

MINUTES

APRIL 14, 2015

PLANNING BOARD

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

Chairman Pfeil called the meeting to order at 7:40 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 2015.

MEETING CUT-OFF

Chairman Pfeil read the following statement: Announcement is made that as a matter of procedure, it is 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 is 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 are 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
Gregory Aroneo, Member
Guy Piserchia, Member
Guy Roshto, Member
Timothy Wallisch, Member

Suzanne Dapkins, Vice-Chairwoman
Brendan Rae, Mayor
David Hands, Member
Ashish Moholkar, Member

Kevin O'Brien, Board Planner
Thomas Lemanowicz, Board Engineer
Daniel Bernstein, Board Attorney
Cynthia Kiefer, Board Secretary

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

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

APPROVAL OF MINUTES

Chairman Pfeil asked if there were any corrections or additions to the draft minutes of October 28, 2014. Hearing none he asked for a motion to approve them as written. Mr. Wallisch moved approval and Mr. Roshto seconded. A **ROLL CALL VOTE** was taken. Those in Favor: Mr. Aroneo, Mr. Roshto, Mr. Wallisch. Those Opposed: NONE. The minutes of October 28, 2014 were approved as written by those board members eligible to vote.

Chairman Pfeil asked if there were any corrections or additions to the draft minutes of January 13, 2015. Hearing none he asked for a motion to approve them as written. Mr. Piserchia moved approval and Mr. Wallisch seconded. A **ROLL CALL VOTE** was taken. Those in Favor: Mr. Aroneo, Mr. Piserchia, Mr. Roshto, Mr. Wallisch, Chairman Pfeil. Those Opposed: NONE. The minutes of January 13, 2015 were approved as written.

PUBLIC QUESTIONS OR COMMENT PERIOD

Chairman Pfeil asked if there were any questions or comments on items *not* on the agenda for that evening. Hearing none, he closed the meeting to the public.

RESOLUTION: "REPORT OF THE PLANNING BOARD"

Chairman Pfeil stated that Mr. Bernstein had written a report to the Township Committee regarding Ordinance #349-15 which would establish a new zoning district to be known as the Recreation District. He asked if there were any corrections or comments on the resolution.

Mr. Lemanowicz noted No. 7 on Page 2 should be revised to say, "Within Lot 8 and within 150 feet of Lot 4.01 is a Category-1 stream known as Black Brook."

Mr. O'Brien confirmed that they were operating under Version 4. He noted that on Page 4, No. 18 should read, "Lot coverage would be increased from 15% in the C Zone to 40% for a 267% increase..." Mr. Lemanowicz confirmed that number.

Mr. Roshto noted on Page 2, No. 1 should read, "Lots 4, 4.01, and 8 are environmentally constrained..."

Chairman Pfeil asked if there were any further corrections. Hearing none he asked for a motion to approve the resolution as amended. Mr. Wallisch moved approval and Chairman Pfeil seconded the motion. A **ROLL CALL VOTE** was taken. Those in Favor: Mr. Piserchia, Mr. Roshto, Mr. Wallisch, Chairman Pfeil. Those Opposed: NONE. The resolution as amended was approved. Mr. Aroneo had recused himself from the original discussions concerning the ordinance and was therefore ineligible to vote.

MASTER PLAN COMMITTEE REPORT TO THE PLANNING BOARD

Chairman Pfeil announced that the presentation had been rescheduled to the April 28, 2015 meeting.

PUBLIC HEARING

JOEL H. & ROBERTA L. GOLDBERG
47 Overlook Road
Block 12502, Lot 8

#15-01P
Minor Subdivision
Bulk Variance

PROOF OF NOTICE GIVEN

Present: Steven K. Warner, esq., Attorney for the Applicant
Craig W. Stires, P.E., Engineer for the Applicant
John T. Chadwick IV, P.P., Planner for the Applicant

Court Reporter: Robert O'Connell

Steven K. Warner, partner with the firm **Ventura, Miesowicz, Keogh & Warner PC**, Summit, New Jersey, stated that he was representing the applicants and owners of the subject property, Joel and Roberta Goldberg. He noted that this was a simple minor subdivision subdividing one (1) lot into two (2) lots. Essentially, this would bisect the lot from north to south. Both resulting lots would be well in excess of the 30,000 square foot minimum area requirement. The existing dwelling was in the northeast quadrant and the northwest quadrant was where the proposed dwelling by way of concept plan would be located. The only variance at issue was a bulk "C" variance with respect to rear yard setback to a critical area, primarily the steep slope. He pointed out that the existing dwelling deviated from that same setback from critical area steep slope requirement. The proposed dwelling would deviate even less so than the existing.

At that point Mr. Warner stated that Roberta Goldberg would not be present as a witness that evening because she was at the bedside of her husband, Joel, who was terminally ill and in hospice.

The court reporter swore in the board professionals Mr. O'Brien and Mr. Lemanowicz.

Craig W. Stires, President of **Stires Associates PA**, Somerville, New Jersey, introduced himself as the engineer for the applicant. He was sworn in by the court reporter.

Mr. O'Brien addressed the Chair and stated that he had worked with Mr. Stires in many communities and would recommend him as professional engineer to the board provided he still had his license.

Mr. Stires verified that he did have his license and it was in good standing.

Mr. Stires verified that he had prepared the plans and was familiar with the property that was the subject matter of this subdivision and variance request. He stated that the address of the existing lot was 47 Overlook Road, Block 12502, Lot 8, and currently contained two (2) acres. When the Goldbergs bought the property in 1976, in the deed it referenced that it was three (3) lots at one time. In 1977, when they built the existing home, it was located on the easterly side of the lot. Early on in the project development he spoke to the applicants and they advised him that they had built the house in that location in anticipation of a possible subdivision in the future.

Mr. Warner noted that Mr. Stires was referring to a colorized version of a plat. He requested that it be marked **Exhibit A-1** since it was not submitted more than 10 days in advance of that evening in that form.

Mr. Stires stated that **Exhibit A-1** was essentially what the board members had in front of them. It was a colorized version of the plan for clarity purposes. He reiterated that the existing home was built on the easterly side of the property with this thought in mind even though it was some 40 years ago. When the applicants first approached Mr. Stires, they wanted to sell the house and maximize their investment.

Whether the house was sold on one lot or they were successful in this application, the property would be sold.

Mr. Stires said that the two (2) lots were essentially identical in size. They were both 43,627 square feet and met all of the requirements of the zone with the exception of the setback from the critical area. He referred to the green area on the bottom of the colorized plan as the steep slope which was greater than 15%. This was the critical area. It was required to have a 50 foot buffer from that point to the north. It was a simple subdivision but because of the variance request for the 50 foot buffer, he had shown a conceptual house layout so that the Board could see what the applicant was seeking to do.

Mr. Warner asked if the existing home deviated from the 50 foot setback to the steep slope critical area.

Mr. Stires said that it did deviate. It was essentially zero because the steep slope went to the back of the house.

Mr. Stires continued and said that he had shown a conceptual house layout as 45 X 70 which would be much bigger than the other houses in that area. He wanted to show the worst case scenario. If the Board felt that that house was too big, he was willing to make the depth of the house smaller. Instead of 45 feet deep it could be 35 feet deep. As it was depicted on the exhibit, a two (2) story house would be in excess of 5500 square feet which was not consistent with the neighborhood. He reiterated that he wanted to show the worst case scenario.

Mr. Warner asked if a 35 foot deep by 70 foot wide house would be compatible with the neighborhood.

Mr. Stires responded that it would.

Mr. Warner asked if this would be particularly true of the houses north along Overlook.

Mr. Stires said that as an example, the existing house was approximately 35 feet deep although there were a number of jogs in it. It was an example of the potential dwelling for that site.

Chairman Pfeil said that 35 feet by 70 with two (2) floors would still be well over 4000 square feet.

Mr. Stires responded that that was correct. It would be almost 5000 square feet including the garage.

Chairman Pfeil asked how that would compare with the surrounding five (5) properties.

Mr. Stires moved to **Exhibit A-2** which was an aerial photograph of the area around the project. The property itself was outlined with the proposed new property line shown as line drawn down the middle. Also shown was the existing dwelling along with several other dwellings along Overlook. He noted that Lot 2 was the furthest up to the east off the photograph. On the plat that was provided to the board members, it was on the key map in the upper right-hand corner, and was approximately one-half acre. Lot 3 was approximately 4/10ths of an acre. Lot 4 was just less than 1.2 acres. Lot 5 was .8 acres. Lot 6 was .6 acres. Lot 7, which was adjacent to the applicants' lot and to the east, was 1.4 acres. This was the corner lot on Church and Overlook. As stated earlier, the applicants' lot was currently two (2) acres and the proposal would break it into two (2) lots of just over one (1) acre each. Lot 9 was .7 acres and Lot 10 was .8 acres.

Mr. Stires noted that from the aerial, the house that was on Lot 7 was approximately 35 by 50 or 1750 square feet. That was the footprint. The applicants' lot, Lot 8, had an existing footprint of approximately 2500 square feet. Lot 9, which was just to the west, had a footprint of approximately 2650 square feet. Lot 10 had a footprint of approximately 2175 square feet.

Mr. Warner stated that from the aerials, it appeared that the homes were all more than one story.

Mr. Stires said that that was pretty clear. They were at least one-and-one-half stories or more.

Mr. Warner asked Mr. Stires to point to the Goldberg's home on **Exhibit A-2** and also the location of the proposed dwelling which would be on proposed Lot 8.02 (sic).

Mr. Stires pointed out the locations on the exhibit.

Mr. Warner said that as one viewed the homes looking to the south along Overlook coming from west to east, before arriving at the Goldberg's home, there appeared to be a vacant lot between the subject home and the home on Lot 9.

Mr. Stires stated that that was correct.

Mr. Warner asked if Mr. Stires had any further information on the lot sizes and home sizes of the surrounding lots.

Mr. Stires stated that he had two (2) more footprint sizes. The footprint of the house immediately across the street was approximately 2340 square feet. He noted that that was Lot 8 to the north of Overlook Road. The footprint of the home on the bend was approximately 3260 square feet. He estimated that that lot was approximately .6 of an acre.

Mr. Stires then began to address Mr. Lemanowicz's report of April 7, 2015. Under "Technical Comments," Item 1 referred to a proposed 10 foot wide easement. Mr. Lemanowicz suggested 20 feet and Mr. Stires had no problem with that as a condition of approval.

Mr. Warner reiterated that this was a subdivision application with a concept plan for the home to demonstrate the suitability of the lot for development purposes however that was something that they could agree with.

Mr. Stires addressed Item 2 which was a statement that the board engineer took no exception to the orientation of the proposed lot line.

Mr. Warner stated that essentially they had bisected the lot in an attempt to keep both lots relatively equal.

Mr. Stires stated that the lots were *exactly* the same.

Mr. Warner added that they were both well in excess of the required 30,000 square feet.

Mr. Stires stated that that was correct.

Mr. Stires moved on to Item 3 which he felt was a clarification of how the critical slopes were determined. He had taken the literal sense of the term in the ordinance that 10 foot *contours* were used as opposed to intervals and that's what was shown as far as the steep slopes.

Mr. Warner asked if that was how it was demonstrated on **Exhibit A-1**. The lighter and darker shades of green in the critical areas vis-à-vis the slopes.

Mr. Stires said, "Yes."

Mr. Stires continued that he had shown a conceptual plan to help the Board make a decision on the application. He reiterated that he had wanted to show the worst case scenario so that whenever a future owner came in there would be no constraints. But at the same time he was willing to make the footprint smaller should the Board wish.

Mr. Warner added, "With respect to the depth of the building so as to increase correspondingly the rear yard setback to the critical area, the steep slope."

Mr. Stires said that that was correct. The lot was created so that the proposed house could be constructed. There was an 18 foot setback from the critical area as opposed to 50. If he was to reduce the dwelling depth by 10 feet, the setback from the critical area would go from 18 to 28 feet. He had not done a full development at this point. He felt he had shown as much as he could without coming in with an actual plan which the Goldbergs had no intention of doing at this point. They were looking to subdivide the property and that was it. In response to a request by Mr. Warner to address Item 4, Mr. Stires said that he had just done so.

Mr. Lemanowicz added that the issue was that the ordinance required a dry well somewhere on the property. He did not want to give the impression, if the Board decided to grant this application, that they had somehow not accounted for that. If someone was looking at the conceptual plans, there would be a dry well somewhere and the information provided. The ordinance defined a dry well as a critical area so it would be likely that because of the slope the dry well would wind up somewhere in the front because it would be too steep to put it in the back. Since the drywell would be considered as a critical area by definition, placement in the front yard would trigger another variance. Even though it was an anomaly in the ordinance, it was still an ordinance. The intent of this comment was to somehow deal with the potential of the future owner of this lot having to come back before this Board. He wanted to try to avoid that. If this lot was approved as is, that future owner *must* come back to this Board.

Mr. Warner asked Mr. Stires to address the April 2, 2015 memorandum from the Environmental Commission. He referenced some suggestions within that memo which might preclude the need for a dry well.

Mr. Stires responded that the memo had gone into detail about the potential of a dry well. It noted that a possible alternative would be a rain garden. In this case, Mr. Stires felt that a rain garden might be a better alternative than the dry well. Although not fully designed, if a rain garden were located at the top of the slope, the runoff could get into the slope. The rain garden essentially would run the length of the

property at the top of the slope. The water would come in and any overflow would actually replicate what the runoff was currently. In other words currently, the runoff was a sheet flow approximately the width of the lot. A rain garden located across the width of the property would be a better alternative than a drywell. He understood what Mr. Lemanowicz was saying and potentially another variance would be involved.

Mr. Lemanowicz said that the only issue was that in order to achieve the value that the ordinance required (he noted that there was some flexibility there) the rain garden would have to be somewhere between 800 and 1000 square feet of surface area.

Mr. Stires stated that he had actually laid one out and he was coming out close to that number.

Mr. Lemanowicz expressed some concerns and stated that he would have to look at it first. He noted that it was a maintenance issue also.

Mr. Warner referred to the classification of a dry well as a critical area and noted with respect to setbacks from both the dry well and the slope, that he felt the Board had the authority to grant relief at this time for purposes of suitability of the lot for subdivision as proposed.

Mr. Lemanowicz reiterated that he would have to see plans for the rain garden before he could advise the Board.

Chairman Pfeil felt that they should proceed on the basis of the fact that the applicant would have to put a dry well in. It was still a big footprint and all the stormwater on the property would have to be retained.

Mr. Stires said that especially in the residential sections, the ordinance stated that the RSIS (Residential Site Improvement Standards) governed as far as storm water was concerned. It didn't govern this particular site because this was not a major project. He noted that a lot of other municipal ordinances had implemented rules for that gap between zero and the regulations of the RSIS. He was not sure whether Long Hill did that also.

Mr. Lemanowicz explained that the ordinance stated that RSIS was adopted for residential and nonresidential development. With respect to this application, it was not a major development so the applicant would have to follow "four inches (4") of storage for the impervious area" or show a zero net increase. In reality, having something back there would be very difficult to enforce. With the dry well, if it wasn't maintained it might not work as well after 10 or 15 years however there would be some value. He noted that rain gardens had been done as supplements to drywells. He noted recent application where the dry well overflowed into a rain garden. However as a primary, rain gardens were not that reliable in his opinion.

Mr. Warner asked Mr. Stires, in his professional opinion, if proposed Lot 8.02 (sic) was developable from a stormwater detention/retention runoff and groundwater recharge perspective.

Mr. Stires replied that it was.

Mr. Stires referred to Item 5. In order to control the runoff from the driveway, he proposed curbing to collect the runoff. Then either a dry well or rain garden would deal with it. He felt that the applicant could comply with that comment.

Mr. Wallisch noted that the bottom of the driveway would be considerably lower than where the proposed dry well would be located in the front yard.

Mr. Stires interjected that another dry well could be located in that area possibly in the driveway itself if necessary. He felt there was room for one and pointed to a spot on **Exhibit A-1**.

Mr. Lemanowicz stated that decorative landscaping stone lining the entire driveway had been used also. It would look like an edging but in reality it was a trench. It would act the same way.

Chairman Pfeil said that should the Board approve the application, those would become conditions that would be in the resolution.

Mr. Lemanowicz said that they would word the conditions to indicate that the plans would be revised to address these issues.

Chairman Pfeil noted that a second variance was required for the location of a dry well because it was considered a critical area.

Mr. Lemanowicz clarified that the setbacks would be different depending on whether the drywell was located in the front yard or the side yard.

Mr. Warner asked if the stipulation be essentially the requisite critical area setback requirement based upon the location of the drywell subject to the review and approval of the Board Engineer.

Mr. Bernstein said that if the Board approved the application, Mr. Lemanowicz and Mr. Stires would work out the location of the dry well.

Mr. Lemanowicz wanted to know if the Board wanted to see a conceptual location of the dry well before a final decision was made.

Mr. Bernstein asked if Mr. Lemanowicz and Mr. Stires could locate the dry well appropriately.

Mr. Lemanowicz answered that he could do that if the Board wished.

Mr. O'Brien added that a variance would have to be granted with a number.

Mr. Lemanowicz agreed.

Mr. Bernstein asked Mr. Stires if he had a number.

Mr. Stires answered that the ordinance requiring that the dry well be 50 feet from the house was exorbitant. Normally, he placed them away from the basement, 10 to 20 feet from the house. He felt that a 10 or 15 foot range would be acceptable.

Mr. Lemanowicz said that if it was dropped just to the south west of the 405 contour in the driveway, it would be approximately 25 feet away and also the area it was 25 feet from had no basement.

Mr. O'Brien noted that that would be the side yard and the minimum distance was 25 feet.

Mr. Piserchia asked why the house could not be moved a little to the front. He noted that they would then need a variance for the front and the back but he thought that might alleviate placement of the dry well. He noted that on Lot 7, at least the corner of that house was closer to Overlook than anything that was proposed on the site.

Mr. Stires replied that that was a possibility. He noted that the applicant was trying to make this as conforming as possible and he left that interpretation to the Board. However he agreed that it would make more sense to move the house farther away from the steep slope area. He also noted that it was somewhat consistent with the house setbacks on Overlook. The house on the bend was, in his opinion, 25 feet as far as the setback.

Mr. Roshto asked if the house could be moved close enough to the road so that it would not encroach on the buffer of the steep slope area.

Mr. Stires replied, "Probably not. No."

Mr. Piserchia reiterated that moving the house forward would create a second variance however he did not feel it was an onerous one and should not preclude this as an idea.

Mr. Stires felt that if the house was moved 10 feet forward, it would be consistent with the area.

Chairman Pfeil felt that if it was 10 feet closer it would destroy the streetscape on that side. He noted that the property next door had a 64 foot setback. This would move the setback up to 40 which amounted to a 24 foot difference between the neighboring houses. He added that the house on Lot 9 also looked further than 50 feet.

Mr. Wallisch noted that the house next to Lot 9 was right next to the road.

Mr. Stires said the applicant would not have an issue whether it was 10 feet or 5 feet.

Mr. Wallisch added that it would minimize the impervious if it were a front entry garage versus a side entry. A lot of the driveway would be eliminated along with the runoff associated with it.

Mr. Stires reiterated that this was a conceptual plan created strictly to help the board members visualize what the applicant was trying to present.

Mr. Warner reiterated that as Mr. Stires had opined earlier, the proposed lot was suitable for development and the Goldbergs would be amenable to what the Board felt was amenable.

Mr. Piserchia asked if five (5) feet would help from an engineering perspective.

Mr. Stires said that they were willing to give 10 feet on the house itself plus the additional five (5) feet would bring them to 33 feet from the steep slope.

Mr. Lemanowicz said that if the applicant went with a front entry garage and then slid the house to the east, they would pick up additional distance from the steep slope.

Mr. Piserchia said that with a front entry garage and no turnaround area, a car would have to back out onto the main street. He felt that front entry garages were not nearly as attractive and in addition, during his tenure on the Board of Adjustment they were trying to get away from front entry garages because of the safety issue of cars backing out onto a roadway. On a quiet roadway such as this, he felt it was even more dangerous.

Chairman Pfeil said, if there was no house shown on the proposed subdivided lot at all, it would place the buyer of the lot at greater risk however the Board would not have to try to design a house at this point.

Mr. Roshto agreed. He was having difficulty with the concept that there wasn't even an owner for the property yet, let alone anything else.

Mr. Warner said that for purposes of the subdivision and suitability of the lot for development and so as to avoid anyone having to come back to the Board, the applicant was amenable to these general parameters. He respectfully requested that at this stage of the game, the Board make those determinations with proper deference to the Board Engineer.

Chairman Pfeil asked if, at this point, it would be better for the engineers to get together and figure out what could be put there. Whatever this Board allowed by variance could then be built. He felt that the board members might need more information before a vote could be taken rather than try to design a house or design a smaller envelope.

Mr. Stires said that if the Board required a 45 foot front yard setback which was five (5) feet less, and required a minimum of a 20 foot setback from the critical area versus 50—

Mr. Warner said that they would stipulate to the depth of the home—

Mr. Stires continued that if those stipulations were part of the approval-- he was trying to show the viability that this house could be built on this subdivision.

Mr. Lemanowicz stated that viability was important. If the Board granted the subdivision and then found out later that that nothing could be built on that new lot that was previously approved by the Board, there would be a question as to why the Board approved the lot in the first place.

Chairman Pfeil wanted to summarize the Board's attempt to position the house. First, the applicant had agreed to decrease the size of the house from 45 feet to 35 feet which would pick up 10 feet added to the buffer. If the house were moved five (5) feet closer to the front, it would bring the buffer up to 33 feet.

Mr. Stires said that essentially what the chairman was saying in summary was that the front yard setback would go from 50 feet to 45 feet and the setback from the critical area would go from 50 to 30 feet. He felt now the house could be eliminated as suggested by Chairman Pfeil because the Board was showing the viability.

Mr. Piserchia noted that, going back to the Environmental Commission's report, there would be dry wells to satisfy those concerns.

Mr. Bernstein asked if the new house *must* be set back 45 feet or could it be 50 feet.

Chairman Pfeil said that the new house *may* be set back 45 feet. If the builder wanted to put a smaller house there, that would be fine.

Mr. Bernstein added that there *had to be* a 30 foot setback from the critical area.

Mr. Lemanowicz asked if the Board wanted to set a maximum footprint for the building. Now that there was a setback, if it turned into a front garage, it could extend the entire width of the lot.

Chairman Pfeil felt that the board members had decided that they did not want the front entry garage.

Mr. Lemanowicz stated that there was no ordinance for that.

Chairman Pfeil noted that there was no lot coverage issue here.

Mr. Lemanowicz said, with the steep slope, the more impervious area that must be dealt, the more difficult it would be.

Mr. O'Brien added that they would have to have a setback number for the dry well.

Mr. Lemanowicz said that there was no set location for the dry well as of yet and that was an issue.

Mr. Stires felt that a minimum of 15 feet from the house would be reasonable.

Mr. Warner felt that that would be consistent with the spirit and intent of the ordinance provision in recognition of the fact that the Master Plan Re-examination recommended that dry wells should not constitute a critical area.

Mr. Lemanowicz added that if they were going to discuss how big the property should be, did they want to leave the 20% impervious even though the property was steep or did they want to further control that.

Chairman Pfeil did not feel it was reasonable to put a further restriction on the impervious if it was allowed for the zone.

Mr. Lemanowicz said that as long as it met the dry well requirements.

Chairman Pfeil said that as long as the engineering could show that it met the requirements of stormwater runoff—

Mr. Piserchia agreed.

Mr. Stires stated that the impervious coverage would not get anywhere near the 20% figure because more than half of the property was restricted by setbacks.

Mr. Bernstein asked Mr. Lemanowicz what *his* recommendation was for the setback of the dry well to the home.

Mr. Lemanowicz answered that they had discussed 25 feet however for septic systems it was 25 for a basement and 15 for no basement. If it were on the side he would not be as concerned about the 15 however if it was located anywhere in the front, he was concerned about water getting into the basement. With that in mind, he would keep the number at 25 feet from the basement but 15 feet from the building if there was no basement.

Mr. Stires clarified that if there was a side driveway and it was placed by the garage, they could go as close as 15 feet because there was no basement under the garage.

Chairman Pfeil thought that was reasonable.

Mr. Wallisch asked if the sewer was set up for this.

Mr. Stires answered that the applicant had submitted a letter requesting permission to connect to the Sewerage Authority. There was no detailed formal application. They said that they would not render a decision but at the same time the applicant fell within the exemption of the sewer ban. In other words what was allowed to connect was a one (1) lot subdivision with a total of 600 gallons which was what this qualified for-- 300 for each lot. Since the property qualified for the exemption, the lot would be permitted to connect but a full application would have to be submitted.

Mr. Warner stated, for the record that that was the April 7, 2015 letter from the Township Administrator with respect to the Long Hill Township Wastewater Advisory Committee's opinion which stated that the new owner would be able to connect based on the existing exemption criteria. The proposed lot with the proposed development would qualify.

Several of the board members asked to see a copy of that letter.

Mr. Warner had the letter marked as **Exhibit A-3**.

Copies of the letter were distributed to the board members.

Mr. Lemanowicz said that "assuming the exemption criteria did not change" the new owner would be able to connect. He felt that this could be handled as a condition because no building permit would be issued without it.

Mr. Stires addressed Items 6 and 7 of Mr. Lemanowicz's report. He said that the applicant would stipulate to both of them.

Mr. Lemanowicz noted that in Item 7, the sentence was incomplete. It should have read, "...NJDOT dense grade aggregate."

Mr. Warner stated that with that modification the applicant would still stipulate to as a condition for approval.

Mr. Stires felt that they had discussed Item 8 thoroughly. It referred to reducing the depth of the house and the location.

Mr. Warner asked if the approval of the utility easement language by the Township Attorney was something that the applicant could stipulate to as a condition of approval. This was Item 10a in Mr. Lemanowicz's report. Item 10b had just been addressed with respect to the verification that had been provided via **Exhibit A-3** and Mr. Stires' testimony.

Mr. Warner continued and said that the Morris County Planning Board issued a letter dated March 27, 2015 stating that the proposal was exempt from Morris County Planning Board approval.

Mr. Stires affirmed that that was correct. This letter was marked as **Exhibit A-4**.

Mr. Stires then addressed Mr. O'Brien's report also dated April 7, 2015. Item IV-D referred to "Tree Removal." He stated that he expected that there would be room to plant new trees once the original trees were removed. He said it would be part of the landscaping plan of the future owner. He added that they would comply with the tree removal/replacement requirements of the municipality.

Mr. Stires stated that they had talked at length about the critical area setback (Item IV-E) which stated that a potential deck would be considered part of the principal structure. Mr. Stires noted that the deck would not be technically connected and therefore technically it would be an accessory structure.

Mr. Stires felt that all the other items had been discussed in length. The remainder would be up to Mr. Chadwick to discuss as far as planning.

Mr. Warner stated, in summary, that in Mr. Stires' professional opinion, this subdivision should be granted and the proposed lot 8.02 (sic) would be suitable for development as previously testified.

Mr. Stires affirmed that summary was correct. The items that had been discussed were excellent ideas. Getting the criteria as opposed to defining everything was something that the Board could rely on going forward.

Mr. Warner advised the Chairman that he had nothing further for Mr. Stires. He asked if there were any questions for Mr. Stires.

Chairman Pfeil asked the board members if they had any further questions for Mr. Stires. Hearing none he then asked if there were any questions from the public for this witness.

Marco Vollero, 63 Overlook Road, expressed concern about the critical slope at the back of the property. He noted that his property was adjacent to the subject property and felt that any construction on the subject property would generate erosion. He asked if there would be a problem.

Mr. Stires stated that there would be no disturbance of the critical slope area. With the recommendations made at the meeting this evening, any proposed construction would be even further away from it.

Mr. Vollero asked how close to his property would the dry well be located. He noted that his property was Lot 9.

Mr. Stires said that the dry well should be located in the driveway area, based on earlier discussions.

Mr. Warner asked if this would create no net increase in stormwater runoff as a result of the stormwater management system proposed.

Mr. Lemanowicz said that the dry well should be located somewhere east of center.

Mr. Stires agreed.

Chairman Pfeil said to Mr. Vollero that that would take it further away from this property. He asked if the applicant stipulated to that, with that ease his concerns.

Mr. Vollero affirmed that it would.

Seeing no further questions from the public for this witness, Chairman Pfeil excused Mr. Stires.

Mr. Warner introduced his second and final witness, John T. Chadwick IV, P.P. who was then sworn in by the court reporter.

Mr. Bernstein advised the Board that he had known Mr. Chadwick for over 30 years and attested to the fact that he was a competent and experienced planner. He recommended him to the Board provided he was still licensed.

Mr. Chadwick stated that he was still licensed in the state of New Jersey. He had represented private clients in municipalities for quite some time.

Mr. Chadwick said that the first issue was to determine if the proposed property was suitable for development. It was the remaining lot in the neighborhood. On **Exhibit A-2** he pointed to a gap on the road. Most of the homes were built probably 30 years ago, each going out to the edge of the grade. The existing home was up tight to where the grade started to drop off. In terms of the new regulations and in terms of suitability, the prior testimony, the questions and responses all showed that the site certainly could be built upon. He had reviewed the Township's ordinances and its Re-examination Plan. He questioned why dry wells were considered as critical areas in the ordinance. This was a piece of man-made equipment consisting of concrete or stone and buried. It was not what planners generally consider as critical areas such as floodplains, steep slopes, mature tree stands, things of these kind that were features of the land. Having said that, he felt that they had gone through the issue of location, how it would be positioned, and relevance to the size of the house. He endorsed the testimony he had heard and could not offer anything. He noted that in and of itself, it would trigger a 50 foot buffer. It would be underground and possibly underneath the driveway. He did not feel that there was any buffer that would make any sense from a planning standpoint to be imposed. What was important was making it work in terms of capturing the water and he felt that they had gone through the alternatives as to where it should be located.

Mr. Warner asked Mr. Chadwick if it was his professional opinion that the setback to critical area with respect to the dry well, that the applicant had satisfied the positive and negative criteria with respect to C-1/C-2 variance relief.

Mr. Chadwick affirmed that that was correct.

Mr. Chadwick said that the other issue was the new construction and its impact on the site itself and the steep slope area. He felt that all of the considerations made a lot of sense. Pushing it closer to the street and away from the steep slope made a lot of sense.

Mr. Bernstein asked, with respect to the variances, if Mr. Chadwick would say that there was a C-1 Hardship by reason of the critical steep slopes on much of the property which then forced the variances. With respect to C-2, would he also say that this was an appropriate location and an appropriate density? There would be no negatives because it would be another house on a good sized lot.

Mr. Warner added that the benefits substantially outweighed the detriments.

Mr. Chadwick agreed with both Mr. Bernstein and Mr. Warner.

Mr. Chadwick discussed the positioning of the home as it related to the roadway and where the property dropped off. There were all different setbacks in the neighborhood. At the corner where the road made a bend, the house was very very close to the road. The home immediately to the subject property's west was a little further back. Across the street, one house was close and one house was a little further back. All the homes were built to get the best view in the best positioning. Moving the proposed house closer to the street by five (5) feet would not be discernible in terms of driving by but it would help out with the critical slope in the back of the property.

Mr. Chadwick continued and discussed the reduction of the depth of the proposed house. He felt that this also added to the positioning. He noted that he had worked in many municipalities particularly in Somerset and Morris Counties and that in some municipalities, critical areas were set into conservation easements. They could become an administrative nightmare when they were not enforced however the township would want to ensure that they were not violated from the beginning. There should be discussions with the client as to whether they might want to establish a conservation easement along the green line (pointing to **Exhibit A-1**) with stakes in the ground before anything was built. That way the client would know where it was located. He noted that over time there might be some encroachment but he felt that this would get it started off in the right place. Moving the proposed house forward, constraining its size, having appropriate stormwater management in place, and doing that on the steep slope would help provide insurance which went back to what the Township's ordinance was attempting to do-- keep improvements off the steep slope.

Mr. Chadwick said in terms of both the C-1, "providing the public benefit in terms of providing special purposes" all led to a positive conclusion to approve this subdivision. He endorsed the previous testimony and felt that the conclusions were sound.

Mr. O'Brien asked Mr. Chadwick if his client was willing to put a conservation easement on both of the lots.

Mr. Chadwick replied that they had discussed it. Because of the improvements on the lots he did not think they could follow the green line (inaudible-speaker was off mic).

Mr. Warner said, for the benefit of the board members and possibly as the attorney, what contour line was that.

Mr. Chadwick said where the slope broke where there were the two (2) colors of green located on the 390 on the existing dwelling lot.

Chairman Pfeil asked Mr. O'Brien about the use of conservation easements.

Mr. O'Brien responded that the other board did use them for a number of items such as this. What it would do would be to preserve that area of both of those lots in perpetuity.

Mr. Roshto asked, "Preserve them from what?" He noted that they were such steep slopes that nothing could be done on them anyway.

Mr. Chadwick said that he had taken a lot of time and driven through the neighborhood. There was no question that there were improvements in those steep areas.

Mr. Roshto felt that a conservation easement would not stop that. Placing things on a steep slope was illegal. When talking about a slope this steep, the only thing that could be done would be illegal.

Mr. Lemanowicz said that a conservation easement would show up in the purchase documents. The title agency would notify the buyer of the conservation easement but they would not say that there were steep slopes. It would be a red flag.

Mr. Warner added that it would be in the chain of title.

Chairman Pfeil said that if the applicant was willing to offer that, the Board should accept it.

Mr. Lemanowicz asked for clarification. He wanted to know if Mr. Chadwick was talking about the 390 on the existing lot and the 400 on the proposed.

Mr. Chadwick said that Mr. Lemanowicz was correct.

Mr. Warner further clarified that the proposed lot was Lot 8.02 (sic).

Mr. Lemanowicz said that the area to the rear of the existing dwelling had already been developed.

Chairman Pfeil asked if there were any other questions of this witness. Hearing none, he asked if there were any questions for this witness from the public. There were none. He then asked Mr. Warner for a summary of the application which would be followed by comments from the public and then discussion by the board members.

Mr. Warner thanked the Chairman and said that he hoped and trusted that the Board had been satisfied with the expert testimony and documentary of evidence submitted and that through Mr. Stires, the applicant's professional engineer, and Mr. Chadwick, the applicant's professional planner, they had established not only the entitlement under the Township's ordinances to minor subdivision approval and also the suitability of proposed Lot 8.02 (sic) for development but also the entitlement to the requisite C variance relief both with respect to the setbacks to both critical areas-- the dry well and the steep slopes. He submitted that the positive and negative criteria for such relief had been established and with the stipulated conditions, he respectfully requested that the Board grant said approval. He reserved the right to question any witness should they so comment but otherwise that was his submission.

Mr. Bernstein added that it was a good case both on C-1 Hardship and C-2 on the basis of appropriate location. He felt that they had ironed out the conditions so that the applicant would be able to sell one or both the lots. The buyer would know what he was getting into.

Chairman Pfeil asked if there were any comments on the application from the public. Hearing none, he closed the meeting to the public and opened the meeting for discussion by the board members.

Mr. O'Brien listed the conditions that the board members might want to consider: a conservation easement on the existing lot at 390 feet and on the proposed lot at 400 feet, reduce the house to 35 feet in depth maximum, dry well setback to be 15 feet from the area of no basement and 25 feet from the area with a basement, the rear critical area setback to be 30 feet, the front yard setback to be 45 feet, the

dry well to be located east of the center of the lot, Items 1, 6, 7, 10a and 10b of the Township Engineer's report complied with, and verification of sewer hookup given to the Board.

Mr. Lemanowicz suggested adding the word "minimum" to the setbacks.

Mr. Warner did not think that Item 10b "Verification of Approval" was a condition of approval. He had established the ban exception and he felt this would be a building issue.

Mr. Lemanowicz said that the document said "should" and he did not think that that was verification.

Mr. Stires stated that that was all they were going to get until a formal plan and application was submitted.

Mr. Warner added that for development of that lot, they would need a specific house plan from a subsequent purchaser down the road.

Mr. Piserchia said that it may not have been written the way it was intended. He felt it was supposed to say that if there were no changes to the requirements, the proposed lot met the current requirements and therefore had the exemption.

Mr. Warner said that there was testimony from Mr. Stires to clarify on the record and to reiterate that that was provided by way of email from the Township Administrator that currently this lot qualified under the exemption.

Mr. Bernstein said that it was usually put in as a condition. He did not think it was a problem because he felt it was probably verified although it was not written quite as clearly as they would like it today. He did not think it would be a big deal to get the town to verify it. Without it, nothing could be built anyway.

Mr. Stires stated that he had met with the committee and had to persuade them to send the letter. They were very noncommittal to something that was not really there.

Mr. Bernstein stated that by getting a permit, it would be verified.

Mr. Stires said that the applicant was not going to file for the permit.

Mr. Bernstein suggested that the Township Attorney, Jack Pigeon, write a letter.

Mr. Warner asked if they were talking about confirmation that presently the applicant qualified.

Mr. Stires said that they already had that.

There was further discussion between the attorneys and Mr. Stires.

Mr. Piserchia clarified that by going to the Township Attorney, the applicant would get a clearer version.

Mr. Bernstein asked Mr. O'Brien if he had added tree replacement to the list of conditions.

There was discussion about how they arrived at the 30 feet for the buffer from the steep slope area. The actual numbers added up to a 33 foot buffer and the applicant agreed to that.

Mr. O'Brien noted that the setback to the steep slope critical area in the back was a minimum of 33 feet.

Chairman Pfeil asked for a motion to approve the application subject to the conditions as outlined by Mr. O'Brien. Mr. Piserchia moved approval and Mr. Wallisch seconded that motion. A **ROLL CALL VOTE** was taken. Those in Favor: Mr. Aroneo, Mr. Piserchia, Mr. Roshto, Mr. Wallisch, Chairman Pfeil. Those Opposed: NONE. The application was approved by a unanimous vote of 5-0.

Mr. Wallisch moved to adjourn. Mr. Piserchia seconded the motion and the meeting was adjourned at 9:16 PM.

CYNTHIA KIEFER
Planning and Zoning Secretary

Date