

**APRIL 22, 2008**

A regularly scheduled meeting of the Wantage Township Land Use Board was held on Tuesday, April 22, 2008 at the Wantage Township Municipal Building. The meeting was held in compliance with the provisions of the Open Public Meetings Act, P.L. 1975, Chapter 231. The meeting was properly advertised and noticed to the public.

**ROLL CALL**

**PRESENT:** Mssrs. Bono, Cecchini, DeBoer, Grau, Hough, Smith, Vander Berg, Cillaroto. Mmes. Mylecraine, Gill, Engineer Harold Pellow, Attorney Bryant Gonzalez.  
**ABSENT:** Mr. Gaechter, Mme. Kanapinski.

**APPROVAL OF MINUTES**

Mr. Grau made a motion seconded by Mr. Cecchini to adopt the minutes of March 25, 2008.

**ROLL CALL VOTE:**

**THOSE IN FAVOR:** Bono, Cecchini, Grau, Hough, Vander Berg, Smith.  
**THOSE OPPOSED:** None. **MOTION CARRIED.**

**RESOLUTIONS**

**L-3-2008 LELA WILSON/THEODORE MARSH**

Mr. Hough made a motion seconded by Mr. Bono to adopt the resolution memorializing the Board's decision of March 25, 2008 to approve the application of Lela V. Wilson and Theodore D. Marsh, Jr. for Block 150, Lot 22.01 as shown on the Tax Map of the Township of Wantage, located on Mudtown Road in the RE-5 Zone, requesting minor subdivision approval with ancillary "c" variance relief pursuant to N.J.S.A. 40:55D-47 and N.J.S.A. 40:55D-70c, subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved.
2. This approval is granted strictly in accordance with the plat prepared by Daniel E. Kent III, L.S., P.P., dated February 8, 2008, last revised February 25, 2008.
3. The granting of this application is subject to and conditioned upon the Applicant using the slab construction method.
4. Prior to the issuance of any construction permit, the Applicants shall file with the Board and Construction Official an affidavit verifying that the Applicants are in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply a copy of any approvals received.
5. The Applicant shall comply with the recommendations contained in the Board Engineer's Report dated February 25, 2008, revised February 27, 2008.
6. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
7. Certificate that taxes are paid to date of approval.
8. Sussex County Planning Board approval.
9. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Wantage, County of Sussex, State of New Jersey, or any other jurisdiction.

**ROLL CALL VOTE:**

**THOSE IN FAVOR:** Bono, Cecchini, Grau, Hough, Vander Berg, Smith.  
**THOSE OPPOSED:** None. **MOTION CARRIED.**

### **L-5-2007 EDWARD BRANDS**

Mr. Grau made a motion seconded by Mr. Vander Berg to adopt the resolution memorializing the Board's decision of March 25, 2008 to approve the application of Edward Brands for Block 17, Lot 18 as shown on the Tax Map of the Township of Wantage, located on County Route 565 in the Neighborhood Commercial Zone, requesting an extension of time with respect to the previously granted minor subdivision approval pursuant to N.J.S.A. 40:55D-47(f), subject to the following terms and conditions:

1. This approval is subject to all representations and stipulations made by the Applicant to the Township of Wantage Land Use Board being truthful and accurate. The Land Use Board has specifically relied upon the Applicant's statements and stipulations in the granting of this approval. If said representations and stipulations are false, this approval is subject to revocation.
2. The extension of time within which to perfect the minor subdivision approval shall be 190 days which time period shall run from April 22, 2008 to October 1, 2008.
3. Payment of all fees, costs, escrows, due or to become due. Any monies are to be repaid within twenty (20) days of said request by the Board Secretary.
4. Certificate that taxes are paid current to date of approval.
5. All conditions of the Board's previous Resolution memorialized on August 21, 2007 remain in full force and effect with the exception of the Applicant being granted a 190 day extension of time within which to perfect the minor subdivision approval as set forth herein.
6. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Wantage, County of Sussex, State of New Jersey or any other jurisdiction.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, Grau, Hough, Vander Berg, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-52-2002 FORUM HOMES**

Mr. Cecchini made a motion seconded by Mr. Hough to adopt the resolution memorializing the Board's decision of March 25, 2008 to approve the application of Tamcrest at Wantage a/k/a Forum Homes, Inc. for Block 113, Lot 11 and Block 114, Lot 3, as shown on the Tax Map of the Township of Wantage located on Old Clove Road, in the R-1 Zone, requesting an extension of preliminary major subdivision approval pursuant to N.J.S.A. 40:55D-49(c), subject to the following terms and conditions:

1. This approval is subject to all representations and stipulations made by the Applicant to the Township of Wantage Land Use Board being truthful and accurate. The Land Use Board has specifically relied upon the Applicant's statements and stipulations in the granting of this approval. If said representations and stipulations are false, this approval is subject to revocation.
2. The extension of time for the preliminary major subdivision approval shall be one (1) year which time period shall run until May 24, 2009.
3. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. Certificate that taxes are paid to date of approval.
5. All conditions of the Board's previous Resolution memorialized on May 24, 2005 remain in full force and effect except as modified by the terms of this Resolution.
6. Sussex County Planning Board approval, if required.
7. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Wantage, County of Sussex, State of New Jersey, or any other jurisdiction.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, Grau, Hough, Vander Berg, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-23-2007 GEORGE DABIS**

Mr. Grau made a motion seconded by Mr. Bono to amended the resolution memorializing the Board's decision of February 19, 2008 to include the Road Trust Fund contribution of \$1,800.00 as a condition of approval. This condition of approval was inadvertently omitted from the resolution adopted on March 25, 2008.

ROLL CALL VOTE:

THOSE IN FAVOR: Cecchini, DeBoer, Hough, Vander Berg, Mylecraine, Cillaroto, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

Mr. Smith announced to the Board members that the secretary has a few of the Open Space Plan books to be reviewed for approval at the next meeting.

### **APPLICATIONS**

#### **L-25-2007 CONCORD RIDGE**

The applicant is proposing to subdivide 114.3 acres into three (3) residential lots. The property is known as Blk. 42 Lot 38 and is located on Sally Harden Road in the RE-5 zone.

Board members Cecchini, Cillaroto and Mylecraine stepped down based upon conflicts of interest.

Mr. Smith stated that the applicant has met with the subcommittee on several occasions to review the concept of this application. The plan has been changed from 15 lots to 3 lots.

Attorney Tom Collins and Engineer Joseph Golden appeared before the Board.

It was discussed that there may be a potential conflict of interest with Mr. Dave Simmons who works with Engineer Harold Pellow. Simmons Water Co.owns the railroad near the property and it is owned separately by Simmons apart from his engineering work. The applicant stated that the degree of interest is so remote that it will not jeopardize the hearing on the application. Mr. Smith stated for the record that the Environmental Report and the Stormwater Management Report were very well done in that they were very easy to read.

Mr. Collins and Mr. Golden presented the application. Exhibit A1 – color rendering of the subdivision 4/20/08 – was introduced. A bog turtle survey was done, suitable habitat but no turtles were found. A 300 ft buffer is proposed. Old farm, actively farmed up to a few years ago, present owners have some animals and are growing some crops. Lots will be deed restricted to no further development. The existing farmroad with access from Sally Harden Road will be used continuing with a driveway for access to the other two lots. Driveway relief is needed due to challenging conditions. Permit obtained to expand driveway for one or two vehicles. The common driveway is 20 ft. Relief is being requested for the area not paved, wide areas will be supplied for passing if another car is coming.

Homes are modest, log homes, 3-4 bedrooms to match the character of country setting. The applicant will be responsible for stormwater facilities

A planning variance for two (2) lots with no road frontage is needed.

It was discussed that the road will be suitable to accommodate emergency vehicles, and that the driveway has been designed specifically to allow emergency vehicles, the areas that are steep will be paved and maintained by the owner of the property. The property will be gated. The type of gate has not been decided yet. Applicant requests to be allowed to have detail of gate and landscape feature (wing wall) supplied at time of driveway permit.

A bulk variance is needed for 20,000 sq.ft. of non-constrained area. The present area is 18,000+ sq.ft. Mr. Golden stated that the applicant will follow the well testing parameters for single-family lots so major testing will not have to take place. Individual well testing to be done.

Mr. Pellow's report was reviewed and discussed. Mr. Pellow reviewed the completeness items pending as per his report. All items were complied with. Item 7(b) discusses the access to the three lots via a shared driveway. Lots 38.02 and remainder Lot 38 will be land locked. Mr. Pellow stated that the attorneys will need to devise a language for these lots for use of the common driveway. COAH obligation will apply at the time of building permit for each unit. Item 8(b) addresses a proposed access and stormwater management easement. A joint maintenance agreement for the driveway and stormwater facilities is required to be included in the deeds for the properties. The maintenance for the rain garden to be prepared as well. Wetlands and buffers to be conveyed as conservation easements and run with the land.

The meeting was open to the public: Mr. Eugene Ventimiglia, 99-115 Layton road, adjacent property owner, owner of a 50 acre farm, stated that he would not like to see the woodlands destroyed and he asked if there was any plan for that. Mr. Smith explained that an ordinance is in the works for tree removal. Mr. Golden explained that no trees will be taken out, there is no intention to remove the trees by the driveways and suggested the applicant getting a regular forest manager to help with that. Nancy McCurdy, 7 Sally Harden Road, next to RR bend, had a question regarding the water that is going to be contained on the property as she usually gets water standing in her yard causing her to have temporary lakes. The applicant feels that the proposed work will relieve that water in the neighbor's property.

Ralph Fredericks, 193 Rt. 284, expressed concern about runoff from the hill coming down onto his field as he gets water on the property at present and he asked if the conservation easement is restricted enough. He is concerned that the 3 log homes will become a lodge, 3 houses with all these variances might become a playground. Mr. Smith stated that it was negotiated with the applicant to go from 8 building lots and a public street to 3 homes. If it is going to be used by family it's okay, but what about down the line when the family decides to sell. Mr. Smith explained that it is a residential site not commercial.

The public portion of the hearing was closed to the public. The meeting was opened to Board. Mr. Vander Berg stated that the neighbors across the street are correct with the drainage. He feels the plan does not address the drainage and that some of that water ends up in the neighbor's property, on the front lawn. He would like to have the right to reserve to be verified that it is not going to cause a problem. Mr. Golden stated that the existing 12" pipe will be replaced with 24" pipe. Mr. Vander Berg questioned the name of the lane because there will be more than one house on it and it helps with the 911 response. Mr. Golden stated that it has already been discussed with the township administrator. Name of a veteran to be used.

Mr. Smith asked about the culdesac size to be changed, should it be paved or stone. Mr. Vander Berg stated as long as it is maintained it is ok. Mr. Smith cautioned the property owner when fencing installed to keep livestock stay back from the road. Mr. Bono talked about turnaround for emergency vehicles. Mr. DeBoer asked for clarification on the pond and the blue area of the map. It was explained that it depicts the wetland buffers. Mr. Bono mentioned the possibility of putting a stand pipe for trucks to draw water if necessary.

Mr. Grau made a motion seconded by Mr. Bono to approve this application subject to Mr. Pellow's report with a variance on 7a, 7b common driveway agreement, 8a, 8b documents for maintenance of stormwater management under individual properties, review on site of drainage on Sally Harden, additional stand pipe for fire protection, 12 subject to details when driveway permits are issued and subject to the Board reviewing the wing wall configuration for the entrance.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, DeBoer, Grau, Hough, Vander Berg, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-26-2007 ROUTE 23 PATIO & MASON**

The applicant is proposing to remove the one-story frame building near Route 23 and construct a 40' x 40' proposed storage barn at the rear of the property. A rear yard setback variance is needed: 40' is required and 16' is proposed. Also, a site plan is required. The property is known as Blk. 7, Lot 20 and is located on Route 23 in the HC zone.

Attorney Cynthia Collins and General Manager John Saxton appeared before the Board.

Mr. Gonzalez indicated that when the notices were sent out, an adjacent property owner was omitted. The applicant however, supplied an affidavit from that property owner, Mr. Maruti Swami, indicating that he did not receive the notice and having been subsequently advised he has no objection to the application. He added that if this letter had not been obtained by the applicant, the Board would not have had jurisdiction to hear the application. The Board engineers talks about a variance needed because it is an accessory use. He stated that it is an interpretation issue for the Board. He recommended the Board under 70b power to interpret the ordinance more as an accessory use, based on the primary use of the property.

For the record, Mr. Smith stated that he buys materials at Route 23 Patio. Property presently used for landscaping materials, taking down a building and replacing it with a 40 x 40, rear yard setback requirement is 40 and 16 is proposed.

Mr. Saxton stated that the new plan will give him more flow and that it would aesthetically look better. There is an ugly building in the front so he will tear it down, wood frame metal pole barn, no additional lighting will be installed. There is a 50/50 customer based contractors and homeowners, with no specified parking area, people just go to wherever they have to go and then leave. The pothole on the property was mentioned, Mr. Saxton indicated it was just regraded as it is needed every year. A picture of the building was supplied, the large door will be facing Rt. 23 and the smaller door will be facing north towards Sussex. Mr. Saxton indicated that the area of the building that will be coming down will be used as a display area, very similar to what is there in the front. The items stored include: concrete mixing bags, cultured stone boxes, and extra inventory to be brought out later as needed.

Mr. Pellow's report was reviewed.

There was no one from the public present on this application. The meeting was then opened to the Board. Ms. Gill commented that the map says Township of Vernon. Mr. Cecchini asked where the office would be located. Mr. Saxton replied that will be in the existing dwelling. The stone house will stay. Mr. Smith suggested a shed roof, Mr. Vander Berg suggested having the additional 800 sq.ft. to either side.

Mr. Cecchini made a motion seconded by Mr. Bono to approve this application subject to Mr. Pellow's report and a new map removing the name "Vernon".

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Grau, Hough, Vander Berg, Mylecraine, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-1-2008 BRUCE & JOANNA BORELLA** - The applicant has requested to be carried to the Board's next meeting. Mr. Grau made a motion seconded by Mr. Bono to carry this application to the meeting of May 20, 2008.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Grau, Hough, Vander Berg, Mylecraine, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-2-2008 SUSSEX BANK**

The applicant is seeking final site plan approval of preliminary site plan approval granted 4/26/05. The property is known as Blk. 15, Lot 15 and is located on Route 23 in the HC zone.

Mr. Cillaroto stepped down due to a conflict of interest.

Attorney Jennifer Kovach appeared before the Board.

Mr. Pellow's report was reviewed. All items on the report have been complied with. Mr. Pellow had a question on Item 6, having to do with possibly amending the ordinance to have applicants post a two-year maintenance bond for landscaping for site plans as the plantings will probably die within the first two years and a bond would guarantee their survival. Mr. Gonzalez stated that the ordinance did not have to be changed and if the Board so wished it could be done right away under the Municipal Land Use Law and Section 15-5.3d that allows to impose a two-year requirement for maintenance bond for landscaping for site plans. Mr. Pellow indicated that it did not have to be done for this applicant. He just wondered if it could be done in the future.

Mr. Pellow added that the bank is a nice asset to the Township.

There was no one from the public present on this application. Mr. Smith opened the meeting to the Board. There were no comments from the Board.

Mr. Cecchini made a motion seconded by Mr. Grau to approve this application.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Grau, Hough, Vander Berg, Mylecraine, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-4-2008 SUSSEX SKYDIVE, LLC**

The applicant is seeking preliminary and final site plan approval for a parachuting facility. The property is known as Blk. 18, Lot 5 and is located on Route 639 in the HC zone.

Board members Cillaroto and Cecchini stepped down.

Attorney Martin Vander Heide, Engineer Kenneth Wentink and Steven Webb, appeared before the Board.

Mr. Gonzalez stated that there was a question of whether or not the applicant needed to obtain a Use Variance. Generally under normal circumstances the applicant would need a D2 variance for the Board's review. Since this is an existing airport facility the applicant is operating under a license for the Department of Transportation it is subject to their regulation in terms of their use so this Board is preempted in terms of jurisdiction in terms of the use. Some regulations also require the applicant apply to the Board when it desires to make site plan changes to get the Board's input on those changes and the determination for limited purposes of site plan so his recommendation to the Board was

that pursuant to D70 they interpret the ordinance in such a way that is consistent with the regulations that they are preempted for purposes of making a determination on the use variance issue but they do have jurisdiction with respect to site plan pursuant to those very same regulations. So the applicant will need to amend this application to reflect any changes that are being proposed and as part of the application provide the Board with a copy of the license. Mr. Gonzalez asked the applicant to provide testimony in terms of the site plan and the engineering report.

The professionals made a brief presentation of the application. Mr. Vander Heide referred to an FAA decision which basically states that skydiving is a part of aeronautics and the airport is required to provide them as long as the FAA has inspected the airport and found the facilities to be safe for the operation of the airport. Mr. Gonzalez referred to NJAC16:54-2.1a6 in which he based the jurisdictional issues.

Phase I – pea gravel landing

Phase II will include 40 x 60 temporary structure, the paver patio,

Phase III – modular offices, locker, changing area, video rooms, judging facilities, rigging loft, pro shop, sales of gear, parachutes

Mr. Pellow asked if the applicant had any pictures of the modulares proposed. Mr. Pellow's report was reviewed.

There was no one from the public present on this application. The meeting was opened to the Board. Mr. Smith asked about details of construction items, the type of modular, are there additional signs, and the COAH obligation. It was discussed the modular is a double wide, there will be no additional signs and the COAH obligation will be addressed if necessary. Mr. Bono asked about noise from the planes. It was discussed that the operation will take place only during daytime hours 9:00 am to sunset once per month. Mr. Vander Berg added that the airport is not restricted.

Mr. Grau made a motion seconded by Mr. DeBoer to approve this application subject to Mr. Pellow's report and a copy of the amended license application filed with NJDOT with respect to the changes to the property that are being proposed and with respect to the expansion of the aeronautical activities that are taking place and a copy of the amended license

Mr. Smith stated that he is very pleased that there is a professional now handling the application unlike on previous occasions.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, DeBoer, Grau, Hough, Vander Berg, Mylecraine, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-5-2008 MOUNTAINVIEW MANOR**

The applicant is seeking a variance to place a sign at the entrance of the Town Center. The property is known as Blk. 4, Lot 1.01 and is located on Route 23 in the HC zone.

Attorney Tom Collins and John Maione appeared before the Board.

Mr. Smith stated he gave the copy of the plan to the Township's Planner Mr. David Troast. Mr. Troast said that the sign was in keeping with the design.

Mr. Maione stated sign is similar to the chimeneys on the buildings, setback is 67 ft, 34.5 ft. high, might be a little smaller than the Wantage Plaza sign. The proposed sign face is roughly 15 ft. x 17.5 ft., which is approximately 263 sq.ft. and a variance is required. Mr. Maione does not want to wait for new ordinance as tenants would like to see the sign put up.

Exhibit A1, color picture of the sign, not to scale, was introduced.

There was no one from the public present on this application. The application was opened to the Board. Ms. Mylecraine stated that the sign seemed so tall that it looked awkward. Mr. Smith pointed out that as you are coming North on 23, there is a huge bank so you can't see the sign right at the distance and going South on 23, eventually there will be a berm with some trees and that will alleviate the size of the sign. Mr. Cecchini stated that there will be a number of businesses there and the sign would have to be big enough to accommodate and to make it easier to see the names of the businesses in order to eliminate a traffic hazard.

Mr. DeBoer made a motion seconded by Mr. Cecchini to approve this application.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Grau, Hough, Vander Berg, Mylecraine, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

Mr. Pellow stated that Mr. Maione was one of the good people who cooperated in that area of Route 23 where there was a drainage problem. Mr. Pellow got a few people together and solved that problem by Dunn & Dunn.

### **INFORMAL**

#### **Blk. 129/Lot 1.02**

Mr. John Notaro addressed the Board regarding a minor change on his Land Use variance. Mr. Notaro has met with Mr. Pellow and he recommended him coming to the meeting. He would like to use the existing driveway on Decker Road for business and the other driveway on Rt. 519 to be used for the residents of the property and for emergency vehicles.

Site plan and use variance approval was obtained in 2005 and all he wants to change is the access to the business and the house.

Mr. Notaro made reference to a letter he received from Mr. Michael Richards whose grandparents owned and operated a business on the subject property in 1972. Mr. Richards stated in his letter that both driveways one off Route 519 and the other off of Decker Road have been there since 1972.

On a motion duly made seconded and carried, the Board asked Mr. Notaro to come in with an amended site plan application with an as built drawing and waiver of all fees. Residents will have to be notified. The Board members returned the copies of the plan to Mr. Notaro so he can resubmit them with the application. Mr. Notaro will be placed on the agenda for the May 20, 2008 meeting.

#### **Blk. 117/Lot 38.01**

Engineer Ken Wentink and Mr. Tom Zummo discussed the State's proposed change on the allowed quantity of water discharge per lot.

### **ADJOURNMENT**

On a motion duly made seconded and carried the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Stella Salazar  
Secretary