

TOWNSHIP OF WEST MILFORD

PLANNING BOARD

Minutes September 28, 2006 REGULAR MEETING

Chairman, Michael Tfank, called the meeting to order at 7:36 p.m. with the reading of the legal notice.

The Board Attorney administered the Oath of Office to David Volpe, a new alternate to the Board.

ROLL CALL

Present: Steven Castronova, James O'Bryant, Douglas Ott, Michael Siesta, Clinton Smith, Leslie Tallaksen, Kurt Wagner. Alternate: Thomas Harraka, David Volpe. Chairman: Michael Tfank. Board Attorney: Bryant Gonzalez, Esq. Planning Director: William Drew, P.P. Consulting Engineer: Robert Kirkpatrick, P.E.

Absent: Philip Weisbecker.

Chairman appointed Mr. Harraka to sit for Mr. Weisbecker.

PUBLIC PORTION

Michael Tfank, Board Chairman, explained that the Valley Ridge matter had been remanded back to the Board for facts of findings. The judge requested that the Board members who voted on the application to put the reasons for their vote on the record. He noted the vote had been taken and there would be no change to the decision made by the Board. He further noted that there would be no opportunity to speak at that time.

Bryant Gonzalez, Esq., the Board Attorney recused himself until the comments regarding Valley Ridge were concluded.

During the public portion the following residents spoke regarding the Valley Ridge application: Ada Erik, Macopin Road, West Milford, NJ; Bettina Bieri, 17 Bearfort Road, West Milford, NJ; Michael Niebo, 61 Overlook Road, West Milford; Carl Richko, 9 Shepard Road, Hewitt, NJ; James Novak, Larchmont Drive, Hewitt, NJ; and, Rene Alessio, 39 Hillcrest Drive, Hewitt, NJ. They thanked the Board for its decision and expressed concerns regarding the impact on the Township water supply and disposal of sewage.

Mr. Gonzalez rejoined the Board.

SITE PLAN WAIVER APPLICATIONS

SABRINA JOENS & CoCo

T/A TAILS & TRAILS

Site Plan Waiver # 0620-0256W

Block 15701; Lot 1

2950 Route 23 N; HC Zone

Corinne Jandorf and Sabrina Joens, applicants, and Ron Hook, 720 Ridge Road, Kinnelon, NJ 07405, the property owner appeared before the Board. They advised that they proposed to open a pet grooming and retail shop for the sale of pet accessories in an existing store located on Route 23.

Planning Director, William Drew, noted that the Zoning Officer and Construction Official had issued reports indicating that the site was well maintained and in conformance with the Township ordinances.

Gloor, PE, and Greg Gloor, LS, 3D M.A.P.S., 130 Skyline Drive, Ringwood, NJ were present.

Mr. Ochab reviewed the changes to the plans that were made to address the Board's concerns at the June 29, 2006 meeting. In this regard, he reviewed Sheet 2 of 7 of the plans submitted that were dated September 5, 2006. Mr. Ochab noted that the applicant had revised the proposed access road to be further from the highway. In this regard, the proposed road was moved inward so that a good separation was created between the subject property and the edge of Route 23. The trees along the edge of Route 23 were then discussed. Mr. Ochab noted that the trees proposed to be removed were shown on the plans in the color red and the trees to be retained were shown in the color green.

With respect to the proposed impoundment area, Mr. Ochab noted that this area had been relocated to the rear of the building so that it would not be seen at all from the highway. Handicapped stalls were now provided and shown on the plans. With respect to Stormwater Management, Mr. Gloor advised that he had discussed and resolved any issues with the Board Engineer. With respect to the location of the directional sign, Mr. Ochab noted that the applicant intended on utilizing the existing sign to advertise the business. This particular sign met the requirements of the Ordinance.

In terms of the overall site, Mr. Ochab noted that when the driveway was installed, low landscaping would be provided for ground cover and revegetation. He noted that the dumpster previously shown on the plans, would now be relocated to adjacent to the impoundment area in the rear of the property.

William Drew, the Board Planner, noted that he had visited the site with Mr. Gloor to review the proposed changes and landscaping and frontage of the property. The existing sign that Mr. Ochab had mentioned, he noted, was at the entranceway to the property and measured 2 feet in width by 6 feet in length. He inquired of Mr. Marchiafava as to whether there was anything more to the sign.

Mr. Marchiafava responded that there was indeed more to the sign in that there would be two of the same size (2 feet in width by 6 feet in length) and that the second sign was existing but needed to be replaced. Mr. Drew then noted and discussed the existing and proposed vegetation to be replaced.

Robert Kirkpatrick, the Board Engineer, noted that he questioned the choice of trees to be retained and trees to be removed and that the local forester needed to be contacted to identify which trees needed to be saved and which needed to be removed with the plans revised accordingly.

Mr. Drew noted that there were several piles on the subject property that needed to be discussed. In this regard he noted that there were materials stockpiled such as rock and dirt, which needed to be discussed with the applicant. Mr. Marchiafava indicated that the rock stockpiling and the dirt were to be used for refilling on the site.

Board Members voiced concern as to whether any of the trees were located in the septic field. They also indicated that they would like to see more vegetation in front of the property since the property represented part of the gateway to the Township. The Board indicated that the Township Landscape Architect should review the plans, review the site, and determine which trees should remain and which should be removed.

Bryant Gonzalez, the Board Attorney, indicated that if the Board were agreeable, it could grant the applicant approval subject to the Township Landscape Architect reviewing and recommending appropriate landscaping for the site with the applicant to prepare a revised landscape plan in accordance with these recommendations. In the event there were any problems, which could not be resolved between the applicant and the Township Landscape Architect, these issues would be resolved by the applicant returning to the Board for further discussion and resolution.

The Board then opened the meeting to the public for comment on the application. With

Notice dated August 16, 2006 advising that Allison Hosford is applying for a General Permit for property located at 81 Otterhole Road, Block 12501; Lot 11 for the installation of a subsurface sanitary disposal system.

Notice dated August 15, 2006 advising that Robert Frederick is applying for General Permit for property located at 18 Red Barn Lane, Block 9102; Lot 6 for the installation of a subsurface sanitary disposal system.

Letter dated September 7, 2006 from Civil Dynamics, Inc. advising that they are applying for a General Permit for the rehabilitation of the Gordon Lakes Dam, Block 12307; Lot 16.

HIGHLANDS WATER PROTECTION AND PLANNING ACT

The following correspondence was received and filed:

Notices that the following applicants have applied for a Highlands Applicability Determination:

Carl Bierwas, 1945 Macopin Road, Block 8201; Lot 2. Additional information submitted.

Vincent Lanza, Lookover Road, Block 206; Lot 14.02.

YF Realty Associates, Burrow Road, Block 2018 Lot 7.

Aphsawa Firehouse, 666 Macopin Road, Block 12501; Lot 26.

Coppolla Family, 30 Rocky Point Road, Greenwood Lake. Attached letter explaining the need to expedite the application in order to permit the work to be performed during the brief drawdown period of the lake.

Karin Seruga, 29 Lake Park Terrace, Block 4201; Lot 22.

New Cingular Wireless, 333 Warwick Turnpike, Block 2801; Lot 3.

Determinations from the DEP regarding the following applications:

Sprint Spectrum, Larsen Road, Block 11401; Lot 8.05. Exemption #4. Water Quality Management Plan – Not addressed.

Vincent Lanza, 775 Macopin Road, Block 12108; Lot 1. Notice of Technical Incompleteness.

Vincent Lanza, 783 Macopin Road, Block 12110; Lot 5.01. Notice of Technical Incompleteness.

Ernest Oakes, Burnt Meadow Road, Block 6002; Lot 44.03. Wetland boundaries established.

Mr. Gonzalez left the meeting and Stephen B. Glatt, Esq. joined the Board.

TCR NJ/PA LAND ACQUISITION L.P. (Valley Ridge)

Final Site Plan #0220-0041B

Block 8002; Lot 4

Union Valley Road; R-1/PN Zone

Court remand of final site plan for fact finding by the Board.

Messrs. Tfank, Castronova recused themselves.

Mr. Glatt noted that the Court on September 22nd, 2006 remanded the matter back to the Township Planning Board for the sole purpose of setting forth findings of fact and law as to the reasons for denial of the application.

In response the Board members noted the following: The applicant had not satisfied its burden of proof in regard to the water system in that Well No. 109 was tested 9 to 12 years ago and questioned the accuracy of the data based upon such a lapse of time; well No. 109 now lies in a buffer zone which is different from the time the preliminary site plan approval was granted; there had been a change in the wetlands buffer since the well was originally put down and tested and it lies within the wetlands buffer; such an event means that the well presently draws not only from the aquifer, but also from the wetlands; there were two other wells referred to by applicant's experts, but those wells have not been tested to meet the West Milford standards wherein it would yield enough water for the proposed townhouses, but it has to have a recharge rate to the Township's standards.

It was further noted that with regard to the backup water system plan and the back up well coming from Bald Eagle, for alleged fire safety, there was no testimony from the applicant to substantiate that position, but in fact it appeared to be the opposite. Bald Eagle was represented by counsel who indicated that the Bald Eagle Homeowners Association had deferred a decision on the issue of supplying water, which raised the question of the accuracy of the representations of the applicant's experts. The Township is in a watershed area and is very sensitive to that fact.

The Board had concerns regarding storm water runoff during the construction phases since there will be substantial runoff. Once the 100 plus units are constructed there will be substantial impervious area that will cause very substantial storm water runoff, which will go into the creeks and then into the lakes and eventually into the watershed. This will have a negative impact upon large numbers of people who depend on the watershed drinking water.

The applicant avoided answering questions regarding the DEP approval to cross the stream bed for ingress and egress to the site, which raised concerns regarding the candidness of the applicant's expert testimony.

The Board recognized that the approval of the application would be contingent or conditioned upon DEP approval, but the evasiveness of the applicant in answering questions regarding approvals or progress of applications raised a serious issue of creditability regarding the testimony of applicant's experts.

There is a serious question as to whether the proposed sewage system will be sufficient and safe. The design of the system leaves a real question of safety in that in the event of a power shortage or breakdown, the applicant did not satisfy the Board that the backup pumps would work.

The applicant failed to provide proof that it owns or has an easement to the MUA facility. It was suggested that the applicant would be able to obtain the necessary rights through eminent domain, but that is speculative in nature.

The Board was not satisfied that the MUA had the ability to manage the proposed project and, if they could, the cost would only be passed on to the citizenry. Additionally, there was no testimony from the MUA as to the reason they wanted the applicant to hook up to the Bald Eagle system as opposed to the Crescent Park system.

The Board determined that there was a creditably issue with the applicant's witness and they were unreliable in many of the areas dealing with water and sewage management. The applicant's experts relied and reiterated conclusions from 9 to 10 years ago. It was noted that the applicant refused to cooperate and coordinate with the suggestions of the Planning Board.

The Board was concerned with the fact that the applicant failed to update the Environmental Impact Study that was submitted at the outset of the application. Many

