

**TOWNSHIP OF RIVER VALE
PLANNING BOARD
April 17, 2006
MINUTES**

The Planning Board saluted the flag.

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".

=====

ATTENDANCE:

Members Present:

George Shalhoub	
Chris Wahmann	Secretary
George Paschalis	Mayor
Robert Menville	Council Liaison
Bruce Carillo	Vice-Chairman
Mark Ericksen	
Norman Goldman	
James Hanna	
Kenneth H. Koons	Chairman

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

Absent: Eric Anderson Alt. #1
Maria Sapuppo alt. #2

MINUTES:

Chairman Koons moved for approval of the Minutes of 3/20/06. The motion was seconded by Mr. Carillo and carried unanimously.

RESOLUTIONS FOR APPROVAL:

1. JPE Contractors, Cleveland Avenue, Block 1510, Lot 22-Preliminary Major Subdivision Chairman Koons moved for approval of the Resolution, deemed as read, with second by Mr. Carillo. Mr. Kaufman advised this is just the litigation filed by JPE, appealing the denial of the major subdivision memorialized on 1/18/06. There were no further questions, comments or discussions. On roll call vote, all members voted yes.

PUBLIC HEARINGS:

1. GSX Builders (Kern Property), 380 Cedar Lane, Block 1505, Lots 32 & 32.01 - Subdivision - Raymond Jacobs, Esq. of Jacobs and Bell, Esq. represented the applicant. Chris Lantelme, Engineer was also present, as were the applicant, Contract-Purchaser, Gary Sader, and one of the owners. Mr. Jacobs presented their final revisions to the plan, revising the dimensions of Lot 32.01 to move the sideline from the northerly side of that lot so it would be parallel to the other side line and perpendicular to the street. They extended the lot so that where the original application had it as 12,000 sq. ft., they are now proposing 15,008 sq. ft. This is in accordance with the lot size that Mr. Statile actually suggested several revisions back. The current report requests the applicant to bring the house back a distance. The existing dwelling faces South. Extending it further to the East will not only diminish the utility of 380 Cedar Lane, but would affect Lot 32.05. By moving the lot line to the North they eliminated the lot line variance, and adding any depth to this house will not accomplish anything and will destroy the plan for the existing house and new lot.

Mr. Wahmann asked if applicant was saying we have to defer to the applicant's father, who built the house. The forethought was not there in 1956. Mr. Jacobs said they are asking not to destroy the front yard of the house. A discussion ensued. Mr. Carillo questioned why the Board should continue to perpetuate this. Mayor Paschalis asked what the detrimental impact would be to #380. Mr. Kaufman asked Mr. Jacobs if he had any other witnesses, and the response was no. Mr. Kaufman stated to Mr. Jacobs basically you are submitting your revised plan and resting your application. Mr. Jacobs replied yes; Mr. Lydon of Burgis Associates testified and prepared a report in support of a C1 and C2 variance.

Mr. Kaufman advised anything that Mr. Jacobs states is not testimony, because he is not under oath; it is in the form of an argument. Mr. Carillo, asked for clarification. Mr. Kaufman explained the applicant submitted his case and rested. Now we should hear from the public and its professional, with any questions by Board Members. Then it would be time for the Board to make a decision. From an evidentiary point of view, what Mr. Jacobs says is not testimony, it is for argument. Mr. Koons commented the applicant did a good job of straightening out the lines. He would be the last person to want to set precedence, but it is a small lot, and the Board should at least consider that.

Christopher Statile, 3 Fir Court, Oakland, NJ, Township Engineer, was sworn in. Mr. Statile testified he prepared the report dated 4/15/06, which was submitted to the Board, applicant and applicant's attorney. Mr. Wahmann asked about the plan stating possible location and suggested removing the word possible and showing the actual footprint. Further, he asked if they would take out the macadam. Mr. Jacobs said he preferred not to remove it, but would make it visually more appealing. Mr. Wahmann commented it looks like an old tennis court. The applicant said if it was a condition of approval, they would remove the tennis court part, and the macadam that is not presently used as a driveway.

Mr. Goldman asked for clarification if a C1 or C2 variance. Mr. Jacobs replied C1, but C2 because of area, lot width. Mr. Koons asked Mr. Statile to give an overview of his report. He gave restriction on the size. The building envelope says 70' x 60' on Lot 32.01. Mr. Jacobs responded he would not want to be restricted and would agree to no variances for the house. The Mayor commented if the applicant wants his cake and eat it too, it has to be an 18,000 sq. ft. house, take it or leave it. The Township has laws. Mr. Kaufman advised the position the Board needs to take is the applicant has not demonstrated the proofs necessary for the granting of the variance. They had no objection to extending the sidewalks to Brook. Mr. Statile asked about the shed being moved, as indicated on the plan. Mr. Jacobs stated one straddles a lot line and would have to be moved or removed. Mayor Paschalis said it conflicts, and would have to be removed. Mr. Kaufman said that one would be removed. Mr. Jacobs the

(RVPB 4/17/06 Minutes)

other one would be moved to conform to lot line requirements. It could be moved to the West.

The Tree Replacement Analysis was discussed next. There was no landscaping plan. Mr. Statile asked if this was preliminary. Mr. Kaufman advised a condition of preliminary will be submission of a landscaping plan and a drainage plan. There were no further questions by the Board.

The matter was opened to the public. George Stanley, 410 Cedar Lane, came forward and stated he wanted to reinforce the feeling of living here, and this is a really large piece of property, but he feels this is not the right decision. He does not see the need or hardship, and that a very large house could be built. For this to happen and make last minute adjustments, he does not feel warrants the Board's approval.

Lorraine Stanley, 410 Cedar Lane, came forward. Her only concern was why they cannot move the line to get the 18,000 sq. ft. Mr. Lantelme showed her on the plan, that they would be making the lot deeper. She did not understand how it became that size. Mr. Wahmann explained it was to separate the lots. Mayor asked Mr. Jacobs to explain one more time the hardship of the variance. Mr. Jacobs stated it has to do with lot width. They have a total width of 200' on Cedar Lane, both in the same ownership, and 120' is required. They can't create greater width than what they have, and that is a pre-existing condition. What they did was move one of the lot lines to make the southerly existing lot more in conformity with the zoning by making the lot lines parallel and perpendicular with Cedar Lane.

Mayor Paschalis asked what is the hardship in this instance. Mr. Jacobs responded the hardship is with respect to the lot width. You can't get 120' of frontage with 200'. They are not applying for hardship on lot area, that is a flexible C. The Mayor deferred to Mr. Kaufman for the criteria the Board should consider. Flexible C is benefits outweigh detriments. The courts have interpreted it to mean a better planning alternative. Mrs. Stanley asked if the applicant has enough room go back to 18,000 sq ft. Mr. Kaufman stated per Mr. Statile, there was enough room to bring the line eastward, and why not do this. The applicant has the choice on what he wants to present, and

it is up to the Board to grant it or not. There was nothing further from the public or Board Members.

A motion to close the hearing to the public was made by Mr. Koons, seconded by Mr. Goldman and carried. Mr. Koons asked if Mr. Jacobs had anything further. Mr. Jacobs stated they tried to revise the application and went beyond where he wanted to go and agreed to conditions. It is a good plan that should be approved. Mr. Koons asked Mr. Kaufman about Lot 32.03 and Lot 32.04. Mr. Kaufman advised that is not the application that is before us. Mr. Koons asked if the Board were to deny this, would it be without prejudice so that the applicant would not be prohibited from coming back. Mr. Kaufman advised if applicant came back with four lots instead of five, it would not be barred by the doctrine of res judicata.

Mr. Koons stated the Board has the right to vote now or lay over for continuance on deliberation. Mayor Paschalis felt the Board deliberated it to death, and it is very clear that the applicant is really trying to have a win, and while Mr. Jacobs has told us there have been a number of concessions, his recollection is different, and applicant has not done the things necessary for Lot 32.01. Mayor Paschalis then made a motion to deny the application, which was seconded by Mr. Erickson. On roll call vote, all members voted yes to deny.

2. Price Construction, Graney Dr., Block 301.01, Lot 3.01 - Subdivision - Mr. Prigoff represented the applicant and stated they were present on 2/28/06, received input from the Board and changed the plan. Tabor Latincsics was called and continued under oath. The revised plans were marked Exhibit A1A, Major Subdivision, last revised 3/21/06. Exhibit A2-1 was the Major Subdivision Plan; Exhibit A3-1 was the Survey. A6-1 Area Plan. A5 was the Key Map. Since their original appearance, they provided a 50' paved cul-de-sac with a radius for emergency vehicles. They arrived at this by decreasing the area of the roadway at Graney Drive and Teller. The RSIS permits roadway widths of 18-20'. They have a net impervious coverage. Mr. Wahmann asked about impervious coverage and offsite improvements, which prompted more questions regarding same from Mr. Kaufman and the Board. Applicant's attorney stated they are not going under the Town Ordinance. Mr. Kaufman advised they would need the consent of the Town Council to reduce the width of Graney Drive.

Mayor Paschalis suggested it would be a good idea for them to come before the Council before proceeding. Mr. Kaufman advised it seems to be a key component. Mr. Hanna commented if the Board were not going to accept this, it would be an effort in futility. Mr. Latinscics read from the RSIS. They are treating this as servicing three homes. They meet the criteria for rural street or lane. The Borough Engineer has already recommended that Graney Drive be paved to the Teller Lane intersection. That would result in impervious surface credits. They are proposing to reduce the size of the street to get the credit. Mr. Kaufman indicated he thought the ultimate decision for this to go forward is the DEP, not the Planning Board. The applicant should also get feedback on whether this is something to be recommended to the Governing Body. He thinks the entire Board should address it. Ultimately, if this methodology is accepted, it should be determined by the DEP. If it meets all the criteria, the subdivision should be expressly conditioned upon the approval of the NJDEP.

Mr. Koons inquired about the roadway width necessary for emergency equipment to get through. Mr. Hanna stated it probably could be reduced slightly. As it is now, you cannot turn a ladder truck around, and you would have to back out. Mr. Hanna had a problem with Graney Drive being reduced. On a 20' road, if you set up a fire truck, nothing could go past or get out, because it would block the road. Mr. Kaufman asked Mr. Koons to poll the Board on whether or not to narrow the road on Graney Drive. All Board Members were against narrowing the road. Mr. Menville abstained, since it may go to the Council. Mr. Latinscics made another suggestion. Mr. Prigoff said he called the Fire Dept. a number of times. Mayor Paschalis advised him to send a letter if he wanted to get a response.

Mr. Prigoff asked to address some of the other issues raised by Mr. Statile in connection with the variances. Mr. Latinscics stated they are asking for two front yard variances for the two proposed homes. He gave the zoning criteria and bulk table. They are within the C1 Cherry Brook - significant environmental features to the West of this property, and they are trying to stay as far away as possible and build two homes. Exhibit A6-1 shows the footprint of the proposed home. They meet the zoning criteria. The goals of light, area and space are provided

(RVPB 4/17/06 Minutes)

with this plan. There is also a conservation easement proposed by them. As for trees, they have 8,000 sq. ft. They are trying to maximize protection in the westerly portion, reduce impervious coverage, and build houses that are in compliance with the neighborhood. The homes would be approx. 3,400 sq. ft. Mr. Koons suggested when meeting with the Fire Department, asking about a grass surface area left in the middle to reduce impervious coverage. Mr. Latinscics said they would revisit same. Mr. Hanna was in favor of anything that would eliminate reducing Graney Drive.

The Affidavit of Service and Proof of Publication were received. Mr. Prigoff wanted to address Mr. Statile's comments. Mr. Kaufman noted they just received Mr. Statile's report that evening. Mr. Latinscics referred to Item 4A, recommend increasing the cul-de-sac from 6% to 4%, but that would require more fill to be imported. Mr. Kaufman stated that is a site plan issue and an issue when you go for building permits. Mr. Latinscics said it is regarding the roadway. Mr. Statile said it should be handled now. Mr. Latinscics said they would have to raise it 1-1/2'. Mr. Statile explained it is for safety reasons when a vehicle travels around the cul-de-sac. Mr. Latinscics stated Exhibit A6-1 shows the homes in keeping with the neighborhood. If a variance was not granted, the dwellings would be 2,200 sq. ft., definitely not in character with the neighborhood. As for height, they will comply with the Ordinance, 32'. An issue was raised with respect to C1. Mr. Statile suggested getting a letter of clarification from the DEP. There was also a brief discussion of whether they could put in a pool. Mr. Kaufman suggested assuming it is approved, there be a condition to the effect that any potential development other than the two houses as set forth on A1-1 must be approved by the DEP, or a waiver received, before a permit is issued. Mr. Statile is to contact DEP now.

The matter was opened to the public. David Wolff, Chapter 7 Bankruptcy Trustee of the property came forward. His job is to liquidate the estate and pay the creditors. The key issue he sees is Graney Drive, and that you do not want it narrowed. Presuming that issue is resolved, they can move forward. That is why he hoped they could address the engineering comments and move forward. Mayor commented the point was taken.

(RVPB 4/17/06 Minutes)

Mr. Kaufman announced the matter was carried to 5/15/06 with no further notice. The Mayor reminded the applicant to reach out to the Fire and Police Departments. in writing.

3. Durie Properties, Orangeburgh Road, Block 601 Lot 10 - Soil Moving Permit - Carried to 5/15/06 at applicant's request.

4. The Medicine Shoppe, 653 Westwood Avenue, Block 2206, Lot 13 - Michael Hubner, Esq. of Riverdale, NJ represented the applicant. They are here on behalf of Kearny Savings Bank and Edith and Victor Chiu. They are out of order because they have a site plan application for next month, but they were present to have approval for the tenant to move in as soon as possible. There is a layout plan, with 27 parking spaces. The plan works perfectly for the applicants, and they are asking for the change of use. They would further invite all questions of the Board.

Mr. Kaufman asked if there were any changes to the exterior other than signage, in order for them to occupy the premises. Applicant responded the only item was the rear door. They propose to put in a glass-paneled door, similar to the bank. Mr. Kaufman asked if there would be any changes to the site plan, parking requirements or permitted use. Mr. Hubner responded not to his knowledge. Mr. Koons inquired as to any handicapped requirements.

Mayor Paschalis stated both entities, Mr. & Mrs. Chiu and Jack from Kearny Savings, have been very cooperative, and he would welcome the approval. There was a motion to open to the public by Mr. Koons, seconded by Mr. Carillo, but there were no interested parties, and a motion to close to the public was made by Mr. Koons, seconded by Mr. Carillo.

Mayor Paschalis moved for a positive response to the application, with second by Mr. Carillo, conditioned upon compliance with the Sign Ordinance, and that they would be returning with the site plan. There were no further questions, comments or discussions. On roll call vote, all members voted yes.

5. Locajo, Inc., 207 Rivervale Road, Block 1719, Lot 5 - Change in Use - Carried to 5/15/06;

6. Kathleen's In Home Creations, 184 Rivervale Road, Block 2101, Lot 63 - Change In Use - Mr. Koons stated the only problem he had was that the plan that was submitted indicated removing 16 parking spaces, which he presumed was not part of this application. The Mayor addressed same, noting this was an older plan. Mr. Kaufman asked questions after swearing in the applicant, Kathy Kania, owner of the business. Ms. Kania stated they have the consent of the property owner. The store was previously a tanning salon and is presently vacant. Mayor Paschalis noted the owner was present. Mr. Kaufman asked what changes they were proposing on the exterior. Applicant responded just the sign, with no changes in parking either. Mr. Kaufman advised his opinion was, on the plan they were given, it is not really relevant to the application, since there is no change to the exterior being proposed.

A motion to close the hearing to the public was made by Mr. Koons and seconded by Mr. Hanna. Mr. Carillo asked about the number of employees and the hours of operation. Applicant responded one employee, with hours of 10:00 a.m. to 6:30 p.m., six days per week. There would be compliance with sign ordinance. Per Mr. Goldman's question applicant stated there is a bathroom, and they have use of the basement. There were no further questions, comments or discussion.

A motion to approve the application was made by Mr. Menville and seconded by Mr. Goldman. On roll call vote, all members voted yes.

7. Hayden, 707 Westwood Avenue, Block 2101, Lots 5 & 6 - Subdivision - Mr. D'Elia covered for David Rutherford, Esq. in an application for change in lot line. It was stated that the applicant, Christopher Hayden, lives in one property and the neighbor in the other. They have lots of children and want more property to use. Therefore they propose to take 8,153 sq. ft. and put it in the back and side of Lot 5. Lot 5 would then be 10,649, and Lot 6 would be 31,198 sq. ft. The property is in the B zone, and they conform in other respects.

Chris Lantelme was sworn in and accepted. Mr. Kaufman asked if this application extends any of the existing non-conformities, and he answered no. Mr. Koons asked about the non-conformity being exacerbated in Lot 6, Mr. Wahmann adding fronting on the 15' right of way. The attorney

explained there is a right of way that serves the westerly sides of the property, labeled as macadam. While they are increasing the frontage, they are not increasing any non-conformities. To the extent the Board reviewed it as a negative, they would have to address that at another time. There is no intention to do anything different in using the property. Lot 5 construction is almost done, and they want to sell. Mr. Wahmann brought up that the application before the Board of Adjustment.

Mr. Kaufman stated he had a copy of the Resolution 05-22 signed by the Board of Adjustment. Mr. D'Elia did not see anything therein that changes the position of why they were present that night. Mr. Kaufman reviewed the Resolution. He could not tell from the Resolution what the Board's rationale was for granting the variances, because it does not say so. All they could do is accept that the Zoning Board did what they did. The Planning Board has to decide if changing the lot line exacerbates any of the non-conformities. They are just here to move the line on Lot 5 30'.

Christopher Hayden was sworn in. He explained he came in for a concept review approximately 10 months ago. He spoke with the then engineer, Mr. Zaniello, who said he could not pursue building a house and changing the lot line at the same time. He wanted to build the house and sell it, and now he is before the Board. Attorney D'Elia added the plans speak for themselves. Mayor Paschalis stated asked what the applicant is proposing has no bearing on a future application. Mr. Kaufman stated it may make it easier or more difficult - you cannot stop him from making another application. Mayor Paschalis asked what the Board has to consider. Mr. Kaufman advised whether this subdivision will result in any variances or result in exacerbation of any exiting non-conformities or variances granted by the Zoning Board. Attorney D'Elia stated there was no exacerbation; everything remains conforming.

Mr. Koons questioned why give additional frontage. Mr. Hayden stated both properties were in their family for so many years, owned by his wife and sister-in-law who grew up there together. They shared the yards. He cut the grass and maintained both yards. His kids enjoyed the yard. He is trying to preserve the yard as theirs. He built the house next door to have control over what happens to the yard. That is what his wife wanted. At present he has

(RVPB 4/17/06 Minutes)

four children that know the yard as theirs. When his kids are off to college, he may want to sell and does not want to be restricted. He built an ice rink on the property, half on Lot 5 and half on Lot 6, and his boys play ice hockey.

Mr. Statile read from his report that the rear of the property could result in a four-lot subdivision. Also, there is the possibility of a macadam drive access to be maintained by the own. That is why he suggested a deed restriction. The Deed was reviewed. It recites a 15' right of way after the metes and bounds description.

The matter was opened to public. Doug Bailey, 628 Alacci Way, was sworn in. His concern was what the future holds with these lots. The kids playing is a great thing. His property abuts his. The question is whether the Board will allow him to build more houses. It would be a detriment to him. To allow him to have the property to enjoy now is great, but he is concerned about what the future holds. Paul Ranieri, 624 Alacci Way, said he knows the applicant and has lived behind him for 15 years. He had discussions with Chris, who says he has no intention of building, but what if the property is sold. He had concerns with the side property. Chris Hayden said he would be considerate of how close the house would be to his property line. He would hate to have a side of a house 10' from his fence. It would change the whole look of his property. He was worried about those properties when he purchased his house. A motion to close to the public was made by Mr. Koons and seconded by Mr. Menville.

Mr. Koons asked if the Board wished to have Mr. Kaufman review the Resolution and Deed. It was the consensus of the Board that this was agreed to, and the matter was carried to 5/15/06 with no further notice.

Other Discussions: Shade Tree Ordinance Amendments - A letter would be sent by Mr. Kaufman outlining votes taken at last meeting. Mr. Menville explained the Council asked the Board to look at Ord. 149-Signs once again. Councilman de Stefan's recommendation was that they add in Section 1.1A the following language: "and off premises eating and take out food establishments". It was indicated that Mr. de Stefan wanted a menu in the window, and the Council is asking the Board to consider this. Mr. Kaufman shall write to the Council regarding the Ordinances.

(RVPB 4/17/06 Minutes)

Closed Session Discussion: None

Payment of Invoices: None

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

Respectfully submitted,

Mary R. Verducci, Paralegal
Recording Secretary