

**TOWNSHIP OF RIVER VALE
PLANNING BOARD
October 20, 2008
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:

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|---------------------|------------------------|
| Kenneth H. Koons | Chairman |
| Robert Menville for | Mayor Blundo - Class I |
| Peter Wayne | Class II |
| Mark Ericksen | |
| George Shalhoub | |
| Chris Wahmann | Secretary |
| Scott Lippert | Alt. #2 |

Also Present:

Dennis Deutsch, Esq., Board Attorney
Christopher Statile, PE Board Engineer
Damian Gil, Land Use Administrator

Absent: Bruce Carillo Vice-Chairman
Dwight de Stefan Class III (Councilman)
Ron Tucci
Jim Tolomeo Alt. #1

DISCUSSIONS:

1. **MWD Rivervale One, LLC, 649 Westwood Avenue - Conceptual Hearing** - Thomas Dunn, Esq. of Dunn & Brown, Esqs. represented the applicant/owner. Mr. Dunn introduced

Keith Michaels, Manager of Rivervale One, LLC, and a principal in Michaels and Waldron Architects, who also occupies space in the office building and would testify as to the plan, prepared by him. Concept A was the office building and proposed commercial use. Sheet B was an option called B&C. Mr. Deutsch advised that this was not testimony, it was strictly a concept hearing. Mr. Dunn said they were looking for guidance.

Mr. Michaels presented the three alternative designs for the property. The first alternative included retail on the ground floor and office on the second floor. Otherwise, they would be short of parking per the ordinance. They also have an office building nearly full, with an excess of 30 parking spaces. The second and third alternatives included residential and commercial, with 15 residential units. Mr. Menville said we are not here to advise you, but to make decisions on what you propose to us. Chairman Koons commented they are looking for guidance on the proposals. Mr. Dunn stated the reason they are here for this concept is that they recognize a couple of realities, such as residential, which is not permitted. Chairman Koons commented the Administrator asked if the board would hear this as a conceptual.

Mr. Menville and Mr. Wahmann commented they should come to the Board with what they are requesting. The Board is not here to advise them, but to make a judgment on what they propose. Mr. Deutsch advised it is not impermissible for someone to come before the Board on an informal or a conceptual. The Board does not have to entertain such a request or give an opinion. If given an opinion, the Board is not bound to the comments. The Board has the right to deny the application even after having given a favorable indication. They could decide not to hear the concept. Mr. Wahmann commented he really does not want to hear it right now. Mr. Menville recommended we go no further on this; it is not this Board's authority or position. If we were to give any opinion it could be construed as opinion to go forward or not, and they should come in with their proposal. He would make a motion to that effect. Mr. Wahmann seconded the motion. Mr. Lippert saw no reason not to hear a conceptual plan. Any comments would not be binding or construed. It is not a bad thing to have a discussion with an applicant. He sits on the Zoning Committee. The Affordable Housing requirement has been discussed, and this particular area of town has been

considered as put a second story component for COAH, with first story retail. He would think we could discuss this with the applicant. It is not binding. We may find there is an application that satisfies our COAH requirements and makes sense. We could have a discussion with an applicant that could help us satisfy our COAH requirements. Mr. Menville said he would listen if they brought a COAH plan and said this is the plan.

The Chairman called for a vote. A no vote means they continue with the conceptual; a no vote means they do not. On roll call vote, Mr. Shalhoub, Mr. Wayne, Mr. Lippert and Chairman Koons voted no, and Mr. Wahmann and Mr. Menville voted yes. Mr. Dunn was permitted to continue based on the 4/2 voted to continue hearing it.

Mr. Dunn stated these are three concepts. Mr. Michaels commented they are interested in all three concepts. They put the plan with residential out on the table for discussion and thought it may help satisfy the Township's COAH requirements. They introduced the notion that their property could be of assistance if zoned properly, and they would not want to go to the Zoning Board for a use variance. They are comfortable with Concept 1, but if the Board shows any interest in residential, they would continue. Mr. Dunn said they would prefer Option A, because it would not need a use variance. There was no further discussion and they departed.

PUBLIC HEARINGS:

1. Rockland Built Homes, 722 Westwood Avenue, Block 1801.01, Lot 30 - Major Subdivision - Adjourned to 11/17 at request of applicant.

2. Spence, Spring Street, Block 1501.02, Lot 32.03 Soil Moving - Chris Lantelme, of Lantelme, Kerns & Associates, 101 West Street, Hillsdale, Licensed Land Surveyor and Engineers, introduced the Site Plan dated 2/25/08, with no revisions. The soil moved is 932 yards. The bulk of the soil is from the foundation of the house. 648 yards is removed from the site. There is no existing house being excavate. There are no bulk variances. It is just a soil moving application. He received Mr. Statile's letter dated 10/16/08. They can comply with everything in that letter and will revise the drawings. A Tree Planting Plan will be submitted to Mr. Statile; trees to be removed are listed on the plan. Chairman Koons commented he would

like to see the tree plan. Mr. Menville asked if he would return to the Board with the plan. Mr. Lantelme agreed. A discussion ensued regarding tree details. Mr. Deutsch advised the subdivision has not yet been perfected, and no certifications or approvals could be issued until then. Mr. Lantelme understood. The matter was carried to the next meeting.

3. Pascack Hills Properties, Rivervale Rd/Colonial Rd & Winding Way, Block 502, Lot 1 and Block 502, Lot 12 - Major Subdivision - William Bailey, Esq. represented the applicant. They finished with Dr. Crow, and would proceed with testimony of Robert Costa. Mr. Wahmann asked him about the Open Space Grant. Mr. Bailey said it is not part of this. Mr. Deutsch said this is the first time he is hearing about open space. He would have to review the issue raised by Mr. Wahmann. He suggested counsel continue, and he would give an opinion on the document to the Board and counsel.

Robert Costa, Costa Engineering, was sworn in and accepted. Mr. Costa testified to A1, a proposal for a three lot subdivision, Proposed Lots 12.01, 12.02, and 12.03. They are not seeking any variances. The zone requires 18,000 sq. ft., and the proposed lots contain 19,764.22 sq. ft., 45,966.07 sq. ft. and 76,223.95sq. ft. respectively. The minimum lot frontage is 75'. Mr. Deutsch advised there is an issue with the Township regulations that in Zone A the minimum lot frontage is 125'. He asked Mr. Costa if he reviewed the Limiting Schedule, Section 142-222.

With respect to steep slopes, he and Mr. Stabile walked the property, and there were no indications of any soil stabilization problems. On A3, he highlighted the improvements, such as the houses, driveways, etc. Mr. Wahmann asked him to take a sign down advertising homes. Mr. Deutsch advised he was asked to render an opinion, and it is not the province of this Board. There have been some improvements on the property. Sheet 5 of 8 was the Slope Analysis Map, A4, demonstrating the various slopes on the property. Mr. Wahmann asked him to check on the plans of the School Board.

The Board took a ten minute recess at 9:00 p.m. and reconvened with a new roll call. Mr. Menville had departed.

Mr. Costa stated they would put the issues raised aside and bring these items forward at the next meeting. As such, the hearing continued. Based on the ordinance his office received, reviewed and prepared maps submitted to the Board. There are no variances. There are no street improvements proposed. They are constructing two houses--one on each of the proposed lots, driveways, garages, with very little regrading, as the lots are flat. Mr. Stabile is currently building on Lot 21. The remaining lots on that block are fully developed. The next proposal is to carve two lots on Winding Way to be cut into three lots, proposed Lots 1.02 and 1.03. The third lot would be to the school.

Mr. Costa explained there are two separate applications. On Colonial Road, his client already owns Lot 12, with an existing dwelling. He believes one application could be approved without the other. Lot 12.03 will remain as it is. The school will be the beneficiary of Lot 12.03 if approved. On Winding Way, the school would like to sell to his client, enough property for the two new lots. Mr. Bailey clarified it is actually a land swap. Winding Way is fully improved, and they are proposing two new dwellings on that street, with side loaded garages. There are comments from the engineer, which they could review, and they could adhere to all of them except deed restrictions. Chairman Koons proposed the question as to whether the existence of a through lot is non-conforming. Mr. Statile said he would advise. Mr. Statile described the proposal. There would be a walkway for the students with a fence. There are no other improvements to the streets. They will adhere to everything in Mr. Statile's letter.

Mr. Bailey stated that concludes the typical site testimony by Mr. Costa. The other issues would be addressed at the next meeting. Mr. Statile questioned Mr. Costa about the steep slope analysis on the plan, A4. He inquired if the house on the remaining lot would require a variance. Mr. Costa said it is developable, but you have to meet the setbacks. Chairman Koons asked if they have enough white area for a single family dwelling with enough rear yard, side yard and front yard, with no variances. Mr. Costa responded yes. They were complete for the evening and would continue at the next meeting.

The matter was opened to the public for questions.

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Amy Feldman, 588 Colonial Road asked if the two applications needed to be heard together. Mr. Bailey said it would have doubled everyone's time if heard separately. She further asked if there will be concrete curbs on Winding Way and no parking signs. Mr. Costa responded they would be installing a sidewalk as required in front of Lot 1.02 and creating a crosswalk from the corner. Chairman Koons inquired why it is only on one lot, and what about the driveway being directly opposite Dorchester. Mr. Statile did not have a problem with it. Mr. Bailey commented the applicant would install sidewalks along the entire frontage if granted. They would also change the curbing. Ms. Feldman continued with her questioning. Mr. Deutsch advised a Board of Education has its own authority as to what it does. They typically come before the Board to give an indication and get a sense, but there is no legal requirement, and they could do anything they want.

Arthur Rothman, Colonial Road, questioned the bicycle path funded by the federal government with federal funds. It was not a Board of Education walkway to the school and it was previously protected.

Paul Tolin 588 Colonial Road, asked for clarification as to what it means to be conforming in a house being built. Mr. Costa gave a detailed explanation. Mr. Tolin questioned Mr. Costa as to the square footage of the homes in the area. He noted this house as being a "McMansion". Mr. Tolin asked about drainage and possible flooding. Mr. Costa stated the engineer requested they get an LOI and as for drainage they did test pits, analyzed the soil and did calculations for drainage. They would put in additional seepage pits if required, and they feel they meet the RSIS standards. Mr. Tolin asked if putting in sidewalks would change the character of the neighborhood. Mr. Costa responded it was a safety issue, but aesthetically they could put in a dyed concrete so it does not stand out. His last question was the land swap. If the existing home near the school is being taken down and given to Board of Education, and in exchange for the Winding Way property, could they do whatever they want with it. Mr. Costa said this is controlled by the Department of Education, which would regulate it. The school would need site plan approval from them.

Brian Schwartz, 574 Dorchester Drive, asked about seepage pits and where additional rain would go. Mr. Costa

addressed the question and explained there would be seepage pits and tree replacement to handle this. Mr. Schwartz asked if this would cause additional flooding at Woodside School. Mr. Costa was not aware of any flooding, but explained he did not think the water would migrate that way, and stated the drainage calculations are being reviewed by Mr. Statile and if he requires more, they will comply. He would go to the field and walk there as well. Mr. Deutsch asked if it was RSIS compliant, and Mr. Statile said Mr. Costa designed it to those parameters. Mr. Costa offered to meet any of the neighbors there to answer specific questions.

Paul Tolin returned with a photograph, Exhibit Cohen 1, which showed the way the water runs. Mr. Bailey objected; Mr. Deutsch advised it is for the basis of a question, and he could continue. Mr. Costa clarified the drainage plans.

Robert Adamo asked if a concept study should be done for the Board of Education to see how it impacts this site. Mr. Bailey said that was all approved by the Department of Education, and he was not sure what that would accomplish. Mr. Deutsch advised the Planning Board is functioning pursuant to the MLUL, and each application is judged on its own merit. That is between the Board of Education and the State Board of Education. Those issues should be brought there. This Board does not have the authority to demand what the Board of Education might do. Mr. Statile added the Board should not have to show who it is selling the property to. The applicant should show it complies with all the setbacks. Mr. Costa said Lot 12 currently has a home there.

Chairman Koons commented Mr. Costa could give us a diagram of the 12.02 lot. Mr. Bailey said they could show the existing house meets the setback requirements. Mr. Deutsch advised the Board may want to see the house on the lot, but it was up to Mr. Bailey as to what to provide. Mr. Adamo asked if there was a variance for front yard, would it go to the Zoning Board. Chairman Koons stated the Planning Board has ancillary powers to hear the bulk variance. Mr. Costa said they would look at the ordinance to make the appropriate determination.

There were no further questions, and the matter was carried to 11/17/08 with no further notice. Mr. Bailey

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would send a letter extending any time limitations. Mr. Statile stated he would not be present due to the League of Municipalities but had a staff member available. Chairman Koons commented the hearing should continue when Mr. Statile would be present. A discussion on dates took place, and it was determined that 11/12/08 was the next available date for the Board. The meeting date was changed from 11/17/08 to 11/12/08 and the matter was carried to 11/12/08. Applicant would renote.

MINUTES: May 19, 2008 & September 15, 2008 - The Minutes of were approved on motion of Chairman Koons, seconded by Mr. Wahmann and carried.

RESOLUTIONS: None

OPEN TO PUBLIC - None

PAYMENT OF INVOICES: None

NEXT MEETING: November 12, 2008 (changed from November 17, 2008)

ADJOURNMENT: On motion made, seconded and carried, the meeting was adjourned at approximately 10:30 p.m.

Respectfully submitted,

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