BOROUGH OF WESTWOOD
PLANNING BOARD MINUTES
PUBLIC MEETING AGENDA
REGULAR MEETING
JANUARY 24, 2008

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Regular Meeting of the Planning Board.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL:

PRESENT: Robert Bicocchi
William Martin
Otokar von Bradsky
Thomas Constantine
Mayor John Birkner
Councilwoman Cynthia Waneck
Ann Costello, Vice-Chairwoman
Richard Bonsignore (Alt. #1)
Daniel Olivier (Alt. #2)
Jaymee Hodges, Chairman

ALSO PRESENT:
Thomas Randall, Esq., Board Attorney
Andrew Kohut, Esq., Acting Board Attorney in Matter of Neelie Snewo
Ed Snieckus, Burgis Associates, Board Planner
Louis Raimondi, PELS, Board Engineer
By Tom Lemanowicz

ABSENT: James Schluter

William Martin announced he listened to the tape of the 1/10/08 meeting and signed a certification.

(WWPB 1/24/08)

4. MINUTES – The Minutes of 1/10/08 were tabled to the 2/14/08 worksession.

5. CORRESPONDENCE:

1. Letter dated 1/15/08 from Bruce Meisel, Esq. RE: Northfork Bank;

2. Notice of MLUL Training Session for Municipal Planning and Zoning Board Members, to be held in Township of River Vale;

3. Letter dated 1/11/08 from Westwood Fire Prevention Bureau RE: Neelie Sweno;

6. VOUCHERS: Chairman Hodges read the vouchers totaling $5,808.75 into the record. There were no questions, comments or discussions, and the vouchers were approved.

7. RESOLUTIONS:

1. MNOS, LLC – 58 Bergen Street – Resolution of Denial – A motion for approval of the Resolution of Denial deemed as read was made by Richard Bonsignore and seconded by Am Costello. There were no further questions, comments or discussions. On roll call vote, William Martin, Ann Costello, Jaymee Hodges, Richard Bonsignore, Councilwoman Waneck, and Daniel Olivier, voted yes. The remaining members present were not eligible to vote.

8. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS:

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in

1. Neelie Snewo, LLC, 166170 Center Avenue, Block 90, Lot 19 – Minor Site Plan – Thomas Randall, Esq. was recused. Andrew Kohut, Esq. was substituted and appeared on behalf of Mr. Randall for the Board. Chairman Jaymee Hodges recused himself because his wife owns property within 200', and stepped down from the dais. Vice-Chairwoman Ann Costello acted as Chairman. William Martin also recused himself and stepped down, as Mr. Owens was a recent client of his.

Marc Leibman, Esq. represented the applicant and distributed revised Architectural Plans, revised to 1/23/08, Sheets A1, 2 & 3. He reviewed the items submitted thus far and noted he received comment letters back from Board Engineer dated

1/16/08 and the Board Planner. The Site Plan was prepared by Peter E. Papay, Licensed Engineer, and the Revised Site Plan was last revised 1/11/08.

Vincent J. Cioffi, Licensed Architect, Westwood, NJ, was sworn in, qualified and accepted. He acknowledged receipt of the Borough Professionals' reports as stated. The existing mansard roof would remain, and they would combine the current and new for the look of one building. The outside would be real fieldstone, with two large window openings and signage, but the signage was not proposed with this application. The canopy would be over the door.

Mr. Leibman questioned Mr. Cioffi. The plan was revised to 72 seats, previously 74, and not coordinated with the engineer, but he removed a table and two chairs in the bar area. Mr. Leibman stated no more than 10% could be used for bar and bar patron area, and asked Mr. Cioffi how large the area was. The bar area is now 421 sq. ft. or 18.8%. Presently on the second floor is an apartment. Mr. Leibman referred to A3 of the Plan, showing the actual seating area is 1,330 sq. ft., less than the 1,500 sq. ft. They could get 104 seats. Mr. Snieckus disagreed with bar area figure, and said he came up with 500 sq. ft. for the bar area. Mr. Leibman read from the ordinance. Mr. Snieckus disagreed since he wrote the ordinance, and the 500 sq. ft. needs to be clarified for the purposes of the variance. Mr. Leibman said that magnifies the variance, but not by much.

Mr. Snieckus recommended adding the tile area between the bar and seating area as potential seats. Mr. Leibman said they would stipulate that the tile area would never be used for seating. Mr. Lemanowicz said their questions were all site plan issues and therefore, he had no questions of this witness.

Eileen Owens was sworn in, and said she would like to open a nice café with tables by the window for people watching. She is not really promoting the bar; it is just a place to sit where they wait. Ms. Waneck asked for the dimensions of the bar area. She also asked if they planned to add seats to the bar, and Mr. Cioffi said they are going for a total of 72 seats. She asked what the parking deficit would be. Mr. Cioffi responded to what Mr. Snieckus was saying about the seating area. Mr. Leibman stated if they were doing just restaurant, as in A3, there would be no parking variance required, and he distributed a Business

C/C/O. Mr. Snieckus confirmed that any restaurants under 1,500 sq. ft. do not require on site parking. But here they do because of the bar. Mr. Snieckus recommended some type of separation between the bar and restaurant area. The bar is supposed to be physically separated from the restaurant area. Mrs. Owens had no objection to placing a glass partition there.

Mr. Papay, applicant's engineer, continued under oath. He prepared a new set of plans on 1/11/08 per a meeting with Mr. Raimondi on 1/8/08. They intend to repave the entire parking area plus the macadam drive. The handicapped parking space is 13'x 19'. Wheel stops are to be provided. There is a drainage inlet on site. Mr. Leibman questioned him as to safety. Incoming traffic signs were proposed.

Mr. Lemanowicz asked about the seepage pit. The existing inlet goes to a dry well. John Owens was sworn in and said you cannot open it, and they will not get any more water by resurfacing the lot. Mr. Lemanowicz asked if Mr. Raimondi saw the curb detail, as it was not in conformance with the ordinance. Mr. Lemanowicz was concerned that the curbing being only 6" in. Gravel does not have much strength to it and would be easily dislodged by a snow plow. It essentially requires to be set in concrete. Mr. Owens agreed. Mr. Lemanowicz asked if the 6' gained by eliminating one parking space could be added to the dumpster area. They agreed.

Chairwoman Costello felt a greenery buffer and landscaping would be nice. Mrs. Owens described the flowering vine that goes through the chain link fence. Mr. Leibman passed around an exhibit. Applicant would look into planters in the 5' strip.

Mr. Snieckus asked for a larger dumpster. Mr. Owens said he would even put two--one for recycling and one for trash. Mr. Leibman said if the Board acts favorably they would comply with the Health Department.

There were no further questions from the Board. There were no questions from the audience of the architect. Jaymee Hodges came forward with questions for the architect, that could be relayed to him and the answers could come back, but perhaps the property owner could answer. He inquired what type of smoke detector system was in place. Applicant responded battery operated smoke detectors, but afterward they will be hard wired.

Mr. Hodges stated there should be an outside audible bell, because of the life hazard upstairs and the use downstairs. He had no further questions. Mr. Leibman said he wanted to make sure there were no procedural defects. If Mr. Hodges wants to hear the answers from the architect, he will bring him back. Mr. Hodges felt it was not necessary, as long as it was included on the final plan. The Board Attorney said he does not have to come back.

Mr. Leibman informed the Board they also had a professional planner to testify. Ms. Costello called for questions by the public of Mr. Papay, but there were none at that time. Mr. Leibman questioned Mrs. Owens, who testified she wants a nice, upscale, comfortable, bistro restaurant. She agreed to all the stipulations. Councilwoman Waneck asked and Mrs. Owens stated she would like to be open for lunch and dinner and will comply with the Borough's ordinances. The employees will be as stated. If she could, she would stay open to 12 midnight on a Friday or Saturday night. Mayor Birkner asked for clarification of the number of employees. Mrs. Owens responded she has been in the restaurant business for 20 years, owning a restaurant for 10. She is a work-horse and will bus the tables herself. The three people she works with will do the same. Mr. Leibman said if the business takes off, they may need more employees. There were no further questions.

It was 11:03 p.m., and the Board agreed to extend 15 minutes.

Applicant's professional planner was called. Catherine Gregory, Gregory Associates, 96 Linwood Plaza, Fort Lee, NJ, Licensed Professional Planner for eight years, representing municipalities, was sworn in, qualified and accepted. Ms. Gregory testified she was retained by the applicant to prepare a planner's report. She reviewed all the plans, Master Plan, and Zoning Ordinance. She reviewed the comment letters of the Board professionals. She formulated a professional opinion about the variances. There was lot of conversation about the bar and restaurant. It is technical, but her calculation was 500 sq. ft. for the bar, or 22.5%, wherein 10% is permitted, which she wanted to clarify, and that is what Mr. Snieckus said. There are the C1 and C2 variances. They are seeking a variance for bar portion of the restaurant, since they do not meet some of the criteria. Also, there is a variance for the number of

parking spaces required---29 spaces are required, 22 are deficient. She described the ample parking surrounding the site and believes there is enough parking in the area. They don't need a loading space, because loading would be done when the restaurant is closed. She gave the reasons this would advance the purposes of zoning. They meet the positive criteria and negative criteria with no substantial detriment to the public good or zoning ordinance. The parking demand for what they are proposing is less for just a restaurant, even though it is waived. That should be taken into consideration in granting the parking variance. She hopes the Board would act favorably on the application.

Mr. Snieckus commented he is concerned about the parking variance. He questioned whether they did an analysis as to the number of spaces available at different times and when used. Also, he inquired how she arrived at the conclusion that there is enough parking. Ms. Gregory said there seemed to be spaces open and available. Some have day uses and others have evening uses. Mr. Leibman said she was not asked to do a parking analysis. Mr. Owens said he has lived in town and knows the parking situation and can provide testimony. Mr. Snieckus said the Parking Authority did an analysis, but it was not yet available. Mr. Snieckus suggested looking at the retail use and the parking required, and then the restaurant use, and taking a balance. Mr. Leibman pointed out that since it is next to a movie theater, people will park and go to both. Mr. Snieckus said if the Board were to rely on that, they should really provide an analysis. The professional should provide a background. Mr. Olivier suggested they use the parking information provided for Baci's if available. Mr. Snieckus asked about the bar area and intensity of use, concerned that it does not become a destination. There were no further questions of Ms. Gregory from the Board and no questions from the audience.

Mr. Leibman asked if the Board felt it needed the parking data study or could they proceed without same. Ms. Costello polled the Board. Mr. Bicocchi said he did not know much about the area and it would be helpful. Ms. Waneck said there was a problem with parking in the area, and she would like to see that data. Mr. Bonsignore did not feel that action should be held up for this. The Mayor said it was evident and could be seen on its own without holding up the application. So did Mr. Olivier,

Mr. von Bradsky and Mr. Constantine. They did not feel a study was necessary.

With that, Mr. Leibman said he would make a brief closing statement and ask the Board to render its decision. There would be a concave mirror for safety purposes, and a glass partition. The plans are to reflect actual widths and lengths of the rooms. Mr. Cioffi would amend the plans with the precise length and width of the interior spaces. Mayor Birkner asked for a speed bump/speed restriction sign, as he was concerned about people coming in and out of the movies. Mr. Leibman said it would be no problem, but he would want Mr. Raimondi to review it. There could be a stop or yield sign.

Mr. Leibman gave closing comments and asked the Board to act favorably on the application. The Board was polled as to whether to put to a vote tonight. Richard Bonsignore moved for an approval with second by Daniel Olivier. On roll call vote, Mayor Birkner, Thomas Constantine, Otokar von Bradsky, Ann Costello, Robert Bicocchi, Richard Bonsignore, Daniel Olivier voted yes. Councilwoman Waneck voted no. In voting, Robert Bicocchi commented he wanted to be sure all the conditions were in place. Parking is an issue in that area. Councilwoman Waneck commented she cannot come to grips with the parking detriment and was concerned with the overall sq. footage of the bar and votes no.

Chairman Jaymee Hodges and William Martin returned to the dais at 11:45 p.m.

2. K-Mart, 700 Broadway, Block 104, Lot 5 - Sign Application – Not heard; carried to 2/14/08;

3. Mr. & Mrs. Misha, 266 Fourth Avenue- Subdivision – Chairman Jaymee Hodges recused himself because he does work for the applicant's son, and stepped down from the dais. Vice-Chairwoman Ann Costello acted as Chairman. Mr. Rehill represented the applicant. David Fantina Professional Engineer, licensed in NJ, was sworn in. He prepared the plan before the Board, revised through 1/16/08. He further responded to the comments at the 1/10/08 meeting. Mr. Fantina testified as to same. He responded to the revised Burgis letter dated 1/23/08, based on Minor Subdivision Plat for Musquapsink Brook, dated 9/26/07, revised to 1/16/08. Also, Mr. Fantina submitted an

overview letter dated 1/16/08, including a neighborhood front yard analysis. The houses shown on the plans are conceptual. The variance can be granted without detriment to the zone plan.

Mr. Fantina continued it is a unique situation. The property is oversized and impacted by wetlands, transition areas and steep slopes. There is no way to make appropriate use of this property for the three lots without requesting these variances. Mr. Snieckus asked and Mr. Fantina said Lot 2.02 requires the variance exclusively, and a substantially less development would not disturb these slopes. Drainage calculations dated 1/16/08 were submitted, also prepared by Mr. Fantina. He indicated the existing gravel driveway cannot be paved due to NJDEP. The house locations shown are conceptual. Mr. Snieckus asked and Mr. Fantina responded they will revise Sheet 2 as best they can to show the setbacks. Applicant agreed to the concept of a conservation easement.

Mr. Snieckus commented regarding shade trees and suggested they seek the review of the Shade Tree Committee. They agree the lots are conforming to the bulk standards, but Lot 2.02 requires significant steep slope variances. One of his questions was if this witness was going to provide variance proofs or would they bring a planner. Mr. Rehill did not intend to. Mr. Snieckus said he should show why it is beneficial to have the front lot in front of the existing house, and they should look at the neighborhood and provide proofs for the C1 or C2 and balancing proofs for the positive and negative criteria. Proofs are also required to show why this is not a detriment to the zone plan. Also, they need to demonstrate what is special about this application and why the Board should approve it. Yes It is oversized, but it is bound by environmental restrictions. Perhaps it should not be built out. The house will restrict the view of the existing house.

Mr. Raimondi's report dated 1/21/08 was reviewed by Mr. Lemanowicz. It was indicated the applicants would make the modifications. Regarding the drywell in rear of Lot 2.02, Mr. Lemanowicz asked how deep of an excavation would be created to install same. Mr. Fontana said about 7-1/2’ below grade. He also agreed that the limit of disturbance was likely too close to the excavation to be realistic. Fixing the drainage and making the limit of disturbance more realistic would exacerbate slope disturbance. Councilwoman Waneck asked how much higher

houses would be on Lot 2.01 and Lot 2.02, and the response was they would be at the same elevation.

Mr. Bonsignore addressed the house behind a house ordinance, noting they are not the same situation as on Benson. Mr. Martin stated they should have a planner testify. The engineer is not qualified to give planning testimony. He is a licensed engineer not a professional planner. Also there is nothing preventing them from reducing the gravel area. They should get the Borough Engineer's opinion on widening Fourth Avenue. Fourth Ave is only a 45' ROW with a 15' easement. Mr. Fantina said he could move the lots back to accommodate that. Mr. Martin commented this is not a variance free-request, there are significant issues. As a member of the Board, he wants to be sure they are going to have an aesthetically pleasing and creative proposal that would fit in harmoniously with the neighborhood.

Mr. von Bradsky agreed it would be helpful to know the future design of the house. Ms. Costello commented there seems to be a discrepancy on Pages 2 and 3 showing grading. Mr. Fantina said there would be less than 1% net fill in flood hazard area. Mr. Martin commented any plans of the houses should be prepared by a licensed architect, signed and sealed.

The matter was open to public for questions of engineer. Jovan Mehandciz, 253 Fourth Avenue, an unlicensed civil engineer by trade, says Fourth Avenue is a County road. He commented on the flood hazard area. There were no further questions from the public.

Mr. Rehill requested to be carried to the next meeting to respond to the issues raised by the planner and Mr. Martin. The matter was carried to the next public meeting on 2/28/08.

Chairman Hodges returned to the dais.

5. Old Hook Road, LLC – Industrial Occupancy/Office – Note completed; Carried to 2/14/08;

6. Preferred Management, 25 Charles Street – Minor Modification for Dumpster Location – Applicant appeared and advised she wanted to pick up her C/O tomorrow morning and move in. She thought she had to pick up a Resolution from the Board

that evening. A final inspection was performed, and all work was completed. The Board Attorney reviewed his file and advised that the Resolution was memorialized on 10/25/07. The Board also acknowledged that the Fire Department letter was satisfied. Stefanie Stokes would be advised the application is complete. Councilwoman Waneck offered her work number to the applicant in case the applicant had any problems with obtaining the C/O.

9. DISCUSSIONS:

1. COAH Update/Revised Regulations - Ed Snieckus distributed his Memo dated 2/21/08 – matter to be discussed at next meeting;

2. Development Fee Ordinance - Ed Snieckus distributed his Memo dated 2/21/08 – matter to be discussed at next meeting;

3. Approval for Burgis Associates to prepare Plan for Recreational Element – Mayor Birkner stated the Board needs to either direct Burgis Associates to prepare same or send out a request for proposals. We had a proposal from Boswell, but suggested going with the Borough Planner to be consistent with our Master Plan. Mr. Snieckus said they have prepared several of them. They can put forth a proposal to not exceed a certain sum. Mayor Birkner said this is not just one area but our entire recreational area. His reference to Boswell is that they can participate in certain aspects. It would be to the town's benefit to keep it with the firm that prepared our Master Plan. Mayor Birkner distributed the Parks, Open Space and Recreation Element, prepared by Christopher Statile for Hillsdale, as an example, noting this is something that will be needed in the future – how we will incorporate recreation into Westwood's Master Plan. The threshold should not exceed $10,000.00. Ms. Waneck questioned if it was a little high comparing it to the historic preservation element. Mr. Snieckus said besides meeting with the Planning Board, they also meet with the Recreation Department. He could give a range and a proposal. The Mayor felt we have a very extensive project and more encompassing than Hillsdale. A motion to approve Burgis Associates to put forth a proposal for a Recreational Element, was made by Mr. von Bradsky, seconded by Jaymee Hodges and carried unanimously.

(WWPB 1/24/08)

10. ADJOURNMENT – On motions, made seconded and carried, the meeting was adjourned at approx. 12:00 a.m.

Respectfully submitted

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MARY R. VERDUCCI, Paralegal
Planning Board Secretary