

**TOWNSHIP OF RIVER VALE  
PLANNING BOARD  
December 19, 2011  
REGULAR MEETING  
MINUTES**

**ADEQUATE NOTICE STATEMENT:**

A Regular Meeting of the River Vale Planning Board was called to order at 8:00 p.m. The following statement was read: "This is a Regular Meeting of the Planning Board of the Township of River Vale. I am informed by the Clerk that adequate public notice has been provided by mailing notice to the Pascack Valley News/Post Review and The Record, by posting notice on the bulletin board in the Municipal Building, and by filing a copy of the notice to all persons who requested the same and prepaid the cost fixed by the Board".

**The Planning Board saluted the flag.**

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**ROLL CALL:**

**Members Present:**

Kenneth H. Koons	Chairman
George Shalhoub	Vice-Chairman
Mark Ericksen	Secretary
Peter Wayne	Class II
Mark Bromberg	Councilmember
John Donovan	
David Ward	
Scott Lippert	
Alfredo Alvarado	Alt. #1 (arrived 8:35 pm)
John Morris	Alt. #2

**Also Present:**

Dennis Deutsch, Esq.	Board Attorney
Christopher Statile, PE	Board Engineer

<b>Absent:</b>	Mayor Blundo	Class I
	Robert Menville	Class I-Mayor's Designee

**OPEN TO PUBLIC FOR NON-AGENDA ITEMS:** There were no questions or comments. Meeting closed to public.

**MINUTES:**

The Minutes of **9/19/11** were **carried** to the next meeting. The Minutes of **10/17/11** were **approved** on motion made by Chairman Koons, with second by Vice-Chairman Shalhoub and carried. The **11/9/11** meeting was **canceled**.

**PUBLIC HEARINGS:**

**1. 4Women LLC, Block 1719, Lot 3 - Amended Site Plan Application with Variance -** Michael J. Sprague, Esq., of Hackensack, NJ, appeared as Attorney and sole member of the applicant LLC. The Notice and Publication documents were received. Mr. Sprague was sworn in and presented the application, which he stated was two-fold. Mr. Sprague brought to the attention of the Board the fact that he once represented Mr. Shalhoub in litigation. Mr. Deutsch thanked him and stated as long as Mr. Shalhoub is comfortable with proceeding, it will have no bearing on the application. Mr. Shalhoub stated he had no problem and continued.

Mr. Sprague stated the application is for a change in use, having formerly been a delicatessen. There is a long, narrow space, with a kitchen in the rear which will remain as is. There are two front deli counts that will also remain. The chairs were removed, so there is no seating. There is a counter top that runs down the all. Originally in the application they said they would retain that counter top, but now their plan is to remove it. He submitted the updated plan. There will be a parking variance, he explained, due to the number of employees. They will put in seating and need a variance for four additional parking spaces. They have 11 now and need 15. There is a tremendous amount of parking in the rear, where employees and delivery persons will park.

Mr. Sprague continued. They will have three to five employees. The five employee number is the basis for the variance. They have 25 seats. They envision building a unisex bathroom in the public part of the store which will allow them to have seating up to 25, the maximum allowed. Based on the current parking regulations for this lot, they would only be allowed to have 11 spaces. Mr. Deutsch asked if it will be ADA compliant, and Mr. Sprague responded yes. Mr. Koons asked if the bathroom in the rear will also

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remain. They don't anticipate any changes to the structure of the kitchen area, Mr. Sprague responded.

The business is a franchise, with presently seven in Bergen County. It was started by a trainer looking for healthy food, developing into an evolving market. There are no fried foods; everything is healthy and gluten-free, chicken based, with whole wheat pasta, salads and wraps available.

There are existing beverage cases which will house healthy drinks. They like to see these franchises going into a mall where there is a gym. So this is something traditional, but also unique, in that there is a closed kitchen, which should work well in this area. The franchisor is very motivated to train the franchisee and employees. The menu consists mainly of lunch and dinner. In NJ there is no breakfast. Employees would arrive around 10-10:30, followed by customers around 11 am. They would be open until about 9:00 pm, six days a week.

General parking would be in the lot in front of the store. There is no issue from the landlord's perspective in granting the additional four spaces. There is a rear fence. Also, there are sufficient spaces to grant the variance, and there would be no negative or adverse impacts. Mr. Deutsch asked if he is indicating assigned parking, and Mr. Sprague responded no. He also asked Mr. Statile if there were any previous parking variances in this lot, and the response was yes. Mr. Sprague added the prior owner was granted a variance for seating.

Mr. Sprague continued. This use would have no negative impacts on the public good and would not impair the intent and purposes of the zoning ordinance. He has indicated it would be a destination restaurant and would become a part of the local community. If you visit the parking lot, you will see many spaces unused. Chairman Koons commented the parking lot areas outside the gym and Italian restaurant are usually full. You would have to go further to the left or right to park. Also, there is no public parking in the rear.

They have dine-in, delivery and take out and anticipate substantial deliveries during lunch time. Mr. Koons asked if they would stipulate to employees parking in the rear. Mr. Sprague had no objection to that. Mr.

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Statile submitted a report dated 11/29/11, and applicant had no problems with same.

Mr. Bromberg asked if it was usual to have 25 seats, and Mr. Sprague stated usually there are more seats, but this is the maximum allowed with the number of bathrooms. Together with the number of employees, that is where the variance is coming from. This is one of the smaller locations. Not all locations are near gyms.

Dominick Galasso, of Wyckoff, NJ, one of the property owners and landlord, was sworn in, having given approval for the application. Mr. Sprague questioned the owner. He understands that a parking variance is being sought. The prior tenant had their employees park in the rear. This is consistent with other businesses. He did not see any problems with the variance being granted. There are empty spaces all day long. He knew of no other such parking variance applications.

Chairman Koons asked Mr. Galasso if he knew of any variances granted to the gym, and the response was no. Mr. Shalhoub asked, and Mr. Galasso stated the sign for parking in the rear says it is for employees only. Mr. Shalhoub inquired about back entrances, and Mr. Galasso indicated it is supposed to be for employees only. The Chairman asked if he would also put a sign on the Eckerd side stating parking for employees only. Mr. Galasso said it is always empty back there and did not understand. Mr. Lippert clarified and commented he did not see the need for it. We are talking about four parking spaces, and there are always overflow parking spaces open on the sides, and he does not see the need for it. There were no further questions. Mr. Sprague had no other witnesses.

Chairman Koons asked Mr. Statile to comment. Mr. Statile requested for the next applicant that comes before the Board, an updated site plan be submitted as a requirement. Chairman Koons mentioned on Friday nights, the lot is very busy. Mr. Donovan commented at the Zoning Board they made it part of the By-Laws that site plans need to be no older than five years old. Also, there are always empty spaces available. He further asked if there is really a need for the variance, and Mr. Sprague said from a business point of view, he could have put in two bathrooms and asked for more of a variance, but they decided to deal within the limits of what they have. Basically, it is also for people

waiting to pick up their food. Mr. Bromberg inquired if it would be permissible for a few extra folding chairs for this purpose. Mr. Statile said they would still count as seats. Mr. Bromberg commented there are two other spaces vacant, and why not choose a larger store permitting more parking. Mr. Sprague responded this is a perfect size and average size space for this type of store. Mr. Bromberg was concerned about future parking when other stores are occupied and asked if they knew about the parking situation. Mr. Sprague indicated that Mr. Statile's letter alerted them to the fact that they would need a variance. Mr. Bromberg expressed concern about future expansion requests and setting a precedent.

Chairman Koons alerted the Board of a variance that Mr. Galasso signed for consent in 2007 for the gym. Mr. Bromberg's comments are valid, and he felt an updated site plan would be beneficial. Mr. Deutsch advised the Board has authority to recommend that site plans must be no older than five years.

Richard Marcellari, a neighbor on Montview Place, was sworn in. He had received a notice. His property is immediately adjacent and abuts the rear. He is in favor of the restaurant, but his concerns are setting a precedent, and is it really necessary to grant parking spaces, when we may not be able to grant it for other stores. Mr. Deutsch advised each applicant is judged on its own merit. The witness was also concerned about delivery vehicles and inquired about the dumpster. Mr. Sprague responded he would look into sharing one with another tenant. Mr. Marcellari asked if there were any restrictions on hours for deliveries. Two vendors would come at reasonable times to the rear of the store, when the store is open. He asked how to enforce the seats. The police are not there to enforce Planning Board issues. It would not be evident unless the lot is consistently full, Mr. Donovan commented. We need to focus on this application. A future application may not be able to get the seats. Mr. Deutsch advised the Town Council works with the police, and if there is a violation of law, the police would get involved.

Kathy Shields, also a neighbor on Montview Place, was sworn in. She agreed with Mr. Marcellari's comments and also expressed concern about creating a precedent on River Vale Road. There were no further questions, comments or

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discussions, and the matter was closed to the public on motion of Chairman Koons and second by Mr. Shalhoub.

Chairman Koons called for a motion. A motion to approve the application and variance was made by Mr. Donovan with comments that he sees these requests before the Zoning Board, we need to encourage new businesses to come to Town, with a large lot that is not always full, and it will not create a detriment. The motion was seconded by Mr. Shalhoub, with the condition that if the applicant needs a dumpster, that it be placed next to the building, not on the property line.

Discussion on the motion followed. It was agreed that in the future an updated site plan be required. Chairman Koons added a condition that the rear parking spaces be striped. He inquired about window signage, and per Mr. Statile, indicated window signs count as signs. Therefore, Chairman Koons said they would have to comply with the ordinance on signage. Mr. Donovan commented the applicant must comply with the ordinance. Mr. Morris commented favorably about the new business and stated there are ample spaces. He welcomes it and expects it to have positive effects on the community. Mr. Bromberg welcomes the business and wishes them success, but he is concerned not about precedence, which has been explained by the Board attorney, but the ordinances and parking crunches. He is not convinced that the internal five seats will make a difference in the success or failure of the business, and is inclined to vote against the application and had just wanted to explain. Mr. Sprague indicated the extra five seats would give them more spaces, but since they have five employees, the variance is requested.

There were no further questions, comments or discussions. On roll call vote, Mr. Shalhoub, Mr. Ward, Mr. Donovan, Mr. Ericksen, Mr. Wayne, Mr. Lippert, Mr. Alvarado, and Chairman Koons voted yes. Mr. Bromberg voted no.

**2. Bear Ban Builders, LLC a/k/a Bear Brook Builders LLC - RE: Block 301, Lot 21 - Preliminary Subdivision Approval - Tabled to 1/10/12 at Attorney's request with no further notice required.**

**RESOLUTIONS:** None

**DISCUSSION:**

**1. Board Attorney's Comments with respect to Discussion of 2012 By-Laws and Planning Board Checklist -** Mr. Deutsch inquired if there were any comments prior to the January Reorganization meeting, so that he may present everything on that date. Further, if there are any Members being reappointed, they should contact Robike Noll. Mr. Deutsch further asked if the Board wanted him to draft language for the Checklist. The Board indicated yes.

**2. 2012 Meeting Calendar -** The Board discussed and set the proposed meeting dates for the 2012 calendar upon motion of Chairman Koons, with second by Mr. Shalhoub and carried. A memorializing Resolution would be adopted at the 1/10/12 Reorganization Meeting.

**OPEN TO PUBLIC FOR NON-AGENDA ITEMS:**

A member of the public came forward and asked what was being constructed at the corner of Orangeburgh Road and River Vale Road. Mr. Statile explained a house was being constructed. It is not before the Planning Board. She is within 200' and would get notice of any variance. Mr. Marcellari asked about lighting in the shopping center, which shines on his house. The Township Engineer advised he would look into it.

There were no further questions or comments, and the meeting was closed to the public.

**PAYMENT OF INVOICES:** None

**NEXT MEETING:** Tuesday, January 10, 2012 (Reorganization)

**ADJOURNMENT:** On motion made, seconded and carried, the meeting was adjourned at approximately 9:45 p.m.

**Respectfully submitted,**

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**Mary R. Verducci, Paralegal  
Recording Secretary**