

TOWNSHIP OF RIVER VALE
PLANNING BOARD
May 15, 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".

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ATTENDANCE:

Members Present:

George Shalhoub	
Chris Wahmann	Secretary
George Paschalis	Mayor
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: Robert Menville Council Liaison
Eric Anderson Alt. #1 (resigned)
Maria Sapuppo Alt. #2

MINUTES:

Chairman Koons moved for approval of the Minutes of 4/17/06 with one amendment. The motion was seconded by Mr. Carillo and carried unanimously.

RESOLUTIONS FOR APPROVAL:

1. **GSX Builders (Kern Property), 380 Cedar Lane, Block 1505, Lots 32 & 32.01 - Subdivision** - Chairman Koons moved for approval of the Resolution of Denial, deemed as read, with second by Mr. Carillo. There were no further questions, comments or discussions. On roll call vote, all members voted yes.

2. **The Medicine Shoppe, 653 Westwood Avenue, Block 2206, Lot 13** - Chairman Koons moved for approval of the Resolution of Approval, deemed as read, with second by Mr. Carillo. There were no further questions, comments or discussions. On roll call vote, all members voted yes.

3. **Kathleen's In Home Creations, 184 Rivervale Road, Block 2101, Lot 63 - Change In Use** - Chairman Koons moved for approval of the Resolution of Approval, deemed as read, with second by Mr. Goldman. There were no further questions, comments or discussions. On roll call vote, all members voted yes.

4. **River Vale Developers Extension** - Mr. Kaufman pointed out that one of the conditions was that Counsel be provided with information of further hearings, having to do with the DEP, and he has not received any information regarding the pendency of this hearing. The extension is only through 6/19/06. However, he did not receive any information, and assuming the applicant comes back to the Board for further inspections, the Board should take this into consideration when evaluating any further extensions. He advised the Board of its need to adopt the Resolution since it memorializes action taken at the March meeting.

Chairman Koons moved for approval of the Resolution of Approval, deemed as read, with second by Mr. Carillo. There were no further questions, comments or discussions. On roll call vote, all members voted yes. Mr. Wahmann abstained.

PUBLIC HEARINGS:

1. **Locajo, Inc., 207 Rivervale Road, Block 1719, Lot 5 - Change in Use** - Carried to 6/19/06 at request of applicant;

2. **Price Construction, Graney Dr., Block 301.01, Lot 3.01 - Subdivision** - Mr. Prigoff, attorney for applicant

just received the report from the report of the Police and Fire Dept. - Carried to 6/19/06 at request of applicant; No further notice requested.

3. Hayden, 707 Westwood Avenue, Block 2101, Lots 5 & 6 - Subdivision - David Rutherford, Esq. represented the applicant in a continued application. The Board heard testimony from the engineer and applicant. Mr. Rutherford reviewed that the application is to relocate a lot line, and he feels it is an application for approval. There was some concern about the right-of-way that borders the property. He had no further testimony, and his presentation was complete.

Mr. Koons stated the Board's concern was future development. Mr. Rutherford stated when and if an application is made for any further subdivision of these properties, they would have to appear before the Planning Board, and the Board would have to deal with it according to the law at that time. At this time it is purely conjecture; however, Mr. Hayden states it is not his intention to do this at this time. That's not to say he or another owner in the future would not. Mr. Koons expressed that is the Board's concern.

Mr. Kaufman suggested asking Mr. Statile's opinion as the Board's engineer, having been sworn. Mr. Kaufman asked him if he was familiar with the application, homes, and users of that drive, and does he have an opinion of the compliance of this right-of-way with general standards of Township roads. Mr. Statile said it is presently substandard as well as the paved surface. If it were to be used by this applicant or future owners, he would require waivers from Titles 35 & 36, and letters from emergency service workers, which is not an easy task. When asked, Mr. Statile answered based on his 30 years experience, and also in other towns, he did not believe this right-of-way way was sufficient for use in its current configuration no.

Mr. Kaufman inquired if Mr. Rutherford had any questions of Mr. Statile, and he replied he does not argue with anything he said. Any future application to subdivide with frontage on the right-of-way would require a number of approvals. That is not the application before the Board at this time. They are only preserving their right to do so in the future, and the Board could very well deny it. He

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had no questions. He acknowledged what he said, and had no factual issue.

Mr. Statile stated if the applicant were one day to take the house down, there may not be a subdivision application before the Board, but he was concerned that applicant may be able to put a 5,000 sq. ft. house there. The Board looked at the plan. Mr. Kaufman commented.

Chris Hayden was sworn in and gave the history of the right-of-way. The lots were owned by one person. The Kerber Family wanted to give the sewer to the Township, so the Kerber family and the owners of the four houses behind it built those houses.

Mr. Kaufman questioned whether the Planning Board could prevent any future subdivision. Mr. Rutherford disagreed that it could, stating any application would have to stand on its own merits. They are not here to argue the merits of a future application, only the application before this Board. It is not right for the Board to argue the merits of an application for a future subdivision, and it would be a violation of the MLUL to prevent any further subdivision.

Mr. Kaufman spoke about whether Titles 35 and 36 would offer protection to the Board. Mr. Statile commented why not prevent any future access rights to that easement. Mr. Kaufman stated it is up to the Board to make a decision on the application before it.

Mr. Rutherford stated his client has concerns based on what was stated at the last meeting. They would be prepared to stipulate that if any future applications were made that called for future accesses, they would limit it to one lot, and to impose an enhanced setback on any newly created lot so that all yards, except for the front yard, would be a rear yard, and he gave an example. Also there would be an enhanced setback along the perimeter of any newly created lot. The merits of the application would stand on their own. They would agree to these restrictions, if that addresses any of the concerns of the Board.

A motion to open to the public was made by Mr. Koons and seconded by Mr. Carillo. There being no interested parties, the hearing was closed to the public on motion of Mr. Koons and second by Mr. Carillo.

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Mr. Koons called for any further questions from Board and noted the Board had concerns about future development. The Board would be remiss in not looking forward to what can very well and easily happen, especially since the applicant has already described or has spoken about this.

Mr. Koons moved to approve the application subject to the filing of a permanent, recorded, deed restriction, subject to the Board Attorney's approval, restricting any future development that would have access from either lot onto this macadam drive. Mr. Goldman seconded the motion. Mr. Koons commented about the possibility future composition of the Board being different. There were no further questions, comments or discussions. On roll call vote, all members voted yes, except Mayor Paschalis who abstained.

4. Edgewood Country Club, 449 Rivervale Road, Block 1201, Lot 6 - Soil Moving - Not heard - Mr. Kaufman advised that jurisdiction is with the Zoning Board of Adjustment and would recommend that the application be transferred to the Zoning Board.

5. Kearney Federal, 651/653 Westwood Avenue, Block 2206, Lot 13 - Site Plan - Mr. Hubner represented the applicant for preliminary and final site plan approval. There is nothing that they would have to seek variance approval for, but would offer testimony as to waivers. The bank is presently in operation, and nothing would change with respect to that.

Alfred Stewart, Jr., of Rockaway, NJ was sworn in. He reviewed his qualifications as a NJ Licensed Engineer, was questioned by Mr. Kaufman and was accepted. He prepared the plans before the Board. The Site Plan was dated 1/16/06. On page two were the present conditions. Kearney Federal was on the right, and The Medicine Shoppe was on the left. Egress is on Westwood Avenue. They have approx. 15 spaces on site, and the rear portion, approx. 25%, is lightly wooded toward the northwestern portion of the site. They propose to spruce up the parking area and add additional spaces, relocate walkways, and minimize the overhang to half its size. They will have a new sidewalk in the right-of-way of Westwood Ave. They are proposing a new canopy for the drive-through. Also, they are reconfiguring the walkways in the rear of the building and providing a handicapped access. They will have two

landscaped islands, house lighting fixtures, and are providing new lights. Lighting per the Streetscape Plan has been installed. Five new catch basins are proposed.

Chairman Koons noted on the plan that to get to space #15 you have to go all around the lot and suggested cutting down the island. Mr. Stewart said they were only trying to enhance with more islands. Mr. Hubner submitted to the neighbor on Lot 14 easement documents and what they would like to accomplish, which would be a benefit. They will continue to communicate with them. They have no problem with cutting back the island per the Chairman's suggestion. Mr. Carillo asked if all that parking was needed. Mr. Hubner said they planned more than they actually need, noting it is hard to hold back on site improvements.

Mayor Paschalis complimented them on providing more parking spaces, and the improvement and cross-easement. Mr. Hanna asked if this application stands on its own without the cross-easement. Mr. Hubner, said yes, that is correct. Mr. Koons asked if there were any planting planned for the islands. Mr. Hubner referred him to Sheet 3 of 6, for the landscaping improvements, which Mr. Hubner described. The islands will have larger trees, aristocrat pears, as recommended by Mr. Statile, which they will do. The rest are small bushes along the curbs and walkways. They are replacing the old bushes on the site. Some trees will be removed for the 11 additional parking stalls. Additional larger trees will be planted in the back.

Mr. Koons asked about fencing. Mr. Stewart responded they are providing fencing along the rear property line, proposing a pvc board-on-board fence. Mr. Statile suggested doing something in front of it since it is on the curb line and cars may pull up and actually damage the fence. They felt they could remove the island. The second option is to propose a concrete bumper in front of the fence. The third option is not to have the fence at all. The adjacent owner has a fence. Mr. Kaufman questioned why applicant needs a fence at all. Mr. Hubner agreed.

Mr. Koons referred to Mr. Statile's extensive report. Mr. Kaufman suggested starting with the waivers, the checklist items. The Board should make a determination of whether they agree with the waivers. Mr. Statile was concerned about taking down the trees and leaving a lot of black top area. Mr. Stewart would get information to Mr.

Statile. Mr. Kaufman advised, based on that representation, he recommended per Mr. Statile, that the Board grant all the waivers except B27 and B28. Mr. Statile asked to discuss egress. Four spaces will not work if the cross-easement is not granted. Mr. Kaufman asked Mr. Hubner when he expects to have an answer on the easements. Mr. Hubner had no control, having worked on it from January and hopes to have it in two to three months. Mr. Kaufman asked how can we go forward with the parking lot and those four spots if we don't have the easement. Mr. Koons asked Mr. Statile about backing out from #15. Mr. Statile's testimony said they only have 14', which would bring him into the other property, and it is a dangerous situation, because it would go into the neighbor's lot. Mr. Statile suggested the four spaces become angled spaces. Mr. Koons had a suggestion for the spaces, which Mr. Statile agreed to and suggested adding curb line. Mr. Statile showed Mr. Stewart how the Chairman requested him to turn the spaces to face North or South. Mr. Statile also suggested they eliminate space #1, as it would be difficult to get into and was not very safe. Mr. Kaufman suggested a barrier or knee wall.

Mr. Hubner stated they will reconfigure the parking as suggested. There is a loss of three to six spaces, but they were over anyway. Mr. Hanna questioned where they would lose spaces. #1 would be eliminated, because it was a problem. Mr. Stewart illustrated on Sheet 2 with a highlighter how they would go from eight spaces in the back by the island to five when you rotate them. Mr. Statile would work on this with him. Mr. Hubner had no objections to the remaining of Mr. Statile's comments. He was asked when he could get the plan in, possibly in two weeks, so the Board could hear it on 6/19/06.

Mr. Kaufman asked if they could dispose of the waivers on the record and asked why the Board was hearing the waivers. Mr. Statile deemed the application complete, and the waivers are granted. Mr. Koons commented he deemed it complete subject to the waivers. Mr. Kaufman indicated the applicant agreed to comply with B27 and B28. Mr. Carillo went through the list in Mr. Statile's report, and they confirmed they were good to go with everything in the report. Mr. Koons asked about drainage. Mr. Statile indicated they would check the capacity. Mr. Carillo asked if they were putting a cover over the ATM, and Mr. Stewart responded yes, they are increasing the canopy. Mr. Statile said his office's policy is not to use concrete bumpers

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because of lawsuits, etc. Mayor Paschalis spoke about the monument sign, and Mr. Hubner said it was relocated, where he believed it would remain. Mayor Paschalis expressed concern and would give him a copy of the sign ordinance, and they would work together on it.

There were no members of the public present. The matter was carried to 6/19/06.

6. Nicolini, Brook Avenue, Block 1501.02, Lot 2 - Conceptual - Tibor Latinscics appeared with attorney Arthur Chagaris, Esq. of Beattie Padovano representing the applicant. Mr. Goldman suggested as a housekeeping item the name of the street. The street name is Brook Avenue. They appeared previously in a cul-de-sac, four unit development application, with no variances. They are present to obtain the Board's input as to the form of the development and the drainage. In order to properly drain it, it will be required to construct a drain utility down to the other development where the flow would otherwise be. They would have to dig up the road for the drainage to drain around via the road rather than where it would naturally drain but could not because of the properties there. Mr. Latinscics said the main feature is the topographic drop going down to Brook Avenue. The answer to the drainage would be this, digging up Brook Avenue, and it would have to be repaved. Mr. Koons asked if the applicant would pay. The question is, would the Board or Township permit this. Mr. Koons asked if this a question for the Council, and Mr. Chagaris stated yes. Mr. Kaufman added, that is really a construction question.

Mr. Koons commented they have not even discussed putting in a new cul-de-sac, and why not elevate the property. Mr. Latinscics said there is a limit on raising the property and the number of retaining walls. Mr. Wahmann commented wouldn't that be less expensive. Mr. Latinscics said they would have to elevate the road 16-17', which is a major soil moving application. He would rather be before the Board to extend the drainage pipe 900', which would be an improvement, and a new storm sewer system. Mr. Koons also noted they would be doing the repaving.

Mr. Carillo understood they were before the Board for a conceptual review, but questioned why they were doing the work for the applicant. Mr. Latinscics asked do we design the entire project with the assumption that the Board would

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give them the right to do the storm system. Mayor Paschalis commented these types of things are strongly discouraged in the Master Plan and asked if this was their only proposal. Mr. Latinscics stated in the previous review they proposed four different scenarios. Mr. Wahmann asked how they would handle the drainage, and the response was with detention basins and off-site drainage improvements. Three lots would require a variance for a flag lot. The minute they extend to the public roadway, it gets more extensive. Mr. Kaufman and Board discussed that they should go to the Council.

Mr. Chagaris questioned who they should go to first, the Planning Board or the Council. Mr. Kaufman advised he heard the Board does not like the cul-de-sac. Mr. Chagaris thanked the Board for their time and attention.

Mr. Nicolini explained what happened when he cut down about 30 the trees so his kids could play. No one called him about this. A neighbor in the audience said it was more like 65. Mr. Wahmann commented a plan would show. Mr. Koons and Mr. Kaufman said generally on concept reviews, the Board does not open to the public, however, there was an interested party in the audience. Margeline Vandas, living right next door on Brook Avenue, stated there were at least 65 trees cut down. She has a pool and now gets sun and has a sink hole. She is very concerned about the drainage, plus the applicant never said anything about subdividing for four lots, he said two.

Other Discussions: None

Closed Session Discussion: 9:45 p.m. regarding litigation and River Vale Developers.

Payment of Invoices: None

Adjournment: On motion made, seconded and carried, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Mary R. Verducci, Paralegal
Recording Secretary