

**VERNON TOWNSHIP LAND USE BOARD
REGULAR MEETING MINUTES
April 8, 2009**

Note: Mr. Jack Smith was sworn in by the Board Attorney before this meeting as an Alternate Member #3 of the Land Use Board.

CALL THE MEETING TO ORDER

Mr. Theobald called the meeting to order at 7:10 p.m.

STATEMENT OF COMPLIANCE:

Pursuant to the Open Public Meetings Act, Chapter 231, P.L. 1975 adequate notice as defined in Section 4D of Chapter 231, P.L. 1975 has been transmitted from the Vernon Municipal Center to the New Jersey Herald, Star Ledger and Advertiser News on January 23, 2009. Notice is posted on the bulletin board and filed with the office of the Township Clerk.

PLEDGE OF ALLEGIANCE

ROLL CALL

Andrew Borisuk	P
Mayor Carew -	P
Mark Nelson -	NP (unexcused)
Richard Spoerl -	P
Martin Theobald -	P
Sam Lewin, Alt. #1 -	NP (excused)
Chris Hack, Alt. #2 -	P
David Gornstein -	NP (excused)
Vincent Zinno -	P
Gary Grey -	P
Andrea Cocula -	P
Jack Smith, Alt #3	P

ALSO PRESENT

Patrick McNamara, Esq., LUB Attorney
Louis Kneip, P.E. Township Engineer
Cynthia Davis, Recording Secretary
Jessica Caldwell, Planner

Mr. Kneip stated that Mr. Lewin and Mr. Gornstein alerted him that they would not be present at tonight's meeting.

APPLICATIONS

Glenn McLaughlin

ZB # 11-08-16

Block 83.10, Lot 13

Rear Yard Setback Variance (Continued)

(Mayor Carew, Councilman Grey and Ms. Cocula are recused from hearing this matter. The Board attorney advised that Mr. Smith could participate but would not be able to vote on this application as he was not present at the last hearing.)

Mr. McLaughlin came forward and was sworn in. Mr. McLaughlin stated that this (the deck placement) was not done intentionally and once he found that a mistake was made, he made several attempts to buy the adjacent property. He stated that all of his neighbors supported his deck project. He advised that he would like relief until he is able to buy the adjacent property.

Mr. Borisuk stated that he is upset about this mistake since he was able to find the pin during the site visit and feels that Mr. McLaughlin's builder should have known the location of the boundary.

Mr. McLaughlin feels that relief has been granted to many people faced with the same situation as his.

OPENED MEETING TO THE PUBLIC

Ms. Jessi Paladini came forward and was sworn in by the Board attorney.

Ms. Paladini stated, "This is clearly a situation, in my opinion, of a public official abusing his authority to get favoritism and then ignoring the zoning violation for two years....until a newspaper article was published that exposed those violations."

Ms. Paladini went on to say that the zoning regulations and rules pertaining to variance applications have been violated by Mr. McLaughlin. Specifically, what was violated was the required notification to 200' property owners. Ms. Paladini presented a copy of a letter to Mrs. Colan, the adjacent property owner, postmarked March 14, 2009, indicating that the Land Use Board hearing for this application was scheduled to be held on March 26, 2009, when the hearing was scheduled for March 25, 2009. Mr. McNamara stopped all testimony. Mr. McNamara reviewed the newspaper notice which contained the correct meeting date of March 25, 2009. He then reviewed the copy of the letter that was sent to Mrs. Colan which incorrectly stated the meeting date as March 26, 2009. Mr. McLaughlin confirmed that the letter presented by Ms. Paladini was the letter he had sent to Ms. Colan. Mr. McNamara advised that since the meeting notice to the neighboring property owner was defective, this hearing would have to end pursuant to State law and the applicant would have to re-notice a new hearing.

Ms. Colan (Linden, NJ) came forward and was sworn in. Ms. Colan advised that she was not aware that Mr. McLaughlin was building a pool or a deck until she received the hearing notice postmarked March 14, 2009. She advised that her property is for sale and Mr. McLaughlin did contact her about buying the property. However, she will not "give away" the property.

Mr. McNamara advised Mr. McLaughlin that the Board directs him to re-notice this application according to statute, get an updated 200' list and serve new notice on the neighbors and the newspaper with the new date of hearing date of May 27, 2009, at 7:00 p.m. Mr. McNamara apologized for any inconvenience to Ms. Colan.

Eric Gabriele

LU # 3-09-4

Block 159.01, Lot 52

C-Variance for Deck

(Mayor Carew and Councilman Grey were recused from this application.)

Mr. and Mrs. Gabriele came forward. Mr. McNamara explained to the applicants that when there is a C-variance with no site plan or subdivision relief needed, the Mayor and Councilman need to step off by operation of law.

Mr. and Mrs. Gabriele were sworn in by the board attorney. Mr. Gabriele explained that they had a house built in Highland Lakes and were asked by their builder what type of door they would like leading to a future deck (sliding door or French door) which has not been built yet. At this time they have a sliding door going to nowhere and they are ready to build the deck. Mr. Kneip advised that the proposed deck (15 x 24) is set 10.6' off their rear property line where there currently exists only woods. The rear yard setback should be 25 feet. Mr. Kneip discussed a few alternatives such as putting the deck on the south or north side of the house and/or a walkway or elevated deck over to a deck. These alternatives are not reasonable to the applicant as the deck would either be off their master bedroom or their garage and a connecting walkway to a deck would be 30 feet long. The photos of the rear profile of house were marked as exhibits 1-4. It was suggested by Mr. Zinno that the applicant put a staircase on the plans now instead of having to come back to the board.

OPENED MEETING TO THE PUBLIC

No one came forward.

CLOSED MEETING TO THE PUBLIC

Mr. Borisuk made a motion to accept the current application with a staircase on either side of the deck, no closer to the property line than the proposed deck, as drawn on the plans. Mr. Hack seconded the motion. ROLL CALL: BORISUK - Y, SPOERL - N, ZINNO - Y, HACK - Y, COCULA - N, SMITH - Y, THEOBALD - Y. (Vote was 5-2, the motion to approve is adopted).

Mr. McNamara advised the applicant to not apply for a building permit until 45 days after the Resolution is complete as that is the statute of limitations for someone to challenge the resolution.

Linda and Donald Weiss

LU # 3-09-5

Block 61, Lot 28

C-Variance for a lot without frontage on a roadway in NJ

Mayor Carew and Councilman Gary Grey were recused from this application)

On behalf of the applicants, George Sweeney, Esq., came forward. Mr. Sweeney explained that Mr. and Mrs. Weiss are the owners of Sweetwater Farm which is located in Warwick, NY, along with 70.56 acres located in Vernon, NJ. The applicants have already conveyed the NY portion of the farm into farmland preservation in NYS. They are in the final stages of putting the NJ portion into farmland preservation in NJ. A one-acre lot is being carved out of the 70.56 acres for a future homesite. There is no direct access to this proposed lot except by a 50 foot right-of-way that begins in NYS and crosses the line up to this property. The applicants are here tonight to apply for a variance to build on a nonpublic street under 55(d)-35.

Mr. and Mrs. Weiss were sworn in. Mr. Weiss explained that the State of NJ requires, for farmland preservation, to designate a piece of the property for a "homestead." The only location on the property available to meet the homestead requirement is on a right-of-way and not on an improved road. The portion of the right-of-way road in NYS has been approved as evidenced by a letter dated September 25, 2008, from Larry Larson, U.S. Department of Agriculture, presented and marked as Exhibit 1. The applicant is not seeking to subdivide the property. They are seeking to meet the homestead requirement for the State of N.J.. Mr. Kneip stated that he confirmed this requirement with Vernon's tax assessor.

MEETING OPENED TO THE PUBLIC

No one came forward.

MEETING CLOSED TO THE PUBLIC

Mr. Spoerl made a motion to approve the Weiss' application. Ms. Cocula seconded the motion. ROLL CALL: BORISUK - Y, SPOERL - Y, ZINNO - Y, THEOBALD - Y, HACK - Y, COCULA - Y, SMITH - Y.

Vernon Center, LLC

PB # 5-07-7

Block 142, Lot 1

Amended Preliminary Major Site Plan (Completeness Hearing & Public Hearing)

Richard Brigliodoro, Esq., Weiner, Lesniak, came forward on behalf of the applicant. Mr. Brigliodoro explained that this application had previously been heard, and preliminary site plan approval given, by the Planning Board in January 2008. He said they were here tonight to seek amended preliminary site plan approval and some waivers.

Mr. Bach, Charles Schaffer & Associates, Newton, NJ, and Mr. Joe Golden, Golden & Moran Engineering, Newton, NJ, Jessica Caldwell, Township Planning Consultant and

Louis Kneip, Township Engineer, were sworn in by the board attorney.

Witness: Mr. Golden, Engineer

Mr. Golden came forward to present changes in the layout, the modifications to the size of the buildings, and the circulation flow. He explained they were not asking for final approval tonight. He showed both the prior approved plan of the site and the amended plan of the site. Some of the changes with the current configuration are: 1) a scaled-down version of the development moved to a higher elevation due to the high water table; 2) four smaller buildings instead of two buildings; 3) the daycare facility will no longer have a restaurant facility on the first floor and; 4) the road configuration was changed to cut through the buildings instead of going around the edge of the property with added speed tables for traffic calming.

The board attorney asked the applicant if he would agree to give the local police Title 39 enforcement.

The applicant Mr. Licata (Jupiter, FL) was sworn in by the board attorney. Mr. Brigliodoro asked Mr. Licata if he understood that Mr. McNamara had asked him if he was willing to grant the local police Title 39 enforcement which would give them the right to enforce traffic laws on this site. Mr. Licata agreed that he didn't have any problem with the traffic calming devices or granting Title 39 enforcement.

Mr. Kneip advised the applicant that speed tables should not be used on horizontal curves on a roadway. He asked the applicant to research the DOT regulations on this issue. Mr. Kneip pointed out that one of his concerns is the sharp turn at the top of the property, which Mr. Golden advised the proposed radius currently is approximately 75 feet. Mr. Kneip cautioned the engineer to revise the radius. Mr. Kneip explained to the board members that the ordinance states a minimum of 100 foot roadway radius and the applicant would need a design waiver, of which he would not support. Mr. Golden advised that the road on the premises is not to be a Township road or a cut-through. The speed is proposed to be listed at 15 mph. Mr. McNamara suggested that a speed table installed offsite before the turn at the top entrance would solve this problem.

Mr. Golden advised that the impervious coverage has been dropped from 70% to 55%. He said that the amount of traffic will be reduced by going from 31,000 sq. feet to a net-rentable of 23,000 sq. feet. The walls have been lowered and there is now room to accommodate sidewalks.

Ms. Caldwell suggested that there be a pedestrian connection added between the McDermott property and this project.

Two submission waivers were requested (both of which were completed with the prior application): 1) traffic impact statement and; 2) environmentally sensitive area calculations. Mr. Kneip and Mr. McNamara had no objection to granting these waivers.

Mr. Spoerl made a motion to grant the two waivers. Ms. Cocula seconded the motion.
ROLL CALL: BORISUK - Y, CAREW - Y, SPOERL - Y, GREY - Y, ZINNO - Y,
THEOBALD - Y, HACK - Y, COCULA - Y, SMITH - Y.

ENGINEER'S REVIEW LETTER (Dated April 2, 2009)

#7 - (Overhang for Building #2) Mr. Golden advised that he does not feel there is an issue with tractor trailers hitting the overhang (12 feet high). He doesn't feel there will be truck traffic and because the overhang's location is set 3 feet behind the curb.

#10 - (Water pressure) Mr. Golden advised that the pressure of the water will be satisfied by the pump. The applicant will need to get adequate yield and will do what is necessary. Mr. Golden advised that the size of the buildings are such that they will not have to contain sprinklers.

#12 - (Slope of access road from building #3 to #4) Mr. Golden advised that the applicant agreed to change the slope of the access road from building #3 towards building #4.

#18 - (Sewage estimate) Mr. Golden advised that they anticipate a total estimated volume of sewage for the 4 buildings at 5,000 gallons per day which is about the same as the previous application.

#27 - (Loading space) Mr. Golden stated the applicant anticipates loading will be by box truck, loading off-hours for the most part. Mr. Licata stated that commercial retail space has been lessened from the prior application and doesn't anticipate tractor trailer deliveries. He would like to market more office space in the building and is not pushing for retail. However, he does not want to be locked into only office space. Mr. McNamara advised the applicant that when he comes back for a final approval, if there are 3 buildings which are 100% office space, he will need to amend the variance relief for the amount of parking.

#28 - (Shared parking) The applicant has not had recent discussion about shared parking with the new owner of the McDermott property. However, he has no objection discussing this idea with the new owner.

#25 - (Retaining wall block) Mr. Golden advised that the retaining walls will be the strong stone walls consistent with what the County used. The applicant will bring in a sample at the final hearing.

#29 - (Design Review Committee) Mr. McNamara agreed that this applicant would not be required to go before the Design Review Committee.

Ms. Caldwell read in the ordinance (# 08-02, page 22, #5), where it states that the applicant will only be allowed to have office space on the second floor of the buildings.

The applicant cannot request variance relief as the location is in a redevelopment area and a D-variance cannot be requested unless the redevelopment ordinance is amended.

Mr. Golden discussed Ms. Caldwell's review.

Witness: Mr. Bach, Architect

Mr. Bach came forward and presented an artist's rendering of one view of the plan, and the elevation plan. It was suggested that a secondary entrance to building #3 be installed on the street side to promote pedestrian traffic from the sidewalk.

Mr. Zinno stated that he still has a concern with building #3 and the fact that there may be delivery issues with the main entrance being on the parking lot side with deliveries being accomplished on the street side. Also, he stated that the building with the canopy overhang seems limited for deliveries.

Applicant is making a variance request for ground floor ceiling height which is required to be 12' and they are proposing 9-10' ceiling heights.

OPENED MEETING TO THE PUBLIC

No one came forward.

CLOSED MEETING TO THE PUBLIC

Mr. Borisuk made a motion to grant preliminary site plan approval with variances for the parking space size to 9 x 18 and design waiver on ceiling height. Ms. Cocula seconded the motion. ROLL CALL: BORISUK - Y, CAREW - Y, SPOERL - Y, GREY - Y, ZINNO - N, HACK - N, COCULA - Y, SMITH - Y, THEOBALD - Y.

MINUTES

March 25, 2009

Mr. Zinno made a motion to approve the minutes from the March 25, 2009, Land Use Board meeting. Mr. Borisuk seconded the motion. ROLL CALL: BORISUK - Y, COCULA - Y, HACK - Y, SPOERL - Y, THEOBALD - Y, ZINNO - Y, CAREW - Y.

RESOLUTIONS

Resolution approving Weichert Realty extension of time

PB # 12-04-16

Block 145, Lot 5

Mr. Spoerl made a motion to approve the resolution. Mr. Zinno seconded the motion. All were in favor. ROLL CALL: SPOERL - Y, COCULA - Y, ZINNO - Y, HACK - Y, GREY - Y, CAREW - Y, THEOBALD - Y.

LAND USE BOARD DISCUSSION ITEMS

Attendance was discussed. Mr. McNamara advised that there is a statute governing attendance. There has to be a four (4) consecutive unexcused absences to remove a member from the Board. He suggested that the Board set a policy.

OPENED MEETING TO THE PUBLIC FOR ITEMS OTHER THAN THOSE LISTED ON AGENDA

No one came forward.

CLOSED MEETING TO THE PUBLIC.

ESCROWS AND VOUCHERS

Board Engineer - Louis M. Kneip, P.O., P.E., CME

Vernon Center, LLC - PB # 5-07-7- DOS 3/10/09-3/31/09 (\$527.25)

Metairie Corp. - LU # 2-09-3 - DOS 3/02/02-3/11/09 (\$1,304.25)

Colonial Developers - PB # 8-02-12 - DOS 03/17/09, 03/18/09 (\$333.00)

Verizon - LU # 1-09-1 - DOS 3/11/09 (\$55.50)

Linda & Donald Weiss - LU # 3-09-5 - DOS 02/17/09 (\$111.00)

Board Attorney - Patrick McNamara, Esq. - Scarinci & Hollenbeck

**NEED

Board Fees - Total \$118.80

Cynthia Davis - Recording Secretary DOS - April 2009 (\$54.00)

Township Planner - Jessica Caldwell, AICP - Harold E. Pellow & Associates

a. Legends Resort - LU # 09-21-231.01 - DOS 2/26/09 (\$233.75)

Mayor Carew made a motion to approve the above vouchers. Mr. Zinno seconded the motion. All were in favor.

Bond Reductions

None.

Status of Pending Applications

Mr. Kneip briefly listed the pending applications.

ADJOURNMENT

Mr. Borisuk made a motion and Mr. Spoerl seconded the motion to adjourn the meeting at 10:17 p.m. All were in favor.
