

RIVERALE PLANNING BOARD

January 25, 2007

The Regular meeting of the Riverdale Planning Board opened on the above date at 7:30 p.m. Chairman Steven Loesner read the sunshine law.

ROLL CALL: Present: Mayor William Budesheim
Councilman Joseph Falkoski
Bradley Clinton
Al Heimall
Vincent Pellegrini
Glenn Venza
George Lang
Michael Reilly (Alt. No 2)
Vice-Chairman Brendan Magennis
Chairman Steven Loesner

Also present is John Barbarula Esquire, Board Attorney, and Paul Darmofalski PE, Board Engineer

APPROVAL OF MINUTES:

Thereupon Al Heimall set forth the motion seconded by George Lang to approve the minutes from the December 7, 2006 meeting as submitted.

ROLL CALL: Ayes: Heimall, Lang, Venza, Pellegrini, Clinton, Reilly,
Magennis, Loesner
Nays: None
(8 Ayes – 0 Nays – Motion Carried)

Mayor William Budesheim and Councilman Joseph Falkoski were absent from this meeting.

Thereupon George Lang set forth the motion seconded by Al Heimall to approve the minutes from the January 4, 2007 meeting as submitted.

ROLL CALL: Ayes: Lang, Heimall, Budesheim, Falkoski, Venza, Pellegrini,
Clinton, Reilly, Loesner
Nays: None
(9 Ayes – 0 Nays – Motion Carried)

Vice-Chairman Brendan Magennis was absent from this meeting.

CHAIRMAN ANNOUNCEMENT:

Chairman Loesner announced that if anyone is here for the Application for Leon Shepherd II & Berit Belyea / 69 Mathews Avenue / Block 12 91 Lot 37.01, Application No MSD11012006, this application will be postponed due to a notice discrepancy. This application will be re-noticed for this application. The newspaper did not publish in time for the meeting.

REQUEST FOR WAIVER HEARING:

1. Application No. MSP11202006 / Trammel Crowe Residential / Riverdale Road / Block 10 Lots 8.01, 8.03, 8.04, 9.01 and 13.01 and Block 30 Lots 2 and 31

Attorney Christopher DeGrazia, the attorney for the applicant came forward. Mr. DeGrazia stated they had requested a hearing this evening to allow us to move forward on the final site plan application as this board is fully aware, we have received preliminary approval in March of 2006. A lot of time and effort has been spent to allow us to move forward. We are requesting a waiver for sewer capacity, we have a unique situation, we have a property that is designated in sewer service area, but at the same time

Riverdale does not have the necessary gallonage, allowing us to move forward. Because the sewer is not available, and understanding that the municipality is looking for available sewer by negotiating and contacting neighboring municipalities, in the interim we could move forward with our application, by being granted a waiver. This is something we have done similarly in this Borough before. In this type of negotiation it becomes from costly. All the waivers that they are requesting (4) are submission waivers. They are not asking for permanent relief from this conditions, they are saying allow us to move forward, and they will have this conditions available in due course. These conditions are beyond the applicant's control, however with the approval of the waiver the application could move forward. The other point is that this is a temporary situation and not permanent. The applicant will meet and fully satisfy all the conditions of the waivers requested, however in the interim a final approved plan will give us something tangible that will allow us to obtain financing for this project. Not approving the waivers would promote a hardship on the applicant. The four approvals they are requesting are as follows:

1. Sewer Capacity
2. Treatment Works Approval
3. Safe Drinking Water Permit
4. Certification from the Morris County Soil Conservation District

We think this is a very important project, stated Mr. DeGrazia, and therefore we are requesting you to approve the waivers, allowing the applicant to move forward.

Chairman Loesner stated that Mr. DeGrazia stated that they have had their preliminary approval since March of 2006, what steps have you taken in the last ten months on this project to fulfill your requirements for the waivers applied for? The Mayor stated that the Borough is in negotiation for the sewer capacity with an adjoining town and in reality has asked the applicant not to interfere with the negotiations. The Mayor stated the Borough has resumed negotiations for the sewer capacity. Paul Darmofalski Engineering Associates, Inc. stated that the Ordinance requires that you approval for sewer capacity and the treatment works approval is applied for after the applicant has the sewer capacity, they work hand in hand.

Glenn Venza asked about items three and four, and what has been done to obtain approvals for those items. Mr. DeGrazia stated the soil conservations permit is the last permit to be obtained, because it is the easiest of all the permits. Mr. Venza asked if that is the case why would you need an approval. Mr. DeGrazia stated that the waivers are necessary because financially they need the waivers to get the financial backing. Ashvani Chuchra came forward and stated that the waivers are necessary because they can not move forward without these approvals, and if they are denied, the project may not become a reality. Mr. DeGrazia stated that with the approvals and the final site plan approval, after the sewer capacity and the other waivers requested are in hand, they would be able to proceed at a minute's notice because everything else will be done.

Glenn Venza asked how many gallons ICR is looking for and if they have any at the present time? Mr. DeGrazia stated they have no gallonage at this time and they are looking for 90,000 gallons which would service the entire project, both north and south Riverdale Road. Mr. DeGrazia stated that for the other project they needed 112,000 gallons, the board approved the waiver and when the gallonage was in place, the project proceeded with the final approvals already in place. This is not something new. The Mayor asked how many gallons per residential unit are required under DEP regulations. Mr. Chuchra stated 150 gallons for a one-bedroom apartment and 225 gallons for a two-bedroom apartment. Mr. Venza asked back in November when you approached the board for the workshop, there were some things stated by Mr. Chuchra and yourself (Mr. DeGrazia) regarding the project and how the market has changed and how you would like to build the open market before the age restricted and where exactly the project would begin. Mr. DeGrazia stated that this is what the thoughts were due to the market being what it is. Mr. DeGrazia stated when the board grants the waivers, they would bring in the plans and discuss the project with the board, because we do not have the information available at this time. Mr. Venza stated that information would influence my decision on the waiver. Mr. DeGrazia stated that information should not influence this decision, this is not the issue before the board. Mr. Chuchra stated they have to have the waivers to go onto the final. Chairman Loesner stated his opinion has not changed from last month.

Chairman Loesner stated the board looks at this project when it came in originally has one entire project. We learned from you over the years that it is not. You envision this project as two, north and south. Chairman Loesner stated that it is how he is looking at it now. The amount of sewer capacity you purchase is going to tell me how much you intend to build. Until I see the amount of gallonage purchased, I am uncomfortable about this project as it stands right now, because I don't think the applicant has the intention of building the side that the board wants built first, and I think we want to protect this project, and we do want to see it done, we are not trying to kill it, but we want to make sure that our priorities are met. I don't think we can do that by granting a waiver. That is just my opinion and it has not changed since last month.

Mr. DeGrazia stated if you are concerned that we would not purchase enough sewer capacity for the entire project, what I would recommend is and we would agree to, that the condition of the waiver is that the final approval will include a condition that the Borough of Riverdale secure the entire amount of 90,000 gallons for the full project. If our condition of approval states that the full amount of sewer capacity is required before any building proceeds, then we have to make sure we have the entire amount available, because we could not even get a building permit. Chairman Loesner stated that is just the thing he is talking about, he does not want to deal with ifs anymore, he is tired of ifs, promises, maybes, and intentions, he is done with that. Chairman Loesner stated as far as he is concerned, he wants to see everything. Mr. Chuchra stated he needs the waiver for the bank. Chairman Loesner stated he can not see what that has to do with this board. That is part of doing business. Chairman Loesner stated his intention is to see a Resolution on this project so tight, light could not escape from it. Part of that intention, stated Chairman Loesner is to see the 90,000 gallons of sewer capacity, signed, sealed, and delivered before the application is complete.

Chairman Loesner opened this application for waiver to the public. No one from the public came forward, no one from the public came forward. Mr. DeGrazia stated that at this point, we are sitting around waiting, and put together a plan that everyone is proud of and have to sit and wait, when it is in everyone's interest to acquire the waivers, get the funding and get ready to build this project. At this point our hands are tied. If the Borough had the sewer capacity this would not be an issue, and this is very unfair to make us wait.

Thereupon Al Heimall set forth the motion seconded by Glenn Venza to close the public portion of this application for waiver.

ALL IN FAVOR

Mayor Budesheim stated that he understands the Chairman's concerns, he shares them and agrees with them, and he would like to make this a condition that the Borough will not apply for the TWA permit until we have the 90,000 gallons of sewer capacity paid for before we enter into a contract with the municipality, and we should put a time frame on this and the town cannot be responsible for the money for the gallonage because the Borough is not a bank. Attorney Barbarula stated that if the board grants the waivers, the board will move onto the final approval of this application. Once you deem the application complete, you have forty-five days for the normal application process. Based upon the situation where significant expenditure, that has to be brought up and made part of the final and the developers agreement. A contract would be entered into between the Borough and the applicant guaranteeing the payment of the funds for the sewer capacity, in the event that the board approves the waiver. You cannot bond for sewage, like you can for curbs, etc. The waiver should be specific. Councilman Falkoski asked if there could also be a condition that the entire lot of sewer capacity for the project must be purchased. The Mayor stated that if the waiver is approved he would like the board to issue a date and if the approvals go past the date, the waiver would be null and void. After a brief discussion, Chairman Loesner asked for a motion.

Chairman Loesner opened the application to the public. Captain of the Army Kamal Kalsi came forward and was sworn in by the attorney.

After hearing Mr. Kalsi it was realized that Mr. Kalsi was inquiring about a different application. The professionals explained to Mr. Kalsi that he was here for the Castle Rock application.

Thereupon Glenn Venza set forth the motion seconded by Al Heimall to close the public portion of the application for the waiver.

ALL IN FAVOR

Thereupon Vice-Chairman Brendan Magennis set forth the following motion to deny the waiver as we did at the last meeting, because this is a very big project and a big part of it is the utility infrastructure, and like the Chairman, he would like to see a commitment for the full 90,000 gallons before we approve any waivers. These people are developers and they have done this before, they know the hurdles that they have to clear and he would have expected the same type of diligence on the project as well. This is not something that is new, and the developer has faced this before, and if we give them relief on the 90,000 gallons there won't be as much incentive to get this project moved along and I do not want to see the town left in the lurch for gallonage that was committed to and then not delivered. George Lang seconded the motion.

The Mayor stated he understands what Vice-Chairman Magennis is saying but it does not reflect reality. The Mayor stated the town will not be on the hook for anything, because we contract to buy the gallonage and we will not sign unless the millions of dollars are in hand. We are not using our money to buy the gallonage. The Mayor stated they would not be able to put a shovel in the ground until the sewer capacity is purchased, and they can't get a DEP permit until the gallonage is obtained, and from what I understand, they can't get the financing to buy the gallonage until they get this waiver and a conditional final approval. So to deny the waiver is in effect killing the project, because it will not move forward. If that what the board wants then so be it, however, if the board wants to progress the waiver should be approved, and he would not be able to continue to negotiate.

George Lang stated he seconded the motion because he feels very uncomfortable about the sewer gallonage and monies for the gallonage.

ROLL CALL: Ayes: Magennis, Lang, Venza, Heimall, Loesner
Nays: Budesheim, Falkoski, Pellegrini, Clinton,
(5 Ayes – 4 Nays – Motion Carried)

APPLICATIONS TO BE DEEMED COMPLETE OR INCOMPLETE:

1. Application No. MSP11202006 / Trammel Crowe Residential / Riverdale Road / Block 10 Lots 8.01, 8.03, 8.04, 9.01 and 13.01 and Block 30 Lots 2 and 31

Chairman Steven Loesner stated by default this application is deemed incomplete due to the denial of the waivers. Thereupon Al Heimall set forth the motion seconded by Glenn Venza.

ROLL CALL: Ayes: Heimall, Venza, Budesheim, Falkoski, Pellegrini,
Clinton, Lang, Magennis, Loesner
Nays: None
(9 Ayes – 0 Nays – Motion Carried)

THE BOARD TAKES A SHORT RECESS / BOARD RECONVENES AT 8:31 PM

APPROVAL OF BILLS:

Thereupon George Lang set forth the motion seconded by Glenn Venza to approve payment of three bills totaling \$1,800.00 as listed on the agenda.

ROLL CALL: Ayes: Lang, Venza, Budesheim, Falkoski, Heimall,
Pellegrini, Clinton, Magennis, Loesner

