

REGULAR MEETING
ZOOM VIDEO CONFERENCE

Meeting called to order by Chairman Foulon with a salute to the flag at 8:00 P.M.

OPENING STATEMENT:

This is the Regular Meeting of the Wanaque Planning Board and adequate notice has been given and it has been duly advertised by the placement of a notice in the Suburban Trends on February 2, 2020 and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk and posted on the Borough's website and will be posted on the front door of Borough Hall on the day of the meeting.

ROLL CALL: Chairman Gilbert Foulon, Vice Chairman Joseph Graceffo, Mayor Daniel Mahler, Councilman Dominick Cortellessa, Members Kevin Platt, Charles Strobel, David Slater, Jack Crilly and Jack Jordan

PRESENT: Attorney Steven Veltri and Engineer Michael Cristaldi

ABSENT: Members Donald Pasquariello and Mary Leonard

MINUTES: November 19, 2020 Meeting

MOTION TO APPROVE MINUTES: made by Member Crilly, seconded by Vice Chairman Graceffo. Voting yes were Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt, Strobel, Slater, Crilly and Jordan
Chairman Foulon abstained

COMMUNICATIONS/REPORTS: Master Plan Re-Examination

Chairman Foulon: I hope everyone got a copy from Alaimo Engineering. It's an estimate for approval for the Master Plan. I don't think we've ever had that in previous years but I believe the amount of \$35,000 is fair. Does the Mayor & Council have to approve this?

Mayor Mahler: I think the Planning Board has to approve it first.

Chairman Foulon: Okay, I'll entertain a Motion to approve the expenditure for the re-doing of the Master Plan.

MOTION TO APPROVE MASTER PLAN PROPOSAL OF ALAIMO GROUP

CONSULTING ENGINEERS: made by Member Slater, seconded by Member Strobel. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt, Strobel, Slater, Crilly and Jordan

APPLICATION STATUS: Engineer Cristaldi has no new applications.

PUBLIC DISCUSSION: Seeing none, hearing none. There was no one else present on the Zoom Meeting other than the Board Professionals and Board Members.

RESOLUTION:

#PB2020-11 – Shayna Realty, LLC, 1054 Ringwood Avenue (Block 434/Lot1)

Attorney Veltri: Resolution was distributed to all Members. If there any questions or comments, I can answer them. It is a Final Site Approval to demolish an existing one story bank building and permit the construction of a new two story building with attendant variances. We approved that on November 19, 2020 with a Roll Call Vote of 8-0. The Resolution describes the plan that we looked at the building is to be built. They did reapply for the same four variances that we gave them initially in the preliminary, so I added that to the Resolution in our analysis of approval. It is subject to all general conditions: That the representations are true and accurate, subject to compliance with our Engineer's Report, Water & Sewer Department review and approval, subject to all the conditions in the Preliminary being adhered and subject to all necessary state, locate and county approvals. They did have County Planning Board Approval.

Vice Chairman Graceffo: I do have one question. In the Resolution you have noted that the proposed building has abasement, but no occupants in the basement at the present time. Isn't that kind of vague? Did we have any discussion about use of that? My understanding was that it was strictly for storage.

Attorney Veltri: I took that directly from the Preliminary.

Chairman Foulon: I believe in the Preliminary we were told that it would only be used for storage, and I think we should hold him to that.

Vice Chairman Graceffo: I think that should definitely be noted in the Resolution then. It's too value. He may come back and put another two tenants in there.

Attorney Veltri: I have no problem amending that.

Councilman Cortellessa: My questions that I had were previously and favorably answered.

MOTION TO APPROVE RESOLUTION AS AMENDED TONIGHT: made by Member Crilly, seconded by Councilman Cortellessa. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt, Strobel, Slater, Crilly and Jordan

VOUCHERS: submitted by Steven J. Veltri, Esq. for Shayna Realty, LLC Application in the amount of \$675; and attendance at the December 17, 2020 Meeting in the amount of \$400.

MOTION TO APPROVE VOUCHERS: made by Member Strobel, seconded by Member Crilly. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt, Strobel, Slater, Crilly and Jordan

BOARD DISCUSSIONS:

Complaint At 5 Humbert Place, Wanague

Mr. Hafner: We made a site visit and we issued a Notice of Violation for the accessory that was put in without permits. It has to be removed within thirty days. We gave him a copy of the Home Based Business Ordinance that lays essentially the things that he is allowed to be doing as a customary home business and in thirty days we will make sure he is in compliance with that, as well as the accessory structure was removed. That was all taken care of last Wednesday.

Councilman Cortellessa: Have the health care issues been addressed there as well? Is that a proper business to be run there?

Mr. Hafner: So we did refer that to the Passaic County Health Department. I don't know how to really say this, but they didn't really want to take any ownership. They doled it out to Animal Control and to the DEP. The Health Department pretty much washed their hands of the rest of it. I can't control them. I can only control what I have in zoning. Our initial encounter was with neighbors and homeowner and about one week after we did issue the notice that said you have thirty days. The homeowner knows that he overstepped his bounds. I think we are on the same page.

Councilman Cortellessa: Is that business an appropriate business there? I don't think it is.

Member Slater: I think what it transgressed from taxidermy, which is not a dirty business so to speak, it's mostly done inside. From what I caught from a couple of the guys, he was helping the hunters process the deer, or butchered the deer, they brought him. That to me would not be a proper use on the property, but the taxidermy is a clean operation.

Member Crilly: A lot of it is styrofoam and painting. A lot of painting is involved in taxidermy.

Attorney Veltri: Did they ever receive a c.o. from our Board?

Mr. Hafner: He is using the garage. He is not a big corporation. He did this as a hobby, it started out as a hobby, and when he retired I think he just took on a little more and he realizes that he really shouldn't have. He really should have kept it as a hobby. That is why we gave him a copy of the ordinance so he knows his perimeters and told him as long as he stays within the perimeters you are okay and, if you stray outside of them, we are going to have to have a different conversation.

Councilman Cortellessa: So you are saying that in a residential area taxidermy is an appropriate business? I don't think so.

Member Slater: To allay some of your fears, I don't think he is going to be doing something as big as an elephant. It's probably going to be the biggest is a deer, but it's going to be more fish and pheasant.

Member Crilly: He had a lot of black bear in there. My wife and I take walks back there and I'm familiar with the operation. I actually have seen him working there. There is a lot of styrofoam, a lot of paints and it seems like a lot of cured hides, but if he's gutting deer with chemical there, that is a whole different issue.

Mr. Hafner: That's what we told him. None of the operation can be outside. The ice box has to be removed. That was not approved. If he wants approval, he has to come back to us and ask for that.

Mr. Hafner: Read the ordinance “Chapter 114-3 Customary Home Occupation” and he listed some of the criteria:

It has to be carried out in a dwelling and we would say that a garage is an accessory structure on the property so it would be allowed to be carried out in that structure.

It has to be carried on by a member of the family residing in the dwelling unit. So you can't have somebody that's running a business that doesn't live on the property.

It is clearly incidental and secondary to the use of the dwelling unit for residential purposes. So, the operation can never get so large that it's actually bigger than what the residence is. It always has to be smaller than, subordinate to, incidental to.

Then there are some additional conditions:

The occupation or professional shall be carried on wholly within the principal building or within a building or other structure accessory thereto. So he can't do anything outside. He can't process, he can't gut, and he can't do anything outside.

No more than one person outside the family shall be employed by the home occupation. So he can't have two or three guys there helping him on the payroll. It has to be him and maybe on other person

There shall be no exterior display or signage, which there is not.

No offensive noise, vibration, smoke, dust, odors, heat or glare. Obviously, that wasn't the complaint. The complaint was more chemicals, blood and things that I thought would have been a concern to the Health Department. You have Passaic County as your health department and they saw that it wasn't any big deal. I think Judy wrote a report to reflect that.

It goes on further to say, in particular, a home occupation includes, but is not limited to, the following:

Art studio;

Dressmaking;

Professional office of a physician, dentist, lawyer, engineer, architect or accountant, within a dwelling occupied by the same; and

Teaching with musical instruction limited to a single pupil at a time.

There are things that are absolutely clearly prohibited:

Barbershops and beauty parlors;

Commercial stables and kennels;

Real estate offices;

Restaurants; and

Veterinarians or animal hospitals.

Again, we spoke to the homeowner, we gave him all these perimeters which, I think, if he scales back to what he was doing, more on a hobby basis, I don't think he is going to be outside of these perimeters.

Councilman Cortellessa: Basically, what I heard you say is you can practically put any business you want in there, except those excluded, and to me that business of having a taxidermy in that environment, where you are going to take animals and you're going to have to clean them and get them ready to be created into museum pieces, that's allowed. I think that's a dangerous approval of this Planning Board to allow that to happen or the Council to allow that to happen. In a residential area, I don't by that one, I really don't.

Vice Chairman Graceffo: I agree with you Dominick. I don't think it should be there at all, whether it's a hobby or a business. The guy went as far as to bring in an outside refrigerator. He's doing a lot more than just helping a little hobby along. I want to make certain that the building gets knocked down, that'll be the start, than we can monitor from there.

Mr. Hafner: That's exactly what our course of action is. That building needs to be removed, that will absolutely de-escalate the size of the operation that he had intended to do. I fully expect that, once that is gone, it'll go back to again, being a hobby, and not at the scale that we have it now.

Councilman Cortellessa: He is doing this as a business; it is not a hobby. Even when you take an animal to prepare them for taxidermy, there is a lot of cutting, bloodletting, these animals are not thrown in there all cleaned out and ready to go. All that work is being done within that house. Quite frankly, that ordinance, if you can't allow a doctor to be in there or a dentist, you shouldn't be allowing a taxidermy to be in a residential area.

Vice Chairman Graceffo: I think that's absolutely correct. I wouldn't want to be his neighbor, as simple as that. I don't care how small or how much of a hobby.

Mr. Hafner: But you do allow professionals, you do allow a doctor, a dentist, those are professionals that are permitted.

Vice Chairman Graceffo: But you don't allow hairdressers or barber shops.

Mr. Hafner: That is what it says, but I can't speak to the reasoning for that because I think that, if you were to say, hey listen I don't want the traffic in a residential zone, well a doctor or a dentist or an architect is going to bring just as much traffic as a beautician or a barber. Again, when Joe and I discussed this, we thought the first course of action was to get rid of the ice box because, clearly, he put that in to scale up and that's not what is permitted. If at that point we determine that he is running the business and it's not something that should be fitting into this ordinance because of either the processing that he's doing or the chemicals that he is using, and that's what I was hoping the Health Department would come in and tell him you can't put those chemicals into the gutter, or you can't put those chemicals into your septic system, but that is certainly not what we got from them. What we got from them was its okay to do.

Vice Chairman Graceffo: I think they have to be pushed back a little bit. In any case, that is a business or even if it's a home hobby business, we have people coming into town, they open up a little store and they have to come before the Board. This guy just goes about his own way, nothing before the Board, nothing before the Town, he just does what he wants to do, and that's really quite unacceptable as far as I'm concern.

Councilman Cortellessa: I agree with you Joe.

Member Crilly: The freezer kind of tells you what he has been doing there. I take trips to Canada, I go fishing and I know a taxidermist and have been to his house. A lot of time when everything is cleaned up, let's say you have a large fish, that stuff rots. They just take it as a model and repaint, styrofoam, that's pure taxidermy usually, but he's taking another step and the freezer indicates that there is biological material that can rot that's on his property.

Vice Chairman Graceffo: If he is butchering, he is doing more than taxidermy. He is probably skinning.

Member Crilly: I don't disagree with you. What I'm saying is, if he is painting and just putting skins over on styrofoam forms, etc., I don't see an issue with that, but he's obviously doing a lot more.

Vice Chairman Graceffo: And we don't want it; that's the bottom line. We don't want that kind of home business operating in a residential area.

Mayor Mahler: In that case, the Council would have to take a look at the ordinance and re-do it.

Chairman Foulon: It could also be a part of the new Master Plan; not allowing that to be done in any residential area. One of the things I have great issue with is we have permitted uses and we have non-permitted uses. Every time we get a non-permitted use, it goes before the Board of Adjustment and they approve it. What is the sense of us having non-permitted uses at all, if the Board of Adjustment is just willy nilly goes and approves everyone we say is not permitted?

Councilman Cortellessa: I agree with you Dan that we need to change this ordinance. I don't know how long it's going to change the ordinance and, once we change the ordinance, I would say that this business has got to go away. I know a little bit about taxidermy, not as much as Jack, obviously he seems to know a lot, but I know that there is work that is done on those skins prior to them just being put on the Styrofoam or anything else. Where does all that material go? It has to go only in the garbage, and I don't think that stuff should be going into the garbage and I'm not sure what the safety issues are related to, within a residential site, not within a complex that is designed for taxidermy work, I'm just not comfortable with it. I think we should stop him until we finalize the ordinance.

Mr. Hafner: One of the things that you just need to take into consideration is, if you do look to change the ordinance, is whether or not he can claim he was pre-existing, non-conforming; that is was permitted prior to the change of the ordinance. In which case, he would be able to continue. If you are looking to prohibit it, you might have to look at it slightly differently.

Vice Chairman Graceffo: He has never gotten any approvals for this, whether it be a home business or a business so he is operating illegally. He's got no pre-approval on that. Why are we looking at it in that perspective?

Attorney Veltri: That's where I started. Does he have a c.o.? Let's not call it a hobby if he is making money, charging people, or advertising for this type of use. If it's a new business, he has to make at least an application for a certificate of occupancy and then the Board can look at what he has got, he can put on the record, under oath, what he is doing, the perimeters of the business and, if we don't think it is a permitted use, we can deny it and send him to the Board of Adjustment.

Member Crilly: I will tell you, it is a pretty good scale because there are a lot of projects going on in there. There is a lot; there are black bears and all kinds of animals.

Attorney Veltri: What I am saying Jack, and I agree with you, I'm not so sure that we need to change the ordinance. I think we need to apply what we have, which is Ordinance 114-38 New Businesses. It says it clearly any new business has to apply for a certificate of occupancy before the Planning Board.

Councilman Cortellessa: If that's the base, then I think we should force him to come before the Planning Board and stop his business now until he comes before the Planning

Board. He doesn't have any right even though he has been operating for a long time. He has not gotten approval to do that. He hasn't created a business to do that; he hasn't come before the Planning Board.

Mr. Hafner: I don't see any issue with that. I think he'll probably make the argument that he's a customary home occupation, but what we'll do, we will amend our notice and send him a notice that he needs to, under 114-38, file a New Business Application if you are going to run a business out of your garage and then we'll get him before the Board.

Vice Chairman Graceffo: Before that, we still want that ice box removed.

Mr. Hafner: Again, we already have given him thirty days to remove that.

852 Ringwood Avenue (Previous Owner Sierra Landscaping)

Vice Chairman Graceffo: You mentioned earlier the landscape business on Ringwood Avenue (Sierra Landscaping) is becoming a machine shop. What is that actually going to be?

Chairman Foulon: You know the guy down on Doty Road.

Member Platt: Hudson Machinery.

Chairman Foulon: They have a bunch of gigantic vacuum trucks. According to Mike, he is moving to Scenic Landscaping.

Vice Chairman Graceffo: How come he hasn't appeared before the Board? They are doing all kinds of work there; a lot of work there. Why?

Chairman Foulon: I believe they are doing a lot of work down below. Mike, perhaps you can fill us in on that?

Councilman Cortellessa: What do you mean "down below"?

Vice Chairman Graceffo: There is a tremendous amount of property as you drive in to the left going down behind the houses. There used to be mulch there, storage of materials and trucks. It was a dump to be honest.

Mr. Hafner: From what I understand, they are cleaning up the property. Obviously, they cleaned everything up top and got rid of all the crap. I have not been down in the back to see what they were doing. I was under the assumption, and even their testimony was to the fact that was there intention was to clean it up and store their trucks down in the back so they weren't visible to the public. My memory is not serving me, but I believe it was the Zoning Board they appeared before?

Board Secretary: Yes, they were at the Board of Adjustment, and they approved it.

Vice Chairman Graceffo: What is the zoning in that area?

Board Secretary: Affordable Housing, so they had to go for a Use Variance.

Chairman Foulon: There we go!

Mr. Hafner: It was a Use Variance with an Amended Site Plan at the same time.

Member Slater: Is Scenic Landscaping moving from where they are?

Board Secretary: It was Sierra Landscaping across from Atlas Paving and Crete Concrete.

Vice Chairman Graceffo: So they got their approval from the Zoning Board to do what they are doing right now? It's operating as business without coming before us.

Board Secretary: Yes.

Member Slater: Here we go with the same thing Gil just said about.

Chairman Foulon: We can turn it down because it is not an approved business and then they go before the Board of Adjustment and they approve Use Variances. What is the use

of us having restricted business or non-approved businesses when they go ahead and grant the variance anyhow?

Member Slater: I'll give you another one too. He runs contractor in transit plates on these vehicles when they need to be regularly plated and inspected as necessary. He is skirting the motor vehicle laws just because he says he drives it to a site, like if they are milling the road. The plate doesn't work that way.

Mr. Hafner: From what I understand, the crux of his business is that he sells these new trucks, or used/refurbished, to municipalities so he doesn't register them and he explained this at the Board meeting. He doesn't register them, but he has to transport them so that's the reason why.

Member Slater: He is full of crap. They go out to a job every day and come back to the same barn.

Chairman Foulon: Dave, there is no sense in even discussing it, because the Board of Adjustment has already approved it and it is out of our hands.

Member Slater: Like you said, we try to do a job and get beat up by our co-workers.

847 Ringwood Avenue (Atlas Paving)

Chairman Foulon: Mike, there is another property I'd like you to look at and that's the paving company across the street from them.

Mr. Hafner: Customarily what we do is, if somebody appears that they are not in compliance with their approved site plan, Joe Setticase, our Zoning Officer, will go out there, we'll inform them that they are in not compliance, he'll take some pictures, send a notice and we work from there. If it is something that they can get into compliance great, if it is something that they can't, well then they will be before you for an amended site plan.

Chairman Foulon: Look at the pile of crap they got in their backyard. It's terrible. They should have to remove that.

Vice Chairman Graceffo: They have all their millings; it is like 40' tall.

Councilman Cortellessa: There's crap in the front yard too; that all old rusted truck and all sorts of other junk that they leave out in the front. We need to make our community start looking a little better.

Chairman Foulon: I couldn't agree with you more. It's looking terrible lately.

781 Ringwood Avenue

Councilman Cortellessa: The property at 781 Ringwood Avenue with the horses there. They stuff that they have out front; trucks, trailers, you name there is all sorts of junk out there right now, and that should be taken away.

Chairman Foulon: If nothing else, it should be covered under the beautification ordinance.

Mr. Hafner: We started on some of the properties on the lower end. This week Joe went to Limitless Tree that is operating on Scott Walker's property without approvals. He has been there for about five years and shouldn't have been there. That is an application that you are going to see come before you because he never got approval to go in there. He was not happy that we were there, but we explained to him that slowly, but surely, we have to

get everybody in compliance and the center of town is really looking like crap. We understand that so we are systematically working on these things. Absolutely, we'll add Atlas to the list and we'll get on that.

Holiday Decorations

Councilman Cortellessa: I got some positive comments about the decorating of the poles down in Haskell. It looks really good. Channel 12 News was down there last night and I thought that was very positive as well. If we could make the rest of the community start shaping up and looking good, I love Wanaque and I think it's going to even look better and better because it's a great time.

Chairman Foulon: I think we just have to keep on top of things.

Member Slater: The wreaths on top of the poles really add to it. Only every other pole, is it a dollar amount?

Mayor Mahler: We brought half this year and half next year.

Vice Chairman Graceffo: We have to be worried about the places that are already in existence like our Town Center. This year it went to complete crap. No mulch, no flowers, completely unkept. This is a prime piece of property in town and it was completely unkept the entire year. There are little things that matter and, just like Dominick said, a little thing like the town lighting for the Christmas Holidays made the town so much better. We did get a lot of good feedback from people and we have to keep on doing more things like that. Ringwood Avenue is like your front porch. Everybody walks by it every day and if it doesn't look good, it doesn't make the town look good and we should make that a priority.

Mountain Avenue

Member Strobel: I do have a question about the construction, that constant pounding. I brought this up in the late summer and it's still going on. Is there a time frame as to when it's going to end? With the leaves down, it is really loud around here and I'm a good half mile away. I was just down there and it seems like they just continue to, my wife calls it fracking. Are they putting in posts or just taking out rock? What are they actually doing there? It seems like they are doing it forever.

Vice Chairman Graceffo: You are right Charlie. I can hear it all the way up on Wolfe Drive. It's a constant pounding.

Chairman Foulon: What are they doing? What are they building? Something we should know about because I don't think we approved it.

Board Secretary: That's RSK Development. That was approved in 2015/2016 and it was like the third approval.

Mayor Mahler: Once it gets approved, the State of New Jersey allows these developers forever. That's why we got a problem with Mountain Lakes Estates. It was approved in 1988. You give these guys approval and its forever.

Mr. Hafner: Mike, you have been working the Stan on this project? Can you elaborate on where he is at right now?

Engineer Cristaldi: Yes. He must be up there for fifteen years coming and going, coming and going. Now he is back and he just installed his sewer connection not too long ago. He

still needs to run a water main up Mountain Avenue from Park Street, which was part of his approval, that will also service all the homes on that street. But he has quite a bit of rock on the site itself and he is just pounding away at it.

Mayor Mahler: It's been longer than fifteen years. It was approved prior to the Highlands Act which was August of 2004.

Member Strobel: Can we give him C4 or dynamite and have him just blow it all up. It'd be a little simpler.

Engineer Cristaldi: It would have been if he just drilled and blasted it. It really would, but he is up there with a hammer. We can't regulate the way he excavates and that's the problem.

Member Strobel: How many complaints do you get a day?

Mr. Hafner: We did get complaints. Obviously, it is outside of my jurisdiction. However, Passaic County sent up there inspector with a noise meter and they had directed him to do certain things by December 10th. So it's under the jurisdiction of Passaic County Health Department with regards to the noise.

Mayor Mahler: Another developer that doesn't know what he is doing.

Chairman Foulon: And doesn't know what he got into before he started.

Mayor Mahler: Him and Rodriguez.

Chairman Foulon: What is going on with Rodriguez? Still in Court?

Mayor Mahler: Still in Court, now they're doing discovery.

MOTION TO ADJOURN AT 8:45 P.M.: Motion to adjourn meeting made by Member Slater, seconded by Member Strobel. Motion carried by a voice vote.

Jennifer A. Fiorito, Planning Board Secretary