

**BOROUGH OF OGDENSBURG
LAND USE BOARD MINUTES**

MEETING DATE: December 11, 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: Altenburg, Andrews, Armstrong, Dabrowski, Dolan, Fierro, McDonald, Mayor Sekelsky *, Sund, Telischak and Wood.
Absent: Alfonso.
Professionals: Attorney Leo, Buczynski and Suljic.
Absent: None.

APPROVAL OF MINUTES – October 10, 2007

A motion is made by Fierro, second by Andrews to approve the minutes of the October 10, 2007 Regular Meeting with all eligible in favor including Armstrong, Dabrowski, Dolan, McDonald, Sund, Telischak and Wood with abstention by Altenburg.

CORRESPONDENCE

1. Dated 11/21/07 from State of NJ DEP re: Back Thru the Future Recycling.
2. Dated 11/21/07 from W. Brick to C. Kervatt re: lot line adjustment.
3. Dated 11/21/07 from W. Brick to S. Hollander, Esq. re: Kervatt lot line adjustment.
4. Dated 11/20/07 from W. Brick to U. Leo, Esq. re: Kervatt lot line adjustment.
5. Dated 11/12/07 from C. Kervatt re: lot line adjustment.
6. Dated 11/12/07 Notice of Public Comment and Public Hearings – New Jersey Highlands Council.
7. Dated 10/30/07 from W. Brick to D. Paiva, Board of Health re: Sands.
8. Dated 10/30/07 from W. Brick to Finance re: Escrow deposit for Sands.
9. Dated 10/22/07 from R. Campbell Associates to W. Sands re: septic permit and escrow money.
10. Dated 10/15/07 from W. Brick to NJ Herald re: Meeting Cancellation 11/8/07.
11. Dated 10/11/07 from W. Brick to S. Hollander, Esq. re: Increase in Application Fees and Escrow Deposits draft ordinance.
12. Dated 10/10/07 from Board of Chosen Freeholders re: Ordinance providing for adoption of new land development standards in and for the County of Sussex pursuant to the authority of NJSA 40:27-1 et. Seq.
13. CMX Engineering important notice.

No comments on the correspondence.

OLD BUSINESS/NEW BUSINESS

- A. J & G Developers, LLC
Application #LU07-003
Block 4 Lot 1**

Memorialize Revised Resolution for Re-approval of Amended Preliminary and Final Major Subdivision Approval.

- Dated 11/26/07 from County of Sussex re: Final Major Subdivision.

- Dated 11/16/07 from County of Sussex re: Planner's Report – Final Major Subdivision.
- Dated 11/15/07 from County of Sussex re: Final Major Subdivision.
- Dated 11/8/07 from County of Sussex re: Final Major Subdivision.
- Dated 10/23/07 from J. Crammond, Esq. to M. Garofalo, Esq. re: J & G Developers.
- Dated 10/23/07 from County of Sussex re: Preliminary Major Subdivision.

A motion is made by Fierro, second by Dolan to memorialize the resolution granting re-approval of Amended Preliminary and Final Major Subdivision approval with all others in favor including Armstrong, Dabrowski, Dolan, Sund, McDonald, Telischak and Wood.

B. MNB Realty, LLC
Application #LU07-002
Block 11 Lot 21

Memorialize resolution for Preliminary Major Subdivision Approval

- Dated 11/1/07 from Beardslee Engineering to NJDEP re: Stream Encroachment Permit (additional attachments are available for review)
- Dated 11/1/07 MNB Realty Co., LLC Freshwater Wetlands Application Checklist.
- Dated 10/22/07 from State of New Jersey DEP re: Withdrawal of Pending Stream Encroachment Application.
- Dated 10/15/07 from W. Brick to Finance re: Escrow Deposit.

A motion is made by Fierro, second by Andrews to memorialize the resolution for Preliminary Major Subdivision Approval with all others in favor including Armstrong, Dabrowski, Dolan, Sund, Telischak and Wood.

C. JBL-RAL Associates, LLC
Application #LU07-006
Block 35 Lot 15

Informal discussion on pending application.

- *Dated 11/27/07 from Beardslee Engineering re: Major Preliminary Subdivision*
- *Dated 11/7/07 from County of Sussex re: Preliminary Major Subdivision*
- *Dated 10/30/07 from CMX Engineering.*

Attorney Leo states for the record that this is an informal hearing with the applicant. The Board will not render any decisions and the discussion is non-binding.

William Beardslee appears on behalf of the applicant. He references the previous application before the Board from the 1980s. Discussion begins on the basin and the homeowner's association. The applicant is requesting a design waiver since no sidewalks will be installed. The road will be 24 feet wide. The water loop system will loop into Arch Street. There will be a utility easement in the northwest corner of the property. An easement will be put along the property line to allow for future connection, should the Borough decide, with Sparta. A sewage disposal system was discovered, but no title has been located for it. The attorney will be handling the property issue. A condition of approval could be the resolution of the issue of title.

Discussion begins on the access to Arch Street, which Mr. Beardslee states is a gravel driveway. RSIS requires second access for developments exceeding 24 homes. Discussion continues with Mr. Buczynski suggesting that Arch Street would be a better entrance for the development and Mr. Suljic proposing that the density of the development be reduced and a design be proposed for two cul-de-sacs.

Wood states that the residents will need to be noticed about the location of the septic system.

Mr. Beardslee will prepare a design for the February meeting incorporating the comments of the professionals.

Attorney Leo states that since this is not being heard as a formal application, the Board is not obligated to open to public.

A motion is made at 7:35 PM to open to the public by Altenburg, second by Wood with all others in favor.

James Wolstenholme of 7 Hadowanetz discusses the road resurfacing and the septic system.

Ray Sikora of 11 Arch Street requests a copy of the plans for the residents to review. Attorney Leo states that a copy of the plans is available for review at the Municipal Building. Mr. Beardslee agrees to provide a copy to the residents.

Ken Fahrenfeld of 7 Ogden Way discusses the water loop system.

Mr. Beardslee states that there is an existing water system but a utility easement will be required. The developer will provide one hookup.

At 7:45 PM, a motion is made to close to the public by Fierro, second by Mayor Sekelsky with all others in favor.

D. AA-1 Self Storage, LLC/Logan Homes
Application #LU07-004
Block 30 Lot 3.02
Application for Preliminary Minor Subdivision Approval
- Dated 12/3/07 from CMX Engineering.

Board member Wood recuses himself from the application and steps down from the dais and remains seated with the public. Since he was noticed and resides within 200-feet of the subject property, Wood participates in the discussion as a member of the public.

Attorney Azar appears on behalf of the applicant.

Discussion begins on the prior approval in 2002. Mr. Buczynski states that a condition of the approval was that no further subdivision of the property would be permitted since variances were granted for the approval.

The Board breaks for five minutes to permit Attorney Azar to confer with Ms. Logan and Mr. Isaacs.

Attorney Azar states that the application will proceed as is and will not stipulate that there will be no further subdivision in the future.

Patrick McClellan, P.E. is sworn in and testifies to his credentials. Mr. Buczynski clarifies that Mr. McClellan is not a professional planner for the variance testimony. Mr. McClellan references Exhibit A1, which is titled "Subdivision Plan" and dated September 13, 2007. The property is known as Block 30, Lot 3.02 and fronts on Plant Street and Brooks Flat Road. The IC Zone is on the westerly side of the property and the R40 Zone is on the easterly side.

Mr. McClellan addresses the correspondence from CMX Engineering dated December 3, 2007 including the comments regarding the setbacks and the buffers.

Mr. Buczynski states that soil logs should have been done as per Borough ordinance.

Mr. Suljic suggests that the variances could be reduced by changing the lot line.

Mr. McClellan states that the applicant would like to carry the decision to allow for the comments of the Board engineer to be addressed. Waivers will be requested for overhead utility, wetlands, blasting impact to neighbors, LOI and EIS.

Mr. McClellan addresses the comments in the correspondence from Mr. Suljic dated December 6, 2007, including comment #2 which addresses the prior approval and no further subdivision. The applicant would like to leave the option open for future subdivision. With regard to comment #3, the applicant agrees; #4, waivers will be requested; and #5, the issue has been addressed.

At 8:35 PM, a motion is made to open to the public to discuss the minor subdivision by Dolan, second by Fierro with all others in favor.

Eric Wood of 186 Plant Street states that the 10-foot buffer should not be compromised. He takes no exception to overhead utilities. No C1 or C2 detriments were explored.

Brian Bonser, 99 Brooks Flat Road, discusses the applicant's prior application before the Board. He states that there are recreational vehicles in the buffer area. He further states that no trees were planted in the buffer as was required in the prior approval. The buffer is being utilized for outdoor storage.

Attorney Leo states that the Board cannot enforce. The matter should be brought to the attention of the Zoning Officer. W. Brick to prepare correspondence to the Zoning Officer.

Elliott Honig of 95 Brooks Flat Road states that the applicant is not showing enough on the plan.

Attorney Azar states that the application is for subdivision and the lots are conforming.

Richard Predmore of 15 Predmore Road discusses the water runoff from the AA-1 Self Storage property.

Armstrong states that since the application is for a subdivision, the issue and cannot be addressed at this point.

At 8:46 PM a motion is made to close to the public by Telischak, second by Fierro with all others in favor.

The application will be carried to the January 8, 2008 hearing with no further notice required.

Mr. Isaacs, owner of AA-1 Self Storage clarifies that no trees were removed from the property. He cleared debris on the premises.

Andrews suggests that the Board review prior approval with conditions.

At 8:50 PM, a motion is made by Mayor Sekelsky, second by Dolan to break with all others in favor.

At 9:01 PM, a motion is made by McDonald, second by Andrews to resume the hearing with all others in favor.

**E. AA-1 Self Storage, LLC/Logan Homes
Application #LU07-005
Block 29 Lot 5**

Application for Preliminary Major Subdivision Approval

Board member Wood, who was not noticed as a property owner residing within 200' of the subject property, recuses himself from the application, steps down from the dais and leaves the room. He does not take part in the discussion on this application.

Attorney Azar appears on behalf of the applicant.

Mr. McClellan was previously sworn in by the Board on the proposed subdivision plan. He references Exhibits A1-A4, which are four sheets dated November 15, 2006 and revised on September 12, 2007.

Exhibit A2 includes Brooks Flat Road, Block 29 Lot 5, showing 3 lots requiring no variances.

Mr. McClellan addresses the correspondence from CMX Engineering date December 3, 2007. There are no new roadways proposed. The lots each exceed 2 acres. The applicant proposes to extend the municipal water system. The design waivers requested are for the turnaround driveway, the 18-foot driveway access and overhead wires. The applicant is proposing the design to minimize the impact to the stream and have only one crossing.

Discussion continues on the engineering comments including the bio-retention basin, water system, size of pipe, turnaround for emergency vehicles, installation of hydrants, cross easements and street lighting.

Mr. McClellan states that the LOI has been obtained and is valid. An EIS dated August 10, 2005 was submitted. Driveways will be paved.

The applicant will amend wording on plan and amend plan to include overhead wires, drywells, stub on Plant Street, hydrants, grading; will submit results of soil tests to Board Engineer; will provide an operations and maintenance manual for homeowners association; will include driveway in cross easements; will request waivers for curbing; will submit plan for approval to Sussex County Soil Conservation District after Preliminary Approval; will add a streetlight to existing utility pole; will provide another design depicting a cul-de-sac, 18 foot driveways and the entrance from Brooks Flat Road widened to 20 feet.

A motion is made at 9:45 PM to open to the public by Sund, second by Andrews with all others in favor.

Richard Predmore of 15 Predmore Road submits Exhibits P1-P4 for the record, which are four photographs from April 2007 depicting flooding. There has been an issue of runoff since the 2001 storm. There are environmental issues including the presence of bog turtles on the AA-1 Self Storage property.

Attorney Azar states that the applicant has donated land to the Land Trust.

Elliott Honig of 95 Brooks Flat Road would like to see the entrance widened to 20 feet. James Wolstenholme of 7 Hadowanetz discusses his application and approval for development and questions the Board's decision to have him put in two roadways. Armstrong states that he worked with the design presented.

Ken Fahrenfeld of 7 Ogden Way discusses the municipal roads and maintenance, the length of the driveway, cost of the maintenance of the basins and the fire hydrants.

Kevin Kervatt of Brooks Flat Road discusses issues of fire safety, emergency response to the area and fire safety code. Questions why the development is not proposed as a conventional cul-de-sac.

Richard Predmore states that he is an ex-Fire Chief. The fire hose will not be able to be brought up 500 feet.

Discussion continues on fire and water lines.

James Wolstenholme questions the use of clear cut for septic.

Mr. McClellan states that he would not endorse a plan including clear-cut. He is proposing to use a storm filter, which is a more effective and more expensive option.

A motion is made at 10:15 PM to close to the public with all in favor.

A motion is made to carry the application to the January 8, 2008 hearing with no further notice required. The applicant will provide soil logs, a sketch of cul-de-sac and fire access.

APPROVAL OF BILLS/VOUCHERS

1. Dated 10/31/07 from Schoor DePalma for professional services rendered on behalf of AA-1 Logan Homes - \$62.50 – AA-1 Logan Homes Minor Escrow Account.
2. Dated 10/31/07 from Schoor DePalma for professional services rendered on behalf of AA-1 Logan Homes - \$62.50 – AA-1 Logan Homes Major Escrow Account.
3. Dated 9/30/07 from Schoor DePalma for professional services rendered on behalf of AA-1 Logan Homes - \$31.25 – AA-1 Logan Homes Minor Escrow Account.
4. Dated 9/30/07 from Schoor DePalma for professional services rendered on behalf of AA-1 Logan Homes - \$31.25 – AA-1 Logan Homes Minor Escrow Account.
5. Dated 9/30/07 from Schoor DePalma for professional services rendered on behalf of AA-1 Logan Homes - \$31.25 – AA-1 Logan Homes Major Escrow Account.
6. Dated 10/31/07 from Schoor DePalma for professional services rendered on behalf of JBL-RAL LLC - \$1,156.25 – JBL-RAL LLC. Escrow Account.
7. Dated 9/30/07 from Schoor DePalma for professional services rendered on behalf of J & G Developers LLC - \$750.00 – J & G Developers Escrow Account.
8. Dated 10/18/07 from Laddey, Clark & Ryan for professional services rendered on behalf of J & G Developers LLC - \$31.20 – J & G Developers Escrow Account.
9. Dated 10/18/07 from Laddey, Clark & Ryan for professional services rendered on behalf of J & G Developers LLC - \$624.00 – J & G Developers LLC Escrow Account.
10. Dated 9/30/07 from Schoor DePalma for professional services rendered on behalf of J & G Developers - \$62.50 – J & G Developers Escrow Account.

11. Dated 10/31/07 from Schoor DePalma for professional services rendered on behalf of the Land Use Board - \$62.50 – Land Use Board Current Account.
12. Dated 10/18/07 from Laddey, Clark & Ryan for professional services rendered on behalf of the Land Use Board - \$1,087.50 – Land Use Board Current Account.
13. Dated 10/31/07 from Schoor DePalma for professional services rendered on behalf of MNB Realty LLC - \$375.00 – MNB Realty Escrow Account.
14. Dated 10/18/07 from Laddey, Clark & Ryan for professional services rendered on behalf of MNB Realty - \$234.00 – MNB Realty Escrow Account.
15. Dated 9/30/07 from Schoor DePalma for professional services rendered on behalf of MNB Realty - \$750.00 – MNB Realty Escrow Account.
16. Dated 10/31/07 from Schoor DePalma for professional services rendered on behalf of 100 Plant Street LLC - \$281.25 – 100 Plant Street Escrow Account.
17. Dated 9/30/07 from Schoor DePalma for professional services rendered on behalf of 100 Plant Street LLC - \$62.50 – 100 Plant Street 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 Dolan with all others in favor.

CHAIRMAN'S AGENDA

Mr. Suljic discusses the Highlands Regional Master Plan. He will provide a report at the January 8, 2008 hearing. A rough draft of the Master Plan Re-examination Report will be provided in January for hearing in February.

Payment of bills/vouchers will be discussed.

Telischak states that there has been discussion that Board members who own property in town should not be discussing the Master Plan Re-examination Report. Attorney Leo states that members should not discuss the issues with a quorum.

ADJOURN

At 10:21 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: _____