

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

**Minutes
June 23, 2004
Regular Meeting**

Chairman, Michael Tfank, called the meeting to order at 7:33 p.m. with the reading of the legal notice.

ROLL CALL

Present: Joseph Elcavage, Edward Orthouse, Douglas Ott, Michael Siesta, Leslie Tallaksen, Kurt Wagner. Alternates: Matthew DeFede, Clinton Smith. Chairman: Michael Tfank. Principal Planner: Linda M. Lutz, P.P. Board Attorney: Glenn Kienz, Esq. was represented by Bryant Gonzalez, Esq. Stephen B. Glatt, Esq., Special Attorney. Consulting Engineer: Robert Kirkpatrick, P.E.

Absent: James O'Bryant, Andrew Tynan. Planning Director: William Drew, P.P.

Chairman appointed Matthew DeFede and Clinton Smith to sit for Messrs. O'Bryant and Tynan.

PUBLIC PORTION

No one wished to speak.

SITE PLAN WAIVER APPLICATIONS – None.

APPLICATIONS

**BRAEMAR AT HIGH CREST, L.L.C.
(FIELDSTONE ESTATES)**

COMPLETE: 04-29-04
DEADLINE: 08-27-04

**Amended Preliminary Subdivision 0410-1739A
Final Subdivision #0410-1739D (Section III)
Variance #0430-0649**

Block 13003; Lot 1

Block 13002; Lot 1 (final subdivision only)

Hearthstone Drive, R-2 Zone

Final subdivision for the creation of 8 single-family building lots.

The applicant was represented by Susan Reed, Esq., Kenneth Eberle, Manager/Member of Braemar, Christopher Richter, P.E., P.P., Milestone Real Estate Company, and Robert Lawson, L.S. of Beardslee Engineering Associates.

The application before the Board is a request for amended preliminary subdivision approval with ancillary "c" variance relief for Block 13003, Lot 1 and final subdivision (Section III) approval for Block 13002, Lot 1.

Testifying on behalf of the applicant was Christopher Richter, P.E. and P.P., of Milestone Real Estate Company. Mr. Richter indicated that he was testifying with regard to the variances that were needed for the amended preliminary subdivision approval. In this regard, Mr. Richter directed the Board's attention to the final plat prepared by William E. Beardslee dated February 14, 2003 with a last revision date of May 7, 2004 which was marked into evidence as Exhibit A-1. Richter indicated that Exhibit A-1 depicted the proposed amended preliminary subdivision for Block 13003, Lot 1 as well as the proposal for final subdivision with respect to Section III of the development of the Subject Property.

Mr. Richter indicated that the applicant was seeking amended preliminary subdivision approval with ancillary "c" variance relief as it was looking to eliminate Road C as was

shown on the final plat that received final subdivision approval with regard to the applicant's development of Section II of the Subject Property by Resolution of the Board decided on October 25, 2000 and memorialized on November 8, 2000.

Mr. Richter indicated that the proposed elimination of Road C was shown on Exhibit A-1 with the area of the former road being included as part of proposed Block 13002, Lot 13 and Block 13002, Lot 1.

With the elimination of Road C, Mr. Richter indicated that amended preliminary subdivision approval was needed as well as variance relief with regard to lot width and lot frontage for proposed Block 13002, Lot 13. In this regard, he indicated that the Township Ordinance required lot width at 200 feet whereas the lot width for proposed Block 13002, Lot 13 would be 50 feet. With regard to lot frontage, Mr. Richter indicated that proposed Block 13002, Lot 13 would provide 50.24 feet of lot frontage whereas the Township Ordinance required 100 feet.

Mr. Richter indicated that by including Block 13002, Lot 1, in the Section III final subdivision approval, the complete elimination of Road C would be accomplished. Furthermore, Block 13002, Lot 1 was created by virtue of final subdivision approval for Section II, which was granted by Resolution of the Board decided on October 25, 2000 and memorialized on November 8, 2000. With regard to Section III of the development of the subject property, Mr. Richter indicated that the lot sizes all met the required 2-acre minimum.

With regard to the bulk variances needed for lot width and lot frontage, Mr. Richter indicated that the applicant was requesting relief pursuant to N.J.S.A. 40:55D-70c(2) in that there was no hardship to the applicant, however, from a planning perspective, the elimination of Road C made better planning sense. Further, it would advance the purposes of Municipal Land Use Law by allowing a deviation from the Zoning Ordinance requirement in that the proposal would enhance the visual environment of the proposed development and would save municipal resources by eliminating approximately 400 feet of roadway that would have otherwise been the responsibility of the Township to maintain. Mr. Richter further indicated that the benefits of the deviation with respect to lot width and lot frontage for Block 13002, Lot 13 outweighed any detriment. In this regard, he indicated that there was no negative impact with respect to the elimination of Road C and the revised shape of Block 13002, Lot 13 in that the lot would still be adequately served by public utilities. As such, Mr. Richter indicated that the variance could be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

The Board next heard from Robert Lawson, L.S. of Beardslee Engineering Associates. He testified with respect to Beardslee Engineering Associates' preparation of the final plat submitted to the Board as Exhibit A-1.

In reviewing this application, the Board considered the report of its Board Planner, William H. Drew, P.P. dated May 21, 2004 and consisting of three (3) pages, the terms of which are incorporated herein by reference.

In his report, the Board Planner indicated that applications had been submitted by the Applicant for amended preliminary subdivision approval with ancillary "c" variance relief and final subdivision (Section III) approval for the subject property. The Board Planner noted that the applicant had also filed an application for bulk variance relief in conjunction with the amended preliminary subdivision approval requested.

In his report the Board Planner indicated that the applicant received amended preliminary subdivision approval for 33 building lots in January of 1999 which action was memorialized at the February 24, 1999 Planning Board meeting by way of Resolution No. 1999-10. The Board Planner further noted that the applicant received two (2) one-year extensions of time extending the approval up until February, 2004 by Resolution Nos. 2002-12 and 2003-7. He further indicated in his report that the

applicant filed its application for final subdivision approval for all three sections, with Section III being filed prior to February 24, 2004.

In the Board Planner's report, the Board Planner noted that Section III was comprised of 18.57 acres and the application submitted was for final subdivision approval of eight (8) residential lots. In his report, the Board Planner indicated that Block 13002, Lot 1 was created by virtue of final subdivision approval for Section II and was being included as part of Section III approval due to the proposed elimination of Road C.

With regard to the proposed final subdivision approval for Block 13002, Lot 1, the Board Planner indicated that the lot sizes all met the required 2-acre minimum.

The Board Planner further indicated in his report that the applicant had not yet completed all the proposed improvements with the exception of clearing, rough grading and the placement of retaining walls along Block 13003, Lot 3. In this regard, however, the Board Planner noted that the applicant had submitted to the Board Engineer a bond estimate for the public improvements not installed on Chimney Ridge Trail. The approved bond amount, however, needed to be posted with the Township prior to the final plat being released for filing with Passaic County.

In this regard, Mr. Reed indicated that the applicant agreed to post the necessary bond as indicated in the Board Planner's report pursuant to the Board Engineer's request.

The Board Planner further noted in his report that the applicant was seeking amended preliminary subdivision approval with ancillary "c" variance relief to eliminate proposed Road C. Road C was originally intended to serve one lot, Lot 13 in Block 13002. By elimination of this road, however, the Board Planner indicated in his report that the application for bulk variance approval was necessary for lot frontage and lot width for Lot 13. The Board Planner further indicated that the area of the former cul-de-sac that was Road C was now proposed to be annexed to Block 13002, Lot 1. The Board Planner further indicated in his report that any public rights that enured to that portion of Road C would be expunged by virtue of the Section III subdivision approval. The Board Planner indicated that the annexation of the area would be accomplished by a re-approval of Block 13002, Lot 1 as part of the Section III final subdivision plat submitted.

The Board Planner's report then recommended that the applicant comment as to the status of its application with the Passaic County Planning Board and the Hudson-Essex-Passaic Soil Conservation District.

The Board then heard from Kenneth R. Eberle, who indicated that he was the managing member of Braemar. Mr. Eberle indicated that the applicant had received a recertification dated June 13, 2002, which was good for 2 1/2 years but that on May 25, 2004 the Applicant had submitted for another certification.

The Township's Principal Planner, Linda M. Lutz, P.P., A.I.C.P. then recommended that the applicant stake out the limits of disturbance areas on the subject property to show consistency with the plans submitted.

The applicant indicated that it was willing to mark the limits of disturbance as indicated by Mrs. Lutz.

The Board Engineer, Robert Kirkpatrick, then asked the applicant whether the proposed homeowners association would maintain the drainage detention facility that was part of the requested final subdivision approval.

Mr. Eberle indicated that the homeowners association would take over the maintenance of the drainage detention facility once the last lot of the eight (8) had been sold. In the interim, the developer, through the homeowners association, would maintain the drainage detention facility. He further indicated that Section I was individually owned and that the owners of said lots were not part of any homeowners association as would be the case for Sections II and III of the Subject Property. Mr. Eberle indicated that the

site plan shall show that the house is located outside the wetlands and wetlands transition areas to the extent possible.

The applicant also agreed as a condition of approval that the applicant shall have installed the shade trees along the frontage of the subject property or have posted a bond for same prior to the release of the final plat.

The applicant also agreed as a condition of approval of the final subdivision that a digital copy of the final plat is to be provided to the Planning Board.

As another condition of approval for the final subdivision, the applicant agreed that it would place a note on the final plat indicating that a declaration of wetlands and wetlands transition areas have been recorded.

Lastly, the applicant agreed that as a condition of the final subdivision approval, the applicant would stake out the limits of disturbance areas on the subject property prior to a building permit being issued.

Upon consideration of the plans, testimony and application, the Board determined that the proposed final subdivision application met the minimum requirements of the Municipal Land Use Law, Case Law and Township Ordinances to a sufficient degree so as to enable the Board to grant the relief being requested.

There were no members of the public expressing an interest in this application.

MOTION made by Joseph Elcavage, seconded by Kurt Wagner, to approve the application subject to the conditions discussed.

On roll call vote: Yes - Joseph Elcavage, Edward Orthouse, Douglas Ott, Michael Siesta, Leslie Tallaksen, Kurt Wagner, Matthew DeFede, Clinton Smith, Michael Tfrank.
 No - None

OMNIPOINT COMMUNICATIONS, INC.
Preliminary & Final Site Plan #0420-0169AB

COMPLETE: 05-28-04
DEADLINE: 07-12-04

Block 9901; Lot 39

17 Wooley Road; R-4 Zone

Request to collocate twelve antennas at the 105-foot level on an existing, 125-foot-high monopole.

The Board Attorney advised that he had a conflict of interest with this applicant and appointed Stephen B. Glatt, Esq., to advise the Board on this application.

The applicant was represented by Constantine Stamos, Esq., Glen Kreisberg, a licensed electrical engineer specializing in radio frequency, Todd Hay, C.E. and Janice Talley, P.P. Mr. Stamos indicated that the applicant is seeking preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and 50.

Mr. Kreisberg testified the applicant is a telecommunication provider and is licensed by the FCC and operates at radio frequency band of 1850 to 1990 MHZ. He indicated he prepared Exhibit A-1, a coverage map with overlays, which illustrated the various existing sites in yellow, which were mostly along Route 23. The existing site was shown by a red dot and all future sites were designated by blue dots. He discussed why there is a need for additional coverage along the Route 23 corridor and the proposed site is located on the property at 17 Wooley Road, that already has an existing monopole on it. He reviewed Exhibit A-1, a base topographical map with overlays that showed the location of the proposed site reviewed and the line of sight. The applicant needs this location in order to fill a void in the system and to maintain transmittal continuity. Once the location was determined to be satisfactory to the applicant's needs it was necessary to determine the height that would be required. It was determined that collocating on the existing Sprint 125 foot tower was the appropriate height to obtain the

necessary coverage. He explained that the applicant was proposing to "T" mounts as opposed to the triangular mounts utilized by Sprint. The reason being that Omnipoint utilizes a system based upon azimuths, which are the point on the horizon that the antennas point to. On this site there is a need for non-standardized azimuths; therefore, the "T" mounts are required. The applicant could not utilize the standard triangular platform to achieve their goals. He indicated that the "T" mounts would not affect or interfere with other co-locators; and

Board members expressed concern to the applicant that Sprint has allowed the site to remain unsightly and has not been maintained. The applicant's attorney indicated that they were lessees from Sprint and it was Sprint's responsibility. The Board Attorney indicated that since Sprint has not yet received the Certificate of Occupancy for the site, it was a matter of enforcement by the Township to make sure that the site was cleaned up. The applicant attorney also indicated that the Board's concerns would be conveyed to Sprint; and

Todd Hay indicated that he prepared the Site Plan and he discussed sheet Z-1 that was marked as Exhibit A-2, indicating that the site is a 9.83 parcel of land. He indicated that the applicant proposes to locate in a 50 by 69 foot compound on the westerly side of the property, which is accessible via an access road at the corner of Wooley Road and Gould Road. He discussed sheet Z-3 of the Site Plan, which was marked as Exhibit A-3. He indicated that the applicant was proposing to install a 4 by 20 foot concrete pad with three cabinets. He discussed the size, shape and contents of the cabinets. He indicated that the applicant is seeking to collocate at a height of 105 feet and is proposing 12 antennae. He indicated that the proposed installation will meet all building code requirements and there will be no noise, odor, smoke, glare or dust omissions from the facility. The sight will be visited every four to six weeks by a technician. Additionally, a backup generator is proposed in the event of a power failure. The proposed location of the backup generator is 8 by 12 feet, but it will not be located in the compound and will not be placed on a concrete pad. The backup generator is brought on site in the event of power failure and is not permanent in nature; and

There was a discussion with the applicant's attorney regarding the maintaining of the roadway due to express concerns of Board members and the Township Engineer and it was agreed that if there was a resolution of approval it would include conditions regarding same; and

Janice Talley, testified that she produced photo simulations of the telecommunications tower depicting the applicant's proposed collocation, which were marked as Exhibit A-4. She indicated that under the Township Telecommunications Ordinance this collocation of the applicant's antennas is a permitted use. She discussed in detail each of the four (4) photographs comprising Exhibit A-4. Photo #1 shows the existing tower on Wooley Road with the triangular antenna arrangement of Sprint. She compared to the "T" mount proposed by the applicant and indicated that the "T" mount is less massive. She expressed her opinion as to why the backup generator should not be in the existing enclosed compound based upon the fact that it is temporary in nature and would reduce the flexibility or ability for future co-locators to provide space in that area; and

There were no members of the public expressing an interest in this application.

MOTION made by Joseph Elcavage, seconded by Michael Siesta, to approve the application subject to the conditions discussed.

On roll call vote: Yes - Joseph Elcavage, Edward Orthouse, Douglas Ott, Michael Siesta, Leslie Tallaksen, Kurt Wagner, Matthew DeFede, Clinton Smith, Michael Tfrank.
 No - None

Mr. Gonzalez rejoined the Board.

X-TRA SPACE CENTER
Preliminary & Final Site Plan #0220-0127
Bulk Variance #0230-0589
Block 6902; Lot 17
54 White Road; CC Zone
Request for time extension.

Matter carried to the July 28th meeting at request of applicant.

MEMORIALIZATIONS

YOUR HOME TEAM, L.L.C.
Resolution No. 2004 - 14
Final Subdivision #0410-1949B
Block 9801; Lots 28.01; 28.02 and 28.03
Union Valley Road; R-1 Zone
GRANTED: Final subdivision for the creation of 9 lots, 8 of which are new residential building lots.

John Barbarula, Esq., represented the applicant. He submitted a copy of the approval granted by the Passaic County Planning Board. He noted that all the changes requested by the Board had been made to the map and addressed several of the conditions recommended by the Planning Department. The applicant, Scott Leonescu, testified regarding the thinning of the pine stand located on the property.

MOTION made by Joseph Elcavage, seconded by Edward Orthouse, to memorialize the resolution subject to the amendment to the conditions as discussed.

On roll call vote: Yes - Joseph Elcavage, Edward Orthouse, Douglas Ott, Michael Siesta, Kurt Wagner, Clinton Smith, Michael Tfank.
No - None

MICHAEL & CHRISTINE VANDER PLOEG
Resolution No. 2004 - 15
Minor Subdivision #0310-1955
Bulk Variance #0330-0628
Block 16006; Lot 1
Grove Street; R-4 Zone
GRANTED: Six-month time extension in which to file deeds.

MOTION made by Edward Orthouse, seconded by Kurt Wagner, to memorialize the resolution.

On roll call vote: Yes - Joseph Elcavage, Edward Orthouse, Douglas Ott, Michael Siesta, Leslie Tallaksen, Kurt Wagner, Clinton Smith, Michael Tfank.
No - None

Joseph Elcavage left the meeting.

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL – None.

MISCELLANEOUS

Application Procedures: Discussion on Applications for Development; Application Review Process; Planning Board hearing process; Subsequent Development/Construction process. Put on per Board discussion held in April. Carried to a future meeting.

PLANNING DIRECTOR'S REPORT – None.

PLANNING BOARD ATTORNEY'S REPORT

Bryant Gonzalez, Esq., advised the Board of the decision reached in the complaint filed by Martin O'Shea regarding Planning Board minutes. Consent Order being prepared. He further advised that a Summary Motion on the Apple Valley litigation had been scheduled for June 25th.

MINUTES

MOTION made by Kurt Wagner, seconded by Edward Orthouse, to approve the minutes of the March 24, 2004, April 28, 2004, May 6, 2004 and May 26, 2004 regular meetings. On voice vote all were in favor.

COMMUNICATIONS

The following correspondence was received and filed:

County Planning Board reports to the Planning Board regarding the following applications:

Douglas Doyle – Minor Subdivision – Block 8401; Lot 3.02 – Macopin Road. Letter advising that there is no objection to the three pine trees in the sight triangle being trimmed of all branches within six feet of ground rather than being removed completely.

Alice Zampella – Final Plat – Block 14601; Lots 5 and 6 – Union Valley Road. Letter requesting revised plans be submitted.

Fieldstone Estates III – Final Plat – Block 13001; Lots 1 and 2 – Macopin Road. Final approval granted subject to correcting wording on the County signature block.

Valley Ridge at West Milford – Site Plan – Block 8002; Lot 4 – Union Valley Road. Additional information requested.

Notice dated May 3, 2004 from Eastern States Environmental Associates, Inc. advising that Vincent Scirica is applying for a Letter of Interpretation for property located on Macopin Road, Block 9601; Lot 7.01.

Copy of Resolution adopted by the Township Council in support of the conversion of the Township's Center Designation Petition to a Plan Endorsement Petition.

Copy of letter dated May 24, 2004 from William Drew to Jack Jaust regarding submittal of a site plan for Block 16005; Lot 12, Oak Ridge Road.

Copy of memo dated May 7, 2004 from Renee Palermo, Recreation Director, to Kevin Byrnes, Township Administrator, requesting approval for the purchase of trees for Farrell Field.

Copy of letter dated May 21, 2004 from Greenwood Lake Commission to Robert Brady, Chairman, Zoning Board of Adjustment, regarding the construction of a Laundromat and apartments on property located at 1855 Greenwood Lake Turnpike.

Letter dated May 12, 2004 from Gerald Gardner Associates Inc. advising that Irene Moorhead is applying for a GP-25/Septic System Alternation for property located at 18 Berry Lane, Block 14113; Lot 6.

Copy of Resolution adopted by the Township Council approving a bikeway grant application under the New Jersey Transportation Trust Fund Authority Act and Local Bridge Bond Act.

Letter dated April 12, 2004 from Omland Engineering Associates, Inc. advising that Wendel Pfeifer and the Township of West Milford were applying for a Dam Construction Loan for a dam located at 225 Germantown Road.

Notice dated June 24, 2004 from Neil D. Muller, Planning Director, Passaic County advising of a public hearing to be held July 13, 2004 on amendments to the Passaic County Subdivision and Site Plan Resolutions relating to fees charged.

ADJOURNMENT

Meeting adjourned by unanimous consent at 10 p.m.

Respectfully submitted,

Grace R. Davis
Secretary