

VILLAGE OF WESLEY HILLS  
SPECIAL VILLAGE BOARD MEETING  
February 6, 2007

PRESENT: Mayor R. Frankl  
Deputy Mayor E. Mc Pherson  
Trustee D. Goldsmith  
Trustee H. Richman  
Trustee D. Gantshar  
Village Attorney, F. Brown  
Assistant Village Attorney B. Selig  
Village Clerk J. Pagliaroli

The Special Village Board Meeting was called to order by Mayor Frankl at 8:05 P.M. The continuation of the public hearing on the proposed amendment to the Zoning Law concerning amendment of the Zoning Map was the first item on the agenda. Discussion was held regarding the GML report from the County. Frank Brown said that there were some adjustments that are proposed in the law to comply with the County's recommendation. The proposal is now for an R-20 and R-15 Zoning Districts and the maximum building coverage in the R-15 District is reduced from .17 to .16. Frank Brown asked the Board if anyone had comments. None were forthcoming. Paul Savad was before the Board. He hoped to have a unanimous approval of this proposal. He said that he believed the questions regarding the retention ponds had been worked out and that the applicant had been responsive to other comments. Mayor Frankl asked if there were any other questions from the Board. There were none forthcoming. Mayor Frankl asked if there were any questions from the public and none were forthcoming. Trustee Goldsmith made a motion to close the public hearing at 8:20 p.m. and was seconded by Trustee Richman and so carried with a vote of 5 ayes and 0 nays. Trustee Goldsmith made the following resolution:

**RESOLUTION 10-07**

WHEREAS, Kwilecki Enterprises, Inc. and Maccabee Construction, Inc. have applied to the Board of Trustees of the Village of Wesley Hills pursuant to Section 13.2 of the Zoning Law of the Village of Wesley Hills for an amendment to such Zoning Law, including the Zoning Map to create new R-20 and R-13 zoning districts, and to change the Zoning District of certain property located on the northerly side of Village Green and the easterly side of Route 306 from the R-35 Zoning District to such new R-20 District, and to change the Zoning District of certain property located on the southerly side of East Willow Tree Road and the easterly side of Route 306 from the R-35 District to such new R-13 District, and

WHEREAS, in accordance with the Stipulation of Settlement settling the action brought against the Village by Kwilecki Enterprises, Inc. and Maccabee Construction, Inc., the Board of Trustees was required to entertain and review the Petition for Zone Change submitted by Kwilecki Enterprises, Inc. and Maccabee Construction, Inc., and

WHEREAS, the Village Attorney, at the request of this Board, prepared a proposed local law amending the Zoning Law of the Village of Wesley Hills in accordance with the request presented by such Petition for Zone Change, entitled "A Local Law Amending Local Law No. 14 of 1984, as Amended, to Revise the Zoning Law of the Village of Wesley Hills to Establish Two New Zoning Districts and to Amend the Zoning Map of the Village of Wesley Hills", and

WHEREAS, in accordance with the said Stipulation of Settlement, the Planning Board was required, simultaneously with the review of such proposed local law by the Board of Trustees, to review the proposed sketch subdivision plat submitted by Kwilecki Enterprises, Inc. as if the provisions included in such proposed amendment of the Zoning Law were in effect, and in furtherance thereof Kwilecki Enterprises, Inc. submitted an application for sketch plat approval to the Planning Board for a subdivision of the property to be included in such new Zoning Districts, which subdivision is entitled "The Willows", and

WHEREAS, on November 15, 2005, by Resolution #101-05, this Board determined that such applications and the adoption of such proposed local law were an Unlisted Action as defined in the State Environmental Quality Review Act (SEQRA), and that the Board of Trustees would be the Lead Agency for the purpose of conducting a coordinated review of such action pursuant to SEQRA, and

WHEREAS, public hearings on such applications were held before the Board of Trustees on November 15, 2005 and continued on January 17, 2006, March 14, 2006, May 9, 2006, July 11, 2006, August 8, 2006, September 12, 2006, October 10, 2006, November 14, 2006, December 12, 2006, January 9, 2007 and February 6, 2007 and before the Planning Board on February 22, 2006, and continued on March 22, 2006, April 26, 2006, May 24, 2006, June 28, 2006, July 26, 2006, August 23, 2006, September 27, 2006 and October 25, 2006, and

WHEREAS, the applicant submitted to the Board of Trustees and the Planning Board an Environmental Assessment Report dated June 1, 2006, which Report was revised at the request of the Planning

Board and was resubmitted on September 6, 2006, and which Report was further revised at the request of the Planning Board and was resubmitted on October 11, 2006, and

WHEREAS, on October 25, 2006, by Resolution #06-08, the Planning Board, after review of said Environmental Assessment Report, determined that said Report as so revised addressed and adequately evaluated on a site-specific basis all environmental issues and concerns raised by members of the public, members of the Planning Board, and the Village's planning and engineering consultants, and therefore the Planning Board recommended to the Board of Trustees that it determine that the proposed action will not have a significant impact upon the environment as defined in SEQRA, and

WHEREAS, the applicant submitted to the Board of Trustees further revisions of such Environmental Assessment Report which were resubmitted on December 1, 2006 and January 25, 2007 respectively, and

WHEREAS, the Board of Trustees, after review of said Environmental Assessment Report and said recommendation of the Planning Board, agrees that said Report as so revised addresses and adequately evaluates all environmental issues and concerns raised by members of the public and members of the Board of Trustees,

NOW, THEREFORE, BE IT RESOLVED, that it is hereby determined that the enactment of such proposed local law and the approval of such proposed subdivision will not have a significant effect on the environment as defined in SEQRA for the reasons set forth in said Environmental Assessment Report.

The resolution was seconded by Trustee Richman and so carried with a vote of 4 ayes (Mayor Frankl, Deputy Mayor Mc Pherson, Trustee Goldsmith, and Trustee Richman) and 1 nay (Trustee Gantshar).

Mr. Brown advised the Board that now that they have adopted the above resolution, the Board could consider the resolution to amend the Zoning Law. Ben Selig informed the Board that the applicant has consented to the amendment of the Stipulation, changing from an R-13 District to an R-15 District and reducing allowable building coverage in that District from .17 to .16. Mr. Savad said that was correct. Trustee Goldsmith asked if the new comments from the Rockland County Planning Board had an impact on the changes. Mr. Brown said the changes reflect the new GML report from Rockland County Planning.

Trustee Goldsmith made the following resolution:

**RESOLUTION 11-07**

WHEREAS, the Board of Trustees of the Village of Wesley Hills has held a public hearing on the proposed local law entitled "A Local Law Amending Local Law No. 14 of 1984, as Amended, to Revise the Zoning Law of the Village of Wesley Hills to Establish Two New Zoning Districts and to Amend the Zoning Map of the Village of Wesley Hills", and

WHEREAS, the Board of Trustees has received and reviewed the letter reports of the Rockland County Department of Planning dated December 14, 2005 and February 6, 2007 respectively submitted pursuant to General Municipal Law sections 239-1 and 239-m,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees hereby makes the following modifications to said proposed local law, based upon the comments of the Rockland County Department of Planning:

- (1) Section 1 of said proposed local law is hereby modified to replace the Zoning District described as "R-13 One-Family Residence" with "R-15 One-Family Residence"; and
- (2) Sections 2, 3, 4, 7, and 11 of said proposed local law are hereby modified to replace the references in each such Section to the "R-13" Zoning District with references to the "R-15" Zoning District; and
- (3) Section 6 of said proposed local law is hereby modified to replace the row of dimensional requirements for the "R-13" Zoning District with dimensional requirements for the "R-15" Zoning District, with the following modifications of requirements set forth in that row: Minimum Lot Area: 15, 000 (instead of 13,500) and Maximum Building Coverage: 0.16 (instead of 0.17), but with all other dimensional requirements set forth in said section 6 to remain unchanged; and

BE IT FURTHER RESOLVED, that the Board of Trustees hereby determines that there already has been full compliance with the following numbered recommendations of modification set forth in said letter report of the Rockland County Department of Planning, as appears from the

Environmental Assessment Report for "The Willows" subdivision referred to in the preceding resolution: 1, 3, and 8; and

BE IT FURTHER RESOLVED, that the Board of Trustees hereby determines that as a result of the modifications to said Local Law set forth hereinabove, which have the effect of reducing the maximum permissible density in the proposed new R-15 Zoning District, there is now compliance with recommendation of modification 6 set forth in said letter report of the Rockland County Department of Planning, particularly in light of the facts that (a) such recommendation of modification does not specify any particular required reduction of maximum permissible density and (b) the aforementioned Stipulation of Settlement explicitly requires that as a condition of subdivision approval for "The Willows" Subdivision, neither the developer nor any future owner of any of the lots in said subdivision shall ever be permitted to apply for any dimensional variances; and

BE IT FURTHER RESOLVED, that the Board of Trustees further determines that in any event said recommendation of modification 6 is irrelevant because (a) it is superseded by the aforementioned Stipulation of Settlement, which was entered into by the Village in order to avoid the substantial risk of being compelled to accept much greater density on the property subject to such proposed Local Law than the density increase allowed by such proposed Local Law, and (b) to the extent that said recommendation may be deemed to require any reductions of bulk and density in excess of those resulting from the modifications to said Local Law set forth hereinabove, the said recommendation therefore ignores the need for said Stipulation of Settlement, as determined by this Board, by proposing dimensional requirements for smaller houses that would not be accepted by the applicant, therefore resulting in continuation of the aforementioned litigation with its attendant risk of Court-ordered development that would be much less compatible with surrounding neighborhoods; and

BE IT FURTHER RESOLVED, that this Board hereby determines that the following numbered recommendations of modification set forth in said letter report of the Rockland County Department of Planning are incorrect as a matter of fact and law and therefore are meaningless and do not require compliance therewith, for the reasons set forth hereinbelow:

- (1) Recommendation 2, for the reasons that (a) there is no intention to locate the proposed new R-15 and R-20 Zoning Districts in any portion of the Village other than the specific location set forth in such proposed Local Law, (b) in fact the Board of

Trustees believes that no area of the Village other than the specific location set forth in such proposed Local Law could be appropriate for development at the increased density that would be allowed in such proposed Local Law because only that site is located in the central portion of the Village where the NS District and therefore the most intensive forms of development are present, (c) the Environmental Assessment Report analyzing the proposed action specifically states at page 1-3 that the property that would be included in the proposed new Zoning Districts is the only property in the entire Village that is appropriate for such development, (d) therefore the Board of Trustees does not believe that there is any potential for the proposed new R-15 and R-20 Zoning Districts to be located in any other areas of the Village in the future, and (e) the impacts of such new Zoning Districts in the specific location set forth in such proposed Local Law have been fully analyzed In the aforementioned Environmental Assessment Report.

(2) Recommendation 4, for the reasons (a) that the Village has no master plan document (as is known by the County Department of Planning), (b) that said recommendation is irrelevant because any "comprehensive plan" in any event would be superseded by the aforementioned Stipulation of Settlement, which was entered into by the Village in order to avoid the substantial risk of being compelled to accept much greater density on the property subject to such proposed Local Law than the density increase allowed by such proposed Local Law, and that (c) in light of the pendency of the litigation brought against the Village by Kwilecki Enterprises, Inc. the adoption of such proposed Local Law is intended to comply with the "comprehensive plan" requirement of Village Law Section 7-704 by achieving development of the subject property in a manner calculated to benefit the community as a whole (inasmuch as the density increase is much less than that sought in such litigation, and the area of increased density is confined to the most central and non-residentially developed portion of the Village).

(3) Recommendation 5, for the reason that the Table of Dimensional Requirements already contained in Section 5.2 of the Zoning Law includes footnote references to the appropriately numbered footnotes, and Section 6 of such proposed Local Law explicitly includes footnote references to the new footnotes 11 and 12 to be added by such proposed Local Law.

(4) Recommendation 7, for the reason that the Zoning Law already requires full compliance with the provisions of the Zoning Law and the Subdivision Regulations, and no change is being made to such provisions.

(5) Recommendation 9, for the reason that it does not contain a recommended modification at all but merely states the correct proper procedures to be followed incidental to the approval of the proposed subdivision, which procedures the Village agrees with and intends to follow.

and

BE IT FURTHER RESOLVED, that the proposed local law entitled "A Local Law Amending Local Law No. 14 of 1984, as Amended, to Revise the Zoning Law of the Village of Wesley Hills to Establish Two New Zoning Districts and to Amend the Zoning Map of the Village of Wesley Hills", as so modified by this Resolution, is hereby approved and enacted as Local Law No. 1 of 2007.

The resolution was seconded by Trustee Richman and so carried with a vote of 4 ayes (Mayor Frankl, Deputy Mayor Mc Pherson, Trustee Goldsmith, and Trustee Richman) and 1 nay (Trustee Gantshar).

Trustee Goldsmith said that he was not in favor of the Stipulation and is happy that the application went from R-13 to R-15. He said that he would have voted against the change if the Village was going back to court to fight the original lawsuit; however, he felt it was different if we had to fight the Stipulation. Trustee Richman said that he was not on the original Board that signed the Stipulation. However, he believes that the Board's word is the Board's word and that it is in everyone's best interest to go forward. Mr. Savad confirmed the changes were correct to his understanding.

Frank Brown said the next thing the applicant does is to go back to the Planning Board for sketch plat approval.

Mr. Brown informed the Board that Mr. Menche contacted the Village and asked that the hearing be postponed until he gets back. Mr. Savad was before the Board representing Mr. Menche. He asked that this be postponed for a month. Mr. Savad said that he will bring Mr. Menche in

at that time to resolve this. Trustee Goldsmith made the following resolution:

**RESOLUTION 12-07**

RESOLVED, that the public hearing to determine whether the continued deposit of materials on the parcel of real property know

as 7 Rochelle Lane and identified on the Town of Ramapo Tax Map as Section 41-08, Block 2, Lot 58.7 is aesthetically offensive or constitutes a public nuisance or a public health hazard is hereby adjourned, at the request of the owner of said property, until March 13, 2007 at 8:00 P.M.

The resolution was seconded by Trustee Richman and so carried with 4 ayes (Mayor Frankl, Deputy Mayor Mc Pherson, Trustee Goldsmith and Trustee Richman) and 1 nay (Trustee Gantshar).

Trustee Gantshar said that he felt Mr. Menche was wasting the Board's time and should not be given an adjournment but the Board should make its decision tonight.

Trustee Goldsmith made a motion to adjourn the Special Meeting at 8:55 P.M. and was seconded by Trustee Gantshar and so carried with 5 ayes and 0 nays.

Respectfully submitted,  
Julie Pagliaroli  
Village Clerk