

**Planning Board Meeting
Borough of Watchung
September 19th, 2006
Minutes**

Chairman Speeney called the meeting to order at 7:37 p.m. and stated that notice of this meeting had been posted at Borough Hall, filed with the Borough Clerk and given in the way of notice to the Courier News, Echoes Sentinel, the Reporter and Star Ledger in conformance with the N.J.S.A. 10:4-6 et seq.

Present at the call of the roll were: Speeney, Havas, Page, Addario, Pennett, and Mobus. Mayor Ellis arrived at 8:21. Also present were Planning Board Attorney Robert Rusignola, Borough Engineer Tom Herits and Mark Healy, Borough Planner from Heyer, Gruel & Associates.

Chairman Speeney indicated that there was a quorum to conduct business. He asked for a motion to waive the reading and to approve the minutes of the Meeting of August 15th, 2006. Mr. Addario made that motion, seconded by Mr. Havas, and approved on voice vote. Mr. Mobus and Mr. Page did not vote.

Mr. Rusignola asked Mr. Murray if he had any objection to waive the reading of the factual scenario of the resolution and starting with the conclusions. Mr. Murray said that he did not have a problem with that.

DAVIMOS

Havas Read: PB06-R14 Resolution
Shelly Davimos 47 Cedar Road
Block 3301 Lot 5
Resolution for Denial of Subdivision

Chairman Speeney accepts the reading of the Resolution as a motion to approve, and sought a second. Mr. Addario seconded the motion. Chairman Speeney opened a discussion of the Board. He stated that in 1994 this Planning Board discussed potential infill development that might occur, and that was restated in 1999 and again in 2005. He said that the Master Plan and the reexaminations are all consistent and the result of this particular resolution is consistent with the Master Plan. Some minor corrections were made to the resolution for typographical errors. A roll call of eligible voters was taken and it was unanimous to vote for the denial of the application. Resolution PB06-R14 was passed.

Chairman Speeney announced that Phyllis Rohling PB06-08 will not be heard, due to an error in their advertising, and is adjourned until the October 17th, 2006 meeting.

Chairman Speeney decided to take the Cingular Wireless Application out of order anticipating it would be a short application.

CINGULAR WIRELESS

Havas Read:

PB06-06 Cingular Wireless
799 Mountain Blvd. Block 2.02 Lot 7.01
Site Plan

Christopher Quinn was present, attorney for the Applicant, from Pitney Hardin. Mr. Quinn went over the facts that were presented the last time the application was heard at the May 16th meeting. He stated that at that time, the Board voted to approve the application based on the fact that the applicant could lower the decibel level down to within the Borough's noise requirements. He said that they thought that could lower the decibel level by creating a sound walls around the equipment, however, when they got to the design stage, they discovered that they had to amend the design and place the equipment cabinets within a compound or shelter. Mr. Quinn said they were there to seek an amended approval just for that equipment shelter. He said they were proposing a 300 square foot shelter. Mr. Quinn stated that the Borough requirements limit the size of a shelter to 200 square feet, so they are seeking an exception to that requirement. Mr. Quinn introduced witness Anthony Suppa- 600 Parsippany Road, Parsippany, New Jersey Licensed Professional Engineer in the State of New Jersey. Mr. Suppa was previously sworn in and was still under oath. Mr. Quinn asked Mr. Suppa to explain the design. Mr. Suppa said a noise consultant; Lewis S Goodfriend & Associates did a noise assessment study where measurements at the site were taken both daytime and night. Based on those results and the noise report results, of what noise was expected from the seven cabinets, a design was created to meet the ordinance of 40dB at the nearest property line. The cabinets in the new design would be house within a residential type shed, which is 12 x 25 square feet with a peaked roof that reaches 14 feet high. It would be a wood frame with special acoustical louvers in it and a special ½" noise acoustical gypsum inside to keep the noise below the limits. Mr. Suppa said that once the site is built, they will take measurements to make sure the noise level is 40 or below. Expected noise levels at the two property lines will be 39dB at lot 7 and 33dB at lot 6 respectively. The proposed shed will be tan with a brown fiberglass roof and dark brown louvers. The fence will be wood composite and it will be 7 feet high. There is no change in the equipment cabinet design. Mr. Rusignola said that he would want the post testing results by Lewis S. Goodfriend & Associates certified under oath and submitted as proof with dB results at least at the Borough limits or below. Mr. Quinn agreed to that condition. Mr. Quinn brought up Mr. Neville, the Planner who testified previously, and was still under oath. Mr. Neville said that this is a permitted use. He said that the shed proposed is 300 sq. feet and Borough ordinance limits a shelter to 200 square feet. He said the requirement for the height of the roof, if peaked, is 14 feet. Mr. Neville had some simulations to show was the site would look like when complete. The first exhibit, marked A-10 prepared by Timothy Krunk of TK Design Associates was taken on

February 16th. This was a view from Mountain Blvd. Right hand side is a simulation of the proposed equipment shelter. Exhibit A-11 is from Glen Eagle Drive. Mr. Neville said that the ordinance allows for a 1,000-foot compound to be constructed in support of a wireless installation. He said it was very typical of what would be seen in a residential backyard and felt that this design because of the look, would not have an adverse impact on the zone, and would justify the increase in square footage size of the shelter. Chairman Speeney opened it up for questions. Mr. Rusignola asked Mr. Neville if he has been to the site, and Mr. Neville stated that he worked directly across the street from the site for 4 years and that the photos adequately depict the site and the proposed structures. Mr. Mobus asked about building permits for the construction. Mr. Neville assured the Board that they would get all the building permits necessary. Questions were opened up to the public, and Mrs. Lynn Franklin of 33 Wildwood Terrace came to the microphone. She asked if there was a noise level report based on her home. Mr. Suppa said that it was measured at the property line. She asked if there would be lights, and Mr. Suppa said that there would be one light at the door, and it would be only a 70-watt bulb with a manual switch. He stated that there would be 8-foot evergreens around the compound. Mrs. Franklin asked about the noise levels at her property line, and Mr. Suppa stated that they measured 39dB at night, and 46dB during the day. Chairman Speeney asked Mr. Herits what the course of action would be if the post construction dB levels were too high. It was stated that the zoning official would be the one to go to in that case. Mrs. Franklin was concerned about her property values.

At this point the Chairman asked for a motion to close the public portion of the application. Mr. Mobus made a motion to close, seconded by Mr. Havas. That motion was passed on voice vote with no one opposed. Mr. Rusignola explained that he would require the post construction testing for noise levels both during the day and at night. If at that point the levels exceed the required levels, the applicant must then come back before the Board and explain why. The Chairman sought a motion to direct the Attorney to draft a resolution in the affirmative. Mr. Havas, seconded by Mr. Haveson, offered that motion. The motion was passed by unanimous voice vote and continued until the October 17th meeting. Mr. Rusignola said that once the tests were done, if they do indeed exceed the required noise levels, that he wants to know within a short amount of time.

K & R VALLEY

Havas read: PB06-05 K & R Valley
113 Valley Drive
Block 65.02 Lot 14
Preliminary Major Subdivision & Variance

Mr. Joseph Murray was present as Attorney for the Applicant. He said that present at the meeting for testimony was Catherine Mueller, an Engineer from Page Engineering Consultants, PC.

Also present was Mr. Peter J. Wolfson, of Porzio, Bromberg & Newman P.C. attorney for the adjacent property owner Jeffrey Tobey. Mr. Wolfson registered an objection to proceeding in any way in presenting testimony. Mr. Wolfson stated that his understanding was that at the conclusion of the last meeting, was a discussion as to jurisdictional issues, specifically as to whether or not this Board was able to interpret the

ordinance to determine whether or not a variance was required. He said he wasn't sure whether or not Mr. Murray's client intends to continue with that position and will seek an interpretation from this body or not, but if he does, it is Mr. Wolfson's position that he belongs at the Zoning Board first, in his attempt to make his application conforming, to avoid dealing with variances, and to try and get an extra house built. Chairman Speeney said that Mr. Traynor was the Attorney last month, and thought that this was the right place for it. He asked if there was now some change. Mr. Wolfson said that to the extent that the Applicant is pursuing interpretation as to whether relief is needed, he said they have consistently opined that they don't think it's the right place. To the extent that they are going to proceed, and the Applicant is seeking variances, we do believe are necessary, they do believe it's the right place. Mr. Wolfson said that he is still unclear if the Applicant is holding to their position that they don't need variance relief. Mr. Rusignola said that in effect, Mr. Wolfson has preserved his right to object in the event that the testimony goes in that direction. Mr. Rusignola said that in his opinion, this is right for review before the Planning Board, and that he has expressed that previously, and still takes the same position.

Mr. Murray called Catherine Mueller, From Page Engineering, Warren, New Jersey to the microphone to present Engineering testimony. Ms. Mueller was sworn in and determined to be an expert witness. Ms. Mueller said the date of the plans submitted dated originally 2/10/06 with the latest revision date of June 26th, 2006. Ms. Mueller said she was involved in the preparation of those plans. There were 6 sheets in the Plan, labeled Exhibit A-1 (Sheets 1-6). The first sheet was the cover sheet containing the existing conditions of the site. It is Lot 14, Block 65.02 with frontage along Valley Drive. Property consists of 3.15 acres, and is an irregular shaped lot. This drawing depicts an existing home on the property taken from aerial photography. Since the map was prepared, the existing home has been removed, but the gravel driveway still exists. Property slopes from south to north. Property is in the R-R zone. Slopes were shown on the sheet as well. There is only .05 acres of the site that contains greater than 30% slope. Sheet 2 is the subdivision plan, and shows the division of the existing property into two proposed lots with a cul-de-sac. Two proposed lots are 14.01(Eastern) and 14.02 (Western). Both lots meet minimum lot size Req. of the zone. Cul-de-sac has a proposed 40-foot right of way. The right of way is on the straight area. It is considered a rural road. Ms. Mueller said they are not proposing any sidewalks. Building envelope is shown on this sheet. 50-foot front yard setback wherever the properties have frontage is proposed. Lot 14.02 has frontage along Valley Drive and also the new cul-de-sac. Lot 14.01 will only front on the new cul-de-sac. Mr. Murray asked Ms. Mueller if by creating the cul-de-sac, if that is creating a corner lot for Lot 14.02. Ms. Mueller said yes. The side yard for Lot 14.02 will have one side yard setback. The requirement is 15 feet. Ms. Mueller said that due to the corner lot layout and the orientation of the house, we have one side yard setback adjacent to Lot 14.01. Lot 14.01 has two rear yards to the east and south. Lot 14.02 due to the orientation of the house also has two rear yards to the west and south. Public Utilities will be underground to service each of the homes. Lot size of Lot 14.01 is 60,109 sq. ft.. Lot 14.02 proposed size is 60,843 sq. ft.. Minimum lot size is 60,000. Minimum Lot width for lot 14.01 is 150 linear ft., and minimum lot width for Lot 14.02 is 235.75 linear feet. Lot width is measured at the front yard setback from lot

line to lot line for Lot 14.01, which has frontage on the cul-de-sac. The front yard is determined by the direction that the house is facing. Lot width for Lot 14.02 is determined along the cul-de-sac road because that is how the house was fronted, not to front it on Valley Drive. It was measured from the shed lot line with 14.01 to the lot frontage line along Valley Drive. Minimum lot frontage is measured along the right of way line, and both lots meet requirements. Per Watchung ordinance, steep slopes come into play with respect to allowable impervious coverage. If the lot is flat, you can have up to 25% impervious coverage. With the different slope categories, you are reducing the % of maximum impervious allowable coverage. That reduces the allowable impervious coverage on Lot 14.01 to 21.9%. For Lot 14.02 it is reduced to 22.9%.

An aerial photo from 2002 from NJDEP of the application site was presented as exhibit A-2. This photo shows the house, which has been removed since the photo was taken. Ms. Mueller was asked by Mr. Rusignola if indeed the surrounding homes are all consistent with exhibit A-1. Ms. Mueller said yes. Mr. Rusignola said that even though it's consistent, it shows the house that is no longer there. The plans, Mr. Rusignola stated, show the house as well. Ms. Mueller said that was correct. Mr. Rusignola said that the plans were revised as of June 20th, and yet still shows the house. He asked why the house was not removed in the revised plans. Ms. Mueller said they just left it on there from the original survey. Mr. Rusignola asked whether other than the house, was Ms. Mueller certain that the depictions on A-1 are still in existence. She said that to the best of her knowledge, yes. Mr. Rusignola asked if Ms. Mueller has been to the site. Ms. Mueller said that she drove past it this evening. Mr. Rusignola said that was not enough to determine if that was true. She said not for the houses in the rear. Mr. Rusignola told Mr. Murray that he would like to get some sort of definitive representation so that they know what there are looking at on Exhibit A-1. Mr. Rusignola said he needs some sort of a statement from Page under oath that indicates what still does or does not exist. If in fact the only thing that has been removed is the house, then Mr. Rusignola wants to know that. Mr. Rusignola said that it could even be done by certification.

The Maser report dated July 12, 2006 was discussed. Ms. Mueller said that the home on lot 13 was further than 50 feet from the existing lot line. She said that the house on Lot 13 faces Valley Road with the driveway on the west side toward the subject property. Ms. Mueller said that they are not required to put in sidewalks on the new proposed road, but that they have widened the road from the required 18 feet to 20 feet. They will provide street lighting in accordance with the Borough standards. The sides of the roads need to be graded to allow for utilities and snow storage, and some sort of wall would have to be built to satisfy the requirements of a graded area.

Ms. Mueller stated that in the Maser report of July 12th, 2006 it stated that the Board must decide if a variance is needed for lot width variance for Lot 14.02. Ms. Mueller discussed definitions of what a front yard is. Water runoff was discussed. They propose to put in a swale behind the proposed dwellings, and a storm sewer to route the water around the dwellings. The water would be diverted through a 15" pipe on Lot 14.02 with one yard drain is on the property line and one to the west of the dwelling on 14.02. Drywells will collect runoff from the roof of each proposed dwelling.

Sheet 4 describes utilities being proposed for the site. They are proposing Belgium Block curbing. Also depicted on Sheet 4, is a profile of the cul-de-sac. Ms. Mueller discussed

public utilities being brought in for each house, both water and sewer. They are also proposing a hydrant on the cul-de-sac.

Page 5 showed Soil Erosion and Tree Removal Plan. There are 137 trees to be removed, and 94 trees to be replaced. On the soil erosion plan, it showed filters to minimize silt from getting into the roadway.

On Sheet 6 the drywell details were shown, it showed standard concrete seepage tank, inlets were depicted as well. All the water from the roadway will enter the basin, and it will stay in the basin and will not flow out through the outlet structure. There is a maintenance program for cleaning out the basin that will be the responsibility for the prospective homeowner. This is a requirement that the town can oversee. Ms. Mueller said they have filed an application with the Somerset County Soil Conservation District. They have sent a review letter that had two minor items that will be complied with. They were silt fencing and filling out some hydraulic database forms. Site distance was discussed exiting the cul-de-sac. Ms. Mueller said the site distance was 250 feet in both directions. Mr. Murray finished his questioning of the Engineer.

Chairman Speeney opened questions of the Engineer to Mr. Wolfson. He asked Ms. Mueller if she was aware that at one time the Applicant was proposing a flag lot configuration. Ms. Mueller said yes. Ms. Mueller said that in her understanding at one time they had proposed a flag lot configuration in lieu of building the roadway, to have two conforming lots. Mr. Wolfson asked if Mr. Page shared with Ms. Mueller that this cul-de-sac would increase surface water runoff. Ms. Mueller said yes. He asked if Mr. Page shared with her that it would result in irregular non-rectangular lot shape. Ms. Mueller said that is what resulted from the roadway. Mr. Wolfson asked her if Mr. Page shared that this has created multiple corner lots, including Lot 13. Ms. Mueller said that interpretation of the front yard on the adjacent property, yes, as well as one on the Applicant's property. If this plan were approved, then the town would have to accept this cul-de-sac and maintain it. Mr. Wolfson asked if Ms. Mueller thought it was wrong to put in the cul-de-sac. Ms. Mueller said that she thought the cul-de-sac was excessive for two lots vs. a flag lot. Mr. Wolfson asked if the radius on the cul-de-sac was 50 ft.. Ms. Mueller said yes. Mr. Wolfson asked if on lot width, it was the Applicant's position that both frontages need not conform to a minimum lot width of 150 ft. Ms. Mueller said they have calculated the lot width along the front yard, which is the roadway that the house faces. Mr. Wolfson asked if Ms. Mueller had seen Mark Healy's memo of April 12th, 2006. Ms. Mueller said yes. Mr. Wolfson asked if in Ms. Mueller's opinion, it is the Applicants choice as to which way the building fronts. Ms. Mueller said yes. Mr. Wolfson brought up other towns that had different criteria in their ordinance for determining frontage, and Chairman Speeney said to keep the discussion to the Watchung Ordinance. A discussion ensued about what Ms. Mueller used to calculate her lot frontage and lot width. Mr. Wolfson had no further questions. Mr. Murray said that Mr. Wolfson referenced that the plan doesn't show two front yards. He asked Ms. Mueller, if the plan shows two front lot lines. Ms. Mueller said yes. Mr. Murray asked whether if, through the urgings of the objector, the Board decided that a variance would be required for the lot line length or width of the lot as facing Valley Drive; what would be the deficiency in the measurement. By her calculations, it would be 140.99 feet. Chairman Speeney asked if there were any questions from the Board. Mr. Mobus asked Mr. Herits if there would be a cost for contribution to sidewalks. Ms. Mueller said that they would

provide an easement for the town for maintenance. Mr. Addario asked about the placement of the fire hydrant. Ms. Mueller said it was in the plan to be put in approximately 120 feet down the road. Mr. Rusignola asked Mr. Murray if his client would be willing to donate to the sidewalk fund as determined by the Engineer. Mr. Murray asked how much it would be. He was advised to see Mr. Herits to find out. Mr. Murray questioned the lawfulness of sidewalk donations “in lieu of” when RSIS doesn’t require them. Mr. Rusignola asked if the Applicant was, for the purposes of this application, committed to the orientation of the home. Mr. Murray said for the purposes of this application, yes. He also said that if the Board desired this NOT be the orientation, and wanted the home to face Valley, then they would be requesting a variance from that portion of the ordinance. Chairman Speeney asked about the other corner lot being created. Ms. Mueller said it was Lot 13 and it would be a conforming lot, as long as there were no physical changes on Lot 13. Chairman Speeney brought up the fact that this restricts the owners of Lot 13 by doing this, from ever doing a knock down and rebuild, and imposes restrictions on Lot 13, which don’t currently exist. Ms. Mueller said it would be a larger front yard setback depending on the interpretation of the ordinance. Chairman Speeney said that this application creates a set of restrictions on Lot 13 that were not there before. Mr. Murray said that the ordinance allows for this. Mr. Rusignola said that the testimony of the Applicants Engineer is somewhat different from what Mr. Murray believes. Mr. Rusignola said that what this application does is restricts Lot 13 from building on the second yard setback that will be created. Chairman Speeney opened questions for the public. Virginia Olive, owner of Lot 13 came to the microphone. Mrs. Olive asked about soil types. Ms. Olive said that there was a tremendous amount of bedrock on the property. She asked Ms. Mueller if she has walked the property. Ms. Mueller said no. Ms. Olive asked how far away her driveway was from the proposed cul-de-sac. She asked if there was a standard from a property line and a roadway. Ms. Mueller said the driveway was approximately 25 feet from the existing property line, and that she would have to look in the ordinance to see how close a roadway could be to a driveway. Mrs. Olive asked how the 250-foot sight distance was calculated on the cul-de-sac. Ms. Mueller explained how it is calculated. Mrs. Olive said she wanted to be on the record that there is not a 250-foot clear site. Mr. Rusignola asked if the bedrock would affect the storm water runoff calculations. Ms. Mueller said that they would take that into account when they finalize the plans for the drywells. Chairman Speeney asked if creating a corner lot with respect to a driveway from a property line would create a variance for Lot 13. Ms. Mueller said she would have to clarify that. Mr. Murray said that that they would have to clarify information on that, since they would not finish this evening. Chairman Speeney said he wanted clarification on that so that a substandard lot on Lot 13 would not be created. Mr. Wolfson read from section 138-56 from the Watchung Land Use Book that the intersection of streets “no driveway shall be located closer than 50 feet to the intersection of the two street lines.” Chairman Speeney continued this application until October 17th, 2006, with no further notification necessary. Mr. Wolfson asked if the Engineer would be back at the next meeting. Mr. Murray said yes, and granted time through the end of October, and that Kevin Page would be back as well. Mr. Rusignola told Mr. Murray that he might look back at his notice, seeing whether or not it is sufficient. Also for Mr. Murray to see whether or not this will create a variance on an adjacent lot.

Mark Healy, Borough Planner from Heyer and Gruel, came up to advise the Board that he is working on the PIA. Chairman Speeney said that he heard that State is moving away from Center Designations. Mr. Healy said that he thinks that towns with Center Designation will be kept, but aren't designating any new ones. A discussion ensued about Center Designation and Plan Endorsement. Mr. Healy said he was almost ready with a draft. 2008 was the deadline to keep Center Designation.

Mr. Mobus let the Board know that North Plainfield hosted a meeting about Sidewalks installed for high accident rate areas along Route 22. The project ongoing is beginning at Rock Avenue in North Plainfield, East and Westbound to North Ave.. At North Avenue, the sidewalk will cross over and continue eastbound, but on the westbound lane all the way to Blue Star Shopping Center. 2010 is the approximate date for this project.

Sidewalk possibilities were also discussed in the area of Brookdale Road, down to Warren. Mr. Mobus said that the Public Works Commission is evaluating that.

Chairman Speeney asked for a motion to approve the vouchers. Mr. Addario made a motion to approve the vouchers, seconded by Mr. Havas and approved on roll call vote unanimously. Chairman Speeney adjourned the meeting at 10:56 p.m. until the next meeting of Oct. 17th, 2006

Respectfully Submitted,

Carolyn Taylor
Planning Board Clerk