

## **TUESDAY, DECEMBER 16, 2008**

A regularly scheduled meeting of the Wantage Township Land Use Board was held on Tuesday, December 16, 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 noticed and posted to the public.

### **ROLL CALL**

PRESENT: Mssrs. Bono, Cecchini, DeBoer, Gaechter, Grau, Smith, Slate, Vander Berg, Mmes. Mylecraine, Gill, Attorney Glenn Kienz, Engineer Harold Pellow.

ABSENT: Mr. Cillaroto, Mme. Kanapinski.

### **APPROVAL OF MINUTES**

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

### **ROLL CALL VOTE:**

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Vander Berg, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **RESOLUTIONS**

#### **L-16-2008 565 LAND DEVELOPMENT**

This resolution is currently being revised and will be adopted at the next Board meeting.

#### **L-37-2004 BRUCE MORSE**

Mr. Grau made a motion seconded by Mr. Bono to adopt the resolution memorializing the Board's decision of November 25, 2008 to grant preliminary major subdivision approval to Bruce Morse for Block 43, Lot 13.01, located on Layton Road in the Residential Environs Zone, pursuant to N.J.S.A. 40:55D- 48, 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 subject to the Applicant's complying with all terms and conditions of the Board Engineer's report dated October 28, 2008 and/or as same may have been modified at the time of the hearing.
3. The water quality structure proposed to be added at the end of the road with improved piping and outlet structures for the collection of water at the bottom of the roadway shall be subject to the review and approval of the Board Engineer. Additional rock for stabilization is to be added pursuant to the recommendation of the Board Engineer.
4. This approval is subject to the Applicant undertaking additional well testing prior to submission for final approval which shall include where reasonable the property of adjacent landowners willing to allow for such additional testing. Best efforts are to be made to attempt well testing from members of the public in attendance at the hearing that have volunteered the use of their wells for testing.
5. This approval is subject to the Applicant making best efforts to obtain any and all sight distance easements from adjacent property owners. The Applicant shall provide a copy of any letters sent to adjacent property owners for this purpose
6. This approval is subject to the Applicant executing a Developer's Agreement with the Township of Wantage which shall address compliance with affordable housing requirements, in particular, the Applicant's construction of a duplex residential structure on-site as well as other matters.

7. This approval is subject to the Applicant submitting all Deeds and Easements as required in the Board Engineer's report for review and approval by the Board's professionals.
8. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official an affidavit verifying that the Applicant is 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.
9. This approval is subject to the Applicant contributing \$19,350.00 to the Road Trust Fund.
10. 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.
11. Certificate that taxes are paid to date of approval.
12. Sussex County Planning Board approval.
13. Sussex County Health Department approval.
14. Sussex County Soil Erosion and Sediment Control approval.
15. NJDEP approval, if necessary.
16. 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, DeBoer, Gaechter, Grau, Slate, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-13-2007 CHRISTIAN LEONE PROPERTIES I, LLC**

Mr. Grau made a motion seconded by Mr. Slate to adopt the resolution memorializing the Board's decision of November 25, 2008 to grant third extension of minor subdivision approval to Christian Leone Properties I, LLC for Block 1.02, Lot 8, located on State Highway Route 284 in the RE Residential Environs Zone pursuant to N.J.S.A. 40:55D-47(f), subject to the following terms and conditions:

1. The extension granted shall be effective as of November 1, 2008.
2. The extension granted herein shall expire on February 28, 2009.
3. All terms and conditions of the Board's previous Minor Subdivision Resolution of approval unless amended herein, shall remain in full force and effect.
4. 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, DeBoer, Gaechter, Grau, Slate, Mylecraine, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-10-2008 CHAMPAGNE RIDGE/CARROLL QUINN**

Mr. Grau made a motion seconded by Mr. Bono to adopt the resolution memorializing the Board's decision of September 23, 2008 granting preliminary major subdivision approval and associated "c" variances to Carroll T. Quinn for Block 113, Lots 2.01 and 2.03, located at 40 Fernwood Road in the R-5 Zone, pursuant to N.J.S.A. 40:55D-48 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, or as otherwise modified through consultation with the Township Engineer.
2. This approval is granted strictly in accordance with the major subdivision plans prepared by Kenneth Dykstra, or as otherwise modified through consultation with the Township Engineer.
3. The granting of this application is subject to and conditioned upon the Applicant constructing or bonding for improvements to Old Clove Road

estimated at \$41,412.00 in lieu of the \$30,000.00 Road Trust Fund contribution.

4. The granting of this application is subject to and conditioned upon the Applicant complying with the recommendations contained in the Township Engineer's review report dated July 8, 2008. With respect to comment 9 in the report, the Applicant agrees detention basin slopes of 4:1 were practical.
5. Final map recorded to perfect the subdivision shall specifically refer to this Resolution.
6. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official an affidavit verifying that the Applicant is 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.
7. 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.
8. Certificate that taxes are paid to date of approval.
9. Sussex County Planning Board approval, if necessary.
10. Sussex County Health Department approval, if necessary.
11. New Jersey Department of Environmental Protection approval, if necessary.
12. Wantage Township Soil Erosion and Sediment Control approval, if necessary.
13. 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: Cecchini, DeBoer, Gaechter, Grau, Slate, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-18-2008 E. NORMAN & MARY J. ANDERSON**

Mr. Grau made a motion seconded by Mr. Slate to adopt the resolution memorializing the Board's decision of November 25, 2008 to grant minor subdivision approval to E. Norman & Mary J. Anderson for Block 15.10, Lots 10, 11 and 12, located at Crest Road and Shore Road in the Residential Environs (R-5) Zone, pursuant to N.J.S.A. 40:55D-47, 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 subject to the Applicant complying with all terms and conditions of the Board Engineer's report dated September 9, 2008 and/or as same may have been modified at the time of the hearing.
3. 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.
4. 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.
5. Certificate that taxes are paid to date of approval.
6. Sussex County Planning Board approval.
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, DeBoer, Gaechter, Grau, Slate, Vander Berg, Mylecraine, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

## **L-22-2008 WANTAGE 2002**

Mr. Grau made a motion seconded by Mr. Slate to adopt the resolution memorializing the Board's decision of November 25, 2008 to grant amended final site plan approval to Wantage 2002, LLC for Block 20, Lot 3, located on Route 23 in the Neighborhood Commercial/Shopping Village Zone, pursuant to N.J.S.A. 40:55D-50, 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: (1) site plans prepared by Dykstra Associates, dated September 19, 2008; (2) architectural plans prepared by F. Joshua Millman, A.I.A., dated October 10, 2008 and consisting of eight (8) sheets; and (3) floor plans prepared by John J. Gilchrist Architect, dated October 7, 2008 and consisting of one (1) sheet and/or as these plans may be revised in consultation with the Board Engineer.
3. This approval is granted subject to the Applicant complying with the terms and conditions of the Board Engineer's report dated October 7, 2008, revised October 22, 2008 and/or as same may have been modified during the course of the proceedings in this matter and as reflected in this Resolution.
4. This approval is subject to the Applicant designating the rear parking area noted in the parking study as Parking Area A for employee parking (25 parking spaces).
5. This approval is subject to the Applicant prohibiting retail sales from occurring in the parking areas of the shopping center through the use of tents or other makeshift structures. Retail sales in the parking areas are not permitted given the potential negative impact upon the availability of parking.
6. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official an affidavit verifying that the Applicant is 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.
7. 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.
8. Certificate that taxes are paid to date of approval.
9. Sussex County Planning Board approval, if necessary.
10. 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, DeBoer, Gaechter, Grau, Slate, Vander Berg, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

## **APPLICATIONS**

### **L-9-2008 WHEN PIGS FLY**

The applicant requested to carry this application to the January 20, 2009 Board meeting. Mr. Bono made a motion seconded by Mr. Grau to carry this application to the next Board meeting.

ROLL CALL VOTE:

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

THOSE OPPOSED: None. MOTION CARRIED.

**L-20-2008 VAN DECKER BROTHERS, INC.**

The applicant requested to be carried to the Board's next meeting.

Mr. Mr. Cecchini made a motion seconded by Mr. DeBoer to carry this application to the January 20, 2009 Board meeting. No further public notice required.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Vander Berg, Mylecraine, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-7-2008 RALPH W. HEAVENS**

This application was carried to the January 20, 2009 meeting due to lack of notice.

**L-1-2008 BRUCE & JOANNA BORELLA**

The applicant requested an extension of minor subdivision approval granted and memorialized on May 20, 2008. The property is known as Blk. 42, Lot 2 and is located on Wantage School Road in the RE-5 zone.

The Board reviewed a letter from Engineer Kenneth Wentink dated November 26, 2008 requesting an extension or renewal for an additional 190 days.

Mr. Kenneth Wentink appeared before the Board on behalf of the applicant.

Mr. Grau made a motion seconded by Mr. Bono to grant extension of minor subdivision to June 23, 2009.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Vander Berg, Mylecraine, Smith.

**L-18-2007 BRINK ROAD BUILDERS**

The applicant requested an extension of minor subdivision approval granted on August 21, 2007 and memorialized October 16, 2007. The property is known as Blk. 21, Lot 15.01 and is located on Lower Unionville Road in the R-5 zone.

The Board reviewed a letter from Attorney Kenneth Sauter of Berman Sauter Record & Jardim P.C., dated December 3, 2008 requesting an extension to April 24, 2009.

Mr. Cecchini made a motion seconded by Mr. Slate to grant extension to April 24, 2009.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Vander Berg, Mylecraine, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-21-2008 CHARLES & JANE HUNTER**

The applicant is proposing to construct a single family dwelling on Blk. 163, Lot 15.05. Front yard setback variance, non-contiguous, non-constrained land variance, and planning variance are required. The property is located on Wilson Lane & Neilson Road in the RE-5 zone.

Attorney David Wallace and Engineer Ken Wentink appeared before the Board.

Mr. Smith indicated that a site walk took place on Wednesday, December 3, 2008. Four Board members were present. The Board took into consideration Mr. Pellow's report and the comments from the public.

The drainage issue was discussed. Mr. Wentink stated that there are two possible ways to work out the issues, subject to the approval of the Health Department before septic permit is issued. A septic permit was issued but the drainage issue will make it necessary to go back and revise it. Mr. Wentink indicated that Mr. Pellow's report referenced the building site. He stated that it is the only place on the lot where the DEP will allow them to build, forcing them to go for the variance.

The meeting was opened to the public. Mr. Frederick Smith asked where the water would be diverted to. Mr. Wentink indicated that one of the possibilities would be to put an HDP pipe across the road to the end of the bed to a ditch southwest. Another possibility would be to extend the pipe on the northwest side of the road and carry that to a larger stream across the road with a sealed pipe. Mr. Smith stated that that stream is near his driveway and he is concerned about adding more water to that stream. He added that there is a pipe that goes back into the ground into a spring that feeds into the pond.

Mr. Fred Frei stated that the water gets diverted and it goes into the ground, into a spring, which feeds also into the pond. He is concerned that any seepage from the turkey mount will contaminate the pond. He asked if being that the road is private and owned by seven (7) property owners and maintained by them, does the Township have the right to issue a variance on this property. He added that he was very concerned about the septic and that he would pay to have another test on that site, as to the legitimacy of that septic system. Mr. Kienz stated that under the law, the Board does have the right to grant a variance and they may impose additional conditions on this applicant to make sure that they does more than the fair share if it is fact, a private road.

The meeting was closed to the public and opened to the Board. Mr. DeBoer asked how long ago was the septic test done and what the water conditions were then. Mr. Wentink stated that some were done in 2001 and 2002 between the pond and Neilson road and they were terrible so he went back and did some more and he would have to check his notes. Mr. DeBoer asked if they were OK after so many years, Mr. Wentink stated that as long as they were done after 1990 and they were witnessed by the County they were acceptable.

Mr. Cecchini stated from his observations during the site walk that the house is so close to the road that if Mr. Frei came down his driveway in a storm he could end up in that house's living room and noted that the public needs to understand that the Board has no jurisdiction over septic issues. He stated that this application is a very difficult one and that this lot is a non-buildable lot and what makes it buildable is that it is somewhat of a hardship situation.

Mr. Smith stated that the 12.6 ft. setback is an issue being that it is a new building and that the Board has been very diligent about the 20,000 sf non-contiguous and the applicant is proposing none and that the reason why that requirement is in place is to protect the future homeowner in case there are septic issues the homeowner can correct the septic system if it went bad.

Mr. Kienz stated to the Board that it is a lot that was created under municipal action at some point and you do not create lots just to sit there and be a lot, lots are supposed to do something.

A discussion followed about the size of the house. Changing the footprint of the house was suggested to come up with something more modest so they can slide it differently on the lot. Mr. Smith stated that since Wilson Lane only feeds two (2) homes maybe if the applicant were to purchase that part of the property to make a bigger property could be an option. Mr. Frei stated that the reason why he needs the cul-de-sac is because many times he cannot make it up his driveway.

It was decided that Mr. Pellow and Mr. Wentink would discuss the drainage situation to come up with a solution.

On a motion duly made seconded and carried, this application was carried without prejudice to the January 27, 2009 Board meeting. No further notice is required.

### **L-11-2006 MOUNTAINVIEW MANOR PHASE I**

The applicant is seeking amended preliminary and final site plan, amended preliminary & final subdivision and amended use variance approvals originally granted on August 15, 2006 and memorialized on October 17, 2006. The property is known as Blk. 4, Lot 1.01 and is located on Route 23 in the Industrial zone.

Attorney Tom Collins, Engineer Andrew Schueller, and Mr. John Maione appeared before the Board.

Board members DeBoer and Gaechter stepped down.

The professionals stated that the applicant proposes to create thirteen (13) building lots instead of the 35 previously approved lots, extending the boulevard all the way to the top of the hill with a temporary cul-de-sac. After some discussion, it was decided that proposed Blk. 4, Lot 5 would be merged with Blk. 4.01, Lot 1.07 of Town Center to address the parking encroachment of Building No. 4, item 3,b,vi of Mr. Pellow's report.

The proposed project would be subdivided as follows:

Nine lots will have one building with five (5) apartments each, non age-restricted, individual wells and septic

One lot for commercial use for family restaurant, 4800 sf building

One lot, vacant for possible Shop Rite

One lot, vacant may be road to the top of Mountainview Manor.

One lot, vacant, Blk. 4, Lot 5 to be merged with Blk. 4.01, Lot 1.07 (building #4's own lot)

Mr. Collins indicated that the applicant is looking to expand the component of the Town Center project, as required for strategic planned endorsement with a mixture of use being: commercial, housing, age restricted, non age restricted and low and moderate housing as part of this amendment. The rest of Mountainview and Valleyview will have to come back to the Board with whatever is going on at the time.

Mr. Collins reminded everyone that Town Center currently has ownership of a fully functioning fire suppression pump & pump water system which provides the ability to extend the hydrant lines to fight fires in the buildings of Town Center and on to the street to fight fires.

Mr. Smith stated that the applicant did meet with the subcommittee of the Land Use Board to review this project and even though the previously approved were single family units the state planning and the economic development kind of come together in order to have the subcommittee look at this project and visualize these buildings going up the road.

Mr. Collins stated that the architect has designed the buildings and the exhibits to be introduced depict renderings of the proposed buildings as you drive up the street. Exhibit A1 – shows the buildings as they will look looking down the street, the buildings will be different colors, Exhibit A2 shows a photograph of a typical building.

Each building will have three 1-bedroom and two 2-bedroom apartments, similar to the apartments in Town Center. One sign is proposed for the restaurant and it must be consistent, subject to Mr. Troast's review. The site plan for the restaurant will be a later application. Trash enclosures will be similar to Town Center's. All maintenance will be done by Mr. Maione. There are maintenance people there right now with offices located in the basement of one of the buildings in Town Center.

Mr. Pellow's report was reviewed and discussed. A bond will be posted for the improvements. Mr. Kienz stated that it would have to be discussed. Mr. Collins stated

that a bond already exists because it is the same road. Mr. Kienz discussed a performance guarantee. Soil Erosion and Sediment Control plans of Phase I and II of Town Center are still under the Township's jurisdiction. Exhibit A3, Letter from NJDOT stating the applicant might need an access permit and Exhibit A4, copy of Access Permit dated 02-09-06 were discussed. The Board secretary will mail copies of these two exhibits to the Board Engineer for his files.

There was no one from the public present on this application.

After some discussion, the applicant opted to withdraw the application for preliminary and final site plan approval for the restaurant with the right to return at a later date with an application, no fees will be necessary as they have already been paid.

Mr. Slate made a motion seconded by Mr. Cecchini to amend the use variance as originally approved to allow rental, non-age restricted 1 and 2 bedroom apartments on wells and septs and a family style restaurant, amended preliminary and final major subdivision approval for 13 lots with Blk.4.01, Lot 5 being merged with Blk. 4.01, Lot 1.07 & preliminary and final site plan approval for 9 residential lots with 5 units of housing each, subject to the Planner's review of the signs and Mr. Pellow's review of the landscaping.

ROLL CALL VOTE:

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

THOSE OPPOSED: None. MOTION CARRIED.

#### **L-12-2006 TOWN CENTER**

The applicant submitted final as-built plans for Town Center known as Blk. 4, Lots 1.07, 1.08, 1.09 & 1.11, located on Route 23 in the Industrial area.

Attorney Tom Collins appeared before the Board. Mr. Collins stated that the major change was the fire suppression pond which was built under Mr. Pellow's observation and the lot line adjustment between Lots 1.07 and 1.08.

Mr. Pellow stated that the intersection coming out between buildings 2 and 3 on to the main road is a little dangerous, even though there is a stop sign, he was concerned about pedestrians crossing. Mr. Cecchini suggested putting a speed bump before the stop sign.

There were no members of the public present for this application.

It was discussed that the signs would be subject to review by David Troast.

Mr. Slate made a motion seconded by Mr. Cecchini to approve this application subject to a final report from Mr. Pellow and the applicant working on the intersection safety issue with the Board engineer.

ROLL CALL VOTE:

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

THOSE OPPOSED: None. MOTION CARRIED.

Mr. Smith reminded everyone about the joint meeting of the Land Use Board and the Mayor and Committee on December 29, 2008 to discuss the Fair Share Element and recommend it to the Committee for its adoption.

#### **ADJOURNMENT**

On a motion duly made seconded and carried, the meeting was adjourned at 9:52 p.m.

Respectfully submitted,

Stella Salazar  
Secretary