

TUESDAY, JUNE 23, 2009

A regularly scheduled meeting of the Wantage Township Land Use Board was held on Tuesday, June 23, 2009 at the Wantage Township Municipal Building. The meeting was held in compliance with the Open Public Meetings Act, P.L. 1975, Chapter 231. The meeting was properly posted and noticed to the public.

ROLL CALL

PRESENT: Mssrs. Bono, Cecchini, DeBoer, Gaechter, Slate, Smith, Vander Berg, and VanderGroef. Mme. Kanapinski, Attorney Glenn Kienz, Engineer Harold Pellow, Zoning Official Kevin Kervatt.

ABSENT: Mssrs. Grau and Cillaroto, Mmes. Gill and Mylecraine.

Board member VanderGroef arrived at 7:50 p.m.

APPROVAL OF MINUTES

Mr. Cecchini made a motion seconded by Mr. Bono to adopt the minutes of May 19, 2009.

ROLL CALL VOTE:

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

THOSE OPPOSED: None. **MOTION CARRIED.**

RESOLUTIONS

L-27-2007 FORUM HOMES (TAMCREST AT WANTAGE)

Mr. Cecchini made a motion seconded by Mr. Bono to adopt the resolution memorializing a decision made on May 19, 2009 granting final major subdivision and final major site plan approval to Forum Homes, Inc. (Tamcrest at Wantage) for Block 113, Lot 11 and Block 114, Lot 3, located on Old Clove Road in the R-1 Zone, pursuant to N.J.S.A. 40:55D-50 and N.J.S.A. 40:55D-52, 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 major subdivision plans prepared by William F. Stoehr, Professional Land Surveyor, dated March 19, 2008, consisting of two (2) sheets and/or as same may have been modified in furtherance of this Resolution or in consultation with the Board Engineer.
3. The Applicant shall comply with the recommendations set forth in the Township Engineer's Review Report dated May 19, 2009 and/or as same may have been revised during the course of the hearings in this matter.
4. The Applicant shall cleanup the wetland area of the Subject Property.
5. The \$10,000.00 inspection fee shall be posted prior to construction.
6. This approval is subject to and conditioned upon the Applicant providing the Board with a copy of all approvals obtained including County approvals.
7. This approval is subject to the Applicant providing copies of protective covenants, deed restrictions and/or homeowner association documents.
8. This approval is subject to the Performance Bond being renewed at its expiration on July 31, 2009.
9. 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.
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. 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, Gaechter, Slate, Vander Berg, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

L-4-2009 ERIC TURNQUIST

Mr. Cecchini made a motion seconded by Mr. Slate to adopt the resolution memorializing a decision made on May 19, 2009 granting minor subdivision approval with variance relief to Eric Turnquist for Block 17, Lots 3, 25 and 27, located on County Route 565 in the ML Zone, pursuant to N.J.S.A. 40:55D-70(d) and N.J.S.A. 40:55D-47, as authorized by N.J.S.A. 40:55D-76(d), 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. The plan shall be revised to indicate subdivision approval is granted for just the southerly lot. These revised plans are subject to final approval by the Board Engineer.
3. The Applicant shall be responsible for providing a 150 foot buffer around the single-family residence and drafting appropriate language for a Conservation Easement to allow the land to have additional agriculture preservation uses, subject to the final review and approval of the Board Engineer and Board Attorney.
4. 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.
5. The Deed recorded memorializing this subdivision shall specifically refer to this Resolution and shall be subject to the review and approval of the Board Engineer and Board Attorney. The Applicant shall record the Subdivision Deed within 190 days of the memorializing Resolution being adopted. Failure to do so shall render this approval null and void.
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 for the driveway cut providing access to the property.
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, Slate, Kanapinski, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

L-8-2009 SUSSEX AIRPORT, INC.

Mr. Slate made a motion seconded by Mr. Bono to adopt the resolution memorializing a decision made on May 19, 2009 granting minor site plan approval to Sussex Airport, Inc. for Block 18, Lot 5, located at 53 Route 639 in the AH Zone, pursuant to N.J.S.A. 40:55D-46, 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. The Applicant shall comply with all terms and conditions contained in the Board Engineer's Review Report prepared by Harold E. Pellow, P.E., L.S., Township Engineer, dated May 18, 2009.

3. The Applicant shall submit a copy of the FAA approval.
4. The Applicant shall submit a Certificate of Compliance with the soil conservation plan when the work is completed.
5. An Easement Agreement between the adjoining property and the Applicant to allow a 25 foot easement for access to the neighbor's as well as the right to use the taxiway shall be prepared and reviewed by the Board Attorney and the Board Engineer prior to the adoption of 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. 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, Gaechter, Slate, Kanapinski, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

APPLICATIONS

L-14-2006 STEVEN L. LANG

The applicant is seeking an extension of major subdivision approval. The approval was granted on February 27, 2007 and memorialized March 27, 2007. The property is known as Block 152, Lot 9 and is located on Ramsey Road in the RE zone.

Attorney Joanne Sorrentino appeared before the Board.

Ms. Sorrentino explained that the property owner, John Hannigan, and the applicant, Steven Lang, became involved in litigation regarding Mr. Lang's contractual rights to pursue the perfection of the subdivision approval. The matter recently went to trial and the final judgment in Mr. Lang's favor was entered by the Court on May 15, 2009. Pursuant to the terms of the final judgment, Mr. Hannigan has been required to specifically perform pursuant to the Contract and is required to sign any and all subdivision deeds or plats that are required in order to perfect the subdivision approval.

Mr. Vander Berg made a motion seconded by Mr. Bono to grant approval to this extension request for a period of one (1) year to March 27, 2010.

ROLL CALL VOTE:

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

THOSE OPPOSED: None. MOTION CARRIED.

L-7-2009 ISAAC'S PLACE

The applicant is seeking minor site plan approval to operate an ice cream parlor. The property is known as Block 117, Lot 31 and is located on Route 565 in the HC zone.

Attorney Donald Hogan and project manager, Charlene Fiorita appeared before the Board.

Mr. Hogan stated that there would be no structural changes, the existing sign would be used, a dumpster enclosure with a roof was proposed and that the gazebo had been removed.

Board of Health approval is needed. County approval was obtained. Hours of operation will be seven days a week from 6 a.m. to 12 midnight. Lighting discussion, subject to engineering review.

There was no one from the public present on this application. The meeting was opened to the Board.

Mr. Smith discussed the existing signage. He stated that it should only be used to advertise the business and no messages and no other advertising should be on it. Mr. Kienz suggested signage details to be provided to Mr. Pellow and subject to his review. Mr. Vander Berg stated that a sign with changeable letters was never approved and it was put there along with the gazebo, advertising a product sold on site is not restricted. Mr. Hogan referred to a canopy sign that used to be on the property and the applicant would like to display again. The Board suggested Mr. Hogan check the ordinance. It was discussed that the applicant would submit a signage detail by July 17th to be approved at the time of memorializing the resolution. The signage will be submitted to the Board attorney, engineer, and secretary.

It was discussed that the applicant would sell ice cream and no kitchen items. Mr. Smith indicated that the county would determine the septic along with plumbing based on seating and the county would handle the entrance way and entrance signs as well. Mr. Smith referred to a conversation at the committee level when the applicant stated they wished to have a window between the building and the back porch to be able to serve through the window. Mr. Hogan indicated the applicant would probably have a patio table and a couple of benches. Mr. Slate asked if there was going to be enough parking. It was discussed there would be enough and that the space for the tenant should be marked.

Mr. Smith made a motion seconded by Mr. Bono to approve this application subject to the items discussed and to Mr. Pellow's report.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, DeBoer, Gaechter, Slate, Vander Berg, Kanapinski, Vander Groef, Smith.

ABSTAIN: Cecchini.

THOSE OPPOSED: None. MOTION CARRIED.

L-9-2009 ABD WANTAGE, INC.

The applicant is seeking final major subdivision approval of 21 lots. Preliminary major subdivision approval was granted August 15, 2006 and memorialized October 17, 2006. The property is known as Block 54, Lots 8.01, 10, and 14 and is located on Lowe Road, Smith Road, and County Route 650.

Attorney Kevin Hahn and Engineer Ken Dykstra appeared before the Board.

Board member Kanapinski stepped down as she is an adjoining property owner.

Mr. Pellow's engineering report of June 5, 2009 was reviewed. The applicant requested two waivers, one for sheet size and one for key map scale of 1"=500'. Both were acceptable. Copies of protective covenants, deed restrictions or homeowner association documents and letter of approval and certification from Township Engineer to be supplied as a condition of approval and proposed developer's agreement can be waived for now but they will have to do one. Deeds and descriptions for all easements and right-of-way dedications are needed to review against the final plat. Maintenance agreements are required for the common driveway. The report from the well testing was supplied and reviewed. Mr. Pellow indicated that a bond for raising the barn was necessary and that monuments are needed in the right-of-way of Lowe Road and Smith Road. The Road Trust Fund contribution of \$45,000.00 to be paid prior to signing the maps. Condition #8 of the resolution requires the construction of two affordable units which the applicant still intends to do. Condition #6 requires the detention basins to be maintained by the municipality and requires the applicant to post a twenty-year bond. Item 11 of the

report referenced the stormwater management plan and Mr. Pellow indicated that there was a list of items on the following Pages 6 and 7 from the preliminary approval that still needed to be addressed. It was discussed that the applicant would need to provide a certification stating that they had satisfied all the conditions of preliminary approval. Mr. Dykstra agreed that Mr. Pellow had pretty much touched on all the items that were pending and that the applicant still needs to do some more drainage testing in the field.

Mr. Pellow's report dated June 16, 2009. This was a review of the well testing performed by the applicant. The applicant stated that total of six (6) wells were drilled. Three (3) wells were used for the pump test and three (3) wells were used for monitoring. The neighboring property owners within 500 feet were contacted by the applicant by certified mail to offer the neighboring properties the opportunity to have their existing wells monitored during the well pump testing. Only one property owner, Ms. Leslie Toal at 60 Liberty Road, Block 54, Lot 9, agreed to have her well monitored during the aquifer study. The three wells that were test pumped at 2 gpm or greater provided sufficient water for a single-family dwelling during the 23-hour testing period. Based on the test data provided, it is anticipated that water treatment equipment will be needed for some of the individual wells in order to meet NJDEP and Sussex County Health Department water quality standards.

There was no one from the public wishing to come forward on this application. The meeting was opened to Board.

Mr. Smith referred to two reports from the NJDEP dated 8/21/08 and. He stated that he would like to have their recommendations be part of the resolution. Mr. Dykstra stated that those were wetland crossing and transition area averaging waivers.

Mr. Cecchini made a motion seconded by Mr. Bono to approve this application subject to Mr. Pellow's reports dated 6/5/09 and 6/16/09, Mr. Smith's comments, and subject to the comments from tonight's testimony, Item #9, comments on the bonding and the affidavit.

ROLL CALL VOTE:

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

THOSE OPPOSED: None. MOTION CARRIED.

L-6-2009 ROY ROAD, LLC

The applicant is seeking preliminary major site plan with a soil removal permit and a conditional use variance to remove and dry screen soil. The property is known as Block 16, Lot 5.01 and Block 17, Lot 38.01 and is located on County Route 565 and Roy Road.

Attorney Joanne Sorrentino, Engineer Ken Dykstra, Tom Zummo appeared before the Board.

Mr. Kienz stated for the record that the notice posted by the applicant appears to be in order.

Ms. Sorrentino indicated that the property is located in the Highway Commercial zone. She stated that the applicant is seeking preliminary major site plan and soil removal permit and both are permitted uses in the Highway Commercial zone. She added that the applicant is also seeking conditional use dry screen permit. Under the ordinance, dry screening requires 20 acres and the property contains 49.59 acres. The soil removal operation is proposed in phases over a 10-year period and the applicant also intends to create some top soil. During the course of the soil removal operations, the applicant will maintain a trailer measuring 12' x 45' on Lot 5.01, one porta-john, and an agricultural well in order to keep the dust under control. Ms. Sorrentino stated that they had reviewed Mr. Pellow's report and that they wished to clarify the fact that the applicant is not looking for conditional use variance as they do not believe they need a variance. They believe they fit the requirements for conditional use without a variance.

It was discussed that the applicant had received a letter from Sussex Rural Electric stating that they would relocate the power lines when required and letter from Wander

Ecological Consultants stating the wetland boundaries had been flagged in the field. Copies of these letters have been submitted to the Board.

Mr. Dykstra introduced exhibit A1, Site Restoration Plan, Preliminary Site Plan, dated 6/11/09, color version of the site restoration plan submitted to address Mr. Pellow's concerns. This plan is the same as what the Board has except that it includes the topography background and it is a color version.

Mr. Dykstra indicated that the property is located on Route 565 and that the primary access would be from Roy Road. Block 16, Lot 5.01 consists of 29.809 acres and Block 17, Lot 38.01 consists of 19.781 acres. Wetlands were delineated and identified environmental constraints. Letter of interpretation is not available at this time. Soil testing was done back in March 2009 combination of borings and test pits. The applicant proposes to level the property to reduce the 40 ft. rise to 18 ft on the southerly parcel. The intent is to remove the soil, put the topsoil back on and restore it to a farming activity. Regarding will make it eventually more suitable for highway commercial use. In the end, the end result is to cut down to Roy Road because it is very steep, so we intend to take the top of the hill down and create a nice smooth curve. The project will be phased initially phases 1-4 in 5-acre increments. Mr. Dykstra indicated that there will be some shale removal and dry screening. He stated that the soil is not totally suitable for topsoil, products will be brought from the other site to be mixed. He indicated that dry screening is permitted on tracks over 20 acres and this property is 49.59 acres Dry screening requires the distance to be at least 100 ft. from a residence and there is very little development around this property. To the South is Fred Hough's farm and his cell tower on it has been identified, 140 ft from property line, to the East is the remainder of Block 16, Lot 5, a residential lot and the proposed home site 155 ft from the property line. The other side of Roy Road is a property of about 115 acres and the proposed home site has a back field distance of approximately 500 ft. Across Route 565 is the old site of Sussex Meat Packing which is currently unoccupied. There are a couple of dwellings going further up on Route 565 that has besides the buffer a lot of vegetation so there is a very significant natural buffer screening those homes from the soil removal activities. No neighbors will be bothered, each phase will have to be restored to agricultural use, grass seed will be put on it, the corridor for trucks to go from Phase I to Phase II will be maintained and it is estimated approximately 20 trucks per day up to 100 on a busy day. Homeowners' access to their homes will be subject to a Developer's Agreement, detouring them will be more beneficial, phasing issue to be worked out, soil erosion and sediment control plan is being submitted, the property will have storm basins for stormwater. Discussions were held with JCP & L, the poles can be moved, the Environmental Impact Statement, prepared in Mr. Dykstra's office, was submitted, aquifer recharge area waiver is being requested, Mr. Dykstra stated that the information was supplied in the EIS.

Mr. Smith suggested doing a site walk. He expressed concerned about the road and if the operation lasts ten (10) years, if the road is bonded, how is it going to be bonded as the prices of materials keep going up. Mr. Pellow stated that the road is totally insufficient for 20 trucks or 100 trucks and that it should be built.

Mr. Vander Berg referred to Mr. Dykstra's comments about the 18 ft. elevation that would result on part of the property on Route 565. He stated that would be a significant slope and he suggested looking at that issue during the site walk. Mr. Pellow stated that the soils would have to be looked at. He stated the test holes were poor and the sand and gravel are not good for a soil operation. Mr. Smith stated that it was better to do the site walk as reviewing Mr. Pellow's reports at this time would be useless based upon what a site walk would generate. He stated this was not a simple operation

Mr. Zummo stated that the purpose of the application was to create a commercial site. The road would be fixed and maintained over a period of time. He did not see any sense to build the road and abuse it. Instead, he proposed to build the road later on. The operation will be topsoil manufacturing blending with sand and compost to create a good topsoil product that will generate the income to create the site. The property will be returned to agricultural use since future market conditions are unknown.

It was discussed that the site would down the road be suitable for a warehouse, maybe 10 houses if the zone is changed at 5 acres, not suitable for high density or anything with high sewage use as it would be problematic.

Mr. Smith asked the applicant why not do the processing on the site that is not so visible, as opposed to doing it on a site that is a fishbowl. He referenced the property on Route 284 that is the subject of a lot of telephone calls complaining about what is taking place on the site. Mr. Zummo stated that the reasons were: the bad condition of the road, flattening out the property for future use, and the approved site does not have approval for compost to be brought to that property.

A site walk was scheduled for Tuesday, June 30, 2009 at 4:00 p.m. The application was carried to the July 28, 2009 meeting. No further notice is required. All Board members were in agreement.

INFORMAL

SHEILA HUGHES

Sheila Hughes and Jeff Cammarino approached the Board to find out what their options were regarding opening a retail store on Route 23 and Brink Road. Mr. Kevin Kervatt issued a denial stating that a site plan approval was required. The applicant is taking over a property that was the site of a deli for 17 years to sell sporting goods and no changes to the site are proposed. The Board advised the applicant to come in with a site plan and then request a waiver.

ADJOURNMENT

On a motion duly made, seconded and carried, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Stella Salazar
Secretary