

**Borough of Watchung
Planning Board Meeting
October 16th, 2007
Minutes**

Chairman Speeney called the meeting to order at 7:36 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, Boyd, Havas, Haveson, Addario, Pennett, Schaefer and Spratford. Mayor Ellis arrived at 7:45PM, and Councilman Pote arrived at 8:04PM. Also present were Borough Engineer Tom Herits and Board Attorney Frank Linnus. Chairman Speeney indicated that there was a quorum to conduct business.

A motion was made to waive the reading of and to approve the minutes of the September 18th, 2007 meeting by Mr. Haveson, seconded by Mr. Havas and approved by voice vote. Mrs. Pennett abstained from the vote.

Havas called: PB07-R16 Mount Saint Mary's Academy
Block 64.02 Lots 4 & 5
1645 Route 22 West at Terrill Road
Watchung New Jersey 07069

Minor Site Plan Approval

Jay Bohn, of Schiller & Pittenger was in attendance representing the Applicant in place of Joseph Murray. He explained that Mr. Murray and Mr. Linnus were in contact prior to the meeting, and went over the proposed resolution and agreed to some minor changes. He said that the changes were consistent with their telephone conference. On page 2, line 6 after the word vegetation, the words and topography related to was added and the word of was deleted. On page 3, line 13 after the word haul in parenthesis was added (temporary construction). On page 5 Line 12 the sentence that begins with a breach of any such condition was removed. Mr. Havas read the findings of fact and the Chair accepted that as a motion to approve. Mr. Haveson seconded that motion. There was no discussion and a roll call vote was taken.

Roll Call

Speeney [yes] Boyd [yes] Haveson [yes] Addario [yes]

Schaefer [yes] Spratford [yes] Ellis [yes]

The motion carried.

Havas called: PB06-06 Cingular Wireless
799 Mountain Blvd. Block 2.02 Lot 7.01

Amending Site Plan Approval

Christopher Quinn of Day Pitney was in attendance representing the Applicant. He explained that since approval by the Planning Board for the Cingular Wireless application, the Board of Public Utilities has changed their rules regarding what vegetation can be planted around cell tower sites. Mr. Quinn stated that you could now only install vegetation that is 3 feet tall around the pad and cabinets. The Applicant is proposing a substitution of English Boxwood shrubs where the originally proposed leather leaf viburnum were to be placed. Anthony Suppa of Dewberry Goodkind (600 Parsippany Road in Parsippany New Jersey) was present and showed a landscape plan with the proposed changes. On sheet Z04 which was a landscape modification sheet dated 10/16/07 it showed 24 English Boxwoods proposed.

The Chair said that he had no problem recognizing the BPU superceding the local ordinances. There was a discussion about deciduous and non-deciduous trees on either side of the property line, and the Chair said that he didn't think that the boxwoods really met all the criteria that the board had in mind while recommending the viburnum. He suggested that the Boxwoods be planted around the fencing, but that also the leather leaf viburnum originally proposed be planted out towards the property line. Mr. Quinn said that he would agree to that, but that he would have to write a letter to J.C.P. & L. in order to get permission to do that. Mr. Quinn stated that as long as permission was granted, that he had no problem doing that. The Chair indicated that Mr. Quinn was asking Cingular if the request for the new position of the viburnum didn't go against any BPU regulations – not just permission to plant since it was the objective of the Board to provide as much vegetation as possible for screening purposes and the planting of viburnum is a condition.

The Chair opened up questions from both the public and the Board, but hearing none, he asked for a motion to approve the amended site plan. Mr. Havason made a motion to approve, seconded by Mr. Havas, and the Chair called for a roll call vote.

Roll Call

**Speeney [yes] Boyd [yes] Havas [yes] Havason [yes] Addario [yes]
Pennett [yes] Schaefer [yes] Spratford [yes] Ellis [yes]**

The motion carried.

Havas called: PB07-03 Map Investment Co.
40 Stirling Road Block 40.01 Lot 1
Minor Site Plan & Variance(s)

Wendy Berger, Attorney for the Applicant was present. Ms. Berger is from the firm of Cole Schotz. Ms. Berger said that the waiver was still valid from the original application, and that since the last meeting of September 18th, 2007 she has reached out in good faith to hold a meeting with the neighbors from Guinard Drive, and met with two of them subsequent to last month's meeting, and understood that Mr. John McDonald had

suffered a loss and it was difficult for him to be present, but that she called Mr. McDonald several times to set up a meeting to no avail. Mr. McDonald of 23 Guinard Drive stood to say that he was present as a neighbor, and not as Council. Also present was Mr. Leonard D. Savino, Engineer for the Applicant from Langan Engineering. Mr. Savino came to the microphone, and presented two sketches that were marked as exhibit A4-A and A4-B dated 10-16-07 A4-B was a full site plan showing a change in the number of parking spaces going from 130 to 129, which was done as a result of the comments of the Fire Official. Wendy Berger discussed the proposed board on board fence, which she said could be put up to 6-½ ft. without the necessity of a variance for the Board of Adjustment. Anything higher than that would require a variance. The applicant would be willing to make the fence higher if the Board would be willing to consider a height variance.

The Chair opened up questions from the Board. Hearing none, Chairman Speeney said that changes made on A4B were done in response to the Fire Official's report. Chair opened questions to the public and Victor Kaminski of 29 Guinard Drive asked what the total elevation height of the proposed fence would be. Mr. Savino gave elevations as 211, 215, 214, 211, 211, 207 going towards the west down to 210, 216, 213. Wendy Berger objected on the premise that Mr. Kaminski was trying to compare apples to oranges with the old fence and the new fence since they would be in different locations. The Chair agreed that the new fence and old fence would be at different elevations since they would be in different locations. Mr. Addario thought they should either leave the old fence where it is, or make the new one higher.

The lighting was discussed and the question was raised as to what hours the lights are on currently. Ms. Berger said that the Applicant had no problem with changing the timing of the lighting sequence, to make it what the Board recommended. Ms. Berger said that she was concluding her testimony. She stated that with this proposed plan, she was lessening the non-conformity of the parking, and permitting more existing trees to remain on the site. She said that the Applicant has complied with the recommendations of the Fire Official.

There were no more questions from the Board.

Mr. John McDonald of 23 Guinard Drive came to the microphone. He said that in the first approval to Map Investment, there was an agreement between the neighbors and the Applicant. He stated that the wall was supposed to be built by the winter of 2004. Mr. McDonald stated that he opposed this current application. A discussion was raised as to who originally built the existing fence. Mr. McDonald thought that the builder of the 4 homes probably built the fence. Mr. McDonald talked about the beauty of the Maple trees behind his home. Ms. Pennett asked whose property the Maple trees were on. Mr. McDonald responded that they were on the Applicant's property. Ms Berger said that whatever happened to the trees on the Applicant's property was up to the Applicant, not the neighbors.

Mr. David Ritchie of 15 Guinard Drive came to the microphone. Mr. Ritchie stated that he has been a resident since 1985. He said he was not there when the Maple trees were originally planted. He said that around the time of the last application of this property, he had Marcia Schiffman , engineer for the applicant at the time come out to his property and look out the windows of Mr. Ritchie's home toward the roof of the building of the Applicant. Mr. Ritchie stated that he asked Ms. Schiffman if the work would be done by

the fall of 2004 and she said yes. Mr. Ritchie said that there was a June 29th meeting of the Planning Board with the residents and a July 26th meeting of the Board with the residents and that since that time, nothing has been done and they were never contacted before this current application. Mr. Ritchie said that this application in his mind is coming 3 ½ years late. Mr. Ritchie said that the present fence provides protection when the leaves fall. Mr. Ritchie said that he no longer wants to enter into any agreement. He said it is much too late. Mr. Ritchie said that the new wall would be about 5 feet lower at the western end of the property. He is concerned with privacy issues and the view from his home.

Chairman Speeney took a break in the meeting and asked Mr. Checchio of Application PB07-05 @ 909 Johnston Drive if he would grant an extension through the end of November and that his case would be heard at the November 20th, 2007 meeting. Mr. Checchio agreed.

Chairman Speeney resumed the Map Investment application.

Mr. Kaminski of 29 Guinard Drive came up to the microphone. He stated that he tried very hard to work with Map Investment in 2004. Mr. Kaminski said that they worked toward having one wall and that he was said in the first hearings that the backfill could be used to raise the area of the ground for the fence. Mr. Kaminski said that he does not want new plantings on his property. He said he doesn't want to offer a buffer area. Mr. Kaminski was emphatic that he does not trust the Applicant. Mr. Kaminski opposes the lighting. He said the lights are on from 10PM until 4AM every night.

John Popollillo of 11 Wildwood Drive in Short Hills is the manager/owner of the property had some words with Chairman Speeney who asked him to maintain order or he would be asked to leave the Council Chambers.

Chairman Speeney closed the public portion of this application by voice vote.

Board Attorney Frank Linnus asked Ms. Berger to clarify the line on condition #5 about the "satisfaction of the neighbors". Ms. Berger maintained that the neighbors and the Applicant had an agreement during the first part of this application and that since it was the decision of the Planning Board to bifurcate this application and only decided on part of it, that in fact the original agreement stands. She said that the reason that this application never saw fruition was because Mr. Popollillo's father had passed away, and it took a very long time to have Mr. Popollillo get the managing legal rights to the building and property after the death of his father. Ms. Berger said that the managing agent of Map Investment at the time of the first application was let go.

Mr. Alan Haveson said that the problem as he sees it, is that 3 ½ years ago they made a decision based on a different set of facts.

Mr. Boyd asked if when the original approval was made, was the buffer being moved from the Applicant's property to the neighbor's property? The Chair answered yes.

Mr. Linnus said that what really held weight were the original findings of fact from the prior resolution.

Mr. Popollillo was sworn in, and was asked by the Board if the neighbors did not want the trees planted on their property, would he be willing to put monies into an escrow account, or to donate trees to the Borough. The applicant agreed.

John McDonald came to the microphone and said that he met with Ms. Fidlow and Ms. Schiffman prior to the original resolution, but never once afterward.

Mr. Haveson asked Mr. McDonald if he thought that if he went back 3 ½ years, did he think he would have reached an agreement? Mr. McDonald said yes. Mr. Haveson then asked if Mr. McDonald thought that he could reach an agreement now. Mr. McDonald said no, that he could not and that he had no confidence in the Applicant.

Chairman Speeney stepped in and said that he was hearing that the residents want no part of an agreement.

Ms. Berger said that the Applicant does intend to proceed with the improvements as shown on the site plan.

Mr. Ritchie of 15 Guinard Drive came to the microphone and talked about a letter that he has submitted to the Board opposing this application.

The Chair reclosed the public portion of the application.

Ms. Schaefer thinks that if the Board were to grant approval for this application, that there would need to be a specific time frame on finishing it. The Chair said there would also be a condition of the time management of the lighting situation. Mr. Boyd asked that an analysis be made concerning the increased visibility of the applicant's building regarding the relocation of the fence to a position just behind the wall.

The Chairman asked that this application be carried until the meeting of November 20th, 2007, and asked the Applicant to grant an extension through the end of November. Ms. Berger said that the applicant agreed to the extension through the end of November.

Chairman Speeney announced that the review on the agenda of ordinances would have to be put off until the meeting of November 20th, or earlier if it is deemed that a special meeting is necessary.

Chairman Speeney asked for a motion to approve the vouchers. Mr. Havas made a motion to approve the vouchers, seconded by Mrs. Spratford. The Clerk called the roll and the vouchers were approved unanimously.

The Chair called the meeting at 10:54PM until the next meeting of November 20th, 2007.

Respectfully Submitted,

Carolyn Taylor
Planning Board Clerk

