

AMENDED MINUTES

May 27, 2014

PLANNING BOARD

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

Chairman Pfeil called the meeting to order at 7:30 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, 2014.

MEETING CUT-OFF

Chairman Pfeil read the following statement: Announcement was made that as a matter of procedure, it was the intention of the Planning Board not to continue any matter past 10:30 P.M. at any Regular or Special Meeting of the Board unless a motion was passed by the members present to extend the meeting to a later specified cut-off time.

CELL PHONES AND PAGERS

Chairman Pfeil read the following statement: All in attendance were requested to turn off cell phones and pagers as they interfere with the court room taping mechanism.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

Excused:

J. Alan Pfeil, Chairman
Suzanne Dapkins, Vice-Chairman
Guy Roshto, Member
Ashish Moholkar, Member
Gregory Aroneo, Member
Timothy Wallisch, Member
David Hands, 1st Alternate

Guy Piserchia, Mayor
Brendan Rae, Mayor’s Designee

Kevin O’Brien, Twp. Planner
Thomas Lemanowicz, Bd. Engineer
Dan Bernstein, Bd. Attorney
Cynthia Kiefer, Board Secretary

Ms Kiefer advised Chairman Pfeil that he had a quorum and could proceed.

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

PUBLIC QUESTION OR COMMENT PERIOD

Maria McCoy of Meyersville commented on an applicant’s comment from the last meeting which might have an impact on the application being heard this evening.

Committeeman Roshto advised the Board that the Township Committee discussed setting up a Master Plan Committee. The Mayor was in favor and volunteered to be a member of that committee. Committeeman Roshto asked for direction from the Planning Board as to the role of this committee and then read a statement that he had prepared. “The role of the MPC was to produce a comprehensive draft 2016 Master Plan for adoption by the Planning Board. The MPC will do this through the following actions: collect and organize background materials to assist in open public discussions and to add credibility to the final Master Plan, outline key Long Hill Township issues so that the Planning Board can systematically deliberate towards practical solutions to those issues, timely document each of the Board’s judgments and gain their approval in a repeatable manner, deliver to the Board the comprehensive draft Master Plan along with final background materials so that the Board may adopt it in 2016.”

Chairman Pfeil and Mrs. Dapkins felt that the statement was correct. Committeeman Roshto thanked them and stated that he would proceed with that. He noted that presently the committee consisted of Mayor Piserchia, Mr. Hands, Dennis Sandow, Patrick Jones, Board of Adjustment Chairman, Dr. E. Thomas Behr, Larry Fast along with him. He noted that the committee would give the Planning Board updates on their progress.

PUBLIC HEARING

RESTORE MEYERSVILLE LLC
596 Meyersville road
Block 14701, Lot 27

#14-01P
Prelim./Final Site Plan
Development Permit

PROOF OF SERVICE PROVIDED

In Attendance: John J. Delaney, Attorney for the Applicant
William Kaufman, Applicant
Karl Pehnke, Traffic Engineer for the Applicant
Christian Kastrud, Engineer for the Applicant
Gerald J. Legato, Attorney for "Concerned Citizens"

Chairman Pfeil outlined how the testimony would proceed. First, Mr. O'Brien would give an update on the process. Next the Applicant would be asked to proceed with their presentations. As they call witnesses, the Board will ask questions of that witness. Once the Board was finished questioning that witness, the meeting will be opened to the public for questions for that particular witness. Once all of the testimony has been completed and the applicant has finished his presentation, the Board will ask questions. The discussion will then be opened to the public for their comments in general on the application.

Mr. Bernstein swore in the Board's consultants.

Mr. O'Brien then gave an overview of the application to allow a *proposed* (G. Aroneo) fitness center to be built on Meyersville Road. It was proposed to be variance free. He noted that the engineering aspect of the application was missing at this point and that there was no objection to the checklist waivers that were being sought.

Mr. Bernstein stated that it was his understanding that there would be no engineering testimony this evening because the Board's consultants had not received revised engineering plans which were requested.

There was some discussion about future scheduling and it was determined that if this application was to be carried to the next available date, June 10, 2014, it would be on the agenda along with another application. The Morristown Road Rezoning issue tentatively scheduled for that date would be moved to a future date.

John J. Delaney, attorney with **Lindabury, McCormick, Estabrook & Cooper**, Westfield, New Jersey and attorney for the applicant provided a summary of the application stating that although this was a new application, it emanated out of the previous application (#13-07P). Unlike the old application, this application was free of variances. Much of the testimony and planning principles heard during the previous application, still applied here. He stated that the applicant and architect, William Kaufman, would explain how he had taken the comments from the previous application hearings and redesigned the facility. The traffic expert, Karl Pehnke, would be available for questions although Mr. Delaney felt Mr. Pehnke's reports spoke for themselves. He then noted the report from the Township of Long Hill's Police Department which concurred and supported Mr. Pehnke's testimony to the effect that there were no concerns and then read the report into the record.

Mr. Bernstein noted that this was a new application and if the applicant wanted something on the record, it was their obligation to present the testimony rather than refer back to the old application.

Mr. Bernstein swore in Mr. Kaufman.

Mr. Kaufman said that he was a member of the corporation, Restore Meyersville LLC and represented the owners. He also stated that he was a licensed architect with the State of New Jersey and has appeared before numerous boards.

Mr. Bernstein said that the Board recognized Mr. Kaufman as an expert witness in the field of architecture.

Mr. Kaufman said that he wanted to bring in an organization that would benefit members of the community as well as bring in outside people who would bring economic revenue to the local community of Meyersville. After extensive research, discussion, and feedback over the past several years, he was proposing a fitness center for volleyball for the "Archie's" site.

Mr. Delaney clarified that this site contained a defunct abandoned resale center and a single family home.

Mr. Kaufman proposed a volleyball training and fitness club for the site which he characterized as a recreational activity that was housed indoors. It was court-based and designed specifically for the number of occupants that would be utilizing a court at any given time as opposed to area-based which was something like a retail store where people come and go whenever they wanted. This would be a controlled environment meaning that no one would be on the site when they did not have a controlled time to be there with a specific training objective. Central Jersey Volleyball Academy, located in Flemington, NJ, would be the proposed tenant. He spoke highly of the director of the program, Kim Mottern. After doing extensive research, Mr. Kaufman and Ms. Mottern agreed that this use would be a seamless fit.

Mr. Kaufman stated that all the existing buildings on the site would be removed since nothing on the site was salvageable for a reasonable use other than storage. He noted that currently the lot was covered with almost 60% impervious coverage and there was an uncontrolled stormwater condition. The historic fill which represented an environmental issue, would be remediated through capping. The Licensed Site Remediation Professional (L.S.R.P) would be responsible for ensuring that the remediation complied with all state laws.

Mr. Kaufman said that there was no longer a model for fitness centers, health centers, etc. since they came in all shapes and sizes. He gave the following examples: spinning centers, yoga, pilates groups, gyms, and dance centers such as Jazzercise. All these were specialized fitness centers but were not listed anywhere. He said that some fitness centers had a multitude of these items. There were athletic clubs and there were court clubs which focused on a particular type of sport or particular type of training for a sport. Practice facilities were even more specific. He noted that in Morris County alone, there were two training facilities that were geared to ice hockey. This would be a fitness center. Specifically, it would be a volleyball training facility designed around this particular sport with a controlled environment with respect to when people arrive and leave, the number of people present, and the practice times. He stated that there was no specific definition however it fit into a *category*.

Mr. Kaufman noted that in the previous application there was discussion about scrimmages, however in this new application, the building was smaller and there was no longer the ability to host scrimmages. There would be no competitive events held at the facility. There would be no games with outside teams. The only games that would be held would be with those internal teams. There would be no referees, no spectators, and no additional parents. It would simply be part of the practice regiment.

Mr. Kaufman stated that the hours of operation would be 9:00 a.m. to 10:00 p.m. with the peak hours being 4:00 p.m. to 10:00 p.m. Monday through Friday. On Saturdays, practices usually die off by 8:00 p.m.

Mr. Kaufman explained that generally, the ages of the participants would be 11 to 18 with the prime ages being 13 to 17. It would be a drop off facility with a lot of ride sharing. If they came from a distance, the opportunity was there for the parents to go to the restaurants or shop downtown.

Mr. Kaufman described the practice time blocks as 4 to 6, 6 to 8, and 8 to 10. There were three (3) slots and three (3) courts. There was no set age per time slot.

Mr. Kaufman said that Kimberly Mottern had been running the organization for nearly ten (10) years. She has an impeccable reputation in the volleyball community and formerly with the Girl Scouts of America. He had heard nothing but praise from the parents as to how the organization has been run.

Because he has two (2) daughters in this program, Mr. Kaufman had the opportunity to personally observe how the facility operated. In addition to the research that his professional consultants had done, he had spent a lot of time just counting cars and spectators for weeks so that he was sure that there would be no traffic issues. Children arrive 15 minutes before the hour to prepare to go on court. On the hour, children leave. There was a 30 or 40 minute exchange time. It was not like dropping children at school where everyone has to be there at 8:00. He added, that although Mr. Pehnke had witnessed up to 24 cars, he had never witnessed that many.

Mr. Kaufman noted that he had submitted a traffic report by his expert, Karl Pehnke.

Mr. Kaufman summarized the use of the facility as a volleyball center designed specifically for the training and fitness development of primarily young women. During the off season, there would be boys as well. This would be the highest and most intense use that was proposed for this site. There was no room inside the building to do anything else. There was no overflow space so there was no loitering potential. There was no potential to host any type of competition. Economically, it would not make sense. It would be a private training area.

Mr. Kaufman then discussed site design. He had a rendered copy of the site plan which was marked **Exhibit A-1**. It was page 3 of 7 of plans prepared by **Kastrud Engineering** dated 03/26/14 in the board members' packets. His copy had some slight modifications to the landscaping as a result of some of the comments that were made which was why it was marked. This version had not been distributed to the board members because during discussions with the board professionals, it was felt that it would be confusing to continually distribute copies as changes were made. Rather, Mr. Kaufman wanted to issue a final set of plans to the board members that addressed all the comments made.

Mr. Kaufman explained that this was an aerial view of the site and although this was a new application, there were some similarities to the old application. To address the concerns that the long side of the facility was parallel to the road, the narrow side of the building now faced the street to lessen the overall visual impact on the streetscape. The building was slid forward to meet the 25 foot setback which also addressed a direct comment from the Board with respect to following the ordinance a little more literally. The parking in the front yard which was found to be objectionable was moved to the side. Setbacks were increased. Currently there was an existing building about three (3) feet from existing property line. The proposed building was over 31 feet to the nearest side yard where 20 feet were required. On opposite side, there would be over 116 feet. The existing buildings were right along the rear property line. The proposed building would be almost 82 feet from the rear property line where 25 feet were required. There was also a 25 foot buffer required between a residential use and a commercial use. To the east of the site, there was a non-conforming residential property and Mr. Kaufman proposed a substantial evergreen buffer along with a built up landscape berm which would be over and above what the ordinance required but he wanted to ensure that he was addressing some of the comments made at the previous application. Everything had been moved around and pushed to the center of the site.

Mr. Kaufman said that the site was accessed by a single drive from the front of the property. He then discussed the car circulation. He noted that this was how 90% of all small properties were developed. There would be 33 paved spaces, however in the event that every parking spot was occupied, there would be a small turn around area in the back. Only 24 spaces were required in their reports.

Mr. Kaufman pointed out that there were a number of trees that the project would preserve along the southerly part of the lot on Meyersville Road. He addressed comments from Mr. Lemanowicz and the Shade Tree Commission concerning a planting bed that had spilled over into the westerly side of the building and it was within a drainage swale area. The contour was adjusted so that no trees would be planted in that area.

Mr. Kaufman then discussed the infiltration basin which was located to the rear of the site, well within the setbacks. It was proposed for the northern section of the site. There were two (2) comments from the reports that he was addressing. One concerned the location of the gate and the other concerned the accessibility of the basin with respect to getting people down there so he was adding a ramp onto the eastern side. There would be a wood post-and-rail fence with wire mesh around the basin.

Mr. Kaufman explained that **Exhibit A-2** was a blowup of what was in the board members' files. It was a rendering sheet entitled "Elevations" dated 02/26/14 and prepared by **Wesketch Architecture**. **Exhibit A-3** was the A-101 floor plans dated 05-20-14, with the courts numbered.

Mr. Kaufman said that the building was designed in the "Meyersville Style". He referred to Sheet A-101. The building would be predominately two (2) sections—a front façade which would look like a storefront and apartments and the back which was the court space. The main objective was to draw from the vernacular of the community. The building would be traditional in style with a "first course brick belt course" as many of the buildings in Meyersville have. It was specifically outlined within the ordinance that the building relate harmoniously to others in the neighborhood and use materials and textures that were similar in their application. The entire front of the building would give the appearance of a two story building which was residential over retail. There would be large storefront windows which face the street, a porch structure that would provide a human scale element to the front, and roof pitches which were similar and consistent with the other buildings in Meyersville. There was a photo rendering of how the building would look along with the other buildings on the road.

Mr. Kaufman explained that the materials on the front façade were depicted on H-8 on sheet A-201. It would be a hardy plank clapboard grey siding which was the same material used on the Meyersville Inn and the veterinary building next door. There would be double hung windows that were 3-over-2, 6-over-6, divided lights with louvered shutters which were all consistent with other buildings in Meyersville. The roof pitch would be 8-on-12, again consistent with colonial structures. Moving to the west on the façade, there was a portion that related directly to the blacksmith shop on the neighboring property because the Historic Preservation Commission felt that there had been no sensitivity to that in the earlier application. The blacksmith shop was a stucco building with windows boarded over with shutters so he used the exact same stucco and window detail to emulate the service portion behind with the retail component in front. That theme would carry along the sides of the building. The larger façade would be broken up in accordance with the ordinance. There would be a series of expansion joints and shutters closing over windows. Also there would be a series of tall trees planted in the foreground in a vertical rhythm. There would be no public view of this side.

Mr. Kaufman said that the ordinance required that the facades be more dominant than the roofs. In the previous application there was a larger roof which was found to be objectionable. In this case, there would be a higher wall so that there would be a greater proportion of façade to roof.

Mr. Kaufman discussed the color scheme. The brick would be a classic red brick as was used in several other buildings in Meyersville. It was a common theme and it would be in the belt course only. There would also be clapboard which was also common. The stucco would be the only other material. It would wrap around the building and related to the blacksmith shop. All these materials were meant to relate to the ordinance, primarily Section 152. He discussed how the building was harmoniously related to other buildings in Meyersville, how the gabled roof and façade were consistent, all of which was guided by the ordinance.

Mr. Kaufman then described the building layout. As depicted on A-101 (**Exhibit A-3**), there would be three (3) labeled courts. There would be no overflow area, however, there would be a small area at the entrance to gather, to keep extra water bottles or volleyballs, etc. There would also be a small office and a mezzanine for children to stretch in the 15 minute period before their timeslot began. As a safety issue, they should not be sitting around the courts while the other participants were still playing. In the basement, there would be storage and bathrooms which were a building code requirement. There would be a storage locker along the front edge of the building for extra equipment.

In response to a question by Committeeman Roshto, Mr. Kaufman said that there were all existing trees along the western side of the building. No additional trees were proposed.

Mr. Aroneo asked for a more detailed explanation of the upstairs portion of the building. He mentioned that Mr. Kaufman had alluded to office space or apartments. He wanted to know if, in the event the volleyball use did not work out, what alternate uses would be considered.

Mr. Kaufman said that there were no apartments or retail proposed. It was an *architectural imitation* of apartments over retail.

Mr. Aroneo asked if the little pro shop area on the lower floor would be intended for the participants' use only.

Mr. Kaufman answered that in clubs such as this, the participants usually order the items they need so there would be no retail use. Some of those items might be displayed in there so that the girls could see them before they order.

There might have some items such as socks for those who might forget to bring them. It might also be a display area for trophies and banners. However, there would be no demand for the public to come in and buy a CJVA article.

In answer to the second part of Mr. Aroneo’s question, Mr. Kaufman said that currently there were no other plans for the site since he felt that this would be the best use for this site. Any other similar use such as basketball which was court specific, could fold into the facility simply. He also mentioned roller hockey. Any change would require an appearance before this Board to describe the use and to interview the new tenant.

Mr. Kaufman further explained that in a more dramatic conversion if everything went bust, the site could be converted to eight (8) second floor apartments all the way through by adding a floor. He referred to Sheet A-203 A-1 and suggested that a floor could be built in that space which would allow the eight (8) apartments with a hallway and fire exit out the back. The front portion of the building, because of parking limitations would have to be restricted to 5,000 to 6,000 square feet of retail or office. He would open a hole in the side to provide private parking for the residences above. There would be two (2) spaces per residence enclosed in a private garage and 34 spaces for the retail at one (1) per 200. Windows would be placed in the longer façades for those apartments.

Mr. Kaufman noted that currently the site was at almost 60% of lot coverage and that that would be reduced to 39.9% with the current proposal. However, if he were to go forward with another proposal at a later date, the lot coverage would already be at 39.9% and he would have to stay within that for any potential Board approvals in the future.

Committeeman Roshto asked, on the west side of the proposed building, if the trees shown on the rendering were existing trees.

Mr. Kaufman said that they were and that they leaned over the subject property. The canopy of the trees was larger than what was shown on the rendering and would obscure more of the building. He did not know the species.

In answer to a question by Chairman Pfeil, Mr. Kaufman explained that he had a ten (10) year lease agreement with the proposed tenant which would renew at five (5) years.

Mr. Wallisch asked if there was a potential for having adult volleyball practices.

Mr. Kaufman answered that during the *off season when court space was available*, one (1) court might be taken for adult games. He stressed that this was not an adult training facility. During the peak season, there would be no court availability for adult usage.

Committeeman Roshto asked if Ms. Mottern would have some sort of process to sign up adults.

Mr. Kaufman said it was not part of her business plan and she did not have it now, but there was the potential of having one (1) court occupied by adults. There was very little demand for “old-timers” playing competitively. He wanted to be clear that it was not part of the business model. It would not create anymore demand on the site. There was *no* plan to have all the courts occupied for adult leagues. There would be no reason and it would not generate enough revenue.

Committeeman Roshto said that Mr. Kaufman was asking the board members to consider this as a use and with that in mind, there had to be more detail.

Mr. Kaufman said that one court could be occupied with two (2) teams with a total maximum of 12 players.

Chairman Pfeil felt that that would throw off any testimony Mr. Kaufman might give with respect to parking.

Mr. Kaufman asked if he could confer with the tenant.

Chairman Pfeil called a ten (10) minute recess at 8:56 p.m.

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Chairman Pfeil reconvened the meeting at 9:10 p.m.

Mr. Delaney noted that Karl Pehnke was present and it was possible that he would not be able to attend the next meeting. He asked if Mr. Pehnke could give his testimony tonight and added that it should just take five (5) or ten (10) minutes.

Mr. Bernstein said that he had no problem allowing Mr. Pehnke to testify.

Chairman Pfeil wanted to ensure that the public had ample time to question Mr. Pehnke and Mr. Kaufman this evening. He suggested that there be no further questions for Mr. Kaufman after 10:00 p.m. If there were more questions, they could be heard at the June 10, 2014 meeting, if necessary.

All agreed.

Mr. Kaufman wanted to clarify the use with respect to the ages of the participants and the club. After discussing this with the tenant, he said she would agree to limit the court use to those ages 11 to 18 if this became an issue. Eliminating the outside adult team could be a condition to the approval.

Mr. Aroneo asked about ventilation in the building. He was concerned about open doors during the summer while the courts were in use.

Mr. Kaufman said there was only one door and it might be kicked ajar occasionally. The main part of the building was designed with ridge ventilation. There would be mechanical vents at the peak of the roof which would be operated by hand cranks. When they were open, the hot air would ventilate through the top creating a natural convection. The front area was closed off and air conditioned in the office area.

Mr. Aroneo questioned where those doors were located.

Mr. Kaufman said one (emergency exit) was located in the northeast corner facing the berm. It was approximately 120 feet to the property line facing the Great Swamp. That door would enter directly onto the court. It would be the only door in the space and it would be a three (3) foot door.

Mr. Aroneo asked if it would be economically viable if the facility were to close by 8:00 p.m. as opposed to 10:00 p.m.

Mr. Kaufman said that not every court was filled but all the time slots were used. The number of courts (3) and timeslots were necessary to make the model work.

Mr. Hands asked if there would be hours on Sundays.

Mr. Kaufman said he did not know.

Committeeman Roshto asked for the hours in writing for the next meeting and Mr. Kaufman agreed.

Mr. Moholkar asked about the ventilation louvers and court sounds.

Mr. Kaufman said that there were no studies for that and that the openings would not be very large. This building would be a steel frame building with a stucco exterior with sound transmission coefficient (S.T.C.) of at least 50. He explained that that meant that 50 could be subtracted from the number of decibels generated inside the building. As an example, he said that a freight train from 30 feet away would emit 60 decibels. With this building, the effective decibel reading with a freight train in the building would be 10 which was the equivalent of a human whisper.

Mr. Hands asked about the 150 foot wetlands buffer zone which was shown as a line right through the middle of the building.

Mr. Kaufman said that he would not testify about wetlands since there was a wetlands map. He did note that there were two (2) types of wetlands that affected the property and they have different buffers. One has a 50 foot buffer and one has a 150 foot buffer. There was only a small sliver of wetlands in the back. All the wetlands were subject to a Statewide General Permit No. 27 under the Department of Environmental Protection (D.E.P.) regulations. This was considered a redevelopment site and as long as those buffers met the D.E.P. criteria for redevelopment, they were not relevant to what was being proposed. They were under the jurisdiction of the D.E.P. so the maps were clear as to where the lines but they were not the traditional "we can't go near that" type of buffer because the entire site was a redevelopment site in the eyes of the D.E.P. because it was the subject of historic fill. Although there were wetlands buffers located on the plan, ultimately it would be the D.E.P.'s call as to whether they will allow him to build or not. This has been submitted to the D.E.P. and there has been a site visit and a project case manager assigned. Mr. Kaufman added that if they decided that nothing could be constructed on the site, they would have the final say. However, if they approve it, it would supersede the 150 foot buffer since they have the ultimate jurisdiction.

Mr. Bernstein confirmed that the D.E.P. has exclusive jurisdiction over the wetlands.

Mr. O'Brien asked if Mr. Kaufman had testified that the coefficient of the stucco was 50.

Mr. Kaufman said that that was incorrect. He had testified that the approximate S.T.C. rating of the wall assembly (stucco over steel with insulation board) was approximately 50.

Mr. O'Brien said that Mr. Kaufman's next statement was that with a S.T.C. rating of 50, it meant that there would be a reduction of 50 decibels from whatever the noise level was.

Mr. Kaufman answered that that was correct. He added that the perception of hearing from 60 Mr. Bernstein to 50 Mr. Bernstein was perceived by the human ear as *half* as loud—it's not a one-for-one ratio.

Mr. Lemanowicz referred to the trees along the west side and the conversation during the meeting of the previous week when Mr. Kaufman had indicated that these trees were leaning over the property and that he was going to trim them back to the property line which would be significant.

Mr. Kaufman said that he had discussed trimming them back if they interfered with the building. At that point in the conversation, they were discussing the drip line in connection with the swale. When he agreed to move the swale away, he said he did not have any way of knowing exactly how far those trees leaned. There was a graphic depiction of the canopy on the plans however if they were in the middle of the building, he would have to cut them back but he had no idea how far.

Mr. Lemanowicz asked if he could do actual measurements for the next meeting. He also reminded Mr. Kaufman that the Board and its consultants would need the maps that were submitted for the General Permits since there was a discrepancy within the plan set.

Mr. Kaufman said that he had found the discrepancy and it had been corrected. Updated copies would be distributed.

Mr. Lemanowicz asked if it was Mr. Kaufman's intention to leave the emergency door open during practices.

Mr. Kaufman answered that it was not his intention to leave it open. He had said that it was possible on a hot day that they might open it.

Mr. Lemanowicz said that if the door was not open, the ridge vent wouldn't do anything since any air going out the roof would have to be replaced with air.

Mr. Kaufman answered that that was correct but it would not be a one-for-one replacement. The building would not be that tight and there would be a lot of convection available with just the ridge vents. He also pointed out that the primary operational season was December through the end of May, not the summer months.

Mr. Bernstein asked Mr. Kaufman if it was his position that the proposed use would be a health club or fitness center.

Mr. Kaufman said it was his position that it would be a volleyball training facility and that it would be a similar use to health and fitness. He noted that he had given testimony in the beginning that there was no specific definition in the ordinance as to exactly what this was. It would be recreation with a roof over it. Because it would be court driven, specifically based on time, and a training site for volleyball, it would fall under health club or fitness facility.

Mr. Bernstein said that the only uses that would be pertinent would be health club and fitness facility.

Mr. Kaufman noted that in that section, under #9, it says, "...in the opinion of the approving authority substantially similar to any identified in the subsection."

Committeeman Roshto noted that the application listed the proposed use as "Fitness Center".

Mr. Kaufman noted that he had given extensive testimony to the fact that it could not be pigeon-holed into two (2) words. He felt it was up to the Board to make the determination on that use. He labeled it the best he could but the use was really a bigger description than those two (2) words.

Mr. Bernstein said the alternative would be "any other use in the opinion of the approving authority". If it was an alternative use that was similar, this Board would have to make that determination.

Mr. Kaufman said that "health and fitness center" was the closest description to the proposed use.

Mr. Bernstein asked, in respect to parking, if it was Mr. Kaufman's position that this was an open space and recreation facility since that was the closest Mr. Bernstein could find which provided for parking for a health club and fitness center.

Mr. Kaufman agreed but he wanted to defer to Mr. Pehnke.

Mr. Bernstein said, as far as open space and recreation, there was no specific number of spaces. It said, "As determined by the approving authority." So it would be up to this Board to determine what would be the required number of parking spaces for the facility.

Mr. Kaufman agreed that that was correct.

Mr. Bernstein asked for the area numbers for the basement, first, and second floors for the original application.

Mr. Kaufman said that he did not have that information however he noted that this application was smaller than the original. The gross square foot numbers to the outside of the building for this application would be as follows: the first floor court space would be 10,952 square feet, the front end of the first floor (reception/office) would be 834 square feet in addition to the court space, the second floor mezzanine would be 790 square feet, and the basement would 994 square feet.

Mr. Bernstein asked if Mr. Kaufman was a principle in the applicant corporation owning 50% of the stock or more.

Mr. Kaufman affirmed that he was.

Gerald J. Legato, attorney with **The Legato Law Firm, LLC**, Somerville, New Jersey, introduced himself to the Board and advised them that he was representing some concerned citizens of Meyersville who were opposed to this application.

Mr. Delaney asked that the concerned citizens be identified by name.

Mr. Bernstein felt that that was a legitimate request.

Mr. Legato named them as follows: Deborah Brown, Arthur MacDonald, Rudolph Zijdel, Loura Zijdel, Jason Brown, Anthony Cilli, Arthur Bontempo, and Judy Scilla.

Mr. Legato asked Mr. Kaufman if it was a recreational use that was being proposed.

Mr. Kaufman answered that he had already addressed this. He reiterated that it was a training and fitness facility for youth volleyball. That would be the specific activity and primary business use. It was his belief that that fell under the category of fitness but it was clearly a recreation activity.

Mr. Legato asked if recreation was one of the approved zoning uses in the Meyersville zone. It was a named activity ¼ of a mile away where the bubble was located.

Mr. Kaufman deferred to the Board Planner, Mr. O'Brien.

Mr. O'Brien said that the zoning officer decided that this was an allowed use and allowed it to appear before the Planning Board for site plan approval.

Committeeman Roshto asked if it was general practice for the zoning officer to base his decision on the application in front of him.

Mr. O'Brien said that he could not see any other way of doing it. It was what they were instructed to do.

Mr. Aroneo asked Mr. Bernstein if it was within the zoning officer's sole discretion to interpret the ordinance.

Mr. Bernstein affirmed that it was. Sometimes the Zoning Officer follows what the applicant says and sometimes an independent evaluation is made.

Mr. O'Brien said that a Planning Board or a Board of Adjustment could debate a use that was before them.

Chairman Pfeil asked where that process would start. He asked Mr. O'Brien to review the portion of the Land Use Ordinance that discusses permitted uses in that zone for the record.

Mr. O'Brien referred to Section 122.11 for the MH Meyersville Hamlet Zone. Section A read as follows: "The purpose of the MH Meyersville Hamlet District Zone was to preserve a quiet peaceful and unrushed corner of Long Hill. The Hamlet of Meyersville serves as a gateway to the Great Swamp National Wildlife Refuge, a major recreational asset and a defining feature of the rural essence of Long Hill Township." Among the permitted primary uses in Section B, under Item No. 2, were "health clubs; fitness centers" and other uses that were not associated. Under Item No. 9 it said, "...any other use in the opinion of the approving authority primarily intended to serve a village business function or which in the opinion of the approving authority was substantially similar to those identified in this subsection. "

Chairman Pfeil said that the application had listed fitness center as the use. It then went on to clarify to determine what part of fitness center this proposal would address.

Mr. O'Brien added that that language was common to the other village business districts in the community.

Mr. Legato noted that from the comments of Mr. O'Brien, that recreation was not one of the specific uses in the M Zone although it was a specific use in neighboring zones. He asked Mr. Kaufman if he was trying to qualify the use as being similar to a health and fitness facility.

Mr. Kaufman stated Mr. Legato had the answer to that question given his repeated testimony and the chairman's clarification that this proposed use falls under the broad category of health and fitness.

Mr. Legato asked if that was because it was similar to health and fitness clubs.

Mr. Kaufman stated that it was a volleyball training center that related closely to health and fitness.

Mr. Legato noted that he had described it earlier as "recreational".

Mr. Kaufman said it was a recreational activity. He noted that both "recreation" and "health and fitness" were two broad categories. He had testified to the specific use so that the Board would have a better understanding. It related to recreation because it was a court specific activity. It was not a retail activity because no one can just show up and play because it's regulated and scheduled. He felt that with respect to how it works and how it relates to parking, it's more like recreation. With respect to the use, he felt it was clearly a health center but it's not a retail fitness and health center because no one could just come in any time they wanted. It was very regulated. Therefore it fits two

(2) definitions. He felt it was clear from the beginning from this and the previous application, from the professionals' testimony and reports, that this was a permitted use in the zone.

Mr. Legato referred to the ordinance that defined "retail service use" which listed "health clubs; fitness centers" as permitted uses and asked Mr. Kaufman why, given that definition, this was not a retail service use.

Mr. Kaufman answered that he had already entered into testimony the reasons that this use was similar enough to fit under the broad category of "health club" but not specifically under "retail". He noted that nowhere in an ordinance was the use "volleyball training facility" listed so he had to find the closest fit for that definition. He felt that the Board should help to define this use with respect to the testimony as to how the facility will be used.

Mr. Legato said that Mr. Kaufman had referred to spinning classes, yoga, dance, pilates, sports clubs and so on. He asked Mr. Kaufman if those were recreational uses that would be allowed in a health club or training center.

Mr. Kaufman said that that was too broad and hypothetical.

Mr. Legato asked if the volleyball activity failed economically, what kind of uses would be available to Mr. Kaufman without coming back to the Board to ask for a change of use.

Chairman Pfeil answered that that could be addressed with a condition as part of a resolution of approval. That condition would limit the uses to specifically youth volleyball. Any number of things could be possible but the Board could condition approval of this application for a specific use requiring any other use to come back for a use or "D" variance. He felt the discussion was not going anywhere with respect to this issue.

Committeeman Roshto noted that there was a concept of an expanding use. He said that the Board was faced with that with a racquet club that has turned into a soccer club. It had expanded beyond what the Board had originally considered it to be. He felt it was legitimate to discuss what this facility could potentially become.

Several board members felt that that had already been specifically covered in testimony and questions by the Board.

Chairman Pfeil felt that the Board had the power to condition the resolution to say that any other use which would expand the need for additional parking would have to come back to a board for a use variance.

Mr. Aroneo said that they were not only concerned about parking. The board members also would want to know what impact some other use might have in general. He had concerns about open doors.

Chairman Pfeil said that was 150 feet away from the Great Swamp.

Mr. Aroneo said if it turned into a basketball court and that was approved, there might be a basketball tournament which might draw spectators and might raise the decibel level.

Committeeman Roshto asked if the application had stated that it was recreational, would this be before the Planning Board now?

Chairman Pfeil said that "recreation" was discussed in the different elements. It was discussed as outdoor activities such as walking, biking, canoeing, hiking, etc. He noted that everything in the Recreation Element of the Master Plan referred to outdoor recreation. There was nothing about indoor recreation. He did not feel that "recreation" was the term that should be discussed in reference to this application. He said that the discussion should be based on what was going on *inside* this facility and what the "sub-uses" under "fitness center" were. He had come up with 20 or more.

Mr. Lemanowicz noted that it was after 10:00 p.m.

Chairman Pfeil stated that they would move on to the traffic engineer, Karl Pehnke, as was planned earlier in the meeting. He noted that Mr. Kaufman's testimony would be continued at the next meet, June 10, 2014 at 7:30 p.m.

Mr. O'Brien noted that there was one (1) application already scheduled for that meeting and this application would be second on the agenda. He said that the first application should be brief.

Karl Pehnke, P.E., P.T.O.E. with **Langan Engineering**, Lawrenceville, NJ, was sworn in by Mr. Bernstein. Mr. Bernstein also noted that at the first hearing, Mr. Pehnke was accepted as a traffic engineer. He did not see any problem accepting Mr. Pehnke as an expert.

Mr. Delaney said it was his understanding that Mr. Pehnke had submitted a report to the Planning Board dated 03-06-14. He asked him to summarize that report briefly, in light of the police department's assessment which was read aloud earlier in testimony.

Mr. Pehnke said there were two (2) aspects to the application. One was the site layout circulation and access portion of the application. The second was the discussion on the appropriate level of parking. With regard to the former, he said it was designed in accordance with county standards in regard to the access and an application was in progress with the county. The applicant would fully comply to ensure that the driveway would provide for a safe and efficient connection between this property and the adjacent roadway. With regard to the onsite layout, it was in conformance with the township's codes in regard to the dimensioning of the access aisle and stalls. Those code requirements were

in accordance with good engineering practice. He saw nothing in there that was contrary to providing for a safe environment for the movement of vehicles into and out of the parking spaces on the site.

Mr. Pehnke testified with regard to the operation of the facility, the site layout was similar to a comparable site operated by the proposed tenant. That site, in Flemington, was a multi-tenanted building. The access and parking for that site was similar in layout in terms of a single point of access with the access parking aisle running along the side of the building and parking spaces perpendicular to that facility. The operation of the facility was limited in duration and he reiterated previous testimony as to the peak season, hours of operation, etc.

Mr. Pehnke discussed the traffic activity. There would be an influx and efflux of vehicles that surround the turnover periods which, during peak season were 6:00 and 8:00. The half hour bracketing those times would be when there would be some traffic activity. There was a small portion of that activity where people actually stay on the site. There had been surveys on December 12, 2013 at the Flemington facility when the season was just beginning and there was the most activity. Courts were in full use and teams were in full attendance. There were atypically more observers on site getting an understanding of the training as well as the lack of carpools having been formed yet. He observed the facility from 7:00 through 8:30 and saw exactly what the operator had outlined to him in previous conversations. During the 20 minutes before the hour there was an influx of cars with the majority of the leaving after dropping off their athletes. After the hour, by 8:15, traffic activity was done. The level of traffic was very orderly and not of a magnitude that there was any difficulty in accommodating the cars entering and exiting the site. Some cars parked for a time and some just pulled into a space, discharged passengers, and left the site.

Mr. Pehnke had personally observed the site the previous Saturday again while in peak season in the morning hours, bracketing a turnover period (11:00). He went inside the facility twice and observed that all the courts were in use with a maximum of 35 people on the courts at any one time. There were between 8 and 11 people in the stands. Mr. Pehnke said that from a traffic and circulation standpoint, the facility as proposed would operate. There was a model for it operating in Flemington under similar conditions. He felt it was designed in accordance with the ordinances.

With regard to parking, Mr. Pehnke said that he wanted to make sure the Board had sufficient information to consider the parking requirements. At the same time that the traffic observations were conducted, parking observations were done at the Flemington facility. The peak number of parked cars were recorded in a five (5) minute intervals. During the period immediately bracketing the 8:00 period, the maximum number of parked vehicles were observed (24). It was a similar condition as the Saturday (12-07-13) that Mr. Pehnke was personally at the facility so he was comfortable that the actual peak parking was 24 vehicles. That did not include any spaces that were not available for general parking use such as handicapped parking spaces. For this proposed facility, 33 spaces were proposed based on these observations and factoring in some safety measures which include two (2) handicapped spaces. The 31 general parking spaces represent approximately 30% over the peak 24 spaces that were observed. He reiterated that there were no tournaments or developmental events proposed at this facility. In his opinion, the 33 proposed parking spaces would be more than sufficient to accommodate the parking demand for this proposed operation.

Mr. Pehnke said that he recognized that there was a concern with parking and he was very comfortable that the numbers were in that 24 range or less. In designing this site, he looked at how many more he could get on the site to create a factor of safety and make the Board a little more comfortable. He felt that a 30% factor of safety was very good.

Mr. O'Brien noted that there was no designated drop-off or pick-up spot. He asked Mr. Pehnke if he felt there was enough room for drop-offs and pick-ups in addition to the people who would be parking and staying.

Mr. Pehnke affirmed that there was because that was exactly what was happening at the Flemington site. The spaces were being used for a very short term turnover. Those 24 spaces were inclusive of that activity where people were there no longer than a minute or two in dropping off and picking up. Referring to the summary of parking counts, it peaked five (5) minutes before and five (5) after. The spaces themselves were being used as the drop-off and pick-up areas.

Mr. O'Brien noted that the parking facility in Flemington was part of a larger complex.

Mr. Pehnke affirmed that there were three (3) tenants sharing approximately 55 spaces. The first business in the facility was a solar business occupying the first 1/8th of the building. The volleyball facility was the next 1/2 of the building. There was a dance studio which took up the back end of the facility. There was a gate blocking off the back portion where there seemed to be some storage and warehouse activity.

Mr. O'Brien asked, given there was a larger space in Flemington that was undesignated as opposed to what was being proposed here, if Mr. Pehnke anticipated any safety issues.

Mr. Pehnke said he did not. There were design ordinances for the operation of parking lots and they accommodated the safe movement of vehicles into and out of parking spaces. This would be applicable for all types of commercial activities such as low turnover offices to high turnover activities such as banks and convenience stores.

Mr. O'Brien asked if there would be a difference because the primary passenger would be a child.

Mr. Pehnke answered that he would not term an eleven-year-old as a child. They would know the rules of safety in parking lots. These were student athletes coming to the facility on a regular basis. Because it was on a regular basis, the students were very familiar with the "drill" and would move in and out in a very organized manner.

Mr. Bernstein asked how many players were on a volleyball team.

Mr. Pehnke said it was done per court and as indicated in previous testimony, it was ten (10) per court.

Mr. Bernstein wanted to know, if there were three (3) simultaneous games, how many *team* members would be on the courts in total. He specifically addressed this to Mr. Pehnke since he was the one who testified to the adequacy of parking.

Mr. Pehnke answered ten (10) per court.

Mr. Bernstein asked him if it was his testimony that during a *game*, there would be only five (5) participants on each side.

Mr. Pehnke said that that was how the operator had it set up.

There was discussion between the board members and the consensus was that there were six (6) on each side during a game.

Mr. Bernstein said that there would be 36 players potentially, given six (6) to a side on three (3) courts.

Mr. Pehnke said that that was not what was proposed for this site.

Mr. Bernstein asked Mr. Pehnke if he was assuming that there would be no growth in the number of participants at the maximum times.

Mr. Pehnke said that assumption was correct since it was based on the way the operator has used the Flemington facility which was the way she intended to operate this facility.

Mr. Bernstein said the Mr. Pehnke was basing his traffic study on a maximum number of people on the court at one time.

Mr. Pehnke said that that was correct.

Chairman Pfeil asked if there were any questions from the public for Mr. Pehnke.

Maria McCoy, Hickory Tavern Road, Meyersville was concerned about the off season when adults would be using the courts and the doors would be open. There would be no car pooling. She felt that that would be a lot of cars during the changeovers.

Mr. Pehnke said that she had created a description that had not been testified to as part of the application. He noted that Mr. Kaufman had addressed that very question earlier in the evening and said that that scenario was not proposed at this facility.

Chairman Pfeil added that he had said that the Board could condition approval to prohibit any adult activity such as what Ms. McCoy was describing.

Mr. Pehnke said that testimony was given to the effect that the operator had only one (1) adult team that rents a one (1) court during off peak periods. It was not for leagues or tournaments.

Ms. McCoy felt that the description of what would go on at the facility during the summer when residents would be outside and doors would be open was very foggy.

Mr. Bernstein advised Ms. McCoy that this was the question period and that she was making a statement.

Ms. McCoy felt that there was a potential for many more cars than anticipated and asked where that overflow would go.

Mr. Pehnke answered there was a great model to observe the operational characteristics of the existing facility, showing the ebbs and flows of vehicles. Based on those observations, he knew that everybody would not be on site at one time. There was no overflow area.

Chairman Pfeil noted that it was 10:30 p.m. and asked the board members for 15 minute extension. Committeeman Roshto motioned and Chairman Pfeil seconded the motion. Voice vote was taken and the motion was approved.

Elaine Zindel, 317 Meyersville Road, said that she could not tell whether the 24 cars came out of the Saturday study or the 7:00 to 8:30 study.

Mr. Pehnke said that number was generated from the formal study that was done on Thursday the 12th. It was consistent with what he had observed on the Saturday before.

Mrs. Zindel questioned where the 28 car count came from.

Mr. Pehnke answered that was in the table on page 2 of 5. It was a vehicular movement and represented the number of students that actually left the site in 20 cars. It was 28 *students*. He also observed the number of students per car so that he had an idea of how much carpooling was occurring.

Mr. Pehnke said that from 7:00 p.m. to 8:15 p.m. a total of 29 cars arrived and 34 cars left.

Mrs. Zindel asked how many cars were parked and waiting in the parking lot at a peak time.

Mr. Pehnke said that that would go back to the table which summarized the five (5) minutes basis.

Mrs. Zindel said that she did not have a copy of that because it was not in the file.

Mr. Pehnke said it was part of the March 6, 2014 report.

Mrs. Zindel pursued the point. She wanted to the maximum number of vehicles would be in the area during a peak 15 minute period.

Mr. Pehnke said that the maximum observed vehicles at any given time was 24 in the entire parking lot parked in stalls with possibly one or two cars in the circulation aisles. This was a detailed observation. Traffic counts were done on a 15 minute basis per industry standard so the 20 cars leaving were observed between 8:00 and 8:15.

Mrs. Zindel continued to pursue the same point. Chairman Pfeil asked Mrs. Zindel to move on to another question.

Mr. Pehnke answered a subsequent question by reiterating that he had observed between 8 and 11 observers in the facility on two (2) occasions. When he spoke to the operator, she indicated that this was atypically higher than what happened later in the season. He observed 36 athletes, coaches, and staff in addition on Saturday when all three (3) courts were in use.

Chairman Pfeil advised Mrs. Zindel that she had had over five (5) minutes of questioning and that he had to allow others to present their questions.

Debra Schmitt, 486 Meyersville Road, asked about the width of the parking spaces.

Chairman Pfeil said that that would be covered in engineering and that the stalls would conform to the ordinance.

Ms. Schmitt asked how old the athletes were when Mr. Pehnke observed.

Mr. Pehnke said he did not know which age groups were practicing.

Ms. Schmitt asked if it was *not* the 17 and 18 year-olds who drive and have their own cars.

Mr. Pehnke said that, as was testified, the later evening hours were typically for the older age groups. His observations were done around the 8:00 p.m. hour which was the transition between the younger ages and the older ages.

Ms. Schmitt asked if he saw students driving themselves and parking and staying.

Mr. Pehnke answered that they did not specifically record who the drivers were. They recorded how many vehicles arrived, parked, and how many exited and entered each vehicle.

Ms. Schmitt stated that they needed some information about how much parking would be required when the 17 and 18 year-old drivers were there parking their cars on the premises.

Arthur Brown, 479 Meyersville Road, said that when the facility relocated, many people including employees and coaches would be coming from Flemington which was approximately 30 miles away. He wanted to know if the fact that they would be parking and staying had been taken into consideration.

Mr. Pehnke noted for the record that the facility was *not* relocating. This facility was being proposed at this location because the owner/operator found that there was a demographic for people who were travelling from here down to Flemington. She wanted to serve the local population at this location.

Chairman Pfeil asked if there were any further questions for Mr. Pehnke from the public. Seeing none, he closed the meeting to the public.

Mr. Bernstein informed the public that the application would be carried to June 10, 2014 at 7:30 p.m. without further notice.

Ms. Kiefer requested an "Consent to Extension of Time for Decision".

There was discussion between the Board's professionals and the Applicant's professionals about the submission of engineering drawings. Mr. Kaufman stated that he would try to get the drawings submitted in enough time for the Board's professionals to review them. If they felt they did not have enough time by the June 10th meeting, he had other work to present.

Mr. O'Brien suggested that the drawings be submitted directly to he and Mr. Lemanowicz as well as to the Board.

Chairman Pfeil advised that Shop Rite had submitted an application for expansion into the area vacated by Walgreen's. He asked the board members if they were willing to have a special meeting and after discussion, it was decided that they would not be able to schedule a special meeting in June. The only scheduled agenda item for the June 24, 2014 meeting was the Resolution of Memorialization of Application #13-07P, Restore Meyersville LLC and Chairman Pfeil said he would advise Mrs. Wolfe that Shop Rite could be heard at that meeting.

Chairman Pfeil asked for a motion to adjourn. Mr. Lemanowicz motioned and Mr. Moholkar seconded. A voice vote was taken and the motion was approved unanimously. The meeting was adjourned at 10:45 p.m.

CYNTHIA KIEFER
Planning and Zoning Secretary

Date