

**VERNON TOWNSHIP LAND USE BOARD  
REGULAR MEETING MINUTES  
August 26, 2009**

**CALL THE MEETING TO ORDER**

Mr. Theobald called the meeting to order at 7:11 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 (8:05)	P
Mayor Carew	NP
Richard Spoerl	NP
Martin Theobald	P
Sam Lewin, Alt. #1	P
Chris Hack, Alt. #2	P
David Gornstein	P
Vincent Zinno	P
Gary Grey	P
Andrea Cocula	NP
Jack Smith, Alt #3	P
Gino Misciagna, Alt #4	P

**ALSO PRESENT**

Patrick McNamara, Esq., Bd. Attorney
Louis Kneip, P.E., Bd. Engineer

**PUBLIC HEARINGS**

**Sally Rinker**

**ZB#10-06-17**

**Block 122, Lot 1**

**Final Major Subdivision**

Roger W. Thomas, Esq., Ms. Sally Rinker and Mr. Robert Jordan, Surveyor, came forward.

Mr. Thomas reviewed the application. He advised that this is a final subdivision application that was the subject of a prior preliminary approval which was granted by the Zoning Board of Adjustment on April 4, 2007, as a minor subdivision with a D-variance to authorize the establishment of 16 lots. The applicant is here tonight before the Board for a final site subdivision approval. (Mr. McNamara commented that Mr. Grey, as a Council member, would not normally hear D-variance applications and clarified with Mr. Thomas that he had no objections to Mr. Grey remaining as this is not a D-variance application at this time.)

Mr. McNamara confirmed that a resolution was adopted in May 2007 for preliminary approval which would expire after three years.

Mr. Thomas stated that all the technical issues concerning the map have been resolved; the applicant was granted County approval for a preliminary subdivision in 2007; the final subdivision application was filed with the County. The only issues remaining are listed in Mr. Thomas's letter to Mr. Kneip, dated August 17, 2009, as #s 5, 12, 13, & 14.

**Condition #5 - metes and bounds descriptions**

Mr. Thomas said that the Town's prior policy was when you filed the final subdivision deeds, all the metes and bounds descriptions are there on those deeds and are perfected by way of the deed. Mr. McNamara confirmed that the applicant will be filing a map.

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#### **Condition #13 - Detention Basins**

Mr. Thomas advised the Land Use Board that the Zoning Board of Adjustment asked the applicant to go before the Town Council regarding who would own and maintain the detention basin. He further commented that the applicant complied with this request by going before the Town Council on several occasions with no decision being made, yes or no. Mr. Thomas advised that the applicant is now going to rely upon the Township ordinance that states if you have a facility and drainage system in/on a public right of way; it is the Township's responsibility to maintain. It is the applicant's opinion that all detention facilities receiving flows from Township roads will be the responsibility of the Township under the current Ordinance, Section 330-131, (F)7, wherein it states the following:

...If the drains, basins or other features of the storm water system in a residential development are part of a public drain system, both the Township or appropriate Public entity is responsible for the maintenance and upkeep.

Mr. McNamara pointed out that the Ordinance also says:

If part or all of the residential storm water system is privately owned, then the privately owned portion of the system has to be privately maintained unless the municipality or other appropriate public agency agrees to assume responsibility for the facilities.

Mr. McNamara advised that Board that it is his understanding that this is an open issue in that there is now a review committee to address the overall issue of setting a policy about ownership of detention basins. In his experience of the past 2.5 years, he stated it has not been the policy of this Board to approve applications without the Developer taking responsibility for detention basins, IE. Ed Talmo and Woodmont Homes. He stated he has no objection to there being a "to be resolved" category for this issue to be later resolved by the governing body so that the applicant can proceed. The applicant has been dealing with this issue for over two years.

In further testimony about the detention basin issue, Mr. Thomas stated that the Township has accepted these kinds of facilities in the past and the road, Shannon Lane, will be a dedicated public Township Road where storm drains will flow into detention basins which the Township will have to maintain. NJAC (New Jersey Administrative Code) requires the Town to have a permit (NJDEP permit obtained whenever there is storm water runoff) under Section 7:14(a) and to report the status of the drainage which will be the Township's responsibility. Mr. McNamara disagreed with Mr. Thomas's interpretation of Section 7(a) in given the location of the project having a County Road, Lake Wallkill Rd., in front of the property. He understands that the drainage infrastructure in the detention basin is interconnected in part, for the overflow, into the infrastructure of Lake Wallkill Rd. Mr. Thomas commented that he believes that the drainage, until it gets to Lake Wallkill Rd., is a municipal function because Shannon Lane will be a Town Road. However, in cases such as this, many times a public road's storm water detention basin is the responsibility of the homeowner's association.

Mr. Smith asked why the detention basin can't be the responsibility of the homeowners. Mr. Thomas explained that there are 3 reasons: 1) There is no need for that responsibility; 2) the Township's ordinances say it is the Township's responsibility, and; 3) the DEP's policy is that with small subdivisions of 5,10-15 lots, it doesn't work to have the homeowners maintain the detention basins.

Mr. Kneip advised that since this is such a complex issue, a work-session with the Town Council has been suggested and/or a joint discussion between the Land Use Board and Town Council. Mr. Thomas asked the Board to abide by the Ordinance and then the

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applicant will go before the Town Council for purposes of acceptance.

#### **Condition #14**

Mr. McNamara discussed the condition that there would be an Open Space area/conservation easement. When the applicant met with Gary Gardner in 2007, he seemed to be interested in the Open Space area. More recently the applicant wrote a letter to Mayor Carew in 2008 offering the Open Space to the Town and he was also interested. However, no one seems to want the Open Space at this time. The applicant proposes that that property become part of Block 122, Lot 1, which is currently owned by the Coch Family and they retain ownership of this land. Mr. McNamara has no objection to dropping this condition and letting the land remain with Block 122, Lot 1, due to the constraints of the land.

#### **Condition #12**

Ms. Rinker advised that instead of being required to have a 15,000 gallon storage tank, the current fire official, Mr. VanGorder, is requiring Lake Wallkill to make a dedicated fire lane at the access point by the lake with a standpipe which Ms. Rinker would provide in lieu of the storage tank. Mr. Lewin suggested getting the approval of Lake Wallkill homeowners before agreeing to accept this condition. Mr. Thomas suggested that the fire safety issue be subject to the review and approval of Mr. VanGorder. Mr. McNamara recommended, and the applicant agreed, that an agreement be reached with all parties, (Lake Wallkill, the Fire Official, etc) for the alternative (standpipe), in lieu of the tank, then the Board will have no objection.

Mr. Kneip advised that the tax official had a suggestion to change the name of the road from "Lane" to "Road" or "Street," due to the word "lane" denoting a private road. However, Ms. Rinker commented that she had spoken with the tax official and since all maps have been completed and documents have been filed, the official said she would be flexible.

#### **Mr. Kneip Review Letter**

Mr. Kneip reviewed his letter dated August 18, 2009, and advised that from an engineering standpoint everything is ready to go.

#### **OPENED MEETING TO THE PUBLIC**

Mr. Zaretsky of 15 Church Street, Vernon, came forward and commented that he has been involved in 2 detention ponds (The Summit and Settlers Notch) and knows of a third one (Old Orchard) where the Town has taken responsibility for each of these ponds. He doesn't think that any of these ponds have had the need to be maintained to date. As such, no major cost to the town has occurred.

#### **CLOSED MEETING TO THE PUBLIC**

##### **Motion**

Mr. Zinno made a motion to approve of the Final Major Subdivision with the following conditions: 1) (Condition # 12) regarding the water issue, there will be an agreement between the Fire Official/Town and the Lake Wallkill Homeowners that either a standpipe is installed or a tank is installed before a Certificate of Occupancy is issued; 2) (Condition #14) the condition for Open Space be repealed with the prior proposed Open Space remaining with the existing owner with the proviso of no further subdivision; 3) (Condition #5) easements will be handled by filing maps, and; 4) (Condition #13) The Township take responsibility of the detention basin. Mr. Gornstein seconded the motion. ROLL CALL: GREY - N, ZINNO - Y, GORNSTEIN - Y, LEWIN - N, HACK - Y, SMITH - Y, MISCIAGNA - Y, THEOBALD - Y (Vote was 6-2).

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**Bruce Zaretsky**

**PB#5-07-8**

**Block 141.04, Lot 6**

**Request for landscaping relief on site plan at 14 Church St.**

**(Mr. Smith recused himself from hearing this application as he is an adjacent property owner.)**

Mr. Zaretsky came before the Board tonight to request a waiver for the landscaping plan and proposes accepting the landscaping, as constructed, at the building located at 14 Church Street which has been completed and is currently occupied. The plan called

for approximately 50 arborvitae be planted along the northern and eastern sides of the property. A total of 129 plantings were called for on the plan. Mr. Zaretsky wound up planting 200 plantings where he felt they would be most aesthetically pleasing.

Subsequently, he left out the arborvitae for 2 reasons: 1) The local deer population would destroy them, and; 2) there was a need for space to load snow during the winter months. Mr. Kneip advised that he reviewed the project and commented that since the adjacent properties are also commercial and not residential, he would agree that a dense landscaping is not necessary and does not have any objection to his request.

**OPENED MEETING TO THE PUBLIC**

Mr. Smith came forward and as an adjacent property owner and did not have any objection to the waiver being granted.

**CLOSED MEETING TO THE PUBLIC**

**Motion**

**Mr. Gornstein made a motion to grant the landscaping waiver to the applicant.**

**Mr. Zinno seconded the motion. ROLL CALL: BORISUK - Y, GREY - Y, ZINNO - Y, GORNSTEIN - Y, LEWIN - Y, HACK - Y, MISCIAGNA - Y, THEOBALD - Y.**

**Agnes B. Regan Trust**

**LU#5-09-8**

**Block 172, Lot 15**

**Minor Subdivision**

Mr. Opfer, Esq., Mr. Robert Jordan, Surveyor, Ms. Margaret Lee and Mr. Glenn Regan came forward.

Mr. Opfer explained that this is an application for the following relief. There is an existing parcel known as 1502 and they are proposing a lot line adjustment to enlarge that piece to include the driveway and the shed that presently encroach onto proposed Lot 15. The other portion of the application is to subdivide the remainder to create 2 lots, one where the existing dwelling is and one where there is a proposed a dwelling to be accessed by way of Beaver Brook Drive.

Mr. Kneip advised that this is a conforming lot with no real technical issues, the DEP has issued the permits for the driveway crossing and the applicant has an LOI. He recommended that Mr. Jordan stake out the limits for the approved disturbance from the DEP, in the field, so that the contractors don't go outside of the approved area.

**OPENED MEETING TO THE PUBLIC**

No one came forward.

**CLOSED MEETING TO THE PUBLIC**

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#### **Motion**

**Mr. Gornstein made a motion to approve this application. Mr. Grey seconded the motion. ROLL CALL: BORISUK - Y, GREY - Y, ZINNO - Y, GORNSTEIN - Y, LEWIN - Y, HACK - Y, SMITH - Y, MISCIAGNA - Y, THEOBALD. (Vote was 9-0)**

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

No one came forward.

#### **CLOSED MEETING TO THE PUBLIC**

#### **MINUTES**

**August 12, 2009**

Mr. Hack made a motion to approve the minutes. Mr. Zinno seconded the motion. ROLL CALL: GREY - Y, ZINNO - Y, GORNSTEIN - Y, HACK - Y, ZINNO - Y, MISCIAGNA - Y.

#### **RESOLUTIONS**

The resolutions for Noto and Mitelin Motors will be tabled to the next meeting as the Board has not had enough time to review them.

#### **LAND USE BOARD DISCUSSION ITEMS**

##### **Master Plan**

Mr. Kneip suggested laying out a schedule to devote one meeting each month to the Master Plan update starting with the second meeting in September. There is only one meeting scheduled in both November and December. He said that Ms. Caldwell will suggest that a second meeting be scheduled, for this purpose, in both of those months.

Mr. Lewin suggested that the Board members get the pieces of the update that will be discussed, well before the meeting so there is plenty of time to review them. (Mr. McNamara advised the Board members to copy any emails to Mr. Hanlon as they are subject to the Open Public Records Act and to be careful not to make any decisions by email.)

##### **ordinance review**

Ordinance #09-14 - Board of Education Historic Building Designation, Block 144.01, Lot 7

##### **motion**

**Mr. Gornstein made a motion to recommend the Ordinance go back to the governing body for a second reading and final adoption. Mr. Hack seconded the motion. ROLL CALL: BORISUK - Y, GREY - Y, ZINNO - Y, GORNSTEIN - Y, LEWIN - Y, HACK - Y, SMITH - Y, MISCIAGNA - Y, THEOBALD - Y.**

#### **CLOSED SESSION**

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**Escrows, board fees and bond reductions**

**Escrows**

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

Verizon – LU# 1-09-1 – DOS – 7/22/09 – (\$388.50)

NS Enterprises – LU# 1-09-2 – DOS – 7/08/09 – (\$111.00)

Board Attorney – Patrick McNamara, Scarinci & Hollenbeck

The Cedars at Black Creek Reserve – PB# 5-07-5 – Services through 7/31/09 - (\$300.00)

Metairie Corporation – LU#2-09-3 - Services through 7/31/09 – (\$30.00)

Cellco d/b/s Verizon Wireless – LU# 1-09-1 – Services through 7/31/09 – (\$1,355.00)

Red Oak Properties – LU#5-09-9 - Services through 7/31/09 – (\$315.00)

NS Enterprises – LU# 1-09-2 – Services through 7/31/09 – (\$570.00)

Mitelin Motors – PB# 12-05-13- Services through 7/31/09 – (\$90.00)

Mountain Creek Resort – PB# 1-07-1 – Services through 7/31/09 – (\$45.00)

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

Cellco d/b/s Verizon Wireless – LU# 1-09-1 – DOS – 7/30/09 – (\$374.00)

Red Oak Properties – LU# 5-09-9 – DOS – 7/30/09 – (\$46.75)

NS Enterprises – LU# 1-09-2 – DOS – 7/30/09 – (\$561.00)

Mitelin Motors – PB# 12-05-13- DOS - 7/30/09 – (\$420.75)

**B. Board Fees**

Board Attorney

Land Use Board Business – Services through 7/31/09 – (\$1,965.00)

Northwoods Redevelopment – Services through 7/31/09 – (\$537.75)

Board of Education Historic Building – Services through 7/31/09 – (\$165.00)

Township Planner – Jessica Caldwell, AICP – Harold E. Pellow & Associates  
Land Use Board Business – DOS 7/30/09 – (\$233.75)

3. Recording Secretary - Cynthia Davis - DOS 8/11/09 - 8/17/09 (\$90.00)

**C. Bond Reductions**

None submitted as of agenda distribution

**D. Request for Escrows to be closed**

Bill Van Althius

PB#11-99-18

Major Subdivision

Block 260, Lot 4 (\$23.51)

Robert & Irene Valls

ZB#10-08-13

Deck Variance

Block 83.23, Lot 4 (\$114.40)

**Motion**

Mr. Zinno made a motion to approve the above listed escrows, escrows to be closed and Board fees. Mr. Smith seconded the motion. ROLL CALL: BORISUK - Y, GREY - Y, ZINNO - Y, GORNSTEIN - Y, LEWIN - Y, HACK (abstained), SMITH - Y, MISCIAGNA - Y, THEOBALD - Y.

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**Status of Pending Applications**

**Mr. Kneip discussed the following pending applications.**

Cellco Partnership dba Verizon Wireless – LU#1-09-1  
Continuation of Public Hearing, scheduled for September 9, 2009

A&P – PB#11-08-10 – Outdoor Storage variance - Scheduled for Public Hearing on September 23, 2009

Ramah Naioth Church – LU#8-09-10 – Minor Site Plan – Currently being reviewed for completeness & tentatively scheduled for public hearing on September 23, 2009.

**ADJOURNMENT**

Mr. Borisuk made a motion and Mr. Smith seconded the motion to adjourn the meeting at 9:00 p.m. All were in favor.

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Transcribed by Cynthia Davis on August 29, 2009.

**CERTIFICATION**

I, the Board Secretary, hereby certify that the above minutes were approved at the regularly scheduled Land Use Board meeting on September 9, 2009.

Respectfully submitted,

John Hanlon  
Board Secretary

Land Use Board  
August 26, 2009