

Village of Wesley Hills
Planning Board-August 23, 2006

The meeting was called to order by Marshall Katz, Chairman, at 7:36 P.M.

Present: Marshall Katz, Chairman, Vera Brown-Deputy Chairman, Don Isenberg, Allan Fialkoff, Marvin Finker (arrived late), Ester Ben-Dov Shucht, Second Alternate.

Also Present: Frank Brown-Village Attorney, Brian Brooker-Village Engineer, Liz Winzinger, Engineer, Jeff Osterman-Village Planner, Barbara Cartaya-Deputy Village Clerk.

Absent: Ben Selig-Deputy Village Attorney, Uri Kirschner-First Alternate.

CONTINUATION OF THE PUBLIC HEARING ON THE SKETCH PLAT APPLICATION OF KWILECKI ENTERPRISES & MACCABEE CONSTRUCTION INC. FOR A PROPOSED 21 LOT SUBDIVISION. Affecting property located on the east side of Route 306, -0- feet from the intersection of Village Green. Known as Tax Parcel ID#’s 41.11-2-6-9-11-12 on the Ramapo Tax Map. Paul Savad, attorney, Steve Sparaco, engineer, David Kwilecki and Dan Kwilecki, applicants, appeared.

Mr. Savad said that the applicant was finding difficulty in complying with the Court-ordered stipulation. Mr. Savad said that the impervious surface ratio could not be achieved and so the plan was reduced to a twenty lot subdivision which resulted in 100% compliance with the Court-ordered stipulation.

Mr. Sparaco said that along the east side of the proposed subdivision, the number of houses has been reduced from ten houses to nine. Mr. Sparaco then said that the road configuration was not changed from the previous plan that the Planning Board reviewed. Steve Sparaco said that he and the applicant have reviewed all the proposed lots and Mr. Kwilecki said that the way the lots are configured, there will be no problem in constructing the houses. Mr. Sparaco then asked that the Board review the plan for sketch purposes and that the Planning Board advise the Village Board as to their feelings on the new plan.

Liz Winzinger said that the grading between lots 12 and 13 is still in question because of the detention basin at the rear of these lots. Ms. Winzinger said that the grading for the detention basins as shown comes almost to the rear of the proposed dwellings. There is no deck or porch and the drainage easement that is shown appears to cover the drainage basin. Ms. Winzinger then said that the easement will affect the net lot area.

Mr. Sparaco said that part of the grading shown is to meet the road grade, the high water mark meets state code and is 25’ away from the house. Mr. Sparaco said that the drawings are not the final drawings and he would put a retaining wall on the plans to delineate the property.

Mr. Brooker pointed out that the lots are small and this might create a problem with perspective purchasers, and he doesn't want the drainage easements filled in to increase property size. Mr. Sparaco said that they would install a wall to avoid accidental filling of the easements.

At this time Frank Brown discussed in detail, procedurally, how the application should proceed. Mr. Brown said that the applicant must submit the revised EAR and if the Planning Board finds the report acceptable, the Planning Board would give a recommendation to the Village Board so that a negative declaration could be granted. Mr. Brown then said that the Village Board could then grant negative declaration under SEQRA and then can adopt the zoning law amendment. Mr. Brown then said that the Planning Board could then grant sketch plat approval.

At this time Mr. Savad said that he feels that the applicant is in compliance with the bulk requirements.

Mr. Osterman said that the bulk requirements and FAR have nothing to do with SEQRA . Mr. Savad said that he is aware that there are issues between the Court stipulation but these issues can be worked out.

Mr. Brown said that these issues have nothing to do with the environmental review and these issues should not be made a part of the EAR. Mr. Brown then said that with the maximum building coverage that is now in effect, there probably would not be a difference in the size of the buildings, but Mr. Brown said that he could not complete his analysis because there is an inconsistency in the map. Mr. Brown said that on Lots 2,4 and 13 the house types are C-1. Mr. Brown said the same house type has three different sizes shown. Mr. Brown then discussed a letter from Mr. Savad dated June 27, 2006, wherein prototype floor plans were included and are totally different from the first floor size submitted.

A very lengthy discussion began between Marshall Katz, the Board members, Frank Brown, Brian Brooker, Paul Savad and Steve Sparaco regarding the proposed dwellings, the floor area ratio, the building height, and the new bulk law that is in effect, (Steve Sparaco said that if there is a slope in the back of the house the height in the front of the house will not work), the wordage in the stipulation with regard to building height, (Mr. Brown pointed out to Mr. Kwilecki that some of the houses he is now showing to the Planning Board are much larger than the ones represented in the stipulation), and the placement of the detention basin (the Board would like it placed further away from the property line). Frank Brown discussed a possible way to reposition the lots and cul-de-sac to enlarge the rear yards of the lots that include the detention basin (Mr. Sparaco said he would review the proposal). The Board discussed if the amount of vegetation that will be removed could be reduced, Mr. Sparaco said that due to the density of the project it will be very difficult to save much of the existing growth and trees, the possibility of "staking out" the property to do a walk through, Mr. Sparaco said that he could do the road profile and have a sign identifying each lot (the Board agreed to the proposal).

Marvin Finker asked to read an E-mail he received from David Gantshar that was sent to Mr. Gantshar by a Mr. Jacobson into the record.

Marshall Katz, the Board members and Mr. Brown addressed the following issues of Mr. Gantshar, if the utilities would be underground, access for emergency vehicles, large address numbers that can be read from the street, sufficient street lighting, walking safety, if taxes would increase, (Frank Brown said that the majority of the issues, excluding the taxes, are addressed in the EAR).

Marshall Katz asked if there were any comments from the public.

As there were no comments from the public, a motion was made by Marshall Katz and seconded by Vera Brown to adjourn the application to the September 27, 2006 meeting.

The following vote was taken: Marshall Katz-yes, Vera Brown-yes, Don Isenberg-yes, Allan Fialkoff-yes, Marvin Finker-yes.

SPECIAL PERMIT AND SITE PLAN FOR IRA WICKES FOR AN EXISTING ARBORIST SERVICE. Affecting property located on the south side of Union Road, -0-feet west of McNamara Road. Known as Tax Parcel ID# 42.13-1-22 on the Ramapo Tax Map. Ira Emanuel, attorney, and John Wickes, applicant, appeared.

Marshall Katz said that this is not a public hearing at this time and there would be ample opportunity for all concerns of the public to be addressed.

Mr. Emanuel said that the application is for a special permit and site plan. Mr. Emanuel then said that the plan presented to the Board depicts the existing circumstance in detail. Mr. Emanuel then said that the only additions to the existing situation are a loading ramp for a trailer, some proposed mulch and chip storage bins (which are permitted under the zoning amendment granted by the Village Board in June of 2006), and a relocation area for the dumpster. Mr. Emanuel said that they would comply with the comments of Brian Brooker's office dated August 18, 2006.

At this time Marshall Katz asked Mr. Brown to explain the application to the public and the Board.

Frank Brown said that the application is a result of the Wickes Company being charged with a violation of the local zoning law in the Village Justice Court and they immediately appealed to the Zoning Board of Appeals. The Zoning Board determined that the operation was not "grandfathered" in and was not a legal pre-existing use. The Supreme Court reversed the Zoning Board decision and said that the use was a valid pre-existing use. Mr. Brown then said that the Supreme Court decision was appealed and over-turned in the Appellate Division, which then re-instated the Zoning Board decision that the use was not legal. The Wickes then made application to the Court of Appeals. The applicant's request was denied. At that point the matter continued before the Justice Court of the Village of Wesley Hills. The matter was settled with a stipulation. Mr. Brown said that as

part of the stipulation it was required that the Village Board consider amending the Zoning Law to create a special permit use for arborists and wholesale nurseries. Mr. Brown then said that the operation has continued legally (as a result of the stipulation agreement). Mr. Brown said that the Village Board did adopt the zoning law change, and thereafter the applicant had 60 days to submit an application for a special permit and site plan approval to the Planning Board. Mr. Brown said that if (as with any other special permit application) the applicant can demonstrate that it satisfies the conditions that are in the zoning law, the Board must grant the use. Mr. Brown then said that in order for the Board to make the determination of the special permit and use, the Board must determine the specific conditions on operation of the business the Board may wish to impose. Mr. Brown said that the Board must determine if the requirement of the special permit are met, then the Board would grant the special permit with whatever conditions the Board deems appropriate and then the Board could adopt a negative declaration under SEQRA.

Mr. Katz asked Jeff Osterman for his comments.

Mr. Osterman said that the applicant should provide more details on the plan and what occurs daily on the site so that it will be very clear what is allowed to occur on the site.

Mr. Emanuel said he would comply.

Ms. Winzinger said that she too wants more detail on the site plan and additionally there is no reference to the 100' buffer and the applicant should apply for a wetlands permit because there will be storage containers that will be in the area. Ms. Winzinger said that she wants shown on the plan where the vehicles will be parked, the type of vehicles, and the amount of vehicles that will be parked on the site.

Mr. Katz said that he wants the loading ramps, bins, etc. shown on the plan and he wants an explanation of why these things must be located in the wetland buffer area.

Brian Brooker said that there is no need to apply for a wetlands permit because under the law the wetlands are being reviewed concurrently with the entire application. Mr. Brooker said that because there will be activities with the 100' buffer, the applicant must show how they will protect the wetlands.

Ms. Winzinger said that the water quality assessment report submitted shows no real conclusions and she wants the fuel pump shown on the plan and the soil tested around the fuel pump for possible contamination.

At this time Brian Brooker advised the Board that about four years ago he did some work for Mr. Wickes, but he has had no further dealings with Mr. Wickes.

Frank Brown asked Mr. Brooker if he has any ongoing contractual work with Mr. Wickes, Mr. Brooker replied "no", Mr. Brown then asked if Mr. Brooker was to make recommendation to the Planning Board regarding this application, that Mr. Brooker in no way would be affected economically, Mr. Brooker replied "correct", Mr. Brown then

asked if there was any reason that he can't give a quality review to the Board, Mr. Brooker said that he would give as always a quality review.

Mr. Brown said that he received a call from Mr. Selig stating that Brian Brooker had spoken to Mr. Selig regarding his previous dealings with Mr. Wickes. Mr. Brown said that Mr. Selig and Mr. Brown discussed the situation and reviewed the Villages' Ethics Law which is Law # 5 of 1984 and they both agreed that there is no conflict of interest on the part of Brooker Engineering.

Mr. Katz and the Board members said that there is not a problem and they will continue with Brooker Engineering

After further discussion a motion was made by Marshall Katz and seconded by Allan Fialkoff to adjourn the meeting.

The following vote was taken: Marshall Katz-yes, Vera Brown-yes, Don Isenberg-yes, Allan Fialkoff-yes, Marvin Finker-yes.