

1 A Regular Session of the Allendale Planning Board December 18, 2008.

A Regular Session of the Allendale Planning Board was held in the Municipal Building on December 18, 2008. The meeting was called to order by the Chairman, Mr. Quinn, at 8:09 p.m. The requirements of the Open Public Meetings Act were met by the required postings and notice to publications.

The following members answered roll call: Mr. Barra, Mr. Bernstein, Mr. Fliegel, Mr. Quinn, Mr. Sirico, Mr. Herndon, Mr. Gravina, Mrs. Sheehan, and Mr. Thomas. Mr. Yevchak was absent. Professionals in attendance: Mr. Dunn and Nicole Habeiche-Shapiro representing Mr. Yakimik.

Corrections to the minutes of the Work Session 9/15 and regular meeting of September 18, and the Special Meeting on October 1, and were cited and corrections made. Adoption moved by Mr. Fliegel and seconded by Mr. Sirico and approved as amended.

Minutes of the combined work and regular session of November 17 and 20 and the Minutes of the Joint Session of November 17 were corrected. Mr. Fliegel moved and Mr. Herndon seconded their approval. Approved with a unanimous voice vote, with Mr. Gravina abstaining. The Executive Session minutes are deemed restricted until their authorized release following an official action.

### **Final subdivision – John Sebastian, Block 408, Lots 4 and 16**

Mr. Bruce Whitaker, Esq. represented the applicant who requested Board approval subject to compliance with the 12/18/08 Borough Engineer's Report submitted by Nicole Habeiche-Shapiro for Mr. Yakimik.

Chairman Quinn noted that the Chief Financial Officer's Memo to the Board had Lot #4 taxes paid through the Fourth (4<sup>th</sup>) Quarter of 2008. However, Lot #16 had only been paid through the Fourth (4<sup>th</sup>) Quarter of 2007.

Mr. Whitaker represented that those outstanding charges would be paid immediately.

The Chair asked the Borough Engineer to walk the Board through her report (12/18/08)

Items

1. Mr. Whitaker represented the applicant will comply.
2. Applicant will add notations to the plat.
3. Board Attorney Dunn cited that the report cited “significant inconsistencies” and Mr. Whitaker responded that they will be resolved and Mr. Dunn retorted that no signatures will be affixed until compliance.

Mr. Fliegel asked what specifically the inconsistencies were that Ms. Habeiche-Shapiro had cited. She responded that they were notations for drainage, utilities, underground utilities, lawn inlets etc. that were not shown on one plat but shown on another. There was nothing new just inconsistent.

Mayor Barra expressed that he was very deeply disturbed for the apparent disregard for the Borough Code by the applicant and that two (2) Stop orders had been ignored as well. He cited that equipment had been parked illegally for months and that soil was removed from the site but nobody knows for sure what soil was removed because it had not been tested. He found the applicant’s behavior reprehensible and that it took the involvement of both the Borough Attorney and the Planning Board Attorney to get the applicant to stop his unauthorized action.

Mr. Whitaker responded that he was unaware of the complaints having been hired recently and that when he learned of the alleged transgressions he had them stopped right away.

Mr. Bernstein said the machinery on the property had been there unauthorized for months and that at this stage of development there was no rationale for the machinery to be on the land. He further asked about the utility line on the property since the plans called for underground utilities. The applicant responded that the installation was temporary for above ground use but the utility lines will be underground.

Mayor Barra asked the Borough Engineer if they had any concerns about the soil removal. Ms. Habeiche-Shapiro said she would check with Mr.

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Yakimik. The applicant's attorney said that Mr. Yakimik should conduct an onsite inspection.

Mr. Fliegel said the Board had offered an original benefit of the doubt to the applicant with the preliminary approval and now given the applicant's actions he has reservations about a second opportunity. Mr. Whitaker represented that all issues, performance guarantees, map inconsistencies etc will all be satisfactorily resolved by the January 15 meeting of the Board.

Mr. Dunn: recommended to the Board that they should not proceed absent total compliance. Mr. Whittaker asked for a vote subject to compliance to save his client 30 days.

Mayor Barra asked what happens if one condition is not met? The Board Attorney replied that the resolution would be signed but the map would remain unsigned and therefore not official. Mr. Fliegel said that a failure to comply within forty –five days (45) the resolution would become voided.

Chairman Quinn noted the next meeting is scheduled for January 15, 2009.

Mr. Whittaker responded that the machinery and equipment will be removed from the site by December 25, 2008. Mr. Dunn clarified that all items must be in compliance by January 15, 2009. He stressed that the original plan approved in 2006 required a final approval.

Mr. Bernstein reiterated that the machinery must be gone by December 25, 2009 and that within the resolution all back taxes must be paid and all conditions of the preliminary approval granted in 2006 must be fulfilled and that the December 18, 2008 letter from the Borough Engineer must be met by January 15, 2009. Mr. Fliegel said he thought they should be paid by December 19 because they are already a year in arrears. He further added a stipulation that no work be done on the property other than the removal of the machinery and that the issues are subject to the issuance of the proper permits. Mr. Fliegel moved the resolution subject to the above stipulations and conditions. Mr. Thomas seconded the motion. The motion passed 8-1. The Roll Call: In the affirmative: Mr. Quinn, Mr. Fliegel, Mr. Herndon,

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Mayor Barra, Mr. Bernstein, Mr. Sirico, Mrs. Sheehan, Mr. Thomas and opposed Mr. Gravina.

New Business:

Chairman Quinn announced the January Work Session for January 12 and the Regular Meeting for January 15. He said that Ed Snieckus was unable to prepare a formal report from the Historic Committee for the Board for this meeting. Mayor Barra added that Snieckus would have an ordinance for the Mayor and Council to introduce at their meeting and then upon introduction the ordinance would then be forwarded to the Planning Board for review and comment.

Mr. Dunn raised the subject of an objection to Mr. Snieckus because of the possibility of a conflict of interest due to his association with the Joseph Burgis firm. Mr. Dunn investigated the claim that because the firm had been employed in the past Mr. Snieckus was in conflict. Mr. Dunn spoke with the Fell House applicant's attorney: Mr. Kaufman, and determined that Burgis had no conflict. Mr. Dunn asked that the record reflect that 'no conflict' existed and that there was full disclosure of prior action and that he sent an email explaining his position to the interested parties.

Motion to adjourn by Mr. Herndon and seconded by Mr. Bernstein passed on unanimous voice vote. Meeting adjourned at 9:08 PM.

Respectfully submitted,

Douglas Landau