

## **JANUARY 26, 2010**

A regularly scheduled meeting of the Wantage Township Land Use Board was held on Tuesday, January 26, 2010 at the Wantage Township Land Use Municipal Building. The meeting was held in compliance with the provisions of the Open Public meetings act, P.L. 1975, Chapter 231. It was properly noticed and posted to the public.

### **ROLL CALL**

PRESENT: Mssrs. Bono, Cecchini, DeBoer, Gaechter, Grau, Smith, VanderBerg, Cillaroto, Mmes. Gill, Kolicko, Attorney Glenn Kienz, Engineer Harold Pellow.

ABSENT: Mssrs. Slate and Vander Groef, Mme. Kanapinski.

### **REORGANIZATION**

Mr. Kienz proceeded to administer the oath of office to the newly appointed members with the exception of Ms. Kanapinski and Mr. Vander Groef who were not present.

Mr. Grau made a motion seconded by Ms. Gill to nominate Mr. James Smith as Chairman of the Land Use Board for 2010. A voice vote was unanimously in favor.

Mr. Grau made a motion seconded by Mr. Bono to nominate Mr. Ronald Slate as Vice Chairman of the Land Use Board for 2010. A voice vote was unanimously in favor.

Mr. Grau made a motion seconded by Mr. Bono to nominate Mr. Harold Pellow and the firm Harold Pellow & Associates as Engineer of the Land Use Board for 2010. A voice vote was unanimously in favor.

Mr. Grau made a motion seconded by Mr. Bono to nominate Mr. Glenn Kienz and the firm Weiner Lesniak as Attorney for the Land Use Board for 2010. A voice vote was unanimously in favor.

Mr. Grau made a motion seconded by Mr. Cecchini to nominate Ms. Stella Salazar as Secretary of the Land Use Board for 2010. A voice vote was unanimously in favor.

Mr. Grau made a motion seconded by Mr. Cecchini to name the New Jersey Herald and the Sunday Herald as the official newspapers of the Land Use Board for 2010. A voice vote was unanimously in favor.

The meeting dates for the Board were designated as work session, if necessary, on the third Tuesday and regular meetings on the fourth Tuesday of each month in 2010, except April. The dates are as follows: January 27, February 16 and 23, March 16 and 23, April 27, May 18 and 25, June 15 and 22, July 20 and 27, August 17 and 24, September 21 and 28, October 19 and 26, November 16 and 23, December 21 and 28, January 18 and 25, 2011.

Mr. Cecchini made a motion seconded by Mr. Bono to approve the aforementioned dates. A voice vote was unanimously in favor.

Mr. Smith wished to recognize Mr. Ken Nelson and the Sussex Borough Board presence at the meeting. Mr. Smith indicated that a subcommittee had been established including Joanne Kanapinski, Ron Slate and Maggie Kolicko. Mr. Smith stated that both municipalities wished to work together with applicants with properties that adjoin both towns and the new subcommittee would make sure that all issues are addressed.

## **APPROVAL OF MINUTES**

Mr. Gaechter noted that his name was omitted from the minutes as being absent on that day.

Mr. Grau made a motion seconded by Mr. Bono to adopt the minutes of December 15, 2009, with corrections.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Grau, Cillaroto, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

## **RESOLUTIONS**

### **RESOLUTION OF THE WANTAGE TOWNSHIP LAND USE BOARD**

Mr. Cecchini made a motion seconded by Mr. Grau to adopt the resolution memorializing the Board's decision to award a contract for professional services to Glenn Kienz, Esq. of the law firm of Weiner Lesniak, LLP., pursuant to N.J.S.A. 40A:11-5, subject to the following terms:

1. The Chairman and Secretary of the Land Use Board of the Township of Wantage are hereby authorized and directed to enter into a Contract with Glenn C. Kienz, Esq. of the Law Firm of Weiner Lesniak LLP, for legal services for the period of January 1, 2010 through December 31, 2010 in accordance with the Contract attached hereto and made a part hereof.
2. The contract is entered into without competitive bidding as a "Professional Service" pursuant to the Local Public Contracts Law as this is a professional service within the meaning of the law.
3. A copy of the Resolution will be published in the official newspaper of the Borough within ten (10) days of passage as required by law.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Gill, VanderBerg, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

## **APPLICATIONS**

### **L-27-2006 JARET BUILDERS, INC.**

The applicant is requesting extension of final major subdivision approval granted April 24, 2007 and memorialized May 15, 2007. The property is known as Block 132, Lot 3.20 and is located on Libertyville Road in the R-1 zone.

Attorney Keith Hyche and Joseph Retz, applicant, appeared before the Board.

Mr. Hyche indicated that the current economic conditions had prevented the perfection of the subdivision and the development of the property. He added that the applicant wished to request that the bond requirement be waived until the plot is filed. The Board determined that it was necessary that the bond be in place.

Mr. Paul Grau made a motion seconded by Mr. Cecchini to grant a one-year extension to May 15, 2010, to file the subdivision plat.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, VanderBerg, Gill, Cillaroto, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

#### **L-4-2009 ERIC TURNQUIST**

The applicant is requesting extension of minor subdivision approval granted May 19, 2009 and memorialized June 23, 2009. The property is known as Block 17, Lot 27 and is located on Route 565 in the ML zone.

Attorney Michael Gaus and Eric Turnquist, applicant, appeared before the Board.

Mr. Gaus explained that delays in obtaining County Planning Board approval had prevented the applicant from perfecting the subdivision and the applicant was requesting a six-month extension to file the deeds.

Mr. Grau made a motion seconded by Mr. Bono to grant a six-month extension to June 23, 2010.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, VanderBerg, Gill, Cillaroto, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

#### **L-4-2009A ERIC TURNQUIST**

The applicant is appearing before the Board to discuss future ownership of open space Lot 27.08 and Stormwater Management Basin on Lot 27.05.

Attorney Michael Gaus and Eric Turnquist, applicant, appeared before the Board.

Members DeBoer and Gaechter stepped down.

A discussion followed regarding the facts involved if the Township maintains ownership of the open space and stormwater basin. Mr. Gaus stated that following the approvals that have been granted, the ownership of the open space had been left open, particularly the detention basin and the open space for walking paths. A request was made for recommendation that the Township take over. He added that septic regulations prevents them from having overlapping common interests along the lots to be developed. Therefore, the lots will be under separate unrelated ownership. To create a homeowners association to own and maintain the open space and the detention basin could potentially violate the septic regulations and could preclude them from being able to get the septic permits and build the project at all. He stated that this project was favored with the Township zoning because of the amount of affordable housing that was planned for the site; he added that it is possible with that the new Governor will get rid of COAH. However, getting rid of COAH does not get rid of the affordable housing obligation for every municipality.

Mr. Gaus stated that he was pretty sure the Township had two concerns regarding ownership of the open space and the detention basin: Cost and Liability. Regarding liability, the Township has significant immunities, backed by the N.J. Torts Claim Act which makes it extremely difficult to ever prevail upon any claim against any type for personal injury or damages associated with governmental property and that the municipality carries millions and millions of dollars of liability insurance. He believes the likelihood -if there were ever a claim of community vs. insurance- of the taxpayers ever having to spend tax dollars would be miniscule. He challenged the Board to go back on the records and find any type of personal injury claim in the past twenty-five (25) years where the town had to pay any amount of money for that type of a claim. With respect to cost, the applicant has offered to post ten (10) years' worth of projected maintenance cost, as determined by the engineer. Mr. Gaus added that in reality, when it comes to detention basin maintenance, typically it is a lot less than estimated for a bond and the bond could last forever with the interest that accumulates on it compared to the work that will actually have to be done at the site.

Mr. Gaus highlighted the tremendous benefit this project will be to the Township with the affordable housing units, no realistic likelihood of liability, and covered maintenance costs and he believes there is no reason not to recommendation to the Township Committee that it agree to take these two parcels over.

A discussion followed regarding the affordable housing obligation of the Township.

There were no members of the public wishing to come forward on this application. The meeting was closed to the public and opened to the Board. Mr. DeBoer stated that his position was still the same, that he did not feel it was fair for the taxpayers to have to pay to maintain these properties.

Mr. Kienz stated that should there need to be a Homeowner's Association, he would like to be allowed to help insert the right language in the manual and he suggested that he and Mr. Pellow were allowed to be the Board's advocates relating to open space matters that come up at the state level. Mr. Smith informed the Board members that the subcommittee met and that Mr. Pellow was drafting regulations and expected maintenance for detention basins. Those regulations to be part of the resolution when a detention basin is approved. Mr. Gaechter commented that the position of the Township had always been that they were not going to get involved in maintaining them.

Mr. Cecchini made a motion seconded by Mr. Bono that the Planning Board desires the applicant to keep ownership of the open space and to establish a mechanism to administer the care and feeding of the stormwater basin.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, Grau, VanderBerg, Gill, Cillaroto, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **INFORMAL**

Attorney William Haggerty appeared before the Board on behalf of Bicsak Brothers to request permission to operate Pods 3 & 5. Site Plan application #L-13-2009 for Block 11, Lot 5 located on Route 23 was approved September 1, 2009 and memorialized September 22, 2009.

Mr. Grau made a motion seconded by Mr. Cecchini to grant the request, subject to the applicant coming in with an application for minor subdivision of property between Bicsak and Rachel Manor within sixty (60) days.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, VanderBerg, Gill, Cillaroto, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

Attorney William Haggerty and Engineer Michael Okrepki addressed the Board to present a plan to subdivide a property on Route 284, across from 284 Aggregates. The Board commented that the property was very steep which would result in a very steep road.

### **GENERAL ISSUES**

Chairman Smith informed that the Planned Endorsement was back on track, that the Master Plan was updated, and that Mr. Pellow was working on a wind turbine ordinance being drafted.

The Board discussed a request by one of the residents to Mr. Doherty regarding restricting parking of school buses to a lot size. After some consideration, it was decided that this was an isolated incident and that it was hard to establish a criteria at this time. Mr. Smith will reply to Mr. Doherty about the Board's view on this matter.

### **ADJOURNMENT**

On a motion duly made seconded and carried, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,  
Stella Salazar, Secretary