

TUESDAY, JULY 28, 2009

A regularly scheduled meeting of the Wantage Township Land Use Board was held on Tuesday, July 28, 2009 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 posted and noticed to the public.

ROLL CALL

PRESENT: Mssrs. Bono, Cecchini, DeBoer, Smith, Vander Berg, Vander Groef. Mmes. Gill and Kanapinski, Attorney Glenn Kienz, Engineer Harold Pellow, Zoning Officer Kevin Kervatt.

ABSENT: Mssrs. Grau, Cillaroto, Gaechter, Slate. Mme. Mylecraine.

APPROVAL OF MINUTES

Mr. Cecchini made a motion seconded by Mr. Bono to adopt the minutes of June 23, 2009, with corrections.

ROLL CALL VOTE:

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

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

RESOLUTIONS

L-14-2006 STEVEN LANG

Mr. Vander Berg made a motion seconded by Mr. Cecchini to adopt the resolution memorializing the Board's decision of June 23, 2009 to grant major subdivision extension to Steven L. Lang for Block 152, Lot 9, located on Ramsey Road in the RE zone, pursuant to N.J.S.A. 40:55D-52(d), subject to the following terms and conditions:

1. The extension granted herein shall expire on March 27, 2010.
2. All terms and conditions of the Board's aforementioned major subdivision approval, unless amended herein, shall remain in full and effect.
3. 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, Vander Berg, Smith.

THOSE OPPOSED: None. **MOTION CARRIED**

L-7-2009 ISAAC'S PLACE

Ms. Kanapinski made a motion seconded by Mr. Bono to adopt the resolution, with corrections, memorializing the Board's decision of June 23, 2009 to grant minor site plan approval to Isaac's Place LLC for Block 117, Lot 31, located on Route 565 in the HC zone, pursuant to N.J.S.A. 40:55D-46.1, 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. Pursuant to Harold Pellow's report dated May 12, 2009 a dumpster enclosure shall be submitted and located on the north side of the gravel parking area.
3. The removal of the existing gazebo on the site.
4. Subject to all other issues raised by Harold E. Pellow, P.E., Township Engineer in his report dated May 12, 2009 and his July 28, 2009 report, which is attached as Appendix A.
5. 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.
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 or waiver, as deemed necessary by the County.
 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, Vander Berg, Kanapinski, Vander Groef, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

L-9-2009 ABD WANTAGE

Mr. Bono made a motion seconded by Mr. Cecchini to adopt the resolution memorializing the Board's decision of June 23, 2009 to grant final major subdivision approval to ABD Wantage, Inc. for Block 54, Lots 8.01, 10, 10.08 and 14, located on Lowe Road, Smith Road and County Route 650 in the Residential Environs Zoning 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 subject to the Applicant complying with all terms and conditions of the Board Engineer's reports dated June 5, 2009 and June 16, 2009 and/or as same have been modified at the time of the hearing.
3. This approval is subject to the Applicant complying with all terms and conditions of the letters dated August 21, 2008 from the New Jersey Department of Environmental Protection regarding Transition Area Waiver-Averaging Plan Approval and Authorization for Freshwater Wetlands Statewide General Permit, Water Quality Certification and Waiver of Transition Area for Access respectively.
4. This approval is subject to all and terms and conditions of the previous approvals and resolutions remaining in full force and effect except as modified herein.
5. 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.
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. This approval is subject to and conditioned upon the Applicant supplying the Board with copies of all protective covenants.
10. This approval is subject to and conditioned upon the Applicant supplying the Board with the deed restrictions.
11. This approval is subject to and conditioned upon the Applicant supplying the Board with the homeowner association documents and all letters of approval.
12. This approval is subject to and conditioned upon the Applicant supplying the Board with the certifications from the Township Engineer.
13. The Board has agreed that the proposed Developer's Agreement has been temporarily waived for the moment but this approval is subject to and conditioned upon the Applicant preparing and submitting said document to the Board within a reasonable amount of time.

14. This approval is subject to and conditioned upon all deeds and descriptions for all easements and right-of-way dedications being provided to the Board for review against the final plat.
15. This approval is subject to and conditioned upon the Applicant obtaining the maintenance agreements which are required for the common driveway. Copies of the maintenance agreements are to be supplied to the Board.
16. This approval is subject to and conditioned upon the Applicant obtaining a bond for raising the barn.
17. This approval is subject to and conditioned upon the Applicant obtaining monuments for the right-of-way of Lowe Road and Smith Road.
18. This approval is subject to and conditioned upon the Road Trust Fund contribution of \$45,000.00 being paid prior to the signing of the maps.
19. This approval is subject to and conditioned upon the Applicant constructing two (2) affordable units on the Subject Property along with a \$71,000.00 contribution for the construction of four (4) affordable housing units. The two (2) affordable housing units on the Subject Property are to be constructed with architectural characteristics similar to the surrounding homes in the development.
20. This approval is subject to and conditioned upon the detention basin being maintained by the Municipality and that the Applicant post a 20 year bond.
21. This approval is subject to and conditioned upon the Applicant providing a certification to the Board stating that all conditions of preliminary approval have been satisfied.
22. 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, Vander Berg, Smith.

THOSE OPPOSED: None. MOTION CARRIED

APPLICATIONS

L-1-2003A LGR ENTERPRISES, LLC

The applicant is requesting an extension of amended preliminary major subdivision approval. The application was approved June 20, 2006 and memorialized on August 15, 2006. The property is known as Blk. 135, Lot 6.01 and is located on Sherman Ridge Road in the R-1 zone.

Mr. Skip Ferguson appeared before the Board.

Mr. DeBoer made a motion seconded by Mr. Bono to grant a one year extension through August 15, 2010.

ROLL ACLK VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Vander Berg, Gill, Kanapinski, Vander Groef, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

L-25-2008 AMES RUBBER, INC.

The applicant is requesting extension of minor subdivision approval. The application was approved January 27, 2009 and memorialized February 17, 2009. The property is known as Blk. 1.02, Lot 9.01 and is located on Route 284 in the R-5 zone.

Mr. Kienz referred to a letter from Richard Valenti, Esq. with the firm Morris, Downing & Sherred, LLP requesting the extension on behalf of the applicant.

Mr. Cecchini made a motion seconded by Mr. Bono to reaffirm the subdivision for 190 days.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Vander Berg, Gill, Kanapinski, Vander Groef, 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 Michael Gaus, Engineer Ken Dykstra, and applicant Tom Zummo appeared before the Board.

Mr. Dykstra stated that after the June meeting, a site walk took place on June 30, 2009. Mr. Dykstra introduced Exhibit A1A, a colored copy of the plan called "Preliminary Site Plan" dated July 28, 2009, consisting of one (1) page showing the amended phasing reduced from eight (8) to four (4) phases. Mr. Dykstra indicated that at Mr. Pellow's suggestion, Phase I should stop at the crest of the hill, where the tree line is and that this area is not visible from Rt. 565. Phase II will be adjacent to Roy Road and will be at or higher than the road and Phase III will get to a level on the road and the high point on the road will be lowered about 16 ft and the rest of the soil removal will occur on Phase III. Phase IV will not be done until Phases I-III are done and the road is restored. Also the amount of soil removal was reduced from a 29 ft. excavation to a 14 ft. excavation, reducing the total removal by 50,000 cubic yards

Mr. Pellow's report dated July 24, 2009 was reviewed. It was discussed that the Letter of Interpretation is pending with the NJDEP. Landscaping, site restoration, and Roy Road maintenance were reviewed. It was discussed that the applicant would maintain Roy Road, Mr. Pellow would perform quarterly inspections and if the road was not in satisfactory condition, the applicant should correct within 30 or 60 days. A performance guarantee bond will be posted prior to starting Phase III and the physical work will be done when the height reaches the height of the existing Roy Road. Mr. Pellow indicated that the bond should be at least \$3,000 per acre not to exceed \$7,000. A discussion followed as to how the operation would be conducted, how the materials would be mixed, and how much property each phase would encompass. Mr. Kienz suggested the applicant submitting a proposal of operation prior to the Board's next meeting. Mr. Smith stated that the Board needs to know what is taking place and they would like it to have as little impact as possible on the general public. Item 19.b.1.i addressed the future development of the property. Mr. Gaus indicated that the applicant intended to restore the property to farmland. The excavated areas, the hours of operation, 7:00 to 5:00 pm Monday through Saturdays, noise levels, and signage were discussed. Mr. Gaus asked if since the number of phases was reduced from 8 to 4, would the applicant be able to work on 10 acres at a time as opposed to 5. Mr. asked what was going to happen to the abandoned house on the road, the applicant stated it would be torn down.

The meeting was opened to the public. Ms. Maggie Kolicko express her concern about seeing Wantage go from a farm to this type of operation and she wondered if the notice included the blending operation as she was very surprised to see no one at the meeting. Mr. Gaus stated that he did not see anything about the blending in the notice but at the same time he did not believe it was required under the ordinance. Mr. Smith stated that this was a commercial site. Mr. Zummo stated that an adjoining neighbor has 362 acres in farmland preservation.

The meeting was closed to the public and opened to the Board. Mr. DeBoer questioned the amount of truckloads the project would generate. He wondered why the difference of 20-100 truckloads was discussed. Mr. Dykstra stated it was different on given days, Mr. Zummo indicated that the most they have done is 55 trucks per day. Mr. Smith suggested limiting the number of trucks for daily operations and any special operation for more than

two consecutive days Mr. Pellow would need to be notified, so the Township can take appropriate action to offset traffic and dust problems. Mr. Gaus and Mr. Smith agreed that if there is going to be more than 50 trucks per day then that will be a reasonable number to provide notification to Mr. Pellow. Ms. Kanapinski asked if blending could be done at the other site. Mr. Gaus indicated that there was an ownership question on the other property as they are two entirely different sites. Mr. Kienz stated that a conditional use variance could be granted as long as the applicant met all conditions. Ms. Kanapinski asked if some kind of bond agreement could be in place for the road. Mr. Kienz indicated that he believed since Mr. Pellow's office was going to be conducting inspections every three (3) months or so, that would be one of the conditions that were going to be built in. It was discussed that there could be a small bond for the road called "repair bond" for Roy Road.

Mr. Smith made a motion seconded by Mr. Cecchini to approve this application subject to Mr. Pellow's report,, pending report on the L.O.I. and other agencies, subject to 12" of arable soil over the shale, posting the bond for reconstruction of Roy Road prior to Phase III, notification on the number of trucks, repair bond, four (4) phases working 10 acres at a time, the final site to correspond to Sheet 9 of the plan submitted.

Mr. Smith stated for the record that this site is in the spotlight of the community and that Mr. Pellow's office will be very vigilant on that site.

ROLL CALL VOTE:

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

THOSE OPPOSED: None. MOTION CARRIED

Mr. Kienz informed the applicant that this resolution would most likely be carried to the September meeting. It was confirmed that there will be no meetings in August and unless necessary, the next meeting of the Board would be on September 22, 2009.

The Board took a two minute break.

L-4-2009A ERIC TURNQUIST / MEADOW VIEW AT WANTAGE

The applicant is proposing to subdivide a 68.374-acre tract of land into eight (8) lots. The applicant proposes to construct five 4 and 5 townhouse units and one single family home. The property is known as Blk. 17, Lots 3, 25 & 27.01 and is located on Route 565 in the ML and RE-5 zones. Proposed Lot 27.07 is proposed as a single-family dwelling and is not permitted in the ML zone. A use variance is needed.

Member DeBoer stepped down on this application.

Attorney Michael Gaus, Engineer Ken Dykstra, and Mr. Eric Turnquist appeared before the Board.

Mr. Gaus made a brief presentation of the application. Mr. Gaus referenced the minor subdivision approval obtained in May for the southerly large building lot and the withdrawal of the balance of the application at that time. Mr. Gaus stated that the applicant had since refiled seeking additional major subdivision along with individual site plans for multi housing units, Mr. Dykstra submitted revised plans, Mr. Pellow issued a report, the applicant noticed for the hearing and they were prepared to proceed.

Mr. Kienz indicated that he reviewed the notice and it was in compliance.

Mr. Dykstra introduced Exhibit A1, colored Pages 3 and 4 of the Preliminary Subdivision and Preliminary Site Plans, dated July 16, 2009. The proposal includes a major subdivision involving three (3) properties and a minor subdivision involving Lot 25.

Lot 27.01 will be subdivided into five (5) townhouse building lots known as Lots 27.01, 27.02, 27.03, 27.04, and 27.06; Lot 27.05 will be an open space lot where the stormwater basin will be located; Lot 27.08 will be an open space lot; and Lot 27.07 will be a single-

family lot. Existing Lot 25 contains 10,920 sq.ft. and is located in the RE-5 zone. A portion of Lot 25 containing 924 sq.ft. will be subdivided and annexed to the proposed roadway and a front yard setback variance will be needed: 80 ft. is required and 15.0 ft. is proposed. Access to the house will be from the proposed roadway. In addition, 21,943 sq.ft. will be subdivided from Lot 27.01 and annexed to Lot 25, resulting in a net area of 0.733 acres, an increase from 0.25 acres for Lot 25.

Mr. Dykstra stated that proposed Lot 27.07 contains 38.9 acres and will run together with Lot 3 consisting of 6 acres, for a total of 45 acres. The proposed road will be 1270 feet with a cul-de-sac oversized to allow a bus. He stated that the ordinance requires 20% open space, proposed open space Lots 27.05 and 27.08 equals 14 acres with access to open space. Each proposed lot will have septic and well, the lots have been designed to exist independently of each other and the applicant stated that the open space would be maintained by the Township. It was discussed that there will be no homeowner's association and that each building is to be owned by one (1) person fee simple, each unit will be rented, and each building owner will have its own garbage pick up. Each building will have its own dumpster. Mr. Gaus stated that it is not intended to be a condominium.

Variances will be needed as follows: 1) Use variance for proposed Lot 27.07 as a single-family dwelling and is not permitted in the ML zone; 2) use variance or zone change for a portion of the access road that will be constructed in the RE-5 zone with the lot line adjustment for Lot 25; 3) front yard setback variance for Lot 25 due to a portion of this lot, 924 sq.ft. that will be subdivided and annexed to the proposed roadway.

Mr. Smith expressed concern about the access driveway to the house on Lot 25. He thought that it would create bigger safety issues. It was discussed the county would review the access. Ms. Gill wondered if there was anything preventing these building owners to turn their units into condos. Mr. Gaus replied that the land use law does not allow provisions on the type of individual ownership. He stated that was not the proposed plan of ownership.

Mr. Kienz stated for the record that he was reviewing Sheet A1, prepared by Edward A. Easse, dated 03-10-09, that shows a 5-unit rental townhouse configuration. Mr. Dykstra stated the garages would measure 12 x 21 so they will be a good size garage.

Mr. Pellow's report was reviewed. Variances were reviewed. Mr. Smith asked if it would be possible for the owner of proposed Lot 27.07 single family home to ever subdivide. Mr. Kienz replied that they could but they would have to come in not only for the subdivision approval but also for a use variance. Mr. Smith asked if the decision by COAH and the agreements with Mr. Bob Eckstein would still be valid and if Wantage could be forced into more units. Mr. Kienz believed that this project locks it in. It is a site plan, a subdivision, a use variance and if the Board approved this project it could be with the stipulation there could be no more development of any kind. Mr. Gaus stated that there are significant constraints on that property and that the applicant had made an OPRA request for any of the agreements with Mr. Ekstein and no records were found. Mr. Pellow asked in his report, under item 1.h about the height of the landscaped berm shown. Mr. Dykstra indicated that it would be 6 ft., 13 staggered white pines. Under item 3.03, Mr. Pellow stated that the L.O.I. was still needed. Mr. Gaus stated that when the minor subdivision was approved back in May, after a significant discussion the Board agreed that an L.O.I. would not be needed for the 68 acres for putting one (1) house and the applicant is requesting to do the same with Lot 27.07 for a single family home for this extensive home on 38+ acres. Mr. Dykstra indicated that there is a transition area of 150 ft. The applicant understands that the L.O.I. is needed for the other part of the project, the multi family housing. However, not having one for the 38-acre Lot 27.07 would save the applicant a considerable amount of money. It was discussed that there is an existing road already on the property that may be used for the house.

Other items from the report included a waiver for naming the road, fire protection plans, copies of protective covenants, deed restrictions, or homeowner association documents, and proposed developer's agreement. Mr. Dykstra stated that improvements to Rt. 565 included widening of the west side to 350 feet which would allow a 12 ft. lane and a

10 ft. shoulder. The developer's agreement will be provided if required by the Board attorney. Mr. Kienz will confer with Mr. Troast on the need for one.

Well testing will be done; Mr. Gaus stated that he would include restrictive language in the deed for the single family home for Lot 27.07 similar to the one for the southerly lot. Potable water, sanitary sewer, and signage were discussed. Mr. Dykstra indicated that no sign was being proposed as someone would then have to maintain it; pedestrian access, sidewalks are proposed on the building side; school children, population, wetlands, landscaping, easements, county approval, stormwater management, parking, affordable housing, lighting, mailboxes and paper boxes, affordable housing, trash enclosures, architecture, guide rail.

There will be no homeowner's association: Mr. Gaus said the septic regulations require that in order to qualify to get septic permits on each lot there will be no overlapping interests among the properties. Standard homeowner rules will be in place.

Mr. Smith opened the meeting to the public. Ms. Maggie Kolicko asked if a variance was needed for lot size. Mr. Dykstra replied no because of the total area. Ms. Kolicko inquired about the fact that affordable units are being grouped in one building as opposed to being integrated with other units. Mr. Kienz stated the issue had come up before and it was acceptable to COAH.

There being no one else from the public on this application, the meeting was closed to the public and opened to the Board.

Mr. Cecchini brought up the issue of open spaces being maintained by the Township. He believed that it became a liability for the taxpayers. If walking paths are available then it will be expected of the Township to maintain those areas. Mr. Bono stated that once you have all of those walking paths and they are Township property then people from all over the town will be coming to use the paths and they will be parking along the road. Mr. Cecchini mentioned the possibility that if a sixth LLC would be allowed to collect fees from the other five LLCs to maintain the open space. Mr. Gaus stated that if mandatory fees exist, then there is an interlocking condition that the septic regulations prohibit.

A discussion followed about the state regulations that developers are faced with that make it very difficult to put any projects.

Mr. Kienz suggested granting preliminary major subdivision, preliminary major site plan, minor subdivision, and use variances for the two homes and the road, setback variance subject to resolving other issues like open space.

Mr. Cecchini made a motion seconded by Mr. Bono to approve this application subject to Mr. Pellow's report, subject to all items discussed, wetlands on the project only, affordable housing, on the five (5) lots, open space, and to carry the final to a September hearing.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, Vander Berg, Gill, Kanapinski, Vander Groef, Smith.

THOSE OPPOSED: None. MOTION CARRIED

ADJOURNMENT

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

Respectfully submitted,

Stella Salazar
Secretary