

**BOROUGH OF OGDENSBURG
LAND USE BOARD MINUTES**

MEETING DATE: August 14, 2007

CALL TO ORDER: The notice requirement of P.L. 1975, Chapter 231, Sections 4 and 13 have been satisfied with a schedule of all meetings together with the time, location and agenda of same being sent to the NEW JERSEY HERALD and the NEW JERSEY SUNDAY HERALD and posted on the bulletin board at the Borough Hall on January 9, 2007. The regularly scheduled meeting of the Ogdensburg Land Use Board was called to order at 7:00 PM.

ROLL-CALL: **Present:** Armstrong, Altenburg, Andrews, Dolan, Fierro, McDonald, Mayor Sekelsky and Telischak.

Absent: Alfonso, Dabrowski, Sund and Wood*

Professionals: Attorney Garofalo and Buczynski

Absent: Suljic

APPROVAL OF MINUTES – June 26, 2007

A motion is made by Telischak, second by Dolan to approve the minutes of the June 26, 2007 Regular Meeting with all eligible in favor including Armstrong, Andrews, Fierro, McDonald and Mayor Sekelsky.

CORRESPONDENCE

1. From NJPO list of Boardmembers in attendance for Mandatory Training Course.
2. Dated 7/20/07 from Township of Hardyston Public Notice for Sussex National Development Corporation.
3. Dated 7/18/07 from County of Sussex re: J & G Developers, LLC.
4. Dated 7/17/07 from County of Sussex re: J & G Developers, LLC.
5. Dated 7/16/07 from County of Sussex re: Lot line relocation, Sparta Township.
6. Dated 7/5/07 form County of Sussex re: J & G Developers, LLC.
7. Dated 7/3/07 from D. Nicholson, Esq. re: lot line adjustment.
8. Dated 7/3/07 from State of New Jersey DEP re: JBL-RAL, LLC Freshwater Wetlands Letter of Interpretation – Line Verification.

No comments on the correspondence.

OLD BUSINESS/NEW BUSINESS

- A. Michael and Laura Meyer
Application #LU06-007
43 Main Street
Block 11 Lot 13**

Memorialize resolution granting “c” and “d” variance approvals and Major Site Plan Approval

A motion is made by Fierro, second by Dolan to approve the resolution granting “c” and “d” variance approvals and Major Site Plan approval with all eligible in favor including Armstrong, Andrews, Mayor Sekelsky, Telischak and Wood.

* Wood arrives at 7:05 PM.

The order of the agenda is suspended.

B. AA-1 Self Storage – Release of Escrow Funds

- **Dated 7/20/07 from Yoshimi Logan, AA-1 Self Storage re: Escrow Account**

Discussion on the release of the escrow funds. There is a discrepancy in the amount requested for a refund from Ms. Logan. The CFO and Board Secretary should release the amount in the escrow account records. The undisputed amount should be refunded until the Finance Department has investigated the account activity.

CHAIRMAN'S AGENDA

Application Fees and Escrow

Discussion begins on the escrow deposits and application fees of Ogdensburg, Franklin and Hamburg. A motion is made by Fierro, second by Wood to recommend to the Governing Body that the application fees and escrow deposits be increased to the fees and escrow deposits of Hamburg with all eligible in favor including Armstrong, Andrews, Dolan and Telischak.

C. MNB Realty, LLC

Application #LU07-002

Block 11 Lot 21

Application for Major Subdivision Approval

- Dated 7/26/07 from Schoor DePalma re: MNB Realty, LLC.
- Dated 7/16/07 from T. Hyde re: potable water and fire protection.
- Dated 7/19/07 from W. Brick to M. Rubin, Esq. re: request for escrow deposit.

Michael Rubin, Esq. appears on behalf of the applicant.

William Beardslee is sworn in for the record and testifies to his credentials as a professional engineer. Discussion begins on *Exhibit A1* Sheet 2 of 10, which is the colorized Preliminary Plat for the proposed Brookside development. The development will consist of 8 homes on 19.88 acres. The access will be from Spring Street. The lots meet all zoning requirements. The soil tests met the state code for sewerage systems. The proposed plans including the stormwater management plans conform to the RSIS standards.

Discussion begins on the concrete bridge on the property and state open waters.

Mr. Beardslee states that the DEP is aware of the crossing. The crossing is an existing condition and is not in the area proposed for development. After the DEP inspects the crossing, MNB Realty could remove it.

Discussion begins on the controls for the runoff. Mr. Beardslee states that Sussex County Soil Conservation will be involved to monitor the project. Mr. Buczynski states that there will be an inspector on site as there may be some concerns during construction.

Attorney Garofalo suggests that the Developer's Agreement would be an appropriate enforcement tool.

Mr. Beardslee discusses the Letter of Interpretation from the DEP including the different types of values including ordinary, intermediate and exceptional and the required buffers.

Discussion begins on the potable water supply. Mr. Beardslee discusses the correspondence from the Borough stating that there is sufficient supply for the proposed development.

Attorney Rubin reference the September 27, 2007 correspondence from Schoor DePalma, specifically item B. Technical Items. Mr. Beardslee reads item #1 and references Paragraph #3 with regard to a conservation easement and item 2 a-e.

Discussion begins on the loop system and fire protection system. Mr. Buczynski states that the benefit of obtaining the easement through the driveway would be water pressure. Mr. Beardslee references the correspondence from Tom Hyde, Water Superintendent stating that there would be adequate pressure and volume for the development. Mr. Buczynski recommends the installation of the water loop system.

Attorney Garofalo states that the easement would not be easy to obtain and mediation would be necessary between the property owners. The municipality has to obtain the easement.

Attorney Rubin states that only the municipality has power of eminent domain.

With regard to the wall, Mr. Beardslee states that the wall belongs to the property owner and is to be recorded in the deed and in the Developer's Agreement. The details and design calculations for the wall should be a condition met prior to the construction versus prior to the approval.

The Board suggests Mr. Buczynski, Mr. Beardslee, the Construction Official and Water Department meet with to discuss the water loop.

Mayor Sekelsky discusses the possibility of a public walkway to access the State owned property. Mr. Beardslee discusses the liability issues.

Discussion begins on the maintenance of the proposed detension basin. Attorney Rubin and Mr. Beardslee suggest the Borough maintain the basin since the proposed development will not have a homeowner's association since it is a relatively small project. Discussion begins on the possibility of the dedication of the easement to the Borough with a contribution from the developer.

Armstrong discusses his concerns with regard to the stormwater flows on Spring Street.

Attorney Garofalo states that the Board concerns regarding the maintenance of the basin and a maintenance bond will need to be resolved by the Governing Body.

Discussion begins on sidewalks. Mr. Beardslee states that the RSIS does not require sidewalks. The applicant would be agreeable to the installation of sidewalks.

Discussion begins on Item #10 with regard to off tract improvements. Mr. Beardslee to provide calculations for Mr. Buczynski's review.

A motion is made by Armstrong with all in favor to take a five-minute recess.

A motion is made by Armstrong to resume the hearing.

Discussion begins on streetlights.

A motion is made at 8:44 PM to open to the public by Fierro, second by Mayor Sekelsky with all others in favor.

Victoria and John Mulcahy, 49 Edison Avenue, expresses concern about whether the stormwater management measures proposed take into account the site or the entire 20 acres.

Mr. Beardslee states that the measures will take water off the entire site of 20 acres.

Ms. Mulcahy has concerns about the illegal driveway on Mr. Tielvy's property.

Mr. Beardslee states that the driveway location had no bearing on the development. Mr. Tielvy received all approvals and made all necessary applications prior to construction.

Fred Thornton, 25 Spring Street, discusses the springs on Spring Street, the maintenance of the basin, the walls and the conduit under Spring Street.

Mr. Buczynski states that the springs were included in the calculations and will be a concern, which will be addressed and monitored throughout the construction.

Mr. Beardslee states that the basin will have an outlet into the stream for increased stormwater.

Lynn Pederson, 27 Edison Avenue, expresses concerns about the width of the road, safety, the height of the retaining wall and the water issues during construction. She questions what recourse the homeowners would have should problems arise.

Attorney Garofalo states that issues would be resolved between the developer and the individual homeowner not through the Borough.

Mr. Beardslee states that the wall will be 7 ½' high and will have a fence on the top. The wall is 10' off the property line, outside of the public right-of-way.

Attorney Rubin discusses a soil conservation bond for the municipality, which would not be utilized for homeowners.

Mr. Beardslee discusses the 4' X 4' orifice for water leaving the basin. He differentiates between retention, which holds the water, and detention, which is being proposed to release the water. The wall will be located on the south side of the property.

Ken Fahrenfeld, 7 Ogden Way, expresses concerns about the maintenance of the wall and the detention basin.

Ann Bowman is a summer resident at Hawthorne Lake. She reviewed the Master Plan completed by Ken Nelson. She discusses endangered species. She questions whether the change in the road width will change the calculations.

With regard to the concerns about endangered species, Mr. Beardslee discusses the DEP classification of the property.

Beth O'Leary, 18 Ogden Way, discusses her property, which is located in both Ogdensburg and Hardyston. She questions the setback for the property. She was under the impression that the setback was 200'.

Mr. Beardslee states that the setback from the rear yard is 60' and the side yard is 25'.

Attorney Garofalo states that legal notice was sent to adjoining municipalities. If there is an issue of setback, the Township of Hardyston can request that the applicant appear before their Board.

Mr. Beardslee states that the development is 100' from the Hardyston border.

Attorney Garofalo states that the ordinances of the Borough of Ogdensburg take precedent. The applicant has fulfilled the legal obligation.

Ms. O'Leary expresses her concerns about blasting and the effect on her well and septic system.

Mr. Beardslee states that there will be sufficient cuts and blasting.

Attorney Garofalo states that State law governs blasting. Should there be any damage to properties, the private homeowners would have to litigate with the developer.

Ms. O'Leary discusses liability issues with regard to trespassers on the property and the DEP freshwater wetlands rules and buffers.

Attorney Garofalo discusses the 300' buffers for C1 streams. The streams on the property are lower grade and the buffers do not apply.

Ms. O'Leary questions whether the process will allow for a decision to be made prior to the DEP decision and whether the residents will be notified.

Attorney Garofalo states that the DEP decision will be a condition of the approval. The Board can make a decision prior to the approval. No construction will commence without DEP approvals are granted.

Attorney Rubin states that no additional notification will be required unless there is a substantial change in the application. The application is presently under review by the DEP.

Discussion continues on legal notice. Mr. Beardslee states that Sussex County Soil Conservation is the last agency to notify. Attorney Garofalo states that no further legal notice will be required of the applicant for the next hearing.

Mr. Fred Thornton discusses snow removal for the development.

Ms. O'Leary questions the impact to the school.

Armstrong states that the Board cannot deny an application based on the school population.

James Walstenholme, 7 Hadowanetz Drive, agrees with the installation of the water loops and checking the pipe for the impact of flow. The maintenance of the basin could be

included in a manual for the homeowners association. The municipality should not be impacted by the development.

A motion is made to close to the public at 9:29 PM by Fierro, second by Altenburg with all others in favor.

A motion is made to carry the applicant to the September 11, 2007 hearing with no further notice required.

Board discussion begins on the necessity for the public to attend hearings to become informed of the facts with regard to applications.

APPROVAL OF BILLS/VOUCHERS

Additional Bills/Vouchers Submitted at the meeting:

1. Dated 7/31/07 from Laddey, Clark & Ryan for professional services rendered on behalf of the Land Use Board - \$570.00 – Land Use Board Current Account.
2. Dated 7/31/07 from Laddey, Clark & Ryan for professional services rendered on behalf of Michael and Laura Meyer - \$624.00 – Meyer Escrow Account.
3. Dated 6/30/07 from Schoor DePalma for professional services rendered on behalf of William and Nancy Sands - \$62.50 – Sands Escrow Account.
4. Dated 6/30/07 from Schoor DePalma for professional services rendered on behalf of Michael and Laura Meyer - \$250.00 – Meyer Escrow Account.
5. Dated 6/30/07 from Schoor DePalma for professional services rendered on behalf of J & G Developers - \$312.50 – J & G Developers Engineering Escrow Account.
6. Dated 6/30/07 from Schoor DePalma for professional services rendered on behalf of MNB Realty, LLC - \$1,375.00 – MNB Realty, LLC Escrow Account.
7. Dated 6/30/07 from Schoor DePalma for professional services rendered on behalf of the Land Use Board - \$125.00 – Land Use Board Current Account.
- * Dated 6/30/06 from Schoor DePalma for professional services rendered on behalf of AA-1 Self Storage - \$281.25 – AA-1 Self Storage Escrow Account.

**** Original Bills/Vouchers available for review. All Bill/Vouchers subject to approval by CFO prior to payment ****

A motion is made to approve the bills/vouchers for payment by Fierro, second by Mayor Sekelsky with all others in favor.

ADJOURN

At 9:30 PM, a motion is made to adjourn by Armstrong, second by Fierro with all others in favor.

Respectfully submitted by:

Wendy Brick
Land Use Board Administrative Assistant

Approved: _____