

PLANNING BOARD MINUTES
PUBLIC MEETING
July 14, 2014

A public meeting of the Planning Board of the Township of West Caldwell was held on July 14, 2014, in the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey. Chairman Mudd called the meeting to order at 7:14 p.m. and read the opening statement.

ROLL CALL

Members present: Mr. Martorana (via Skype), Mayor Tempesta, Chairman Mudd, Mr. Smith, Ms. Marchetti, Mr. Palmisano
Members absent: Mr. Dremel and Councilman Wolsky.
Advisors present: Greg Castano Esq. and Tamara E. Bross.

MINUTES

On a motion made by Mayor Tempesta and a second by Mr. Palmissano the Minutes of April 21, 2014 were approved, 5-0-1.
The Minutes of June 9, 2014 shall be carried.

HEARINGS

1. **P14-04 Vitaquest International LLC; site address 8 Henderson Drive, Block 1500, Lot 6, M-2 Zone;** Property Owner Leknarf Associates LLC; Applicant seeks Minor Site Plan approval for the installation of four (4) HVAC units in rear yard in addition to HVAC units mounted on roof of the new building addition.

Present was Carleton R. Kempf, Esq. Ms. Bross said the application was properly noticed and taxes are current. The evidence marking list A-1 to A-7 and B-1 to B-4 was entered into the record.

Mr. Kempf made a brief opening statement for the applicant.

Aldebert Albu was sworn in and is the architect signed on plans submitted. Mr. Albu provided the following direct testimony and answers to questions from the Board:

- Discussed site plan A1 (A-7 of evidence marking list).
- The location offers a natural buffer for noise as it is heavily wooded to northwest.
- The units will not be visible from the front of building as they are located on a curved part of the road and tucked away behind building.

There were no questions for Mr. Albu from the public based on his testimony.

The hearing was closed.

Mr. Martorana made the following motion:

WHEREAS, VitaQuest International LLC. (“the Applicant”) has submitted Application No. P14-04 to the Planning Board of the Township of West Caldwell (“the Board”) for Minor Site Plan approval for 4 HVAC units in the rear yard and HVAC units on the roof with regard to the premises, Block 1500 Lot 6 in the M-2 Zone as shown on the Tax Maps and having a street address of 8 Henderson Drive; and

WHEREAS, there are no taxes or assessments for local improvements due and delinquent on the subject property, and the Applicant has presented ownership disclosure statements required by New Jersey Statutes; and

WHEREAS, the Applicant has previously obtained Site Plan approval for the use and structures on this site, which are permitted uses and structures in accordance with the Code of the Township of West Caldwell, and

WHEREAS, this Board has considered all documents submitted in connection with this Application and marked as A-1 thru A-7 and B-1 thru B-4 ; and

WHEREAS, the Applicant has proposed additional HVAC components on the site, located in the rear of the building and on the roof as shown on the plans prepared by AA Architecture, dated 6/8/2014; and

WHEREAS, the applicant has presented expert testimony and reports in the fields of Architecture and Professional Engineering in support of this application, and

WHEREAS, the Board takes note of the report submitted by Russell Associates, LLC dated June 11, 2014, which concludes that the proposed HVAC units will not violate any applicable noise standards, and

WHEREAS, the Applicant has provided expert testimony to sufficiently support the conclusion that existing wooded buffers are adequate to screen the HVAC units proposed to be constructed along the rear wall, and

WHEREAS, the Applicants architect has provided suitable screening for all roof mounted equipment, and

WHEREAS, the application substantially conforms with the requirements of Chapters 18A and 20 in the Revised General Ordinances of the Township of West Caldwell,

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of West Caldwell on this 14th day of July 2014, that the said Application be and the same is hereby approved, subject to the following conditions:

1. The Applicant shall comply with all representations made in the testimony before this Board and all evidence presented to this Board.
2. Within three (3) months of the completion of all HVAC systems, the Applicant shall submit an acoustical report, prepared by an expert satisfactory to the Board to confirm the conclusions offered with this application. If the field observation indicates that the noise exceeds applicable standards, the Applicant shall submit a remediation plan to the Board within sixty (60) days of the field test.
3. All approvals, the issuance of construction permits and certificates of occupancy are subject to all applicable laws of the State of New Jersey, any required governmental agency approvals, ordinances of the Township of West Caldwell and Rules and Regulations of the Planning Board.

The motion was seconded by Mayor Tempesta and approved by a vote of 6-0.

2. P14-06 Vitaquest International LLC; site address 11 Patton Drive, Block 1201, Lot 10, M-1 Zone; Property Owner: 11 Patton Drive LLC, Applicant seeks Minor Site Plan approval for occupancy.

Present was Carleton R. Kempf, Esq. The evidence marking list A-1 to A-7 and B-1 to B-3 was entered into the record.

Mr. John Seragusa was sworn in and provided the following direct testimony and answers to questions from the Board:

- Mr. Seragusa is employed by Vitaquest International as a Security Manager
- The warehouse stores finished product, and is distributed by truck out of this location.
- There is no manufacturing or filling at this location.
- Hours of operation at this location will be 8:00am – 5:00pm.
- There will be no changes made to the exterior of the building.

There were no questions for Mr. Seragusa from the public based on his testimony. There were no questions or comments about this application from the Public.

The hearing was closed. After Board deliberation Mr. Smith made the following motion:

WHEREAS, **Vitaquest International LLC**, (“Applicant”) has submitted **Application No. P14-06** to the Planning Board of the Township of West Caldwell (“Board”) for Minor Site Plan Occupancy approval, with regard to the premises **Block 1201, Lot 10** in the M-1 Zone as shown on the Tax Maps and having a street address of **11 Patton Drive, West Caldwell**; and

WHEREAS, this Board has classified this application as a Minor Site Plan not requiring Public Notice; and

WHEREAS, this Board has considered all documents marked A-1 thru A-7 and B-1 thru B-3 submitted in connection with this Application; and

WHEREAS, this Board has considered all testimony of the Applicant and its witnesses; and

WHEREAS, said testimony includes but is not limited to the following representations by the Applicant and/or their witnesses:

- The use proposed by this application is warehouse/storage and distribution of finished products manufactured locally at 8 Henderson Drive.
- The occupant will be Vitaquest International.
- The approximate hours of operation will be 8am to 5pm Monday – Friday.
- There will be no changes to the exterior of the building.
- Adequate parking is provided on location for current use and,

WHEREAS, this Board has made the following findings of fact and conclusions based thereon:

- The use requested in this application is a permitted use in this Zone District.
- This application neither requests nor requires the granting of any variances or exceptions by this Board.
- This application substantially meets all the requirements of Chapters 18A & 20 of the revised General Ordinances of the Township of West Caldwell

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of West

Caldwell on this **14th day of July, 2014**, that the said Application for Minor Site Plan be and the same is hereby **APPROVED**, subject to the following conditions:

- 1) The Applicant shall comply with all representations made in testimony and evidence presented before this Board by the Applicant.
- 2) In addition to all requirements contained herein, the Applicant shall comply with all Federal, state and local laws, rules and regulations; and obtain any other governmental approvals required for the lawful implementation of this Site Plan.
- 3) The Applicant shall comply with any and all requirements of the West Caldwell Fire Official regarding the maintenance of the dumpster
- 4) The Landlord will pay past due Property Tax.
- 5) The Landlord shall remove abandoned vehicles currently on Site.

All approvals, the issuance of construction permits and certificates of occupancy are subject to all applicable laws of the State of New Jersey, any required governmental agency approvals, ordinances of the Township of West Caldwell and Rules and Regulations of the Planning Board.

The motion was seconded by Mr. Palmissano and APPROVED by a vote 6-0.

3. P14-11 Eddie I LLC; site address 26-30 Bond Place, Block 2608, Lots 13-14-15, R-4 Zone; Property Owner Eddie I LLC; Applicant seeks Minor Subdivision approval for the creation of two (2) conforming lots; Notice required.

Present was Robert Gaccione Esq., Ms. Bross verified that the application was properly noticed and the evidence marking list A-1 to A-8 and B-1 to B-6 was entered into the record.

Mr. Gaccione made an opening statement for the applicant.

Mr. Robert Rapuano was sworn in and provided the following direct testimony and answers to questions from the Board:

- Mr. Rapuano is employed as an attorney by Michael Stevens the owner of Eddie 1 LLC.
- Mr. Rapuano has been authorized by Mr. Stevens to testify on his behalf.
- Currently the property at 26-30 Bond Place has a single family dwelling on an oversized property.
- Eddie 1 is seeking approval to subdivide property into two (2) conforming lots.
- The existing home will either be moved as per plans drawn by Mr. Fox or demolished.

There were no questions for Mr. Rapuano from the public based on his testimony.

There were no questions or comments about this application from the Public.

Mr. Paul Fox was sworn in and qualified as a land surveyor. Mr. Fox provided the following testimony and answers to questions from the Board:

- Mr. Fox has been employed by Canger Engineering Associates, Tranquility NJ since 1986 and prepared the subdivision plans for 26-30 Bond Place dated April 2014.
- The existing structures at 28 Bond Place are a single family dwelling, driveway, deck and small shed.

- Subdivision plans propose to divide the property into two (2) separate parcels with 75 foot frontage with approximately 14,000-15,000 square footage each.
- The grading currently slopes northeast to southwest and plans propose contours to limit disturbances as much as possible.
- Trees on the property have been marked on plans as requested by the Environmental Commission and plans are to keep as many as possible.
- Neighborhood setbacks have also been marked on revised plans and the proposed setback of the new home is approximately 41 feet.
- There are no variances proposed.
- The Applicant will comply with referrals from the Township.
- The Applicant will provide a grading plan for second lot when building permits are applied for.
- The Applicant will work with Township Engineer about tree removal on Township sewer easement that runs through the property.

There were no questions for Mr. Fox from the public based on his testimony.

Matthew and Alexandria Schultz of 34 Bond Place commented about the grading of the property adjacent to theirs and were concerned about storm water runoff.

Mr. Martorana replied to their concerns and noted the Board shares those concerns and will address them.

Mr. Gaccione made a brief summation.

The hearing was closed. Mr. Martorana made the following motion:

WHEREAS, EDDIE I LLC, (“Applicant”) has submitted **Application No. P14-11** to the Planning Board of the Township of West Caldwell (“Board”) for Subdivision approval, with regard to the premises **Block 2608, Lots 13, 14, and 15** in the R-4 Zone as shown on the Tax Maps and having a street address of **26-30 Bond Place, West Caldwell**; and

WHEREAS, there are no taxes or assessments for local improvements due and delinquent on the subject property; and

WHEREAS, the Applicant has presented evidence of having given required notice; and

WHEREAS, this Board has classified this application as a Minor Subdivision; and

WHEREAS, this Board has considered all documents marked A-1 to A-8 and B-1 to B-6; and

WHEREAS, the applicant has submitted a plan for deleting the existing tax map lines for lots 13,14,and 15 on block 2608 all in the single ownership of the Applicant to create two (2) new conforming lots; and

WHEREAS, the Board has received a report from the Zoning Officer which notes that an effective merger of all three lots has taken place since all existing lots are non-conforming and a single ownership; and

WHEREAS, the applicant has presented expert testimony in the fields of professional land surveying in support of this application; and

WHEREAS, the Board has received and reviewed referrals and reports from various municipal official’s with respect to this application; and

WHEREAS, the Board has also reviewed a report the Municipal Engineer offered, dated July 14, 2014, which incorporates comments and/or observations of TRC members with respect to this application; and

WHEREAS, the Board finds that the lots have merged into a single lot; and
WHEREAS, the application before us is therefore a minor subdivision, creating two conforming lots where one legally merged lot now exists; and
WHEREAS, the proposed new lots will conform to the requirements of the R-4 zone district and will not require any variances; and
WHEREAS, an existing home is located within the boundaries of the merged lot; and
WHEREAS, the Applicant has represented that the existing home will either be moved to one of the two (2) new lots in a conforming location prior to the filing of this minor subdivision, or will be demolished; and
WHEREAS, the Board has asked the Applicant to address the question of whether or not an established setback line exists on Bond Place; and
WHEREAS, the Board has determined that the existing established setback, as described in subsection 20-5.4c.4 of the Code of the Township of West Caldwell, is substantially consistent with the required minimum front yard setback of 40 feet in the R-4 district and as such the Applicant shall comply with a front yard setback of no less than 40 feet and no more than 42 feet; and
WHEREAS, the Applicant has indicated that it can comply with all recommendations of the July 14, 2014 report of the Municipal Engineer; and
WHEREAS, the Applicant complies with the requirements of chapter 18A, 19, 20, 21 and 21A of the Code of the Township of West Caldwell.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of West Caldwell on this **14th day of July, 2014**, that the said Application for Minor Subdivision be and the same is hereby **APPROVED**, subject to the following conditions:

1. The Applicant shall file a subdivision plat as well as providing a deed of subdivision.
2. The subdivision filing may not take place until the existing home is moved to a location that conforms with the requirements of the proposed new subdivision, or is demolished, but no later than six (6) months from the date of this approval.
3. All recommendations of the report of the Municipal Engineer, dated July 14, 2014 shall be incorporated as conditions of this approval and shall be shown on the plan in full.
4. The Board reserves to the Municipal Engineer the right to make field adjustments to drainage and site grading to correct any adverse conditions that may be discovered subsequent to this approval.
5. The Applicant shall comply with all representations made during the course of this application submittal.
6. If required by the Municipal Attorney, the Applicant shall enter into a Developer's Agreement with the Township, and post all required bonds and escrow payments.
7. Lot and street numbers shall be assigned by the West Caldwell Tax Assessor.
8. At the time of submission of a building permit for the vacant lot, the Applicant shall submit a site grading plan and drainage plan to the Municipal Engineer for his approval and shall notify the adjoining neighbors as well at the initiation of that process.
9. To the greatest extent possible, the Applicant shall save all mature trees on the property that do not conflict with the proposed construction. Such trees shall be marked and shall be protected with fencing and/or other barriers during construction, and shall protect root systems from any change in grade.

All approvals, the issuance of construction permits and certificates of occupancy are subject to all applicable laws of the State of New Jersey, any required governmental agency approvals, ordinances of the Township of West Caldwell and Rules and Regulations of the Planning Board.

The motion was seconded by Mr. Smith and APPROVED by a vote 6-0

4. P14-07 The Ambriola Company Inc.; site address 7 Patton Drive; Block 1201, Lot 8, M-1 Zone; Property Owner The Ambriola Company Inc.; Applicant seeks Site Plan with Variances approval for the installation of a 420 kilowatt standby generator in the side yard, whereas accessory structures are permitted only in the rear yard; Notice required.

Present was Robert Gaccione Esq., Ms. Bross verified that the application was properly noticed and the evidence marking list A-1 to A-13 and B-1 to B-3 was entered into the record.

Mr. Adam Tracy was sworn in and provided the following direct testimony and answers to questions from the Board:

- Mr. Tracy is the Product Manager at Ambriola Company Inc. and has been employed there for 5 years.
- The Applicant is looking to install an emergency generator in case of power loss.
- The power at Ambriola Company has gone out twice for an extended period of time in the 5 years that he has been employed.
- The Applicant looks to have the generator installed within 30-60 days of approval.
- Loss of power at their location causes great loss of product resulting in loss of money and dissatisfied customers and the applicant is looking to minimize all of the above.

There were no questions for Mr. Tracy from the Public based on his testimony.

Mr. Thomas Cohen was sworn in and accepted as an expert in architecture and professional planning. Mr. Cohen provided the following direct testimony and answers to questions from the Board:

- Mr. Cohen prepared the drawings dated July 2, 2014 and reviewed a larger rendition of both A-10 and A-11 on the evidence marking list.
- The electrical wires come in underground from the street to the site and are then collected in existing transformer.
- The electric transformer switch will be replaced and project an 5-6 inches from the building.
- Landscaping is proposed to screen the enclosure from the street

Mr. Tracy was recalled to answer questions from the Board:

- The driveway is active throughout the day by employees and delivery trucks to loading dock and the Applicant will agree to install bollards to protect enclosed generator.
- The nearest residence is around to the rear of the building at least a few hundred feet.
- The daycare center is at least 200 yard away with a wooded lot between the locations.

There were no further questions for Mr. Tracy and the Public had no questions for Mr. Cohen.

Mr. Roland Harris was sworn in and provided the following direct testimony and answers to questions from the Board:

- Mr. Harris is a licensed Home Improvement Contractor and has been hired to install the emergency generator and transfer switch.
- The proposed location of the generator is ideal for two reasons: 1) is the furthest location for the residential properties and 2) best location next to transformer as there is a voltage drop the further away the generator is located.
- A concrete slab is to be installed with a new electrical hook up and gas lines to the generator.
- The transfer switch will be located on the outside wall with a projection of 5-1/2 inches
- Testing will occur once a month for 10 minutes during the day.

There were no questions for Mr. Harris from the Public based on his testimony.

Mr. Norman Dotti of Russell Acoustics, LLC was sworn in and accepted by this Board as an expert in Acoustical Engineer.

- Mr. Dotti reviewed his thorough report dated June 11, 2014.
- The closest direct receiver of sound is the day care center at 425 feet away.
- The residences to the rear of the property are 360 feet away, measured through the building, which reduces the level of sound.
- The proposed location is most ideal as the center measures at 58 DBA which is below state requirements (65 DBA during the day) and the residents with building as a buffer measure at 49 DBA. The closer the generator is placed to the rear of property the higher the sound levels will be, substantially affecting the residents.

There were no questions for Mr. Dotti from the Public based on his testimony.

There were no questions from the Public regarding this application.

Mr. Gaccione gave a brief summation as to reasons why variances can be granted without harm of intent or purpose to the Zoning Ordinances of West Caldwell and benefits a West Caldwell Company in the event of emergency.

The hearing was closed and after deliberation Ms. Marchetti made the following motion:

WHEREAS, Ambriola Company, Inc (“Applicant”) has submitted Application No. P14-07 to the Planning Board of the Township of West Caldwell (“Board”) for a Site Plan with Variance approval with regard to the premises, Block 1201, Lot 8 in the M-1 Zone as shown on the Tax Maps and having a street address of 7 Patton Drive; and

WHEREAS, there are no taxes or assessments for local improvements due and delinquent on the subject property, and the Applicant has presented an ownership disclosure statement as required by New Jersey Statutes; and

WHEREAS, this Board has classified this application as a Major Site Plan Application with variances requiring public notice; and

WHEREAS, the Applicant has presented evidence of having given required notice; and

WHEREAS, this Board has considered all documents submitted in connection with this Application; and

WHEREAS, said documents have been entered into evidence and marked as items A-1 thru A-13 and B-1 thru B-3; and

WHEREAS, this Board has considered all testimony of the Applicant and its witnesses including Mr. Thomas Cohen and Mr. Norm Dotti qualified by the Board as experts in the fields of Architecture, Planning and Sound Engineering respectively and Mr. Adam Tracy as Product Manager and Mr. Roland Harris as Contractor; and

WHEREAS, both said documents and testimony includes but is not limited to the following representations by the Applicant and/or its witnesses:

1. This Application seeks approval for the installation of a 420 kilowatt natural gas powered emergency stand-by generator and transfer switch, necessary for refrigerated storage needs.
2. The proposed location for the generator is in the westerly side yard, whereas accessory structures are only permitted in the rear yard, (Ordinance section 20-19.1.e.)
3. The applicant proposes screening of the enclosure from the public street view which is required (Ordinance section 20-21.12).
4. The westerly side yard of this property abuts a vacant lot and a commercial day care center 400 feet away and residential properties to the rear.
5. The westerly side yard is wooded.
6. The applicant has agreed to install bollards to protect the generator and transfer switch.
7. The noise and vibration levels of proposed generator during testing will not exceed the levels established by the state of NJ.
8. The proposed location of the generator will increase the distance from the generator to the residential properties and is at a point which is the farthest from the residences (approximately 350 feet).
9. The proposed location of the generator will result in the principal building being located between the generator and the easterly residential properties. It is also closer to the electrical service which is necessary for its effectiveness.
10. The Applicant is also requesting a bulk variance and related site plan approval for failing to provide the minimum required 40 foot side yard setback, (Ordinance section 20-19.1.f)

WHEREAS, this Board has made the following findings of fact and conclusions based thereon:

1. The structure requested in this application is a stand-by generator and transfer switch, which is a permitted accessory structure in this zone district.
2. This application is for Site Plan approval with variances with no change in principal use.
3. Other than the variances requested, this application substantially meets all other requirements of Chapters 18A & 20 of the revised general Ordinances of the Township of West Caldwell.
4. The grant of the variances requested can be made without substantial detriment to the public good. It will not impair the intent and purpose of the zone plan or zoning ordinance, and the benefits of the deviation substantially outweigh any detriment.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of West Caldwell on this **14th day of July, 2014**, that the said Application be and the same is hereby

APPROVED, subject to the following conditions:

1. The Applicant shall comply with all representations made in the testimony before this Board and all evidence presented to this Board.
2. In addition to all requirements contained herein, the Applicant shall comply with all Federal, state and local laws, rules and regulations; and obtain any other governmental approvals required for the lawful implementation of this Site Plan.
3. The Applicant shall submit a landscape plan to this Board's Minor site Plan Committee for review and approval. Said plan shall include planting locations, quantities, common name, Latin name, planted size and full growth size.
4. The generator shall be screened in accordance with the regulations of the Township of West Caldwell and the Applicant shall submit plans for said screening to this Board's Minor Site Plan Committee for review and approval.
5. All routine testing of the generator shall be conducted during regular business hours (but not before 9AM and no later than 5PM), on business days.
6. Within six months of the completion of the installation of said generator, the Applicant, at their expense shall conduct a test under the supervision of an expert selected by the Township of West Caldwell, and in accordance with said expert's requirement to establish that the proposed generator complies with all applicable standards to the satisfaction of the Township. In the event that the generator installation does not comply, the Applicant shall within 30 days submit a remediation plan to the Minor Site Plan Committee of the Board for their approval in accordance with guidance provided by the Township expert. All costs associated with the implementation of this condition shall be at the Applicant's expense.
7. Protective, decorative bollards satisfactory in style and number to the Construction Official shall be installed around the perimeter of the generator pad.

All approvals, the issuance of construction permits and certificates of occupancy are subject to all applicable laws of the State of New Jersey, any required governmental agency approvals, ordinances of the Township of West Caldwell and Rules and Regulations of the Planning Board.

The motion was seconded by Mr. Smith and approved by a vote of 6-0.

INVITATION FOR PUBLIC COMMENT :

There were no questions or comments from the public.

ADJOURNMENT: The meeting adjourned at 8:56PM

Respectfully submitted,

Tamara E. Bross, Board Secretary