

Minutes of the Park Ridge Planning Board
Meeting of April 28, 2010

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

ROLL CALL: Present: Messrs. Browne, O'Donoghue, Mital, Oppelt, Von Bradsky,
Councilman Maguire

Absent: Messrs. Brouwer, Mesiano, Saluzzi, Ms. Eisen

Also Present: John Ten Hoeve, Jr., Board Attorney
Brigette Bogart, PP, Planning Consultant
Eve Mancuso, PE, Board Engineer

COMPLIANCE STATEMENT:

The Notice for this meeting required by Section 3(d) of the Open Public Meetings Act has been provided by the adoption of a resolution by the Park Ridge Planning Board on January 15, 2010, setting forth a schedule of regular meetings, by mailing of said schedule to the Record and The Review on January 15, 2010 and by posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereof and by filing the said schedule in the office of the Borough Clerk.

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

There was no one.

PUBLIC HEARINGS:

MITAL: We have a full schedule this evening and want to hear both public hearing applications scheduled. The board will make every effort to allow equal time to both applications but we also need to stop hearing testimony around 10:00pm because we do need to discuss other Planning Board issues this evening.

MICHELLE MITCHELL/PASCACK DUTCH REFORM CHURCH

18 Wampum Road 65 Pascack Road R-15
Lots: 2,3,4 Block: 1602

Michelle Mitchell and Butch Servillio came forward and were sworn, stating they resided at 18 Wampum Road

TEN HOEVE: Do you have any engineer appearing in connection with this application or is it just the two of you.

MITCHELL: Just us.

(Mr. Von Bradsky, as a member of the church recused himself at this point)

MITCHELL: We are requesting a Minor Subdivision. We want to purchase from the Pascack Reform Church an adjacent piece of property, which right now is just a strip of Greenland woods. It is not very big. We would like to move our property line 65' closer to the Church.

The variances required according to the report by the engineer is for a buffer zone, which the report says would be eliminated, although that is not quite true. There would still be a buffer but it would be less than the required 50'. And we also would need a lot depth variance.

MANCUSO: I did prepare a review dated March 19th and just very briefly, Item 1 is just regarding certain map requirements that is required to be shown, namely names of adjoining owners and structures and wooded areas within 200'...as the applicant has already testified the land is undeveloped and is a lightly wooded area. So, I'm not sure how necessary that

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information is and if anyone did go to see the site, it is clearly a very lightly wooded lot.

Item 2 is regarding the history of the church property. As I didn't have any information available regarding a site plan and development of the church, I wasn't sure if that side yard was ever intended for another purpose, such as land-banked parking, future parking, something along those lines. Perhaps the applicant, if they have that knowledge, could share it with us.

MITCHELL: I am not aware of any other use for that property. I don't think that they intend to increase the parking.

TEN HOEVE: What the engineer is asking is whether there is an existing site plan for that parking area, whether there was ever anything obtained by the church from the municipality or any board in the municipality.

SERVILLIO: No, in fact we went through a lot of research and trusts just trying to find the deeds for the property and there was no map.

MANCUSO: That was all I had, Mr. Chairman, thank you.

BOGART: I just had two issues with regarding to the zoning as outlined on Page 3 of my report.

One was noted by the applicant that the required minimum buffer area of 50' in width is now being reduced to a non-conforming dimension and therefore a variance is required. And the second variance is in moving the lot line they now have a non-conforming lot depth and my third issue pertained to the parking on-site.

TEN HOEVE: May I interrupt you for a minute; I thought the Land Use Administrator had already checked it. Could you just present the proof of service that you have here? Customarily it is submitted before the hearing and checked by the Land Use Office. I will take a look at this and assuming that it is complete, we would not have a problem. I am sorry Ms. Bogart.

BOGART: The third issue pertains to the parking on site and now that they are taking away land from the church, my concern was that if that land was ever set forth for future parking spaces or if there was ever a need for additional parking by the church, that opportunity is being taken away by removing that land area from their site.

As far as zoning, all of that is identified in my report. The only other issue existing residential lot is I was wondering if there are any future plans for that lot such as an expansion of the home, a subdivision or something of that nature.

MITCHELL: Nothing is planned at this time.

OPPELT: May I ask why you are doing this?

MITCHELL: Why we want that piece of property? We've tried to buy that piece of property since we moved in 1993. We like it and we don't want it to change, we want it to stay the way that it is.

SERVILLIO: When we first moved in that lot was with shopping carts and what-have-you and we've kind of kept it up a little bit and kind of treated it like our own but we can't do anything because it is not ours.

TEN HOEVE: Is it your intention to do anything there? To landscape it? When you say to "treat it as your own", what are your intentions?

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MITCHELL: We sort of like it the way it is.

SERVILLIO: When we first moved in, up along Wampum Road there was nothing but weeds. I actually extended my lawn past my property line almost up to the parking lot just so visually it looks good when you come down the road. It is not our intention to do anything except clean it up.

MITAL: Any other questions from the board members?

Any questions from the audience?

Gail Schaefer, 7 Sulak Lane came forward saying she was a neighbor and lived right behind them.

Ms. Schaefer was sworn in by the board attorney.

SCHAEFER: The reason I came is that I have no objection to what they are doing, I think it is great.

I saw in a letter that a buffer zone...they showed it to me when I walked in and I don't think they even know this....a corner of my property where the church comes, about 15 or 18 years ago the church put in a dry well but it looks like it is going to be in the buffer zone anyway. I just wanted to point that out and bring it up because it has worked perfectly. I don't get the water from the parking lot and I'm sure they don't want the water either. I didn't know where the buffer was and I couldn't tell from the letter.

TEN HOEVE: Did you take a look at the subdivision map?

(Mr. Servillio and Ms. Schaefer discussed away from the microphone)

TEN HOEVE: Does anyone know where that is? Do you know, Ms. Schaefer? You indicated that your concern is that there's a dry well that was put in by the church...

SCHAEFER: I actually had them put in because there was such bad flooding coming off the church parking lot, I don't think they had enough drainage and....

TEN HOEVE: You had them put in on whose property?

SCHAEFER: The church property.

TEN HOEVE: The church let you install...

SCHAEFER: No, they did it. Alright...a long time ago I was getting like tons of water from the church and I got disgusted and went out and videotaped it, to show how all the downspouts and whatever were just not sufficient. And it was fairly easy after they saw the tape and they dug a hole and put some rocks in there and made a dry well and it has been working great.

TEN HOEVE: What I am trying to....it is important to know where that is on this plan because if it is on the property that the applicant is trying to take, then there are certain things that have to be done. If it is on the church property and won't be affected by this, that would not be the case. I am just trying to find that out.

SERVILLIO: When we say there's what we think is a stone wall where we're moving the line to, so nothing is going to be interrupted in that area...know what I mean? May I come up and show you?

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TEN HOEVE: Let me hear from her first.

SCHAEFER: It probably wouldn't be a problem unless you were going to build and probably at that point you wouldn't want water yourselves.

TEN HOEVE: I need to know where it is if you can tell us because if it's on the church property then the church is required to continue to maintain it. If it went on the other property then some type of easement would probably have to be provided for the benefit of the church if it is going to be on this property. That's what I'm trying to ascertain.

SCHAEFER: I remember when they put it in and I am pretty sure that it is on the other side of the stone wall, on the church side.

TEN HOEVE: The stone wall is not shown on your plan, right?

SERVILLIO: It is a mound of earth with some stones.

MITCHELL: (to the attorney) Do you have the plan in front of you?

TEN HOEVE: Yes.

MITCHELL: Where the stone wall is on that map, if you go to where the new proposed lot line is, right along that line, not quite on that line, it's east...it is not as prominent as the stone wall in the back but along that line there is another stone wall.

TEN HOEVE: I know where she means.

SERVILLIO: She's calling it a stone wall; I think it is just a mound of dirt. It looks as if it is a stone wall but it is not.

TEN HOEVE: (to the engineer) Would they have had to come in to get a permit to do that.

MANCUSO: Not necessarily, no. It was just simply a maintenance type matter to fix a dry well for some local roof leaders and if it was done in that nature and was probably done many years ago.

SCHAEFER: I think it was about 15 years ago.

MITCHELL: (to Ms. Schaefer) This is the proposed line and this is where that stone wall is.

TEN HOEVE: Don't show them, show us. Oh, right on the line?
(to the engineer) What is your recommendation?

MANCUSO: I think the surveyor should go out and locate it, add it to the map and in fact, if it is in the parcel to be transferred, an easement would be needed to it will be maintained and it doesn't cause any potential future problem with reintroducing a flooding situation.

MITAL: Are there any other questions from the public?
You will have to have the dry well placed on the map and resubmit the map and we'll determine at that point if there's an easement required.

TEN HOEVE: If the surveyor goes out and locates it and shows that it has no impact on the application, you can just submit that survey and you can call Mrs. Beer. I don't know if the board will require any continued hearing in connection with this, however, if it is on the property that you're trying to

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purchase and make part of your lot, then you will have to come back and provide some additional information.

SERVILLIO: If the engineer can't find it, if there's no record of it...

MANCUSO: It might be helpful if you or your neighbor met your surveyor in the field and pointed it out...a little explanation may be needed to remove leaves or whatever it may be for an underground structure.

SERVILLIO: Again, if there is no evidence of one?

MITAL: No evidence of what?

SERVILLIO: If they take a machine and dig and there is nothing?

MANCUSO: Then you will have to trace the roof leaders. If that was the intent to pick up the roof leaders....

SERVILLIO: That wasn't the intent.

MANCUSO: I'm sorry, I must have misunderstood.

SERVILLIO: What I am gathering from Gail is that it was for the parking lot runoff.

MANCUSO: She had mentioned a number of downspouts and things of that nature...so maybe I misunderstood.

SERVILLIO: Ok, I'll talk to the Reverend, maybe he has more information.

MITAL: Ok, thank you very much.

(Peter Von Bradsky returned to the dais)

MARK PRUSHA – 82 Rivervale Road - R-15
Lot: 1 Block: 2007

Andy Del Vecchio, Esq. , of the firm of Beattie Padovano came forward on behalf of the applicant, Mark Prusha.

DEL VECCHIO: We are here this evening for property generally located at 82 Rivervale Road. It is formally designated on the borough tax assessment maps as Block 2007, Lot 1 and is approximately 2.01 acres in size or 87,641 sq ft. The property is located in the R-15 zone of the community and there exists on that property, currently today, two single-family homes, which are a pre-existing non-conforming situation as you have two principal uses, two principal structures existing on the single lot.

One of the homes is located generally along Rivervale Road and the second home is located towards the middle of the property, approximately 175' from Rivervale Road. The site has about 187' of frontage along Rivervale Road and 50' of frontage along Local Street and the center of the property is impacted by the existence of intermediary resource wetlands, which have been delineated and classified by the NJDEP, by an LOI which was previously issued for the project.

The applicant has filed an application for preliminary major subdivision approval to create four single-family lots out of the existing property that will essentially increase the number of homes on the site by a factor of two. The one existing home in the middle of the property will be

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partially reused and the other existing home on the property is proposed to be demolished and replaced.

The applicant has also filed a soil movement permit and is requesting a variance for lot width for three of the lots and street frontage for two of the lots.

The applicant has applied for various NJDEP permits, all general permits in nature to permit the improvements to be constructed as they are indicated on the plans. We have applied for Bergen County Planning Board approval and we have now received Bergen County Planning Board approval for the project earlier this week.

I have with me this evening besides Mr. Prusha, Mr. John Aubin, who is our environmental consultant, Mr. Rick Eichenlaub, our project engineer and Mr. Richard Preiss, our planner.

With that said, I would like to call Mr. Aubin forward but before I ask him to be sworn, I would like to do some housekeeping, if I may.

TEN HOEVE: Just one comment, I know you said you might get to a planner and you probably won't tonight but I had spoken to Ms. Bogart this evening before the hearing and I noted in her report that certain distances weren't shown on the plan and I have reviewed the plan and believe that they are on there. She apparently was looking at a different page and didn't realize there was a zoning table somewhere on the plan. So, I pointed that out to her and she indicated she hadn't seen it and was probably going to do a revised report and analysis based upon the information because she only found out about it today. So just in terms of whether you wanted your planner to wait until that's completed, I am just giving you a heads up on that.

DEL VBCCHIO: Appreciate it.

The housekeeping items. I would like to mark some documents and exhibits, if we can, at this point just to ease the testimony flow.

A-1 – Affidavit of Notice which was previously submitted through the board secretary's office which contains the Affidavit of Notice and publication for the project.

A-2 – The subdivision drawings prepared by R&L Engineering consisting of six sheets bearing a date of February 11, 2010.

A-3 – R&L Engineering drainage calculations bearing a date of February 3, 2010.

A-4 – Copies of Mr. Aubin's resume and qualifications...his CV

A-5 – LURP application forms that are pending before the DEP, all of which are on file in the Borough Clerk's office, for the general permits that I referenced in my opening remarks. They consist of four sheets and were signed by Mr. Aubin on February 8, 2010 on the last page

Those are the documents that I wish to Pre-mark at this point with the board's permission and I ask that Mr. Aubin be sworn.

TEN HOEVE: You're going to present testimony with regard to qualifying him? You're not asking the board to look at all this now?

DEL VECCHIO: He will read the document in full to you if you would like, he's provide it to you in an abbreviated format and answer any and all questions on his qualifications.

TEN HOEVE: It is just that the board has limited opportunity, obviously, to do that so I'm assuming you're going to have him do that.

DEL VECCHIO: We will give you as much or little as you want.

John Aubin, project manager with Connolly "Environmental, P.O. Box 1432, Island Heights, New Jersey came forward and was sworn in.

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DEL VECCHIO: We premarked as you were standing next to me, the document marked as A-4, which is essentially your CV. It is 22 pages in length. Can you give the board a brief summary of your professional experience, education and qualifications in the field of environmental science?

AUBIN: I have a Bachelor of Science degree in Business Administration and Economics from Fairleigh Dickinson University. I have approximately 25 years of experience on wetlands and NJDEP regulations preparing environmental impact statements. I've worked and appeared before planning boards and zoning boards throughout the state and I have a list of the towns that I have worked in on page three. I have been qualified in testimony as an expert in environmental matters, environmental regulations, freshwater wetlands and brown water hydrology and geo-hydrology before the Superior Court of the State of New Jersey and before the Administrative Court.

DEL VECCHIO: And you are a certified wetlands delineator?

AUBIN: Yes, I have been certified by the U.S. Army Corps of Engineers as a wetlands delineator and I have also been certified by the N.J. Association of Environmental Professionals as a wetlands professional.

DEL VECCHIO: And the list of towns you have appeared before is listed on page 22 of your report?

AUBIN: Correct.

TEN HOEVE: This is a quick question to maybe shortcut things. You list Park Ridge Animal Hospital, did you qualify before the Zoning Board of Adjustment in this town for that matter?

AUBIN: No, I did not. That's one of the projects I worked on recently.

DEL VECCHIO: Well, unless the board wishes me to have him go through each of the pages to provide further information, I would like to offer Mr. Aubin as an expert in environmental sciences, particularly wetlands.

MAGUIRE: I'm sorry, I don't have the list...what boards have you appeared in front of, in the general region?

AUBIN: I have personally appeared before boards in Mahwah, Old Tappan, Burlington City, Burlington Township, Plainsboro, Cranberry Township, Clark, Edison, Sayerville, Old Bridge, Manalapan, Howell, Jefferson Township, Kinnelon Borough, Riverdale Borough, Montville Borough, Boonton Township, Denville Township, Rockaway Township, Whaton Borough, Roxbury Township, Chester Township, Randolph Township, Madison Township, Chatham Township....

MAGUIRE: Thank you, I was just interested in Bergen County.

AUBIN: In addition, I have represented the boards in Mendham Township and Boonton Township.

MAGUIRE: Thank you.

MITAL: You mentioned you were certified by the Army Corps of Engineers?

AUBIN: Yes.

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MITAL: As a wetland delineator...

AUBIN: Yes.

MAGUIRE: What's required to be certified as a wetlands delineator?

AUBIN: You have to complete a 40 hour course and take a two-day written test and two-day practical field test and pass those tests.

MAGUIRE: Thank you.

DEL VECCHIO: Mr. Aubin, in terms of your experience do you routinely present, prepare and attend conferences before the NJDEP concerning wetlands delineations?

AUBIN: Yes.

DEL VECCHIO: And your qualifications are always accepted and never questioned down at the DEP?

AUBIN: That's correct.

MITAL: Anyone else on the board with questions? No?

TEN HOEVE: The board will accept him. I assume you are offering him as an expert with regard to testifying as to wetlands delineations on the site.

DEL VECCHIO: The wetland issues in general and permitting process down at the DEP concerning wetlands.

Mr. Aubin, the document that has been marked A-5, which is the LURP application, that document was prepared by you?

AUBIN: Yes, I prepared that document and all the supporting documents that went with it, except for the plans prepared by R&L Engineering.

DEL VECCHIO: And what is the intent and purpose of filing that application with the NJDEP?

AUBIN: The intent and purpose was to obtain general permits and special activity transitional area waivers that would allow construction of the development of the site as shown on the subdivision plan and also as shown on this permit plan prepared by R&L Engineering.

DEL VECCHIO: We are going to mark that in a moment but before we get into the LURP plan, let's step back and lay some foundation and then I will let you speak on that.

AUBIN: Ok.

DEL VECCHIO: The site, which is the subject of this application and I described in my opening remarks....are you familiar with the site?

AUBIN: Yes, I am.

DEL VECCHIO: You have personally visited it?

AUBIN: I have personally been to the property a number of times.

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DEL VECCHIO: You have made yourself aware of all the various environmental features of the property, particularly those affecting the wetlands?

AUBIN: Yes. I delineated the wetlands and classified all the environmental features of the site prior to submission for an LOI to the NJDEP.

DEL VECCHIO: In connection with your field work, you then prepared a separate LURP application, not the one we marked as A-5, for purposes of delineating and classifying the wetlands that might exist on the site, is that correct?

AUBIN: Yes, that's correct.

DEL VECCHIO: That application was filed with the DEP and ultimately approved?

AUBIN: That is correct.

DEL VECCHIO: Let's mark this drawing...sheet 2 of 4 and entitled Permit Plan for the Prusha Major Subdivision with date of January 14, 2010, which was prepared by R&L Engineering as A-6.

Mr. Aubin, the drawing was prepared by R&L Engineering in terms of plotting the physical features and dimensions, however, you field located all of those features by flagging the areas and/or describing to Mr. Eichenlaub and are accurately plotted on that drawing.

AUBIN: We flagged them and they were survey located by Drum Survey.

DEL VECCHIO: The limits of the wetlands and the classification of the wetlands are accurately depicted now on the drawing marked as A-6?

AUBIN: That's correct.

DEL VECCHIO: Can you tell the board what they are, where they exist and confirm whether or not the DEP has accepted the delineation and classification?

AUBIN: There's a number of regulated features on this plan and when I say *regulated features* I mean features regulated under the New Jersey Freshwater Wetlands Protection Act. There is an erosion swale, which runs down the northern property line. There is a manmade drainage feature, which is along the western property line, in the southwest corner of the property. There is an intermediate resource wetland, which follows this area (showing in the map on easel) down through here and down to the drainage feature...

DEL VECCHIO: Mr. Aubin, just so the record is clear, the area you just outlined with your pen is essentially the irregularly shaped white area sandwiched in-between the green shaded pieces in the center of the property.

AUBIN: That's correct and there is an isolated wetland area along the western boundary and that's in the green hatch. The green area, which surrounds the white area, is the 50' freshwater wetlands transition area and is an intermediate resource value wetlands and that was determined by the DEP.

DEL VECCHIO: And the LURP number is noted in the notes on our subdivision drawings, marked as A-2 this evening.

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AUBIN: That's correct.

DEL VECCHIO: Note #6 on sheet 2 of Mr. Eichenlaub's drawing?

AUBIN: That's correct. That is the freshwater wetlands LOI.

DEL VECCHIO: That's kind of what we've done and accomplished in terms of actual permits.

AUBIN: That's correct.

DEL VECCHIO: We now have filed and marked as a filed separate LURP application and can you describe why that is necessary?

AUBIN: We've applied for a number of permits with DEP...

DEL VECCHIO: This is the drawing A-6 that was submitted in connection with that application?

AUBIN: That's correct. The permit marked Prusha Major Subdivision application is the plan that was submitted to DEP. Now because there are a number of things going on here, which involved the regulated areas, each of those had to be addressed in a permit.

The first one is access to the property. This entire area would be regulated and we took the precaution of actually applying for two general permit #10 across the transition area for the house on proposed lot .04.

TEN HOEVE: Can I interrupt for a second....actually this is a question for Mr. Del Vecchio....the planner and the engineer were questioning whether there was a more recent set of plans than the one they had received...they just wanted to try and check on that before you went further.

DEL VECCHIO: The drawing that we marked as (people rustling paper and hitting microphones) that was submitted with the DEP application and bears all the colored notations that you see in front of you.

TEN HOEVE: Has that ever been provided to the board at all?

DEL VECCHIO: That has not been submitted as a separate item in the package for planning board submission but as you know, Mr. Ten Hoeve, that material has been on file with the Borough Clerk's office, as it is required to be when the application was filed with the DEP for the general permits.

If the board would like copies of that version, I would be happy to supply them.

BOGART: Did you have a revised set of drawings submitted?

DEL VECCHIO: The last drawing is dated next to Mr. Eichenlaub's signature and is the 11th or 10th...there are no revisions.

BOGART: Ok, because there's another date on here of October 27, 2009.

DEL VECCHIO: That is the typed in date...if you look at Mr. Eichenlaub's signature...

BOGART: Yes, I can see the difference...there were no other versions submitted?

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DEL VECCHIO: We have only made one submission, one formal submission. Again, I extend the offer to submit copies of the permit plan.

TEN HOEVE: I think both the engineer and planner are both going to want those.

AUBIN: Shall I continue?

DEL VECCHIO: Yes, but before you do, the area you were describing is the proposed driveway as it extends to the existing home in the middle of the property as it extends and connects to Local Street.

TEN HOEVE: Perhaps he could repeat that testimony because I think many of us were trying to sort out the plan issue.

AUBIN: Yes, it actually doesn't require two permits but we applied for two permits to be conservative and cautious on this. The proposed lot 1.02, which has the existing structure on it, be accessing that, the permit, which is really just a very small area of wetlands, which is shown in the grey with blue hatch...it comes with a transition area waiver for the entire crossing of the transition area. It is a very, very small area. This area completely complies with the requirements under General Permit #10A for a very minor road crossing.

In addition to that, we took the precaution of applying for a second permit for the house we are proposing on proposed Lot 1.03 because that house is being accessed only with a crossing of the transition area itself...it is not actually crossing a wetland. So we have applied for both of these and both of those fall within the requirements to obtain the general permit. They are much less than the quarter of an acre of disturbance, which is allowed...they are under 100' in length of access. They fall into that very minor category.

DEL VECCHIO: Just to clear up the testimony. A general permit essentially is a permit that is approvable subject to the applicant meeting certain conditions.

AUBIN: That's correct.

DEL VECCHIO: And that is true whether it's General Permit 10 or General Permit 7 or 5 of whatever the general permit it?

AUBIN: That's correct as opposed to an individual permit.

DEL VECCHIO: Now, in terms of our filing for the general permit, they are permits that are freely given if you meet all of the conditions that are attached to the general permit that is being applied for?

AUBIN: That's correct.

DEL VECCHIO: And in terms of the General Permit 10 and 10A for the driveway to service proposed Lot 1.03 and the lot located in the center of the property, we meet all of the qualifications and conditions that are attached to those permits you've requested?

AUBIN: That's correct.

DEL VECCHIO: And while we do not yet have the permit in hand, you believe the permits will be issued because of the fact that we do comply.

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AUBIN: Yes. I believe they will be authorized because, as you say, we meet all the conditions and there is no question as to the extent of the transition area and the presence of threatened or endangered species...all those issues have been sorted out already.

DEL VECCHIO: Can you continue with other general permits that were applied for?

AUBIN: We applied for a General Permit #6, which will allow creation of a patio and yard area on Lot 1.03 in the location where there is the isolated wetland...that area will be filled.

And we applied for a General Permit #8, which will allow expansion of the existing house beyond its footprint...that permit actually allows up to 750 sq ft of additional area being added to the footprint of the house, and it's about 514 sq ft being added.

The other permit is General Permit #11 because we are going to collect stormwater and discharge it into a culvert underneath the driveway.

And we applied for a transition area waiver...a special activity waiver for redevelopment of the existing structure.

DEL VECCHIO: And that will allow the footprint to be expanded.

AUBIN: No, that's General Permit #8. The special activity waiver allows reconstruction of an existing, legally placed structure that was on the site in a regulated area prior to the implementation of the Freshwater Wetlands Protection Act.

DEL VECCHIO: Jumping back to the drainage under the proposed driveway to discharge into what you previously described as a natural feature...does the DEP look at and concern itself with the quantity or quality of the stormwater that is discharged in connection with that permit and how it is to be discharged?

AUBIN: Only if this project would trigger the provisions of the Stormwater Management Act and this doesn't because the total area of disturbance is going to be less than an acre and the total area of new impervious cover is under a quarter of an acre.

DEL VECCHIO: In terms of the discharge itself, did you have any conversations with the DEP reviewers or what they analyzed or what they wanted to see for that crossing over the driveway?

AUBIN: No, but the requirements are that the road crossing is what controls how the technical requirements for a culvert and Mr. Eichenlaub has designed this in accordance with the DEP requirements.

DEL VECCHIO: Other than the GP's that you have described in your testimony, do you believe that any other wetlands approval is required for this project to go forward as it is depicted on those plans.

AUBIN: No.

DEL VECCHIO: And another question that is always asked of me, so I am going to ask you...do you have any idea of when the DEP will be responding to any of that?

AUBIN: Absolutely not.

DEL VECCHIO: How long has the application been pending?

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AUBIN: We submitted the application in February, so it's about 2 ½ months and I expect they will take action on it fairly soon.

DEL VECCHIO: I have no further questions of Mr. Aubin at this time and make him available to the board.

MAGUIRE: Can you explain what criteria is used to identify a piece of property as an isolated wetland, as an intermediate resource wetland and a transition area and what's required to eliminate or remove an intermediate resource wetland or isolated wetland.

AUBIN: Let me start first with the classification of wetlands.

There's three general classifications of wetlands...ordinary resource, extraordinary resource and intermediate resource value.

An ordinary resource value wetland is a manmade drainage feature.

An isolated wetland is one that is more than 50% surrounded by development.

And a few other very rare types of wetlands situations, generally having to do with manmade features, for instance, a detention basin is considered an ordinary resource value wetland.

Exceptional resource value wetlands are those wetlands that are associated with trout production waters or threatened or endangered species or unique or irreplaceable habitats.

MAGUIRE: Of the latter, do we have any of them here?

AUBIN: Not in Park Ridge. We have them in other places in New Jersey, for instance if you are familiar with limestone geology, there is a particular type of wetland that forms where there is limestone geology that is very rare and only occurs in very few places in New Jersey. Typically it is threatened or endangered species.

In this case, it is neither manmade nor is it associated with trout waters or threatened and endangered species. So these are intermediate value wetlands. All of the wetlands, including the isolated wetland.

What makes this wetland isolated is the fact that it is a depression in the ground which has no surface water outlet or connection to any downstream surface water feature. That's what makes it an isolated wetland.

In order to fill or remove an isolated wetland, it has to be under a quarter of an acre in size, it has to be not associated with threatened or endangered species and you have to be doing it for a specific development purpose. In this case, you are going to build a patio on it.

Generally, intermediate resource value wetlands cannot be...

MITAL: Excuse me, on the isolated wetland, are there any considerations taken to where that water that was isolated in that area, where that is now going to migrate to? That's like a little detention basin there...now you're filling that in or creating a patio, where does that water go?

AUBIN: I would defer that question to Mr. Eichenlaub because that is really a matter of drainage, however, the amount of drainage that we are talking about is very, very limited. It's a very small area, it is almost unmeasurable.

As I was saying, you cannot eliminate an intermediate resource value wetland but there are certain things you are allowed to do. For instance, you are allowed to put in a stormwater discharge, you're allowed to cross an intermediate value resource wetland to gain access to developable areas, you're allowed to reconstruct in an transition area, which is buffer surrounding a wetland, a legal existing structure provided it was in place before the Freshwater Wetlands Act was put into place.\

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TEN HOEVE: When you use the term and you used it before too, a *legally existing structure*, do you mean that a permit was obtained from the municipality or that it was built with...

AUBIN: Yes, it was built at sometime in the past before the implementation of the Freshwater Wetlands Protection Act and it was done so in a legal fashion.

TEN HOEVE: There was a comment made by Mr. Del Vecchio in his opening statement that this is a non-conforming situation because there are two separate dwellings on one building lot, would that mean that one of those might be a *non-legally existing structure*?

AUBIN: No. Not at all.

TEN HOEVE: How does it work in terms of wetlands?

AUBIN: If it was built and there's a C.O., it's legal. That is the general criteria. If there is a C.O. and it was built before the Freshwater Wetlands Protection Act ... for instance, if this had not been built before the Freshwater Wetlands Protection Act it wouldn't be legal, it would be a violation.

TEN HOEVE: I don't know if that is the answer to all of Mr. Maguire's questions.

MAGUIRE: So an intermediate resource wetland is essentially what we have here...a manmade wetland and it can be essentially eliminated.

AUBIN: No, it can't be eliminated for no purpose whatsoever. You can eliminate it where you have a specific, reasonable purpose and this is a very good example, because this is the wetland area that's going to be impacted by this driveway. We had to minimize the impact to this area to the smallest amount possible. We wouldn't be allowed to just wipe out all of these wetlands to gain access to this piece of property.

MAGUIRE: But you can cross it.

AUBIN: You can cross it.

MITAL: You can disturb it as long as you're mechanically or doing some other type of engineering to displace or carry that water through.

AUBIN: Yes, that's one of the criteria. You must provide for continued drainage between this wetland here and the downstream areas.

MAGUIRE: To the north of that property, there's homes...where is the water coming from, underground springs?

AUBIN: There is a drainage that comes off of the property to the north and enters the property approximately 40' west of the northeast corner...that drainage comes down along the northern property line and then it spreads out and flows down through the property in a southwesterly direction.

This area here was a very problematic area during the wetlands delineation process because if you look at the old maps and some go back to 1878 in the State archives, that area to the north of the driveway is depicted as a drainage-way on the old maps and the soil types that are in that area, are typically associated with a drainage-way. However, there was no hydrology of any sort in there when we did the delineation. The soils are what we call a remnant (?) hydric-imprint...for that reason we call these

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wetlands. There is really very little water coming in here at all. A little bit of drainage down here. Drainage off the end of Local Street and the primary water that enters the property is in this portion of the ditch at the southwest corner and it's carried by a corrugated metal pipe that's in a drainage easement on the property.

MAGUIRE: I seem to recall that there were several homes in that area that had water issues, severe water issues...if one were to dig a foundation where you are going to expand that existing home wouldn't one come into contact with water?

AUBIN: I couldn't tell you.

MAGUIRE: This seems like a very low-lying area.

AUBIN: It is a low-lying area.

DEL VECCHIO: Mr. Eichenlaub can answer those questions.

MAGUIRE: And you said there was not any water there but I think this is a very swampy, wet area.

AUBIN: That's why it is a wetland. It is swampy, specifically within the area that I am pointing out with my pen on proposed Lots 1.02 and 1.03.

VON BRADSKY: Do the wetlands continue beyond this property to the north and the south?

AUBIN: No, sir, they don't.

VON BRADSKY: They are contained within the property?

AUBIN: Fully contained within the property.

MITAL: And there are distinctive materials in that intermediate wetland area that is just contained within this property?

AUBIN: I don't understand your question.

MITAL: That intermediate wetland area that looks like it will be disturbed...I'm wondering how much that will be altered to offset any water that is going through there, that would move onto another property.

AUBIN: It is not going to be altered significantly at all, in fact, one portion of it and when you get a colored copy of the map, you'll see there's an area outlined with a red-dashed line...that area was inadvertently disturbed cleaning up the property and that entire area will be replanted with wetland vegetation trees and shrubs.

MAGUIRE: Does Park Ridge have a well adjacent to this property?

AUBIN: I do not know.

BOGART: You've clearly identified each specific area where you can intrude and not intrude and where you are proposing development but it appears, giving the fact that you have all these different permits, that there are specific areas that have to remain as is, undisturbed, even after the development takes place.

AUBIN: That's correct.

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BOGART: So from that perspective, would it be appropriate for a conservation easement to be placed on the property in certain locations?

DEL VECCHIO: If it is required by the DEP.

AUBIN: Typically for the permits that are being sought from the NJDEP, a conservation easement would not be required.

BOGART: From the DEP.

AUBIN: Yes, by the DEP.

BOGART: My concern is more local to make sure that where you put this plan in place, remains in place and the areas that are being drained to certain locations, remained drained to certain locations....that your restoration plan remains in place.

AUBIN: It would be appropriate in this area.

DEL VECCHIO: The area dotted in red?

AUBIN: That's correct.

BOGART: What about the other areas to the south, as well as that erosion swale that you said that...

AUBIN: Well, those areas remain under DEP's regulatory prevue, so anything that would happen to them or any activities that would be proposed to take place in those areas, would have to obtain prior permission from NJDEP.

BOGART: I understand that but I'm talking about the local level...with ones that have to ensure that remains the case and that's it's being protected. I am not talking about further legal development where the permits are being applied for. I'm just trying to ensure its protection at the local level on a daily basis.

DEL VECCHIO: I'm not sure Mr. Aubin can answer that question and secondarily, the municipality isn't the enforcing agency for DEP regulations. The DEP has their own enforcement arm and their own enforcement bureau that is charged with that task.

TEN HOEVE: I believe it could be required. I am sure you know of instances where homeowners, who have no clue that there may even be wetlands areas or protected areas on their property, will go out and do something that really wouldn't be permitted, never even seeking approvals from a municipality, let alone the NJDEP.

DEL VECCHIO: I guess if the question....

TEN HOEVE: Would you object?

DEL VECCHIO: If the borough is requesting a conservation easement as a condition of approval, as long as I understood the scope of the areas to be covered, I don't think the applicant would object. Quite frankly we wouldn't be giving you anything that we are not already regulatory constrained to do, to be perfectly honest.

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BOGART: I was just trying to get an idea of what that scope was. You mentioned one area...is it all the wetlands areas, the transition area...does it include everything that is in color on that map?

AUBIN: No and let me explain why...a large portion of the property in the transition area is already developed and reused as part of the (much moving of papers and hitting of microphones)...for instance, this yard area on proposed Lot 1.01 that is in the transition area, it's all grassed and even though it is within a regulated area NJDEP will allow this piece to continue...I don't think the applicant could sell this property if he was told he couldn't use that area...ecologically it is not significant.

Same is true of a large portion of this area on proposed Lot 1.02...this area back here is all wooded and is quite swampy as Mr. Maguire pointed out. That would be an area that would be appropriate to have a conservation easement. I would certainly recommend this area here for a conservation easement...this area I would not.

DEL VECCHIO: As it is outlined (much rattling of maps and hitting of microphones)

BOGART: What about the swale?

AUBIN: It is simply an erosion control and is barely noticeable. The grading is going to continue and is not going to touch the swale...the swale will continue to serve its function as it is serving now.

BOGART: Then I guess we would need a map delineating those areas for conservation that you've recommended.

DEL VECCHIO: In the event the board does request, we can prepare it but if the board has a different thought of which areas should or shouldn't, I would prefer to know what those are up front so we can produce the map only once. Mr. Aubin has conveyed his thoughts and answered your question...if you agree with him, great...we will produce the map and we're done....

TEN HOEVE: Perhaps, it might be best and I know you are going to submit to the engineer and planner exhibit A-6 that they haven't seen yet. Maybe once they have an opportunity to take a closer and careful look at that, then some dialogue can be introduced.

DEL VECCHIO: I have one final question of Mr. Aubin when the board is through.

BOGART: I just have one other question....you had mentioned that you classified all environmental features on the site, was there any other feature that you looked into besides what you testified to?

AUBIN: No.

TEN HOEVE: I had one other question...could you just list for me, again, the pending permit applications.

AUBIN: Yes.

We've applied for General Permit #6, General Permit #8...

TEN HOEVE: #6 was for ?

AUBIN: Construction in the isolated wetland.

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DEL VECCHIO: Mr. Ten Hoeve, just to aid your note taking, if you go to page 2 of the application form, there is a schedule...

TEN HOEVE: Of the second application form or the first?

DEL VECCHIO: The A-5 document...page 2...the one that I handed you this evening. There is a chart with a check list and there are checks in little boxes next to which GP was applied for.

TEN HOEVE: Ok, GP 6 and what was that for?

AUBIN: Allows for construction of a patio in the isolated wetland.

General Permit #8 is for an expansion of the existing structure beyond the existing footprint.

General Permit #10A is for the minor crossing of the wetlands transition area for the purposes of access.

General Permit #11 is for (?).

TEN HOEVE: And my question was, these are permits you did not seek when you made the original application.

AUBIN: No.

TEN HOEVE: What the reason that you didn't seek any of these when you first went in and why are you seeking them now?

AUBIN: Well, the first application was simply to establish what the resource value of the wetlands would be, the classifications of the various regulated features on the site...the intermediate value resource and the isolated value resource....

TEN HOEVE: Yes, I am just curious; wouldn't it have been easier to do it all at one time?

DEL VECCHIO: John, until you knew what the classifications were for the wetlands and the limit, particularly of the isolated wetland, you didn't know where or not they qualified for the various permit...for example, the extraordinary resource value...you may not have qualified for any of the bp's..

AUBIN: Well, we would have qualified for some of them...but you are correct and it's pretty much impossible dealing with a site like this to design how you are going to engineer the site. I am not an engineer but until you know what your constraints are, you really can't go to the next step, which is designing the site.

MAGUIRE: One last question...you mentioned that you don't think the water leaves the site?

AUBIN: No. This water does enter a culvert at the southwest corner of the site.

MAGUIRE: I'm looking at the area map and it looks like it then goes underneath the street?

AUBIN: There's a headwall right here and it is subsurface but it is downstream off the site (much rustling of paper or maps)

MANCUSO: What is the name of the map you are looking at so I can refer to it?

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AUBIN: It is titled, Permit Plan for Prusha Major Subdivision.

MANCUSO: It would be helpful, if when we do receive the copy of the permit plan, if the current limits of the developed lawn areas or yard areas are shown. You mentioned that the yard areas for the dwellings were grassy areas already and a portion of it was a wooded area...and on the plan I am looking at, which is the Existing Conditions map, that is really not that evident to us here, so perhaps that could be added to the permit plan that you've submitted?

AUBIN: We could do that.

MANCUSO: So we would have an idea of what area would be utilized as a (?) because what we find in the future, is when a homeowner comes into us for potentially a pool or something of that nature...a shed, a structure they are not aware of a lot of the things that are associated with environmental constraints on a property and I believe that would be very helpful to the potential purchaser as well to see what could, in fact, be built on their property in the future.

One other question...regarding that checklist on the second page of the application that was submitted tonight, would a GP2 permit be needed be necessary for utility crossing or the existing dwelling to be expanded? I believe there were utilities coming across there as well.

AUBIN: As far as I know the utilities came in from the front..

MANCUSO: I have proposed existing foundation to remain for proposed two-story dwelling and it looks like water and gas are being served that way?

AUBIN: No, no permits are required for that, in the driveway.

MANCUSO: So the Utility Crossing Permit is only needed if it is a separate utility crossing not included with the driveway crossing?

AUBIN: Correct.

MANCUSO: So the GP10, Very Minor Road Crossing also allows for the construction of the utilities associated with the road.

AUBIN: Yes.

MANCUSO: And one additional question and I'm not sure if it is appropriate for you to answer or perhaps Mr. Eichenlaub...if you look at the existing elevations on the site, especially in the area of the isolated wetlands, you see the elevation is noted at approximately 130...and you do have the proposed patio there, which is fine, but I note that the proposed two-story dwelling has a basement floor of 130.5...do you think it would be appropriate to have basements beneath dwellings when you just testified that it is a boggy, wet area..

AUBIN: I can't respond to that question.

MANCUSO: The same question holds true for the other dwelling. They did have a basement floor of 128.5 that was situated further away from the wetlands ... and it says existing foundation to remain but then there appears to be a shaded, cross-hatched area...so it's not clear to me what portion is existing. It seems that the existing foundation is smaller than the one shown on the plan on Sheet 3 of 6. So it that cross-hatched area a proposed area or an existing area?

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(Engineer showed Mr. Aubin where she was referring to)
The deck I am not as concerned about, it was my understanding that the existing foundation is grandfathered ...

AUBIN: The existing footprint.

MANCUSO: Of the foundation is permitted to be reconstructed?

AUBIN: Yes, to be reconstructed. In addition to that, General Permit #8 allows for the expansion of the existing footprint by 700 sq ft. In this case, we're adding 593 sq ft to the existing footprint within the regulated area.

MANCUSO: So it is just a portion of that addition in the vicinity of the proposed deck and a small portion of the proposed garage...is that what you're including in that 593 sq ft count?

AUBIN: I'm including this area here...this area, which is a stoop and this area here.

MANCUSO: Ok, just a portion of each side.

DEL VECCHIO: Mr. Aubin, can you just identify for the record how that is hatched in your drawing.

AUBIN: The cross-hatch with purple or magenta and it has a pink background.

MANCUSO: I imagine when we receive that plan it will be a little bit clearer.

AUBIN: Yes.

MITAL: Anyone else on the board have any more questions?

DEL VECCHIO: Two follow-ups, if I may...I know you need to open up to the public.

Mr. Aubin, Mr. Eichelaub's drawing on Sheet 3 of 6 is showing plant material in the area that you previously referred to as red dash in your earlier testimony. The plant material that's in there...why is it there, how is the material selected and is it subject to DEP approval?

AUBIN: Yes. Why it is there....as Ms. Mancuso said before, people inadvertently do things in wetlands that they don't know they are not supposed to do...our client inadvertently went in with a rake and backhoe and cleaned up that area prior to DEP coming out to do site inspection. When DEP arrived, they looked at it and we all said "Ok, we're not saying anything bad happened but let's just assume it was vegetated as a wetlands before and that's what we going to do. We're going to take all that area and restore it to a wetlands vegetation situation".

That's why the plantings are there. The plantings consist of ...technical terms....basically it consists of Red Maples, Arrowwood, which is a shrub that has white flowers in the spring and also a few other shrubs in there. Also Dogwood, which is a flowery shrub and Wintergreen Holly, which is an evergreen shrub whose leaves are present all year with brilliant red berries. In addition to that the schedule calls for the seeding of that entire area with a wetlands seed mix that basically includes a grass that is very tolerant to wet areas plus wild flowers.

DEL VECCHIO: And that mix is subject to DEP approval?

AUBIN: Yes.

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DEL VECCHIO: And based upon your work to date, you believe the plant material as put in that area will meet with DEP approval?

AUBIN: Yes, I do. Again, I have used that exact same planting mix, in terms of specie, on a number of occasions.

DEL VECCHIO: I have no further questions.

MAGUIRE: In your opinion, if this development goes forward, will there be standing water on this property?

AUBIN: No.

MAGUIRE: There will be no ponding...

AUBIN: No. Obviously there is going to be a regarding of the property and those grading lines are shown on the permit plan and also shown on Sheet 4 of 6, which has all the site grading on it. The grading plan, as I understand it, and I will allow Mr. Eichenlaub to further explain it, is to allow water, which is coming down the northern property line and headed toward the proposed driveway to pass beneath that driveway and be discharged into the existing manmade drainage ditch, which crosses the southwest corner of the property and exists to the southwest.

So drainage will be going that way, there should not be standing water in there but I will that response to Mr. Eichenlaub.

BOGART: Did DEP receive this landscape plan or was there something separate and apart that was submitted to DEP?

AUBIN: The landscape plan that is shown on Sheet 3 of 6 is the same plan that was given to DEP.

BOGART: You had mentioned that wild flowers would be planted...I just didn't see that on the landscape plan.

AUBIN: It's part of the seeding. In the permit package that was sent to DEP, was Sheet 3 of 4. We'll have those provided to the board.

MITAL: Anybody else? Ok, I would like to open the hearing up to the public...questions for Mr. Aubin.

TEN HOEVE: No, you do not have to be sworn in at this point...just come forward so the tape will pick it up. This is an opportunity for anyone to ask questions, not to make statements, that's why you don't really need to be sworn in. All you need to do is state your name and address so the record knows who you are.

Diane Mazione, 81 Lillian Street came forward.

MAZIONE: You made the determination on the wetlands and I am curious as to when that determination was made...you said you made several visits to the property and I am curious to know when this determination was made.

AUBIN: Our initial site visit and wetlands delineation took place in February 2007 and subsequently we were out on the site in April and May 2008 with representatives of NJDEP.

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MAZIONE: And the determination was made prior to the 127 cu yds of dirt being brought onto the property?

AUBIN: The 127 cu yds of dirt were not placed anywhere in the wetlands.

TEN HOEVE: Maybe you can just help the board out...since there hasn't been any testimony about dirt. You obviously know something about dirt being brought on the site?

AUBIN: I understand and this is heresay, but I understand that when the dog run was cleared, it was leveled out and dirt was brought on.

OPPELT: Can you show that on the map?

AUBIN: It's in this area of proposed Lot 1.01.

OPPELT: Does it extend over as far as the swale or does it extend into the direction of the existing dwelling?

AUBIN: It is all outside the existing wetlands.

DEL VECCHIO: And because the board has devious thoughts of us further...permits were secured from the Construction Department for the soil moving activities that did take place. It was a permitted event with Nick.

Robert Davenport, 91 Rivervale Road

DAVENPORT: I want to know how long will this work be going on because it has been going on for 2 ½ years. Since the day he moved in he has been making a lot of noise.

TEN HOEVE: You can't make statements...let me just explain...everyone from the public will certainly have an opportunity to present whatever testimony they want once the applicant has finished the case but in addition to that, you have the right to question any witness that the applicant should present. The procedure is, at this point, you can only ask this witness questions and that would really be only questions with regard to his testimony. I am sure the applicant is going to call additional witnesses, he is going to call the engineer...I don't know if you are going to call the property owner....are you Mr. Del Vecchio

DEL VECCHIO: I have not made that decision.

TEN HOEVE: Ok, but when any witness does appear and testify, you can ask those witnesses questions...then at the end, you will be able to make any statements you wish to make. So if you have a question for this witness...

DAVENPORT: I want to know how long this work will last.

AUBIN: I don't know how long it will take. It depends on a lot of things that I have no knowledge of.

Xandra Wilhovsky, 74 Rivervale Road

WILHOVSKY: Did you go on any of the properties on Rivervale Road to see what (much rustling of paper & maps & hitting of microphones)...

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AUBIN: I did look at the specific water conditions and we inspected the properties...what we were specifically looking for was freshwater wetlands, nothing else.

Diane Mazione, 81 Lillian Street.

MAZIONE: I just wanted to clarify...you said you did not see standing water on the property?

AUBIN: No, we did not. At the time we did the inspections, we did not.

Dawn McPartland, 85 Rivervale Road

McPARTLAND: Do those permits transfer?

AUBIN: The permits being applied for are being applied for a specific activity. Once that activity is completed, the permits expire.

McPARTLAND: If he was to sell the property, for some reason, they would transfer those with the sale if somebody else wanted to build or something?

AUBIN: I don't think I quite understand your question.

DEL VECCHIO: I think the question is, if Mr. Prusha obtains the approval from the DEP but chooses not to build the project and sell it in all or in part to a third party, would those permits transfer to the third party?

AUBIN: Yes, they would.

MITAL: One more question from the board?

OPPELT: You mentioned the water on the western edge of the property...is that surface drainage water?

TEN HOEVE: You mean northern edge....

OPPELT: Ok, that's northern edge?

AUBIN: It is surface water.

OPPELT: Do you know where that originates?

AUBIN: It originates on Block 1918, Lot 6...

OPPELT: It is not coming off the road, then?

AUBIN: No.

MAGUIRE: I recall that property from the Zoning Board...I believe the driveway was right along the property line, so it's coming off that driveway onto this property?

Xandra Wilhovsky, 74 Rivervale Road.

WILHOVSKY: Mr. Aubin did not go on any other properties except Mr. Prusha's to see what the water conditions were...will somebody come and do that now? Can we request that somebody do that?

TEN HOEVE: No, the board can't go onto your property to observe conditions. The board can certainly hear testimony from you and anyone

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else you would like to present with regard to conditions on your property. If you wanted to have residents testify you can do that...if you wanted to hire an expert and have an expert testify as to conditions, you can do that. You will have an opportunity at the end of the applicant's case to present whatever testimony and evidence you want. I know it is limiting now because you can only question the witness but I want you to understand that you can say whatever you want in the future.

(the rest of Ms. Wilhovsky's comments were not picked up as she was turning away to go back to her seat)

TEN HOEVE: Well, you can't really do that. You can certainly give us what evidence and information you want, you just can't do it now because the way it works, is the applicant goes first, then any objectors go second. You can't interrupt his case by presenting information. If you wanted to ask this witness questions with regard to any information you submitted to the DEP, you could certainly do that at this point.. You could say, "I have a report here and it says something different from what you've testified to, what do you think about that?"

WSILHOVSKY: So, no, he did not look at any property except Mr. Prusha's property. I can see Mr. Prusha's property from my bedroom window and I sent a letter to DEP about the water conditions.

TEN HOEVE: Well, you can introduce reports or you can attempt to introduce them because I don't know if there will be objections from the applicant's attorney but the board is pretty liberal with regard to evidence that it considers. If you wanted to present information to the board at some time in the future, you'll have an opportunity to do that.

Nicholas Tzaneteas, 77 Lillian Street.

TZAZNETEAS: You said there was no discernable standing water on the property?

AUBIN: I was looking specifically for freshwater wetlands and I did not see any freshwater wetlands water standing.

TZANETEAS: How much standing water would that have to be for you to consider it?

AUBIN: Let me just explain....standing water in and of itself is not (?) for regulated purposes. Your asking me hydrology...obviously standing water if part of that...hydro soils...wetlands vegetation.

TZANETEAS: Assume you were talking about a wetlands area, how much standing water would there be or would there be any water at all....how much would there have to be for you to consider it.

AUBIN: It is problematic and doesn't enter into it...I reported what's there. I reported on the wetlands on that property because it is a regulated wetlands transition area from those wetlands...we did that and reported to DEP...DEP came out and looked at it the adjoining properties...looked at Mr. Prusha's property and agreed on a scenario that is reflected on this map here. And that is that there are freshwater wetlands in this area here, isolated wetlands here, a manmade ditch here and an erosion swale coming down here and there were no freshwater wetlands on the adjoining properties, which had an impact on this property.

Ralph Santoro, 73 Local Street

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SANTORO: Are you aware that there used to be a running brook through this property?

AUBIN: There was what appeared to be the remnants of a pond, right here. There was a dam, a low concrete dam, it was breached and there was no running water running through it at all. We were out there...

SANTORO: There used to be a brook and water still comes through from the piping into the sewer.

AUBIN: Right.

SANTORO: And you are aware that it is discharging water into the ditch.

AUBIN: There are quite a few different passageways for that.

SANTORO: And if you build on it, the water is going to continue to flow through.

AUBIN: Yes...and what you should do is ask Mr. Eichenlaub that question because that goes into this culvert here and it drains out through the property.

SANTORO: And at the end of Local Street there is going to be a driveway or a road?

AUBIN: This plan shows a driveway coming off the end of Local Street to serve this proposed dwelling here and to serve this proposed dwelling.

SANTORO: So, it's not going to be a through street.

AUBIN: No, sir.

SANTORO: Is the street going to have to be widened because of that?

AUBIN: When you say *the street*...I don't know the answer to that.

MITAL: Any more questions?

Ok, at this point we are going to stop taking testimony and we will continue on May 26th.

TEN HOEVE: There won't be any additional notices sent to any of the residents so that we are telling you now that the hearing will resume on the 26th of May, probably at 8:00pm because I suspect that this will be the first application heard, even if anything else is filed.

DEL VECCHIO: Is that the next available meeting or is there an earlier meeting.

TEN HOEVE: There is but there are reasons why we can't do that...we can't continue the hearing on that night. We meet on the second Wednesday as you know but there is some pressing business that the board really needs to attend to, which is one of the reasons why we are stopping testimony tonight.

DEL VECCHIO: I assume we have concluded with Mr. Aubin tonight and do not need to have him return.

MANCUSO: If we haven't received the map....

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TEN HOEVE: You'd better make a phone call to see because the professionals haven't seen that and maybe when they review that it may raise some...

DEL VECCHIO: I would suggest two things if I can...(much folding of maps against microphones... within a week's time so you will have plenty of time to review and if there are substantive questions perhaps they can be raised in a review letter and any suggestions on a conservation area should be set forth in a review letter and I can just say "yes"

If there are any questions or issues that need to be resolved, then I can bring him back and we can resolve it at the meeting.

TEN HOEVE: I suspect that the question will be resolved by the planner and the engineer. They will determine whether they have questions that they think they need to present directly to Mr. Aubin. Whether that is going to be the case or not, I can't tell you...you can make a phone call to Mrs. Beer.

DEL VECCHIO: If they have questions, they can place them in a review letter and I know that means I have to bring him back. If they don't have questions, then I won't bring him back.

Thank you.

APPROVAL OF MINUTES:

Motion made by Mr. Browne and seconded by Mr. Oppelt to confirm to approve the January 13, 2010 minutes as written.

AYES: Messrs. Browne, Mital O'Donoghue, Oppelt, Councilman Maguire
ABSTAIN: Mr. Von Bradsky

Motion made by Mr. Oppelt and seconded by Mr. Browne to confirm to approve the January 27, 2010 minutes as written.

AYES: Messrs. Browne, Mital, Oppelt, Councilman Maguire
ABSTAIN: Messrs. O'Donoghue, Von Bradsky

Motion made by Mr. Oppelt and seconded by Mr. Von Bradsky to confirm to approve the minutes of March 10, 2010 as written.

AYES: Messrs. Browne, Mital, O'Donoghue, Oppelt, Von Bradsky, Councilman Maguire

APPROVAL OF VOUCHERS:

Burgis Assoc.	
LC Developers, LLC	\$ 145.00
Brooker Eng.	
Prusha Subdivision	\$ 320.00

Motion made by Mr. Browne and seconded by Mr. O'Donoghue to confirm to approve the vouchers for payment.

AYES: Messrs. Browne, Mital, O'Donoghue, Oppelt, Von Bradsky, Councilman Maguire.

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CLOSED SESSION: (9:50pm)

Motion made by Mr. Browne and seconded by Councilman Maguire to confirm to go into closed session to discuss pending litigation.

AYES: Messrs. Browne, Mital, O'Donoghue, Oppelt, Von Bradsky, Councilman Maguire

ADJOURN:

Motion made by Mr. Oppelt and seconded by Mr. Browne to adjourn the regular meeting at 10:39pm.

Carried unanimously.