

BRIDGEWATER TOWNSHIP
PLANNING BOARD
Regular Meeting
Monday, February 28, 2011
—MINUTES—

CALL MEETING TO ORDER:

Chairman Fross called the regular meeting of the Bridgewater Township Planning Board meeting to order at 7:00 p.m. in the Somerset County Vocational & Technical Schools Performing Arts Auditorium 14 Vogt Drive, Bridgewater, NJ.

OPEN PUBLIC MEETINGS ACT ANNOUNCEMENT:

Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act N.J.S.A. 10:4-6. On February 1, 2011, proper notice was sent to the Courier Newspaper and the Star-Ledger and filed with the Clerk at the Township of Bridgewater and posted on the bulletin board in the Municipal Building.

Please be aware of the Planning Board policy for public hearings: no new applications will be heard after 10:00 pm and no new testimony will be taken after 10:15 pm. Hearing Assistance is available upon request.

SALUTE TO FLAG:

There was salute to colors.

ROLL CALL:

Mr. Rodzinak – present
Ms. Barbara Kane – present
Councilwoman Rose – present
Chairman Fross – present
Glenn Petillo, Alt. #2 - present

Mrs. Joanne Kane - present
N. Janine Dickey – present
Mayor Flannery – present
Former Councilman Albano, Alt. #1 - **absent**

Others present: Board Attorney Thomas Collins, Board Planner Scarlett Doyle, PP, Board Engineer Thomas Forsythe, PE, Land Use Administrator Marie L. Broughman, Special Traffic Expert Gordon Meth

APPROVAL OF BOARD MINUTES:

February 8, 2011 Regular Meeting Minutes – Motion by Mr. Rodzinak, second b y Mrs. Barbara Kane, the foregoing minutes were approved on unanimous voice vote.

MEMORIALIZATION OF RESOLUTIONS:

None pending

MEETING OPEN TO THE PUBLIC:

No one from the public chose to speak about any item not listed on the agenda.

COUNCIL REFERRAL

Ordinance to Amend the Redevelopment Plan for the Bridgewater Regional Center and to Amend Chapter 126 (Zoning) of the Ordinances of the Township of Bridgewater Concerning the Bridgewater Regional Center Zone

Board Planner Doyle summarized the referral report stating that she recommends the Board find that the ordinance is not inconsistent with the Master Plan and that the ordinance be recommended for passage as written.

Chairman Fross opened the meeting to the public for comments. With hearing no comments, Chairman Fross closed the public portion of the hearing.

Motion by Mayor Flannery, second by Mrs. Barbara Kane, the Board adopted a motion and resolution recommending passage as written on the following roll call vote:

AFFIRMATIVE: Mr. Rodzinak, Mrs. Joanne Kane, Mrs. Barbara Kane,
Councilwoman Rose, Mrs. Dickey, Mayor Flannery, Chairman
Fross
ABSENT: Former Councilman Albano
NOT ELIGIBLE: Mr. Petillo

Ordinance Amending Chapter 126, Section 126-131, 126-305, 126-308.1, 126-308.2, 126-169, 126-351, and 126-353 of the Municipal Code So As to Amend the Principal Site Access to Certain Public Streets for Country Clubs, Open Air Clubs, Houses of Worship and Schools, and to Amend Off Street Parking Requirements for Particular Uses.

Board Planner Doyle confirmed that she issued a February 22, 2011 referral report to the Board on the issue of consistency with the Master Plan stating that she recommended that the Township Council adopt an ordinance to make the amendment consistent with the Master Plan Reexamination Report as explained in her February 22, 2011 report.

Chairman Fross opened the meeting to the public for comments.

Members of the public were present as follows:

Lloyd Tubman, Attorney for Chughtai application, stated that the 1976 Master Plan allowed for houses of worship in residential areas. The 2005 Master Plan Amendment increased side yard setbacks from the principal structure, which recommended with all adopted by ordinance. The aforementioned ordinance would divest the application from the Planning Board and would push it to the Zoning Board of Adjustment. All other houses of worship would be grandfathered.

Ramy Ibrahim, Piscataway, stated he is despaired with the impact on the mosque.

Hussein Hanafi, questioned why it is necessary to pass this ordinance. This is only a referral to this Board. He stated that this is discrimination.

Greta Boehme stated that she does not want the mosque in a residential zone.

Tom Reilly stated he wants the mosque in the proposed location.

Hesham El-Jerni stated that the opposition to the mosque on the proposed residential street is due to the events of 911. He stated that we did not heal and requested the Board to uphold the values of this country.

Richard Youni-Zuckerbrown stated that the Redwood Inn was only utilized occasionally. He asked the Board to approve this referral and do the right thing.

Harold Arlen, Bridgewater, stated that his opposition has nothing to do with the religion, but rather it has to do with his concern for traffic safety. He requested the applicant inquire about the vacant Courier News building on Route 22. He questioned how many people from Bridgewater would attend this mosque.

Attorney Tubman requested thirty (30) mosque supporting people to leave the building in order to make room for the thirty people waiting to get into the auditorium.

Rich Leitgeb, Papen Road Bridgewater, stated that the ordinance should have been passed long ago. He expressed concerns with flooding and traffic. He stated that the neighborhood is quiet and he would like to keep it that way.

Hussein Hanfr, Basking Ridge, stated that the mosque is a church and the price of his property went up and he lives next to a church.

Elizabeth Farkas, Mine Road Bridgewater, addressed concerns with traffic.

Francis Hozeny – stated that the residents have a right to protect the neighborhood and pay higher taxes for the mountaintop view. She stated that the Redwood Inn operated 99.9% on weekends. The mosque would operate daily and on weekends.

Peter Mone, Bridgewater, stated that the nature of houses of worship has changed. They are much larger and have a more intensive use than in the past.

Sabrina Miraza stated that she wants the mosque in this residential neighborhood.

Marie Billinsby stated that she wants the mosque on a major roadway.

Gio DeBari requested that everyone go to Mine Road and Mountaintop Road to see how naturally winding the road is.

Mayor Flannery requested that the audience not applaud as this is a government hearing.

Ray Daniel, Bridgewater, stated that Mountaintop Road is an unsafe roadway.

Vasit Gari stated that the rules are being changed in the middle of the application. He requested the application proceed with the Planning Board and if it gets denied let it be because of traffic.

Richard Bergeran, Bridgewater, requested to take pictures at the public meeting.

Maryann Larson stated that there are no sidewalks in the neighborhood and is concerned about the safety of the children in the neighborhood.

Barbara Huber, Geiger Lane Bridgewater, questioned who would fix the roads after all of the construction traffic.

Atkin Kapoor, Bridgewater, stated that there are no shoulders on the roads and he is behind the Council ordinance. He wants to be safe in the neighborhood and the proposed mosque is not in the proper location.

Hamilton Slye stated that residential properties should be protected. He stated that major roads are better suited for houses of worship.

Al Bol stated that from a professional standpoint he understands the process and this public hearing is how the system works.

Hyab Sybeb stated that he does not want his picture taken at the meeting.

With no further comments from the public, Chairman Fross closed the public portion of the meeting at approximately 8:20 pm.

Motion by Mrs. Barbara Kane, second by Mayor Flannery, made motion and resolution approving the February 10, 2011 report of Ms. Doyle and recommended that the Township Council adopt an ordinance making amendments as outlined in Ms. Doyle's March 2, 2011 report on the following roll call vote:

AFFIRMATIVE:	Mr. Rodzinak, Mrs. Joanne Kane, Mrs. Barbara Kane, Councilwoman Rose, Mrs. Dickey, Mayor Flannery, Chairman Fross
ABSENT:	Former Councilman Albano
NOT ELIGIBLE:	Mr. Petillo

LAND DEVELOPMENT APPLICATIONS:

CHUGHTAI FOUNDATION – 1475 Mountaintop Road

Block 653 Lots 36 & 37

#01-11-PB, Preliminary Site Plan (Conditional Use: change of use to House of Worship & daycare)

Time: 95=4/18/11

Attorney Lloyd Tubman introduced herself as the applicant's attorney. Board Attorney Collins stated that there may be jurisdiction issues as raised by Attorney Eisdorfer and Attorney McNamara.

Stephen Eisdorfer, Esq. stated he is appearing before this Board on behalf of the Running Brook Homeowner's Association and that there are three reasons why the Board does not have jurisdiction. 1) Notice is deficient as it does not communicate the magnitude of the uses. The daycare center is proposed with an enclosed play area and it is open 10-hours per day with 40-

children in attendance. 2) The daycare center is not a permitted use and it is not subordinate to the house of worship. 3) It is wrong for the Board to proceed during and ordinance adoption and he stated that the Planning Board should defer the hearing for the mosque.

Patrick McNamara, Esq. stated that he is appearing on behalf of Philip Rinaldi. He stated that the Wilaby case would defer the hearing of the application due to the impending passage of the ordinance.

Attorney Tubman stated that Shim vs Washington Township Planning Board case is more on point and the daycare center is an accessory use to a house of worship. This is law. She stated that the Willoughby decision states that it is improper, not deferential, for the Planning Board to race to a decision on an application to beat the adoption of an ordinance. She stated that the application would not require a vote at this meeting and urged the Board to hear the application at this meeting. Ms. Tubman confirmed that the applicant requests that the Board proceed and the applicant understand that it is proceeding at its own risk.

Attorney Collins explained the notice cases and stated that proper notice has been given with the daycare as an accessory use as a matter of law. Mr. Collins summarized the case law regarding similar cases. Mr. Collins quoted from the Willoughby decision and explained that Willoughby case states that the Board “could” defer hearings but does not state that the Board “shall” defer hearings in situations like this. Mr. Collins informed the board that it has the discretion to make the decision whether to defer the hearing.

Motion by Mayor Flannery, second by Mrs. Joanne Kane, the Board determined not to defer hearing on the Chughtai Foundation application on the following roll call vote:

AFFIRMATIVE: Mr. Rodzinak, Mrs. Joanne Kane, Mrs. Barbara Kane,
Mrs. Dickey, Mayor Flannery, Chairman Fross
OPPOSITION: Councilwoman Rose
ABSENT: Former Councilman Albano
NOT ELIGIBLE: Mr. Petillo

Attorney Lloyd Tubman was present to represent the applicant. Sworn testimony was provided by Imam Agha Tayyae; David Stires, PE; and Ralph Finelli, AIA.

Imam Tayyae, from the Boonton mosque, described his religious status and provided his educational background. He described the various types of worship including daily prayers, Friday prayers, Ramadhan, Fitr Prayer and EID Prayers. The primary purpose of the mosque is for prayer. Friday is a primary day for prayer especially at noon time. Worshipers come from all over to pray and they do come from work to pray at noon.

In each mosque there is a community center, prayer and religious education space. Visiting lecturers are popular in the mosque. Boonton daycare has 54-students and a senior center. Funeral services will be offered in Bridgewater. The body is washed and wrapped in two sheets of cloth, which is supervised by a licensed funeral home. It is optional for women to pray and there is no cooking done at the mosque. Weddings could occur outdoors. There are no

speakers in the minuet. Boonton is limited to 425 worshipers in the prayer area, which was set by the Planning Board.

Chairman Fross opened the hearing to the public for questions to the Imam.

Members from the public were present as follows:

Attorney Eisdorfer questioned the maximum number of people at the mosque at any one time. Imam stated that at the mosque the maximum would be 1,500 people limited by the number of parking spaces.

Attorney McNamara questioned where the children go when the adults come to pray. Imam stated that people come from work to pray so children do not typically attend.

Robert Balsam raised general questions regarding the daily prayers held.

James Yi questioned the specific times for prayer.

Al Bardone questioned the type of prayer.

Amina Mohmadi stated that all mosques are different sizes and they coexist within residential neighborhoods. The prayer area is especially clean.

Ray Daniele questioned if there would be valet parking. Imam confirmed that there would not be any valet parking.

Rich Leitgeb questioned about the Friday prayer service.

Due to the later hour of the meeting Chairman Fross carried the hearing to the Bridgewater-Raritan High School at 7:00 pm with no further notice required.

The attached transcript is hereby incorporated into these minutes.

OTHER BOARD BUSINESS:

There was no other Board business.

ADJOURNMENT:

It was the consensus of the Board to adjourn the meeting at approximately 10:45 pm.

Respectfully submitted,
Marie L. Broughman,
Land Use Administrator

Revised: 5/10/11
ADOPTED: 5/10/11