

**TOWNSHIP OF RIVER VALE
PLANNING BOARD
May 16, 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
Scott Lippert	
Mayor Blundo	Class I
Peter Wayne	Class II
Dwight de Stefan	Class III (Councilman)
David Ward	
John Donovan	
John Morris	Alt. #2

Also Present:

Dennis Deutsch, Esq.	Board Attorney
Christopher Statile, PE	Board Engineer
Lauren Roehrer	Land Use Administrator

Absent: Alfredo Alvarado Alt. #1

MINUTES:

The Minutes of **4/12/11** were approved on motion of Chairman Koons, seconded by Mr. Shalhoub and carried.

DISCUSSION:

1. An Ordinance to Amend, Revise and Supplement Chapter 142 of the Code of the Township of River Vale, creating a new zone, entitled, AH-1 Affordable Housing (AH-1 Zone) - Mayor Blundo presented the proposed ordinance. The Township acquired the property on Cedar Lane, the Mayor explained, and will construct a new, 31 Unit Senior Housing facility. The ordinance divides the property into multiple lots, so at some point in the future, if the Township had a need, it could sell the remaining lots for single family homes to be built on it. It allows for a sufficient buffer in the rear between this and the Holiday Farms property. It was reduced from 51 units due to the concerns of the neighbors. Mr. de Stefan spoke to the plan, which provides a key component to the COAH plan. If there were any other recommendations, we could amend later, he added. An expeditious approval by the Board would be beneficial.

Carolyn Reiter, Planner with Statile Associates, submitted a report dated 5/9/11 and discussed the matter. The MLUL requires these types of ordinances be submitted to the Planning Board for review for consistency with the Master Plan. Particularly, this parcel was identified as an affordable housing property, and COAH has issued Substantive Certification. Ms. Reiter said her Memo stated The Housing Element and Fair Share Plan was adopted by the Board in 2008, identifying three properties, including this property, known as the Kirk Property, she read. Mr. Statile reviewed the ordinance in regard to the height and provided a report. Ms. Reiter also noted there was a correction recommended for the Limiting Schedule and Height. Mr. de Stefan asked if these changes were substantial as a matter of law. Mr. Deutsch commented the requirements are substantive.

A motion for approval to recommend this Ordinance be adopted by the Township Council with the changes as discussed and outlined in Mr. Statile's letter, including the one about height, was made by Mr. Shalhoub and seconded by Mr. Lippert. On roll call vote, Mr. de Stefan, Mr. Shalhoub, Mr. Ward, Mayor Blundo, Mr. Donovan, Mr. Ericksen, Mr. Wayne, Mr. Lippert, Mr. Morris, and Chairman Koons voted yes.

PUBLIC HEARINGS:

1. **MWD River Vale One, LLC, 645 Westwood Avenue, Block 2206, Lots 11, 12 and 12.01 - Application for Preliminary Site Plan with Variances. Applicant proposed to construct a new two-story commercial signing on one of the lots** - Tom Dunn, Esq. represented the applicant in continued hearing.

Mr. Deutsch asked about an application pending before the Zoning Board that may impact this application. He asked if there were a certain number of parking spaces there that conflict with the application before the Zoning Board. Then that serves to the detriment of the application. This applicant should be aware that the application is pending. It is his advice that they proceed with the application.

The architect, Mr. Michael, continued under oath. Exhibit A10 was the Landscaping Plan Amendment dated 5/16/11, which was then distributed to the Board. This was the product of hearings before the Board. Attorney Deutsch commented the plans are supposed to be submitted 10 days in advance of the hearing. Mr. Dunn continued. They depict what they will do with the landscaping. Mr. Michaels described how this is different. Several neighbors in the rear of Lot 11 expressed some concern about the landscaping and trees that were being removed as part of their proposed construction. They met with some of the neighbors to discuss out to property understand and satisfy their needs and came up with the following plan:

They located a number of new Colorado Spruce Pines at the space between a fenced area and the curb for the parking lot. They recognized this location is on the North side of the fence and did not want to impose trees too close to the fence, because they would not flourish. Also, they added tees to the westerly side of the property and they will provide balusters. There was a request from one neighbor to change the fence from 4' to 6' in one spot, but they will stay with the 4' and provide additional landscaping. They did not feel it was appropriate to change it at that one point. It is not at the part they are developing.

They feel they accommodated all the requests of the neighbors at this time. The Board questioned him further about the fence. Mayor Blundo commented he did not think it would be aesthetically displeasing to change the fence

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in that area. Mr. Michaels responded they feel they remedied the problem. They already provided landscaping on property that is not theirs. Mr. de Stefan commented it should not have an adverse affect on any other property. Mr. Dunn responded they are talking about an increase in traffic. There is no impact on lighting or shielding, and the resolution proposed is to use the arborvitae, which is considered a donation to the neighbor without changing the configuration on their property to look odd.

Mr. Deutsch advised they are seeking a variance. This Board has the right to place restrictions due to neighboring properties. As far as fencing or foliage, the Board has an absolute right to consider the impact on the neighbors, which is what you are doing. Mr. Shalhoub commented the 6' fence should go all around, thereby eliminating any light pollution. Plus, he noted, a new, two-story building will surely have security lighting in the back of it at night, and the neighbors in the back will get light pollution from the back of the building in the evening. Therefore, a 6' fence, and the additional trees, is appropriate. The fence should be a non-wood stock fence.

Mr. Michaels testified further about the proposed enhanced landscaping. The high fence would make sense behind Lot 45, which is the only location the neighbor felt there was a need. He would like to look at the lot on a case-by-case basis. They would be willing to raise the fence in that area. It doesn't provide any further benefit to raise the fence in places where there is a 6' fence already and/or mature landscaping. Mr. Shalhoub expressed concern that arborvitaes may thin out or die years down the road. Mayor Blundo commented if it reaches an approval with conditions, the applicant can agree or appeal. We could also hear the comments of the neighbors and be guided. Mr. de Stefan commented there is a real potential for light pollution especially during the winter months, and the both aspects should be employed. Mr. Dunn heard the comments and indicated he would discuss this with his principals.

Chairman Koons commented there was extensive testimony on the landscaping, which is the least expensive aspect, and the Board wants to work with the applicant but has a responsibility to the neighbors. He agrees that Mayor Blundo's suggestion is the best course of action.

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The matter was opened to the public for questions of Mr. Michaels. A gentleman came forward from 650 Westwood Avenue and questioned parking which he felt was a problem. Mr. Dunn objected, as the witness was testifying. Mr. Deutsch advised the witness it was only for questions and statements would be permitted later, pursuant to law. He then asked if there was enough parking for an 8,000 sq. ft. building, and Mr. Michaels responded yes, and they had one more witness to speak to the parking.

Keith Michaels, Architect and Planner, was sworn in, qualified and accepted. Mr. Michaels was familiar with the project, the plans provided by McNally Engineering, and the property and the Board can grant the variance under the C2 criteria. There are five items to consider. The purposes of the MLUL must be advanced; the variance could be granted only if without detriment to the public good, benefits vs. detriments. It should not impact the zone plan or zoning ordinance. We are talking about a specific piece of property with an underutilized parking lot in the back. A survey has been done in the last year and a half. No more than 60 cars have been parked there, leaving 30 empty spaces. The property in question is only 50' wide with driveways on either side adjoining the neighboring properties. There is circulation path to limit the curb cuts on Westwood Avenue. By utilizing the shared parking they can develop a landscaped/plaza area in the front, permissible by the ordinance. That is a great advantage. There are five purposes that would be advanced, which he described and they are good solid planning principals. Shared parking was addressed. It is very much encouraged by a planning committee. This would diminish the amount of impervious space. It is a good project that meets all the criteria and has no adverse impacts or detriments.

Questions of Mr. Michaels followed. Mr. Donovan requested to see a copy of the survey they testified about and asked for the percentage of impervious coverage. Mr. Dunn had a parking study; Mr. Koons requested the appropriate number of copies be submitted to the Board for the next meeting. Mr. Morris requested asked for the number of current occupants. There were no further questions and none from the public.

The matter was carried to the next meeting, with a time extension granted, and no further notices.

2. Bear Ban Builders, LLC, Rivervale Rd, Block 2103, Lot 10 - Application for Preliminary Major Subdivision, Major Soil Movement and Tree Removal. The applicant proposes to divide the lot into eight (8) lots for the construction of eight (8) single family homes - Mr. Lippert recused himself and stepped down from the dais. Antimo Del Vecchio, Esq. represented the applicant in a continued hearing.

Mr. Deutsch asked to confirm if testimony was completed, and Mr. Del Vecchio agreed that it was. Mr. Deutsch advised Mr. Del Vecchio intended to request to reopen solely for purposes of River Vale during the development. Chairman Koons asked if there were any restrictions under the MLUL, and Mr. Deutsch advised it is at the discretion of the Board. Mayor Menville moved to allow the matter be reopened and seconded by Mr. Ward. Chairman Koons expressed concern that the hearing was closed and the public is under that impression, and further no notice was given to reopen. Mr. Deutsch read from the MLUL that no testimony would be given; no additional notice would be required, and the Board should work with the applicant, and it is just for a clarification. Mr. de Stefan agreed with Mr. Koons, who disagreed that the public should be notified. A motion to approve reopening the meeting for the limited purpose of hearing a clarification by Mr. Del Vecchio, was made by Mr. Donovan and seconded by Mr. Ward. Mr. Deutsch asked that they also hear from Mr. Statile if appropriate. On roll call vote, Mr. de Stefan, Mr. Shalhoub, Mr. Ward, Mayor Blundo, Mr. Donovan, Mr. Ericksen, Mr. Wayne and Mr. Morris voted yes. Chairman Koons voted no.

Mr. Del Vecchio asked how River Vale Road would be affected during the construction. It was stated they could close it while under construction. A misunderstanding has come to their attention through the contractors who were informed the roadway would have to be open every evening, but they anticipated they could close the road down for approximately one week, and then reopened. That is the only amendment to his closing statement, and this needs to be clarified. They will still do the work, but they need to close down the road without restoring it each evening. The County had no objections, and they would do a detour themselves. They would leave an opening for the fire department.

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Mr. Statile advised they need a complete traffic control plan, with signs, detours, police officers, etc. There is no way you can do 24 openings, curb cuts, utilities, by closing the road for five days. Mr. Donovan asked if the Board could approve it subject to receiving this plan. Mr. Statile responded it is not the Board's responsibility, and has to be approved by the police department. Mr. Del Vecchio understood. Mr. Statile's opinion was that it could be closed for a few days, opened and closed, accordingly. His concern is that it would not be just five days, it would be more like ten days over the course of a month or so. Mr. Shalhoub asked if Mr. Del Vecchio was saying only five days. Mr. Statile said the Board should not stipulate; Mr. Del Vecchio has to work it out with the County. Mayor Blundo said we cannot deny the application based on traffic control. We can ask the applicant to submit the plan signed off by the County and Police Department. It is a residential area, and in the summer there are children all over the area. Emergency Services must be able to get through. Mr. Donovan felt the Board could act subject to this plan. There were no further discussions. A motion to close the hearing was made by Chairman Koons, seconded by Mr. Donovan and carried unanimously on roll call vote.

Mr. Deutsch gave an overview of the proposed stipulations of the application and plan for the benefit of the Board. A discussion ensued. Chairman Koons asked if it was for preliminary, and Mr. Del Vecchio responded preliminary and final subdivision approval. There is no site plan approval required. He never promised architectural plans. Mr. de Stefan asked if any relics, such as old any coins, etc., were discovered, would they be turned over to the Township, and Mr. Del Vecchio agreed.

Mr. Deutsch commented it was an appropriate time for a motion. Chairman Koons asked for a motion to instruct the attorney to prepare a Resolution. Mr. Shalhoub made a motion to discuss the three proposals for the trees, as he is still confused. Mayor requested details and Mr. Shalhoub set forth the confusion. Mr. Deutsch recapped the lengthy discussions regarding trees during the previous five hearings. At some point a stipulation was made that if there were any underage, then a monetary contribution would be made. If the Board approves the plan as shown, Mr. Shalhoub asked how this would be determined. Mr. de Stefan would propose that this stipulation be stricken and people

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should just vote as presented. Mayor Blundo agreed. Mr. Deutsch advised no further discussion could be made.

A motion for was made by Mr. Shalhoub with the landscaping plan as shown and the stipulation and conditions outlined by Mr. Deutsch, and seconded by Mr. de Stefan. On discussion, Mayor Blundo advised he could not vote that evening, as he has not completely listened to all the tapes, but did listen to a number of them and spoke with the engineer, and based on the information he has, he feels the application is a solid one and the applicant has addressed all the comments of the Board. Mr. Statile asked if it was for preliminary or both. Mr. Deutsch advised you could approve for one or both. If on one, the applicant can either accept or take recourse. Mr. Del Vecchio advised they noticed for preliminary, final, soil movement and major tree removal. Mr. Statile commented.

Mr. Deutsch asked for a five minute recess at 10:25 p.m. and reconvened with a new roll call at 10:30 p.m. Mr. Deutsch asked Mr. Shalhoub if his motion was for the four items as stated, and he stated yes. Mr. de Stefan seconded the motion. Mr. Ward objected to the final subdivision approval being included, since there were many open issues and alternatives to consider, such as a less dense development, which he elaborated upon. He felt it was premature to give final approval at this time. There were no further questions comments or discussions.

Mr. de Stefan commented he would have loved to sell the land to a developer; however, we are a quasi-judicial body, and the owner has the right to do with the property what they wish, and his personal feeling for the use of the property is immaterial, and he voted yes.

Mr. Shalhoub stated they still need to get approvals from DPW and County and he voted yes.

Mr. Ward voted no as to preliminary and final.

Mayor Blundo was not eligible to vote.

Mr. Donovan commented he did not have a problem with the landscaping plan, and if any issues come up, Mr. Statile has the power to address them. The applicant made numerous concessions on the road construction and drainage, and he was confident that Chris Statile and the County

would settle the issues. A Lesser number of lots would be more beneficial, but was not in the best interest of the applicant; however, the EIS did much to convince him. The last thing he is concerned about is Lots 10.2 and 10.4, that do not meet the requirements for rear yards, and children will not be able to play in the rear yard and would force them to play in the front yard on Rivervale. He would vote yes, but when he comes into the architectural design if they could do anything to increase the rear yard.

Mr. Ericksen voted yes

Mr. Wayne yes, commenting he was happy with the landscaping plan and improvements on Rivervale Road.

Mr. Morris, the applicant has done many improvements in good faith and overall he votes. Yes.

Chairman Koons believed the discussions that took place after reopening the hearings with closing the street for a week and adverse conditions that will be inflicted upon the owners on the East side of the Street and possibly there were discussions that should have had notice to the public. He voted no.

RESOLUTIONS:

1. **Resolution Appointing Board Planner** - Not reached; carried.

DISCUSSION:

1. **Master Plan Re-examination** - Presentation by Michael Hakim. Chairman Koons thanked Mr. Donovan and Mr. Ericksen in working with Mr. Hakim on the Master Plan. Mr. Hakim also thanked them. Mr. Deutsch advised this meeting was not properly noticed and should not be discussed and proposed to carry this to the next meeting, as there was still ample time. Chairman Koons commented this is just a discussion, and we were not doing anything improper. He felt it could formally be presented to the public at the next meeting. Mr. Deutsch advised the Board was taking testimony, and he gave his legal opinion. This was not advertised as a public hearing for the Master Plan, and the matter should be carried with notice given. Mr. Koons asked if the Board could have an improper worksession, and Mr. Deutsch advised no. Mr. Hakim asked for a time frame, and Mayor Blundo advised they had four years to get it done and

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Mr. Deutsch agreed. He felt they should accept their attorney's advice and move forward on 6/20/11.

OPEN TO PUBLIC: - None

PAYMENT OF INVOICES: None

NEXT MEETING: Monday, June 20, 2011

ADJOURNMENT: On motion made, seconded and carried, the meeting was adjourned at approximately 10:55 p.m.

Respectfully submitted,

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