

BOROUGH OF OGDENSBURG LAND USE BOARD MINUTES

MEETING DATE: November 23, 2010

CALL TO ORDER: The meeting of the Ogdensburg Land Use Board was called to order at 7:00 PM.

PLEDGE OF ALLEGIANCE

STATEMENT OF COMPLIANCE:

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 12, 2010.

1. **ROLL-CALL:** **Present:** Armstrong, Andrews, Ciasullo, Dolan, Fahrenfeld, Fierro, Fitzgibbons, and Kibildis
Absent: Sund, Telischak* and McGuire
Professionals Present: Gene Buczynski, Bob Tessier, Roger Thomas, Esq.
. *Telischak arrived at 7:10 P.M.

2. **APPROVAL OF MINUTES:**

A motion to approve the minutes from the October 26th, 2010 meeting was made by Vito Telischak, second by Patricia Dolan with Andrews, Ciasullo, Fahrenfeld, Fierro and Fitzgibbons also in favor and Armstrong and Kibildis abstaining.

3. **CORRESPONDENCE** – No comments.

4. **NEW BUSINESS/OLD BUSINESS**

- a. MNB REALTY CO., LLC – LU 07-002
Block 11, Lot 21
29 Edison Ave.
Extension of Time

Michael Rubin, Attorney, 1330 Hamburg Turnpike, Wayne Township – Mr. Rubin represents MNB Realty Co., LLC. MNB was here sometime ago with a Major Subdivision application and obtained an approval from the Board on December 11th, 2007. The reason for the time extension is because they are waiting for permits from NJ DEP. Attorney Thomas inquired what permits are being requested. Gary Hillman, Project Manager, replied general permits and stream encroachment. The extension would be for one year to December 11th, 2011. Attorney Thomas stated that this is a reasonable request and there

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were no zoning changes that would adversely affect this application. Ken Fahrenfeld asked if there were any variances given to the applicant and there weren't any variances.

One thing that has changed is that we have approached homeowners' associations differently. MNB Realty will have a homeowners' association to be responsible for the detention basin instead of having a single homeowner be responsible. If the detention basin falls in disrepair and the association does not repair it, the Borough would fix it and assess the association the cost of the repair and then they would pay for it; and if the association didn't pay for it, the Borough would have to place a lien on them. Discussion ensued regarding the reasoning for the association being the responsible entity instead of a single homeowner being responsible. One of the reasons being that the retention basin is on a separate lot in the development. Gene Buczynski recalled that there also were retaining walls involved with this detention basin. Chairman Armstrong noted that this was a very involved application with input from residents.

Ken Fahrenfeld inquired if the Board can review the plan and make comments when the Final approval is requested. Attorney Thomas said generally no. The purpose of a Final Subdivision is to determine whether all that has been approved in the Preliminary has been accomplished or is to be accomplished and is an accurate representation of what has been submitted. To redo the Plan at the Final would require an amendment to the Preliminary. The Final Subdivision Review is much more fundamental and perfunctory than the Preliminary. The Preliminary is where the discussion goes on. Gene Buczynski stated that the RSIS standards delete the opportunity to put the basin on an individual lot; it's either a homeowners' association or the town. Attorney Rubin likes to call the Final approval, fine tuning. You can't change any of the basic pieces to the subdivision but Boards have a right to fine tune issues which may come up. Mr. Telischak asked if the applicant would be required to appear before the Board if the applicant needed further extensions. Mr. Thomas replied that the applicant would need to come before the Board to request further extensions.

A motion to approve the Extension was made by Patricia Dolan, second by John Fierro with Armstrong, Andrews, Ciasullo, Fitzgibbons and Telischak also in favor and Fahrenfeld and Kibildis abstaining.

- b. EXTREME ENERGY SOLUTIONS – LU 10-001
Block 25 Lot 1.01 150 Main Street
Interpretation of Use

Mr. Burlum is here for the second time for an interpretation of our zoning ordinance in reference to a letter sent to him on July 27th from Kevin Kervatt, Code Enforcement Official citing him with three things. Each item will be dealt with individually. The first item is that automotive repair is not a permitted use in the Light Industrial/Commercial District. The second is that a sign has been erected without a zoning permit. The third is

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the matter of outdoor storage which is also not a permitted use in the Light Industrial/Commercial District.

Chairman Armstrong stated that he read Mr. Burlum's testimony, listened to the tapes and read the minutes. At the last meeting, the Board requested a document with outlining the work being performed at the location in order to make a ruling. Mr. Burlum submitted this document at 4:00 P.M. yesterday afternoon and none of the people on the Board have had a chance to read it. I read it and the cover sheet says that this is a proposed plan for facility growth; it does not tell me what is being done every day Monday through Friday.

A zoning permit application was submitted for the sign and was denied. It was denied because a letter from the owner and a copy of the survey or site plan were required. Mr. Kervatt stated that the sign is not in the proper location and the ordinance only allows for one sign for the entire building since there have been as many as three tenants in the building at once. Vito Telischak inquired if the applicant received a site triangle permit from the County.

Chairman Armstrong informed Mr. Burlum that outside storage is not allowed in the Light Industrial Zone. It can be entertained with an application of a site plan. It must be removed. The applicant asked about the timing for the removal of the sign and outdoor storage and it was determined that the Zoning Officer, Kevin Kervatt, would handle those matters.

Chairman Armstrong stated that the applicant applied for an interpretation of automotive repair in the Light Industrial Zone. There is no automotive repair in the Light Industrial zone. Page 12 of your document which is the Vehicle Verification: Pre-Installation Checklist says that worn spark plugs should be changed. Do you do that? Mr. Burlum responded: Not right now. Have you been doing it? We did it on a couple of test vehicles. That's automotive repair. Do you clog or unclog catalytic converters? No. Do you replace spark plug wires, distributor caps or rotors? Yes. That is automotive repair. This list that you supplied us is all automotive repair. We change catalytic converters on research vehicles. Vito Telischak asked if the applicant owned all of the research vehicles. Some of them are donated by other people. We get paid for research testing for different companies. The document is confusing and doesn't address what was in last month's minutes.

The installation of product brings us to a grey area. If you are going to install one little tube or change one little spark plug, that is automotive repair. Then you further go on to talk about race cars which also involves oil changes, spark plugs, etc. which is automotive repair. Then you mentioned maintaining your fleet vehicles which is also automotive repair. Mr. Burlum asked about the storage of the race cars and Chairman Armstrong stated that inside storage is allowed but not outside storage.

Vito Telischak asked Kevin Kervatt what is being stored outside. Mr. Kervatt stated that there are three sea containers being stored at the rear of the building on the right hand side. Mr. Burlum stated that various equipment was being stored in the containers, some of it is manufacturing equipment, some of it is for make devises. Some of it was making its way into the building.

5. OPEN TO THE PUBLIC

A motion to open the meeting to the public was made by Vito Telischak, second by Bill Andrews with all in favor. No comments from the public.

6. CLOSE TO THE PUBLIC

A motion to close to the public was made by Bill Andrews, second by Vito Telischak with all in favor.

A motion that any repair of a vehicle whether they be fleet vehicles, outside vehicles or vehicles of any kind, automobile, truck or vehicle repair in a more general description would be outside the parameters of the uses in the Light Industrial Zone was made by Vito Telischak, second by Patrick Fitzgibbons with Armstrong, Andrews, Ciasullo, Dolan, Fahrenfeld, Fierro, Telischak and Kibildis in favor.

7. CHAIRMAN'S AGENDA

a. Invoice Tracking Report

b. Trial Balance Escrow Report – Chairman Armstrong notified Gene Buczynski that he spoke to Jamie Wolstenholme regarding the invoice for the Engineer's Report. Gene said that he will speak to Jamie regarding same.

8. OPEN TO THE PUBLIC

A motion to open the meeting to the public was made by Ken Fahrenfeld, second by Patrick Fitzgibbons with all in favor.

9. CLOSE TO THE PUBLIC

A motion to the close the meeting to the public was made by Vito Telischak, second by John Fierro with all in favor.

10. **REDEVELOPMENT ZONE**

Chairman Armstrong stated that he met with Robert Tessier on Tuesday regarding the Redevelopment and would like the Subcommittee to meet with him before the end of the year

Mr. Tessier informed the Board that he attended the League of Municipalities Conference and COAH was discussed. They talked about bill S-1 and suggested that all municipalities should wait. Senator Lesniak was there and the bill should be signed in thirty days. Chairman Armstrong said that it was in the New Jersey Planner. Attorney Thomas stated that the bill does not help Ogdensburg. Towns that have 50% of their kids in the school lunch program are automatically compliant. All they have to do is a rehab program for the town.

11. **AA-1 STORAGE**

Mr. Kervatt said that he has located the resolution for AA-1 Storage and Mr. Honig is correct that the company is performing more than what was approved. A letter will be sent to the owner of the company to ask if he has anything contrary to Mr. Kervatt's findings. Discussion continued regarding the additional uses such as excavating equipment, dump trucks, U-haul rentals, etc. Mr. Honig had mentioned the van parked on Main Street and the Zoning Officer recalled that it is a police matter. The Secretary was instructed to write a letter to the Police Chief regarding this subject.

12. **DECEMBER MEETING**

Chairman Armstrong mentioned that the Secretary will not be in the office on December 27th but might be in on the 30th. Our next meeting is scheduled for Tuesday, December 28th. Vito Telischak asked if it is necessary to meet in December and was met with a positive response from the Chairman. Ken Fahrenfeld noted that the Subcommittee on the Redevelopment Plan will have a report for the next meeting.

13. **ADJOURNMENT**

A motion to adjourn the meeting was made by Robert Armstrong, second by Bill Andrews with all in favor.

Respectfully Submitted by:

Blanche Stuckey
Land Use Board Secretary

Date of Approval