

MINUTES

**PLANNING BOARD**

**DECEMBER 11, 2012**

**LONG HILL TOWNSHIP**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Chairman, Mr. Connor, called the meeting to order at 8:00 P.M. He then read the following statement:  
Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in January, 2012.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

On a call of the roll, the following were present:

Christopher Connor, Chairman  
Brendan Rae, Vice-Chairman  
Charles Arentowicz, Member  
Jerry Aroneo, Mayor's Designee  
Donald Butterworth, Member  
Joseph Cilino, Member  
Guy Roshto, Member  
Michael Smargiassi, Member

Ashish Moholkar, 1<sup>st</sup> Alternate

Daniel Bernstein, for the Bd. Attorney  
Thomas Lemanowicz, Bd. Engineer  
Kevin O'Brien, Twp. Planner  
Dawn Wolfe, Planning & Zoning Administrator

Excused:      Sandi Raimer, Member  
                    Barry Hoffman, Bd. Attorney

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**EXECUTIVE SESSION** - It was determined that there was no need to hold an executive session.

**APPROVAL OF MINUTES**

The minutes of September 11, 2012 were approved as written on motion by Dr. Rae and seconded by Mr. Aroneo. Mr. Cilino abstained as he was not present at that meeting.

**PUBLIC QUESTION OR COMMENT PERIOD**

The meeting was opened to the public for questions or comments.

Mr. William Stroh, owner of property on Morristown Rd., said that the Planning Board held a discussion on October 23, 2012 regarding zoning on Morristown Rd. and at the conclusion then referred the matter to the Township Committee. It was his understanding that the Township Committee discussed the matter and referred it back to the Planning Board. He asked for the status of where the discussion stands.

Mr. O'Brien said that the Planning Board will be reconsidering the matter based upon input from the Township Committee. He said that they had thought that perhaps this evening would have been a time that that it could be done but unfortunately the agenda did not allow enough time to get to it. He said that this is something that the Board will deal with after it reorganizes in January and some type of a conclusionary memo will be prepared which will outline the recommendations of the Township Committee and how they dovetail with the Planning Board's discussion at the last meeting.

Mr. Stroh asked if he will be notified.

Mr. O'Brien suggested that he keep an eye on the Township website where agendas are posted.

Mrs. Wolfe said that she had Mr. Stroh's e-mail address and would e-mail him a copy of the appropriate agenda.

There being no other items of discussion, the meeting was closed to the public.

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**DISCUSSION – CONT'D.**

**COPPER SPRINGS/INDOOR SOCCER REZONING**

Mr. O'Brien said that the Copper Springs/Indoor Soccer property came to the Zoning Board of Adjustment in July of 2008 and they had an application before that Board for an interpretation of the Ordinance and wanted to know whether or not a use variance (d-2 variance for an expansion of a nonconforming use) was required in order to allow an expansion of the uses and structures on the property. The Zoning Board of Adjustment at its meeting on July 1,

2008 found that the Ordinance *does* require Copper Springs to come in for a use variance. At that point, the hearing concluded with Copper Springs stating that they would come in and prosecute a use variance before the Zoning Board of Adjustment. On October 7, 2008, that Resolution finding that the interpretation of the Zoning Board that a d-2 use variance was required was memorialized. The next event that he could find was in June, 2010 when the Zoning Officer was called regarding non-permitted uses at the property and he commenced enforcement action. In July, 2011, the Township stopped that enforcement action pending an application to the Board for relief. On August 5, 2011, the Indoor Soccer applicant requested a rezoning from this Board and on October 11, 2012 and November 22, 2012 the Board heard from Indoor Soccer concerning their application for rezoning and heard the reasons why they were prosecuting that application. He noted that this matter has laid dormant since October 22, 2011 and imagined that most of it was because of the Planning Board's schedule. He said that this has been the Planning Board's first opportunity to put them on the agenda.

Mr. William Harrison, Esq., attorney for the applicant, said that the applicant has been before the Board previously requesting a zoning change and there has been some dialogue both with the Board and its professionals concerning their proposed changes. Where they left off a year ago was with the Board agreeing that the appropriate way to proceed would be for the Planning Board to amend the Master Plan to reflect the proposed new zone that would include the property owned by Indoor Soccer, LLC and one adjoining lot and that the Township Committee would then go ahead and implement that zoning change through the adoption of an ordinance. At that point in time, he said that they had submitted a draft ordinance and received feedback on that ordinance from the Board's professionals and also submitted a draft of a Master Plan amendment. One of the things that was to happen was for them to get feedback on that and the other thing that was going on was that they were having discussions with the NJDEP as to what facilities would be permitted under their flood hazard regulations on the property and they wanted to be sure that the proposed zoning amendments would be consistent with what the NJDEP would allow. Based on those discussions, he said that last week they submitted a revision to the Ordinance along with the Master Plan changes that they had previously proposed a year ago. At this point, he said that they would like to move forward and asked the Board how it would like to proceed.

Mr. Aroneo suggested hearing the applicant's presentation first.

Mr. Harrison replied that fundamentally what they are proposing is that a new zoning district be created which would be called a Recreational Facility-Commercial that would encompass the 3 lots which contain about 26 acres. In order to accomplish that, he said they are proposing that a definition be added of a Recreation Facility-Commercial which would be the primary permitted use in the zoning district that would allow a variety of recreational uses on the property consistent both with what currently exists and what his client seeks to do with the property. He said that one of the issues concerning both the existing use and what is being proposed is what constitutes a principal building on the property. He said that there is already a large dome on the property which is a permanent structure, a club house, and existing tennis courts. They are proposing an additional club house as well as some temporary inflatable domes. Currently the Ordinance allows in certain zones more than one principal building on a lot and the applicant is proposing to add the proposed new zone to that list of zoning districts. In terms of permitted uses, he said that they are proposing that commercial recreational facilities be allowed as that use is defined. They are proposing that single family detached residences with no more than one roomer or boarder per residence be allowed (which was taken from permitted uses in other zoning districts). He said that this Board in the past has raised concerns with not making the existing house on the third lot a non-permitted use. Although not in their original proposal, he said that they have added that to make the existing house able to continue as a permitted use. He said that there are currently within the buildings on the property some apartments and they are proposing that residential use accessory to the commercial recreational use be allowed. He noted that this is a use allowed in other zoning districts in the municipality. They are also proposing that signs, parking facilities, swimming pools, satellite earth station antennas, community open space and other customarily uses incidental to the permitted primary uses be allowed. They are also proposing that public utilities be a conditional use which is defined elsewhere in the Ordinance as to what the conditions of the conditional uses are. He said that the Ordinance currently has a long list of prohibited uses and the applicant is proposing that there be slight amendments to that so that 3 of those prohibitions would not apply to the Recreational Facility- Commercial zone because they are among the uses that either exist or are proposed for the property. He said that they have a set of bulk requirements which are consistent with the uses that exist and are proposed on the property. The one that there has been the most discussion about has been the maximum lot coverage where they are proposing 40% based on how the Ordinance currently defines how the lot coverage is calculated based on excluding the areas that are defined as critical areas. He said that they are also adding a note that would allow accessory uses and structures to be placed in front of the principal use and the issue is that it is not always clear as to which is a principal use and which is the accessory use and they don't want to be limited as to where they put the various recreational facilities that are being proposed based on an interpretation of what is an accessory or principal use. He said that they are also proposing that the current prohibition on development within critical areas be amended so that if the NJDEP authorizes the development within a flood hazard area, that that would be acceptable under the Ordinance (that the Township would not be stricter than the NJDEP's requirements as to what can and cannot be built in a flood hazard area). He said that they had originally proposed a number of parking spaces that were calculated based upon the uses on the property and he thought that it was either the Board or its professionals that objected to that and instead proposed that they would do that as determined by the approving authority when they came in and addressed the specific uses being proposed and so they revised their proposal to reflect what had been requested of them. For signs, he said that they are proposing that, in addition to the signs that are otherwise permitted in the Zoning Ordinance, they have one ground sign not exceeding 32 S.F. or a height of 8' that would have the name of the facility on it.

He said that the Master Plan is basically adding a few paragraphs addressing the Recreational Facility-Commercial use. The first paragraph notes that the two lots that are currently owned by his client have been used for recreational purposes dating back to 1959. He said that the existence of the facility was recognized in the 1995 Master Plan and then there is a paragraph that describes the importance of recreational uses in the Township (which has already been recognized within the Master Plan) and it goes on as to the role that this property has in meeting the need for those recreational uses and then goes through some of the basic standards that are imposed in the Ordinance concerning the use. He said that the last paragraph addresses the residential lot to the north and that the uses they are proposing are to accommodate the continuation of that use and then it goes through the addresses and lot sizes of the 3 lots that are involved with an attachment showing what the proposed change to the Zoning Map would be.

Mr. O'Brien asked Mr. Harrison if the ownership of the residential lot to the north has been concluded.

Mr. Harrison replied, "No" and explained that there are 2 co-tenants who own the property and 1 co-tenant (who is the person who had come to some prior meetings of the Board) has agreed to sell her interest in the property, however her co-tenant has not yet reached that agreement. He said that the co-tenant who is willing to sell has contacted a lawyer about how she can compel her co-tenant to join her in selling the lot.

Mr. O'Brien said that he and Mr. Lemanowicz had raised some questions as to the viability of keeping that lot in with the proposed zone, particularly if it is not under the control of the folks who are proposing this. He said that that is one of the sticky elements to this.

Mr. Harrison said that it probably made sense from a zoning revision to do that and to accommodate making the existing use continue as a permitted use is probably a more logical way in terms of zoning lines. However, if the Board determines it appropriate to keep it in its existing zoning, which would line up with what is across the street, they would not object to that. From drawing zoning lines, he said that it looks nicer this way and, as long as the use is a permitted use, he said that there is no adverse consequence to the property owner.

Mr. Connor asked the Board members if they had any questions or concerns.

Mr. Aroneo said that the applicant had mentioned the NJDEP and asked for more elaboration. He asked if they had met with them, sent them any plans, and/or have they responded.

Mr. Harrison replied, "Yes, yes, yes". He said that they have had discussions about what would be necessary in order to have them make a determination that the property is not in fact within a flood hazard area and sent them various maps on that issue. Based on those discussions, he said that what they concluded was that it would be more efficient for them to seek a permit under the flood hazard rules based on the uses that are permitted in wetlands and flood hazard areas and that they feel confident based upon the discussions that they *will* be able to qualify for the flood hazard permit.

Mr. Aroneo asked if any of it was labeled as wetlands.

Mr. Harrison replied, "Yes". He said that the plans they had shown the Board before shows both the wetlands and they have LOI's on both lots from the NJDEP. He said that some of the wetlands that are closer to the road (which are shaded) are in the area in which the FEMA mapping is showing as being in the floodway.

In response to Mr. Arentowicz, Mr. Aroneo said that it looked to him to be about 50% of the project.

Mr. Harrison said that it is probably closer to 40%.

Mr. Aroneo said that he was not talking about the existing development as part of the project. He was talking about what looked to him to be new structure and it might be *more than* 50%.

Referring to Hurricane Irene and Hurricane Sandy, Mr. Arentowicz asked how the property held up with the conditions.

Mr. Harrison said that it was not as bad as that mapping would indicate in terms of actual flooding. There was flooding in the parking area and he said that the road in front of the property does flood. He said that part of what led to their discussions with the NJDEP was the fact that the flooding was not nearly as bad as would be indicated on the map for what were abnormally large storms that had more rainfall based on nearby gauging stations.

Mr. Arentowicz asked if the facility was usable.

Mr. Harrison replied that he did not know how to answer that adding that you don't go playing tennis in the rain.

Mr. Arentowicz asked, if it wasn't raining, could you play tennis?

Mr. Harrison said that he thought much of the property would have been usable.

Mr. Steven D. Plofker, co-owner of the LLC that owns the property, was sworn. He said that there are two pieces to the property with a parking lot in between. Looking from the street, he said that the parcel to the right is the one that contains the steel supported dome structure that is being used for indoor athletic fields and contains a synthetic

rubberized turf. He said that the one to the left of the parking lot is where the old pond was and some outdoor tennis courts. He said that the property to the right has been in continuous use. Because they were without power for quite some time, the facility wasn't open. He said that during the last storm (Hurricane Sandy), the facility didn't take on any water at all.

Mr. Aroneo said that the question was directed at the Hurricane Irene storm.

Mr. Plofkerr replied that there was no major impact. He said that some of the surrounding lawn area took on water but it didn't really impact any of the buildings whatsoever.

In response to Mr. Arentowicz, Mr. Plofker said that, to his knowledge, the parking facilities were usable. He said they have not used the property to the left of the parking lot since they purchased it and he could not talk intelligently as to how much water that it had on it or not.

Mr. Harrison confirmed that the road is subject to some flooding but said it seems to be a drainage problem with the road versus the whole area being flooded.

Mr. Plofker said that there are two small wetlands areas off the front road and they *did* flood and the apron also flooded temporarily on the street area but the parking lot itself remained quite dry. He said that the existing uses and those that they have designed were designed to actually take on water noting that the field turfs are built to either be outside or inside and the proposed tennis courts are Hard-Tru courts so, whether or not there is a dome over it, the water will flow through. He said that there was much less flooding than they anticipated on the bulk of the property.

Mr. Connor said that when the applicant appeared previously there was some question about how the heights were determined and some information passed that the mappers did not have a good measurement of the actual heights (ground elevation).

Mr. Harrison said that they have the contours of the property.

Mr. Connor said that it was his understanding that the FEMA maps, however, were based on some average elevation of the Great Swamp as a whole rather than on specific elevations.

Mr. Harrison agreed and said that one of the problems with the FEMA mapping is that if you look at that line versus where the contours are on the property, they don't match up and the water will be at whatever elevation it is going to be and that is not what the line is showing.

Mr. Plofker said that what was explained to him was that they had presented their evidence to the NJDEP that the flood line should be much differently and they have responded that they don't have enough evidence to base a determination and, if they wanted it to be considered, we would have to do the entire mapping of Black Run. He said that they checked with the Township and County to see if there is any more localized mapping of the stream.

Mr. Harrison added that the contours are so slight that it doesn't show up on any of the existing mapping – they are either at 5' or 10' intervals which doesn't help at all.

Mr. Plofker said that his engineers gave him a price and it was quite expensive and so they looked at a different way of accomplishing the same goal without doing a lot of off-site work that is less important to them. He said that the NJDEP said they felt they were eligible for these permits and their only issue is that, even if they receive the permits from the NJDEP to build in a critical area, it is still contrary to what the Township regulations provide.

Mr. Lemanowicz asked to see the map and then said that it is not the actual document (FEMA map that he was talking about). He said that there are two types of mapping that show impacts of flooding. There is the FIRM Map (which is the flood insurance rate map) and then there is the Floodway Map and they look very much the same. He said that the FIRM Map is basically for flood insurance. The Floodway Map actually shows the extent of the floodway and the flood fringe. It provides elevations of flood waters and gives you a picture as to where the flood elevation is on a particular piece of property. What he understood from Mr. Harrison is that that is not available for this project.

Mr. Harrison replied that this is showing the FEMA floodway line.

Mr. Lemanowicz said that in his conversations with Mr. Petry, he suggested that this area was not studied and, if it is not studied, you don't have the elevations.

Mr. Harrison replied that that is "absolutely correct".

Mr. Lemanowicz then said that that is probably the FIRM Map and not the Floodway Map, both of which have flood information on them.

Mr. Harrison said that his understanding from Mr. Petry (which is consistent from what he otherwise understood) is that, even where there is not a study, FEMA will do a map with a line and do it as a floodway but what it *doesn't* do is that it doesn't say the flood elevation is 103' (or whatever it is).

Mr. Lemanowicz said that in order to get that number you would have to study the hydraulics of the Great Swamp which, obviously, would be a *tremendous* project as Mr. Plofker found out.

Mr. Aroneo said that it is obvious that the Board has concerns about where this property sits in regard to the NJDEP hazard areas to our own critical areas. He asked how we would identify what we are dealing with and how do we measure that to say if we want to allow exceptions to our own critical area building prohibition?

Mr. Lemanowicz replied that, after getting all this information and speaking with Mr. Petry, he was surprised not to have him here because he could clear up most of this based upon where he got his information and he could speak in a fashion that he could help the Board understand what information he has, what he used, how good it is, etc.

Mr. Aroneo asked if that would include an LOI from the NJDEP.

Mr. Lemanowicz replied that an LOI is for wetlands, which is different. He said that there was an LOI referenced in a note but the last time we went through this they applied for an LOI but they had not received it back yet. He read the reference note which he said is curious because an engineering firm can't locate things – you need a surveying firm to do that.

Mr. Harrison said that, at that point, they had submitted to the NJDEP and they requested certain revisions to the wetlands line and those were done. He said that the NJDEP now has the wetlands LOI for the second lot and he could provide that to the Board.

Mr. Lemanowicz said that the map is admittedly not dated, but Mr. Petry sent it to him last week. He asked Mr. Harrison if he was now saying that it is superseded.

Mr. Harrison replied that the lines on the map are accurate but what he did not have is the NJDEP letter referencing those plans with him. He said that, since they had not been before the Board for a year and there are some new members of the Board, they wanted to bring everyone up to speed and to understand what the Board's issue were and then come back and make a further presentation which, hopefully, would then lead the Board to be willing to move forward. He said that they want to respond the best they can to their questions and, if the Board would like Mr. Petry here the next time.....

Mr. Aroneo interrupted and said that the second question he had concerns the residential use in that area. He said that the proposal is to incorporate at least one residence (and perhaps two) into a commercial area. He said that he did not think we have that anywhere else in the Township and asked Mr. O'Brien where else he could identify that. He said that he was not sure that he felt that it is good zoning to have a special zone created for a specific facility and then have two single family homes within that zone. He asked if the structures need to stay there or if they could be demolished as part of the plan?

Mr. Plofker replied that they are two single family homes in fair to good condition. They are both occupied and one is occupied by staff of the recreational facility and it is of use to them. He said that they have an agreement in principal to buy the other house if consent is received from the co-owner or judicial intervention. He said that they would prefer that they be allowed to continue as single family residences and they don't have a lot of other uses from them and are spending considerable resources, especially on the new acquisition, at the Board's request. He said that they have no intention of building any additional residences. He also noted that there is an apartment on the other piece of property that has been in existence for many, many years and they are simply asking that that be allowed to remain occupied.

Mr. Aroneo said that picnic groves are allowed by exception under Prohibited Uses and asked Mr. Plofker if that was something that is essential to his business or something that happens there already and he is just incorporating that into his plan? He asked if he was planning on having corporate functions in a picnic grove style.

Mr. Plofker replied that they have no intention of doing so, nor do they have corporate functions at their other 6-8 facilities. The previous owner of the site had one large picnic grove consisting of picnic tables ringing a large outdoor pond with tables, chairs, blankets, etc. He said that his proposal is to have a swimming pool big enough to field children's swim teams (although not regulation size) and around that there will be some seating and a very minor eating area (of 20-30 seats) that will go along with the existing snack bar.

Mr. Arentowicz asked Mr. Plofker what he planned on doing with the existing pond.

Mr. Plofker replied that the proposal is to fill it in and replace it with a much smaller swimming pool and 4 tennis courts. He said that he researched the feasibility of maintaining it and the amount of chemicals that are required to keep it swimmable is, in his mind, excessive. He added that they also feel that it is an outdated form of recreation.

Mr. Roshto asked what percentage of the property in the proposed plan will be covered area.

Mr. Harrison replied, "37%" calculated as the Ordinance does, excluding the critical areas as defined. He said that it will go from 25% to 37%, or roughly from 5 ½ acres to 9 acres.

Mr. Roshto asked if that was something the applicant would consider reducing? He felt that it seemed excessive and was curious why the applicant feels he needs that much of an expansion.

Mr. Plofker said that they do not plan to build buildings and the main part of the area is covered by tennis courts and they take up a fair amount of room but, on the other hand, they don't have a lot of people on them at any one time. He said that at the most a tennis court has 4 people on it at one time. Therefore, he felt that they are decreasing the *intensity* of the use on the property but using more of the property. He noted that the Hard-Tru courts drain very well and they consist of a clay-like substance under a couple of layers of subsurface. He said that, technically, it is an improvement but they do not look at it as though they are destroying anything, in fact they feel that it may *improve* the drainage on the site in many of the cases. He said that they are also removing the pond and putting in a smaller swimming pool which is the one real improvement that is of concrete.

Mr. Roshto asked how temporary the domes will be and asked if they will be up year round.

Mr. Plofker replied that they typically put them up some time during the month of October and take them down generally in March, although one of them may stay through April. He noted that the demand for tennis in the summer season is to be outdoors and the cost of cooling air supported structures is prohibitive. He said that he would have no issue with requiring them to be taken down in the period specified at the Board's discretion. He said that the dome on the other facility is a steel supported one which never comes down and he respectfully requested that that one be allowed to stay up year round.

In response to Mr. Roshto, Mr. Plofker agreed that the ordinance he proposed allows accessory structures to a height of 50' (for the domes only).

Mr. Roshto said that the way it is written it pretty much includes *any* accessory structures.

Mr. Harrison acknowledged that he understood the issue and said that it could be rewritten so that it is limited to the temporary domes.

Mr. Arentowicz asked Mr. Harrison for his interpretation of a principal structure and whether you can put buildings in front of them or not, or what would he like?

Mr. Harrison replied that, in a normal interpretation, the existing clubhouse would be viewed as the principal structure and they are proposing a second clubhouse, but in either event, portions of the tennis courts which would normally be viewed as an accessory use are going to be in the front yard relative to those principal structures. In the reality of the use of the property, he said that the tennis courts are really what the principal use of that lot but, under normal zoning terminology, it is the building that is the principal structure and the tennis court would be viewed as accessory.

Mr. Bernstein said that in looking at the uses, most of them look benign but, as a lawyer, he said that it says "including but not limited to". He asked Mr. Plofker if these were the uses he was intending. The reason he asked the question was because he did some work for Bowcraft in Scotch Plains and he felt that under this definition "including but not limited to" it could include arcade games, shooting galleries, rides and things that he did not intend. He said that "including but not limited to" is lawyer language to open the door. He asked if the uses listed are the specific uses that the applicant intends to do and not *carte blanche*.

Mr. Plofker replied that he would request being able to use court games, aquatic activities, field sports, and a playground.

Mr. Bernstein asked Mr. Plofker if he was willing to take out the language which says "including but not limited to".

Mr. Plofker replied, "Oh, by all means". He said that the list is pretty inclusive of the uses that they intend and they would be happy to come back to the Board should something strange come up that they want to do.

Mr. Bernstein asked if there are other special events anticipated (other than birthday parties), such as Sweet Sixteen parties?

Mr. Plofker replied that he encourages the members to use the facilities and rent them out for parties. He said that they would discourage something that they thought would be too large or too loud and that he would have no problem restricting parties to members.

Mr. Bernstein asked if meets are proposed?

Mr. Plofker replied that there will occasionally be children's swim meets in the evenings and on weekends and they will likely be in a league of 8 or 10 teams and will travel around. The age range would be from 6-15 years and it would be limited to youth swim meets. He said that it is not a big part of their business, nor are they a spectator business and they don't build stands. He said that parents like watching their children when they are performing so they have to make some provision, however they typically do not have seating for the parents for these events. At the Board's discretion, he said that they would like to have the ability to have a very infrequent children's tennis tournament as a courtesy to the USTA, who inspects all of the clubs.

With respect to the housing, Mr. Bernstein said that town's get into big problems once they have employees living there, restaurants, etc. He asked if the tenant would be one family (such as the general manager and his family) or is it a *number* of people.

Mr. Plofker said that, in his limited tenure, it has been both. It has been unrelated members and it has been one husband and wife. Again, he said that it could be at the Board's discretion and is not an issue for him and that whatever the Board chooses to do would be acceptable to him.

Mr. Bernstein said that he would assume that planners would want a distance between buildings. He said that the scheme presented gives front and rear setbacks but usually there is also a restriction/limitation on a property of the proximity of structures to one another.

Mr. Connor asked if the tennis court surfaces are considered to be impervious or pervious.

Mr. Harrison said that it was his understanding that the NJDEP would consider them as pervious surfaces.

Mr. Lemanowicz did not know the specifics of the material, however the way the Township Ordinance is written is if it is covered with a material that inhibits or reduces (not necessarily *prevents*) infiltration, it is considered impervious. He noted that we consider wooden decks and gravel driveways impervious. In addition, since the dome is water tight, once it is there it is impervious. He said that we are not really interested in the tennis court surface if there is an impervious cover on it.

Mr. Connor asked if the domes are anchored in such a way that water can flow onto the tennis courts.

Mr. Plofker replied that their typical installation is to do poured concrete footing around the perimeter and that anchors the dome. He said the pressure exerted is one of holding it down. He said that it can be done by a non-continuous footing that would actually permit the entire surface to flood and drain, although that is not their preferred way to do it. In response to Mr. Connor, he said that two of the existing tennis courts are asphalt material and the rest are the Hard-Tru clay-like substance.

Mr. Connor asked, since a couple of the courts are already asphalt (impervious), he asked Mr. Plofker if it was possible that he would be reducing the amount of impervious surface.

Mr. Harrison replied that that is something that they need to look at as they get to the design and they are not there yet. He said that the real issue here is making sure that the stormwater is going to meet the requirements of the Ordinance and the NJDEP. He said that there are some issues in terms of the existing development on the site where they may be able to decrease the amount of runoff from what is currently occurring.

Mr. Connor said that one of the objectives the Board has, when possible, is not to just keep the runoff the same, but to implement methods that reduce runoff.

With regard to traffic patterns, Mr. Roshto asked Mr. Plofker if he had a maximum number of members he was expecting in the future.

Mr. Plofker replied that he did not, although he said that he could give a rough estimate of the number of people who would be using the facilities at any one time. He said that typically a tennis court has a maximum of 4 people and there is an average between zero and 4. Assuming there were to be 4 people on each of the courts, he said that they are proposing 12 courts plus the existing 6 (or 18 courts) times 4 people which would compute to less than 80 people using the tennis courts at one time. He said that it is very rare except for some Saturday or Sunday mornings that you would have all of the courts in use. He said that, with a swimming pool of this size, 50 people would be a really busy period and would be unusual. However, if you added 80 + 50 and add 10 staff members, it would give you an idea of the maximum number of typical bodies. He said that the thing they have found that the uses during the busy summer are different than the ones they have in the winter. He said that there are fewer bodies in the winter because the pool is not in use and the other outdoor activities are confined to indoors. He anticipated that the summer will be the busiest time, with weekends being the busiest.

Mr. Roshto asked Mr. Plofker if he anticipated having multiple events at the same time such as a soccer event, birthday party and the use of the tennis courts.

Mr. Plofker replied that during summer weekends, the facility is really reserved for member's use since it is too busy a time for use as anything else. He said that the camps are pretty much Monday-Friday and there is a limited period of 10 weeks in the summer that they occur and the rest of the time, Monday-Friday during the non-summer hours, is the slowest time of the week. He said that the afternoons during the week and weekends during the winter season is really children oriented for the most part, especially in the field dome and in the tennis courts it is a mixture of children and adults.

Of the 150 people on a roughly daily basis that are there, Mr. Roshto asked Mr. Plofker if he had a percentage of how many of those would be Long Hill Township residents.

Mr. Plofker replied that he did not.

Mr. Roshto said that he asked the question because the element proposed says that one of the main reasons for changing the zone is that Long Hill Township residents have expressed a need for within the Township subject to site plan approval. He was curious where that came from. Having expressed a need, he asked who are these residents and how he went about determining that they expressed a need.

Mr. Harrison said that the language reflected findings that were in the Master Plan concerning the need for recreational facilities in the Township and their making a “very small jump from that” that providing additional recreational facilities within the town would help meet that need.

Mr. Connor agreed that the Master Plan does indicate in some sections that the Township is looking for additional recreational areas. With regard to parking, he asked Mr. Harrison if he had any ideas on how to estimate how many spaces are needed.

Mr. Harrison replied that in their original proposed ordinance they had come up with a way of calculating based on the different uses that were there and the extent that they would overlap and not overlap and what the Township came back to them with was a preference for a more generic language that they have in there now that will be determined when they seek site plan approval at which point they would have to present specific evidence. He said that he could recreate what they estimated the parking demand to be for the different uses and how it was calculated and present it at a subsequent meeting. They felt comfortable that the parking on site would be adequate for a typical busy period of time.

Mr. Plofker added that they considered the uses and the size of their 6 other facilities to come up with their estimate.

With regard to the two residential facilities on the site, Mr. Connor said that they will not be used as rooming houses for the applicant’s employees and there will be some language that will limit the number of people in them.

Mr. Plofker replied that whatever the Board feels is most appropriate will be acceptable to him.

Mr. Harrison said that with the language they used it was intended to tie in to the provisions for accessory dwelling units and was aimed at a family and not a bunch of unrelated people living together.

Mr. Connor said that he was thinking that the applicant may have some temporary staff members holding camps, etc., and whether they would use a residence for them to stay for a month or two during the summer. He asked if that was in the plans or not.

Mr. Plofker replied that they might occasionally have that need and, if permitted by the Ordinance, they would do it. However, if prohibited by the Ordinance – it is not a main part of their business (to house employees).

Mr. Bernstein said that the reason he brought it up is that the first set of users is obviously of a higher type but he was afraid of what might come down the road. He also said that, from experience enforcement is impossible, therefore it is best to tighten the Ordinance.

Mr. Lemanowicz noted that Mr. Plofker had provided counts for the swimming pool and tennis courts, however he had asked about the existing dome and sports field underneath it.

Mr. Plofker replied that it was not anticipated to have a lot of weekend summer use because it is too hot in there, although they do have fans and the sides roll up, but it is not air conditioned. He said that there will be some summer camp activity (but limited) and the main use of the facility is in the non-summer hours, noting that it is mostly a children’s training facility on weekdays Monday – Friday (including week night hours) and on weekends in the off season.

Mr. Lemanowicz asked, if a game of soccer is going on and parents are there, how many people are we talking about?

Mr. Plofker replied that the field is divisible by nets that are pulled across and he imagined that at the most crowded time if there are 3 or 4 different teams training there at any one time you might have 50 different people on the field at one time.

Mr. Cilino said that he heard the terms “swimming hole” and “swimming pool”. He asked if he was to assume they are interchangeable terms.

Mr. Harrison replied, “No” and said that it is a distinction between the existing swimming pond or hole (which will be filled in) and the proposal for a newly constructed concrete rectangular swimming pool. He said that there is a swimming hole there now and there *will be* a swimming pool.

Mr. Cilino asked if it will strictly be for children swimmers ages 5-16 years.

Mr. Plofker replied, “No” and said that that will be the only competitive/tournament use of the pool (for swim meets). He said that there will be recreational use of the pool for the members of the facility and he assumed there will also be a children’s component for smaller children.

Mr. Lemanowicz asked Mr. Plofker to provide the locations of the 6 facilities he had referred to.

Mr. Plofker replied that he would and said that the facility which he felt is most comparable in location and size is called “Center Court” and is located on N. Passaic Ave. on the border of Florham Park and Chatham Borough. It has 8 permanent indoor tennis courts and 12 outdoor tennis courts with 3 separate inflatable structures that come up

and go down at the end of the season. It also has a swimming pool that is approximately the same size. He said that he also has a club formerly called “Twin Oaks” and now called “Center Court of Morristown” which is located in Morris Township and includes an ice skating rink and two permanent indoor tennis courts and a new small gymnasium. The Chatham Borough facility also includes a fairly large gymnasium and indoor training facility. Twin Oaks includes six courts that are outdoor hard courts which are domed over the winter as well as one competition court that is a red clay court. They have a facility that is opening in Marlboro Twp. that presently has six permanent indoor tennis courts and a gymnasium. He said that the gymnasiums are for the use of the members and in no case do they sell gym memberships. They have a facility in Mt. Olive that presently contains six indoor tennis courts in a permanent facility and a pool and pool area with approximately six outdoor tennis courts. There is a proposal there to build an inflatable structure for a field turf. He said that last year they were the operators of a municipal tennis court in Holmdel and they expected to do it again this summer. They also own a sporting dome with athletic field turf in Montclair containing approximately 25,000 S.F. which is smaller than the one in Gillette and also includes a small clubhouse but no tennis. They also have a small indoor training facility in Clifton.

Mr. Bernstein asked if they were approved by way of variance and site plan adding that the Board might be interested in how these other towns dealt with them. He requested copies of the approvals and ordinances to give the Board’s professionals an idea of how the other towns did it.

Mr. Plofker replied that they were all different.

Mr. Bernstein said that he still felt it would be helpful if they could be obtained and Mr. Plofker agreed to do so.

Mr. Aroneo said that some of it may not be totally relevant. He said that he was familiar with the Center Court in Chatham Borough which is actually a part of Florham Park because it is on the other side of Rt. 24. Because of that, he said that he was assuming that their Board really didn’t have much conflict with their residents as it is really a Florham Park issue.

Mr. Harrison confirmed that the approvals were actually granted from Florham Park. The indoor facility is located in Chatham and the outdoor portion of the site is located in Florham Park with the town line splitting the parking lot. He said that there are residential uses across the street which was one of the issues before the Board. He agreed to obtain copies of the approvals and submit them but noted that it was a pre-existing facility that his client was seeking to expand.

Mr. Bernstein asked for the zoning as well and Mr. Harrison agreed to supply that also.

The meeting was opened to the public for questions.

Ms. Phyllis Fast, Chairman of The Great Swamp Watershed Association’s Land Use Committee, did not have questions but wished to remind the Board that on April 24, 2012 their Executive Director, Sally Rubin, was present and they also had someone from The Great Swamp Wildlife Refuge in attendance. She said that they have concerns about the way the proposal would impact The Great Swamp and its hydrology and they would have attended tonight’s meeting but they did not have enough advance notice of this meeting.

Mr. Connor replied that it might be appropriate for them to submit their comments to the Board which would be shared with the applicant. He also said that there will also be other opportunities for them to attend during the full hearings.

Mr. Roshto requested that The Great Swamp Watershed Association and The Great Swamp Wildlife Refuge get copies of the proposed Ordinance and Element.

Mr. Connor replied that we have a document here and, if it is going to be revised, rather than have them comment on something that will be changed, he would prefer that when there is a public hearing and the Board takes action on the revised document, that we forward that to them rather than to give them a rough draft. He expected that there will be some revisions before action is taken.

There being no further questions or comments, the meeting was closed to the public.

Mr. Connor said that we need to provide some direction and he heard various recommendations that were made, most of which he felt sounded very reasonable. He asked Mr. O’Brien to if he wanted to prepare a memo to be forwarded to the Board or if we trust that the potential applicants will come before the Board with revisions taking into account the information that the Board provided. He then asked Mr. Harrison what he preferred.

Mr. Harrison preferred a combination of the two. He said that they would like feedback from the Board’s professionals on their proposed change to the Master Plan as to whether they would like to see any additions or changes to it. Based on the comments expressed tonight, he felt what makes sense is for the applicant to get revisions to the draft Ordinance that it provided to the Board and try and address the Board’s concerns.

In response to Mr. Connor, Mr. O’Brien said that he and Mr. Lemanowicz both prepared reports on the proposed Master Plan and gave comments.

Mr. Lemanowicz said that between his 12/9 letter and the one prior, that pretty much laid out his concerns. He said that his issue right now is the whole Critical Areas Ordinance and just what this site has on it that we should be worried about which he felt will be forthcoming.

Mr. Harrison said that he could have Mr. Petry provide additional information and have him give Mr. Lemanowicz a call. He said that it makes sense for him to appear before the Board in conjunction with their presenting the revisions to the draft Ordinance.

Mr. Lemanowicz said that Mr. Petry should give him some time.

Mr. Connor said that Mr. Harrison will get back to the Board with additional information to share with the Board's professionals and out of that will come some revised recommendations as to an Ordinance and Master Plan that will reflect comments and we can then move forward.

Mr. Plofker said that they will take as much time as The Great Swamp Watershed Association needs and asked if there is any other group that they should be working with. He said that they will try to be as environmentally sensitive as they can and they feel that the uses they are proposing are quite benign and won't have an adverse impact but they want to make sure that they have had an opportunity to provide input to them and they will look at their suggestions.

Mr. Connor said that the Recreation Commission came to his mind and whether or not we should get input from them. He said that they are in the process of developing a Master Plan revision and the Recreation Element is one that says that the Township needs more recreation.

Mr. Aroneo agreed that it would not hurt to at least have them aware this application is happening. He said that Mrs. Wolfe could direct the applicant to the Recreation Committee with a copy to the Recreation Director.

Mr. Roshto also recommended that the Environmental Commission be made aware.

Mr. O'Brien asked the Board if it wanted to make any comments based on what they have heard and read so far to give direction to the applicant as to whether or not a rezoning is the direction to go in or perhaps there is another alternative that the Board make think is a wiser choice, or some other option.

Mr. Connor said that obviously the rationale is a rezoning or go to the Board of Adjustment. He asked the applicant to address why he came this way rather than to go to the Board of Adjustment.

Mr. Plofker replied that there was a series of conversations he had with the Township Attorney and he requested that he advise him of how he wished to proceed and this was his suggestion (that they go for a rezoning rather than a variance).

Mr. Connor asked if any Board members disagreed with Mr. Pidgeon's suggestion. Hearing none, he said that he would assume there isn't.

Mr. Aroneo said that one of the things we have a need for in our Township is additional recreation and one of things he felt that the Township officials should do is to try to provide such things to the residents when they ask for it. He said that there are some hurdles here and the biggest one seems to be the environmental issues. He said that it is not clear where the NJDEP is and he was not clear what opinion they rendered and would like to see more about that since it is a sensitive area. He said that he would also like to see more on the wetlands and buffers and when he sees more on that he can think more about the project itself. He felt that lot coverage is going to be an issue also noting that 40% is proposed and he did not think that exists anywhere else in the Township.

There were no further comments.

Mr. Connor thanked the applicant and said that the Board looks forward to hearing from him in the future.

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**ANNOUNCEMENTS**

Mr. Connor announced that this is Mr. Smargiassi's last meeting and that he informed him that he was going to have to resign effective at the first of the year. He said that he will be missed and provided great input to both the Board of Adjustment and the Planning Board. He said that he wished he could stay but he *did* understand that sometimes the requirements of both job and family get hard to manage. He wished him good luck and asked him to return when he is again available.

Mr. Smargiassi thanked the Board.

Mr. Connor read a statement by Mayor Mazzucco concerning his rare and serious medical condition. He thanked Deputy Mayor Piserchia and other Township Committee members for their help and support during this difficult time.

**DISCUSSION/ACTION**  
**RESIDENTIAL BUILDING HEIGHT**

Mr. Lemanowicz said that the last time this was discussed the Board asked him and Mr. O'Brien to go through the Ordinance changes again and come up with some suggestions. He said that he also prepared an exhibit to help with the whole basement situation. He said that the last time we accomplished taking the use out of the definition of basements because the use of it really wasn't part of the issue, it was more the appearance of it. He said that we got that far and it sounded like the Board was leaning more toward a minimum to maximum rather than an average which can be revisited if that is the Board's desire. He said that, although he and Mr. O'Brien both worked on it, he prepared it, so he asked that he go through the definitions and when he gets to the whole basement situation, he will present his exhibit.

Mr. O'Brien said that the basement definition remains as it is. He said that they added an average finished grade definition and there are 3 options of that. He said that they revised the height of the building and also revised the lowest floor, as well as story. He said that someone handed out a definition....

Mr. Roshto said that he took the liberty after reading the excellent document that Mr. O'Brien and Mr. Lemanowicz put together to put a proposal to hopefully move this along this evening. He said that what Mrs. Wolfe passed out to everybody is his recommendation on how the Board can move forward on this tonight, if possible.

Mr. O'Brien said that they were trying to maintain the average finished grade for discussion purposes to see if the Board wanted to keep that in consideration or go back to the minimum and maximum that we currently have. He said that, if the Board is interested in a change, the proposed definitions that he and Mr. Lemanowicz suggested would accomplish that.

Mr. Lemanowicz said that it sounded like the Board was going to go with the minimum to maximum.

Mr. Connor said that the Board was indecisive and the feeling of the Board on the two major issues that were addressed was 3 to 2. He requested Mr. Lemanowicz to briefly go into the alternatives and then move forward.

Mr. Lemanowicz said that using the average finished grade rather than the minimum grade gives a little more flexibility for those houses that have a very small area that is nonconforming. For instance, he said that if you have a basement entrance but most of the basement is still buried, you are not punished by that small area. By using the average, it averages out and you can compensate for it in other ways. He said that the way he has typically done it is that you take spot elevations at 10'-15' intervals around the perimeter of the building and then he added a line about abrupt changes so basically if you have a retaining wall that comes into the side of the building, you have got to hit the top and the bottom and average those two, which is the average finished grade. He said that the other method you could have is that you take the average finished grade, instead of against the building, some distance away from the building and that prevents the house with a "volcano look" where they grade up to it just to make the grade higher. It forces the property owner to blend it. He noted that some fire departments like that because you don't have a drop-off right next to the building and it allows for a flatter area around the building in which to place a ladder. He said that, currently, it goes from the lowest to the highest and it has the potential to be an issue. However, if the Board wants to keep it that way, that is always an option. He noted that it is stricter to go from minimum to maximum.

Mr. Connor wanted to discuss all of the issues at one time because they are interrelated. He asked Mr. Lemanowicz to discuss the lowest floor and story.

Mr. Lemanowicz said that he tried to remember where we use the lowest floor. He said that the lowest floor is only mentioned in the Flood Protection Ordinance and it has to do with protecting from flood damage. He believed that those ordinances were prepared by FEMA in order to get insurance coverage in the Township. He cautioned that we should be sure that it doesn't do something that we don't want it to do and acknowledged that that section was hard to read.

In response to Mr. Roshto, Mr. O'Brien said that the primary problem they were worried about is visibility in a mass so that if this was clearly a garage and only a garage door was visible, they thought that this would not count towards the height.

Mr. Roshto said that, as Mr. Lemanowicz correctly pointed out, this is not used in an ordinance *except* flood ordinances and so it is irrelevant to put something like that into the definition, in his opinion.

Mr. O'Brien added, "Unless the Board wanted to clarify it". He agreed that it would not affect the height.

Mr. Roshto felt that it makes it more ambiguous of what the reason for that definition is because now someone could come in and interpret that they wanted it related to the door of the garage. It did not make sense to him.

With regard to story, Mr. Lemanowicz said that the Board talked about an ordinance that he had that was 50% and he prepared an exhibit that shows 40% and 50% just to show what it looks like. He then proceeded to describe two exhibits he had prepared, one of which showed the grade from side to side and the other showed the grade from front to back.

Mr. Connor asked the Board members if they had a preference for average grade or front to back. Also, in defining what a story is and assuming that the Board would consider using a percentage, he asked for the Board members opinion on that issue.

Mr. Roshto said he has yet to have been shown the benefit of changing our building height using average grade. More importantly to him, he said that we are actually changing this from a building height definition and it is going to open a door that he was not sure should be opened. He was opposed to changing the height of the building. He said that he likes simple and that complexity is always a problem for him. He liked the idea of measuring from the lowest distance to the top of the peak which he felt is simple and easy to understand.

Mr. Cilino agreed.

Mr. Smargiassi questioned if this is not being made overly complicated. Based upon the background that was provided about some of the variances that were needed at the Board of Adjustment, many of those people would have needed height variances regardless of whether we used average grade or not given the steep slope nature of their lots. He felt that the average grade calculation is overly complicated. If the Board was to go that route, he said that he would want the offset from the structure used but his feeling was that the height should be kept unchanged in the definition. He said that he liked the drafts that Mr. Roshto distributed for both a story and a half story and felt that they should be changed and adjusted as suggested.

Mr. Moholkar agreed. He felt that if you have the maximum and minimum set there is less room for arbitration and less room for someone trying to cheat as opposed to trying to do some math such as making the basement 10' instead of 8'. He liked the idea of the average but felt that we fix more just by fixing the definition of the basement as a non-living space. He was not sure if we are getting rid of the nuisances because a lot of properties have hills.

Mr. Butterworth was in favor of the average finished grade. In the case of houses on slopes, he felt that the average makes a lot more sense.

Mr. Moholkar asked, what if you were to assign that to a specific location that we know is troublesome as opposed to generally for the entire town. He asked if that makes it more complicated or does it help?

Mr. Lemanowicz said that he would be concerned if one part of town had to follow one set of height rules.

Mr. Bernstein asked if we are talking about a situation where you have a height in the back that is different from the front or side, rather than a section of town where, because of the elevations, the front and the back don't match?

Mr. Aroneo replied that it might have to be individual property related rather than a section of town related.

Mr. Connor said that his response would be that you take Long Hill Rd. from Point A to Point B which would be one area. He questioned if there are one or two general sections where this would apply?

Mr. Aroneo recalled that this came to the Planning Board from the Zoning Board and when we asked for information on the number of applications that were affected by our current Ordinance, he felt it was minimal. – a couple per year at best.

Mr. Connor agreed.

Mr. Aroneo said that, to Mr. Roshto's point, this is a lot of complexity and discussion for one or two applicants per year who are affected by this. He did not think it would be helpful because another problem will be created for someone else (or many other people).

Mr. Arentowicz said that he was in favor of the minimum to maximum. He said that he had a real concern with the average potential to increase the height of a building four more feet. He also agreed that the average grade will just add more complexity.

Dr. Rae said that, for all the reasons stated, he was in complete agreement with Mr. Roshto.

Mr. Connor noted that Mrs. Raimer was not present and said that, at the last meeting, she favored average. He said that he could go either way but did not feel that it really matters because he could see at least 6 members who favor the minimum to maximum and he did not have a great problem with that. He said that it was clear that the majority of the Board did not want to have the Ordinance change and continue to have minimum to maximum. He said that there was also a recommendation that the Board did not need to mess with the story piece. He asked Dr. Rae to comment.

Dr. Rae said that he had not read what Mr. Roshto had put together but liked the changes suggested here.

Mr. Arentowicz said that he thought it was agreed at the last meeting that we need to take the use out of the story definition and he was in agreement with that and the 50%.

Mr. O'Brien said that there were two pieces to the 50% and one was 50% all the way around the basement and another was 50% of any one basement wall, and so the Board may want to consider that during its discussions.

Mr. Connor said that the story definition that Mr. Roshto had was “any basement with more than 50% of its walls exposed above grade”. He said that that assumes all 4 walls in the calculation. He said that he offered the members to either agree with Mr. Roshto’s definition of a story and the use of that also in half-story. If there is agreement on a percentage, he said that we could get rid of this completely.

Mr. Aroneo agreed that it was okay as written but said added he *did* like the 50% that Mr. Roshto put in about any basement with more than 50% of its walls exposed shall be considered a full story.

Mr. Butterworth, Mr. Moholkar, Mr. Smargiassi and Mr. Cilino agreed.

Mr. Connor suggested that official action be taken so that it could be turned into a document.

Before taking a formal vote, Mr. Roshto asked if the other two definitions that he proposed could be fixed.

Mr. Connor agreed and said that it sounded to him like the majority of the Board was in favor of all 3 of Mr. Roshto’s recommendations. He asked for a member to move all 3 recommendations as an Ordinance change.

Mr. Roshto said that he did not know if the Board discussed lowest floors or half-stories, therefore he was not sure if the Board was or was not in favor.

Mr. O’Brien said that the lowest floors should remain as is – it is not a height measure.

Mr. Roshto said, however, that the Board may want to take the opportunity to fix it. He said that he read it, found out where it was being applied in the ordinances and then when he read it again to see how that definition would actually work, what he discovered was that it was not clear. He said that, in the paper he distributed, the part that was not clear was that it doesn’t say below the lowest floor that *is* usable. He said that, in his opinion, the reason for the definition is that if you have some enclosure below the lowest grade, you want to protect that enclosure and do not want it to be a finished building because it is going to get wet, moldy, etc. and, therefore, it is very important to have an unfinished or flood resistant enclosure remain, however it needs to be clear that that enclosure is below the lowest floor, so he added language to make that clear. He said that he also removed “or storage” because it did not make sense to him that you are going to store anything in a flood environment like that. In the half-story, he said that it talked about a minimum ceiling height of 7 1/2’ but generally when you talk about *minimum* it is related to a requirement and, in this case, we are talking about a specification and the way he would read a specification is ceiling height 7 1/2’ or more to make sure that it is clear. He said that what *minimum* meant was ambiguous to him, so he added the “or more” there and removed the minimum. He said that he also took out the part that says “For the purposes of this ordinance” because it is redundant.

At Mr. Connor’s request and Mr. Bernstein’s suggestion, Mr. Roshto made a motion to recommend to the Township Committee an adoption to the Zoning Ordinance that accomplishes this.

Mr. Aroneo seconded the motion.

Mr. Smargiassi had a question on the lowest floor definition. He said that it states the lowest “floor” and asked if that should read the lowest “point” of the lowest enclosed area. He said that what is confusing is that you have the lowest floor, which he felt was really describing the lowest point, and then we say that it is below the lowest floor, so we are using the lowest floor to describe two different areas.

Mr. Roshto said that he actually thought about that and was nervous to make that change because there could be a technical reason why it doesn’t say lowest “point”. He agreed that if there is no technical reason, that makes sense.

Mr. Moholkar said that it was mentioned that this was liked (potentially) to FEMA’s definition.

Mr. Lemanowicz said that he was dealing with them on an almost daily basis now because many of his firm’s clients are doing a lot of FEMA applications due to Hurricane Sandy and what he would like to do is grab somebody and ask them to talk to him about the definition and ask if there is an update one. He said that as unclear as that definition was, he was afraid if we mess with it, even if we make it better, it might be a problem. He said that he would like to talk to them about what they were going for with this.

Mr. Roshto said that there are *very few* towns that have anything remotely like this.

Mr. Lemanowicz replied that, if it was all ours, we could do anything we want with it.

Mr. Roshto pointed out that if this was a FEMA definition, he would expect to see it more prevalent in ordinances and it is not there. This language is special to just a couple of places in the country.

Mr. Connor suggested that, if this is passed, we check to ensure that any changes that we make in the definitions does not affect us negatively due to FEMA.

Mr. Lemanowicz replied that that was fine.

To be absolutely positive as to what the Board just did, Mr. O'Brien said that using both Mr. Roshto's definitions and his memo dated December 10th, the current basement definition is remaining. The average finished grade definition is being removed. The current height definition is remaining. The lowest floor definition is being changed to Mr. Roshto's language barring some finding on Mr. Lemanowicz's part that this causes a problem. The story definition changes to Mr. Roshto's language and it is clear that 50% of *all* the walls exposed (and not 50% of any one given wall). Lastly, the half-story definition in Mr. Roshto's memo is also adopted. He said that, as Mr. Bernstein has pointed out, with the motion before the Board as well as a finding that the Board finds that the suggested ordinances are in conformance with the Master Plan, then the Board has the ability to vote on this.

Mr. Roshto said that he was expecting that the definition for basement and the other things that we are not going to be proposing to the Township Committee will not be in that proposal and that the only thing that we are going to put in the proposal are the 3 things that are being changed.

Mr. O'Brien agreed.

Mr. Bernstein said that he assumed that the Township Committee will send it back as an abundance of caution even though the Planning Board is recommending it.

Mr. Connor agreed that it will go to the Township Committee and they will return it back to the Planning Board for one last shot.

A roll call vote was taken. Those in favor: Dr. Rae, Mr. Arentowicz, Mr. Aroneo, Mr. Butterworth, Mr. Cilino, Mr. Roshto, Mr. Smargiassi, Mr. Moholkar and Mr. Connor. Those opposed: None.

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**DISCUSSION**  
**STATUS REPORT #9**

Mr. O'Brien said that his Status Report #9 was issued yesterday. He said that open items before the Board include the 10 Year Re-examination which was discussed at the last meeting. He said that the Board requested that he look at the last full Master Plan (1996) as well as the supporting documents to see what needed to be updated in the coming year. He said that a Master Plan or Land Use Committee will be appointed (he presumed) at the January meeting and when he meets with that group he said that he would have that information ready for them.

With regard to Open Space and Recreation, he said that this was discussed earlier in the fall and this has got to be done at the beginning of the year.

Mr. Connor said that he had had contact with Mr. O'Neill who said that what Mr. O'Brien had proposed meets with his approval and, he assumed, the Board's approval and we should go forward on that as quickly as we can.

As to the Highlands TDR, he said that they had been meeting regularly through October. They had a number of tasks to do to move that along and that also came to a halt. He said that when they have a committee meeting in January, he would like to bring the information that the committee wanted to receive to them and get that ball rolling.

Mr. Connor added that the committee included the former Township Administrator, so we need to bring Mr. Henry up to date and have a meeting.

In terms of ordinances, he said that the Board wrapped up the Building Height Ordinance this evening and so we are in pretty good shape when it comes to ordinances.

Regarding Fees & Escrows, he said that Mrs. Raimer was the committee Chair of that group and he believed that they did have a draft presentation ready with a report on several years worth of data. He believed that it just needs to be scheduled before the new Board.

Mr. Connor felt that that needs to get done quickly and asked Mr. Arentowicz if he had any additional information on the recommendations.

Mr. Arentowicz replied that they held a meeting 3 weeks ago and he believed that it is just a matter of Mrs. Raimer pulling it all together. He believed that Dr. Behr had written a legislative introduction that the group revised and changed. He thought that that was all that is left that needs to be done noting that Mrs. Raimer received the final input on the Zoning Permits that the committee did not have initially.

Mr. Connor said that he hoped the Fee & Escrow Study will come before the Board as soon as possible.

Mr. Roshto said that, at the last Planning Board meeting, the Board discussed having it come before the Board at the second meeting in January so that it could go to the Township Committee in February.

With regard to COAH, Mr. O'Brien said that the Township Committee did make an emergency appropriation of affordable housing funds for the Lounsbery Meadows complex. He said that the Township Committee had actually authorized a new spending plan back in July which was forwarded to COAH and they had not responded by the time

Hurricane Sandy hit. However, the Township Committee did authorize that money to purchase an emergency generator for the complex.

In response to Mr. O'Brien, Mr. Aroneo replied that the legislative process is not finished. It is still open. He said that there was approximately \$470,000 left and there are other uses for that money within Lounsbery's needs. He said that there is a plan to spend almost all of that money. He confirmed that the money has been protected from seizure by the State.

Mr. O'Brien explained that COAH does not have a quorum to meet and its staff has all of the plans that the towns put in but they haven't approved any of them. He said that ours has been sitting there since July. He understood from Mr. Pidgeon that there was a communication a couple of weeks ago when they said that our plan lacks some information, but they never told us.

Mr. Connor said that his concern was that \$500,000 was threatened to just return to the general coffers. He asked if any action has been taken to do that.

Mr. O'Brien replied that one of the courts ordered the State not to do it and advised that they did not have the right to do it because of the larger lawsuit that was going on about COAH and its methodology and the fact that COAH was not responding to the towns.

Mr. Bernstein confirmed that that was his understanding and said that there is also this Mt. Laurel litigation that is still pending and we all fear that the Supreme Court is going to come down heavy.

In response to Mr. O'Brien, Mr. Roshto said that a discussion is going on between the State and the Township with regard to the Lounsbery generator proposal – it is not an actual piece of legislation.

Mr. Roshto asked why the Planning Board is involved in this.

Mr. O'Brien replied that the Planning Board is responsible to COAH as well because of the Housing Element of the Master Plan.

Mr. Roshto replied that he understood but said that the Planning Board is not working on the Housing Element at the moment – it was passed a few years ago.

Mr. O'Brien said that it is on the list to keep the Board up to date because it is not finished. Even though we have a Housing Element, he said that all the plans that went to COAH back in 2008-2009 were never finished by COAH so it is still, from our point of view, an open item. He said that we were supposed to do a Developer's Agreement which we did not do because we did not receive guidance from COAH and, when we did submit our plan, we didn't get feedback. He noted that in July there was action on this concerning the spending plan which was a supplement to what we had sent in back in 2009, so that was an update. He said that he threw in the generator because that was spending the money from the spending plan that we sent down there in July.

As to the Architectural Standards, Mr. O'Brien said that he understood from Dr. Behr and Mr. Jones that they would be ready to come to the Planning Board in January, so it is just a matter of putting them on the calendar.

Mr. Connor replied that that could be the second meeting in January depending on the Board's workload.

As to Morristown Rd., Mr. O'Brien said that the Board must get a new memo from him which summarizes what the Township Committee had to say and then it will come back to the Board for its decision as to which way we go forward.

As to the Horse Farm Rezoning, Mr. O'Brien said that it is the same thing – the Board will get another memo from him which summarizes what the Township Committee has advised and that discussion will be moved along as well.

With regard to the Tifa sidewalk issue, Mr. Roshto said that it was his understanding that the Tifa property was purchased by another company.

Mr. O'Brien and Mrs. Wolfe replied that that explains the phone call they received.

Mr. Roshto said that he did not know if it was fact but it should be investigated. If it is true, he felt that the Board needs to take some action to move this back and proceed the way we were proceeding a couple of years ago.

Mrs. Wolfe said that a gentleman left a message for her saying that he was a *prospective* purchaser and wanted to know if she could tell him what the Township was looking for. She said that she then e-mailed Mr. Henry and Mr. O'Brien suggesting that they discuss it amongst each other and reply to the gentleman.

Mr. O'Brien said that he would communicate with Mr. Henry and respond.

Mr. Connor asked if the Horse Farm Rezoning could tentatively be scheduled for the second meeting in January.

Mr. O'Brien replied that it was discussed to put the Architectural Standards and Fees & Escrow for the second meeting in January. He asked if something should be scheduled for the first meeting in January, or keep that meeting to reorganizational items only.

Discussion of future meetings followed.

Mr. Roshto thanked Mr. Smargiassi for his service and said that it was a pleasure to work with him.

Mr. Aroneo agreed and said that Mr. Smargiassi's input had a tremendous impact on the community

Mr. O'Brien also noted that Dr. Rae will be moving to the Township Committee in January and wished him well.

The meeting adjourned at 10:50 P.M.

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DAWN V. WOLFE  
Planning & Zoning Administrator