

PLANNING BOARD MINUTES
PUBLIC MEETING
JULY 8, 2010 - 7:00 P.M.
HELD AT OAKLAND SENIOR CENTER
20 Lawlor Drive, Oakland, New Jersey

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ❑ Adoption of an annual schedule of meetings
- ❑ Posting copy of same at Borough Hall
- ❑ Forwarding copy of same to the Record
- ❑ Mailing a copy to any person requesting same

**** MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.**

PLANNING BOARD MEMBERS:

Elaine T. Rowin, Eric Kulmala, Barry Colyer, Christopher Baczewski, Dan Hagberg, John Morris, Councilwoman Marcalus, Mayor John Szabo and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:10 P.M., ROLL CALL:

Present: Mrs. Rowin, Messrs. Kulmala, Colyer, Baczewski, Morris, Councilwoman Marcalus, and Chairman Potash.
Absent: Mr. Hagberg and Mayor Szabo

Also in attendance, Joseph Russo, Esq., (Board Attorney) and Kevin Tichacek, (Boswell Engineering) and Steve Lydon (Burgis Associates).

PUBLIC HEARING BEGINS:

Chairman Potash announced to the public that due to the full agenda, applicants would be entitled to one hour and 30 minutes worth of testimony. He assured the public that all applications would be heard.

Motioned by Mr. Morris and seconded by Mr. Baczewski, to open the meeting to the public for matters not on the agenda was voted unanimously by the Board.

No comments

Motioned by Mr. Morris and seconded by Mr. Baczewski, to close this portion of the meeting to the public for matters not on the agenda and to continue with matters on the agenda was voted unanimously by the Board.

PUBLIC HEARING:

1. Wachsmans (Pinnacle Communities, Ltd.) – Long Hill Road, Block 3001, Lot 6. Request for an extension of minor subdivision approval.

Mr. Russo explained that above referenced applicant was granted an extension of approval a year ago and is requesting another year extension. According to the Municipal Land Use Law the applicant is entitled to one more extension following this one.

He informed the Board that Pinnacle Communities, Ltd is no longer involved and has been taken over by the Wachsman firm not able to attend. Mr. Oberlander was not able to attend and Mr. Russo expressed that he did not think it was necessary that someone else be present from the firm since Mr. Oberlander has been involved and was granted the extension last year.

Mr. Russo explained that in Mr. Oberlander's letter requesting the extension, it indicates that the applicant's original approval has been delayed. The delay is due to the disapproval of the applicant's water quality management plan by New Jersey Department of Environmental Protection (NJDEP). The applicant has appealed the NJDEP decision and a hearing has been scheduled for March 3, 2011.

Mr. Russo explained that he would draft a resolution granting the extension.

Motioned by Councilwoman Marcalus and seconded by Mr. Colyer, to approve the Wachsmans a one-year extension of approval.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Kulmala, Baczewski, Colyer, Morris, Councilwoman Marcalus and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Mr. Hagberg and Mayor Szabo

2. Bartholome – 68 Spruce Street, Block 2302, Lot 3. Public hearing for a preliminary and final site plan.

Mr. Ira Weiner, Esq. with Beattie Padovano, LLC located in Montvale, New Jersey was before the Board to represent the continued Bartholome application.

Mr. Weiner expressed that he would have a short presentation by the applicant's engineer and if any Board member or public requested further questions, they would be willing to address them.

Mr. Weiner stated for the record, that he had a discussion with Mr. Russo and was aware that some Board members and public are questioning the letter stating approval from the NJDEP. However, he would agree that if the application received approval that evening it would be subject to in the resolution the actual NJDEP approval.

Mr. Russo also stated for the record, that Board members and objectors are specifically looking for the approval by NJDEP for the applicant to store mulch in a floodway. Mr. Weiner responded that he believes his client has this approval or they would not be able to operate as a composting facility.

Mrs. Rowin was unable to be at the June hearing but stated for the record, that she listened to the audio and expressed that she needed some clarification on some of the items discussed.

She questioned the size of landscaping vehicles that would be accessing the site. Mr. Weiner responded that his understanding was that the trucks could be the size of dump trucks but the questioned could be clarified once his client testifies.

Mrs. Rowin questioned if they could be more specific than about hours of operation. Mr. Weiner responded that probably between the hours of 6:00 a.m. to 7:00 p.m. but his client would offer that testimony.

Mrs. Rowin referenced a letter from NJDEP dated April 28, 2009 rejecting the applicant from conducting a class B operation which allows more than mulch. Mr. Weiner responded that a class B operation is a process of submitting complete notification of exempt recycling activities and following all other applicable regulations.

A discussion ensued that it would be stipulated in the resolution that no mulching and grinding would be conducted at the site. Mr. Weiner agreed with the stipulation and affirmed that there would be no preparation of mulch at the site.

Mr. William Moran was sworn in and testified that he is a licensed engineer and planner with Golden & Moran located in Newton, New Jersey. He reviewed his credentials and the Board accepted his qualifications.

Mr. Moran explained that he had worked with Mr. DeFeo by preparing exhibits and maps for the filing of a Stream Encroachment Permit with the county. In 2007 more restrictions were inflicted by NJDEP concerning stream

encroachment permits but the applicant was permitted to continue a lawful existing operation.

Exhibit A-4, Site plan submitted to the county showing operation winter of 2007.

Mr. Moran explained that storing the mulching and composting would be the only operation allowed, fill, grading or the construction of a building would not be permitted.

He explained that the applicant is prepared to comply with fire safety measures set forth by the Borough. Mr. Moran pointed out two hydrants in close proximity to the property on Hemlock Street and the academy located on Spruce Street.

Exhibit A-5, Aerial photo of the site summer of 2007.

Mr. Moran described the site to the Board. He explained that there is an abandoned well and pump house within an easement owned by the Borough as well as the remnants of a public pool used years ago.

He described the site as being surrounded by a mature forest which and in the event of a flood, it would be unlikely to discharge logs or mulch into the river.

Mr. Moran testified that storms in 2007 and March of this year have been recorded as having the highest amounts of discharge into the river. Since improvements were completed back in 2003 on the Pompton Lakes Dam there was no evidence during these storm events that the river had risen above the banks.

Chairman Potash expressed that the floodway is clearly delineated on the site plan and questioned if these were the plans submitted to the county. Mr. Moran responded that the map was originally prepared in 1984 indicating the original floodway line. Since the improvements to the Pompton Lakes Dam, the map is no longer accurate because the floodway line has moved. They have not yet revised the floodway line on the maps because the county will have to conduct a complete flood analysis. Mr. Moran expressed that the permit has been issued and NJDEP has no issues with what they are doing.

Mr. Tichacek expressed that he did not see the letter or plans approving the applicant for a Steam Encroachment permit and requested a moment to review it. He questioned the timing of the approval and changes in NJDEP regulations. He stated that the letter approves the continuation of a lawful operation, however, the applicant's operation had become a lawful operation in December of 2009 after the 2007 NJDEP regulation changes.

Mr. Tichacek also had concerns with whether or not all divisions of NJDEP have been contacted and reviewed the application.

A discussion ensued concerning clarification in the timeline and whether this was a lawful operation at the time the application was submitted to NJDEP and if NJDEP was aware of this.

Mr. Tichacek informed the Board that in 2007 the applicant's operation had been shut down by the Borough for a non-permitted use in that zone and only obtained NJDEP approval in April of 2009 to conduct a composting facility at the site. He explained that he still needs clarification on the timeline of this facility conducting a lawful operation. In addition, the Board is unaware of the exact plans submitted to NJDEP. Mr. Moran offered to forward the application as submitted to NJDEP for Mr. Tichacek to review.

The Board requested that Mr. Russo and Mr. Tichacek look into all the legal aspects of the applicant's application with NJDEP. Mr. Weiner expressed that the applicant has NJDEP approval and the Board cannot deny the application based upon their opinion of the validity or doubt of that approval.

A discussion ensued concerning the letter from NJDEP dated January 23, 2009 where the NJDEP references three times that the applicant's operation is an existing lawfully run operation. Chairman Potash expressed that it is the Board's right to know whether or not the NJDEP was aware that the business was shut down and not operating prior to this letter. The Board suggested that a letter be obtained clarifying the definition of a continued lawful operation.

Mr. Lydon questioned how the applicant proposes to deal with tracking mud onto the street without running water at the site. Mr. Moran responded that it would be the operator's responsibility to assure that NJDEP's Soil Sediment Control Act is being followed. Mr. Weiner added that the applicant has been operating for three years and this has never been an issue.

Chairman Potash expressed to the Board that they need to make a decision based upon facts presented and it would be up to NJDEP and the applicant if information were processed incorrectly. He included that any concerns or conditions would be added to the resolution. Mr. Weiner responded that the Board has every right to make a condition that a letter be sent to NJDEP and if the applicant is in violation, their permit would be revoked.

The Board questioned if they were to find out that the definition for a continued lawful operation definition was in conflict with the applicant's timeline of operation, could the approval be rescinded. Mr. Weiner responded that the Board has the right to send a letter to NJDEP requesting a definition of a lawful continued operation and if the applicant were in violation, they would shut them down.

Motioned by Mrs. Rowin and seconded by Mr. Colyer, to open the meeting to the public regarding matters concerning the testimony of Mr. William Moran was voted unanimously by the Board.

Mrs. Dorothy O'Connor, 70 Hemlock Street, she explained her background as being a member of the Flood Commission since 1972. Her question was directed to Mr. Moran whether he knew what the level of flood protection was for the site. Mr. Moran responded that the site is a 40-year flood plain. Mrs. O'Connor questioned if Mr. Moran was aware of the year of the highest range. Mr. Moran responded March of 2009. Mrs. O'Connor did not agree and informed Mr. Moran that the property flooded in 1968, 1984 and many times after that. Mr. Moran responded that this was prior to the improvements made by the Army Corp of Engineers.

Mrs. O'Connor informed the Board that in 2007 the applicant was operating without a permit from the NJDEP.

Mr. Kenneth Strom, 80 Hemlock Street, questioned how the weight of a four-ton truckload would be monitored. Mr. Tichacek expressed that the permit does not limit it to the size of the truck but the weight of material. Mr. Weiner responded that there is a formula used by NJDEP that the licensed operator would be required to follow and keep track of the amount. Mr. Tichacek added that it is not an exact science but licensed operator would be responsible track the number of trucks and tonnage.

Mr. Timothy Jensen, 7 Third Street, informed the Board that the applicant made application to the Board of Adjustment in 2006 for farming in an industrial zone which turned into an application for a zone interpretation. Mr. Weiner responded that the application before the Board of Adjustment had been preempted by the Right to Farm Act and ultimately withdrawn and then it was argued that the application was preempted under the Solid Waste Management Act. Mr. Jensen indicated that in 2006 and 2007 the applicant was not conducting a lawful operation. Mr. Weiner objected stating that was his opinion whether the operation was lawful.

Motioned by Mrs. Rowin and seconded by Mr. Baczewski, to close the meeting to the public regarding the testimony of Mr. Moran was voted unanimously by the Board.

Mrs. Katie Bartholome was sworn in and testified that the hours of operation would be between the hours of 8:00 a.m. to 4:00 p.m. in the winter months and 7:00 a.m. to 5:00 p.m. during the summer months.

She explained that truck size would be limited to the pile size of the windrows and that they have been operating for four years with regular visits from the NJDEP.

Mrs. Bartholome expressed that she believes the odor has come from a neighboring property who owns a landscaping business.

Mrs. Bartholome explained that her neighbors knew that she was conducting a business and she tried to work with them. She explained that the NJDEP application process is tough and long. NJDEP have visited the site on numerous occasions and never shut their operation down.

Mr. Lydon questioned if Mrs. Bartholome abandoned the building that she was granted a Certificate of Occupancy from the Planning Board to store wedding props. She responded that she still uses the building for the storage of her wedding props.

Mrs. Bartholome expressed that she has the utmost respect for the property and would like to preserve its beauty. She feels this is the best use for the property.

Motioned by Mrs. Rowin and seconded by Mr. Baczewski, opened the meeting to the public regarding comments on Mrs. Bartholome testimony was voted unanimously by the Board.

Mr. Strom expressed that Mrs. Bartholome offered him mulch for his property and informed the Board that if any smell is coming from his property, it is due to the mulch Mrs. Bartholome offered him.

Mr. Jensen questioned what Board approved her composting facility. Mr. Weiner responded that there was no Board involved in the decision, she was granted permission by the county.

Mrs. Oconnor testified that she did not know they were operating a business. It was when she reported the odor to the NJDEP and was told that Mrs. Bartholome has a permit to run a recycling facility.

Motioned by Mrs. Rowin and seconded by Mr. Baczewski, to close the meeting to the public regarding questions concerning Mrs. Bartholome's testimony was voted unanimously by the Board.

A discussion ensued concerning whether to carry the application.

Motioned by Mr. Morris and seconded by Mr. Colyer, to open the meeting to the public regarding comments on the Bartholome application was voted unanimously by the Board.

Mrs. Dorothy O'connor, 70 Hemlock Street, explained her history with the property. She grew up and worked with the recreation center involved with the property.

She informed the Board that in 1968 there was a severe flood and she witnessed a very strong current along the Bartholome property.

In the early 70's she became a member of the Flood Commission and in their efforts, were very conscience not to add to any more water or projects that would affect the flow down stream. In the event of another bad flood, it could move logs and other debris down the river.

She explained that the Borough refers people to her concerning questions with the flood plain.

Mrs. O'connor explained that FEMA's operation maps have been changed but it is the position of the Federal Government and the state that the flood plain has not changed. She expressed that she would be happy if it were to change because it would result as a positive affect on her property value.

Mrs. O'connor informed the Board under former administration, the mayor at the time, was pursuing the applicant's property to build a recreation facility. She expressed that she was in favor but the town was trying to take the property from the applicant by Eminent Domain and she did not agree to that so she signed a petition in favor of the applicant because it was believed that Mrs. Bartholome would preserve the property by growing wild flowers for her florist business.

Mrs. O'connor explained that she has documented most of the events concerning the property. She had know idea they were running a recycling facility so when she called complaining about the odor on May 22, 2007, a gentlemen by the name of Guy Watson from the NJDEP stated to her that Sandy Beach does not have a permit to operate a recycle facility and are operating illegally. For the record, she stated the case number for the complaint. Mrs. O'connor explained that Mr. Watson referred her to the Solid Hazardous Waste Management document which she viewed online.

Mrs. O'connor explained that she complained to the NJDEP because of the odor and decided to walk down to the site and was stunned by the piles of mulch and logs. She informed the Board that it took approximately four days for NJDEP to visit the site pursuant to the complaint. Mrs. O'connor questioned the Board that she was not certain what could be done legally but is asking the Board to do the right thing.

Chairman Potash explained to the public and the Board that the Board has certain powers, and if any member voted down the application based upon the facility conducting business in a flood plain, these issues would be challenged and the Borough would lose because the Board does not have the jurisdiction to override NJDEP approval. The Board has to follow the Municipal Land Use Laws (MLUL).

Mr. Timothy Jensen, 7 Third Street, explained that in 2007 the applicant made application to the Board of Adjustment to farm in an industrial zone to grow trees, flowers and operate a mulching facility. The applicant then came back with a different tactic to become a composting and recycling facility requiring Bergen County Utilities Authority (BCUA) approval.

The result of the zone interpretation was that the applicant would require a use variance and would need to come back before the Board of Adjustment. Mr. Jensen expressed that all information was not offered and suggested that the Board obtain all pertinent information before a vote.

Motioned by Mrs. Rowin and seconded by Mr. Morris to close the meeting to the public regarding comments on the Bartholome application was voted unanimously by the Board.

Mr. Weiner entered an exhibit into evidence.

Exhibit A-6, Aerial of current view of property.

Mr. Weiner explained that this is a site plan application with no need for a variance. The Board does not have the authority to deny the application based upon the flood plain issues stated by Mrs. Oconnor. NJDEP has inspected and approved the site for a recycling and composting facility.

The property is heavily forested and the applicant is not increasing impervious coverage nor impeding on the flood plain. The flooding that Mrs. O'connor is referring to happened prior to the improvements made by the Army Corp of Engineers.

Mr. Weiner expressed that the Board professionals have a right to investigate the NJDEP approval. There would be no grinding or chipping on site. He sees no basis for a denial of this application.

A discussion ensued concerning contacts for complaints about odor. Mr. Weiner responded that the county would be handling any complaints about odor.

Mr. Russo informed the Board that the approval would be subject to he and Mr. Tichacek sending a letter to the NJDEP to find out what exactly was submitted and what the NJDEP knew at the time of the approval.

Motioned by Mr. Morris and seconded by Councilwoman Marcalus, approving the Bartholome application subject to:

1. Mr. Russo and Mr. Tichacek sending a letter to NJDEP clarifying if the applicant was considered a continued lawful operator.
2. The applicant agreeing not to track soil or mud onto the streets.

3. The applicant agreeing to no cueing of trucks.
4. The applicant agreeing to all Fire Prevention regulations.
5. The applicant would not conduct any retail business.
6. The applicant agrees to have a licensed operator at the site at all times.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Kulmala, Baczewski, Colyer, Morris, Councilwoman Marcalus and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Mr. Hagberg and Mayor Szabo.

Meeting recessed at 9:10 p.m.

Meeting resumed at 9:16 p.m.

3. A & E Ventures of Oakland – 101 Plaza Road, Block 2702, Lot 1.
Public hearing for a preliminary and final major subdivision and site plan, soil move and bulk variances.

Mr. Thomas Herten, Esq. from Herten Burstein located in Hackensack, New Jersey was before the Board to represent A & E Ventures of Oakland.

Mr. Herten explained that they are seeking approval for a preliminary and final subdivision and site plan, soil move and variances for an irregular shaped site with an existing Burger King located on it. A good portion of the property is not being used.

He explained that their first submission to the Board was proposing two uses on the site and it was advised that the applicant subdivide the property for two different uses. The applicant then submitted to the Board subdivision plans.

Mr. Herten explained that they are requesting variances for retaining walls, receptacles in the front yard making the most efficient use for the site. He explained that they have also reduced the number of signs from 11 to 7.

Mr. Herten introduced Mr. Eli Dweck, Vice President of Quick Quality Restaurants and he was sworn in.

Mr. Dweck testified that he is a managing member and 50 percent owner of the property for 8 years. In addition, he owns and operates 19 other facilities.

Currently, the subject property has a drive thru Burger King on site. Back in 2003, his company made a financial decision not to demo and rebuild the Burger King until they could figure out how best to utilize the entire property. In 2004, Mr. Dweck's company was approached about locating a bank at the site.

Mr. Dweck informed the Board that the property is located within the Highlands so he started with a preliminary meeting with Highland Council which was favorable subject to their requirements.

Mr. Dweck explained that the Burger King Corporation has a new image and proto type. Their logo has changed to 6-foot letters in diameter, a revised and more efficient drive-thru with two menus for pre-order help and to expedite the traffic flow.

Normally, the time frame for a window order takes anywhere from 30 seconds to 3 minutes during peak hours. The applicant is planning a more adequate and efficient cueing plan which would allow the stacking of 9 to 11 vehicles to wrap around the building at a time.

Mr. Dweck explained that they would be owners of both properties and the demolition of the old Burger King and build a new Burger King as soon as possible. When it is decided which bank would be leasing the space, they would need to return back to the Board for their own site plan approval.

Mr. Dweck explained that Burger King receives two types of deliveries twice a week for frozen food and dry goods. These deliveries would occur between the hours of 12:00 p.m. and 6:00 a.m. A bun delivery would occur 5 days a week.

Hours of operation would remain the same, Monday – Saturday 6:00 a.m. to 12:00 p.m. and Sunday 7:00 a.m. to 12:00 p.m.

The Board questioned if sustainability concepts would be offered. Mr. Dweck responded that he did not think so.

The Board remarked on the design of the building and expressed that it was not compatible with the Borough's direction of design and questioned whether there were other proto types that could be offered. Mr. Dweck responded that this would be the only design which was introduced 3 to 4 months ago nationwide. The Board questioned if there were any locations or exhibits currently showing the new structure. Mr. Dweck responded that they would have photos with further testimony.

Motioned by Mrs. Rowin and seconded by Mr. Baczewski, to open the meeting to the public regarding matters concerning the testimony of Mr. Dweck was voted unanimously by the Board.

No comments.

Motioned by Mrs. Rowin and seconded by Mr. Baczewski, to close the meeting to the public regarding matters concerning the testimony of Mr. Dweck was voted unanimously by the Board.

Mr. Herten introduced Mr. Thomas Pugsley from Bohler Engineering located in Warren, New Jersey as his second witness.

Mr. Pugsley was sworn in. He reviewed his credentials and the Board accepted his qualifications.

Exhibit A-2, Boundary of existing condition dated August 1, 2008.

Mr. Pugsley reviewed the exhibit of the site with the Board showing an existing fast food restaurant building of approximately 3,900 square feet. The building fronts three different roads and is accessed by all roads as well.

Traffic circulation for the property consists of a two-way drive in a northerly to westerly direction and a one-way drive that wraps around the building in a counter clockwise direction.

There is a 20-foot change in grade on the property and the building sits at the highest portion of the property. Drainage for the site would drain to a series of inlets on the property. Utilities are available to the property and there is an existing septic system on site.

There are two freestanding signs and one at the intersection of Ramapo Valley Road and Post Road.

Exhibit A-3, Colored rendition of the site plan submitted to the Board pages 1 of 1, dated July 8, 2010.

A difference in the number of signs has been revised going from 11 to 7 signs.

Mr. Pugsley explained that the applicant is proposing a building on each subdivided lot. The Burger King building would consist of 3,472 square feet and the bank consisting of 4045 square feet. Both proposed lots would be in compliance with a lot size of 33,000 square feet and 35,216 square feet. Bulk variances would be needed for three front yards, dumpster located in the front yard and retaining walls.

Parking for the Burger King would require 21 spaces, 23 required and the bank is proposing 22 spaces, 25 required. The applicant is willing to give up some of the landscaped area to include three more spaces and impervious coverage would not increase as a result of this.

Mr. Pugsley indicated that the ordinance requires a parking space size of 10 X 20. However, existing parking spaces are 9 X18 which are common in this industry.

Traffic in the parking area would circulate in a one-way counter clockwise direction and a two-way permitted in between the two buildings.

Exhibit A-4, Truck turning exhibit dated July 6, 2010.

Mr. Pugsley explained that trucks and emergency vehicles would loop up around Plaza Road and enter the property on the left hand side to access both buildings. Emergency vehicles would safely and easily maneuver the site.

Mr. Tichacek suggested that a fence or guardrail be placed in front of the retaining wall along Ramapo Valley Road. Mr. Pugsley responded that the applicant would comply with the request.

A discussion ensued concerning safety issues with the traffic flow and the drive thru. Mr. Pugsley responded that there is an existing stop bar but they would propose a stop sign at the end of the drive-thrus.

Mr. Tichacek informed the Pugsley that no detention basins were proposed and reminded him that they would be required to meet the Stormwater Management requirements. He explained that seepage pits with over-sized piping would be required for drainage.

The Board questioned whether the appropriate permits have been obtained for the proposed septic system improvements. Mr. Pugsley responded that they have a T-1 permit from the NJDEP. However, when they decided to subdivide, it was required that they need TWA (Treatment Works Approval) from the NJDEP.

Mr. Lydon informed Mr. Pugsley that the retaining walls do not hide the dumpsters in the location selected. Mr. Pugsley responded that this location was selected for it common approach and easy circulation.

Mr. Lydon questioned about the trash pick-up. Mr. Pugsley responded that the applicant has a private hauler for the evening hours.

Mr. Lydon requested that more landscaping be included in the area along Plaza Road and under the retaining wall.

Chairman Potash announced that the A & E Ventures of Oakland application would be carried to the August 12, 2010 public hearing.

Chairman Potash informed the Board that both applications, Wallace Trucking, LLC and Brisby Landscape Design & Development, LLC, are on the same property and are both being represented Mr. James Delia, Esq. and would be heard in together.

Chairman Potash recused himself from the application.

Mr. Morris stepped in as acting Chairman.

Mr. James Delia, Esq. from McDonnell & Whitaker, LLC located in Ramsey, New Jersey was before the Board substituting for Mr. Bruce Whitaker, Esq. He explained that he would be representing Wallace Trucking, LLC and Brisby Landscape Design & Development, LLC.

Mr. Brian Brisby and Mr. William Ryan Wallace were sworn in. Mr. Brisby testified that he is the owner of the property and when he bought the property he was not aware the he needed a Certificate of Occupancy.

Mr. David Hals, from Schwandewede & Hals Engineering located in Oakland, New Jersey was sworn in. He reviewed his credentials and the Board accepted his qualifications.

Exhibit A-1, Site Plan submitted to the Planning Board dated June 14, 2010.

Mr. Hals explained that Edison Avenue is very remote and can be accessed by Doty Road. The size of the property is approximately 88, 292 square feet which is level and surfaced with 80 percent stone gravel.

He indicated that the two businesses are permitted uses in the Industrial I-1 zone and named a few more business in that zone.

Mr. Hals informed the Board that the Wallace Trucking, LLC leases a portion of the property from Mr. Brisby and stores a total of five trucks consisting of tandem and dump trucks at the site with approximately four employees. There are storage containers which the applicant can store tools, steel, sand and excess septic material. There is no running water, electric or utilities at the site.

Mr. Wallace testified that he employees 4 people and stores 5 tandem and dump trucks at the site. Trucks are used for hauling various materials such as mulch, gravel and recycled concrete in a contained area.

Hours of operation start at 5:30 a.m. trucks leave the site by 6:00 a.m. all day and return approximately at 4:00 or 5:00 p.m.

Mr. Wallace expressed that he has a plowing contract with the state for Interstate 287 and leased this location for its easy access.

The Board questioned how the applicant cleans off dirt and debris from the trucks with no running water at the site. Mr. Wallace responded that all trucks are cleaned off before they leave the work site.

Mr. Brian Brisby testified that he owns a landscaping company and occupies the corner portion of the property. He explained that he owns five trucks that leave

the site daily and has a machine that stays on site used for stonework. In addition, has storage binds that hold excess gravel, stone dust, mulch and topsoil leftover from jobs.

Hours of operation begin approximately 7:15 – 7:30 a.m. and returning at 5:00 p.m. to 5:30 p.m. with an occasional half day on Saturday ending at 12:30 p.m. or 1:00 p.m.

Mr. Brisby explained that in the winter, he has private and municipal accounts for snow plowing.

Mr. Delia questioned both applicants if there were any hazardous waste, glares or vibrations that would come from the site. Both Mr. Brisby and Mr. Wallace responded no.

Mr. Morris if either applicant had existing business elsewhere. Mr. Brisby responded that he purchased the property because he was tired of paying rent.

Mr. Morris questioned if the applicant's if their trucks bring back fill from excavation jobs. Mr. Brisby responded that the trucks do not bring back fill but may bring back leftover rock and stone to be re-used. Mr. Wallace responded that they do bring un-used soil back to be re-used but it is certified clean soil and soil is stored in bins so that it does not wash away.

The Board questioned the applicant's where they service their vehicles. Messrs. Brisby and Wallace both responded that they send their trucks out to be serviced.

Mr. Russo questioned if the trucks for both applicant's would be parked overnight. Both Mr. Brisby and Mr. Wallace responded that the trucks would be parked overnight.

Motioned by Mrs. Rowin and seconded by Councilwoman Marcalus, to open the meeting to the public regarding matters concerning the Brisby Landscape Design & Development, LLC and Wallace Trucking, LLC was voted unanimously by the Board.

No comments

Motioned by Mrs. Rowin and seconded by Councilwoman Marcalus, to close the meeting to the public regarding matters concerning the Brisby Landscape Design & Development, LLC and Wallace Trucking, LLC was voted unanimously by the Board.

Mr. Morris questioned the Board if there was any more discussion. He entertained a motion.

Motioned by Mr. Colyer and seconded by Councilwoman Marcalus, to approve the Brisby Landscape Design & Development, LLC and Wallace Trucking, LLC applications.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Kulmala, Baczewski, Colyer, Morris and Councilwoman Marcalus.
 Nays: None
 Abstain: Chairman Potash
 Absent: Mr. Hagberg and Mayor Szabo

MEMORIALIZATION:

1. Bill Smith – Bauer Drive & Ryerson Road, Block 3703, Lot 89. Approval for a major subdivision.

Mr. Russo explained that he had made some changes to the resolution. He explained that he included that the gate at Ryerson that presently exists today would remain.

An additional fire hydrant would be installed as directed by the Fire Prevention Bureau.

Applicant shall prepare the appropriate easement to be given in favor of the Borough as an emergency access.

A discussion ensued concerning if a stipulation could be added to include that the applicant would not be permitted to store equipment on the property for any length of time. Mr. Russo expressed that this could be a part of the Developers Agreement.

Motioned by Mr. Morris and seconded by Councilwoman Marcalus, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Messrs. Kulmala, Baczewski, Colyer, Morris, Councilwoman Marcalus, and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Mr. Hagberg

PAYMENT OF BILLS:

Motioned by Mr. Colyer and seconded by Councilwoman Marcalus, to approve the payment of bills subject to the availability of funds.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Kulmala, Colyer, Baczewski,
Morris Councilwoman Marcalus, and Chairman Potash.
Nays: None
Abstain: None
Absent: Mr. Hagberg and Mayor Szabo

APPROVAL OF MINUTES:

Motioned by Councilwoman Marcalus and seconded by Mr. Morris, to approve the June 10, 2010 Minutes.

Roll Call Vote: Aye: Messrs. Kulmala, Baczewski, Colyer, Morris,
Councilwoman Marcalus and Chairman Potash.
Nays: None
Abstain: Mrs. Rowin
Absent: Mr. Hagberg and Mayor Szabo

NEW BUSINESS:

None

OLD BUSINESS:

Mr. Russo informed the Board that American Musical Supply will need an additional 30 days to install their racks and have their fire alarm system up to code in the warehouse.

PUBLIC MEETING ADJOURNED AT 11:35 P.M.

Motioned by Councilwoman Marcalus and seconded by Mr. Hagberg to adjourn the meeting by a unanimous vote by the Board.

Respectfully submitted by,

Kathlyn Gurney/Administrative Assistant