

**TOWNSHIP OF RIVER VALE
PLANNING BOARD
September 20, 2010
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
Dwight de Stefan	Class III (Councilman)
George Shalhoub	Vice-Chairman
Mark Ericksen	Secretary
Scott Lippert	(departed 8:12 pm)
Robert Menville	Class I
Peter Wayne	Class II
John Donovan	
David Ward	
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:

(RVPB 9/20/10 Minutes)

The Minutes of **8/16/10** and **8/30/10** were approved on motion of Chairman Koons, seconded by Mr. Wayne and carried.

PUBLIC HEARINGS:

1. **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 departed at 8:12 p.m. Councilman de Stefan requested that the matter conclude at 10:00 p.m. due to an early morning meeting he was scheduled to attend. Likewise, Mr. Menville supported that request, due to an immediate family member being at the hospital. Mr. Del Vecchio indicated they had no objection and hoped to possibly be done even earlier.

Mr. Deutsch requested Mr. Del Vecchio state his understanding of the status of completeness and appropriate time frames. Mr. Del Vecchio responded his client's position was that the letter of 8/20/10, directed to Board's Administrative Officer copied to the applicant, stated he believes it was deemed complete on 8/10/10, and the applicable time frames would run from that date.

Mr. Deutsch swore in the Board Engineer, Christopher Statile. Mr. de Stefan referenced Mr. Statile's engineering letter requesting certain items. Mr. Deutsch was of the opinion that the matter was deemed complete, to be scheduled for a hearing date, but certain information called for in Mr. Statile's letter dealt with engineering issues that would have to be satisfied before the Board considered the application. Mr. Deutsch advised if the Board disagreed with his perspective, they were free to take any action they deemed necessary.

Chairman Koons inquired if there were any open issues. Mr. Deutsch advised there was an issue, but it did not develop into a legal problem. He wanted a confirmation of commencing the hearing this evening and whether it was necessary to obtain an extension of time. There is nothing judicial before the Board this evening, and he is not going to render a legal opinion, as it is not in the Board's interest at this time. His recommendation is that the Board continue with the application.

(RVPB 9/20/10 Minutes)

Mr. de Stefan inquired about the outstanding items per Mr. Statile, which were clarified as County and on-site issues. The application was for preliminary and final approval, and in his opinion, the applicant is not in a position to seek final approval until it gets State DEP and County approvals that are required. Mr. Menville commented he was not sure the Board was ready to hear this application, since the applicant was here for both, and we can't possibly rule on final approval as a Board. Chairman Koons commented we have been advised by our counsel that it would be in the best interest of everyone to proceed, and if we were not ready to vote, we would not proceed, and he would agree with counsel. Mr. de Stefan commented it is always safe to go with counsel's recommendation, but there were many outstanding issues listed in Mr. Statile's report, which is a great report.

Chairman Koons inquired if all parties were legally notified of the hearing. Mr. Del Vecchio stated yes, they requested an updated property owners list. The 8/20/10 letter stating the matter was deemed complete on 8/10/10 was received, and Ms. Roehrer would email it to all Board Members for their records. Mr. Deutsch stated that the Board is proceeding properly, and if the Board should differ, then it would be a matter that would be argued in Superior Court, not by the Board in this jurisdiction. Mr. de Stefan was concerned and Mr. Deutsch asked Mr. Del Vecchio if the proceeding would be without prejudice, if it becomes an issue that the Board's proceeding is not considered a waiver of being able to challenge his perspective of the date of completion of this application. Mr. de Stefan was satisfied that the Board's rights are protected.

The next question was how it was deemed complete on 8/10/10, when we have a letter from the Board Engineer dated 8/19/10 stating the application was incomplete. Chairman Koons asked Mr. Del Vecchio how he arrived at 8/10/10, and he responded it was the 45th day after 6/25/10, which was the date they submitted their revised plans after the first incomplete letter. There were new items raised in the second letter. The first letter was 6/8/10. A letter of determination from the DEP was received. Chairman Koons asked and it was clarified the time period of 45 days runs from the date of completeness. Mr. Menville commented he was of the opinion that we are dealing with an incomplete document, and he would have no

(RVPB 9/20/10 Minutes)

objection to extending the time. There are three relevant documents that this Board has not had a chance to look at, and he had no problem with a continuation, but he did have a problem with what legal counsel says is not legally an issue, but if this went to court it would be one more thing to defend at the taxpayer's expense. Mr. de Stefan commented if you start an application, it is clear they cannot get final approval because of the Board Engineer's requirements, and if these things are not submitted and we deny it, it is not going anywhere. There is an issue that it is incomplete. Perhaps they should submit everything and start then.

Mr. Del Vecchio asked if they could be given a chance to respond and hear what the applicant has to say and put on the record, and Mr. de Stefan should not prejudge the application. Mr. de Stefan responded when he has a lengthy report of outstanding items, it is his concern; he is not pre-judging anything. Mr. Del Vecchio stated the applicant was rendered complete, and it is their opinion it is complete. They are ready to proceed with their experts present. The law requires the Board to act subject to other governmental agency approvals, which they are likely to have obtained prior to the time the Board has to act. They will comply with all open issues and asked for an opportunity.

Chairman Koons proposed that we hear all the arguments and let Mr. Del Vecchio proceed unless there is a motion to able. He also inquired about Checklist items. Mr. Donovan asked if there was a reluctance from the applicant to provide certain information. Mr. Del Vecchio advised there was none. They will have all the information on the County drainage prior to the time a decision is rendered. It is drainage on the County road, and they will dictate where it goes; it is not a completeness item. Mr. Menville commented that was only one of the completeness items, and if we continue until a motion is made, until such time as the Board has had a chance to read all the pertinent material; there is a discrepancy in the dates. He understands the attorney's position, but this Board has to act upon the information provided to it. Mr. Menville continued, stating he would be happy to grant any time period Mr. Del Vecchio needs to get all the information before this Board, and proceeded to make a motion that this Board table this application until such time as we have all the information outlined in Mr. Statile's letter that are listed as

(RVPB 9/20/10 Minutes)

outstanding, in order to proceed and decide on the application. Mr. de Stefan seconded the motion and requested to read a short statement with concerns about the engineer's comments about the stormwater calculations which need to be rectified before the application process, and there is a history of drainage problems. Unless this is complete, he absolutely sides with and concurs with his colleague, former councilman, Mr. Menville on this point.

Chairman Koons commented Mr. Del Vecchio stated he is waiting for different agencies to respond in order to comply with certain completeness issues. It is not unusual for the Board to proceed subject to County approval, but here are several items in Mr. Statile's letter besides that. He would tend to continue to agree with Mr. Deutsch's recommendation that we proceed. Mr. Ward commented he would agree to proceed with Mr. Del Vecchio providing approvals during the hearing process. Mr. Del Vecchio responded with rebuttal. He prepared to go through each one of Mr. Statile's items and respond to each. They have not been given an opportunity to start the hearing. The application is governed by statute saying they have 45 days to decide on the application. Chairman commented when various issues are raised in a letter as items to be shown and not provided, what is his position.

Mr. Del Vecchio stated the applicant will not be in a position to extend the time if the matter is tabled. Mr. Deutsch advised his understanding was that the motion was to table the application since the matter was incomplete. There were no further questions, comments or discussions. On roll call vote, Mr. de Stefan and Mr. Menville voted yes; Mr. Shalhoub, Mr. Ward, Mr. Donovan, Mr. Ericksen, Mr. Wane, Mr. Morris, and Chairman Koons voted no. The motion failed, and the matter proceeded to hearing.

Mr. Del Vecchio presented the application. They also filed an application with the Bergen County Planning Board, and the only open item is the pipe they alluded to in their opening comments. They are seeking traffic safety personnel. No variances have been identified or applied for and the application conforms to the ordinance. He requested items to be marked: Engineering Drawings by R.L. Engineering, last revised to 6/15/10, marked A2. They further submitted certain Drainage and Soil Movement Calculations, by R.L. Engineering, revised to 6/11/10, marked A3. The Natural Resource Information by R.L.

(RVPB 9/20/10 Minutes)

Engineering revised to 6/11/10, marked A4. The NJDEP Letter of Interpretation dated 6/2/10, marked A5. Seven sheets of Photos by R.L. Engineering dated 6/22/10 were marked A6. Mr. Del Vecchio's letter dated 8/20/10 as marked B1.

Richard Eichenlaub, R.L. Engineering, Wampum Road, Park Ridge, was sworn in and accepted. Mr. Eichenlaub was familiar with the property, surrounding properties and roadways, he visited the site, and was familiar with the zoning ordinance as they apply. All plans were prepared by him or under his supervision, and he took the photos. He described the subject property as located South of Bock Drive, a wedge shape with a rectangular section attached to the North side, 6.67 acres. The Deed takes the property to the center of line of Rivervale Road. It consists of wooded area, a wetland area to the rear 2/3 of the property in depth, and in actuality half consists of wetlands, 145,897 sq. ft., 123,202 sq. ft. are wetlands. The property slopes back from Rivervale Road to Pascack Brook. It is located in the residential B Zone, requiring a minimum sq. footage of 10,000 sq. ft., allowing 29 lots. They are seeking eight (8) all facing Rivervale Road, complying with the frontage, width, area, etc. Lot sizes range from 13,378 sq. ft. as the least and 62,948 sq. ft. as the largest, Lot 10.04. Their Wetland Buffer Averaging plan is in front of the State and buffer plan before the County.

Mr. Eichenlaub read from the bulk schedule. Along with the improvements on the lots themselves, there will be roadwork on Rivervale Road. The will curb and widen, and tie into the curb line South of Bock Drive with their new curbs. There will be drainage along the curbing with inlets. Sidewalks will run from the corner of John Shine Court and Rivervale Road and tie into the existing sidewalk of Lot 7. That completes the sidewalk all the way up to four corners. The houses they are proposing will comply with minimum requirements for first and second floors. Coverages are well within allowable tolerances. Pools can be proposed on Lots 10.01, 10.02, 10.7 and 10.08. On the Grading Plan, Sheet 4 of 9, they are within 6-12" of the existing grades. Test pits will be done on the individual lots. There is a portion of the road that is being widened in the North end of the property to have 23' of pavement from the center line to the paved line.

Mr. Del Vecchio questioned Mr. Eichenlaub The homes all meet the bulk requirements of this zone and can be

built without variances. They are typical of homes in this neighborhood. Mr. Eichenlaub explained where the utilities would be installed as underground lines. He explained the stormwater management plan and seepage pits. The underground system has two. 500 gallon tanks, but Mr. Statile is requesting two 1,000 gallon tanks designed for a 100 year storm. He is confident the appropriate size seepage pits could be constructed for the size of these homes. Mr. Statile questioned Mr. Eichenlaub. Mr. Deutsch asked if Mr. Eichenlaub's statement about seepage pits was a stipulation, and Mr. Del Vecchio responded they would comply with Mr. Statile, as to whatever quantity would be required. The calculations would be submitted to Mr. Statile for his review. Mr. Wayne asked him to show how he will channel the water away from the homes. Mr. Del Vecchio suggested Mr. Eichenlaub do an enlarged detail on the driveway drainage.

Chairman Koons asked if the homes had cellars and if they would anticipate wet basements. Mr. Del Vecchio stated they would do test pits. Chairman Koons asked if they would provide architectural drawings to show different fronts. Mr. Eichenlaub responded they show a footprint area. Chairman Koons said it would be boring to have the façade the same, and have the considered setting some of them back or adding a front extension so they do not look like they are all of the same proportions. Mr. Del Vecchio stated they are not submitting architectural plans, as they are here on a subdivision. Mr. Eichenlaub proceeded to show 15 shade trees and would entertain a variety of species as the town prefers. No street lighting was proposed along Rivervale Road. Chairman Koons noted a host of trees being taken down. This was shown on Sheet 6 of 9. Mr. Del Vecchio stated Mr. Eichenlaub would show the exact spacing, location and size of tree on his drawings, replacing the note. He would confer with Mr. Statile as to same. Continuing on to Sheet 4 of 9, the Floor Area Table conveyed the sizes of the homes, not including the garage, all approximately 4,000 sq. ft. inclusive as basement and exclusive of garage. Chairman Koons inquired if they were basements or cellars and if cellars, that should not be included. Mr. Statile stated we do not have a floor area ratio ordinance in town, but as long as they stay within their impervious coverage, they will comply.

George Del Ciro, Rivervale Road, said he was familiar with traffic, drainage, and runoff. Mr. Deutsch advised he

must ask questions, not give testimony, which will be done at a later time. Therefore, the Board cannot consider that comment. He asked Mr. Statile about water that comes out of Tiffany coming down Rivervale Road, he asked if curbing and drainage would be proposed on the East side to tie in with what applicant is proposing. Mr. Statile said they can ask the County Planning Board to consider that as part of their review. A gentleman from the public asked if they could do anything with water runoff and if they are proposing a sewer, and they were. Another person had questions about drainage. A woman had concerns about flooding and asked how it could be alleviated. Mr. Eichenlaub stated on their property they will take care of the water that flows off and will not be adding additional water. They are creating an improvement to that area with their proposal.

Mr. Del Vecchio elaborated upon the question of Mr. Morris. Their improvements include catch basins. A member of the public, Janet Sturms, inquired about water near her property and expressed concern about flooding. She was advised to call Erik Timsak, who handles the County road. Mr. Eichenlaub said all of the drainage would be taken to the back of the property. Nancy Ciccarello, Rivervale Road, asked about lighting and why they were not proposing more, as it is very dark. Mr. Del Ciro asked about traffic safety and if there could be a speed limit posted, and Mr. Statile responded that should be directed to the Council. George Costello asked for the date of the next hearing and will there be notice.

Mr. Deutsch asked for a waiver of time period from Mr. Del Vecchio. The next meeting is 10/18/10. Mr. Del Vecchio gave consent to carry the matter to the 10/18/10 meeting and extended the time through that date. The matter was carried to 10/18/10 with no need for renofice.

RESOLUTIONS:

1. CND Corporation, 650 Westwood Avenue, Block 1719, Lot 3 - Application for Change in Ownership. The applicant proposes to lease an existing space in one rental unit of the existing commercial building and use it as an Italian Restaurant - Chairman Koons read the Resolution of Approval into the record with conditions and moved for approval deemed as read, with second by Mr. Shalhoub. There were no further questions, comments or discussions. On roll call vote, Mr. de Stefan, Mr. Shalhoub, Mr. Menville, Mr.

(RVPB 9/20/10 Minutes)

Ericksen, Mr. Wayne, Mr. Lippert, Mr. Morris, and Chairman Koons voted yes.

DISCUSSION: None

PAYMENT OF INVOICES: None

NEXT MEETING: Monday, October 18, 2010

ADJOURNMENT: On motion made, seconded and carried, the meeting was adjourned at approximately 10:40 p.m.

Respectfully submitted,

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