

**TOWNSHIP OF RIVER VALE
PLANNING BOARD
Wednesday, November 12, 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:

Kenneth H. Koons	Chairman
Mayor Joseph Blundo	Class I (8:20pm)
Peter Wayne	Class II
Mark Ericksen	
George Shalhoub	
Ron Tucci	
Scott Lippert	Alt. #2

Also Present:

Dennis Deutsch, Esq., Board Attorney
Christopher Statile, PE Board Engineer
Damian Gil and Lauren Rohrer,
Land Use Administrators

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

This meeting was changed from Monday, 11/17/08.

(RVPB 11/12/08 Minutes)

MINUTES: A motion to approve the Minutes of 10/20/08 subject to minor changes was made by Chairman Koons, seconded by Mr. Shalhoub and carried unanimously.

DISCUSSIONS:

1. COAH Hosing Element and Fair Share Plan - Chairman Koons introduced the next topic, deferring to Mayor Blundo. Michael Kauker, the Township's COAH Planner, came forward. Mayor Blundo explained when the COAH rules were revised, it significantly raised the number of affordable housing units a municipality would need to provide to be COAH compliant. The Round Three Rules for River Vale resulted in an obligation of 55 affordable housing units, which was derived from 27 from prior Round Two and 28 new units from the Growth Share Obligation from Round Three. The Township formed a COAH Committee to review ways to satisfy our obligation. Objections were filed to try and overturn COAH's rules. They feel they should proceed in the mean time and must have a plan filed by 12/1/08 or be open to a Builder's Remedy laws suite The Committee came up with a plan to purchase four acres along Cedar Lane, North of Brook Avenue, across from the Hillsdale border. The Mayor continued. It is know as the Kirk property. In order to keep the impact to the community at a minimum, they looked at various possibilities. Rather than putting in two or three smaller complexes in various parts of town, disturbing multiple neighborhoods, they felt the proposed location was a good spot to encompass it all. The proposal was a 55 unit, town-home style development with a combination of family and senior housing. There will be no further tax dollars spent. They are partnering with the Bergen County. From a financing point of view, it will have the least impact to the Township and the Planning Board must review this.

Michael Kauker introduced the concept plan for the Kirk property. Chairman Koons noted it is a concept plan, not a final plan. Mr. Kauker responded final plans would have to be drawn, but this addresses the cumulative fair share obligation. He outlined the new COAH rules, which consists of three obligations: the rehabilitation obligation, the prior round obligation and growth share obligation. The rehabilitation share is 0. The prior round share is 121 units. Growth share refers to growth in the community. The growth share calculated equals 28 units. Low and moderate and affordable units from prior obligation, not constructed or constructed after 2004, can

be excluded, together with market share units. River Vale has a growth share obligation of 28 units; total units are 149. The 27 unit shortfall is with the Kirk property. There is a family unit requirement and low income housing requirement. In addition you can take bonus credits for rentals, and they have a total of 35 credits, with a surplus of seven. The proposed Fair Share Plan would certify the Township to 2018.

Mayor Blundo commented this plan would constitute full compliance. They felt this site was more favorable rather than disturbing several smaller sites. This was sent to Trenton for approval as their formal application. As soon as the State approves it, the Township is done. Mr. Tucci asked, and Mr. Blundo responded this is assumed building I6B & I7C are built. They are looking to by I6A through County and State money, and we have until March, 2009 to generate that deal. If we are not certified, and we are sued on a builder's remedy, we could end up with a large housing development in the middle of the residential section. They feel this is in the best interest of the town, and this is the plan they are recommending. The Bergen County Housing Authority would own and operate the rental units. Mr. Kauker stated residential and non-residential development do generate growth share, and if any new developments should occur, the Township needs to be sure to have about 20% affordable incorporated to offset any additional growth share obligations. Chairman Koons reiterated this site has the least impact, with high density housing behind it, and it is one neighborhood being disturbed—not five. The Board thanked Mr. Kauker and the Mayor. Mr. Kauker departed.

PUBLIC HEARINGS:

1. 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, appeared with the applicant. The basic remaining issue was a replanting plan, and they now revised the plan to show the trees to be planted, with less trees cut. The table has also been amended. They are cutting down trees in the center of the lawn and replacing along the sides and back, all in accordance with the ordinance. Mr. Deutsch advised the latest submission was dated 10/20/08. There was a note added that trucks would use a certain route via Cedar Lane, and they may go to a dirt broker to see who needs the dirt. A Board Member

suggested asking the Township. Chairman Koons asked why they were taking down two maples and an oak beyond the 30' setback line. Mr. Ericksen asked if they could save more of the oaks. Mr. Lantelme noted the replacement trees were shown in green and called attention to the legend. A discussion ensued. Chairman Koons did not see how the evergreen trees would interfere with saving the oak tree. He further inquired about headlights adversely affecting anyone on the West. Mr. Lantelme noted that person would probably be replacing trees for screening. A discussion ensued regarding posting of a bond.

Chairman Koons moved for approval with second by Mr. Shalhoub. Mr. Statile asked about the list of replacement the trees, Mr. Koons amended to include items discussed and satisfaction of the Board Engineer as to the selection of trees. There were no further questions, comments or discussions. On roll call vote, Mr. Shalhoub, Mr. Ericksen, Mr. Wane, Mr. Tucci, Mr. Lippert, and Chairman Koons voted yes.

2. Rockland Built Homes, 722 Westwood Avenue, Block 1801.01, Lot 30 - Major Subdivision - Robert Mancinelli, Esq. appeared on behalf of the applicant and reviewed from the prior hearing, stating that the Board would have Fire Chief present. Chairman Koons stated they did not have the Fire Chief present this evening as he was unable to attend. However, Officer Chris Bulger of the Police Department was present. Officer Bulger was sworn in, qualified and accepted. Mr. Deutsch questioned the officer about flag lots. With respect to flag lots, he asked, does the patrolling create any potential hazards. Officer Bulger explained the problems being low visibility, inability to see the property, and inability to leave the property with fire apparatus, in an emergency. Other problems he experienced were from safety standpoints. The ability to fight crime when you can't see something is very difficult. Further, he may have difficulty getting out of the driveway if a car in the front is blocking.

Mr. Mancinelli questioned Officer Bulger, a first responder from the Township Police Department about impacts on response time, responding to the site and leaving the site. There were no further questions.

Mr. Mancinelli indicated he brought back his witness with a redesigned plan, per the Fire Chief and inquired

whether the Board wanted to proceed without the Fire Chief. Mr. Deutsch advised if the hearing was closed, the Board would be required to make a decision. Mr. Mancinelli advised he would like to continue, and also there was no comment as to a detail of the redesign of the driveway, dated 9/25/08, submitted previously. Mr. Galesi from R.L. Engineering was present. Mr. Deutsch advised they had not seen it before and requested it be marked. Mr. Mancinelli had no objection. The driveway section was redesigned based on the Board's concern it could not hold a fire apparatus. Mr. Statile stated it was up to Code. The drawing was marked A8.

David Galesi, R.L. Engineering, continued under oath. He reviewed the Fire Chief's letter of 9/15/08 and prepared the revised driveway section, marked A8. The main concern was that it would not support the vehicles. Further, there was a concern about the accessibility of fire trucks and that they are able to turn around. On A1, Mr. Galesi testified there was a grey area representing the driveway. Also shown was the house in the rear, and they added a turnaround area in between, which affords room in the front and side. Snow could be pushed to the rear. Chairman Koons asked if they had a first responder police car pull into the driveway, and then a fire truck pulls in and can't get to the front of the house, is the 18' wide enough for an engine or ladder truck to put the outriggers out, and would they be able to fight the fire. Mr. Statile noted it was 12' not 18'. Mr. Galesi said there was not enough pavement for the outrigger, but it would have to be put in a different position to be set up, and it would be assumed it is there for the duration. Mr. Mancinelli asked if Mr. Galesi felt it was inconsistent with any fire safety protocols. Mr. Galesi answered no, but the first responder vehicle should park on a different part of the property. This site plan does not further exacerbate any situation that a first responder or fire department vehicle would encounter than already exists in the neighborhood. Mr. Mancinelli had no further questions of Mr. Galesi in the absence of the Fire Chief, with a reservation to call him back.

Chairman Koons commented he was satisfied with their own fire department member, Mr. Wayne, and did not feel the Fire Chief had to be present. There were no questions of the witnesses by the public.

Steve Lydon, Burgis Associates, continued under oath. He reviewed the planner's report and minutes containing the Board Planner' testimony. The lot on Westwood Avenue is over 44,000 sq. ft. in size, in two zones, A1 along Hackensack River, to the North side of the property and along Westwood Avenue the A zone. There were two single family dwellings on the property, and the arrangement existed. Applicant proposes two oversized lots. Both require variances. The property as it currently exists is non-conforming for lot frontage. 80% of the lots in the Peters Lane area do not meet the frontage requirements. This is not a completely unique situation. The lot designed at 30.01 is to the North, and will have a proposed 18' wide flag. The other lot will also be non-conforming to lot width. There are dwellings staggered on the block in the front and set back, and these lots will mirror them. More importantly, they are not changing the density of the area.

Mr. Mancinelli asked Mr. Lydon if the Township does not allow flag lots, and the response was no. This is not in the CN zone. This has elements of C2. The benefits flow to the surrounding property owners. Mr. Lippert commented with the removal of two homes on the property, they are moving more toward conformity. Mr. Lydon said usually a town would state no flag lots in the ordinance. Mr. Lippert asked if a way to prevent flag lots is by having lot frontage and width requirements. Mr. Lydon stated he did not believe so. Chairman Koons stated the ordinance also states design waiver. Mr. Mancinelli recalled they would treat it as a design waiver. Mr. Koons stated they created the narrowness for the rear yard. Mr. Lydon said it constitutes inefficient use of land. By subdividing the property it constitutes a more efficient use of land. Many homes in the surrounding area are pre-existing, non-conforming. Mr. Lydon testified as to the criteria for the variances. Mr. Mancinelli had no further questions.

Mr. Deutsch advised it was 10:10 p.m. and the Board had other applicants. He asked if they would like to finish at the next meeting. Mr. Mancinelli indicated as long as they do not have to bring their witnesses. That was fine. Chairman Koons called for questions from Board Members.

Mr. Tucci commented they are limiting themselves to a small area, and this look could change the characteristic of Westwood Avenue. He did not see how this could be done'

if a police car goes back there, then a fire truck cannot. He feels it could cause a problem, and any time we have something non-conforming, we should do away with it. Mr. Lydon addressed the concerns raised. This is a unique site in a unique neighborhood. If you approve this tonight, it doesn't mean you have to approve every in application. There were no further questions and none from the public.

The matter was carried to 12/8/08, with a time extension granted.

3. Pascack Hills Properties, Rivervale Rd/Colonial Rd & Winding Way, Block 502, Lot 1 and Block 502, Lot 12 - Major Subdivision - Russell R. Huntington, Esq. represented the applicant. They were responding to issues unresolved from the last hearing and inquiries made. A question was raised as to whether or not the lot created as 12.03 fronting on Rivervale Road, going to the Board of Education, was a lot that could be improved as a single family. He believes it could never be. It could be a compliant lot. Mr. Costa, previously sworn, prepared the plan, a new exhibit, and for the record it was dated 11/12/08 and continued under oath. Mr. Deutsch marked the exhibit A5. They superimposed a driveway that showed it could be developed without variances, and you could disturb 30%. It certainly can work. They put the same size dwelling they proposed on Colonial Road. They made the comparisons conclusions for zoning requirements, and it was compliant in all respects. There is no present plan to construct a house there, and they are not proposing a house there. If they get through the application, the Board of Ed will own the property, and there are all kinds of regulations to put a house there. They are only doing this to demonstrate a zoning compliance ability.

As for existing conditions on the field. He visited the site and observed on Monday morning that the field was dry, despite what a neighbor said, that the water was pooling. There was grass and stones, but no standing water or mud.

Turning to the two lots on Colonial, and referring to A1, Mr. Costa called attention to the zoning table on A1, specifically the set backs. If they were to measure the lot width at the rear of the front yard setback line, they comply with the zoning ordinance. They feel they have a conforming and compliant subdivision.

Mr. Deutsch asked if he read in the Ordinance, Section 142.222 and a portion of page 142, 142.263, which sets forth the requirements of the A district. Mr. Costa agreed they were in the A zone. Mr. Huntington pulled excerpts from the zoning ordinance, particularly Section 142.263(B)2, and read the definition of width of lot, which should be measured from the rear of the front lot. Also, Section 142.262 - definition of front yard - stated the width of the front yard shall be measured at the street line, and all lots should have street frontage of 35'. He thought about reconciling these inconsistent sections for the purpose that the front yard is measured at the street line on the cul-de-sac and should not be less than 75' and 120' in the back. That eliminates crazy, pie shaped lots. The ordinance says 75' at the street line and 120' at the setback line. He believes that to be reasonable. It leaves the municipality protected and feels it reconciles the conflicts.

Mr. Huntington questioned Mr. Costa. He asked if he saw what it would look like if they applied all the zoning criteria. Mr. Costa displayed a Conforming Lot Sketch he prepared, dated 10/23/08. If they applied all the zoning criteria, it wound up a very odd lot, with 18,000 sq. ft., and the setback complies, but it is an odd shape, and you would have two tiny triangles with the setbacks as building envelopes, and you would end up with three acres before you came out with a buildable lot.

Chairman Koons had a problem with his interpretation. Section 142.262 opens with a discussion of the front yard, and they must conform with lot frontage along the street line. In his opinion it reads that the notwithstanding applies to another condition that would throw you back to a minimum of 75'. It does not mean any lot could have 75' frontage on the street line as long as you had 120' along the building line.

Mr. Huntington stated that was in 1970 and the definition controlling the ordinance was adopted later. Chairman Koons concluded they need 120' at the street line for frontage.

Mr. Statile was sworn in. Mr. Costa just testified as to the exhibits. They must be available at the Borough

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Hall to ask questions. He had also never seen these exhibits.

Mr. Huntington asked if the matter could be resolved that evening. Mr. Deutsch advised each application is heard on its own merit. Applicant made his argument, and it is up to the Board to accept or not to accept it.

Mr. Tucci commented if you look at the two definitions, Mr. Statile is hanging his hat on a 2004 zoning schedule that the township adopted. He brought it to the Council to make a decision. It changed the ordinance. Proper proceedings must be followed. Mr. Deutsch suggested hearing from Mr. Statile.

A discussion of lot width and frontage ensued. Mr. Huntington commented they are talking about the width of a lot; Chairman Koons is talking about lot frontage. It does not say lot width is measured at the front yard. He referred to the code book. Mr. Deutsch rendered his opinion as to the A zone. His understanding of the lot frontage of the A zone is 120'. This was per the zoning of 12/1/03. The Board has a right to its own decision. Mr. Tucci said he wanted to get this settled, as he encounters this often. He had a different interpretation. Mr. Tucci said he asked to see the lot frontage ordinance adopted by the town-but there wasn't one. He doesn't believe combining it in with another ordinance works. Mayor Blundo did not recall specifically any action taken.

Chairman Koons asked if that was a request to have the attorneys research the issue. Mr. Deutsch requested Mr. Huntington to submit a more detailed Memorandum on his point outlining his prospective Memorandum of Law. He will consider it, review the history as best as he can at the Town Hall, and respond back to the Board. That would require a continuation of this hearing, and he was asking for his consent. He cannot make a ruling tonight.

Chairman Koons asked for an interpretation of the sections he read also. Mr. Deutsch accepted.

It was stated there is no ordinance for cul-de-sacs. Mr. Huntington said in most towns they take one measurement from the street and one from the rear line.

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The matter was carried to the 12/8/08, but with no guarantee Mr. Deutsch would be finished with his review. Mr. Huntington consented to an extension of time through 12/8/08, and if necessary they would not object if they had to go beyond the 8th, but hope not.

The matter was opened to public. Chris Krenicki, 582 Dorchester Drive, commented Mr. Costa said at the last meeting that both lots were both 6,400 sq. ft. Mr. Deutsch clarified 3,200 on each floor. Mr. Krenicki questioned the square footage on Colonial. Richard Stabile was sworn in and responded. The present house is 4,883 sq. ft., just a square box. The other is 5,300 sq. ft., but includes the garage. The matter was closed to the public and carried to 12/8/08 as stated.

4. Blue Hill Estates, 719 & 707A Orangeburgh Road, Block 202.01, Lots 9, 15.01, 16.05 - Preliminary Major Subdivision & Final Subdivision - Request for adjournment - Mr. Koons recused himself and stepped down from the dais. Mr. Shalhoub chaired. James D'Elia Esq. represented the applicant. Mr. Jaworski had been present previously, and they had been working toward a settlement with the neighbor. There was a document between Mr. Jaworski and Beattie Padovano, the Koons lawyer. They would have a minor subdivision application with the Koons property, and they would amend their application with a major subdivision eliminating the stubs from the property. They would have to amend their application and file a new application on the Koons property. They would have to hold this in abeyance and file a new notice.

Mr. Deutsch inquired who they were negotiating with, and Mr. Delia indicated Mr. Weiner, who was aware he was making the request this evening. The Settlement Agreement is 99% complete. Mr. Deutsch advised it is up to the Board to proceed, but it is not unusual that parties will come to a resolution, and the Board favors disputes to be resolved. If the Board has any further questions, he would be happy to respond. Mr. Tucci asked and Mr. D'Elia said the Koons property would have to come before the Board. As soon as the agreement is finalized, the plan would be very simple. Mr. Eichenlaub could probably finish the plan in 4-5 weeks. Mr. Shalhoub noted this has been going on for a year. Mr. D'Elia said they are working hard on this settlement, as Mr. Koons would also say. The plan is also resolved, but there are minor issues remaining. They worked hard in good

faith so that they can resolve and not belabor this. Mr. Shalhoub said he did not see what one had to do with the other. He asked when he would do this. Mr. D'Elia said an application should be in by the end of the year. They believe it is a minor change. Their property would remain a major with the same amount of homes; the Koons property would be a minor. Mr. Deutsch advised it would be a new application, but if a minor modification of the existing plans, he could proceed, but had to renotice and republish. They have to be ready in January.

Kenneth Koons from the audience, 707 Orangeburgh Road, came forward and said he was not objecting or agreeing to Mr. D'Elia's request for a continuance, but they never saw a plan for a minor subdivision. They have not seen anything to comment on. This whole concept of the minor subdivision they do not know about. They have an agreement with the attorneys only as to costs and basic issues. They are just here to clarify matters. Another member of the public came forward. Marzena Janusiewicz, 708 Chalmers Court, came forward and expressed concern about any trees cut and water issues and wants to be notified of the new plan. Mr. Deutsch advised they would have to send new notices to all persons within 200' of the property.

Mr. Shalhoub advised the applicant must come back to the Planning Board next month. The water issues due to the cutting of trees, as raised by the residents on Chalmers Court, must be addressed by the applicant as soon as possible.

5. Macaluso, 573 Wittich Terrace, Block 806, Lot 4 - Soil Moving - Chris Lantelme of Lantelme, Kerns & Associates, 101 West Street, Hillsdale, Licensed Land Surveyor and Engineers, appeared with the applicant and presented the plan, noting the property slopes back. There was an existing dwelling on the site. Since the plan was drawn up, the property was leveled. There are no variances. A little over 500 cubic yards of soil will be removed from the site, which is a couple of yards off Rivervale Road. There will be 46 trucks. The trucks can go North or South to get out of town without going through neighborhoods. Mr. Tucci noted they would be going past schools, and they must be restricted from going past schools at drop off and pick up times. Applicant will check with the police department. They submitted a soil

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moving plan, with a landscaping plan, which had one tree to be planted.

Mr. Statile submitted a report that would have to be complied with. This would be included in the Resolution. Mr. Lantelme agreed with the letter of Mr. Statile. Chairman Koons moved that the hearing be closed to the public, with second by Mr. Shalhoub. A motion for approval subject to the conditions outlined and Mr. Statile's report which was agreed to by the applicant and engineer was made by Chairman Koons and seconded by Mr. Shalhoub. On roll call vote, Mr. Shalhoub, Mayor Blundo, Mr. Ericksen, Mr. Wayne, Mr. Tucci, Mr. Lippert and Chairman Koons voted yes.

RESOLUTIONS: None

OPEN TO PUBLIC - None

PAYMENT OF INVOICES: None

NEXT MEETING: December 8, 2008 (changed from 12/15/08)

ADJOURNMENT: On motion made, seconded and carried, the meeting was adjourned at approximately 11:45 p.m.

Respectfully submitted,

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