



Borough of Woodbury Heights Planning/Zoning Board
500 Elm Avenue Woodbury Heights, New Jersey 08097

APRIL 5, 2010

The meeting was called to order at 7:03pm by Vice Chairman Conley. He asked that all rise and salute the flag and followed by announcing that the meeting conformed to the 'Open Public Meetings Act.'

Roll call found the following present; Mr. Conley, Mr. Flynn, Mr. Packer, Mayor Elton, Mr. Deeck, Councilman Scull, Mr. Holmstrom, Mr. Martino, Mr. Smith and Mr. Hart. Mr. Lunn, Mr. Baresich and Chairman Phalines were absent.

A motion was made by Councilman Scull and seconded by Mr. Flynn to accept the minutes from the March 1st meeting. Roll call vote of those present was favorable with Mr. Martino abstaining.

Mr. Sinclair stated that we have two resolutions before the board. The first resolution is 2010:08 memorializing site plan approval for American Commercial Development for Block 40.04 Lot 12 (the former Y-BY Site). A motion was made by Councilman Scull, seconded by Mr. Deeck. The roll call vote found all in favor; with the exception of Mayor Elton and Mr. Smith who abstained. The second resolution 2010:09 is recommending to Mayor and Council that an ordinance for a traffic and fiscal impact study be added to the Borough Code. A motion was made by Mr. Deeck and seconded by Mr. Packer and the roll call vote found all in favor; with the exception of Mayor Elton and Mr. Smith who abstained

Mr. Conley stated that our first applicant on the agenda is;

Application 2010:003-Metro PCS for site plan approval to place antennas on the existing water tank. He asked Mr. Sinclair if all notices are in order and Mr. Sinclair stated yes that the Board has jurisdiction to hear the applicant. Ms. Renu Shevade presented herself as the attorney for the applicant and that she had two people with her who would be testifying. The first person was Frank (not sure of last name) who was sworn in by Mr. Sinclair. He stated that his address is 510 Virginia Ave., Fort Washington, Pa and that he is licensed in radio frequency. He testified to the scope of coverage currently available and that which will be available once the

antennas would be connected. Mr. Frank testified that the frequency would not interfere with electronics in the area. Mr. Conley asked if it would interfere with the fire department antenna that is there. Mr. Frank stated no. Mr. Conley asked if there were any other questions. The next person to testify was Joe Gento who was sworn in by Mr. Sinclair. Mr. Gento gave his address as 106 Winchester Way Shamong, NJ 08090 and that he is an electrical engineer. He covered everything in the review letter of the board's engineer. Mr. Conley asked Ms. Cuviallo if she had anything to add; she stated only that the applicant is asking for a height variance and she does not believe it is necessary. Mr. Conley asked for a motion to open the meeting to the public. The motion was made by Councilman Scull, seconded by Mr. Packer and passed with 'Aye'. Mr. Jack Farrell of 335 Oak Avenue asked if there was a fee being paid to the Borough. Mr. Sinclair stated that is for the Mayor and Council to decide. Mrs. Rose Yerka of 601 Stratford asked about the amount of radiation. Ms. Shevade stated that there is a minimal amount. There being no other questions; Councilman Scull made a motion to close the public portion, seconded by Mr. Deeck and passed with 'Aye.' Mr. Conley then entertained a motion to approve the application. It was moved by Mayor Elton, seconded by Mr. Deeck. The roll call vote was: Mayor Elton, yes, Mr. Flynn, yes, Mr. Packer, yes, Mr. Deeck, yes, Mr. Hart, yes, Mr. Smith, yes, Mr. Holmstrom, yes and Mr. Conley, yes. (Mr. Lunn has come in to the meeting).

Application: 2010-004; Graeber Block 31 Lot 10 (11) for site plan review with bulk variances. Mr. Conley asked the applicant to come forward and then asked Mr. Sinclair if the Mayor needed to excuse himself. Mr. Sinclair stated that it was not necessary as it is a 'C' variance and not 'D' which would not go before Mayor and Council. Mayor Elton asked to be excused as he has a family member who is within 200' of the applicant. Mr. Mark Shoemaker stated that he is the attorney for the applicant. Mr. Conley asked Mr. Sinclair if notices etc are in order and Mr. Sinclair stated yes. Mr. Sinclair then swore in Mr. John Graeber to testify. Mr. Graeber testified that he wants to build a smaller house so he and his wife can down size. Mr. Sinclair asked if they are consolidating the two lots which Mr. Graeber stated that was already done. Mr. Sinclair asked if Mr. Graeber knew if the lot was taxed as a 'build able lot.' Mr. Graeber was not sure. (At this point the fire siren is going off and we are waiting for it to stop so we can hear). Mr. Conley stated that he did not see a current survey. Mr. Brunermer, the board engineer stated they are using a survey done previously by Clancy and Associates in 2006. The next witness to testify was Matthew Miller, the

plan designer of 203 Jackson Street Woodbury, NJ 08096. He gave his professional background. Mr. Conley noted that Mr. Miller worked in conjunction with the Borough for the plans for a new Borough Hall back in the late 80s early 90s. Mr. Miller stated that he was asked by Mr. Graeber to design a house that would fit the site and that is what they did. He noted that exhibit A-1 was the site plan, exhibit A-2 is the first floor, exhibit A-3 is the second floor and A-4 & 5 are the elevations. He states they are meeting all the requirements with exception to the depth.

Mr. Conley asked Ms. CuvIELlo if she would go over her review letter at this time. Ms. CuvIELlo states that as we know the applicant is asking for a depth variance for the existing parcel and proceeded to go over her review letter which is attached. She also stated that she wants to make sure that the driveway can accommodate the necessary parking of cars and also allow for backing out onto Holly Avenue. Ms. CuvIELlo stated concern in regards to a patio requiring any setbacks and felt that there was not enough testimony in regards to hardship for the variance. Mr. Conley stated that a deck must meet setbacks, however, on grade patios do not per the Ordinance passed by the Board. Ms. CuvIELlo asked for the exact height of the building. Mr. Miller stated it to be 24'. Mr. Conley asked if the dormers were for attic space or fake and Mr. Miller stated they are for show. Ms. CuvIELlo suggested that the Board look at other properties in the area to see if this plan will "fit in" with the surrounding neighborhood. Mr. Conley asked Ms. CuvIELlo about landscaping of the property. She noted that if the Board deems it necessary to blend in with the neighborhood, they could make it as part of the approval. Mr. Conley is concerned with the headlights of the cars entering the driveway flashing into the house behind and also was in agreement with Ms. CuvIELlo that more testimony should be given in meeting the negative criteria. The Board having no questions for Ms. CuvIELlo, Mr. Conley asked Mr. Brunermer, Board Engineer, to go over his review letter.

Mr. Brunermer asked how many square feet for the project. Mr. Miller stated 1953. Mr. Conley asked if there is going to be a basement and they had talked about it but nothing is definite. Mr. Brunermer stated that his biggest concern is the grading of the property. This area has problems with runoff. He feels that before approval, he feels new plans should be submitted with the house showing as to the detail for the grading of the property. He feels that one driveway should be chosen, the current plan shows two. After going over his review letter; he reiterated that his main

and primary concern is the grading. (Mr. Brunermer's review letter will be attached to the minutes). Mr. Conley mentioned that there is no grading or landscaping noted with the application. He is concerned with the storm water management and that is why the Ordinance was setup. Mr. Miller notes that additional costs will occur to Mr. Graeber for the details as asked. Mr. Miller notes that he feels they need the variance approval before they spend the extra funds for detail as to grading and landscaping. Mr. Conley asked that other board members give their opinions. Councilman Scull stated that he would have no problem allowing the board engineer to follow up with the grading issues. Mr. Holmstrom stated that the location has had problems with water flow and drainage runoff for years. He agrees that the grading is a major problem. Mr. Brunermer states that right now the water is draining directly into the house behind. Mr. Conley asks that we readdress the negative criteria. Mr. Shoemaker asks Mr. Miller if he is familiar with the area that Mr. Graeber property is located. He asks Mr. Miller if the set back are uniform; Mr. Miller states yes in general. He states the set back would be consistent with those present. Mr. Miller states that he doesn't believe the setback would cause any problem. Mr. Miller states that if they were to square off the lot, they would be able to build a much bigger house. They are trying to stay within the shape of the property and the neighborhood. Mr. Smith asks about the three major utility companies listed on the plan but he doesn't see them noted on the plan itself. Mr. Graeber stated that the Sunoco pipeline runs there and he questioned the building of the house behind he should be built that this board approved. Mr. Shoemaker asked that he just to testify to the question that the gas line is on the property. Mr. Graeber says yes. Mr. Conley notes that he should be shown on the plan and it is all the way down at the point of the property. Mr. Sinclair states as a point of clarification; the list of utilities on the plan is the standard list that shows on each application and they may not necessarily have an impact on the property. Mr. Conley states as to #6 on Mr. Brunermer's review letter he feels a statement be received from the County Soil Conservation; and even if a waiver is granted you prepare some type of storm water management for review and approval of our engineer. Mr. Flynn asked how far the driveway is from the corner and there is a parking and sight issue at the corner. It is suggested that the applicant request of Mayor and Council that there be no parking from the driveway to the corner and it should be a condition of approval.

Mr. Conley entertained a motion to open the meeting to the public; it was moved by Councilman Scull and seconded by Mr. Packer. All were in favor

by signifying 'Aye.' Mr. Conley stated that we will accept comments on the application. Mr. Bruce Farrell of 440 Spruce Court was sworn in and states he has a problem with the drainage issue. For that matter of record he protests that this was brought before the Board without a grading plan and also that the privacy of the adjoining property be made a matter of record. Mr. John (Jack) Farrell of 335 Oak Ave. was sworn in. He stated that in reference to the lot of the applicant; he sat on the Board at the time it came up for sale and it was sold as unbuildable per the finding of the Board and not taxed as a buildable lot. Mr. Graeber states the Lot 11 he purchased with his house and then later purchased Lot 10 from the Borough. Harry W. Elton, Sr. of 417 Holly Ave. states that he has no problem with the applicant building and that as a past assessor of Woodbury Heights; taxes are based on frontage to the street and not if they are buildable or not. Debbie Armstrong of 381 W. Jersey Avenue states that she is in favor of Mr. Graeber building his house as long as the conditions of the Board are met and that the drainage is a concern for her as she lives down hill from the applicant and not uphill as Mr. Elton, Sr. does. Mr. Elton states that there are six houses within the block that have water problems including his own house and he is the highest elevation in the block. Mr. Miller questioned Mr. Elton as to his water problem being in the basement and Mr. Elton states that it is ground water coming over the curb and into the street. Mr. Bruce Farrell states to refocus the Board; we were taking about storm water runoff and not surface water. There being no further questions or comments from the public, Mr. Conley entertained a motion to close the public portion which was moved by Councilman Scull and seconded by Mr. Deeck. The motion carried by signifying 'Aye'. Mr. Conley asked if the Board wants the grading issue to come before the board and Councilman Scull felt that the engineer should be empowered to make the decision. Mr. Deeck stated that since he has been on the Board he has never seen such concern by Mr. Brunermer and Ms. CuvIELLO with grading issues. He feels that they should make the final decision as that is their forte. Mr. Shoemaker states that they are in agreement with the conditions noted by the Board. Ms. CuvIELLO states that if that is the wish of the Board, they must understand that it is as shown and any changes; i.e., porch, patio etc., would come back to the Board for their approval. Mr. Brunermer states that if they want a patio and they go to the zoning official, it is in the swale and there goes your runoff. If they put a small pool in that would affect it also. Mr. Conley asked Mr. Sinclair if we can put deed restrictions on the approval. Mr. Sinclair state that a deed restriction should be in place and a disclosure notice would be needed prior to a sale.

Mr. Shoemaker states that if they do sell the house and the new buyers want to landscape, that does not require that they come before the Board. Mr. Conley states that that is one of the Board's concerns. He asked Mr. Brunermer, Ms. CuvIELLO and Mr. Sinclair if a grading plan is required for site plan presentation. Mr. Brunermer states that it is a small parcel and they checked off site plan on the application and they have met that need but he feels they go hand in hand. Mr. Conley asked if anyone had any further comments. He noted that Mr. Lunn has not said anything up to this point. Mr. Lunn stated that he has been on the Board for a long time and has never seen such a problem with drainage. He has studied the plans, he realizes it is a small property and we (the Board) have never worried so much about the drainage problem. Why not find some way if something is changed on this property that the water can't move to some other property. Why not have them put in some type of cement wall or something to send the water out to the street? I live on Holly and I drain my water into the street like everyone else. I feel we are taking this too far. Mr. Conley states that the Board is not going to be able solve the drainage issue tonight and that should be handled by Mr. Brunermer. He asked Mr. Sinclair if the Board can act on the variance and not the other. Mr. Sinclair states it is the applicant's decision if they want to bifurcate the application. He thought that Mr. Shoemaker was in agreement with that. Mr. Shoemaker states he was consenting to the Board engineer and planner to review revised plans and them making the decision so that Mr. Graeber would not have to submit another application and escrow fees. Mr. Sinclair states he did not mean to imply that they would have to re-file. Mr. Brunermer feels that the Board should see the grading plan so they know what is happening with the site plan. Ms. CuvIELLO feels strongly also that the Board see the plan so they know what is going on there. Mr. Conley entertained a motion to approve application 2010:004 for variance of lot depth subject to subsequent site plan review. (Details will be noted in the resolution). The motion was made by Councilman Scull and seconded by Mr. Packer. The roll call vote was as follow; Councilman Scull, yes, Mr. Flynn, yes, Mr. Packer, yes, Mr. Deeck, yes, Mr. Lunn, yes, Mr. Holmstrom, yes, Mr. Hart, yes, Mr. Martino, yes and Mr. Conley, yes.

Mr. Conley asked for a motion to open the meeting to the public; motion was made by Councilman Scull and seconded by Mr. Packer. Mr. Rick Ragan of American Commercial Development stepped forward to state that he was here to discuss the "love letter" that he received from Mr. Brunermer in regards to the amount of the performance bond for the Y-BY site in the

amount of \$29,000 and he realized that there has been a mistake and that it will be okay. They are ready for an inspection this week and feels that the amount of the bond will probably go down to a maintenance bond and he realizes that is not a Board issue; but he wanted to clarify a few things. Rose Yerka of 601 Stratford Ave. was recognized by Mr. Conley. She is asking about the low income housing application and how it would be handled by the Board. She asked about the “town hall meeting” that was mentioned at a previous meeting. Councilman Scull states they are waiting for a date and it will be posted on the website and Mr. Conley stated he will put it on his sign outside of his office. (Can not understand anything else that she is saying). Jack Farrell was recognized and stated pertaining to the pipeline; he gave them permission to put it on the property. There being no other comments a motion was made by Councilman Scull and seconded by Mr. Deeck to close the public portion. All signified by ‘Aye” in favor. There being no other business to come before the Board, Mr. Conley adjourned the meeting at 9:14 pm.

Submitted by,

Anne L Deeck, Secretary