Minutes of the Park Ridge Planning Board
Meeting of February 22, 2012 – 7:30pm

These minutes have not been approved and are subject to change by the public body at its next meeting.

The special meeting of the Park Ridge Planning Board was called to order by the Chairman, Don Schwamb, on the above date, time and place.

Chairman called for the Pledge of Allegiance to the Flag.

ROLL CALL: Present: Messrs. Browne (7:55), Ludwig (7:55), Mesiano (8:00), Metzdorf, Mital, O'Donoghue (8:00), Schwamb, Von Bradsky, Mayor Maguire
Absent: Councilman Misciagna
Also Present: William Rupp, Esq., Board Attorney
Brigette Bogart,PP, Planning Consultant
Eve Mancuso, PE, Board Engineer

COMPLIANCE STATEMENT:

The Notice for the Special Meeting of the Planning Board for February 22, 2012, as required by Section D of the Open Public Meetings Act has been provided by:

1. On February 9, 2012 posting the same on the Municipal Bulletin Board
2. emailing Notice of this meeting to the Review and the Record
3. Filing a copy of this Notice in the office of the Borough Clerk.

RIDGEMONT SHOPPING CENTER - Remediation

Board reviewed exhibits and discussed testimony presented and authorized the board attorney to draw a resolution of approval but with conditions in particular the potential noise level. Noise level not to exceed 50 dcb at property line and after installation noise level measurements were to be taken and submitted to the Building Department and Board Engineer. Upon completion of the excavation and closing of trenches the parking lot was to be restriped. Police Department to be notified upon commencement of work. Fire hydrants were to remain accessible at all times. Application to be acted upon at March 14th meeting.

ANYONE PRESENT WISHING TO BE HEARD: (non-agenda items

There was no one.

PUBLIC HEARINGS:

Chairman announced that the **Prusha Subdivision** hearing was being postponed to March 14th at the request of the applicant and with the consent of the Board.

JOHN F. EGAN – 172 Spring Valley Road R-20
Lot: 1 Block: 801

Applicant came forward and was sworn.

RUPP: Before you begin there are a number of documents that the board has and I want to review those and place into the record.

A-1 – application for soil moving
A-2 – verification of taxes
A-3 – legal notice

A-4 – site plan showing what is being done
A-5 – drainage calculations
A-6 – proof of service
A-7 – engineer's review
A-8 – board secretary letter

Mr. Egan, tell us what you want to do.

EGAN: I need to dig for the new foundation of the new house we are building.

RUPP: You are building a new house and for that you are moving some soil.

EGAN: Yes.

RUPP: Tell us how much, if you recall.

EGAN: I think it is 1,206 cu yards.

MAGUIRE: There are no variances required for this application, it is just soil moving?

MANCUSO: He is only here for soil moving, there are no apparent variances although we do not have the architectural plans so we haven't been able to evaluate the square footage or the height. I don't know if Mr. Egan can testify to that.

EGAN: My architect is here and he knows all of that information.

SCHWAMB: That may be helpful.

RUPP: Eve, do you need this for purposes of soil calculation?

MANCUSO: No, the only reason we are discussing it is to determine if he is before the right board. If there were variances, he should have gone before the Zoning Board but there wasn't enough information given to me. If we can learn that information now, we can act on the soil movement and then they can just go into the Building Department with their building plans.

RUPP: Well, the difficulty I have ... the process should be that this is done through the Zoning Officer. It is given to the Zoning Officer and let the Zoning Officer see it and submit it to the planner, if necessary and the engineer, if necessary and then a determination is made as to whether or not any variances are required.

I'm not quite sure the Board should be conducting a hearing on this because there has been no Notice for such a hearing. I'm not quite sure the Board should be performing the essential functions of the Zoning Officer in determining what variances may or may not be required, if any. That is really an administrative function. After that's done then the Board makes a determination. This would not normally require site plan approval because it is a single family home and therefore the Board would not normally have any jurisdiction over this application other than the soil.

So, I'm not quite sure you want to have a hearing dealing with the actual proposed construction and circumvent, what is essentially the administrative process of first reviewing it to determine what board they are before. If it turns out there is a problem you can't do anything and anything you do tonight would have to be redone.

MANCUSO: So there is no harm in getting the additional information from the architect since he is here with the owner.

MAGUIRE: So this will be the first time the Zoning Officer will have seen the plans. I agree that we need to do the soil moving application and since Mr. Bruno took the night off to join us, we can certainly let him present it. Do we want to deal with the soil moving first and we can have Mr. Bruno go through the plans?

MANCUSO: I think he should describe the construction of the home to justify the calculations.

Joseph Bruno, AIA, 29 Pascack Road came forward and was sworn.

BRUNO: I will not attempt to testify as to engineer's drawing but in the upper right hand corner of his drawing sheet, he has a Zoning Chart he prepared utilizing the information that I provided to him.

We have a minimum front yard setback requirement of 40', you can see on the site plan we are proposing 42'.

Minimum side yard each is 22' – we have a minimum proposed of 40'.

Maximum dwelling width is 60% of lot width, which would be 86' – we fall within that.

Minimum rear yard setback is 50' – the engineer shows on his table and his plan that the rear yard setback is 109.34' or 109'4".

Maximum building height permitted is 32' – the structure was designed to be a maximum height of 31`.

Maximum building coverage permitted is 18% - the proposed building coverage is 9%.

And again all of these figures are on the site plan but based on the information I provided to him.

Maximum coverage by improvements permitted is 40% - the proposed development is 16.2% - significantly less than what is permitted.

Maximum FAR permitted is 22% - we are at 11.2% - there is roughly 3,500 sq ft of living space in the home and with the garage we are about 4,400 and change.

Based on the Zoning Chart the engineer provided on his drawing and again based on the information that I provided to him, as I have designed the house, there are no variances required.

I would be happy to go through the design of the home if you feel it is necessary or relevant.

MANCUSO: That is sufficient information and I do have the calculations for soil movement and I did provide a letter to the Board. Essentially the quantity of soil is due to the excavation for the basement and the excavation for the stormwater management system. There isn't any major regarding, filling or anything like that taking place on the property. There is just some minor regarding to facilitate the driveway and a patio in the rear yard.

MAGUIRE: This home is well below the FAR percentage-wise and we also have in the ordinance a maximum of 4,800. This is 4,400 including the garage so it is well below the FAR requirement.

BOGART: They are well below that.

MAGUIRE: So we are back to soil moving only?

RUPP: You don't have an elevation do you?

BRUNO: I most certainly do. The front of the house or the west elevation facing Spring Valley Road is depicted at the top of this drawing and as you can see it is a farmhouse colonial style with a front porch. We set the house down far enough and kept the roof pitch so we would be within the code. We are 31' as I testified earlier.

There is a front porch that wraps around the south side and if you look at Sheet #2, it depicts the first floor of the house. All the living spaces on the first floor are on the south side.

On the second floor there are four bedrooms and three baths.

SCHWAMB: Ms. Bogart, any comments?

BOGART: No.

MAGUIRE: You have a note here, but it is probably from the engineer, about the front yard, that it is to be conveyed to this owner. Do you know if that has actually happened yet? Is this front yard actually part of this lot or is it part of the right-of-way? I know at one time that was the direction of Spring Valley Road, right through the front yard. I guess it was to be transferred to this Block and Lot? That's the only thing I noticed.

RUPP: I guess the question is are the calculations, in terms of coverage and all those good things, does that include that land or doesn't it include that land?

(Mr. Bruno answered but microphone was shutting on and off)

RUPP: Understand that tonight, this Board doesn't give authorization for you to build. There is no application for that. All that is happening tonight is a soil permit. If it is subsequently determined by the Zoning Officer that there is a problem, then you may have to come back to a Board and the likelihood is that it would be the Board of Adjustment.

MAGUIRE: I believe it was conveyed but the survey should make it clear.

RUPP: I think Mr. Ludwig will need that in order to issue any permits. Again, this Board right now does not have any jurisdiction to make any decision other than the soil moving.

(Mr. Bruno again responded but the microphone was not working)

MANCUSO: I think it is clear on the site plan provided, signed and sealed by Thomas Stearns, who is a PE & LS and the heavy line does indicate the boundary, which includes that property.

RUPP: The note unfortunately adds confusion.

MAGUIRE: This soil moving is just to dig the foundation? There is no other grading or removal of soil going on? This is strictly for the foundation?

MANCUSO: And stormwater management.

MAGUIRE: Oh, a seepage pit?

SCHWAMB: Anyone from the public wishing to be heard?

Pat Hunt, 4 Spring Valley Road came forward and was sworn.

HUNT: The question I have is, the house that was excavated was there a basement there?

EGAN: Yes.

HUNT: The proposed house will be on the same footprint as the previous house?

EGAN: No.

HUNT: The reason I ask the question is in the past we have had some issues with water on our property from other properties in that general area. My property is south and downhill from this land. Have any hydrology studies been done?

MANCUSO: At this time we are only evaluating it for soil movement. When they proceed to the next phase, which would be a plot plan review by the Building Department, part of our review includes stormwater management and grading. In addition, there will be soil testing required to be performed to demonstrate the depth of the water table and the permeability of soil to determine if the seepage system they are proposing is viable and works for this site.

HUNT: My understanding is the property immediately on Spring Valley Road and I am familiar with my neighbor's property, Mr. Heller, which is the lot south of this property and he has stated to me that he has springs on his property. So, at what point has any consideration been given to whether there are springs that mayor may not be on this property and my main question is, has a proper study been done for the water runoff for drainage and the change in property grading?

MANCUSO: That is done during the next phase during the Building Dept. review of the plot plan.

HUNT: And that is all public Notice, so I will have the same opportunity to speak as I do now?

MANCUSO: No, that's not a public review. The review now is your opportunity to speak up. In terms of underground conditions, when anyone starts building and it is discovered there is high ground water, the owner would go back to their design professionals to address it in the field, either by modifying the elevation or eliminating the basement or putting in sump pumps and things of that nature.

HUNT: And that's my fundamental issue. I had a problem with a neighbor who built a house before and that did not occur and my property was affected and I have dealt with it for ten years. My fundamental issue is, if you approve this plan and it is up to the homeowner or property owner when they get the excavation done, to go back to their professionals then where is my assurance that all the proper things that need to be done will?

MANCUSO: That's the Building Department.

RUPP: If I could just correct something. This Board is not approving this plan. That is not before this Board. All that the Board is here today is to

hear a soil permit. That's the only issue before this Board. That's the difficulty, there are no variances, no site plan, there's no subdivision.

HUNT: Then let me ask this in another way. For a soil excavation permit, what care is taken knowing the proximity to the town's aquifer? What care is taken to undergo testing to know where there are springs and different things in there that could potentially affect the flow of water.

MANCUSO: There is no way to test for an aquifer. As I was saying, when they start doing excavation....

HUNT: You don't have to test for an aquifer, it is directly across the street.

MANCUSO: Well, you just asked what methods are used for testing for underground springs from the aquifer. There isn't a test that can be performed but when you excavate you can clearly see if you hit any type of spring...

HUNT: I can't see and nobody on the Planning Board can see, only the person operating the excavator can see.

MANCUSO: Correct and during...

HUNT: My question is, what is the follow-up process to understand we believe there is a spring here or we believe there is more water flow than we thought when we made the plans.

MANCUSO: During the course of that Building Dept. review and engineering review there are periodic inspections performed. There will be an inspection of the seepage pit system to ensure there isn't standing water or water seeping into the sides of the excavation. There will be an inspection when they do footings through the Building Dept. again to see the sub-surface conditions. There is a whole series of checks and balances during the construction process that occurs. But that's essentially for building. If you have a specific concern and I'm not sure which property you own...

HUNT: I'll lay it flat out to you. My specific concern is those checks and balances didn't work. They did not work.

MANCUSO: What problems...

HUNT: Specifically with the Musso property. The property two properties back from Heller...the Hassell property. Specifically with the Hassell property. The process you're describing did not work and the residents of Mader Place, the residents of Spring Valley Road, myself and Mr. Heller all experienced a significant amount of property damage and change because the process you're describing, which is my major concern did not work. So what assurances do we have, as homeowners, that the process you're describing and the gentleman who is operating the excavator and sees a spring...where is the follow-up?

MANCUSO: That's through the Building Dept. at that point. It is not something that this Planning Board does. It is the Building Dept. and engineering.

HUNT: So you're saying at that point....he is here to get a soil moving permit. At the point he gets a permit, he goes out to excavate?

MANCUSO: No, then he has to go to the Building Dept. to get approval of the plot plan.

HUNT: And at that point, I will also have the opportunity for public comment?

MANCUSO: No, that is not a public hearing. That is strictly a Building Dept. matter because he is complying with all the zoning regulations. So it is a typical single-family dwelling that he has the right to build within certain parameters.

HUNT: So if he gains approval this evening and he gains approval from the Building Dept. and begins to excavate, the Building Dept. is supposed to examine his excavations.

MANCUSO: Correct, there will be periodic inspections during milestones. There will be footing inspections, there will be framing inspections, our office does erosion control and stormwater management inspections. That's throughout the course of construction.

HUNT: So if it rains or something happens you just have to wait until all the water dissipates and then they get an inspection?

MANCUSO: Well, if it is a spring, chances are it would keep running and he would have to address it in his plan by putting in a sump pump or modifying the elevation of a basement or something of that nature. The homeowner would certainly not continue to build his house knowing that he potentially has a spring that it going to come into his basement and damage his home.

HUNT: And as part of this, there is no consideration given to the storm drain down on Spring Valley Road? It is the only one at the end of the Heller property and the next one is at the corner of Mr. Hunt's property.

MANCUSO: A single-family dwelling doesn't rise to that level that requires off-site improvements.

HUNT: I'm sorry can you explain that?

MANCUSO: If, for instance, they were having a site plan for commercial property or if there was a subdivision, it is a different nature of a project. A single-family dwelling doesn't require a site plan, it is only a plot plan and a single-family dwelling isn't required to do off-site improvements.

MAGUIRE: Is there a storm drain issue there?

HUNT: Well, I'm raising as many questions as I can because of all the water issues that we have and knowing what I know about the general area, the aquifer, and the springs that I know are there, my concern is water runoff. Changing the nature and makeup of the property and how that is going to affect water runoff...whether that is stormwater runoff or general water runoff.

MANCUSO: The grading of the lot and the stormwater management of the lot is definitely under the review of engineering and building. Those are items that are going to be addressed.

HUNT: My dwelling and my property level are actually below the grade of Mr. Heller's property and....

MANCUSO: Are you immediately to the south?
MESIANO: No, Heller is next and he is on the other side of Musso Lane.

HUNT: Musso Lane...I have a wall that is about 2' tall on my property which is below the general grade.

MITAL: But you are two houses away? There is a house between you...

HUNT: No, it is four houses away from the other house.

MITAL: So there is a house between you and the proposed property? The Hassell house, that's upstream.

HUNT: Correct.

MITAL: Mr. Chairman, I don't know how much you want to get into this but just even looking at the contours on the plot plan, it seems to me they are not changing anything. Just some minor things across the back of the house but they are not really not reconfiguring the property.

(board and Mr. Hunt all speaking at the same time)

BRUNO: There is a patio in the back and without the retaining wall, he would have had to do far more regarding that what is being proposed. If you look at the plot plan...

(board speaking to each other overrides table microphone)

HUNT: What is the proposed height of the retaining wall?

SCHWAMB: 4'.

MANCUSO: At maximum, it varies.

HUNT: 4" PVC?

MITAL: From the retaining wall?

MANCUSO: There is a drain behind the retaining wall and it also picks up the water from the downspouts.

MITAL: But I am talking about from the retaining wall. It looks like there is a 4" PVC drain, so water is being picked up, hits the drain and into the seepage pit, right?

HUNT: What is the proposed length of the retaining wall, 76'?

BRUNO: There is one thing...I have been doing work in this town for close to 15 years and in the past 5 years, it has become far more stringent with regard to water than how we used to operate. The Site Plan ordinance that we are currently operating under has been designed to be far more stringent that five or 6 years ago.

If there is an underground spring, the first person to know about it will be the machine operator and the second person will be Mr. Egan and the third person will be me. And then we will be calling the Building Office.

If the spring is in the basement then the basement is going "bye-bye" because there is no way you can pipe a spring through a sump pump. It would be running 24/7.

HUNT: Ok, then let me reiterate my major concern. You are going to put a 4' retaining wall across the back of the property greater than 77', which....

BRUNO: Not across the back of the property.

HUNT: Across the back of the house somewhere that will significantly change the flow of water hopefully into those two seepage pits, which again, with all due respect to the house I take issue with and being a neighbor trying to protect myself, they also put seepage pits in to no avail.

BRUNO: One of the things that is going to happen is Mr. Egan is going to have to have a test pit dug...a perc test will tell us about the permeability of the soil, if we have high permeability then we (?), low permeability then we redesign the seepage pits and increase their size so they have sufficient capacity to handle the water flow.

One of the things I specifically did here and it will be on the engineering plans is what we call curtain drains, which will be a drain at the top of the retaining wall...

HUNT: Does that show on the site plan that I looked at?

BRUNO: No, that will be on the engineering plan that has to go to the Building Dept.

HUNT: I did not see that on the plan...there was only a 4" drain.

BRUNO: It will be on the plans prepared for the Building Dept and for engineering review.

HUNT: My other question, which goes back to the storm drain and stormwater runoff is exactly to your point, Mr. Mital...now the proposal is to have quite an extensive retaining wall which is going to fundamentally flow water around the house and hopefully into the drainage pits. In the event of a storm or a very large storm as we have had, what happens to that stormwater, where does it go and are the storm drains on Spring Valley Road adequate to handle this?

I understand what you are saying but my fundamental issue is when the plans were approved for the house I have had a problem with there were no studies done. There were no hydrological studies surveys done to understand where the water was going to flow, how it was going to flow and all the residents in that general area had a problem. That's my fundamental issue. I spoke to Mr. Egan in the hallway. I don't disagree with him improving the property with what he is going to do there because what he is going to do is better than what was there.

MANCUSO: Sir, if you look at the plan enough because you only had a brief chance in the hallway, but if you look at that first sheet, there is a cross section of the keystone, what we call a keystone type wall, which is an interlocking block system and it does demonstrate that behind the wall there's a full field of crushed stone...

HUNT: I know exactly what that is. There is not a 77' long wall on that property now. So water flowing down is going to hit that wall and go around it.

MANCUSO: That's what I'm trying to describe to you. There is going to be a full field of stone behind the entire length of the wall so when it comes to the wall, the stone will accept the water, introduce it back into the ground. Once the ground gets saturated, the checks and balances on the

design is that 4" perforated pipe but the stone behind the wall allows it not to hit the wall and go around it but to hit the wall and go down into the ground. The concept is to let the water percolate back into the ground.

HUNT: I understand the process, I have built one of those walls myself. I will make my comment again. There is not a four foot wall, 77' long retaining wall there...all the water from all that area, Ridge Avenue, the Finnegan property all the way on back will be flowing down towards my driveway. There is a 4"pipe and a pipe you will put on the top of the wall and is that going to be adequate enough to handle all that water? And where are the studies, where is my understanding that that 4" pipe that runs into your seepage pit in a major storm is going to be able to handle that water?

MITAL: We did look at the plans out in the hallway and my understanding of these contours and listening to Mr. Bruno and I know these rainstorms and this past year I had two at my house that were uncontrollable with water going through the yard, down the street...but looking at these contours, it certainly does show that this water is going to travel west. I can't answer what the storm drain on Spring Valley is going to do but from just the appearance of this plan, if these contours are right and I am certainly going to go and look at this property the next day I am home and it is sunny out, but it appears it is traveling west towards Spring Valley.

The Hassel house is certainly upstream, when I am driving to there I am driving uphill. That water is going to be flying down that gravel road into your property. Now you are two homes away from here. It has got to go to Spring Valley, if you look at the plans and look at the contours.

HUNT: My follow-up question is, has there been a study done to determine that a single storm drain on the south end of Mr. Heller's property is good enough to handle any stormwater runoff?

MANCUSO: It is the site plan that is going to be prepared, the plot plan that is going to be prepared for the single-family dwelling that will have to demonstrate there is no increase in runoff. So whatever the existing condition is today with the smaller home and the other structures cannot be exacerbated. It has to remain the same or less.

HUNT: But from everything I am hearing, other than this evening, I will have no other opportunity to express my opinion.

MANCUSO: Yes, this is your opportunity to speak and voice your concerns.

HUNT: But only tonight.

MANCUSO: Correct and that is why we are trying to answer all your questions.

MESIANO: And what the engineer just said and what Mr. Bruno said is very important because when they do the engineering plan they will have to a study on the amount of water and where it is coming from and how much water on this property is coming off the property now. They have to demonstrate, in engineering terms, that when they are done improving it less water or no more water will come off the property. They look at it now and all the property around it, the grades, what is being built into it, calculating for the storms that do occur and how much water will flow into the street or Mr. Heller's property...they have to hand the

calculations into the Building Dept. and the engineering dept. does the review to determine if the calculations are right. That with the seepage pits, the stone, the new house with the old house gone the conditions are such that equal or less water will come off the property. So to say that if it all happens the way it happens on paper, the storm drain on Spring Valley Road will not have to handle any more water than it does now.

HUNT: So if there are no further assurances that is will happen the way you are saying it will happen I am right back where I was a number of years ago where I would have to sue the town because of damage done to my property. Is that correct? I have no other avenue?

SCHWAMB: I don't think we can give you the assurances. You are looking for an iron-clad assurance and we can't give that to you tonight.

HUNT: And that is basically why I am here. I am trying to get some assurances and what is required of a property owner in terms of water studies and different things like that.

Mr. Bruno again explained the responsibilities of the property owner, his office and that of the Building Dept. and the engineering office with regard to no increase in stormwater runoff and the State Stormwater requirements.

HUNT: So there is a process.

MANCUSO: There is a very well defined process but with all that said, in addition to that the site grading is critical to make sure the lot isn't graded to cause adverse impact on the adjoining neighbors. There is a full review done.

BRUNO: And one other thing, at the end of construction we have to prepare an As-Built and demonstrate that what was built, was built according to the plans submitted otherwise a C.O. cannot be issued.

HUNT: And the review is done by the Borough Engineer not the homeowner's engineer.

BRUNO: Correct because you have to have independent oversight.

MANCUSO: Actually there is one other survey in-between, a foundation location survey. So before the applicant is even given the permit to do framing, especially with a new dwelling, they make sure it is actually sited in the right location and at the right elevation.

HUNT: I guess what it comes down to is my fundamental issue with my last experience. I don't believe the checks and balances were done.

MANCUSO: I can't speak to that particular project, it was a number of years ago.

HUNT: Nothing against you Sir (to Mr. Egan) but I need to protect my investment as well and I need to have the assurances that all these checks and balances, in light of the issues that I am aware of and that this Board is now aware of, in terms of an aquifer and springs being present that all the checks and balances are going to occur. I need the assurance.

SCHWAMB: I can assure you, with the people on this board, that the checks and balances will be done. The engineer and Mr.

Bruno...everyone is very much hands on and they will do as good a job as they can to allay your fears. And I understand your fears.

RUPP: If I could just clarify that. This Board does not have jurisdiction over those issues. This Board is not the proper body...

MAGUIRE: Let me just jump in. Two comments. The Stormwater Management Act was adopted in 2006/2007 and I don't know when the other property was built. I think Mr. Mesiano did a good job describing it. It is designed to prevent additional runoff so if you do any development it has to show that there is no additional runoff coming from that property.

Now to your point and I would suggest that you stop in and talk to Nick Saluzzi after the applicant files his building permits so you can have a conversation with Mr. Saluzzi of the Building Dept., so as he progresses and does his inspections and the borough engineer does their inspections, you can add onto our checks and balances and make sure that they are followed.

Thank you, Mr. Hunt.

SCHWAMB: Anyone else wishing to be heard?

Pat J. Hunt, 2 Mader Place came forward and was sworn.

HUNT: The situation he is referring to is that whole issue with that trust is a little bit difficult to buy into. I am there since 1969 and never had water in my backyard and now I get water in my backyard. 4 Mader Place, 6 Mader Place and up on the top of the key, 8 Mader Place was a disaster with this whole situation. Whoever dropped the ball and why they dropped the ball and what the regulations are, I still don't have trust that it will happen as you say it is going to happen. That's my problem. Now, if something happens and I get more water, what do I do?

MAGUIRE: I think the recourse is back through the Building Dept. and I don't know how to give you assurance but you can go and talk to Nick Saluzzi ...

HUNT: Mayor Misciagna, I was told the recourse was to sue the town by the former Mayor.

MAGUIRE: That may be so and I am Mayor Maguire, by the way....we both have the same barber...

HUNT: Again...

MAGUIRE: It is a very frustrating thing and one of the hardest things we deal with and I am sure the Borough Engineer, as well as the Building Dept. will tell you is water issues between neighbors. I know the Zoning Board for a number of years always recommended with these applications, even if they were putting on a small addition to put in a seepage pit whether it was required or not. Just because it is the worst thing you want to have is when there are water issues and where is it coming from. You said it, these storms of late have been tremendous. We had 18" of rain this past summer, it was a record, it was unbelievable. The sheet flow of rain coming across my backyard into my neighbor's yard and it wasn't originating in my yard, it was originating in my next door neighbor's yard and coming across my yard and onto the other neighbor. And the other neighbor is coming to me, saying what are you doing about this water? I told him I wasn't creating the water.

HUNT: I've been here a long time in town and we were good neighbors, knew the Mussos since we lived here. Their daughter built a house...I know I didn't come down to object to it and I don't think anybody else did and then we paid the price for it.

MAGUIRE: The State passed the Stormwater Management Act and that is what guides all the engineers in terms of what they do. In terms of the process, the process is there and is with the Building Dept and Mr. Egan will be providing a check to pay for our engineer to go through his plans and to do the checks to make sure there is no additional water running off his property than there is today. That's the best assurance I can give.

HUNT: It is not only this property but what will this do to the areas up in the back, will that make our situation worse?

MANCUSO: No, the water coming across the property is to remain coming across the property. You can't block the flow and divert the flow. So the existing drainage pattern will remain.

HUNT: And suppose you're wrong? What is our recourse?

MANCUSO: If the grading isn't per plan, he's not going to get a C.O. for the property.

HUNT: Well, suppose he does everything according to plan and I got a backyard full of water, who do I call? What is our recourse?

MANCUSO: Well, if everything is going to be per plan, that is not going to happen because he is showing very clearly where the water...

HUNT: You know what I am talking about, it is terrible and on 8 Mader they had a horrendous situation.

MANCUSO: I am familiar with the end result because that is when I joined the Borough. There was a drainage system built there and I came in after the subdivision was created and approved. You shouldn't compare this to that. It is a different situation.

HUNT: I have a right to do that because you are doing something to the property that, maybe, will create a situation that will happen again.

MESIANO: And we are also saying that between that construction and this construction the rules changed dramatically about what could be approved but there may not have been a rule then, that said they can't run the water off onto other people's property. They can't run more water off than is running off now. That's the difference.

Pat Hunt, 154 Spring Valley Road.

HUNT: May I ask another question? So if everything happened as planned, all the regulations were followed and Mr. Egan did everything according to plan and we still have a problem, what is our recourse?

RUPP: It is not the function of this Board nor within its jurisdiction to give legal advice. You need to consult and attorney of your own choosing to advise you of that. I would merely comment, however, the State of New Jersey is governed by what is known as the N.J. Tort Claims Act and there are certain immunities given to public entities with respect to the issuance of permits and making of inspections. Again, there is also a whole body of law relating to what a property owner may or may not do,

in terms of diversion of surface water and that is an area of Common Law with a body of case law going back literally hundreds and hundreds of years.

So the Board, itself, can't give you assurances. This Board doesn't even have jurisdiction over it and those assurances are literally meaningless. There are a body of law, primarily State Statutes regulating this. If the State Statute is followed and water flows there is nothing much that can be done about that. You need to consult your own attorney to the extent that there is any recourse but this is not something that this Board can address.

VON BRADSKY: And you have been having experts and professionals telling they don't' feel this will affect your particular property, which is pretty far down to the south of this lot. The lot that you faced was up the hill to the east of you.

HUNT: No, water flows from Spring Valley Road onto my property.

VON BRADSKY: Well, that's not according to the...

HUNT: You have water coming out of Musso Lane for all those years and down his sidewalk and down my sidewalk, which would freeze in the wintertime and it took forever to get that resolved. And it was only resolved out of the goodness of Mr. Heller.

SCHWAMB: Gentlemen, thank you very much. I think you have made your points very clear tonight. Any other person wishing to be heard? Are there any reasons the Board has that we cannot approve this application.

RUPP: We should close the hearing and discuss at a later time with no additional comments from the applicant or public.

SCHWAMB: The hearing is closed.

NEW BUSINESS:

RIDGE MANOR APARTMENTS - 71-91 Hawthorne Avenue
Lot: 3 Block: 1402

Motion made by Mr. Mesiano and seconded by Mr. Von Bradsky that the Developer's Agreement for Ridge Manor Apartments be signed by the appropriate Board officers.

AYES: Messrs. Browne, Ludwig, Mesiano, Metzdorf, Mital, O'Donoghue, Schwamb, Von Bradsky, Mayor Maguire, Ms. Eisen

Development Trust Funds

Planner explained that under new rules adopted by the State all Development Fee Escrow funds must be committed by July 1, 2012. She indicated that "committed" had not been defined as yet but that it would behoove the Board to spend/commit the funds it currently had before they were absorbed by the State.

Planner developed a draft Spending Plan, which was a general one done for COAH mediation purposes and that she would take a second look at it, amend it and distribute to Board for review and discussion.

Mayor Maguire advised that the Borough Attorney has been working with the attorney for Park Ridge Properties to execute a spending plan that can be incorporated into the Developer's Agreement.

Planner said it was important to get that on the books as it had to be committed by July 1st.

Transit Village

Planner advised that the State regulations regarding Transit Villages have been changed and felt we could now qualify, under the new regs, for Grant Money to help develop a Transit Village provided we adopt an ordinance similar to the N.B. district. Once that is done, we can then apply. She had some handouts that her company used in a presentation before Summit, NJ outlining what a Transit Village was.

Planner suggested board Google Transit Village in Summit, do some research and be prepared to consider. Mayor said to do the research because the T.V. can be controversial. To be discussed at next available work session.

Date for Joint Training Session

Board checked their calendars, most found they did not have a Saturday free and opted to schedule for Wednesday, April 4th @ 6:00pm. Mayor said supper would be available.

Downtown Parking

Planner submitted both proposal and analysis done for Leonia. Mayor wants to hold off on planner's proposal to determine, first, what is the best approach to a long-term solution. Park Ridge not a destination community such as Ridgewood, Hillsdale, Westwood. Not much available extra space in Park Ridge. Parking Ordinance should be revisited.

Green Team

Mayor Maguire brought Board up to date on recycling containers to be donated by Advance Waste Mgt with their logo. At this time, 12 bins, not sure where they will go.
Green Team expressed concern over loss of trees due to the proposed construction of the Mill Pond pedestrian bridge. G.T. feel pond should be dredged first.
Planner advised DEP had reviewed the landscape plan, trees are being replaced with suitable canopy spread.

ADJOURN;

There being no further business to come before the board a motion was made by Mr. Mital that the meeting be adjourned.
Second by Von Bradsky.
Carried unanimously.

Respectfully Submitted,

Helyn N. Beer
Secretary

(10:10pm)