

**BOROUGH OF WOODLAND PARK
PLANNING BOARD MINUTES**

February 7, 2011

Meeting called to order at 7:40 P.M. by Chairman Webb.

OPEN PUBLIC MEETING LAW: THIS MEETING IS CALLED TO ORDER PURSUANT TO THE NEW JERSEY PUBLIC MEETING LAW, AND AS STATED IN NOTICES OF THE TIME, PLACE AND DATE PUBLICIZED IN ACCORDANCE WITH THE STATUTE. IT WAS INCLUDED IN A LIST OF MEETINGS FORWARDED TO THE HERALD NEWS AND THE RECORD AS REQUIRED NOTICES. IN ADDITION, THIS LIST HAS BEEN POSTED IN A PUBLIC PLACE BY THE BOROUGH CLERK, AND A COPY OF THIS HAS BEEN FILED IN HIS OFFICE FOR PUBLIC INSPECTION. PROPER NOTICE HAVING BEEN GIVEN, THIS MEETING IS CALLED TO ORDER AND THE CLERK IS DIRECTED TO INCLUDE THIS STATEMENT IN THE MINUTES OF THE MEETING.

MEMBERS PRESENT: TOM WEBB, COUNCILMAN DI DOMENICO, MAYOR LEPORE, TRACY KALLERT, BILL KARP, SHERRY VAN DYK, KEITH TANSKI, BOB KASSAI, CARLO RENNE AND DORA DAVENPORT

ALSO PRESENT – JOSEPH WENZEL, BOARD ATTORNEY
DON NORBUT, BOARD ENGINEER
WOODNEY CHRISTOPHE, BOARD ENGINEER ASSOCIATE
KATHYRN GREGORY, BOARD PLANNER

FLAG SALUTE

A motion to approve the minutes of the January 10, 2011 meeting was made by Mr. Kassai, second by Ms. Van Dyke and approved.

RESOLUTION

DOCKET # 11-02 – GARRET POINTE – WEASELDRIFT RD. – BLOCK 85 LOT 14 – EXTENSION OF TIME ON PRELIMINARY SITE PLAN APPROVAL – Application is hereby approved by a vote of 9 -0.

Chairman Webb accepted Mr. Randazzo's letter of resignation from the Planning Board with regret.

ORDER OF BUSINESS

Mr. Joseph Mecca for Docket 10-02 – L.O.G. LLC stated he was waiting for his client to arrive and asked if the Board could go on to the next application.

DOCKET # 11-01 – O. KAPLINSKY & S. FILIPCZUK – 51 RYLE PARK AVE. – BLOCK 102 LOTS 31,32,37 & 38 – MINOR SUBDIVISION/BULK VARIANCES

Ms. Natalie Esposito, attorney for applicant, stated they were here because they originally filed an application for a subdivision and bulk variances and were denied. They appealed that decision and the judge remanded it back to the board to grant the subdivision and variances which was appealed. They are here tonight because there was a recommendation from the judge to reduce the lot coverage from 31% to 25.8%. They have done that and the architect made the changes and reconfigured the house to accommodate the lot coverage. They are seeking approval from the Board tonight.

Chairman Webb asked the Board engineer to go over the letter of 1/31/11. Mr. Christophe reviewed the letter starting with general comments on the 3rd page. He asked the Board if they had any questions regarding the variances. Mr. Christophe said most of the technical items are for the applicant to provide more details. Ms. Esposito stated that all items will be addressed. Mr. Christophe stated the elevations do not correspond with the site plan and asked that the plans be revised. Ms. Esposito said Mr. Evans was not in attendance tonight but she will bring those issues to his attention. Mr. Christophe said there is a utility pole located in front of the proposed driveway. The applicant will have to coordinate with the utility company to have it relocated. Ms. Esposito said they would address that also. Mr. Christophe said as far as the drainage the lot is relatively flat and they have requested the applicant take a few test pits to show the seasonal ground water. They are recommending a dry well to collect any runoff from the roof and the driveway. The applicant will be responsible to maintain the dry well. Ms. Esposito agreed. Mr. Norbut asked if they would be filing the subdivision by plat or deed. Ms. Esposito said by deed. Mr. Norbut said they are recommending the lot number changes which should be approved by the tax assessor. Ms. Esposito agreed. Mr. Norbut said they will be preparing a performance bond estimate for the street and curb repairs. Mr. Christophe said they are required to obtain all permits and approvals from other agencies.

Chairman Webb said the attorney felt they should review all variances required. Mr. Christophe reviewed all required variances for Parcel A and Parcel B. He noted the plan shows a one car garage on the existing lot but there is no garage. Mr. Norbut asked the plan be revised to show the existing condition. Chairman Webb asked if they would have their engineer revise the plan to address the engineer's concerns. Ms. Esposito agreed.

Mayor Lepore asked if there is any variance the applicant isn't looking for. Mr. Christophe said they have covered all the variances. Mayor Lepore said he would like to concentrate on the new parcel. They need 5 variances for Parcel A. Mayor Lepore asked if they are asking for 5 out of 9 variances. Councilman DiDomenico asked why the table only says 3. Mr. Norbut said the way the ordinance states lot width is counted as 2 variances. They failed to list the front yard setback variance on the table. Ms. Esposito will have it revised.

Mayor Lepore asked if the Board had answers to elevation and floodway specifications. He asked if the property sits in a floodway. Mr. Norbut said he was not sure if it is in the 100 year floodplain or not. They will check it and get back to the Board. Mayor Lepore thought the documents should address the flood zone. Mr. Norbut said if they are in a flood hazard zone the applicant will have to deal with that when they go to the Construction Official. Mr.

Norbut said he doesn't see anything major or glaring in regard to the flood zone. Mayor Lepore said it is a flood area and thought this should be reviewed. He felt it should be part of the discussion. Mr. Norbut said there are going to be building code requirements they will have to comply with. Mayor Lepore said given the fact the new lines were drawn for flood in the whole Borough if the point ever came up during litigation. Ms. Esposito said her client can represent she does not have flood insurance and FEMA told her she is not in the flood zone. Mr. Wenzel said whether or not it is or is not in the flood plain in regard to construction is somewhat out of the jurisdiction of the Planning Board. Any issues like this are handled by the Construction Official and state agencies. Mr. Norbut said the fact that she doesn't have flood insurance does not make a determination. Mr. Norbut said you cannot build in a floodway or fill in a floodway. He would be surprised if this property was in a floodway.

Mr. Kassai asked in reference to the construction of this project would it have an impact on surrounding homes. Mr. Christophe said he did not believe so and thought the lot was relatively flat and there is positive drainage toward Passaic Ave. Mr. Kassai asked if the structure was going to be elevated higher than the existing ground plain. If it is he would be skeptical that it would not affect surrounding homes. Mr. Norbut said the answer is yes and the reason is that all homes are built higher than the existing ground plain so that water drains away from the foundation. The water is being directed to drains into swales that are directed to Passaic Ave. Mr. Kassai asked if an approval is given are they creating another problem. Mayor asked Mr. Norbut to show him on the plan where the swales are going to be. Mr. Norbut said they are not detailed but if you look at the garage floor elevation of 102.28 and then look at the street elevation it is a good foot lower. The side yards would be graded the same way.

Mayor Lepore said in the existing building it shows a one car garage and the applicant has indicated there is no garage there. Mayor Lepore asked if there should be a garage and if it was closed up. Ms. Esposito said there was never a garage in the existing home. Mr. Norbut said they are asking the question because the garage is not there. Mayor Lepore said if there is a curb cut there it is for a driveway or garage. He said the architect drew in a one-car garage. Ms. Esposito said they are proposing the garage so they will conform to the two parking space requirement. Councilman DiDomenico asked if they would be taking away space from the home to put in the garage. Ms. Esposito said she is willing to take away the living space to accommodate the garage in the existing dwelling. Mayor Lepore asked if the garage will accommodate two cars. Ms. Esposito felt it was a one-car garage. Mayor Lepore said the requirement is 2 parking spaces. Councilman DiDomenico said if you take too much for a garage you would eliminate quite a bit from the living area. There is no room for a driveway on that parcel. Mayor Lepore asked if it was pointed out that parking met the requirement for the existing house and in fact it does not. He asked if that would require a variance. Mr. Norbut said technically it would be required even though it is an existing condition. Mr. Wenzel said that variance would have to be granted as well. Mayor Lepore asked if the application was complete because they need another variance. Chairman Webb asked if there was a variance required for parking on the original application. The Board secretary will bring down the original file.

BREAK – Call to order 8:40 pm.

Mr. Wenzel asked the Board Engineer to clarify what the actual existing condition of the home on Parcel B is relative to parking. Mr. Christophe said there is a bay window on the left corner of the building set back 9.1' from the property line. Currently there is landscaping in front of the bay window and there is no curb cut. There is a utility pole not far from the proposed new entrance. If a garage was put in that home a curb cut and driveway must be put in. They are not sure the utility pole will affect this. It would be a one car garage and a car could not be parked in front of it. The applicant said there is a driveway on the neighboring property to the left with a curb cut. Mr. Norbut asked if that driveway belonged to the applicant. She said it was her driveway. Councilman DiDomenico said it is labeled macadam drive. He said it looks like the property line goes down the middle of the driveway. He asked if it was a shared driveway. The applicant said it is her driveway. Mr. Wenzel said the witness has not been sworn in and at this point because of the situation with the parking he noted the applicant is going to amend the application to include a variance for parking. He felt this matter should be held over to the March meeting. Chairman Webb asked the applicant to have their engineer meet with the Board Engineer and revise and amend the plan to address all the concerns.

Chairman Webb asked if there were any members of the public who wanted to be heard.

PUBLIC – OPEN

Theodora Polanco, 58 Passaic Ave., stated they received a notice a week ago that talks about subdivision of the property which is the same notice they got a few years back. It doesn't talk about garages or building a house. She has been living in her house for almost 11 years and knows there is flooding in the area. They close Passaic Ave. and McBride for about a week when there are floods. The area is surrounded by the river and in the spring it rises and it floods. Every year the flooding is getting worse. She felt this request would have a big impact on the neighborhood. Every day she has to look for a parking space. Building a house on that lot would be very close to her house and would be a fire hazard. She stated her house is not even 3' from this property and thought her home would not get any sun. She pays taxes and is a good citizen and an asset to the neighborhood. She felt the Board would deny this application because they denied it before. The applicant doesn't live in the existing house and doesn't understand why she wants to build another house. She felt the answer was for her to profit on renting the house. She felt her property value would go down. She asked the Board to deny the application. They do not need any more structures in the area because they are afraid of the floods. Ms. Kallert asked if Mrs. Polanco carries flood insurance on her property. Mrs. Polanco said she was obligated to get flood insurance.

Alfonso Polanco, 58 Passaic Ave., said they are here because there is an ordinance that has to be argued and discussed. The ordinance says in order to divide the property you have to have 10,000 sq. ft. There were other applicants who have asked for a separation and most of them were denied. Ms. Esposito, who is related to the Code Enforcement Officer, was able to go in front of a judge in Paterson. They were never informed of the court case. All they received was another notice regarding the application. He asked to be properly notified for

the next meeting. He felt it should be published that the court determined the decision was overturned. He felt the community would be more informed and prepared to object. This has been decided in the court that they have to give her a chance but felt the area would be more represented by the public at the next meeting. He felt the court took away the Board's rights. He felt any other applicant can come to the Board with Ms. Esposito's help and get decisions overturned. The decision the Board made has been undermined and is not democratic. Ms. Esposito objected. Ordinances are written to protect the community. He thought the Board is going to be bombarded by people asking to build on lots that are too small. He stated his notice came from Code Enforcement to his house and asked why Code Enforcement was involved in this. He felt someone who is related to the Code Enforcement Officer is involved. Ms. Esposito objected. Chairman Webb said the copy of the notice was on Planning Board stationery and it is the form of notice that we require an applicant to send. The Board Secretary asked if the notice was on Code Enforcement stationery and asked to see it. She explained that it is the form that is sent or faxed to the applicants for notice to property owners. The reason it says Code Enforcement along the top is it was faxed to Ms. Esposito from the Planning Board Secretary. Mr. Wenzel said it is a form that is utilized for all applicants. Mr. Polanco said the determination to allow her to build is setting precedent. He felt the Borough does not need anymore building. He thought the Board made a mistake by allowing a developer to build on the mountain. He left the big city to come to a country area and now it is being taken away from them.

Maureen Mingione, 44 Ryle Park Ave., stated the judge remanding things back to the Board is an issue because they don't understand the make up of the neighborhood or what goes on in its daily function. The entire area was built in an era where most families had one car and that is no longer the case. That is why the zones were changed in order to meet modern standards. There are no houses with only one vehicle now. The existing home the applicant rents out has a minimum of 4 cars parked on the street at all times. It becomes a safety issue in regard to parking especially when there is bad weather. It would be difficult for fire trucks and ambulances to go down the street. During the original hearing the applicant came and said she bought a home in a more elite section of the Borough and she could not afford to sell this house but wanted to subdivide so she could live in the house here. She felt taking vacant land and building a home with a foundation would impact the flooding in the area. The water will have to go somewhere. She felt the applicant was requesting too many variances. There are also other double lots in the area just like this one. She wanted to know if both lots were conforming to a B zone. Chairman Webb said it wasn't before the application and it isn't now. She felt the Board would be setting a precedent if this was approved and felt it was a detriment to the neighborhood. They would also be taking away on street parking with the curb cuts.

PUBLIC CLOSED

Chairman Webb announced the application will be carried to the March 14, 2010 meeting. The applicant will publish a new notice in the paper. The public is being provided notice at this time that the application is carried to March 14, 2010 at 7:30 p.m. The applicant waives time on this application.

Mayor Lepore noted for the record and Mr. Polanco that the application was denied originally by our Code Enforcement Officer, Mr. Esposito. He felt Mr. Polanco needed to know that.

The drawings will be revised to answer all the engineer's comments and recommendations.

BREAK – Call to order 9:15 p.m. Roll call. All present.

DOCKET !0-02- L.O.G., LLC – 1130 MCBRIDE AVE. – BLOCK 86 LOT 76 –
PRELIMINARY/FIANL SITE PLAN – BULK VARIANCES

Joseph Mecca, attorney for applicant, stated they were here about a year ago and they have looked at the comments from the Board and they have now scaled it down quite a bit. The reason they are before the Board is because it is a pre-existing, non-conforming building and they need approval for anything they do. All they want to do is square off and expand the lobby on the first floor. Right now it is rather narrow with a stairwell door and elevators. It is less than 1200 sq. ft. right now and she wants to just square off the building by the lobby. There is not going to be any more usable square footage and would just be for public use. They are putting in a sliding glass door. There are a lot of doctor's offices in the building and the elderly struggle with the door. They will accommodate visitors and improve the look of the building. He referred to the plan and pointed out what was going to be added. Mr. Mecca said his client was present and is very familiar with the proposal.

Mr. Norbut stated this is a very straight forward proposal with an addition of only 148 s.f. on the first floor as an entrance area. The letter incorrectly states there is a variance required for side yard setback. It has been reviewed and discussed with Mr. Esposito and it was decided it was not a variance condition. They saw some minor issues on the site they would like the applicant to consider correcting. The applicant should replace all damaged sidewalk and an ADA compliant ramp. The chain link fence is in disrepair and they recommend they replace it. Throughout the parking lot they saw some ponding water which could be an unsafe condition. He recommended the applicant do some paving repair to eliminate the ponding. The biggest concern they had was the parking behind the building. It is laid out in such a fashion that it does not conform to any standards as far as aisle width. The parking spaces on both side of the north end where the triangle comes together there is no maneuverability so there are 4 spaces that are really unusable. In essence the applicant has 51 spaces and they are required to have 62. He is not sure when the original site plan was approved and if there were any parking waivers at that time. He has no problem with waiving any additional parking required for this small expansion. He thinks the striping for those 4 spaces should be removed and the parking made compliant with today's standards. The last comment is they have to deal with the construction office at that time regarding the flood zone.

Chairman Webb said the plan shows 61 required parking spaces the letter of denial says 62 parking spaces. Mr. Norbut said they calculated up to 62 spaces. Mr. Norbut asked if people park there now. The applicant said they do not.

Kathryn Gregory, Board Planner, stated it becomes more of a site plan issue. She felt it was technically just an expansion and does not add any office space. She did not feel it would impact the area at all.

Lydia Dobre, applicant, was sworn in. She has reviewed the Board engineer's letter and has seen the recommendations. She sees no reasons why she cannot conform to those recommendations. She will repair the fencing, curbing, and sidewalk and put in an ADA ramp, address the ponding and remove the striping for parking spaces as discussed.

PUBLIC OPEN – CLOSED

A motion to approve with conditions was made by Mayor Lepore, second by Mr. Renne and approved by a vote of 8 – 0.

REPORT FROM BOARD ENGINEER ON STATUS OF 1225 MCBRIDE AVE.

Mr. Christophe stated the developer has obtained a maintenance bond for Phase I of the project. Construction is currently delayed due to weather. The applicant has all intentions of providing them with a performance bond for Phases II & III when the weather breaks. As far as C.O.'s are concerned, they have a C.O. for the common areas and lobby, a C.O. for Suite 222 and a TCO for 4 suites that compose one large center. Chairman Webb felt there was tremendous progress in a short period of time. Specifically with regard to the bond. Mr. Christophe said they currently meet all requirements for parking for the suites that they have C.O.'s and TCO's for. Mr. Norbut said the one question that comes to mind that if they do advise them they are going to proceed with construction and have not posted the performance bond for Phase II typically the action they take is to call the Construction Office and not allow them to proceed. Chairman Webb said there was some discussion about coming back because they lost a parking space or two. Mr. Christophe said there was a conflict in the field with a sanitary manhole that was not shown on the site plan and it is elevated and can not be lowered so they end up losing a space. At some point they have to come back to the Board to discuss the loss of the parking space. Chairman Webb asked if they are deficient in parking now. Mr. Norbut said anytime a Board grants a parking variance they cannot lose another space or that would increase the variance. As site engineers they do not have the authority to let them increase the variance. They are losing a spot which they got a variance for so they have to come back to the Board for an amended site plan. He would not make them come back for the amended site plan until they want the last C.O. and the bond released. They have mechanisms in place where they don't release the final guarantees and so forth until they come back. There is a possibility of them finding another spot and if they did and they only made a minor change to the site he then would change it to an administrative approval by the Board. He would tell the applicant to come back to the Board and ask for an informal approval without a hearing. The Board did that with the Capitol One bank. If they can get that space back they may appear before the Board for an administrative approval and he would work with the attorney on deciding if it is an amended site plan or administrative approval.

Councilman DiDomenico said part of the problem is there was never a performance bond but now they have the maintenance bond. He asked if they could hold back on releasing a

maintenance bond. Mr. Norbut said the maintenance bond expires in two years. Councilman DiDomenico asked when the Board should be calling them in. Mr. Wenzel said this point we know there is a conflict and know a space is going to be lost. He did not know if they can gain that space somewhere else and that would be the issue. He agreed that if they find room elsewhere there would be one course of action taken and another if they say they are one space shy. He felt it would be appropriate for the engineers to have a discussion with the developer and ask them what their plan is in terms of addressing the issue. Mr. Norbut said that lost space would not happen until technically the last C.O. You could hold the last C.O. until they come back. Councilman DiDomenico felt they should come back to the Board to tell them what their intentions are. Mr. Wenzel said that is why it would be a good idea since the Board knows the conflict will come into play at some point it would not be inappropriate for the engineer to discuss how they are going to resolve it with the developer. Mr. Norbut said the Board is allowing them to provide 40 off site spaces so it may be as simple as providing 41 off site spaces. Councilman DiDomenico felt they should go on the record saying that if that's what they want to do. Chairman Webb asked if the performance bonds expire. Mr. Norbut said they do not. Councilman DiDomenico said Phase I is done and there is no performance bond. They will be posting performance bonds for Phase II and III.

Chairman Webb asked for an update on the Master Plan. He knows some of the meetings were canceled but felt there should be movement on the Master Plan. He wanted to make sure they are on track. He knows there are ample reasons to hold off with the changes that are going on but felt they should move forward and as they do reviews in the future the changes could be incorporated.

Mayor Lepore said they had one meeting and know the direction they want to go. It is a matter of fine tuning. He would like input from businesses and residents who may see something they don't. They have had scheduling problems and they do have some dates they are working on.

Kathryn Gregory said they are really trying to meet with the county because they are involved in the transportation plan right now. It is very important for the town to ducktail with the county. They will be rescheduling the meeting with the county. She will try to go forward with certain portions of the Master Plan. There is a process and that is why they wanted to meet with the county and then the businesses in the area. Ms. Gregory felt she would like to be involved before the county draft comes out.

Chairman Webb asked her to create a time line for the Master Plan.

A motion to adjourn was made by Councilman DiDomenico, second by Mr. Karp. All in favor, meeting adjourned.