

**BOROUGH OF WESTWOOD
PLANNING BOARD MINUTES
PUBLIC MEETING AGENDA
WORKSESSION/REGULAR MEETING
June 11, 2009**

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 Worksession/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: Mayor Birkner
Otokar von Bradsky
William Martin
Richard Bonsignore
Councilwoman Cynthia Waneck
Ann Costello
James Schluter, Vice-Chairman
Jaymee Hodges, Chairman
Philip Cerruti (Alt. #1)
Daniel Olivier (Alt. #2)

ALSO PRESENT:

Thomas Randall, Esq., Board Attorney
By Steven Paul, Esq.
Louis Raimondi, PELS, Board Engineer
Ed Snieckus, Burgis Associates, Board Planner

ABSENT: Thomas Constantine (excused absence)

4. MINUTES: The Minutes of 4/30/09, 5/14/09 and 5/28/09 were reviewed and would be listed for the 6/25/09 meeting.

5. CORRESPONDENCE:

1. Letter dated 5/28/09 from Gerald R. Growney, Jr. RE: Old Hook Road, LLC - Discussion ensued; Per letter request of Old Hook

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Road, LLC, 345 Old Hook Road dated 5/28/09 due to current economic condition, **the Board approved a one (1) year extension** of the approval on motion of Mr. Bonsignore, second by Ann Costello and carried unanimously on roll call vote.

2. Letter dated 6/2/09 from Nancy Saccente, Esq. RE: Blanches Refinishing Services, 701 Broadway;

6. RESOLUTIONS:

1. **Blanches Refinishing Services - Ruth Risman - Commercial Tenant Approval, 701 Broadway, Block 701, Lot 7 -** Attorney Paul read the Resolution of Approval into the record. Nancy Saccente, Esq. issued a letter with Zoning Officer's Approval dated 6/2/09. Mr. Cerruti questioned the letter. Mr. Hodges advised with clarifications made by Mr. Strabone via telephone to the Board Attorney, the Board may pass the Resolution. Mr. Paul advised the Board may carry it over two weeks if it feels more comfortable receiving a letter from Mr. Strabone. Mr. Martin noted it does not have the use permitted box check. Mr. Hodges stated Mr. Randall was awaiting a call from Mr. Strabone and he must have received the call because he allowed the Resolution to be read. Mr. Cerruti commented he would feel more comfortable with a letter, and the Resolution requires it. Mr. Hodges stated we could do that, and Mr. Paul would advise Mr. Randall to request a letter from Mr. Strabone. Mr. Paul advised the way the Resolution is worded is that it is subject to the letter. Essentially, it could be passed and would not take effect until the letter received. Mayor Birkner recommended we hold off until we have the documentation required. The Resolution was carried to the 6/25/09 meeting to be backed up by the letter of Mr. Strabone, so the Board could vote on it accordingly.

2. **Vardean, LLC, Lake Street & Center Avenue, Block 703, Lots 1 & 2 - Minor Subdivision (William Martin recused) -** Scheduled for 6/28/09

7. **VOUCHERS:** None

8. **PENDING NEW BUSINESS:** None

9. **VARIANCES, SUBDIVISIONS AND/OR SITE PLANS:**
SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS
The Board Professionals were sworn in

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1. Diamond Financial LLC - Block 2001, Lots 38, 39 & 46, Jones Street, Alvin Street - Subdivision - Heard in Worksession; Paul Kaufman, Esq. represented the applicant and advised he gave notice even though this is a worksession. Mr. Snieckus reviewed his report dated May 14, 2009. Applicant is proposing a seven (7) lot subdivision, wherein each lot is to be developed with a single family residential dwelling, and in addition, the applicant is proposing to develop the existing unimproved Jones Street and Alvin Street to serve the proposed lots. The proposed use is permitted in the Zone, which is R-1. Site photographs are to be provided. Certain waivers were requested, such as status of wetlands, EIS, and a drainage area map. An application from the BCUA for a sewer connection will also be required. A Floor Plan was requested, along with Architectural and Landscape Plans. Applicant revised the plans and removed reference to Block 2001, Lots 44 and 45, which was satisfactory. Mr. Snieckus continued with further details of the proposed subdivision, road improvements and RSIS, lighting, landscaping, fence and retaining wall details, architectural drawings and elevations, and zoning. Variances were requested.

Mr. Kaufman stated he was not available on 6/25/09, and there were certain items Mr. Snieckus wanted addressed. Ms. Costello commented the Shade Tree Committee should review the plan. Mr. Martin added the other departments should be apprised as well.

Mr. Raimondi reviewed his report dated 12/8/09, addressing stormwater management and drainage requirements by the RSIS, the grading and municipal road extension, water and sewer, and miscellaneous items, including seepage pit calculations, demonstration of adequate stormwater system, catch basins, flow testing of water, sewer connections, and permits from outside agencies.

Mr. Kaufman advised he addressed Mr. Raimondi's letter point by point. When it comes to any improvements, all of Mr. Raimondi's comments and concerns are critical to the Borough, but he would respectfully submit that most of what he is asking for is site plan and permit review. The critical issue is the size of the lot and any resolution would be subject to the resolution of same to his satisfaction. To address all of these now before getting an indication from the Board as to being okay with the lot sizes, is a tremendous expense to the client. They

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could comply with any approval and developer's agreement. Chairman Hodges stated that is why we have the Borough Professionals review the plans and guide the Board and further clarified the Board must receive the proper proofs. Mr. Kaufman advised they want to know it will work before spending money and suggested bifurcating.

Mr. Martin commented he felt strongly that the Board needed the engineering issues satisfied in order to address the planning issues. Mr. Bonsignore commented he did not agree with bifurcating, and the entire application should be reviewed in total. Chairman Hodges agreed. Mr. Bonsignore questioned Mr. Raimondi about the retaining walls, which he clarified. Mr. Martin asked Mr. Raimondi if there was a feeling this may not work engineering wise, and Mr. Raimondi responded he was very concerned about the first streets, how they would grade the road and how it would affect the existing lots. Mr. Martin commented the first hurdle is also the list of variances they are requesting. Mr. Raimondi commented there is less width to work with. Mr. Martin suggested having the applicant's engineer come in and testify rather than having the engineering mapped out, to get to the issue of planning. Mr. Raimondi commented he could do it without mapping it, but reminded the Board about what happened on Lafayette Avenue with steep grades, and there were engineering plans. Ms. Waneck commented how could the Board decide on seven lots without seeing the effect.

The Chairman asked how the Board wanted to proceed. Mr. Kaufman stated they would have to get permission from the other property owners to come onto their property. Mr. Raimondi said we are talking about 100' on each street and did not think it was a lot of work to have a finished plan. The water company would not proceed without knowing the grade. Mr. Bonsignore commented Mr. Kaufman is concerned about his client and the quantity of costs, but this Board is concerned about the plan and the Borough. We do not want to approve this blindly and have troubles later on; it is as simple as that.

Mr. Kaufman said they were not looking to take any shortcuts. He requested a hearing in July and thanked the Board and neighbors. The matter was scheduled for 7/23/09 for public hearing. Mr. Snieckus stated the matter was deemed complete as a major subdivision.

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The Board took a recess from 9:15 pm to 9:25 pm.

A motion to go from Worksession into Public Session was made by Mr. von Bradsky, seconded by Councilwoman Waneck and carried.

2. Oak Realty Associates, 354 Old Hook Road, Block 2210, Lot 4 - Application for Site Plan and Variance Approval - Public Hearing - David Lafferty, Esq. represented the applicant and provided Proof of Service and Proof of Publication. They were present for site plan and variance approval for a medical office building.

Victor Wang, 354 Old Hook Road, a tenant in the building, was sworn in, and testified. His practice is Pediatric Therapy Center for autistic children. They are seeking to take additional space, half the space in the basement. Usually they treat about two children at a time, mostly dropped off for 45 minute sessions. If the application is approved, he would possibly use the space for aqua therapy. Presently the space is used as a gym for the children, conference rooms, bathrooms, reception and offices. He would envision one to two additional staff members to assist the children.

Chairman Hodges requested that the waivers be reviewed. Mr. Snieckus discussed these issues, including a waiver from submission of architectural floor plans for the basement space. Applicant is requesting a parking variance as well. There is no document as to the amount of the floor space to be used. The applicant should supply square footage and provide testimony for the waivers requested. The Board should act upon same. Mr. Bonsignore asked why they cannot submit the architectural plans if Mr. Wang would need to hire one for the additional space any way. It is important to see the circulation, such as egress, in addition to square footage. Mr. Lafferty commented if the Board is requiring it, although he does not feel it is appropriate, they would submit it. Mr. Snieckus commented this was to be discussed at tonight's meeting.

Questions of the witness followed. Mr. Martin questioned the witness and laid out some of the facts. The basement is presently empty. The parking on site is based on the two occupied floors of the building, and he intends to occupy one half of the basement. What happens if he no longer wants the

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space. The owner may move in another tenant with different requirements. Mr. Wang said his intentions are not to move on. Mr. Martin's concern was factoring in this additional square footage, and there is no more parking. Mr. Wang responded half of the parking lot is empty right now and has been for the past two and a half years that he has been a tenant in the building. There are about 100 spaces, with 30-50 empty. The building is fully occupied.

Mr. Raimondi asked if Mr. Wang would move his entire operation from the first floor to the basement, and Mr. Wang responded they would remain on two levels. Further, his license does not require certain size rooms. He needs additional space. There is a whirlpool 16' x 30' for aqua therapy that would go in the basement. Mr. Bonsignore inquired about the cars for staff and patients. Mr. Wang responded. It was determined they were trying to add 14 parking stalls.

Alan Chernow, Building Owner, was sworn in and testified there were 18 parking stalls, and about one and one-half years ago they made angled parking with extensive improvements and increased the parking to 102 spaces. There was no municipal requirement. They renovated the lobby with marble, lighting shining down from the roof to the parking lot, and landscaping. If a doctor works late, there is ample lighting all over. The ballasts were put in for safety. The dermatologist parks there without permission, and offered to pay, but he refused.

Councilwoman Waneck questioned why they were increasing the parking. Mr. Lafferty advised they knew they were short parking and tried to maximize the parking, preparing the engineering plans for the Board. If the Board prefers what they have, Mr. Chernow would be happy to keep it as is, feeling they have more than is necessary. The only thing he would change is to make another exit in the middle row. He is improving this property for the next generation. Who would rent a space with a pool except for the same therapeutic person. That should address the concern. Mr. Cerruti expressed concern about removing one of the entrances. Mr. Lafferty responded Mr. Burns would address this concern. Mr. Chernow suggested one way in and two ways out.

Mr. Bonsignore commented he truly enhanced the building; however; to develop 4,000 sq. ft. in the basement, he would recommend the extra spaces. He also thinks that a fitness

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center could be a future tenant. Mr. Chernow said he is not looking to lose tenants; that is why he reconfigured the extra parking. Before they parked along the building with permission from the town. Mr. Martin noted it should have come before the Planning Board for a change in site plan approval. Mr. Chernow said he went to the Building Department who gave the approval and stamped the application. Mr. Martin asked if he had any paperwork and also noted the lighting required Planning Board review. Mr. Chernow said he did not do it intentionally to avoid coming to the Board, but he installed it for safety. Mr. Martin expressed concern that there was ample work done outside the building without coming before the Board, and that is why he is recommending full and complete floor plans to determine what the parking requirements are and to make sure they are in compliance. Mr. Lafferty did not see the need for architectural plans for the first and second floor. They would provide them for the basement. Mr. Snieckus commented he would request the Board's vote on these issues.

Mr. Martin moved to have the applicant provide full measured and scaled architectural plans of the entire building, of all spaces and all levels. The motion was seconded by Mayor Birkner. There were no further questions, comments or discussions. On roll call vote, Mr. Martin voted yes and all remaining members voted no.

Mr. Bonsignore moved for applicant to provide and architectural drawing showing existing conditions and future proposed conditions for the entire basement, with second by Mayor Birkner. Mr. von Bradsky questioned whether this should be limited to the current medical use and for what use is the drawing. Mr. Bonsignore suggested it would serve the purpose of documenting the configuration. Mr. Hodges added it makes it necessary to apply for a building permit application to alter the basement after that. Mr. Lafferty said he would have to discuss this with his client as to any change in the C/O coming before the Board. There were no further questions, comments or discussions. On roll call vote, Councilwoman Waneck voted no and all remaining members voted yes.

Mr. Martin clarified the Board would be receiving architectural plans for the entire basement, signed and sealed by an architect. Mr. Bonsignore said they wanted the plans to show the pool, etc. Mr. Lafferty said on the East side there is

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no definitive tenant, and it is one room. On the West side, Mr. Wang's side, they would show the proposed configuration.

Richard Burns, Licensed NJ Engineer and Planner of Azzolina and Feury Engineering, was sworn in, qualified and accepted. Mr. Burns prepared the plans dated 2/10/09, revised to 4/2/09, which were marked Exhibit A1. He described the existing conditions of the exterior of the building and parking lot. He identified the survey dated 12/27/06 and marked it Exhibit A2. Mr. Burns located the building and 104 parking spaces, including 11 handicapped spaces. He testified the nature of the application is to permit the basement of the offices for health service use. The building consists of 31,920 sq. ft. For the full use of the basement, based on floor space, 1 per 150 sq. ft. gross floor area, 213 spaces would be required according to Code. The idea was to retain circulation on site, so they revised the plan to have only one driveway and exit, closing off the existing Tillman Street driveway. It is his opinion that it would keep traffic away from the residential area on Tillman and direct it to Old Hook Road. Other changes depicted on the plan are that they added parking, increased the width, provided a two-way traffic aisle and a one-way circulation. There are some existing non-conformities with regard to front yard setback from Old Hook Road and Tillman, side yard, FAR, and impervious coverage, for which a variance was requested. They submitted a request for waiver of a loading zone. There is no need for same, and the original zoning did not require it. As a condition of approval, the applicant would consent to off hours pickup of garbage. The striping would be changed from 6" to 4". Changes to the parking lot could be done without repaving. Mr. Lafferty had no further questions of Mr. Burns.

Mr. Raimondi reviewed his report dated 6/10/09 and noted they skipped the drainage. Mr. Burns said they have on-site drainage but they moved the curb and would make new inlets and grade the pavement. Mr. Raimondi asked for stormwater management, and inquired whether it meets the Code. Mr. Burns said they do meet the Code. Mr. Raimondi asked if the light post would have to be moved since they are moving the curb. He was concerned about the one entrance and exit only. There is a chance it could be blocked, and he expressed from a safety standpoint for emergency access, they should have a second entrance/exit. Mr. Lafferty questioned whether this would reduce the parking. Mr. Raimondi noted they were short 100 spaces or

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so anyway, and it may not make a difference. Mr. Lafferty suggested that since they are coming back, he would have Mr. Burns take a look at the impact of reinstalling the exit. Mr. Raimondi commented they should also reconfigure the circulation, and the area immediately in front of the building should be curbed. Mr. Burns said they would have to reconstruct the entire drainage pattern and lot. Mr. Raimondi said it was up to the Board. Mr. Raimondi asked if he went to the County with it, and Mr. Burns said they are subject to County approval and had gone to Mr. Timsak. Mr. Raimondi commented he drove through the site, and his opinion was to resurface the lot when they do the improvements.

Mr. Snieckus reviewed his report dated 5/14/09. He asked if the handicapped spaces were reconfigured. There is an inconsistency between the ADA standards and Building Code, where more spaces are required by the Building Code. He suggested they take a look at this. Mr. Burns said they would be in compliance. Mr. Burns asked and Mr. Burns agreed the floor space calculations included the entire basement. As for trees, there was a requirement that the parking lot have additional planting, screening and shrub planning. As for a waiver from the loading dock, the current condition is pre-existing, and there would be no additional need due to the additional space.

Questions by the Board followed. Mr. Bonsignore strongly agreed with Mr. Raimondi on the need for two entrances and that it should not be too difficult to accomplish. He did not hear about the 18' driveway being increased per Mr. Raimondi. He felt the spaces were too narrow. Mr. von Bradsky also felt the pavement should be replaced due to the construction. Ms. Costello asked if they were going to finish 8,000 sq. ft. or 4,000 sq. ft. Mr. Lafferty indicated they were going to finish 4,000 sq. ft. for this tenant, and the rest would be for another tenant. Mr. Martin asked how many parking spaces conform to the 9'x 19' spaces. Mr. Cerruti agreed with Mr. Raimondi on returning the second ingress/egress. The Mayor's questions had already been answered. Chairman Hodges commented based on experience, he agreed that a second entrance/exit was definitely needed and recommended the northerly most egress be reinstalled.

The matter was opened to the public. Mr. Baronfide, from Tillman Street, was present with this wife, and expressed all his concerns about the challenges they face every day with

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traffic, ingress and egress, at the northeast corner of the lot. Mr. Hodges requested the engineers come up with a solution for the sight triangle. There were no more questions from the public.

It was 10:55 p.m., and the matter was concluded for the evening and carried to 6/25/09 for a continued public hearing. Mr. Lafferty would provide the architectural plans at the time.

10. DISCUSSION:

1. Operational Procedure - No discussion

2. Chairman Hodges addressed the 6/2/09 letter from Councilman Peter Grefrath RE: Protection of Westwood's Tree Inventory, which he read into the record. Mr. Raimondi addressed the issue. A discussion ensued. The suggestion is for the Shade Tree Committee to count the trees in an application. There was no need to expend monies for an engineer to do so. Mr. Martin suggested the Board Professionals include this requirement in their reports. It would be the applicant's responsibility to fill out the Shade Tree Application. This request would be included in the application package that the Shade Tree Advisory Board is sent, with copies of the plans for an application once deemed complete. This was by motion made, seconded and carried.

3. COAH Objection filed - Councilwoman Waneck explained that COAH filed an objection to our plan and stated that a committee should be formed. It was determined by the Council that COAH filed their objection late, and there was no need for remediation. There was no need to put this burden on the Planning Board Members and Professionals to expend hours and travel to Trenton. If the Planning Board feels it wants to appoint someone to this committee, it is up to the Board to decide. The Council is not taking any action at this time and is waiting to see if any action is needed in the future. Mayor Birkner commented he would like to have someone ready to go if needed. Chairman Hodges questioned how much notice would be given. Councilwoman Waneck asked if there would be compensation. The Chairman asked for any volunteers. Mr. Cerruti volunteered.

11. CLOSED SESSION: A motion to go into Closed Session to discuss litigation was made by Mr. Martin and seconded by Mr.

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Bonsignore. The Board went into Closed Session at approximately 11:15 p.m.

12. OPEN SESSION: A motion to return to Open Session was made by Mr. Martin and seconded by Mr. Bonsignore. The Board returned to Open Session at approximately 11:28 p.m.

13. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 11:28 p.m.

Respectfully submitted

MARY R. VERDUCCI, Paralegal
Planning Board Secretary