

**Village of Wesley Hills
Planning Board – March 26, 2008**

The meeting was called to order by Marshall Katz, Chairman, at 7:38 p.m.

Present: Marshall Katz-Chairman, Vera Brown-Deputy Chairman, Marvin Finker, Don Isenberg, Ester Shucht-First Alternate, William Fried-Second Alternate

Also Present: Frank Brown-Deputy Village Attorney, Jeff Osterman-Village Planner, Liz Mello-Village Engineer, Janice Golda-Deputy Village Clerk.

Absent: Uri Kirschner

KWILECKI ENTERPRISES & MACCABEE CONSTRUCTION, INC. FOR A REVISION TO A PREVIOUSLY APPROVED ARCHITECTURAL PLAN FOR A SINGLE FAMILY DWELLING. Affecting property located on the north side of Village Green, 30' from the intersection of Route 306. Known as Tax Parcel ID#41.11-2-4 on the Ramapo Tax Map.

Marshall Katz informed Mr. Kwilecki that the reason he is before the Board is because of the many changes made to his original approved architectural plan. For example, the original plan had a green roof, buckskin siding, brickface halfway up the front, no door to Rt 306, etc. Mr. Katz informed Mr. Kwilecki that the reason for an architectural review is to establish what the house will look like and if there are to be changes, they have to be re-submitted to the Board prior to implementation. With 20+ more houses to be built, the Board takes any changes very seriously. Mr. Katz emphasized that this cannot happen again and if it does, the unapproved changes will be ripped out and rebuilt the way it should be according to the approved plan.

Mr. Kwilecki stated that whatever changes have been made that they are extremely minor and customary. He stated almost every house built has some changes between the time of application and CO because it is a custom home. Mr. Kwilecki stated the siding did not change but he could not get the trim to match the originally approved green roof and decided to go to earthtones instead and he did not think it would be a problem for the village. In the past he had gone back to the ARB, when it existed, and did not have a problem. Mr. Kwilecki stated he considered brown coloring of the roof and trim a minor change. Regarding the door, Mr. Kwilecki showed a picture of the home from Rte 306 and the slope downward. Based on the recommendation of his mason and framer, a walkout basement and additional daylight would be advantageous to the homeowner. Field conditions and the natural slope of the land lended itself perfectly to this change. Mr. Kwilecki stated that field changes are not intentional but he considered it the right thing to do for the homeowner.

Frank Brown stated that there are no allowances in the zoning law for any field changes whatsoever concerning the exterior of houses that are required to obtain architectural approval from the Planning Board. For those houses, there has to be revised architectural approval from the Planning Board when the changes alter the exterior of the house. The zoning law is explicit on this.

Mr. Kwilecki restated that he never had a problem with these types of changes in the past with the Village. Mr. Kwilecki stated he did submit the changes to the plan to the Building Inspector who inspected the field conditions and subsequently approved the changes including the foundation and framing. Mr. Kwilecki asked what does one do when there are minor changes

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and the Planning Board meeting is two months away. Marshall Katz reiterated that the law is the law and Frank Brown stated going back to the Planning Board is the only way to do it. Marshall Katz reiterated any exterior changes to the house must be brought back to the Board. Interior changes can be done but not exterior changes. Marvin Finker stated that the door was discovered by the Building Inspector, and subsequently revised plans were submitted a few days later with a request for signoff. Mr. Kwilecki claims this is not accurate. Mr. Finker reviewed the plans and the file and stated the revised plans were submitted after the foundation was poured and the Building Inspector noticed the change during his inspection and that the door was not on the approved plans. Marvin Finker stated when the slope of the land was originally discussed, he asked Mr. Kwilecki if there was going to be a door there and was told no and that entrance would be through the garage.

The Board decided to split the approval into two resolutions.

Resolution A: Color change and brick change. Board had no objections and a blanket motion was proposed.

Resolution B: Door – Board asked Mr. Kwilecki if he could do it in the back versus the front. Based on the grading, Mr. Kwilecki said he could not. Marvin Finker expressed concern that the door could open the possibility for commercial use.

Frank Brown reiterated that exterior changes must go through the Planning Board prior to implementation. Marshall Katz also raised the concern about one of the retention basins. Marshall Katz asked Mr. Kwilecki with the spring coming to monitor the buildup of water and also mosquitoes. A resident (Holland Lane) expressed concern about the water drainage. Marshall Katz stated that subdivision drainage is part of the approval process and the site should have zero increase in water buildup in the area. Liz Mello stated that the Rockland County Health Dept. requires a mosquito control permit which will monitor the mosquito population.

The following resolution was made by Marshall Katz and seconded by Don Isenberg:

Resolution #08-4

RESOLVED, that the architectural plans for the house on Lot 4 of The Willows Subdivision, which lot is designated on the Town of Ramapo Tax Map as Section 41.11, Block 2, Lot 4, which plans were approved by this Board on November 28, 2007, are hereby revised in the following respects: the approved plans are deemed to refer to and approve the changes in finishes and colors that are presently in place on that house.

The following vote was taken: Marshall Katz-Yes, Vera Brown-Yes, Marvin Finker-Yes, Don Isenberg-Yes, Ester Shucht-Yes

Resolution #08-4 Approved

The following resolution was made by Marshall Katz and seconded by Don Isenberg:

Resolution #08-5

RESOLVED, that the architectural plans for the house on Lot 4 of The Willows Subdivision, which lot is designated on the Town of Ramapo Tax Map as Section 41.11, Block 2, Lot 4, which plans were approved by this Board on November 28, 2007, are hereby revised in the following respect: the approved plans are deemed to refer to and approve the addition of the door on the westerly side of the house that is presently in place.

The following vote was taken: Marshall Katz-Yes, Don Isenberg-Yes, Esther Shucht-Yes, Marvin Finker-No, Vera Brown-No.

Resolution #08-5 Approved.

PUBLIC HEARING ON THE APPLICATION OF DALZELL MANAGEMENT FOR A REVISION TO A PREVIOUSLY APPROVED SITE PLAN. Affecting property located on the west side of Route 306, at the corner of East Willow Tree Road. Known as Tax Parcel ID#41.11-1-19 on the Ramapo Tax Map.

Marshall Katz asked Janice Golda, Deputy Village Clerk, if the hearing was properly published in the newspaper and the mailing was distributed which was confirmed.

Marshall Katz asked Mr. Sena to reiterate the changes proposed for the benefit of the public in attendance. Most of the work is in the rear of the building, dumpsters will be centralized and the rear area will be a loading zone, entrance will be one way off of Willow Tree, exiting at the furthest end (southern) allowing a right or left turn. A "Do Not Enter" sign will be posted at exit point. Refrigerator containers will also be removed. Marshall Katz explained that the reason for the entrance/exit changes was due to excessive accidents and the impact on Village Green. Marshall Katz also explained with the present no parking in the rear, it forced the tenants to use the front for deliveries which is a violation of village code. Marshall Katz asked Liz Mello about the DOT inquiry which would allow cars to proceed directly across to Village Green. Liz Mello stated the DOT was still thinking about it. Marshall Katz stated that we can proceed with approval of the present proposal subject to the DOT's decision either way. Mr. Sena stated if the approval is received tonight, he would have to submit to the DOT. Liz Mello confirmed.

Frank Brown stated that the Village Board wanted to know about the usage of the shopping center for school buses and non-school buses. Mr. Sena stated he was not aware of this. Frank Brown stated that the Village Board recommends that if buses are allowed to pick up and discharge passengers in the shopping center, the bus stop should be at the northerly end where the walkway continues beyond the building. Mr. Sena stated he is not aware of permission for any buses to use the shopping center. Mr. Sena stated he did not want buses using the shopping center but prefers stops on Rte 306. Marshall Katz stated that the problem is not the school buses with proper lights but rather non-school buses that have no flashing lights. Marvin Finker stated a "no buses" stipulation would restrict the tenants that support private functions. Frank Brown stated the Village Board recommends buses enter off of Willow Tree Road and at the end of driveway by the gas station make a left to discharge patrons on the sidewalk. Mr. Sena asked about posting a sign for buses. Vera Brown and Marshall Katz suggested Mr. Sena contact major bus companies and to check periodically to ensure compliance. The final issue raised by the Village Board was commercial vehicles parked on the premise not related to the plaza and a sign should be posted that vehicles will be towed.

Marshall Katz asked if anyone from the public wished to speak. Mose Mendlowitz of Wesley Kosher expressed a concern about the ability of large tractor trailer trucks to make a right turn out of the proposed southerly exit onto Rt 306 without crossing into oncoming traffic. Marshall Katz stated we will have our engineers study the issue and determine if a re-configuration needs to be done to make it work. Mr. Sena re-asked about the traffic light and also synchronizing them. Liz Mello stated that the DOT usually wants lights at least 1000-1500 feet apart and their preference would most likely be reconfiguration to allow for a better radius. Mr. Sena re-iterated that as far as a safety issue, the best solution would be a traffic light. One other issue expressed

by Mr. Mendlowitz was the angle of the garbage dumpsters and the difficulty they will present for the garbage pickup companies. Mr. Sena stated that his mason also brought this to his attention.

Mr. Sena stated the angle and design of the enclosures may not be correct and also one of the problems is the number of suppliers. Mr. Sena stated that a potential solution could be installing one large container and coordinating with the tenants to use one supplier which would also reduce the number of times for pickups. Mr. Mendlowitz stated that the present locations are ideal for pickups and Marshall Katz responded that this area is proposed for a fire lane. Mr. Sena stated that he will have his Engineer take a look at the angle and possibly using one dumpster. Mr. Mendlowitz also mentioned that the flow of traffic will affect the position of the dumpsters. Marvin Finker raised a question to Mr. Mendlowitz about deliveries being made in the front of the store instead of the back which is against code as are deliveries made before 6 a.m. Frank Brown confirmed that the law for deliveries is not before 6 a.m and not later than 9 p.m.

A resident, Nechama Keller of 27 Holland Lane stated her concern about the amount of garbage coming over to her property from the shopping center. Her fear is that with the proposed location of the dumpsters, there will be more garbage and increased noise at 5 a.m. Marshall Katz stated that the noise code stipulates no pickups before 6 a.m. Ms. Keller also asked for more diligence about using loudspeakers. Mr. Sena stated there shouldn't be outside speakers. Marshall Katz asked Steve Abrams, the village Code Enforcement Officer, about the noise ordinance and Steve stated artificial noise generators should not be heard beyond the edge of the property. Frank Brown stated that the noise law prohibits sound amplification or reproduction across property boundaries before 8 a.m. and later than 10 p.m. on all days of the week.

Resident Knerr of 28 Holland Lane stated her concern about the smell of garbage especially in the summer and asked if there could be some type of barrier, e.g., trees to block the flow of odor. Disinfecting the bins was also suggested. Marshall Katz stated that due to the many questions and unresolved issues (exit onto Village Green and the dumpster location/angle, etc.), the hearing will be adjourned until the April 30, 2008 Planning Board meeting. Marshall Katz asked Mr. Sena to work with our engineers about resolving the exit issues which will also impact the direction of traffic as well as the signage. Steve Abrams brought up that a number of signs in the rear are pointing in the wrong direction. Marshall Katz re-read the proposed aesthetic maintenance plans for the center to the public. Mr. Sena asked if he could begin the maintenance work and Marshall Katz stated he should do so. Marshall Katz notified the public that the meeting will be adjourned until the April 30, 2008 meeting and to call the village to confirm it is on the agenda.

APPLICATION OF ERNEST AND YOLANDA MORALES FOR A CLEARING, FILLING, AND EXCAVATION PERMIT. Affecting property located on the west of Wilder 594' from the intersection of Lime Kiln Road. Known as Tax Parcel ID#41.06-1-68 on the Ramapo Tax Map.

Ernest and Yolanda Morales, and Eric Oustatcher, Master Craftsman Construction, submitted a revised letter from Robert Torgersen, dated 3/25/08 along with some revised images of the property in question. Mr. Oustatcher stated that the project is entirely completed at which time Mr. Katz stated that they should have come before the Board prior to doing the work.

Mr. Oustatcher stated the original high ranch house was torn down and replaced with a colonial. There were no trees cut down as a result of the excavation and they spread the excavated dirt. Liz Mello stated that the original plans had a pond on the plan but not the final plans. Mr. Oustatcher stated that the original plans had no pond but the final plan accidentally had a pond which is when Robert Torgersen, LA, CPESC, identified the area as wetlands containing some areas of surface water during seasonally wet periods. Liz Mello again responded that according to her plot plans, there was a pond on the original but not on the final which triggered the question of where's the pond.

Marshall Katz stated that the issues are that dirt was moved when it shouldn't have been and it was moved within 100 feet of wetlands which requires a wetland permit. Vera Brown asked Liz Mello and Jeff Osterman what they recommend as the best environmental direction. Marshall Katz asked Liz Mello and Jeff Osterman what about a conservation easement which subsequently will not allow anything to be done in that easement.

Marshall Katz asked Mr. Morales the direction he wanted to go. Mr. Morales stated that he does not want to limit the ability to expand on his property. Mr. Katz responded regardless of identification of conservation easement or wetlands, Mr. Morales cannot do anything within this area except for 100 ft. outside the wetlands which requires approval prior by the Planning Board. Marshall Katz stated having a conservation easement on one property and not on neighboring property would not be the way to go. Marshall Katz stated that on the plot plan there should be noted that this area is a wetland. Liz Mello stated it should be noted on the survey.

The following resolution was made by Marshall Katz and seconded by Don Isenberg:

Resolution #08-6

RESOLVED, that a public hearing on a Wetlands Permit application by Ernest Morales and Yolanda Morales for property located on the westerly side of Wilder Road known as 43 Wilder Road, designated on the Town of Ramapo Tax Map as Section 41.06, Block 1, Lot 68, for authorization to construct a new residence and regrade the rear yard within 100 feet of the boundary of a freshwater wetland, will be held before the Planning Board of the Village of Wesley Hills on the 30th day of April, 2008 at 7:30 p.m., at the Village Hall, located at 432 Route 306 in the Village of Wesley Hills, subject to the condition that the applicants shall submit a revised plot plan to the satisfaction of the Village Engineer no later than April 9, 2008.

The following vote was taken: Marshall Katz-Yes, Don Isenberg-Yes, Marvin Finker-Yes, Vera Brown-Yes, Ester Shucht-Yes

Resolution #08-6 Approved

APPLICATION CONTINUATION FOR A PROPOSED TWO LOT SUBDIVISION ENTITLED BELMAR ESTATES: Affecting property located on the north side of Belmar Court. Known as Tax Parcel ID# 32.14-1-2 on the Ramapo Tax Map.

Mark Kurzmann, Esq., representing the applicants, stated that since his last appearance before the Planning Board, they have responded to and collaborated with the neighbors next door regarding their articulated needs and preferences. Mr. Kurzmann stated they drew very carefully the configuration of the subdivision and also appeared before the Zoning Board of Appeals and were successful in getting all the variances necessary to go forward. Mr. Kurzmann stated that he had two objectives: 1) to have Mr. Sparaco, the applicant's Engineer, explain the changes made to the subdivision, 2) to request scheduling a preliminary/final hearing for this project.

Mr. Sparaco stated the biggest change is a 25' strip (driveway) becoming 75'. After meetings with the ZBA and the adjacent homeowners, it was determined to keep the driveway as far as possible from the property line and also extensive planting will be placed on one side. Mr. Sparaco also stated that the plans have some drainage and dry well adjustments and that the easement for the shared driveway has to be added back. Liz Mello stated that the drainage adjustments have to be done before the final plans can be approved. Jeff Osterman brought up guaranteeing the plants and that the free standing garage will be coming down. Jeff Osterman also questioned whether it is a real house on the plan because there is a lot of room for changes to a house plan. Mr. Sparaco stated it was not the real house. Liz Mello stated that normally when coming in for a plot plan, the clearing and filling has to be shown as part of the plot plan and when it goes over what is on the plan, approval is required. Liz Mello stated there should be no problem as long as they comply with the bulk tables. Mr. Kurzmann asked if the appearance of the house should be made bigger. Marshall Katz stated that as long as the clearing limits are on the plan, anything beyond these limits will have to come back to the Board for approval.

Mr. & Mrs. Schoenberger, residing west of the Belmar property, stated after many discussions with the applicant, it was agreed to move the driveway more easterly and establish sufficient buffers to maintain the beauty of the area. As a result, they indicated support for this (Belmar) application. Marshall Katz inquired about putting in a common road between the two properties and Mr. Schoenberger stated he had no intention of subdividing his property. Marshall Katz commented the Board was only looking towards the future. Rhoda Schoenberger stated that the house on the plans should be built as shown and her concern was the development of a much larger house. Marshall Katz reiterated that the clearing limits on the plans will manage the size. Frank Brown brought up attaching a specific note to the plan about the clearing limit line to prevent a problem down the road in time. Mrs. Schoenberger stated her concern is the beauty of the property. Mr. Kurzmann disagreed with attaching a note given the fact that this would be an exception to the norm.

Mr. Kurzmann did not feel an exception should be made in this case. Mr. Kurzmann stated that his client has the right to develop his property too. Mr. Kurzmann stated that this stipulation would make it appear that his client would not be respectful of the clearing line and secondly that the Building Inspector would not review the plan for conformity. Marshall Katz stated he will review both viewpoints and consider the best direction. Mr. Kurzmann stated that an extra layer of protection on this site might indicate to future Boards a particular sensitivity to the site versus a sensitivity by a neighbor.

Liz Mello stated that maximum building coverage allowed is **(0.1)** and what is shown is **(.07)**. Liz Mello suggested showing a house to the maximum size with a clearing line around the house up to the maximum amount allowed. Frank Brown stated that Note 31 should be eliminated from the plan since the Architectural Review Board no longer exists. Marshall Katz asked Jeff Osterman to also review the plantings. The Board agreed to grant permission for a simultaneous public hearing on preliminary and final plat approval. Marshall Katz reminded the applicant that the deadline date for submitting the paperwork is April 9, 2008 in order to be on the agenda.

APPLICATION OF VIVIAN ATZUR, REPHAEL TSOOR AND NAAMA SOROTZKIN FOR A SPECIAL PERMIT. Affecting property located on the south side of Village Green, 338.33' east of Route 306. Known as Tax Parcel ID#41.11-2-16 on the Ramapo Tax Map.

Mr. Mark Kurzmann, Esq., representative for the applicants, indicated that previously our Village Engineer made a request to supplement our drawing and narrative submission to include the following:

1) Outline days and hours of operation, 2) Depict better the driveway and parking configuration.

Mr. Kurzmann stated this was done in their February 29, 2008 submitted narrative.

Mr. Kurzmann stated that Liz Mello suggested the best solution to the driveway issue would be to establish a turnaround driveway which would prevent backing out. Liz Mello and Marshall Katz also suggested landscaping. Marvin Finker stated on Sunday, March 23, 2008, there were (15) cars that came through between 10:30 a.m. to 5 p.m. with some dropping off and picking up children. Mr. Kurzmann stated that his clients had been away for (2) weeks and Sunday (3/23/08) was the first day his clients were back and there was a buildup of customers which unfortunately was not staggered. Mr. Kurzmann stated that usually this is not the norm.

Mr. Finker stated he lives on the street and does not have any problem with a business on the street unless it exceeds the established narrative. Mr. Finker stated based on the activity over the past 3 years, there is an indication of a larger volume of business than the narrative states.

Mr. Kurzmann stated that closing down the business would present a crushing financial hardship on his clients. Mr. Kurzmann stated that he hoped the Board would be accommodating and separate the ideal conditions versus the out-of-the-ordinary conditions. Mr. Kurzmann stated that everyone on the block supports the business. One of the residents present supported this statement and took the exception with Mr. Finker. Marshall Katz stated all residents will have an opportunity to voice their opinion at the public hearing. Mr. Finker stated he was not opposed to the business as long as it runs within the boundaries established. Mr. Finker stated that he would recuse himself from voting on this application.

The following resolution was made by Marshall Katz and seconded by Don Isenberg:

Resolution #08-7

RESOLVED, that a public hearing on the application of Vivian Atzur, Rephael Tsour, and Naama Sorotzkin for a special permit for a home business for property located on the southerly side of Village Green, known as 6 Village Green and designated on the Town of Ramapo Tax Map as Section 41.11, Block 2, Lot 16, will be held before the Planning Board of the Village of Wesley Hills on the 30th day of April, 2008 at 7:30 p.m., at the Village Hall, located at 432 Route 306 in the Village of Wesley Hills.

The following vote was taken: Marshall Katz-Yes, Vera Brown-Yes, Don Isenberg-Yes, Ester Shucht-Yes, William Fried-Yes

Resolution #08-7 Approved

Marvin Finker made a motion to approve the March 5, 2008 Planning Board minutes. Ester Shucht seconded.

The following vote was taken: Marshall Katz-Yes, Vera Brown-Yes, Marvin Finker-Yes, Ester Shucht-Yes, William Fried-Yes

March 5, 2008 minutes approved.

Meeting adjourned at 10:12 p.m.