Tahirak** opened the public comments portion on non-agenda items.

Hearing none the public comments portion of the meeting was closed.

**MATTERS TO BE CONSIDERED BY THE BOARD:**

**PUBLIC HEARING:**

**Application Number ZB13-01UV, PFMJS: Blue Sky Communities, LLC, Block 25, Lot 7.09 & Block 25.02, Lot 18:**

**Chairman Tahirak** introduced this Application for a Density and Lot Yield Variance for Residential Cluster Development and Preliminary & Final Subdivision to allow subdivision of twelve (12) single-family housing lots in Phase Two of the Legends at Mansfield Development consistent with the Preliminary Major Subdivision Approval issued by the Planning Board in 2004 located at Legends Lane and Belmont Circle in the R-1 Residential Zoning District.

**TESTIMONY:**

**Patrick McAndrew** was present representing the applicant. He then introduced Terri Combs, Applicant Planner and Mickey Gottlieb, Principal/Applicant who were present to give testimony on this application and asked that they be sworn in.

**Solicitor Coleman** swore in Terry Combs and Mickey Gottlieb to give testimony on this application.

**Mr. McAndrew** said in terms of presentation this is an older approval that was mostly built but not fully completed. As Mr. Combs is familiar with the project being the original planner he will review what happened and what they are trying to do tonight. Mr. Gottlieb will answer any questions regarding the Zoning Boards Professional review letters.

**Chairman Tahirak** asked how old is the approval. **Mr. McAndrew** said they started in 2004.

**Terri Combs**, Licensed Professional Planner in the State of New Jersey, Licensed Landscape Architect in the State of New Jersey, over 30 years experience in Land Planning, been with the Firm Adams, Rehman & Heggan for 28 years where he is the Planning Department Head and Senior Project Manager; he was the Project Manager for this project in 2004 when Tindall Homes came to the Planning Board for subdivision approval presented the following Exhibits and reviewed same:

Exhibit A-1: Buy Right Density Lay Out – This showed what the property yield would be if they stayed with 3 acre parcels noting that Mr. Gilardi had control of 38 acres to be included in the subdivision of which he gave testimony at the preliminary hearing for subdivision approval but sometime following the preliminary approval Mr. Gilardi had plans of developing the C-2 portion of the property, therefore things did not work out. At that point, Tindall Homes worked out an alternative with the Planning Board to phase the project. So Phase I consisted of the lots that they could justify on the buy right plan with the 90+- acres that Tindall Homes controlled.

Exhibit A-2: Subdivision Plan (part of submission) - The road frontages are on Mt. Pleasant Road and very little on Public Road and acreage is 95.28 acres within the boundary line but would have been 133.55 acres had they had Mr. Gilardi's property. This plan shows there are twelve lots aside from the acreage that they have lost and they could only justify 27 lots under the buy right plan. He again noted that 12 lots were affected by Gilardi's piece.

Exhibit A-3: Colorized Subdivision Plan – Overall subdivision shows 39 total lots.

Exhibit A4: Shows open space and the Phase II Boundary superimposed on an aerial photo so you can see what is built and what is not built.

It is a total of 39 lots with the yellow being just a little over 12 acres, which is the Phase II - 12 lots. This property was developed in accordance with the cluster development option and has a minimum lot size of 40,000 square feet with the base density of one lot for every three acres.

He noted that Mr. Bergman from Tindall Homes worked closely with Mr. Gilardi to try to finalize the land deal but it fell through so he contacted another adjoining property owner Mr. Bradley but was unsuccessful. Therefore, they cannot get the acreage and that is why they are here for a use variance for density.

**Mr. McAndrew** said in terms of the stage, in 2004 the Planning Board approved all 39 lots that are shown and then final approval was granted after for 27 of lots and what is being called Phase II are the 12 lots, which they are proposing to develop tonight. The 12 lots have preliminary but not final approval and the reason they need a density variance is because the open space was the Gilardi property associated with it that gave the developers the density. Therefore, they need a density variance for the 12 lots. He then asked Mr. Combs if the property remains proper and suitable to develop this property.

**Mr. Combs** said this is a unique situation as he has never had to come back to get a density variance because they have lost land. There are special reasons that exist under the MLUL 40:55D-2, which is to promote a desirable visual environment through out the Township.

#### **PROFESSIONAL COMMENTS:**

**Lou Glass** referred to his report dated June 13, 2013. This was originally brought to the Planning Board under the cluster ordinance provisions. He then explained the provisions of the cluster ordinance and the history of the Tindall development specifically touching on the outstanding Homeowner's Association information.

**Mr. McAndrew** deferred this comment to Mr. Gottlieb and Mr. Weinflash.

**Solicitor Coleman** swore in Jeffrey Weinflash to give testimony on this application.

**Jeffrey Weinflash** said the application is remnants of a silent partner that was managed by Mr. Bergman. They got involved because of existing bonds. They began to meet with officials and residents. They were always assuming on completing the 12 additional lots. The Homeowners documents were again commented on. The reason they are here is because Blue Sky bought the seven lots from the superior court because the bank was willing to take them back. They had a total of nine lots but have since sold two. He noted this applicant is prepared to step up as the developer if they are granted the approval on the 12 lots. Otherwise, they are not the developer.

**Solicitor Coleman** asked if they are responsible by the fact they purchased the lots and are they subject to all the conditions that associated with the 2004 resolution. **Mr. Weinflash** said they are subject to the declaration like the Homeowners are. Discussion was again held regarding the homeowners association and budget for homeowners association.

**Solicitor Coleman** asked if they were adverse if the Board just considered the density this evening and flushed out the other issues at an off line meeting with the professionals. **Mr. McAndrew** said the issue of the recreation fees are mostly mute. The other big issue is the Homeowners Association documents.

**Mark Malinowski** referred to his report dated June 27, 2013. Terry Combs is to provide copies of the DEP permits. **Mr. Gottlieb** said they are going to reuse the trailers and once complete the trailers will be removed. It was noted that the owner/developer needs to address cleaning up the site as noted in Mr. Malinowski's report.

**Al Litwornia** referred to his report dated May 28, 2013 noting there is no traffic impact, the sight distances are acceptable as designed and they need to verify that off track contributions had been submitted.

**Harry McVey** said the Board is dealing with the use, which is a density issue.

#### **BOARD COMMENTS:**

**Richard Tarantino** asked if there is an existing Homeowners' Association and if the basins are being maintained. **Mr. Weinflash** said the answer is no, there is no Homeowners' Association and the basins are not being maintained.

**Jeanne Zalewski** referred to item #8 of Mr. Malinowski's report asking if that is one of the fountains that they were talking about. **Mr. Gottlieb** said they have one fountain that is operating and they are going to set up the aerator for the second one, there are no hazardous condition, they are taking care of it to stabilize this situation.

#### **PUBLIC HEARING:**

**Venue Nagali**, 30 Belmont Circle was surprised about the 3 acre rule; he did not realize that studies were done; and he has learned that the applicant has decided that they are not the developer just a homeowner. He commented about meetings held with the applicant feeling they were the developer. He commented about the shade trees that are being planted now. He feels they should just pull the bond for Phase I and decide on what should be the future vision of the community.

**Mr. Gottlieb** responded that this is a complicated application with a complicated history. They are obligated as a family member was the bondholder and was involved in the development. Therefore, they are obligated to step forward and install the shade trees, maintain the basin, put the entrance to what was originally approved and day-to-day maintenance note that what Mr. Weinflash was referring to was typical association obligations.

**Mr. Nagali** said they need to finish Phase I and does not want to wait another 10 years for the project to be completed.

**Sam Jobanpura**, 32 Belmont Circle said the last 7 years nothing has taken place in the development. They have had potholes, kids stand on the corner to catch the bus on Mansfield Road East, which is a dangerous road, and it is not being mowed so the residents paid a landscaper to mow. He has seen more activity in the last two weeks from the builder that he is happy to see but he does not think the twelve lots should be discussed until all the conditions are met for Phase I. He feels it is secondary until the neighborhood is set up the right way.

**Kul Phlgat**, 15 Legends Lane is very frustrated. They promised the entrance would look good, they planted bushes, they mowed around the pond, they want to sell homes and he thinks they should do things the right way.

**Ken Hirsh**, 13 Legends Lane was encouraged to move in the area by her daughter and grandchildren. He represents some of the people that are not present. The young homeowners would like to see more kids in the area. He would like everyone to consider the 12 lots as it would make it look better noting the area needs to look uniform.

**Rewal Thind**, 34 Belmont Circle is one of the first four residents, has lived in total mess and noted majority do not want any more homes. He said the majority want them to finish and go.

Hearing no further comments a motion was offered by **Ralph Wainwright** and duly second by **Jeanne Zalegowski** to close the public hearing on this application. Motion carried.

**Mr. Weinflash** said basically they want to see the community completed in the way that it was presented and that was the 39 lots. The issue is how come stuff was not done when residents thought it was going to be done based on a conversation. He noted it was all suppose to be done separate.

**Mr. McAndrew** said they are not going to ask for a vote tonight because there are too many issues. They need to submit the Homeowner's documents, they need to pin down what was paid and what was not paid to the town under the old conditions. They need to think about some of the issues that the residents have raised. He noted they are not taking Tindall's place, they are not the developer of all 39 lots. The tracked of small lots, they are the small developer, they own seven lots that are already approved and bonded for the original subdivision. There they are just like everyone else. They are seven lot owners. They also hold interest in the development as the bondholder. This gives everyone the opportunity to work together and try to fix things and move forward.

#### **MOTION TO CARRY TO AUGUST 5, 2013 MEETING:**

A motion was offered by **Richard Tarantino** and duly second by **Ralph Wainwright** to carry this application with no further notice required to the August 5, 2013 Zoning Board meeting. Motion carried

#### **MEMORIALIZATION OF RESOLUTION:**

**RESOLUTION NUMBER 2013-06-12:** Granting Application Number ZB13-02UV,V,PFSP: New Cingular Wireless PCS, LLC (AT&T), Block 54.02, Lot 4.01 a Use Variance, Variance for Height and Preliminary & Final Site Plan to add three antennas and related equipment to the existing nine (9) antennas with an addition of two (2) cabinets on the existing concrete pad located at 2210 Old York Road in the R-1 Residential Zoning District.

A motion was offered by **Richard Wainwright** and duly second by **Randy Allen** to memorialize Resolution Number 2013-06-12. The motion carried on a roll call vote taken as follows:

Aye: Allen, Blackwell, Harrison, Tarantino, Wainwright  
Naye: None  
Absent: Vardalis, Wainwright  
Not Voting: Tahirak, Zalegowski

**APPROVAL OF MINUTES:**

A motion was offered by **Randy Allen** and duly second by **Richard Tarantino** to approve the minutes of **June 3, 2013 Regular**. Motion carried.

**ACCEPT, RECORD & FILE CORRESPONDENCE:**

**Louis Glass Associates**

Date: June 13, 2013  
Re: Blue Sky Communities, LLC  
Density Variance, Signage Variances, Preliminary & Final Major Subdivision

**Stout & Caldwell Engineers**

Date: June 27, 2013  
Re: Blue Sky Communities, LLC  
Block 25, Lot 7.09 & Block 25.02, Lot 8  
Technical Review

**Burlington County Soil Conservation**

Date: May 13, 2013  
Re: Liberty Lake Day Camp Tent/HC Parking  
Certified Soil Erosion and Sediment Control Plan

A motion was offered by **Richard Tarantino** and duly second by **Randy Allen** to accept, record and file the correspondence as submitted. Motion carried.

**NEXT SCHEDULED MEETING:**

It was noted that the next regular meeting will be held on Monday, August 5, 2013

**MOTION FOR ADJOURNMENT:**

There being no further business, a motion was offered by **Richard Tarantino** and duly second by **Ralph Wainwright** to adjourn the meeting at 9:07 p.m. Motion carried.

Respectfully submitted,

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Michelle L. Gable, Secretary

Approval      September 3, 2013