

**VERNON TOWNSHIP
LAND USE BOARD
REGULAR MEETING MINUTES
August 25, 2010**

Mr. Theobald, Chair, called the meeting to order at 7:12 p.m.

STATEMENT OF COMPLIANCE

Pursuant to the Open Public Meetings Act, adequate notice of this Regular Meeting has been provided to the public and the press on January 19, 2010, by delivering to the press such notice and posting same at the Municipal Building and filed with the office of the Township Clerk.

ROLL CALL

Andrew Borisuk	P
Andrea Cocula	P
David Gornstein	NP
Jessi Paladini	P
Mayor Rinker	P
Council Mbr Seufert	NP
Jean Murphy	P
Martin Theobald	P
Joseph Tadrick	P
Brian Lynch (#1 Alt)	NP
Chris Hack (#2 Alt)	P
Jack Smith (#3 Alt)	P
Ed Rolando (#4 Alt)	NP

ALSO PRESENT

Michael Garofalo, Esq. - Board Attorney
Jessica Caldwell, Board Planner
Cynthia Davis, Recording Secretary
Corey Stoner, Board Engineer

SALUTE TO FLAG

PUBLIC HEARINGS

PB# 2-05-3 – Sussex National Development, Inc., Block 231, Lots 9, 9.01 & 11, Block 233.05, Lots 5 & 6 – Preliminary Site Plan – Request for Extension of Time

Ms. Dale Pearson, an employee of Sussex National Development (“SND”), came forward and was sworn in by Mr. Garofalo. Ms. Pearson commented that the “market” has been terrible for a number of years and that SND would like to keep their prior approval “in place” for the benefit of Vernon and the developer and she requested a 2-year extension of said approval.

Mr. Garofalo advised that the approval was from 2005 and an additional approval tonight would make this 7 years from the original approval of the preliminary site plan. He advised Ms. Pearson that the statute might suggest that there may not be many

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more extensions. He further explained that the statute states there has to be a delay caused by a third party agency, such as the DEP, which is outside the control of the applicant. Having said that, because there have been no changes to that particular zone, there would be no downside from the municipality's perspective for granting an extension. Mr. Garofalo said the reason an extension is granted is to protect the applicant from a zoning change that would make their approval no longer applicable.

OPENED THE MEETING TO THE PUBLIC

No one came forward.

CLOSED THE MEETING TO THE PUBLIC

Motion:

Mr. Borisuk made a motion to grant a 2-year extension of the approval to expire 8/23/2012. Ms. Cocula seconded the motion. ROLL CALL: BORISUK - Y, COCULA - Y, PALADINI - Y, RINKER - Y, MURPHY - Y, THEOBALD - Y, TADRICK - Y, HACK - Y, SMITH - Y. Passed.

PB# 8-07-11 – Patrick Turzi/PRJ Properties, LLC, Block 141.01, Lot 6 – Final Major Site Plan – Request for Extension of Time

The applicant, Patrick Turzi, came forward and requested a 2-year extension of his prior approval, due to the present economic conditions. The project consists of constructing a 5000 square foot building on the corner of Theta and Omega Roads for retail and professional offices.

OPENED THE MEETING TO THE PUBLIC

No one came forward.

CLOSED THE MEETING TO THE PUBLIC

Motion:

Mr. Tadrack made a motion to grant a 2-year extension of the approval. Mr. Borisuk seconded the motion. ROLL CALL: BORISUK - Y, COCULA - Y, PALADINI - Y, RINKER - Y, MURPHY - Y, THEOBALD - Y, TADRICK - Y, HACK - Y, SMITH - Y. Passed.

LU# 7-10-6 – Hank Fierro, Block 113, Lot 1 - Variance to Construct a Front Porch

Mr. Vincent Lanza, Builder, and the applicant, Mr. Hank Fierro, came forward and were sworn in by Mr. Garofalo. Mr. Lanza advised the LUB that Mr. Fierro is proposing a covered porch to be constructed on his home. The porch would extend 8 feet from the house. The requirement is for a 75 foot setback and he currently has 77 feet. With the

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porch construction, his setback would be reduced to 69 ½ feet. The applicant is requesting relief for 5 ½ feet. The applicant's neighborhood, mostly located in West Milford, have 30-foot setbacks until his house, located in Vernon, which then requires a 75 foot setback. Mr. Fierro commented that his, and adjacent property values, will go up as a result of this project. He went on to say that he needs to correct a deteriorating front stoop, add living space and replace windows on his home.

Mayor Rinker asked the applicant if he had spoken with the Zoning Officer to see if the neighborhood might be conformed to the adjacent zoning instead of coming before the LUB. Mr. Lanza said that there was nothing on the street that was comparable and they were told they had to apply for a variance.

OPENED THE MEETING TO THE PUBLIC

No one came forward.

CLOSED THE MEETING TO THE PUBLIC

Ms. Caldwell, Planner, advised that she had no issues with the application. Mr. Stoner, Engineer, agreed.

Motion:

Mr. Borisuk made a motion to approve the variance. Mayor Rinker seconded the motion. ROLL CALL: BORISUK - Y, COCULA - Y, PALADINI - Y, RINKER - Y, MURPHY - Y, THEOBALD - Y, TADRICK - Y, HACK - Y, SMITH - Y. Passed.

Mr. Theobald asked Ms. Caldwell if, when the ordinances are revised for the Master Plan, could front yard setback requirements be reviewed so that residents may not have to come before the LUB and spend extra money to add small additions. Ms. Caldwell agreed that this should be done and will add it to her list.

LAND USE BOARD DISCUSSION ITEMS (Action may or may not be taken)

Land Use Board Appreciation Letters to Vincent Zinno and Gino Mischiagna for their Services to the Board

All LUB members were in favor of sending these letters.

Memo Requesting the Board to Review and Modify Stream Buffer Ordinance §330-231.

Mr. Garofalo explained that at the last LUB meeting, Mr. Shriner submitted a letter through this LUB, asking that the Town Council look at modifying an ordinance requirement regarding stream buffer conservation zones. Mr. Shriner came forward and explained that he feels the Vernon ordinance should not be more restrictive than the State ordinance. The State requires 50 feet and Vernon requires 75 feet.

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Mr. Stoner, LUB Engineer, explained the ordinance in further detail and said that in some cases the State's ordinance can be more restrictive. Mr. Stoner recommended that the ordinance be reviewed and determine where it is in conflict with the State ordinance and update Vernon's ordinance to make sure it's not conflicting with DEP regulations OR the LUB could vote to refer entirely to the DEP rules and regulations.

Ms. Paladini commented that she has a problem with an applicant coming in and asking for the ordinance to be changed. She also feels that before the Town spends money on professionals reviewing the ordinance, it should go to the Environmental Commission for their review. Mayor Rinker feels that the ordinances need to be reviewed for applicability and conflicts.

Mr. Garofalo explained that the State ordinance would trump the Town ordinance as a matter of law. No additional words need to be added to the Town ordinance. He went on to say that not having an ordinance at all, as Mr. Stoner suggested, may be the most simple way of dealing with this issue.

Motion:

Mr. Borisuk made a motion to recommend to the Town Council to eliminate the town stream buffer ordinance completely. Ms. Cocula seconded the motion.

Ms. Paladini stated that she feels that this sets a very bad precedent and questions the ethics of what this board is about to do.

ROLL CALL: BORISUK - Y, COCULA - Y, PALADINI - N, RINKER - Y, MURPHY - Y, THEOBALD - Y, TADRICK - Y, HACK - Y, SMITH - Y. Passed.

Letter of Support for Stanhill Conservation Application

Cynthia Davis, Recording Secretary, read the proposed letter that the Environmental Commission prepared to support the purchase of the Stanhill Property with the assistance of State Green Acres funding.

Mr. Miranda, Environmental Commission, Chair, came forward and explained that the subject property is a 125 acre piece with 30+- acres of wetlands. Mr. Borisuk commented that the property is already preserved by having wetlands/swamp and non-buildable land. He feels the town should not "squander" money on purchasing the land.

Mr. Tadrack asked what the cost would be to the Town to purchase the property. Mr. Miranda advised that he didn't know. Mr. Garofalo stated that he respects Mr. Miranda's position to not divulge the purchase price information as it is still being negotiated. Mr. Borisuk suggested waiting until all the information is available and then bring this back before the LUB.

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Mr. Miranda explained that the Vernon Twp. Open Space Fund has about \$900,000.00 and has made 2 additional applications for funding – one to NJ Green Acres Program for \$125,000.00 and one to Sussex County Open Space Trust Fund for \$100,000.00, for this project.

Ms. Cocula commented that she believes that Sussex County's criteria will only approve purchasing land that is developable, which leaves a question in her mind whether the \$100,000.00 will be approved. Ms. Cocula also commented that she saw a figure of \$325-385k to purchase this property somewhere.

Mr. Tadrack commented that he is not willing to support the purchase of land for a project when he does not have all the information connected to the purchase.

Mr. Miranda stated that the State will dictate whether the town and/or state monies can be spent to buy the property.

Mr. Smith asked what the taxes are on the Stanhill property. Several tax figures were offered, \$16k and \$100k.

Motion:

Ms. Cocula made a motion to carry any discussion and/or vote for approval of the Stanhill letter of support until more information can be made available to the LUB members including how much of the property is buildable, the cost and how much tax is generated from this piece of property. Mr. Borisuk seconded the motion. ROLL CALL: BORISUK – Y, COCULA - Y, RINKER – Y, MURPHY - Y, THEOBALD - Y, TADRICK – Y, HACK - Y, PALADINI - Y. Passed.

Mayor Rinker asked how this could be discussed further. Since there is no executed contract of sale yet, Mr. Garofalo advised that this could be considered contract negotiations and could be further discussed in Executive Session.

The LUB Mr. Miranda advised that this matter will be discussed at the next Environmental Commission meeting and the EC will either prepare a letter to the LUB or come back and discuss this further in Executive Session at the next LUB meeting.

Mr. Borisuk asked if there were 2 appraisals done. Mr. Miranda advised that one appraisal had been done by a Green Acres certified appraiser and a second one will be done. Mr. Theobald stated that this matter will be put on the Agenda for the next LUB meeting on September 8, 2010.

**Land Use Board Resolution and Environmental Commission Resolution
Opposing a Voter Referendum to Modify the Vernon Township Open Space Trust**

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Fund Ordinance #00-16

This item was approved at the last LUB meeting and has been given to the Town Council.

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

Mr. Dennis Miranda, Chair, Vernon Environmental Commission, came forward to talk about buffers. He asked the board what the empirical purpose is for reducing the buffers by a waterway from 75 to 50 feet in Vernon Township. He feels that when land is fertilized, limed and pesticides are used then when it rains, these chemicals will ultimately get into the water course. Mr. Borisuk disagreed with Mr. Miranda as he has 50 foot and 30 foot buffers respectively on his property and there is no runoff going into the stream.

Mr. Miranda asked Mr. Garofalo what the appropriate protocol should be for the approval by the LUB of a recommendation to the Town Council to eliminate the stream buffer ordinance. Mr. Garofalo said that he doesn't believe that the Environmental Commission ("EC") statute requires the LUB to send all ordinance recommendations to the EC first. They both agreed that it would be preferable to have input from the EC. Mr. Theobald advised that after the recommendation goes to the Town Council, then it will be sent to the EC for their input.

Mr. Dean Anders, resident of Toyes Recreation, came forward and stated that he has been a resident at Toyes Recreation for over 10 years. He went on to comment that it is his understanding that a decision is going to be made whether people can or can't live there. He stated that if this is done, he will be put out in the street.

Mr. Garofalo advised Mr. Anders that he heard through the grapevine that there will be an application before the LUB in the near future that might lead to permanent year-round residence for a campground that is currently not permitted year-round residence by law. He further stated that this LUB is not able to grant anything tonight as they can only grant applications before them. Mr. Garofalo suggested that Mr. Anders come back on the date the application is heard to voice his opinion.

CLOSED MEETING TO THE PUBLIC

MINUTES

July 28, 2010 – Regular Meeting Minutes

Motion:

Mr. Borisuk made a motion to approve of the above minutes. Ms. Cocula

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seconded the motion. ROLL CALL: BORISUK - Y, COCULA - Y, HACK – Y, MURPHY – Y, PALADINI - Y, RINKER - Y.

CLOSED SESSION

None.

ESCROWS, BOARD FEES AND BOND REDUCTIONS

A. Board Fees

1. Board Attorney – Michael Garofalo, Laddey, Clark & Ryan, LLP
Land Use Board Business – Services through 7/31/10 – (\$795.00)
2. Cynthia Davis – Recording Secretary
DOS – 7/27/10-8/7/10 – (\$111.00)

B. Request for Bond to be closed

None submitted as of agenda distribution

Motion:

Mr. Hack made a motion to approve of the above board fees. Mayor Rinker seconded the motion. All were in favor.

C. Request for Escrows to be closed

PB# 11-08-9 – Christopher Merck, Block 127.03, Lots 29 & 30, - Lot Line Adjustment - Requesting release of remaining escrow

Motion:

Ms. Cocula made a motion to table the approval of this request for the escrow to be closed for further review by a professional to confirm that all payments have been made. Mayor Rinker seconded the motion. All were in favor.

Mr. Stoner advised with regard to bonding requirements that it is a constant when someone comes in with a preliminary final site plan that they post a performance bond. (120% of the cost of the site improvements). The township historically asks for 10% of the bond to be made in cash and the remaining would be a performance guarantee (bond or Letter of Credit). With regard to NS Enterprises, they are having a hard time getting bonded due to financial issues and he cannot move forward because of this. NS Enterprises is asking for the condition in the resolution to be removed. Mr. Stoner went on to say that some towns do not make this requirement up front and there are other options to be considered during this tough economy. Mayor Rinker commented that the

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main issue is to assess and collectively decide what the policy needs to be across the board and not make exceptions from one case to another. Mr. Stoner advised that he will e-mail to the LUB members what the code currently states.

ADJOURNMENT

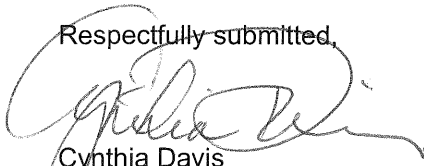
Mr. Borisuk made a motion to adjourn the meeting at 8:58 p.m. Mr. Smith seconded the motion. All were in favor. None were opposed.

Transcribed by Cynthia Davis on September 2, 2010.

CERTIFICATION

I, the Board Secretary, hereby certify that the above minutes were approved at the regularly scheduled Land Use Board meeting on September 8, 2010.

Respectfully submitted,



Cynthia Davis
Board Secretary