



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

JUNE 20TH 2011 REGULAR MEETING MINUTES

Chairman Phalines called the meeting to order at 7:02 pm. He asked that all rise and pledge allegiance to the flag. He then noted that the meeting conforms to the directives of the "Open Public Meetings Act" of New Jersey. (Note; Chairman Phalines asked Jolyn, who was substituting as secretary while Anne was at her granddaughter's graduation, to send a tape of the Pledge of Allegiance to NBC)

Chairman Phalines then asked for Gerald Sinclair, the Board Solicitor, to swear in Mr. Ron Tomasetti as Alternate No. 2 for an unexpired term. He then asked Jolyn to take roll call which was as follows; present were Mr. Conley, Mr. Hart, Mr. Flynn, Mr. Holmstrom, Councilman Scull, Mr. Martino, Mrs. Sesko, Mr. Tomasetti and Chairman Phalines. She noted that Mr. Baresich was out of town. Absent were Mayor Elton, Mr. Deeck and Mr. Smith. Also in attendance were Tiffany CuvIELLO, Board Planner and Mark Brunermer, Board Engineer.

Chairman Phalines entertained a motion to accept the minutes of the May 2nd meeting. The motion was moved by Mr. Conley, seconded by Mr. Holmstrom and passed with a favorable vote. Councilman Scull and Mr. Tomasetti abstained. He then asked for the solicitor's report and Mr. Sinclair stated that he had none.

Chairman Phalines stated that we have an application before us for Balducci, Inc. which is an Amended Final Phase I with variances and waivers and a Preliminary/Final Site Plan Approval for Phase II with variances and waivers. He asked them to step forward. At this time Councilman Scull asked to be excused as he has business dealings with Mr. Balducci.

Mr. Dale Taylor presented himself as the attorney for the applicant and acknowledged that Mr. Balducci and Greg Simonds, Engineer for the applicant were present. Mr. Taylor asked if Mr. Sinclair would swear in Mr. Simonds as he would be giving testimony. Mr. Taylor then asked Mr. Simonds to give his address and credentials. Mr. Sinclair, Ms. CuvIELLO and

Mr. Brunermer acquiesced to Mr. Simonds capability to testify. Mr. Sinclair then swore in Mr. Balducci.

Mr. Taylor began to give a synopsis of the background to the application with a visual. Chairman Phalines asked that he turn it toward the public as the Board has their plans and this way the public would be able to see what Mr. Taylor is explaining. (The detailed narrative is attached to these minutes). Mr. Taylor notes that there are some issues in our professionals review letters and they are in agreement with them. They are basically going to meet all the requirements noted in the review letters and requested that we go into the review letters. Chairman Phalines stated that he neglected to have Mr. Sinclair state that proper notices by the applicant were received. Mr. Sinclair stated that they were.

Chairman Phalines called on Ms. CuvIELLO at this time. Ms. CuvIELLO stated that she visited the site and noted for the record that the restaurant does extend 280 feet into Phase II and that nothing else encroached and felt it was important to be part of the record. Item #8 of Ms. CuvIELLO's review in reference to the parking was clarified and per Mr. Taylor's testimony they will meet the requirements. Item #10 was discussed in reference to the loading areas. Chairman Phalines stated that the Ordinance states the Board should be noticed with any change of use on a commercial site. Mr. Taylor asked if they could possibly notify someone without incurring additional costs. Mr. Sinclair states that he feels Mr. Taylor has no problem notifying the Board when a new proposed use is pending, but would like a board professional to ascertain if it needs to come before the Board. Chairman Phalines asked if Mr. Brunermer was okay with it and Mr. Brunermer stated that they currently work with the zoning official in that he emails them when there is an application and they do a quick review and get back to him as to whether it has to come before the Board. Ms. CuvIELLO added that she would like to see the applicant enter into an agreement with the Borough Police department to act under Title 39. To clarify; Mr. Taylor agrees on behalf of the applicant to allow the police to enforce Title 39. Mr. Sinclair states that they should send a letter to the Chief informing him of this. Ms. CuvIELLO went on to item #14 referencing the trash enclosure. Mr. Taylor testified that the trash is picked up currently once a week and it is only half full; should a new occupant increase the trash they will have it picked up twice a week. Mr. Sinclair asked Mr. Balducci if he is in agreement with what his attorney has agreed

to so far and Mr. Balducci stated yes. Mr. Sinclair asked him if there was anything he disagreed with and Mr. Balducci stated no. Ms. CuvIELLO went on to item #11 regarding the landscaping. A variance requested to reduce the buffer requires additional landscaping. She wants the plans to reflect all the intended landscaping and wants to make sure that it is ample in the rear and along Maple Ave. She went on to item #13 referencing the lighting and would like to see the level lowered as not to affect the neighbors since the buffer of the parking lot is changing. Mr. Balducci states that he has no problem putting them on timers. Ms. CuvIELLO states that the only other thing she requires is the actual testimony of the positive and negative criteria for the variance which Mr. Taylor provided. Mr. Simonds testified further that the positive being the additional ratable and dollars into the community. In regards to the negative criteria with regards to the buffer; it is not really negative as they can provide adequate landscaping so it is not a substantial detriment. Mr. Sinclair asked Mr. Balducci to clarify the fencing. Mr. Balducci states that he installed a board on board fence at the recommendation of the Board and the fence behind it is a solid vinyl fence. Chairman Phalines asked if that concluded Ms. CuvIELLO's review and she stated yes. He then called on Mr. Brunermer, the Board Engineer. He stated for the record that there are administrative issues for the application and noted they are listed under completeness; #1 - 5, Mr. Taylor states that they will comply to Mr. Brunermer's requests for completeness. Item #3, Mr. Taylor states that they have filed for DEP approvals several weeks ago. Mr. Brunermer asked Mr. Balducci if the corner markers were done per the approval of Phase I. Mr. Balducci & Mr. Taylor state they aren't sure and will check into it. Mr. Sinclair asked if Mr. Brunermer is in agreement with the conditional approval. Mr. Brunermer stated yes upon the conditions. Mr. Sinclair asked the Chairman for the Board to deem the application complete. A motion was made by Mr. Conley, seconded by Mr. Holmstrom to deem the application complete. A roll call vote approved the completion as follows; Mr. Conley, yes, Mr. Hart, yes, Mr. Flynn, yes, Mr. Holmstrom, yes, Mr. Martino, yes, Mrs. Sesko, yes, Mr. Tomasetti, yes and Chairman Phalines, yes. Mr. Brunermer continued with his review letter (copy attached). They are acceptable to the waivers for items 1 thru 8 with the exception of the landscaping of the islands. Ms. CuvIELLO stated that she didn't address it as she felt the parking spaces were more important. Mr. Brunermer said he is fine with that but wanted it

noted in the record as it was part of Phase I approval. He noted that they will have to designate the 5th ADA parking space. He would like to see a stone trench installed at the south end of the parking area to help encourage infiltration and groundwater recharge. He would like clarification as to why the sidewalk is not being extended along the proposed parking behind the building. Mr. Taylor states they agree to that. Mr. Brunermer states he will clarify #14 with Mr. Simonds and #15 with Ms. CuvIELLO. Mr. Sinclair asked Mr. Taylor if they are in agreement with the requests made by Mr. Brunermer and Mr. Taylor stated yes. He proceeded to give testimony to them one by one. Mr. Sinclair clarified that normally the Board would not give final approval without the necessary permits; however he had spoken to Mark and he is fine with the [conditional] approval. Chairman Phalines repeated that the Board wants our professionals to keep us abreast as to what is happening with the project. Ms. CuvIELLO asked for clarification as to the re striping of the parking lot and designated spaces per Phase I and Mr. Balducci stated he would do that right anyway and Mr. Taylor parroted the same. She didn't want them waiting for Phase II. Mr. Sinclair asked "what is right away?" Do you mean 30 days? Mr. Balducci said he will do it as soon as possible and would be within 30 days. Chairman Phalines asked for a motion to open the meeting to the public. A motion was made by Mr. Conley, seconded by Mr. Flynn and passed with a favorable [Aye] vote. Chairman Phalines stated that the floor is open to any questions from the public in reference to the application. He asked that they raise their hand, he would recognize them, they would then state their name and address. Chairman Phalines recognized Mr. Scull of Ivy Drive who states that he feels Mr. Balducci has done a terrific job with the site and is just concerned with the buffer being smaller. Ms. CuvIELLO stated that the buffer as specified in her review is ample to designate between the residential and commercial property. Mr. Scull also brought up having the Board recommend to Mayor and Council to extend the yellow striping further along Maple forcing the people to use the lot. Mr. Hart of Maple Ave. states he has no problem with the delivery trucks being in the street as it takes longer for them to get into lot due to the excess parking in the street. It was decided to have Mr. Brunermer confer with Mr. Simonds to see about them unloading on Maple and then continue down to Second Street and around to exit back onto Route 45. There being no other comments, a motion was made by Mr. Conley,

seconded by Mr. Martino to close the public portion. Motion carried by a favorable "Aye". Chairman Phalines asked if the Board had any questions. Mr. Conley asked about the rear door. Mr. Balducci stated that is an exit only. Mr. Taylor stated that they will look into something for access by the fire department. Mr. Conley states he is uncomfortable approving an application without knowing what the use is and he is glad that the professionals will be notified. Chairman Phalines repeated that any use will be notice to the Board secretary and the professionals. Mr. Conley said he would like to see it accompanied with a letter requesting a waiver of site plan. Chairman Phalines really liked that idea and Ms. CuvIELLO agreed. Mr. Holmstrom mentioned that he walked the site and noticed that someone is dumping grass in there and Mr. Balducci said they are aware and can't catch the guy. Chairman Phalines stated that if there are no other comments he would entertain a motion for approval. Mr. Sinclair states that he has taken copious notes and with the permission of Mr. Taylor they would do a standard motion. Mr. Taylor has no problem with that, he just asks that as a courtesy, he receive a draft before final submission to the Board. Mr. Sinclair states that he will prepare one resolution for the final Phase I and the preliminary/final of Phase II. Mr. Taylor has no problem with that. Mr. Conley made a motion, seconded by Mr. Holmstrom to have one resolution to approve the application. Mr. Brunermer had a question as to the resolution being set up to separate Phase I and Phase II. Mr. Sinclair states that they will be broken down. A roll call vote was as follows; Mr. Conley, yes, Mr. Hart, yes, Mr. Flynn, yes, Mr. Holmstrom, yes, Mr. Martino, yes and Chairman Phalines, yes. Mr. Taylor thanked the Board.

Mr. Conley had a subject to bring up to the Board for discussion. To his knowledge the fence committee was only to review fences that were not in line with our Ordinance. Lately every fence has been kicked back to the fence committee by the City of Woodbury. What really brought it to his attention was that Mr. Egan, of Ivy Drive, wanted to extend the fence in his back yard which will encroach the easement of the pipeline. Mr. Conley would like to see only those fences that require the Board fence committee to review, be brought to the Board. Mr. Sinclair feels this is a simple fix and that Mr. Leech as the zoning official should handle it. Mr. Conley stated that originally the committee was entitled the "Architectural Review Committee." The purpose of the committee being; for ornamental fences

and those that don't meet the criteria of the Ordinance. Mr. Conley feels that this is ridiculous for our residents to have to go through this. Councilman Scull stated that he would have the Borough solicitor, Mr. Lozuke look into fine tuning the Ordinance. Mr. Conley asked about Mr. Egan's fence and how to proceed. Anne clarified that Mr. Egan wants to put his fence like the others on the street. However; it is the Borough property. Mr. Brunermer states that all the other residents have put their fences back on the easement, along with sheds and pools. Mr. Sinclair states that he (Mr. Egan) can't do that as it is the Borough's property. Mr. Brunermer states that once he (Mr. Egan) is denied, he will be back because the other neighbors have it. Councilman Scull said he will bring it to the attention of Mayor & Council and they will have to handle the others. A motion was made by Mr. Conley and seconded by Mr. Scull that we notify Mayor & Council in regards to the Fence Ordinance and also allowing parking of delivery vehicles on Maple Ave. The motion passed by a roll call vote as follow; Mr. Conley, yes, Mr. Hart, yes, Mr. Flynn, yes, Mr. Holmstrom, yes, Councilman Scull, yes, Mr. Martino, yes, Mrs. Sesko, yes, Mr. Tomasetti, yes and Chairman Phalines, yes.

There being no other business, a motion was made by Mr. Conley, seconded by Councilman Scull for adjournment. The motion passed with a favorable "Aye" Chairman Phalines declared the meeting closed at 8:59 pm.

Submitted by,

Anne L Deeck, Secretary