

**ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING MINUTES
March 8, 2007**

Kevin Martin opened the meeting at 8:00 p.m. by reading the Open Public Meetings Law statement; This is a Regular Meeting of the Zoning Board of Adjustment; in compliance with the Open Public Meetings Law, notification of this meeting has been sent to all officially appointed Township newspapers and notice is posted at River Vale Municipal Offices.

ROLL CALL:	Kevin Martin	Chairman	Present
	Lorraine de Stefan		Present
	Melvina Fakazis		Present
	Chuck Waldes		Absent
	David Rice		Present
	Thomas Pospisil		Present
	J.J. Clancy		Present
	Robert Adamo (Alternate 1)		Present
	Joseph Massin (Alternate 2)		Present
Also Present:	Brian Giblin, Board Attorney		Present
	Elliot Sachs, Board Engineer		Present

Robert Adamo arrived after roll call at approximately 8:10 p.m.
Melvina Fakazis arrived after roll call at approximately 8:15 p.m.

REPORT: (Budget)

J. J. Clancy reported that he attended a Mayor and Council work session meeting. At the meeting, on behalf of the Board he asked for funding for members to attend the League of Municipalities in November. He advised the Mayor and Council that the Professional Development Bergen County Bar Association charges a fee for seminars and classes. Mr. Clancy advised that the Council was reluctant to fund the League of Municipalities but that they had increased the budget from \$400 to \$800 for Professional Development.

Mr. Clancy felt that legal funding should be increased. The Council President committed to purchase three MP3 Disc Players for the Township's use in listening to recorded meetings.

Certification of members discussed.

APPLICATIONS:

06-22 Freda, 220 Rivervale Road, Block 1801, Lot 9

Violation of 142-227

Use variance – personal training facility in commercial district

Violation of 142-227

Use variance-outdoor storage of motor vehicles

Elliott Urdang, Esq. represented the applicant. Mr. Urdang described the 2 variances that are being requested. He reviewed testimony from the last meeting. Mr. Urdang advised that Lisa Phillips, Professional Planner and Mr. Freda, applicant would testify this evening.

Mr. Freda, previously sworn, advised that his trucks are essential to his landscaping business stating that his business could not function otherwise. He advised that there is parking behind the building and condominiums beyond. Mr. Freda is willing to create a buffer along the rear property line.

Mr. Giblin reviewed that there would be separate votes on each variance; for the Personal Training Center and storage and parking of trucks.

Mr. Pospisil inquired what the buffer was in the rear currently. Mr. Freda advised trees and shrubs. There are no diesel trucks. The idling time of trucks is 2 – 3 minutes according to Mr. Freda.

Kevin Martin inquired about repairs. Mr. Freda explained that he owns a garage in Cresskill and minor repairs are done there. There would be no gas tank storage and no noise. His business begins at 8:00 a.m. and the trucks are back by 6:00 p.m. at the latest. The business is closed on Sundays.

Mr. Massin inquired if the trucks were used for snow plowing. Mr. Freda advised that he has a truck with a plow but does not do commercial work. He uses small snow throwers as well.

Kevin Martin opened the meeting to the public and so carried.

No public comment.

The meeting was closed to the public.

Lisa Phillips, Planner, was sworn in by Brian Giblin, Board Attorney. Ms. Phillips presented her qualifications which were accepted by the Board. Ms. Phillips testified that she is familiar with the site and that she reviewed the Township ordinance. Ms. Phillips described the lot which is located in the “C” commercial zone. The lot is flat, approximately 20,000 square feet, and fully developed. She described the rear buffer and current use. Ms. Phillips stated that the applicant owns the property for 3 years and operates a landscaping business. The personal fitness facility is a new use, low intensity, by appointment only. One receptionist, 6 parking spaces designated. Hours of operation are 8:00 a.m. to 7:00 p.m. The parking and storage of commercial vehicles has been in operation for 3 years and has caused no detriment.

Mr. Urdang asked Ms. Phillips about the surrounding area. Ms. Phillips provided 2 sheets of

photographs containing 4 photographs each. The photographs were marked as Exhibit A-1. Ms. Phillips proceeded to describe the photographs. Regarding the rear of the fitness center, she stated that all criteria is met. The use is no prohibited and in a commercial area. It would help with other retail uses, is consistent with prior use and less intense. Merging Commercial Desires was explained by Lisa Phillips. Mr. Urdang inquired of Ms. Phillips if there were any impairment of intent and purpose of the zoning ordinance and if the application would create a detriment. Ms. Phillips responded “no” in both cases.

Lisa Phillips advised that there is no intensity of truck traffic causing an adverse effect. Over the past 3 years, there have been no traffic, no violations, no complaints and no noise. Mr. Freda owns the building. She reported no idol equipment, no detriment to public good and low intensity.

J.J. Clancy commented on code 142-227D as it related to Ms. Phillips comments on intent to permit trucks. Ms. Phillips stated the reasons for needing a variance as it relates to the code.

Mr. Clancy asked Lisa Phillips for her professional opinion regarding zoning by variance. Ms. Phillips responded that this is not zoning by variance, it’s a commercial zone and a commercial use.

Mr. Massin inquired about the facility asking if it were fully subscribed now and how many members there are. Mr. Freda explained that there are no members. He advised how the facility as a personal training facility operates. No additional parking is needed. If there were intent to expand, Mr. Freda advised that expansion would be by “in house” training.

Mr. Pospisil asked if Mr. Freda intended to expand the landscaping business to include additional trucks. Mr. Freda advised that he has 5 trucks now and has no intention of having additional trucks. In the winter, there is limited use of trucks and they are rotated.

Kevin Martin opened the meeting to the public and so carried.

No public comment

The meeting was closed to the public.

Mr. Urdang summarized and respectfully asked that both variances be granted. No approval for site plan is being asked for. The application is a bifurcated application.

Mr. Giblin advised that an old site plan proposed for 3 additional spaces in the corner of the property which can be considered at a later date, if necessary.

A motion by J.J. Clancy, seconded by Lorraine de Stefan to grant a variance for a personal training center, conditioned that operation is 6 days a week, from 7:00 a.m. to 8:00 p.m. and 6 dedicated parking spaces be assigned; on roll call vote, all in favor, the motion carried. Melvina Fakazis was not eligible.

A motion by Robert Adamo, seconded by Lorraine de Stefan to grant a variance for storage and parking of trucks conditioned that the applicant agrees to place a rear buffer, trucks would no idol for more than 3 minutes; no repairs are done on premises; maximum number of trucks is 5; on roll call vote, Lorraine de Stefan, David Rice, Thomas Pospisil, Robert Adamo, Joseph Massin and Kevin Martin voted yes; J.J. Clancy voted no; Melvina Fakazis was not eligible, the motion carried.

06-18 Rehill, 73 Rivervale Road, Block 2301, Lot 12

Violation of 142-223

Use variance-Senior Citizen apartments in A residential zone

Michael Rehill, Esq. provided opening statements and described his continued application. Christopher Lantelme, Professional Engineer and Land Surveyor was sworn in by Brian Giblin, Board Attorney. Mr. Lantelme presented his qualifications which were accepted by the Board. Mr. Lantelme testified that he developed the proposed plan marked as Exhibit A-3. A display model showing a *color* rendering of the plan was marked as Exhibit A-4. Mr. Lantelme described the parcel as a 1 ¼ acre lot which is slopped and currently has a 2 story dwelling on it.

Two – 2 story buildings each with 16 units are proposed with 32 parking spaces. Landscaped islands are included in the plans. The key map shows zoning of the adjacent properties. The east side is residential, the west side has apartments. The closest building is approximately 120 feet on the east side. The Golf Course club house is 48 feet from the property line. A drainage ditch exists on the east side.

All setbacks were reviewed and in compliance as is impervious coverage per Mr. Lantelme. All revisions were described. Handicapped parking spaces were added, made wider and located between the 2 buildings. The proposed location for the dumpster was added to the plans.

Chairman Martin commented on the 50 ft. front yard which the County would ask to be widen by 30 feet. There is about 10 feet distance from the proposed right of way line to the existing right of way. Mr. Martin advised that some trees exist about 10 feet to the proposed right of way and inquired if a buffer was proposed. Mr. Lantelme responded “no.” Mr. Rehill stated that the property line goes to the center line of the road.

Mr. Adamo asked if patio and sidewalks are included in the impervious area. Mr. Lantelme responded “yes.” Mr. Adamo asked if there were any on-site detention and retention. Mr. Lantelme reported seepage pits and an underground structure. Mr. Adamo commented on the proposed Community Center placement. Mr. Rehill stated that it would allow access from both sides and is designed to look like a house. Centrally located is important. Density discussed.

Kevin Martin asked for definition of affordable housing. Mr. Rehill replied low or medium income. Very low income would be a family of less than \$25,000, low income would be \$40,000. Mr. Martin spoke of cost effectiveness. The potential rental was provided by Mr. Rehill who advised that rents are determined by COAH and are rent controlled by COAH. Mr. Rehill advised that he owns the land or it would be almost impossible to build without owning the land.

Thomas Pospisil asked if the affordable senior rental housing unit requirement is 62 years. Mr. Rehill stated that it is.

Mr. Giblin advised that Peter Steck, Planner was appointed by the Board for this application.

Mr. Pospisil asked what control COAH had and if the units could be non-COAH units. Mr. Rehill advised that there is deed control for 30 years and COAH restrictions need to be met.

Mr. Adamo stated that if a use variance is granted, there is no ordinance to follow. Mr. Giblin advised the variance is based on specific facts of this case for this phase of the application. Mr. Rehill advised that the proposal complies with everything except impervious coverage.

Kevin Martin opened the meeting to the public and so carried.

John Donovan, 63 Rivervale Road, commented on zoning by variance and asked Mr. Rehill if any other towns were approved by variance on his chart. Mr. Rehill responded that the towns amended the zoning code to provide for use. Mr. Donovan asked how the drawings pertain to use variance being requested. Mr. Rehill advised that they are conceptual plans. Mr. Donovan asked how close to the proposed plans do the projects get. Mr. Rehill responded very close to plan. Mr. Donovan asked about a Montvale plan which was described by Mr. Rehill adding that Montvale is doing everything possible to develop their senior housing.

Mr. Donovan stated that 5 foot is proposed between the parking lot and his property (lot 19). He asked what can be placed to not negatively affect his property. Mr. Rehill responded a taller hedge but the plans would not negatively affect his property at all. Regarding the rear buffer, Mr. Rehill reported that it is natural wooded and would remain that way. Mr. Donovan commented on possibly less units. Mr. Rehill felt that any smaller buildings would not work.

Ed Fellerman, 51 Cooper Lane, made a statement that he helped build 4 corners and this project is not feasible. He is against the proposal. He was advised that statements needed to be made at the end all testimony.

The meeting was closed to the public.

Mr. Rehill asked for a special meeting in April for planner testimony. Mr. Giblin advised that the application would be continued to the regular meeting of April 19 at which time there would not be any testimony on the application, but a continued date would be advised.

ADJOURNMENT:

Upon motion of Joseph Massin, seconded by David Rice , on voice vote, all in favor, none opposed, the meeting was adjourned at 10:50 p.m.

Respectfully submitted,

Sylvia Kokowski - Recording Secretary

THE NEXT MEETING IS SCHEDULED FOR March 15, 2007

Name	Moved	Second	Ayes	Nays	Absent	Abstain
Lorraine de Stefan						
Melvina Fakazis						
Chuck Waldes						
David Rice						
Joseph Massin Alt 2						
J.J. Clancy						
Kevin Martin						
Thomas Pospisil						
Robert Adamo Alt 1						