

**TOWNSHIP OF RIVER VALE
PLANNING BOARD
February 13, 2007
REGULAR MEETING
MINUTES**

ADEQUATE NOTICE STATEMENT:

A Regular Meeting of the River Vale Planning Board was called to order at 8:05 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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ATTENDANCE:

Members Present:

George Shalhoub	
Bruce Carillo	Vice-Chairman
Chris Wahmann	Secretary
Robert Menville	Mayor's Designee
Norman Goldman	
Peter Wayne	Class II
Mark Ericksen	
Kenneth H. Koons	Chairman
Ron Tucci	Alt. #2

Also Present: Paul Kaufman, Esq. Board Attorney
Christopher Statile, PE Board Engineer

Absent: Dwight de Stefan Council Liaison
Maria Sapuppo Alt. #1

MINUTES:

Chairman Koons moved for approval of the Minutes dated January 16, 2007. The motion was seconded by Mr. Goldman and carried.

PUBLIC HEARINGS:

1. **Kearny Federal, 651-653 Westwood Avenue, Block 2206, Lot 13 - Sign** - Continued to March 19, 2007 at applicant's request.

2. **JPE, 532 Cleveland Avenue, Block 1510, Lot 2 - Major Subdivision and Soil Moving (Remand Application) - Mr. Shalhoub recused himself and stepped down from the dais.** Mr. Kaufman advised that this matter was back before the Board on remand, pursuant to Order of Judge Harris, dated 1/25/07, and litigation brought by plaintiffs, JPE and John Paterno. The paragraphs of the Order pertinent to this evening's proceedings are that the matter was remanded back before the Board, and that the Board may include reasonable subdivision conditions in accordance with the Municipal Land Use Law and attach them as conditions.

Mr. Kaufman continued. Applicant gave notice and it was submitted to the Board. He reviewed it and observes that in form the notice complies with the MLUL, and we do not pass judgment as to the substance of the notice. In addition, the Board received a report from its engineer, Christopher Statile, which sets forth the conditions he believes should be attached to the Resolution on this date, 2/13/07.

Christopher Statile, Board Engineer, was sworn in, and testified he prepared the report that was marked into evidence. Mr. Stratford represented the applicant and advised they agreed to most conditions. Mr. Kaufman advised this is not a public hearing. It is a remand back subject to conditions imposed by the Board. This is a time when the Board can make its decision on its own. The Board can ask questions or impose conditions on the approval. Board deliberations ensued and conditions were discussed. Mr. Kaufman questioned Mr. Statile, who indicated the main responsibility was regarding storm water management and sanitary sewer system. Sidewalk contribution was also discussed. The Board indicated it would like to see the sidewalks.

A motion to approve with the changes discussed with Mr. Statile and sidewalks to be installed was made by Mr. Menville and seconded by Mr. Carillo.

Mr. Kaufman advised the Resolution should provide language that the public be informed that the Board intends

to appeal the decision that compelled the approval, and that the public be on notice of the Board's position, and if the applicant proceeds to perfect the subdivision by deed or map, they either contain the appropriate language as to the appeal and the proposed consequences effective on appeal. The public will be given adequate notice of what may happen in the future.

Mr. Menville moved to include all of the above in his motion, seconded by Mr. Carillo. Discussion on the motion followed. Mr. Statile questioned height. Mr. Kaufman advised we are not approving height. All we are approving is a subdivision drawing lines on a map. If the applicant wants to build a 35' building, he has to file an application for a variance. If he wants to exceed impervious coverage, he has to file an application. Those are all site plan issues.

Mr. Kaufman advised the Board Members qualified to vote are the people qualified to vote on the original application, and the 1/18/06 resolution. Mr. Koons moved for approval, subject to the amendments, subject to Mr. Statile's letter of 2/7/07, and subject to language recited by Mr. Kaufman. The motion was seconded by Mr. Carillo. There were no further questions, comments or discussions. On roll call vote, Mr. Wahmann, Mr. Goldman, Mr. Carillo, Mr. Ericksen, and Mr. Koons voted yes. The remaining members present were not eligible to vote.

Mr. Shalhoub returned to the dais.

3. O'Neill, 700-705 Orange Court, Block 101, Lots 22 & 23 - Major Subdivision and Soil Moving - Hearing not started; carried to March 19, 2007. Antimo Del Vecchio, Esq. represented the applicant. Mr. Koons stated the applicant did not provide a checklist, there are numerous, serious objections, and he did not know why the application was listed for public hearing. He discussed the issues. Mr. Kaufman advised applicant may want to answer some questions and requested to see the notice. Mr. Goldman commented this is listed for a major subdivision and soil moving, and the Board has always had soil moving separate.

Mr. Kaufman reviewed the Affidavit of Notice and found it to conform with the requirements of the MLUL. The Board does not opine as to the substance of the notice, which was marked A1.

(RVPB 2/13/07 Minutes)

Mr. Carillo commented the Board has been used as a non-paying consultant, and he never saw a list this long as to items that are not correct. Mr. Del Vecchio commented they needed to get the hearing on track and brought up an issue of possible taint and recusal of Mr. Koons because of a business relationship and asked if he had any interest in the application. Mr. Kaufman advised the decision is up to the Chairman to make. The hearing will not commence tonight. He does not believe a hearing date was set for tonight and one hearing would not make a difference. He wants to make a legal opinion. He advised the Chairman if you do not feel you have a conflict, remain there, and he would be pleased to prepare a legal memo. Mr. Koons felt it was fair and reasonable.

The plans were last revised 1/31/07, and Mr. Del Vecchio addressed the 1/12/07 report of Christopher Statile, stating most of the 28 items have been addressed. While Mr. Statile may not have had an opportunity to prepare an updated review letter, we are dealing with very minimal items.

Mr. Statile did not review the latest plans, which were only hand delivered to his office on 2/5/07, which is less than 10 days before the hearing. Mr. Kaufman advised revised plans are due 10 days prior to a hearing. Mr. Del Vecchio stated they are still doing borings, and they will be back on March 19th. Mr. Wahmann commented how could they ask the Board to proceed when it does not have a definitive engineer's report. He did not feel comfortable going forward. Mr. Kaufman advised as to the code and procedures. Mr. Menville made a motion to proceed based on what Mr. Statile has to say on the revised plans. Mr. Kaufman advised applicant's attorney as to his options and that the Board does not want to proceed with the plans not being in 10 days in advance.

Mr. Menville moved to carry the application to the next meeting, because the plans were not submitted in sufficient time for the Board Professional to have an opportunity to review the plans, as well as for the Board Members to use his comments to their benefits. The motion was seconded by Mr. Carillo. On roll call vote, Mr. Shalhoub, Mr. Wahmann, Mr. Menville, Mr. Goldman, Mr. Carillo, Mr. Wayne, Mr. Erickson and Mr. Tucci voted yes. Mr. Koons abstained. The matter was carried to the 3/19/07 hearing with no further notice.

DISCUSSION:

1. Release of Performance Bond for Kalian at River Vale, LLC (Pine Lake Village) - Mr. Koons requested a recommendation from Mr. Statile. Mr. Statile indicated he had the as built survey, and it was correctly elevated. His recommendation was to release the bond. A motion to approve the release of the performance bond was made by Mr. Koons and seconded by Mr. Menville. On roll call vote, all members voted yes.

2. Release of Performance Bond for Joseph Lee, Block 2206, Lots 14 & 15 - Mr. Koons asked for a recommendation from Mr. Statile. Mr. Statile recommended release of the bond. A motion to approve the release of the performance bond was made by Mr. Koons and seconded by Mr. Menville. On roll call vote, all members voted yes.

Closed Session Discussion: None

Payment of Invoices: Mr. Koons moved to pay invoices with second by Mr. Carillo. The motion carried.

Next Meeting: March 19, 2007

Adjournment: On motion made, seconded and carried, the meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Mary R. Verducci, Paralegal
Recording Secretary