

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
863-7288
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The Council meeting of the Borough of Wind Gap on Monday, April 2, 2007, was called to order at 7:30 p.m. by Council President Kerry Gassler at which time he reminded those present that the meeting was being recorded. In attendance were Councilpersons: Jon Faust, Nathan Hinton, Todd Beil, George Hinton, Scott Parsons and Tony Curcio. Also in attendance were Mayor Mitchell D. Mogilski, Sr., Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysher and Borough Administrator Louise Firestone.

PUBLIC COMMENT

1. Todd Oessenick, 291 East Center Street, Wind Gap. Todd informed Council that he has an agreement to purchase 117 South Broadway. That property is next to Dr. Powell's office. He has a small computer business with two employees plus himself. He wants to use that property as his commercial location. He has not made any submission of drawings for the property. He asked Council if he could avoid the whole Planning Commission process and just make sure that he applies all the Zoning Ordinances. He has spoken to the Borough Engineer, Brian Pysher, about the property. He needs a few parking spots in the back of the house. He asked Council to vote so that he can avoid going through the Lehigh Valley Planning Commission process also. Brian added that Todd is asking for a waiver of the SALDO (Subdivision and Land Development Ordinance), he needs land development. The existing building will remain, but parking and a driveway will be installed. Todd stated that a previous interested party had to go before Planning Commission. He feels that a sketch plan should be submitted and review. George asked if a Highway Occupancy Permit would be obtained from PennDOT? Todd replied that the driveway currently on the north side of the property would be moved to the south side and a Highway Occupancy Permit would be needed. Kerry asked if this plan really needs to go through land development? Brian replied that because of the parking area, redevelopment of the building, change of use from residential to commercial. It fits the definition of land development, because additional impervious will be created by the parking area. Kerry asked if it is more than 10,000 sq. ft. and what does the engineer recommend? Brian replied that Council made some concession with Mr. Higgins and that has not gone very well. The Borough Engineer will review the plan under SALDO. Todd Beil stated that he would like to see a sketch plan. Todd Oessenick acknowledged that according to the Borough ordinance, for 750 sq.ft. he needs 5 parking spots. He will be using the upstairs for storage only. He will follow the zoning ordinances and he will try to avoid any zoning variance. It is not a retail based location, but a location for employees only. Ron Karasek stated that if Council decides to waive the Subdivision and Land Development Ordinance in respect to this project, then at the minimum the applicant file with the Borough "An Application Consideration of a Modification", Appendix No. 11 on the SALDO book. It is up to Council to grant the waiver. There are Stormwater requirements according to SALDO also.

On motion by Tony Curcio to request Appendix 11 be filed by Todd Oessenick and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

Council needs Appendix 11 completed. Brian stated that the modification asks for a specific section in the SALDO that is being requested. He said that the whole land development would apply. They would need a site plan per the subdivision requirements. Brian stated that from an engineering standpoint, he does not want to waive anything because it does meet the definition of land development. He wants a submission to conform to the ordinance to be reviewed by his firm. This would only to eliminate the step of going through the Planning Commission for approval. Ron stated

that he is not counsel to Mr. Oessenick. He might need counsel of his own to complete the form. Brian stated that it then has to be decided as to what project is small enough to waive everything and what project is big enough to go through the process. Council has been through this a couple times and it will only get worse. Todd stated that this project is so small he doesn't understand why the planning portion has to kick in for this particular project. George expressed his concern because the Borough has problems related to water because of development. He asked why Council would want to circumvent its own system and tell the Planning Commission that Council will make the ultimate decision anyway. Mr. Oessenick stated that he would complete Appendix 11 and have it submitted at the next meeting. Ron Karasek suggested that he submit the form before the meeting so Council has an opportunity to review it before the meeting. Ron stated that if he has any questions answering the form, he would be happy to answer them, but he cannot complete the form for him.

2. Emerald Forest Major Subdivision, John Seitz, owner/developer and Project Engineer, Don Fredrickson. Don introduced two neighbors of the property, Mrs. Kukla and Mr. Flood. They are looking for waivers on their project. He explained that they were before the Planning Commission last month and they made recommendations on a number of waivers.

Section 402.A.1 – The Applicant is requesting a waiver for the plan scale to be 1"-60'. On a vote of 4-0, the Planning Commission recommended that this waiver to be granted. **On motion** by Todd Beil to grant this waiver of Section 402.A.1 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Section 509.B.4 requires a one hundred (100') foot tangent between reverse curves. The Applicant is proposing a tangent of ninety-four (94') feet at a one location (near the southern end of the project) along the centerline while the two other tangents proposed between reverse curves are two hundred (200') feet in length. On a vote of 4-0, the Planning Commission recommended this waiver to be granted. George stated that there is already an existing problem on the other side of Genoga so what is being proposed for that first block going back to Railroad Alley. Don stated that it is out of the control of the developer because he does not own that property. It will be straightened out once it becomes the developer's property. There are parking issues on the south side of Route 512. **On motion** by Scott Parsons to grant a waiver of Section 509.B.4 and seconded by Kerry Gassler. Roll call vote taken. In favor: J. Faust, K. Gassler, N. Hinton, S. Parsons, T. Beil. Opposed: G. Hinton, T. Curcio. Motion carried with a vote of 5-2.

Section 509.C.3 and C.4 requires vertical curves i.e. the minimum length of a vertical curve for all streets shall be seventy-five (75') feet and the actual length of the vertical curve shall be based upon a certain mathematical formula. The Applicant proposes a forty (40') foot vertical curve on proposed Genoga Avenue nearest intersection with Alpha Road; and, that intersection is posted with a stop sign therefore reducing the speed of approaching vehicles. Also, the sight distance at the location is not impaired by the proposed geometry. George asked what this does to the driveway between the road and Pear Street? Don stated that they would be deeding a piece of property to the property owner so that his driveway would come out onto the new street and eliminate the lane out to Alpha. The developer will construct the driveway for him coming off of Genoga and substantially improve that area. Ron Karasek informed Council that this was not discussed at the Planning Commission meeting or if it was discussed it was not made part of the SALDO waiver so if someone wants to make a waiver of the SALDO on this item then it can be made a condition based on what the engineer just stated provided that that applicant is agreeable to that condition. On the drawing submitted by the developer, he owns lot 7, which is not buildable, so he will deed this property to the current property owner for his driveway. This will be added to the land development plan. On a vote of 4-0, the Planning Commission recommended that this waiver be granted inasmuch as it is in keeping with PennDOT requirements. **On motion** by George Hinton to grant a waiver of Section 509.C.3 and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

Section 509.E.5 requires a minimum radius of the Cartway edge at the street intersections to be twenty (20') feet for local streets. The Applicant proposes a radius of fifteen (15') inasmuch as a radius of the Cartway edge at the street intersections to be twenty (20') feet would require encroachment of the roadway onto adjacent property; and, large vehicles are not expected to use this roadway. George asked if it would be a problem with emergency vehicles? Don replied that they do not expect any problems. Brian stated that it should be adequate.

On motion by Scott Parsons to grant waiver of Section 509.E.5 and seconded by Kerry Gassler. Roll call vote taken. In favor: N. Hinton, S. Parsons, T. Beil, K. Gassler. Opposed: G. Hinton, T. Curcio, J. Faust. Motion carried with a vote of 4-3.

Section 509.E.8 requires that approaches to any intersection shall follow a straight course within one hundred (100') feet of the intersection. The Applicant is requesting a waiver to eighty-nine (89') feet in length inasmuch as the proposed roadway (at its intersection with Alpha Road) and the existing property has several physical constraints and a length of one hundred (100') feet would create an encroachment onto neighboring property.

On motion by Jon Faust to grant waiver of Section 509.E.8 and seconded by Nathan Hinton. Roll call vote taken. Motion carried unanimously.

Section 509.G.1 requires the minimum width of a local road Cartway to be thirty-six (36') feet in a residential area. The Applicant proposes a Cartway width of twenty-eight (28') feet with no parking along the western half/side of the roadway. Moreover, the proposed Cartway width would be consistent with the existing portion of Genoga Avenue and Alpha Road as well as many other streets within the Borough. On a vote of 3-1, the Borough Planning Commission recommended that the SALDO waiver be granted with two conditions i.e. parking only one side a maximum speed limit of 25 mph. The reason for the recommendation is that the Cartway is pre-existing with twenty-eight (28') feet that allows two travel lanes of ten (10') feet each with eight (8') feet for parking on one side. Moreover, the smaller width will involve less maintenance by the Borough, less Stormwater runoff and the proposed development will sufficient off-street parking. Don explained that Alpha is a 28' Cartway; Genoga to the south is a 28' Cartway. They will be posting parking and no parking signs and is indicated on the plan for one-sided parking. One side of the road has lots that are substantial including the east side, which will have three car garages including a driveway. A wider Cartway will impact the adjoining neighbors. Mr. Flood owns two lots on the west side of Genoga on the north side of Route 512, that area is R10 and the lots are now conforming necessary for development in a R10 zoning district with a 28' Cartway. If the Cartway (road) becomes 36' he would have two lots that are non-conforming lots according to the R10 district. There is a concern about parking. There is no parking on the north side of Genoga, residents park in the back or have garages. John Seitz informed Council that one of the reasons to stay with a 28' Cartway, is when you make the curve at Mr. Flood's property it would make the lot size on his yard and on the other side you have the hedges and shed of Mrs. Kukla. This project is filled with Stormwater issues and they are trying to conform to regulations by DEP and the Borough engineer to be in compliance. The 36' Cartway would not help the Stormwater issue at all. They are proposing to maintain the same Cartway that already exists on the north and south side of this development. Ron Karasek advised Council that they can agree with the waiver as agreed upon and recommended by the Planning Commission or Council can amend the waiver, as it deems necessary. Todd asked Brian Pysher, Borough Engineer, why he would approve a 28' street? Brian replied that 36' allows for parking on both sides of the street – two 8' parking lanes and two 10' cartways, with a 28, the street will still have two 10' cartways and one 8' parking lane. As far as travel goes it meets the ordinance of the Borough. The only issue is that parking can only be on one side. It reduces the amount of impervious cover and reduces the amount of street that the Borough will have to maintain in the future. Lewis Greenleaf, 402 North Genoga Avenue, and he questioned the lose of parking on his side of the road in front of his house. Brian stated that according to the plan before Council, it does include improving Genoga out to Route 512 although the Borough engineer in review letters to the developer has questioned it. The plan shows starting a couple hundred feet to the south of the property line, but it does include improvements to curbing or

cartway out to Route 512. Don stated that it is their intention to address that issue at the next level of submission, but tonight they are looking for the waivers from Council to proceed with their plan. Mr. Greenleaf is concerned about the speed that this road would create because of the potential that it is a short cut from Alpha down to Genoga bypassing the light at the intersection of Alpha and Route 512. John Seitz stated that at 36' the cars would go even faster. He does not believe that it will be a cut through street. Mr. Greenleaf reiterated that his concern is losing his parking in front of his house. Mr. Seitz said that the road from Alpha to Lehigh is going in whether it is 28' or 36', whether they need to take property or not it will go in. Mr. Seitz suggested that the no parking being on the opposite side as currently being proposed since no one is present to dispute that idea.

On motion by Scott Parsons to grant the waiver of Section 509.G.1 as stated and approved by the Planning Commission and seconded by Tony Curcio. Roll call vote taken. In favor: S. Parsons, T. Curcio, J. Faust, K. Gassler, N. Hinton. Opposed: T. Beil, G. Hinton. Motion carried with a vote of 5-2.

Section 509.L the SALDO requires that streetlights be placed at no less than two hundred fifty (250') feet and at all intersections and cul-de-sacs. The Applicant proposes three locations for proposed street lighting including the intersection of proposed Genoga Avenue and Alpha Road. The other locations are near the middle of the proposed roadway and at the southern end of the project. Based upon the Borough Engineer recommendation and upon motion made on a vote of 4-0, the Borough Planning Commission recommended that this waiver be granted on the condition that there be at least five street lights with staggering of these lights on each side of the proposed roadway.

On motion by Todd Beil to grant waiver of Section 509.L and seconded by Tony Curcio. Roll call vote taken. In favor: T. Beil, T. Curcio, J. Faust, K. Gassler, N. Hinton, S. Parsons. Opposed: G. Hinton. Motion carried with a vote of 6-1.

Section 509.G.14 requires that all storm discharged from residential lots to a street (or from a street to residential lots) shall extend from the street right-of-way a minimum distance of 2/3 the length of the longest adjacent lot dimension. The Applicant proposes that the storm sewers extend to the front yard setback. Upon a vote 4-0, the Borough Planning Commission recommended that this waiver be granted inasmuch as the site has environmentally sensitive areas including wetlands and it is the intent of the SALDO to pull Stormwater away from the front of a building and go through the back; and, the Applicant's proposal does have the Stormwater going away from the building. Don is requesting a modification from the original waiver request because they met with the DEP. Because of the potential of wetlands on this site, the developer has been informed that they have to build a culvert from the east side of Genoga to the west side conveying water from one side to the other. DEP has strongly insisted that they try to minimize the length of that culvert to the best of their ability. Their request is to construct the necessary culvert to the satisfaction of the Borough Engineer and DEP, but limit to 50' in length (one side of the right-of-way to the other side of the right-of-way). George asked who would maintain the culvert? Don replied that ultimately it would become Borough property so if it were shorter it would be less for the Borough to take care of. Ron Karasek informed Council that the developer has significantly changed the waiver request. There should be specific language regarding this request.

On motion by George Hinton to send this waiver request of Section 509.G.14 back to the Planning Commission to get their recommendation and table this issue and seconded by Jon Faust. Roll call vote taken. In favor: T. Curcio, J. Faust, G. Hinton, N. Hinton, S. Parsons. Opposed: K. Gassler, T. Beil. Motion carried with a vote of 5-2.

3. Troy Leidy. Troy asked Council for an update regarding Mr. Perin's alley. George reported that he has received a temporary Highway Occupancy Permit (HOP) from PennDOT. The committee drove the property to see where the road is going. Troy stated that the vehicles going back the "driveway" is already creating a large amount of dust. George stated that the committee, (Tony Curcio, Nathan Hinton, George Hinton) is recommending to Council that the alley needs improved. They need to install radius and curb. If he goes out the way that was initially proposed, he would

have to do a large amount of improvements. Scott stated that the material is being used as base. Kerry asked if there is a timeline to PennDOT regarding the Highway Occupancy Permit? Brian stated that PennDOT would not issue a HOP without comments from the Borough. He added that from an engineering standpoint, they do not want to see him use that entrance without the improvements. There is a concern about the definition of temporary. Jon asked if the Borough needs to take an official stand? George stated that the committee is making a recommendation in the form of a motion. Jon asked if no improvement is made beyond 100' back in the property would that create a problem? George replied that there is a great distance from Mr. Leidy's property to any other house. On Constitution Avenue, the water company has a building and the water runs down right through the road is going to go and the pipe runs under Cramer's. That is the pipe that is in question. That pipe would have to be moved. Troy asked if stone could be put down instead of the dust that is being disturbed. Brian added that when Mr. Perin submitted the land development to Wind Gap as a courtesy and it went before Council, the plan showed him accessing his property through Plainfield Township. Borough Council waived the subdivision requirements because he was not proposing anything in the Borough. Brian stated that they would be requesting the minimum requirements of the ordinance. Mr. Perin's original submission to PennDOT asked for a temporary HOP for 30 cars per day, but PennDOT stated they would hold it to 30 cars a day. Mr. Perin changed the amount to 75 cars and 75 trucks. He wants to use that drive as an access to the shredder. Ron Karasek stated that as far as Council is concerned, Mr. Perin has to resubmit to Borough Council before Council can comment on the matter.

On motion by George Hinton to make the temporary road come out where the road would be built, improve a minimum 100' by paving and curbing and seconded by Tony Curcio. After further discussion, George rescinded this motion.

On motion by Todd Beil to inform Mr. Perin that he must submit a plan for his RPM Project if he wants to have his entrance from Wind Gap because it is a substantial change from the plan that original reviewed and waived by the Borough and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

APPROVAL OF EXPENSES

On motion by Jon Faust to approve the expenses for the month of March in the amount of \$29,091.42 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

APPROVAL OF MINUTES

On motion by Scott Parsons to approve the minutes of March 5, 2007 and seconded by Tony Curcio. Roll call vote taken. In favor: G. Hinton, N. Hinton, S. Parsons, T. Curcio, J. Faust, K. Gassler. Abstained: T. Beil. Motion carried with a vote of 6-0-1.

On motion by Tony Curcio to approve the minutes of March 20, 2007 and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

SOLICITOR'S REPORT

Ron Karasek reported that all the matters being handled by his law office for the Borough during the month of March are outlined in a report. The report includes the meeting attended as Borough Solicitor.

Subdivision Matters: Wind Gap Development Group – Emerald Major Subdivision (Preliminary Plan) – request for SALDO Waivers for April 2, 2007 Borough Council meeting.

Land Development Matters: N/A

Zoning and Other Land Use Matters: Finalization of Borough Ordinance No. 457 (update of Ordinance 444 adopted 3/7/05) and advertising notice for same re: Stormwater Management Ordinance – Water Quality.

Developments on Outstanding Litigation: Preparation of Borough's Comprehensive Brief Contra to Weeasts' Request for Declaratory Judgment – Claim for Interest. Matter scheduled for oral argument on Tuesday, April 3, 2007. Board of Viewers hearing scheduled for April 23, 2007 re: Roberti condemnation.

Court Decisions on Borough Cases: N/A

Miscellaneous Matters: Finalization of ordinance and advertising – Borough Ordinance No. 455 - Nuisances. Finalization of ordinance and advertising – Borough Ordinance No. 456 – Unlicensed, unregistered, uninspected or inoperable vehicles.

Outstanding Items: East West Street condemnation (Grand Central property) – revised map received. Awaiting Applicant's approval before Planning Commission and Council can act on SALDO Waiver. RPM Recycling License Agreement and related Met Ed Agreements. PPL Cell Tower matter – delay in enforcement notice and related proceedings. Weeast lawsuit for Interest (pending (see above). Dentith Stormwater counterclaim (filed in response to Borough's injunction lawsuit and request for Borough' expenses) – no action taken and remains pending. Ordinance for loitering, begging and panhandling – pending. Ordinance for Office Staff pension – pending meeting the Principal's Representatives. Ordinance and Agreement to adopt Intermunicipal Comprehensive Plan.

Kerry asked what the status of Towns at the Gap and the agreements? Ron replied that he has spoken to Attorney Preston, who represents Manor Haven, and Ron needs a commitment that the Improvements Agreement has met with Atty. Preston's approval. Two changes have been requested, one that it is clear that the Borough will be paying for the Stormwater improvements down North Broadway and that it is the Borough's responsibility to obtain any easements necessary. Ron will put those provisions in the agreement. He will now go to the property owners to finalize. This would conclude the correct ordination of Seventh Street.

ENGINEER'S REPORT

Brian Pysher reported that paperwork has been received from PennDOT regarding the Posh Subdivision. It is an application for recording, so Brian will fill it out and return it to the Borough Office for mailing. Brian needs to speak with Jeff Karner regarding the property at the corner of First Street and South Broadway relating to the Posh Subdivision. He has spoken to Jeff Ott, Posh Consultant, and was informed that the wait at DEP is 8 to 12 months. Todd asked Brian for an updated copy of the Casio plan (Deli turned mattress store) because two minor changes were made to the plan.

NEW BUSINESS

1. Wind Gap Quarry Site – NPDES Permit Application Review. Brian stated that he met with Jack Muschlitz, Ron Karasek, Kerry Gassler and George Hinton back on May 18, 2006. Mr. Muschlitz was doing work in the quarry without a permit. He was told that he needed a permit from the Zoning Officer. The letter states that DEP has granted him his quarry permit, but a letter was received from DEP asking the Borough if he is in compliance with all local ordinances. If he would get his permit then the Borough would not have to address this letter at all. Ron Karasek stated that the letter should come from the person issuing the permit.

On motion by Scott Parsons to have the Zoning Officer, Darlene Plank, send a letter informing Mr. Muschlitz that he must obtain a permit by April 20, 2007 or if no permit is issued the Borough will write a letter to DEP informing them that he has not complied with the Borough Zoning Ordinance and seconded by Jon Faust. Roll call vote taken. In favor: S. Parsons, T. Beil, T. Curcio, J. Faust, K. Gassler, G. Hinton. Opposed: N. Hinton. Motion carried with a vote of 6-0-1.

2. Adoption Ordinance 455 – Re-adoption/updated Nuisance Ordinance. **On motion** by Todd Beil to adopt Ordinance 455 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

3. Adoption Ordinance 456 – Unlicensed, Unregistered, Uninspected Vehicles. **On motion** by Scott Parsons to adopt Ordinance 456 and seconded by Todd Beil. Roll call vote taken. In favor: T. Beil, T. Curcio, J. Faust, G. Hinton, N. Hinton, S. Parsons. Abstained: K. Gassler. Motion carried with a vote of 6-0-1.

4. Discussion Ordinance 457 Stormwater Management Act 167, Ron Karasek to advertise Ordinance 457 for the April 17, 2007.

OLD BUSINESS

1. Roberti Property – George Hinton reported that the Roberti building is down, ¾ of the concrete has been removed. The Borough has to be careful with disturbance at the site. The Borough received a grant to restore the streambed. He will keep Council informed.

2. Tattoo Parlor. Ron Karasek reported that the zoning permit issued to the tattoo parlor was issued properly. He met with the new Zoning Officer at the Borough Office. Ron contacted the Pennsylvania Department of Health, they have no regulations for tattoo parlors. He was instructed to contact the County Health Department, Northampton County does not have a health department. He contacted the Professional Occupational Affairs and they have nothing to control tattoo parlors. There are no other government regulations. He asked Darlene to confirm with Labor and Industry about inspections.

3. Scott Parsons reported that the committee for the Borough website met with Jon Trail on Thursday (Scott, Tony, Louise and Darlene) to review his proposal. It will cost approximately \$924 to get the Borough website up and running. It was decided that the website would have the domain name of windgapborough.gov.

On motion by Scott Parsons to retain the services of John Trail to update and maintain the Borough website at a cost of \$1,000 and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

4. George Hinton reported that during the Police department meeting, it was discussed that a curfew should be established at the Park. Nathan will bring this up at the next park board meeting.

5. Scott Parsons asked if a Fire Chief could also serve as a Borough councilman? Jon Faust is nominated for Wind Gap Fire Company Fire Chief. The Mayor stated that it is not a political opinion. Ron Karasek stated that the Wind Gap Fire Company is a private organization and it does not appear to be incompatible, but he will look into the issue and report back by the workshop.

On motion by Tony Curcio to adjourn the meeting of April 2, 2007 and seconded by Todd Beil. Council agreed unanimously. The meeting of April 2, 2007 adjourned at 9:31 p.m.

Louise Firestone, Borough Administrator