

Minutes of the Park Ridge Planning Board
Meeting of September 15, 2010

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

The regular meeting of the Park Ridge Planning Board was called to order by the Chairman, Raymond Mital, on the above date, time and place.

Chairman called for the Pledge of Allegiance to the Flag.

ROLL CALL: Present – Messrs. Browne, Mesiano, Mital, O’Donoghue, Oppelt, Saluzzi, Von Bradsky (9:13), Councilman Maguire (8:50)
Absent: Ms. Eisen, Mr. Brouwer
Also Present: John Ten Hoeve, Jr., Esq., Board Attorney
Eve Mancuso, PE, Board Engineer
Brigette Bogart, PP, Planning Consultant

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.

SWEARING IN AND INTRODUCTION OF NEW MEMBER:

Don R. Schwamb – newly appointed Alt. 1. Member of the Board filling unexpired term ending 12/31/10

Chairman Mital read the Oath and swore in the new board member after which Mr. Schwamb took his seat on the dais.

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

There was no one

PUBLIC HEARINGS:

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

MITAL: Good evening, Mr. Del Vecchio. I will state, as usual, that we have two applications this evening and we would like to get through as much as possible. We are starting with the Mark Prusha application and are hoping that we can speed through and get a lot done. At about 9:30’ish we are going to turn over and start listening to testimony for the 70-72 Park Ave application.

DEL VECCHIO: Andy DelVecchio from the firm of Beattie Padovano, representing the applicant.

BEER: Before we begin, Mr. Chairman, I have an Affidavit signed by Board member Don Browne, of having read the transcripts of the May 26, 2010 board meeting.

DEL VECCHIO: Perhaps, since you have certifications, see if anybody is ineligible to vote as of this evening.

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BEER: Yes, Mr. Brouwer, Mr. Saluzzi, Mr. O'Donoghue and Mr. Schwamb unless they listen to the tapes or read the transcripts.

DEL VECCHIO: I was counting heads and wanted to see what was left. We have four eligible members sitting tonight?

BEER: Eligible are Mr. Mital, Mr. Oppelt, Councilman Maguire, who is currently not present), Mr. Mesiano and Mr. Browne. The other two that are eligible are Mr. Von Bradsky (who will be late) and Ms. Eisen. Ms. Eisen will be in next week to listen to the tape.

DEL VECCHIO: So if we go to a vote tonight, I have five voting members.

BEER: Are we voting tonight?

TEN HOEVE: That wouldn't happen tonight.

MITAL: We also don't have Councilman Maguire tonight, he may show up later.

BEER: Tonight is Back to School Night at the high school, so we have some members there and they will be in later.

DEL VECCHIO: (to his engineer) Would you open that to Sheet 3...I think at this point we are continuing the public hearing from July 28th and at that point, I believe we had concluded the direct testimony and cross-examination of Mr. Eichenlaub.

The applicant had agreed, with the board's permission, to allow Mr. Eichenlaub to meet with the professionals out on site to review the property after certain flags were relocated, replaced on the site and also allow somebody to crawl through a pipe. I'm not sure who crawled through what but at least I understand they did meet.

Our next witness in the application is Richard Preiss, PP, our project planner for this application and I would ask that he be sworn.

TEN HOEVE: I think that he was sworn at the last hearing. He started his testimony and is still under oath.

DEL VECCHIO: (to his planner) I know you did start your testimony and I believe you set the stage for your testimony, meaning you laid the foundation for what you did and what you examined and I believe you are about to get into the substantive portion of your testimony.

PREISS: Yes.

DEL VECCHIO: I would ask that you pick up from that point and tell the board the results of your analysis.

PREISS: I don't want to go over all of the introduction that I provided the last time but just to bring the board into the context. Essentially the variances that are being requested relate to minimum lot width at the setback and minimum street frontages for three of the proposed four lots within the subdivision.

The variances are as follows: for proposed Lot 1.01, there are variances for minimum lot width at the setback and street frontage; both of those are 87' whereas 100' is required.

For Lot 1.02, the minimum width at the setback 79.2' versus 100' as required and the minimum street frontage is 25'.

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Proposed Lot 1.03, the minimum lot width at the setback is 96.9' and the street frontage is 25' and those require 100' respectively.

So there's a total of six variances that are required. I did talk about the fact that the lot was oversized and that you have over two acres and theoretically, if you subdivided the lot into 15,000 sq ft lots, you could accommodate substantially more than four lots but obviously, in this particular situation because of various factors that is not possible.

The variance justification, as the board knows, is either on the basis of hardship, where the applicant is required to show that the strict application would impose extraordinarily impractical difficulties to the project and I believe that is the case here. And under the C-2, the flexible C variance, the applicant must show that the benefits of granting the variance outweigh the detriments and that the purposes of the Municipal are advanced by the granting and I would submit that in this particular situation, that is the case too. I believe both of those affirmative proofs would apply.

Of course, we also have to address the negative criteria that there would not be a substantial detriment to the public good or zone plan if the variances were granted. I think it is correct and proper to look at this property in the context of the variances with respect to the eastern portion of the lot...in other words, proposed Lot 1.01 and Lot 1 first because the circumstances surrounding that variance and the hardship relating to that is different from the remainder of the lot and the remainder of the lot is proposed to be subdivided into Lots 1.02 and 1.03.

So if we look at 1.01 and Lot 1...the first thing that I would indicate is that both of the lots are conforming with respect to lot size, the minimum lot size. And also, they meet the lot size requirement even with a portion of the road to be dedicated for the widening. So even in that circumstance they would meet the minimum lot size requirement.

Also, proposed Lot 1 meets all of the other requirements. There are no other variances, setback, height, coverage and so forth. The only variance that is required for these two lots is the fact that Lot 1.01 has 87' of frontage as opposed to 100'. Quite simply the circumstances relating to that is because you have 187' of total frontage on Rivervale Road, so it is impossible to subdivide into two lots and have two conforming frontages with lots of 100' respectively.

Now the question is, what is the basis? What is the hardship for that? Well, the only way that this particular variance could be addressed or could be eliminated would be to increase the width of the property, to increase it by 13' so both of the lots could be 100'. That would only occur if it were possible to obtain additional property from either side. We didn't even go into that, in terms of asking adjacent property owners whether a portion of their property was for sale for the following reasons: the property on the right of proposed Lot 1, itself is 100' in width, so it meets the minimum lot requirements. So the sale of any portion of this property to the right in order to cure that deficiency, would render this particular property non-conforming. This lot is in the R-10 zone and that requires a 15,000 sq ft lot with 100' frontage.

In terms of the lot to the left of 1.01, which is the other possibility and in fact you would probably have to acquire portions of both Lot 6 and Lot 7 because of the deficiency in lot width and setback. In this particular situation, Lot 6 is in a zone that requires 85' of frontage and in this particular situation this lot doesn't even meet that minimum requirement. It is deficient with respect to the minimum lot width. So even if that property owner were willing to sell property to the applicant in order to cure that deficiency, that would render that lot even more non-conforming than it already is. So there is no way that the applicant, given the configuration of the lot can cure that particularly deficiency.

We meet all of the other variances, the only variance that it needs is with respect to the lot frontage and the lot width for Lot 1.01. In my case,

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that is a classic situation of hardship. There is no way for them to cure that deficiency. All of the lots from which property can be purchased either conform to the minimum or are undersized so there is no ability for the property owner to cure that deficiency. In my opinion, that is a hardship ground for the basis for granting the variance for the lot width and the lot frontage for Lot 1.01.

I will address the negative criteria for all three of the lots that require variances at the end.

I want to address the affirmative criteria for hardship and the benefits with regard to the western portion of the property which is Lot 1.02 and 1.03, which is the lower portion of the entire property.

In the lower portion or the western portion of the property, in which Lots 1.02 and 1.03 are proposed to be subdivided, we do have a somewhat unique series of features related to the shape and configuration of the lot with respect to its accessibility for frontage on a public road and also with respect to the existence of the environmental constraints, specifically the wetland areas and the erosion swale and drainage easement, which I know the board is fully familiar with because that was a substantial part of the testimony provided by the two previous witnesses.

On this portion of the property, once the two lots fronting on Rivervale Road, in other words what I have just described as Lot 1 and 1.01 are subdivided and they can be provided with a conforming amount of lot area, that is 15,000 sq ft each, the remainder of the lot is 56,000 sq ft altogether. That is the property you have available for subdividing additional lots.

Obviously it is more than enough to accommodate the minimum lot size of 15,000 sq ft within the R-15 zone and possibly even three lots could be subdivided even if one were to, for example, extend the cul-de-sac into the property.

Clearly there was a contemplation in the subdivision of the property that an intention at some later point within the subdivision...and I will go back to the first sheet on the drawing...what you will see is the area map and it shows the subject property surrounded by the tax lots involved in Block 2007 and also 1917 and 1918 and you can see that Local Street has been extended from Morningside Avenue and ends at a stub at the subject property. Now clearly that's an indication of the intent to extend that street into the property. So it was contemplated that at some future point that either a cul-de-sac or a loop road would be provided which would extend into the property to allow that block to be subdivided into further lots.

That particular stub has 50' of frontage on Local Road and it is that that provides access to that portion of the property. As testified to, at prior hearings, the presence of wetlands on the property does constrain the development of proposed Lots 1.02 and 1.03 but I think it is very important to understand the nature and extent of the constraints.

The first thing I would say is that the wetlands constraints does not prevent that portion of the property from being altered or developed. Clearly per the DEP regulations, some portion of that lot must be preserved but portions can be disturbed and built. The wetland constraints do not prevent this portion of the property from accommodating two additional homes and we know that based on the prior testimony of Mr. Albin, who's indicated that the DEP are going to permit the rehabilitation and expansion of the existing home on the property...that's on Lot 1.02 and also allow an additional home on 1.03. They are prepared to provide the necessary approvals so both of those homes can be accommodated on that lot.

In my opinion, that means that as far as the DEP is concerned they have considered the impacts on the wetlands and as far as they are concerned those two homes can be accommodated without having a detrimental impact on the wetlands. It is clear that the locations have to

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be fixed in terms of where the homes can be provided. The only locations for where the two homes can be provided is the expansion of the existing home or the rebuilding of the existing home where it is on Lot 1.02 and the additional home on 1.03 because of those wetland constraints. So those locations are dictated by the wetlands but the wetlands does not prevent either of those two homes from being developed on the property. In this particular situation, because the location of those two homes are fixed, the property cannot be subdivided in a manner which allows them to conform to the minimum lot width and frontage requirements of your zoning. Certainly sufficient area exists for the two lots and the placement of these homes would require no other variances aside from the lot width and lot frontage variances. They can be provided with sufficient area, they meet all the setback requirements, they would not exceed the height requirements, they meet the coverage requirements...so they meet all the other requirements so the only variances they would require is width and frontage.

And also these variances are not avoidable through the purchase of additional land from adjacent properties because of the nature of the access, which would be provided to that home, that is, that stub which extends from Local Street up against the property. So one of the things that one might say is, well, wouldn't you contemplate a cul-de-sac coming into that property and that might cure the lot frontage requirements but even if that were the case, there is no way that the lot width requirements could be met, even if you could extend the cul-de-sac in a manner where each would have the minimum lot frontage.

And, moreover, because of the lot environmental constraints, that would prevent a full cul-de-sac from being extended into the property and one also has to ask, what are the purposes that that particular cul-de-sac extension would serve as opposed to what is proposed, which is an extension of a shared driveway, which would serve both the homes on Lots 1.02 and 1.03. It really doesn't enhance the property from a safety point of view and moreover as it has been testified to extensive by Mr. Eichenlaub, the access even for emergency vehicles can be addressed with the driveway. If one has the cul-de-sac you are ending up with more coverage, more disturbance and this is something that is not to the benefit of either of the homeowners that would live there and certainly not to the neighborhood.

In terms of the extension of the driveway, the first thing I would say is that just to serve the existing home or the redeveloped home on proposed Lot 1.02 one would have to extend the driveway without the subdivision from Local Road. So, the length and the configuration of the driveway is not related to the desire of the applicant to subdivide two lots from the remaining portion. That driveway would be in the same location, same configuration, probably the width and cross the wetland and the easement area in the same location. And it is not an excessively long driveway and it is not problematic as has been indicated from an access point of view even for emergency vehicles. So to the extent that that driveway has to be provided and can be provided in a safe manner for the proposed Lot 1.02 and to the extent that the DEP is willing to allow the additional home to be located on the property where on the portion of the property that is proposed for the subdivision of Lot 1.03, the only addition to this particular property would be to allow for a driveway connection between that driveway and the home, which would be located there and that can be done in a very efficient and safe manner. It is a short driveway extension from the driveway which would serve the home on Lot 1.02 to serve the home on Lot 1.03.

If you did have a cul-de-sac as I indicated before, as opposed to this driveway, you would have a greater amount of pavement, would generate more stormwater runoff, would be greater disturbance to the slopes, greater disturbance to the vegetation and possibly greater disturbance to

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the wetland areas. So, in my opinion, the driveway actually provides benefits that a cul-de-sac road extension would not. In my opinion, both the lot width and frontage are variances both for Lot 1.02 and Lot 1.03 can be justified by a combination of C-1, hardship factors as well as C-2 factors where the benefits outweigh the detriments. And the one thing I would have to say, is to the extent that the DEP would grant permits to allow these two homes to be provided in the remaining portion of the lot, the hardship that exists is not an environmental hardship but really one that relates to the shape and location of the lot vis-à-vis the public street that would provide access to it.

In my opinion, in both cases of Lot 1.01, proposed Lots 1.02 and 1.03, all of those variances can be justified. 1.01 on the basis of hardship, 1.02 and 1.03 on the basis of both hardship and because the benefits outweigh the detriment.

Let me now deal with the negative criteria. First of all let me deal with it with respect to the environmental impacts, I know that is a major concern with the board. The DEP has, as the board knows, very stringent requirements regarding filling, disturbance, and vegetation removal. If they are willing to provide permits to allow the homes to be located on 1.02 and 1.03, that to me is evidence that there will not be a substantial detrimental impact on the wetland. If that were the case then the permits would not be granted.

And the DEP grants (?) regulation when it comes to wetlands regulations, so that to the extent that the DEP is willing to grant those permits, the board should not have any concerns about the impact of granting the subdivision with regard to its impact on the wetlands.

Second factor to look at is drainage. That, too, can be taken into account and be handled with the overall improvements that have been described by our engineer without detriment either to the neighbors or to the community in general.

Access to the property, same thing...can be provided in a safe and convenient manner.

Parking can be provided in accordance with the requirements of your ordinance. Emergency vehicle access can be provided. Adequate circulation can be provided on, to and from the property without impacting traffic conditions and providing safe and convenient access.

So all of those, if the property is subdivided in the manner in which we have proposed, will not have a detrimental impact on the surrounding properties.

In terms of the aesthetics, the homes that are proposed are not oversized. They can be built within the confines of your FAR regulations, they can meet the side yard setbacks, the front yard setbacks, the height requirements can be met and they can provide more than sufficient open space and landscaping...in fact, Lots 1.02 and 1.03 will be substantially larger and have more open space than all of its immediate neighbors. So certainly there is not going to be a detrimental impact with respect to that.

The only remaining issue, in my opinion, with respect to the potential impact of the variance request is with respect with its impact on the neighborhood character and with respect to the intent and purpose of your zoning ordinance. In other words, if this variance is granted, would there be a substantial detriment to the existing character and to the purpose of your borough zoning requirements especially with respect to the variances which are being granted for the three lots...that is with regard to lot width and frontage.

And let me deal with each of those...with respect to lot frontage there is no detriment to the neighborhood insofar as the lack of 75' of lot frontage is concerned for proposed Lots 1.02 and 1.03. The lack of compliance with this requirement should not alter the size of the lot, the shape of the lot, the placement of the homes nor the setbacks, the buffering, the open space in relation to the remainder of the neighborhood.

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You are not any closer to the neighborhood on an undersized lot. You are not providing any less open space for buffering to the homes around us. So in terms of the lot frontage there really isn't any detriment as a result of the subdivision of those two properties. In fact, the presence of the driveway at the terminus of Local Road serving those two lots, creates, in my opinion, substantial less impact on the neighborhood compared to an extension of a cul-de-sac into the property, which would provide those two lots with sufficient frontage to meet and comply with the ordinance. The road would be wider, would have greater paved surface, it would create more stormwater runoff, it would disturb more land, it would require a greater removal of vegetation and as opposed to a shared driveway, which is small, unobtrusive and would allow for access in and out. So the impact of granting this variance as opposed to compliance, in my opinion, is much less.

With respect to lot width, here there is a potential for impact on the character of the neighborhood. In fact, as a planner, if you look at a subdivision there are three key factors that you have to look at with respect to, if you don't have compliance with either one of those three factors, that can have a potential to impact the character of the neighborhood. In my opinion, the three factors are lot area, lot width and lot depth.

Let's just take them in order of importance. Lot area...if you have smaller lots than is required in a particular neighborhood, that's going to impact the character of the neighborhood. That's why there is such a strong emphasis on compliance with the minimum lot area requirement in your ordinance. Narrower lots can also have a detrimental impact and shallower lots where you require a lot depth variance, that also can impact the character of the neighborhood. So the question in this particular situation is, how would the granting of the variances for lot width impact the character of the neighborhood?

And for the purposes of looking at that, I define neighborhood in two ways...one way is to look at what the Municipal Land Use Law implies is the neighborhood and that is properties within 200' of the radius of the property lines of the subject...that is what the Municipal Land Use Law requirement is for notice in a situation where you have a variance and, by inference, you can say that what the Municipal Land Use Law is telling an applicant or a community is that those are the homes, within 200', that have the greatest potential to be impacted by the granting of the variance.

The other way to look at it, particularly with regard to lot width is, the houses on both sides of the street for those lots where the minimum lot width is being requested because in that particular situation, the public perception is you're driving along that street and the narrower lot can have an impact on the neighborhood but sometimes the people who live behind it are not impacted necessarily because they are not confronted with the same kind of visual impact.

So the neighborhood can be defined in two ways...that is the homes that are within 200' of the subject property or the homes which are on the same or the other side of the street within the block in which that property fronts.

I do have a handout because I want to provide the board with my analysis of the impact on the neighborhood and I will hand it out now.

DEL VECCHIO: As Mr. Preiss hands it out I am going to propose that we mark it as A-10 – and identify it as, a document prepared by Mr. Preiss, entitled Handout Analysis of Properties in Surrounding Areas Which are Non-Conforming with regard to Requirements for Lot Width, Depth and Side...prepared by date of July 2010...and appears to be comprised of eight pages.

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TEN HOEVE: There is no date on it and it says July...when was this prepared?

PREISS: This was prepared in July of this year.

TEN HOEVE: July what?

PREISS: The actual date?

TEN HOEVE: I am basically curious as to whether you had this at the time of the last meeting.

PREISS: I did.

TEN HOEVE: And whether our professionals could have had an opportunity to review it. It probably would have been helpful and I'm sure they are going to want time to review it now, not having seen it previously. It would have been a good idea.

PREISS: I didn't get to that portion of my testimony so...

TEN HOEVE: I understand but if you were to do a planning report, wouldn't you normally submit that in advance of your testimony as well?

PREISS: Well, yes...if it were a planning report I would agree it would be germane to do it. I felt that I had to provide the rationale with respect to the affirmative criteria and I had to define the neighborhood so that people, who were reviewing this, including your professionals, had some context for reviewing this particular exhibit.

There is no introduction, there is no explanation.

TEN HOEVE: I understand that.

PREISS: In any case, let me just go through these exhibits one by one...as I indicated before, just in summary fashion, the three factors that can impact the character of a subdivision with respect to the neighborhood are; lot width, lot depth and lot area.

As I have indicated before, the two ways that one can define neighborhood is properties within 200' and if you look at the exhibit on Page 1, entitled Lot Width and has green coloring on it...that the subject property is the hatched area, which is Block 2010, Lot 1 and the 200' radius is the dotted line around that. So all of the properties that are touched or within that line are properties within 200'.

And then on the next page, and I'll come back to Page 1 again...the properties that can also be defined as the neighborhood are properties within that block on both sides of the street of that proposed subdivision and on Page 2 where it says lot width, that dark line are all those properties that face Rivervale Road between Lillian Street and Morningside Avenue...that also can be defined as the neighborhood.

Now, let me go back to Page 1 and indicate what I did...the first thing we looked at was to determine all the properties within a 200' radius that were non-conforming with respect to lot width and all those properties which are shown colored in green, are in fact, non-conforming with respect to lot width. Of the 32 properties that comprise the neighborhood as defined by that 200' radius, 15 of the 32 or 47% are non-conforming. I would also point out that the zoning line runs adjacent to the property so part of the neighboring property is in the R-10 zone, where the minimum lot width is 85' and part of it is within the R-15 zone, which is 100'. We're actually on the boundary. We're subject to the 100' lot width minimum requirement but the properties to the north of us in Block 1918, for

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example, have a minimum lot with requirement of 85'. So all of those lots are less than 85'. All of those lots across from Rivervale Road are all less than 100' width.

Turning to the next page; if one defines the neighborhood as I indicated, as properties within that block which face Rivervale Road, then you are down to 13 properties and in that respect 9 of those 13 properties, which face Rivervale Road between Lillian Street and Morningside Avenue, are non-conforming with respect to lot width. This obviously is excluding the proposed lots, Lot 1 and Lot 1.01 which are within the subject property.

If you go to lot depth and that's on Page 3...and you look at the neighborhood as defined by the 200' radius and the non-conforming properties are shown in brown, 17 of the 32 or 53% are non-conforming with respect to lot depth.

On the next page, there is an indication that 2 of the 13 properties which face Rivervale Road between Morningside and Lillian are non-conforming with respect to lot depth.

On Page 5, that shows non-conformity with regard to minimum lot size requirement and here you have 17 of the 32 once again or 53% of the properties within the 200' radius, which are non-conforming with respect to lot size.

On the next page, which is Page 6, that again where the neighborhood is defined as the lots facing on Rivervale Road on the same block, you have 8 of the 13 or 62% of the lots in that particular scenario, which are non-conforming.

On the next page, on Page 7, I did for illustrative purposes and basically what we did, is we took the subject property, which is right in the center and instead of the hatching, we represented where the homes are going to be located, similarly with a symbolic little red rectangle and we put the lot lines in and basically I did this because it illustrates that if one looks at this particular map, these lots don't stand out necessarily with respect to their configuration or where the homes on these particular lots are located. They are certainly substantially larger than most of the lots in the neighborhood and the configuration is not that different from a lot of the lots in the neighborhood...in fact, they are probably more conforming, more rectangular than most of the lots in the neighborhood. So purely from an overhead visual point of view, there is an indication that if the subdivision were to be approved, that these lots do fit in on an area-wide basis and an locational basis within the neighborhood.

Finally, on Page 8, we did a calculation as to what the cumulative impact of what the proposed subdivision would have on the character of the surrounding properties. So first we looked at all of the properties that were within the neighborhood defined as the 200' radius and we determined those which were non-conforming with respect to lot width, area and depth. Of the existing 13 properties, there is three factors for each one...so there is a potential for 32 properties to have as many as three non-conformities, 106 in total. What you have, in fact, is 49 non-conformities on the 32 properties for an average of 1.53 non-conformities per property.

If you look at what is being proposed on the proposed subdivided lot, you have three non-conformities with respect to the four properties or .094 conformities per property. In other words, half the level of non-conformity on the subject property as compared to the neighborhood. The impact of that is, if the subdivision were to be provided and you look at the level of non-conformity, as a result of the subdivision and the granting of the variance, the existing non-conformities in the neighborhood are 47%. If this subdivision were approved that would drop the level of non-conformity to a level of 44%. You would actually be reducing on an average basis the non-conformities that exist in the neighborhood.

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The second portion or the lower portion of Page 8, defines neighborhood as properties fronting on Rivervale Road. There you have 19 non-conformities on 13 properties or 1.46 non-conformities per property. On the subject site you have one non-conformity on two properties because this is confined to just those two lots that face Rivervale Road or .5 non-conformity per property. In terms of its impact, the existing is 19 of 39 have non-conformities or a 49% level of non-conformity and the proposed, if added would be 20 non-conformities out of 45, which is a 44% non-conformity.

So either way, the impact of approving the subdivision would actually reduce the level of non-conformity in the neighborhood and would actually, in comparison to the rest of the property that's in the neighborhood, have fewer non-conformities than the neighborhood had. I think amply illustrates that if the subdivision is permitted that that would not have a substantial detriment either to the zone plan or to the neighborhood.

So, in my opinion, just to conclude my testimony, the four lots which are the subject of the application have a greater level of conformity with the zoning ordinance of Park Ridge and properties within the neighborhood. These all conform or are in excess of the lot size requirements. There is a high degree of non-conformity in the neighborhood, even north of the subject property where the R-10 allows 10,000 sq ft lots, 1/3rd smaller than the 15,000 sq ft minimum lot requirements and where the lot frontage and width requirements is 85' as opposed to 100'.

The proposed lots for which the lot variances are being sought all conform to the lot depth requirements and as pointed out, there are several properties in the surrounding area that are deficient with respect to lot depth.

Three of the four lots do not conform to the lot width but I just wanted to point out that this is by no means an exception or aberration in the surrounding properties, again, even in the R-10 zone we have smaller lot width requirements in that particular zone. So, in my opinion the impact of the grant of the variances insofar as the impact on the zone and the impact on the neighborhood is concerned, is that the grant of the variances would actually increase the degree of non-conformity even though it wouldn't fully comply with the ordinance rather than decrease it.

Finally I looked at your recently adopted Master Plan. The subject property is located in the moderate density residential Land Use category and the goals and objectives for this category are as follows: *the primary objective for this Land Use category is to compliment the character of the existing neighborhood by reinforcing setback requirements, ensure that there is adequate light, air and open space associated with all new development.* I would point out that this proposed subdivision does that. The setback requirements are all adhered to and by virtual of its exceeding the minimal lot requirements, all of the lots will provide, light, air and open space as desired by your Master Plan.

So viewed within this context I believe the grant of the variance would not have a substantial negative impact on your Master Plan either.

Thank you.

MITAL: Thank you very much. We'll start with questions from the board.

SCHWAMB: Could you explain that shared driveway? Where exactly it is on this plan.

PREISS: This is the Local Road, the stub street that comes into the western portion of the property. The subdivision, as I indicated of Lots 1.01 and 1.02 on Rivervale Road leaving the remaining portion and the subdivision line would subdivide that in a north/south direction and you would have the existing house to be redeveloped in its location...with the

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subdivision creating a Lot 1.02 and that would be the house that is existing there and would be redeveloped. The new house would be placed in this location down towards the bottom left corner and this would be proposed Lot 1.03. The shared driveway is the extension of the driveway from Local Street...it goes in a southerly direction and then turns east and would terminate at the garage for the redeveloped house on Lot 1.02. And it is shared with intent that the driveway also provides access to the proposed new house on Lot 1.02, So the shared portion of the driveway is actually very small, it's just this short extension from Local Street to the house on proposed Lot 1.02.

OPPELT: You commented before about Local Street terminating on the property and that it was your opinion that the street was put in essentially for future development. Is it possible that that street was put in strictly for the homes that are on it already?

PREISS: Usually what happens in situations like that is if it is just serving the homes in this particular area...the homes on Block 1918 and 1917...and typically what you would do is you would provide a cul-de-sac and it would just provide access to these homes. The fact that it is a stub street means that there is an intent to extend the street into the property.

OPPELT: Those homes are fairly old.

PREISS: Yes.

BOGART: Is there a local official map showing an extension of Local Street or the planned extension of Local Street?

PREISS: Quite frankly we didn't request one and I haven't seen one in any of the documents that I've examined...an official map for Park Ridge. So I can't answer the question.

(Councilman Maguire arrived at this time)

BOGART: How did you come to the conclusion that the borough wanted to extend Local Street for future development without seeing an official map which would show that?

PREISS: I didn't say that the borough wanted to...where you have a stub street, typically that's in a situation where there is a contemplation that the road would be extended, if not, you would have a cul-de-sac in that particular situation or you might have a stub street which would then have some property from the two lots which are at the end of the cul-de-sac, which would therefore prevent that street from being extended into the property. In my opinion, where you have a stub street terminating at a property line that is an indication that there has been an intention to extend the road and provide access to that portion of the lot.

BOGART: Isn't it true that if the borough did have an intention to do that they would have provided it on the official map since that is one way that a municipality can plan for future development?

PREISS: I am familiar with official maps and as of late, since I've started practicing, there's very few towns that actually pay attention and update their official maps, number one and the Municipal Land Use Law recognizes that and basically in the circulation elements of your Master Plan, if you have a circulation diagram, that can be legally substituted for the official map. The other thing I would say is, where you do have proposed streets shown on an official map, those are typically your

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arterials and collectors, it is very unusual for an official map to get down to the level of showing streets for local access for the subdivision of individual properties.

BROWNE: If Local Street were intended to be extended, where would it be extended to?

PREISS: There's a couple of different possible scenarios...the one scenario obviously would be one which may have been contemplated with an extension of the property....let's say the wetlands didn't exist or at the time the stub street was put in there were no DEP wetland regulations...you would have been able to extend this street into the property and provide a cul-de-sac with lots which would be served around the cul-de-sac. So that is one scenario.

The other possible scenario, although it is not likely, is that the road could be extended and join up with Rivervale Road, so that the property could be subdivided on both sides of that street. Those are the two possibilities where you have a stub street.

BROWNE: So there is no sign of the intent.

PREISS: As I said before, when I see a stub street and you have a larger property, which has the potential to be subdivided, to me it indicates that either there is an intention or a recognition that at some future point access has to be provided to that particular property. The stub street ending there is an indication that either it was contemplated or there was an intention to actually provide access to that lot.

And it certainly makes sense, if you look back at the neighborhood plan where you have a large oversized lot, it has frontage on Rivervale Road, and if one looks at the pattern of subdivision on Rivervale Road, you would expect or anticipate that that lot would continue to be subdivided in the same manner as lots on either side and across the street. In other words, just to carve out the subdivision of 15,000 sq ft lots served by Rivervale Road....I think the recognition of having a local road stub where it is was to serve the remaining portion that would be subdivided. In other words an extension of a cul-de-sac into that property to allow that portion to be subdivided.

BROWNE: In Block 1918, Lots 7 and 8, do you have any indication of where those driveways for those existing homes...the relationship of those driveways...

DEL VECCHIO: If I might just indicate, Mr. Eichenlaub, who was previously sworn and testified, can answer that question for you.

Richard Eichenlaub of R&L Engineering came forward.

EICHENLAUB: Both of these driveways on Lots 7 and 8 are located on the south side of the property, they service the dwellings with front loaded garages.

MESIANO: Is there a reason not to extend Local Street?

PREISS: Because of the wetlands and because of the fact that you are only subdividing two lots, to me there is substantial benefit by having a shared driveway as opposed to extending a full road with a full turnaround with a cul-de-sac. And there's a question as to whether DEP would even permit a cul-de-sac to be extended into the property. Certainly there are substantial benefits to extending the driveway by virtue of the fact that you have less pavement, less stormwater runoff, less removal of vegetation, less

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disturbance of slopes...so, in my opinion, the shared driveway scenario is a much less environmentally impactable way of providing access to those two properties. And the same level of emergency access, snow removal, safety, all of the things that you would anticipate from a public health and safety point of view can be provided in a shared driveway scenario as you can with a cul-de-sac...so, in my opinion, the shared driveway is the preferred alternate route and better zoning option as well.

MITAL: If there are no further questions from the board, we will go to our professionals.

TEN HOEVE: I did have one question, just something I missed because I think I was writing so fast...I didn't get your positive criteria for the C-2 basis for the variances.

PREISS: Basically, I said that in my opinion the provision of the subdivision in the manner that's proposed with the shared driveway provides substantial benefits, in that theoretically if you extended the cul-de-sac into the property you would be able to meet the lot width requirement. There is certainly enough of property from the point of which Lots 1.01 and 1.02... Lots 1 and 1.01 are subdivided from east to west to provide sufficient width but the point is that in this particular scenario, subdividing it this way with the shared driveway has less of an environmental impact as opposed to...

TEN HOEVE: I don't think I am following you. Are you saying that the Municipal Land Use Law objective that is obtained is having a less significant environmental impact by putting a shared driveway in than having a roadway?

I don't want to put words in your mouth...I just don't understand you.

PREISS: We are not talking about the Municipal Land Use Law intent. What we are talking about are the practicalities and impact of one alternative versus another alternative.

TEN HOEVE: That's what you mean by a C-2 positive benefit?

PREISS: Yes. And what my indication is, is that subdividing in this manner with the shared driveway in combination with the environmental constraints is a preferred method and that the benefits of doing so, is that you have less disturbance, less stormwater runoff, less coverage and you still have a viable way of accessing those properties.

TEN HOEVE: But it's all in comparison to what you would have if you had a street.

PREISS: Yes.

TEN HOEVE: Were there any other C-2 positive criteria that you had or is that the only one?

PREISS: I think from the point of impact on the neighborhood, the fact that you have a private driveway that terminates at this point basically inhibits cars from driving into here and turning around and coming out. So in some ways, some of the other benefits in having a private driveway is that it discourages street traffic or visitors coming into the neighborhood.

TEN HOEVE: There is no through-traffic there now.

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PREISS: There isn't now.

TEN HOEVE: There's nowhere you can go at the end of that street, right?

PREISS: That is correct.

TEN HOEVE: And a driveway is going to discourage additional traffic?

PREISS: Well, I think what would happen is, if you had a cul-de-sac with a turnaround what may happen is that people coming down the street would actually go into the cul-de-sac turnaround and then drive out. The fact that when you look down the street there's a private driveway at the terminus, it discourages people from making an entrance.

TEN HOEVE: So again you are talking about the difference between a street and a private driveway, not a condition that exists at the current time.

PREISS: Well, if both existed at the current time, you'd be basically extending that current condition. The current condition doesn't encourage people to drive down this driveway for the same reason. There's a stub road at the end, there's not a convenient turn.

TEN HOEVE: Right. If I understand you, what you are saying is that it is not going to change anything from what exists there now by putting a private driveway there.

PREISS: Yes, but it could change if you had the cul-de-sac.

TEN HOEVE: That's what I was asking. So again, it's a comparison between if you had a street and if you had a private driveway.

PREISS: Right.

TEN HOEVE: So it is kind of the same thing you were saying the first time.

PREISS: Yes.

TEN HOEVE: Is there anything else that you contend is a C-2 positive benefit?

PREISS: No, I think that's it.

TEN HOEVE: Ok, thanks.

I had several other questions; I just didn't get those down in my notes.

BOGART: At the last meeting you had mentioned that you were brought onto this project prior to the design of the subdivision and that you were an integral part of the design...and I'm intrigued by your testimony suggesting that you're dividing up the property between the eastern portion and the western portion since you had initial input into the entire site.

When you first started to testify that the eastern portion was separate because of the environmental constraints that exist on the western portion, I expected to hear testimony that the eastern portion is going to conform to all the zoning requirements because there are no environmental constraints and is separate and apart from the portion of the site that does have those constraints.

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PREISS: It does, except to the extent of the lot widths and lot frontage for proposed Lot 1.01 and that's not because of the environmental condition, it's because of the amount of frontage that you have on Rivervale Road is 187'. It is not 200'. It is not the environmental conditions that create that variance; it is the fact that the property can't be subdivided into two lots and meet that minimum lot width.

BOGART: That it technically does not have that width.

PREISS: And as I indicated there is nothing that the applicant can do in that particular situation to cure that deficiency. It can certainly provide enough lot area and they have provided that. They can conform to all of the setbacks, the height, the coverage, one thing that they can't cure is the lot width situation and that's the reason for the variance.

So, when you look at this particular piece of property you start first with this portion of the property and that to me is what you deal with first because that deficiency is what provides the lot width. Once you have dealt with that and you provide sufficient lot area then you have a remaining portion of the lot which you can then take a look at.

The remaining portion of the lot, 1.02 and 1.03 that have the environmental constraints then dictate a different set of circumstances.

BOGART: What I find confusing to me is that you had mentioned and even at one point you had suggested that you would have to buy two additional lots in order to get conforming lots on the northern portion of the property?

PREISS: Yes, because of the depth required on Lot 1.01, it is actually adjacent on the north side or the left side of the map to two lots. That depth extends past Lot 6 of Block 1918 down into Lot 7 of Block 1918. So, whereas theoretically you could acquire 13' of property to that so that it is 200', that 13' of property would end at the rear yard line of Lot 6 and then it would come back to the property line. So theoretically, you'd have to acquire 13' from Lot 6 and from Lot 7 in order to meet that minimum lot requirement.

BOGART: I have two questions. One, if you have to acquire two additional lots in order to make one conforming lot doesn't that indicate to you that your site cannot handle those two lots proposed?

PREISS: Not at all.

BOGART: Why is that?

PREISS: Because you can conform to everything else but that particular situation. The hardship is related to the fact that...and let's take away the fact that there are two lots...irrespective of that, this lot, Lot 6 is presently non-conforming with respect to the lot width requirement, lot width requirement is 85' and it is less than 85', so in order to cure the non-conformity on the proposed lot you would exacerbate an existing non-conformity and create another variance for Lot 6. So, even if theoretically the property owner on Lot 6 were willing to see the 13' on this side of the property, you're not helping yourself, you're creating an additional variance and you're back to square one.

And the same on this side. You have a 100' lot and any sale of 13' on this particular property would create a non-conformity on this property so there is no way to cure that deficiency by purchasing additional property on either side without it creating additional non-conformities.

BOGART: I'm still having trouble understanding why you split the lots. I can understand if you suggested, Ok, the eastern portion of the site doesn't

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have any environmental constraints and I have one conforming lot that conforms to all your area and bulk regs, I just need to address the western portion of the site with the environmental constraints. I'm not sure why you divided it if both sides need variances particularly when you were involved from the onset.

PREISS: I'm dividing it only insofar as the explanation of the variances are concerned and the reason is because...and let's ignore the desire of the applicant to obtain these two additional lots...if one said, Ok, we're going to subdivide the property and just have frontage on Rivervale Road, you still have that non-conformity. If that subdivision line ran through the rest of the property and only two houses were placed on the property in its entirety, you would still have the non-conformity with regard to lot width and lot frontage. So, when one looks at this property in terms of how you are going to subdivide and how you are going to comply with your ordinance requirements, that is a given. That you are going to have a non-conformity as soon as you subdivide the property at all with the frontage on Rivervale Road.

BOGART: Unless you provide a street, correct? If you provided a street then you could have two conforming lots.

PREISS: Well...you're talking about extending a cul-de-sac into the property?

BOGART: Correct.

PREISS: Yes, you could do that and may have sufficient depth and width in that particular situation.

BOGART: With regard to the western portion of the site, you had mentioned that since DEP has provided the necessary approvals for those two houses, that you think they are appropriate and won't have any impact on the wetlands...

PREISS: Not a substantially adverse impact on the wetlands. Obviously there is an impact on the wetlands to the extent that they are being disturbed and filled, however, my point is that DEP grants local regulations when it comes to wetland disturbance and filling and if the DEP is prepared to provide the permits that is an indication that DEP feels that the impact on the wetlands is not substantially adverse.

BOGART: And, so therefore, you've taken those approvals for those two houses and basically accepted them as is and moved forward with your area and bulk analysis.

PREISS: Correct.

BOGART: I'm just trying to understand how you automatically accepted that those two houses can exist when we've heard testimony that DEP relies on this board to enforce and review the local goals and objectives of the Master Plan and the Zoning Ordinance.

PREISS: I would agree on that. I was talking solely with respect to the area over which DEP has jurisdiction and that is wetlands, not with respect to goals and objectives or any other requirements of your ordinance.

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BOGART: With regard to your handout, did you look at the extent of the non-conformities of the lots or just that they didn't conform by one or two feet and it was automatically colored.

PREISS: That's correct. If it was non-conforming and in some cases it may be a few feet and in other cases it may be substantial, we didn't differentiate. If it was non-conforming then we indicated it as a non-conformity.

TEN HOEVE: Do you think that is appropriate from a planning perspective to do that?

PREISS: Yes.

TEN HOEVE: Even when you are comparing it to lots that have 25' frontage? You're talking about two lots that you are trying to create that have 25' lot frontage and you're telling us that you might have a lot that is supposed to be 100 and is 97' and that it is appropriate to list that as a non-conforming comparative lot to something that is being created that is 25'?

PREISS: I would agree but this is a special circumstance. The 25' frontage is solely related to the fact that you have a stub street at that particular property.

TEN HOEVE: I understand that but isn't the purpose of that analysis that you submitted to show that this is going to be very much in conformity with the non-conforming street frontage conditions that exist in the neighborhood?

PREISS: Yes, but I think you have to look, in this particular situation, A – at the degree of non-conformity by the number of lots and then let's look at the particular non-conformity related to the street frontages.

TEN HOEVE: I think that is what our planner was asking you. Did you get the numbers so you could compare...

PREISS: No, I did not. But let me just point out that the mere statement that you only have 25' of frontage is, in this particular situation, very misleading. It is very misleading because typically the lot frontage constitutes the entirety of the lot width that is provided at the streets. In this particular situation, each of those lots are substantially wide where the house is to be located. The desirability of 100' of frontage is to make sure that there is sufficient room to separate the driveway from the adjacent home and in this particular situation, that is the key in this situation.

TEN HOEVE: Wouldn't that be the case in any flag lot situation? As long as you had a flag portion coming in that had a driveway and then a wide area where the home was going to be located, that would comply?

PREISS: This is not a flag lot situation.

TENHOEVE: I said wouldn't that be the case?

PREISS: No.

TENHOEVE: I have some questions about that later.

PREISS: No, I don't believe so.

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TEN HOEVE: It's not comparable?

PREISS: No, that is not a valid comparison because there is no portion of the property which is 25' wide. The width of the property is substantial as soon as one enters the property.

TEN HOEVE: But it is not frontage on a street.

PREISS: No, it is not frontage on a street, I would agree.

TEN HOEVE: (to the planner) I'm sorry, go ahead.

BOGART: I'm looking at Page 7 of your analysis...and you had mentioned when you were testifying to this page, that basically the proposed lots fit into the neighborhood. I may agree with that analysis with the lots that front on Rivervale Road, they look comparable to the remaining lots 2 and 3 to the south...however, when I look at the lots coming off Local Street, they look incompatible to the neighborhood. They are very different from their surrounding lots and I am trying to figure out why you...

PREISS: They are different because they are oversized and because they are located mid-block. Their location mid-block is unavoidable. The rest of the block was subdivided leaving this middle portion of the block to be developed, as I have indicated, either through cul-de-sac extension or a loop road extension. So, in this particular situation that's just the circumstances of what's left of this property once everything else is subdivided.

I think the purpose of the diagram is not so much so look at the lot and say, is this an irregularly shaped lot but to look at the size of the lot and the location and orientation of the homes on that property and when one looks at the remaining neighborhood, it is not incompatible because the lot is substantially oversized and the distance between the proposed homes on these lots are as great as any other separation of homes on other lots in the neighborhood.

So, in that respect it fits into kind of the overall neighborhood scheme in terms of the density and location of homes in comparison to the rest of the neighborhood.

Mr. Von Bradsky arrived at this point.

BOGART: I understand your analysis as far as the separation of homes and the location, however, if you look at this neighborhood and even on a larger scale, look at the surrounding streets, you'll see cul-de-sacs, you'll see continued roads through entire neighborhoods and these two lots don't seem to fit into that pattern.

PREISS: In that respect, is the provision of access into this property different than the neighborhood? Yes. But I have indicated that because of the hardship condition and also because of the benefits, that a shared driveway is the only way in which it can be provided, and from a public safety point of view, that shared driveway has all of the attributes that a cul-de-sac extension would and none of the adverse environmental consequences.

In that respect, it is different but that's different because of the location mid-block, the configuration of the lot and the wetlands, which exist on the property.

And variances in the Municipal Land Use Law are designed for these kinds of exceptional situations.

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BOGART: How to you reconcile that with the fact that you had mentioned the Master Plan encourages lot design and development that is consistent with the neighborhood character?

PREISS: Well, let me give you an exact quote – *the primary objective of this Land Use category is to compliment the character of the existing neighborhood by reinforcing setback requirements to ensure that there is adequate light, air, open space associated with all new development - and that is what we have done.*

We are complying with all of the setback requirements in this neighborhood so that adequate light, air and open space is provided.

BOGART: So the fact that it doesn't have access as any other place in the borough doesn't affect your accomplishing that goal?

PREISS: Yes, it's an exception but, in my opinion, it is a perfectly acceptable exception under the circumstances and, in fact, it is a better zoning alternative than to extend a cul-de-sac into the property.

BOGART: I just have one last question. In the summary of your analysis, you provided two...

TEN HOEVE: May I just interrupt for a second...I'm sorry....there is a quote in the planner's report that says the 2009 Master Plan Land Use Element states that new development and remodeling and additions should not be disharmonious with existing street setback pattern.

PREISS: Yes?

TEN HOEVE: Do you think this complies with that?

PREISS: Yes. The setbacks of all the homes on these properties comply with your ordinance requirements. Now, I did not do an analysis of the setback of homes in the immediate neighborhood but because there are substantial variances with regard to lot width and with regard to lot depth and with regard to lot size, I would surmise that there are a lot of non-conformities with regard to setbacks.

So we are fully conforming with respect to street setbacks so we are not disharmonious with the neighborhood.

BOGART: Going back to Page 8 and the summary of your analysis. It doesn't appear you summarized how the proposed lots on Local Street will fit into the street frontage non-conformities/conformities...I was wondering why you left that portion out since those seem to be the two most significant variances.

PREISS: Well, because it is an unavoidable situation and because the argument there is the extension of a shared driveway is a preferred alternative with respect to something that would be conforming... If you go back to the beginning of my analysis, I said insofar as impact on neighborhood character is concerned, in my opinion, the three factors which apply are lot size, lot width and lot depth. So those are the three factors that I looked at.

BOGART: So the street frontage is an unavoidable situation for those two lots.

PREISS: Yes.

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BOGART: There is no way you can comply with street frontage even with a proposed cul-de-sac.

PREISS: Yes. I don't believe there is a way that you could extend the cul-de-sac and comply with the DEP requirements.

MAGUIRE: The variances you are requesting are for lot width and street frontage?

PREISS: Yes.

MAGUIRE: The lot width requirements being 100' and one complies, one has 87' and two have 25'.

PREISS: Correct.

MAGUIRE: That's a C variance, right?

PREISS: Yes.

MAGUIRE: And I think you testified to some of the public benefits, and maybe I missed it, but the hardships to support that C variance, can you go through those?

PREISS: Yes, it's because of the environmental conditions and even despite the environmental conditions, because of the shape and configuration of the lot.

MAGUIRE: And the wetland conditions are the...

PREISS: Yes, it is the wetlands conditions...I'll have to summarize because you missed that portion of the testimony.

I'll just summarize very quickly. I dealt with the subdivision of the two lots that front on Rivervale Road and I indicated that environmental conditions had nothing to do with the hardship there. You have 187' and 200' would be required to have two lots that are conforming and there is no way that that conformity can be secured by purchasing additional property on either side because that would render this lot, which is now conforming to the south nonconforming and exacerbate the nonconformity of Lot 6 and perhaps even of Lot 7. That leaves 56,000 sq ft remaining to be subdivided on the remainder of the lot.

In that particular situation the wetlands dictate that the location of these two homes are fixed. The development of this property, the redevelopment of this house in this particular location and the location of this home in this particular location are fixed because of DEP regulations. They are permitted but there is not much flexibility with respect to that.

With respect to this particular home, you would have to extend a driveway and would be able to extend a driveway without a variance if this was a single lot. This driveway can be provided in the manner which meets public health, safety and welfare.

So the question is, can you provide an additional lot and can you provide an additional home under the same scenario and the answer is "Yes", very simply by having a very short portion of the existing driveway as a shared driveway for this home.

MAGUIRE: Thank you...it sounds like you went through this already.

TEN HOEVE: You can read the minutes and ask questions on it later.

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MITAL: Yes, you can catch up. At this point, we went a little bit over but we wanted you to finish your thoughts and answer Terry's question

TEN HOEVE: I have several questions. Just so you understand, I haven't asked them either...I have a list of questions here.

MITAL: So we are going to have to pick this up at the next hearing.

DEL VECCHIO: Here we go again, our usual discussion.

MITAL: I will have to defer that to Mrs. Beer.

DEL VECCHIO: I'll speak to the chair and you can administratively deal with the issue anyway you feel necessary.

We started our first hearing on April 28th and now it is September, we need to finish the hearing. I continue to ask for special meetings. I ask for a night to get the hearing done, I had one witness tonight and he had partially already started at the last hearing and we are still not getting through that witness. I realize there are a lot of questions and we are going to answer all of them but we have to find a way to conclude the hearing in a timely fashion.

I have granted repeated extensions because we are going, not two weeks, but a month out every time we adjourn. We need to find a way not to go a month out anymore and start cutting the turn back time a little shorter if possible. So I renew my request for a special meeting, I renew my request not to be carried a month, but only to be carried two weeks and we are committed to answering your questions but we would like to conclude the hearing.

MITAL: Mrs. Beer, can we look at the schedule?

BEER: In two weeks it will be September 29th, the fifth Wednesday and if the board and professionals are available we could continue. Otherwise, we could continue at the work session in October, which is something we generally don't do but we could give over an hour to hour and a half. It depends on what happens in the next hearing.

MAGUIRE: I would support a special meeting because I would like to wrap this up as much as he would.

MITAL: Which would be in two weeks, which would not be our work session...it would be the last Wednesday in the month.

BEER: And I will advertise as a special meeting.

DEL VECCHIO: What's the date?

BEER: September 29th. If the professionals, after they check their schedules contact me, I will poll the board and get back to you, Mr. Del Vecchio.

DEL VECCHIO: I will have to check with my professionals as well. We need to figure out tonight a date to carry the hearing forward to.

BEER: It's the 29th or the 13th.

TEN HOEVE: I think the safe thing to do is carry it to the 13th.

Andy, carry this to the work session where it's not going to be heard with the understanding that we will announce at that meeting that it's going to be heard on the 29th.

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BEER: No, in two weeks, September 29th...two weeks from today.

TEN HOEVE: Oh, Ok. Never mind then, Andy.

MITAL: We have to find everybody's schedule first.

DEL VECCHIO: The 13th is a work session?

BEER: Yes.

DEL VECCHIO: How much time would we be allotted?

BEER: I am going to hazard a guess that it would be at least an hour...we don't know what is going to happen at the hearing after yours tonight and we have some ordinances to work on. We can give you at least an hour to hour and a half.

MITAL: We would take testimony from 8:00pm and then go into our regular work session.

DEL VECCHIO: What I was going to ask is that because of the uncertainty and because members of the public are also involved, that we carry the meeting to the 13th...give us as much time as you possibly can and I would also ask that sufficient time be reserved at your public hearing date in October to finish this year because I am not sure, given the level of questions I am hearing from the board and then we have to open to the public for general comments, that you are going to finish in an hour on the 13th.

So I want to make sure that we are given enough time at that second meeting in October.

BEER: Mr. Del Vecchio, if we could move the meeting and begin it at 7:00pm, does your schedule and your professionals' schedule permit that?

DEL VECCHIO: On the 13th?

BEER: Yes...board members that are here tonight, can all of you make it at 7:00pm.

(all nodded that they could)

Ok, we have a quorum here, so I will advertise for 7:00pm start.

TEN HOEVE: Anyone here from the public for this application, it will be heard at 7:00pm on October 13th.

DEL VECCHIO: Thank you and I appreciate the accommodation.

MITAL: We will take a three minute recess.

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

MITAL: Ok, we are now ready for the next hearing.

70-72 Park Ave, LLC – 70-72 Park Avenue (former Krell location)
Lots 1 & 2 Block: 1604

Greg Meese, Esq., came forward as attorney for the applicant.

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MEESE: This is a continuation from the public hearing on August 25th. The board had reviewed the architectural plans as well as the engineering plans. There were some comments from the board as well as comments from the board professionals.

Since that time both the architect and the engineer have revised their plans, revised plans have been submitted to the board. I would like to review those revised plans with the board.

There have also been subsequent conversations between the engineer and the county with respect to what the county is looking for as well as further comments from your experts and the engineer as well.

So there is going to be a handout which is a subsequent amendment to the plan that has been submitted and also yet a further revision that hasn't yet made it to a sketch yet but it should be fairly evident to what's proposed.

With that I would like to recall Mr. Cusanelli, who is the project architect to review the modifications that he has made to the site plan, which I think will answer some of the questions of the board and some of the members of the public from the last meeting.

Tom Cusanelli, AIA came forward.

MEESE: Mr. Cusanelli, you have several plans that you are going to review again, would you like to Pre-mark one of them?

TEN HOEVE: Give me a minute to see what number we are up to.

BEER: We used A-10, we are up to A-11.

MEESE: Exhibits A-11 through A-16 will be Architectural Exhibits showing the changes to the Architectural Elevations and Floor Plan, dated August 26, 2010.

TEN HOEVE: So A-11 through A-16 are all architectural plans?

CUSANELLI: A-11 through A-16 is A-1 through A-6 revised.

MEESE: And these exhibits are the same plans that have been submitted to the board. So the board should have copies of these in front of them.

We will review some of the changes to the plans that addressed some of the comments and concerns.

CUSANELLI: We narrowed the building slightly in order to maintain 5' clearance on the sidewalk for the handicapped accessibility. As a result there was approximately a 256 sq ft reduction in the floor area, so the FAR calculations has slightly be brought more into compliance and by that reduction in sq ft...

TEN HOEVE: What is the new number?

CUSANELLI: New number is 16, 901...

TEN HOEVE: And the new FAR?

CUSANELLI: .7101 is the new floor area ratio.

TEN HOEVE: Thank you.

CUSANELLI: The exterior of the building, as we had previously submitted, the rendering was changed in order to clear utility lines on Maple Street side...now the prior octagonal turrets are square, rectangular in profile and

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we've revised the rear elevation accordingly to show that further setback and reduction of the second floor area.

A slight revision in the floor plan, the width of the building being reduced a little bit over a foot in order to accommodate the 5' walkway.

Drawing A-5 or A-15 is the revised elevation indicating the square corner turrets in lieu of the octagonal and pulling in the second floor on the Maple Avenue side.

MEESE: Did you also remove the outdoor staircase from the basement.

CUSANELLI: Yes, we did.

MEESE: And does that show on the architectural plans?

CUSANELLI: The exterior stairs which we had, originally, on the east side has been eliminated and two interior stairs servicing the cellar are provided, one in each stair hall, front and rear.

MEESE: And you've also added bike racks to the plan as per the recommendation up by the driveway?

CUSANELLI: Yes.

MEESE: Are there any questions of Mr. Cusanelli?

MITAL: That one foot reduction that you had mentioned...was that taken into account last week when we were improving the sight line driving north on So. Maple to Park Ave? Will that improve that even more or was that taken into consideration at last meeting's conversation?

CUSANELLI: Yes, the front wall of the building was not moved, the rear wall came in in order to accommodate the 5' for the handicapped accessibility at this location. This street wall remained where it was.

MAGUIRE: The building height...I don't know if this is something for Mr. Eichenlaub. Is that a variance? The building height is going to go between 33' and 37' with the average being 33.8'?

CUSANELLI: Correct.

MAGUIRE: Why is that a variance?

MEESE: It is not a variance.

MAGUIRE: It says proposed non-compliance in your zoning section.

MEESE: It shouldn't. 35' is permitted...

MAGUIRE: Do I have the wrong drawings?

MEESE: Maybe we should get Mr. Eichenlaub up on it. We could have Mr. Eichenlaub testify and then go back to Mr. Cusanelli for any questions.

MITAL: Sure.

MEESE: Mr. Eichenlaub, you were sworn in at the August 25th meeting and you are still under oath tonight.

You have revised your plans to address some of the comments you heard at the last month's meeting...revised plans were submitted...could

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you give the latest revision date of the plans that have been submitted to the board.

EICHENLAUB: Revised September 2, 2010 and not all of the sheets were revised.

Sheet 1 was not revised...there was no need to revise that.

Sheet 2 was not revised...

Sheet 7 was not revised...

Everything else was revised with the revision date of September 2, 2010.

MEESE: Would you review the specific changes you made.

EICHENLAUB: I will refer to our Site Layout Plan, that's 3 of 7...what we did is we actually shifted the building 10" to the east and the reason for that is the first floor has a roof parapet or eave that extended out 16"...we were six inches off of the property line initially but with that 16" eave we were extending out over the r-o-w onto the municipal r-o-w. So to comply so that eave was not extending out into the r-o-w, we shifted the building an additional 10", so we are now 3 16" off of the So. Maple r-o-w.

It really changed nothing except for the fact that it shifted 10" to the east.

We have removed the originally proposed basement entry that was located on the southeast corner of the building.

We have changed the footprint of the building in the sense that we have provided for the necessary 5' handicapped accessibility at the rear entry. So from the base of the curb to the building we have 5'.

In removing the basement entry, we have also provided for additional landscaping along the east side of the building...that's in the area that we are looking to obtain from the municipality.

We've also extended, as discussed at the previous meeting, at the southeast corner at the intersection of So. Maple and Park Avenue, the curb line out to the rear of the first parking space to the east of So. Maple and in so doing, we have placed the actual curb from the point of intersection 47' to the east of that intersection. So the curb extends out from the r-o-w 47' to the east to create that area we talked about at the last meeting, in the way of having the sidewalk extend out into Park Avenue.

On the same drawing, we have also provided sight distances that we discussed. We have a sight distance of 400' looking to the west and we have a sight distance of 300' looking to the east. And again, that is at a point located 15' behind what will be the eventual curb line in Park Avenue. That view, or that line of sight is right off the corner of the proposed building. Again, that is assuming that there are no parked cars here. Obviously any parked cars along Park Avenue on our side or the south side of the street are going to create a sight line interference but without the parking there you have a clear line of sight of 300'.

MEESE: Moving the curb line into the r-o-w from what exists today, how will that improve the visibility for that intersection?

EICHENLAUB: It will allow you to get that much further out beyond the corner of the building to obtain that sight line,

We did discuss and we did contact the county with regard to the configuration that we have shown on our plan. Mr. Timsak, County Planner, had no objection to what we were showing. What he did request, however, is that the sidewalk itself be a full 4'. What we end up having is the sidewalk coupled with the pavers and the two foot widening that the borough requested is slightly less than the 4', actually the sidewalk width would be 3 1/2'...the width of the pavers would be 2' and that would also provide for an 8" curb.

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Mr. Timsak pretty much insisted that we have the 4' sidewalk and I've discussed it with my client that we do have a planter in front of the building. It is a very narrow planter and pretty much the only thing that is going to be able to be planted in that area are flowers, so if we were to provide for a walkway instead of that planter, we would certainly be able to provide the county with that 4' walkway. That additional width would be provided to the county by way of an easement.

MEESE: The end result would be a 4' sidewalk...

EICHENLAUB: You would actually end up having slightly greater than 4', which we could either have as concrete sidewalk or we could increase the width of the pavers. Now the 2' width of pavers is slightly less than what the municipality has along the county roadways, both Kinderkamack and Park Avenue but given what we had available to us, that's all we could afford.

If we were to get rid of the planter we would be able to provide the county with that 4' sidewalk and we would be able to provide the borough with almost 4' of pavers and still accommodate the 2' widening that was requested.

MEESE: And that is what you are proposing.

EICHELAUB: Again, that was after talking with Mr. Timsak and that conversation was had with him after the plans were resubmitted.

MEESE: That is what is being proposed.

EICHENLAUB: That is what I would propose to accommodate both the county and the borough.

MEESE: Have you thought about the lights that you have to have within that paver area?

EICHENLAUB: Again, we are still proposing that the light fixtures that exist there now be removed, stored temporarily and then reset. Yes, there are four of them and they would be reset.

MEESE: So the only modification to the plan is the planter that will be eliminated.

EICHENLAUB: It would be eliminated, correct and in its place would be sidewalk.

Again, with regard to our zoning requirements...we do have a change in the building coverage and the FAR being that the footprint of the building has changed and the second floor has changed...the FAR was reduced and the building coverage was also reduced.

MEESE: Do you have those numbers?

EICHENLAUB: FAR is at 71.01% and building coverage is at 41.21%...still a variance but it's less than what we originally requested.

There was a question with regard to the building height...the asterisk that we show on our plan next to the 33.65 simply refers down to a footnote that indicates that the 33.65 is based on elevations provided on the architectural plan. We calculated the average grade around the perimeter of the building, 6' off of the face of the building, two at each corner and one at the mid-point of the four sidewalls of the building. So based on our average grade and the elevations provided by the architect, our average building height here is at 33.65' and in conformance.

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MEESE: Have you also had conversations with the board planner with respect to the improvements she had recommended to the park property adjacent to the site?

EICHENLAUB: Right. A week ago this past Tuesday, I met with the board's planner at the site...we discussed the possibility of grading the park area to the east of us and at time we decided that with the improvements that the municipality had put into that area and the cost, in lieu of taking down the segmental wall and regarding the park area, that we would provide for a set of stairs located approximately 25' into the site, leading off of our proposed patio into the park area and at the top of the stairs there would be an additional paver walkway tying into the walkway that presently exists within the park area.

I do have a handout that I can give out and I told the planner that I would bring this tonight so you could see what we talked about at the meeting.

TEN HOEVE: We will mark this A-17, Sketch of Northeast Corner of the Site, dated September 15, 2010.

EICHENALUB: This sketch is showing the proposed patio area that we had indicated off of the northeast corner of the building and to the southeast corner of the patio, you can see there is an extension of walkway in a southeast direction to what we are proposing. We would take out a section of the segmental wall and in its place we would provide for a set of stairs accessing the park area. Along at the top of those stairs there would be a 4' paver walkway extending to the existing walkway that is in the interior of the park tying the two together.

And the reason for this, in lieu of the grading, was the extent of the amount of money that was allocated for the wall construction and extensive amount of landscaping located at the northwest corner of the park. There is a large crab apple tree in that area, there's a row of Yews at the top of the retaining wall and a number of those Yews will be removed and replanted alongside the win walls (?) running up the stairs that are being proposed.

MEESE: Have you had any further conversations with the planner with regard to the dumpster that's on the property.

EICHENLAUB: Yes, the dumpster was not shown to be relocated under the revised plan. I did have a discussion with the planner today after receiving a comment letter. We are still showing it within that area to be obtained from the borough, which is presently parkland and my proposal would be to skew the dumpster and in place of parking stall #15, the dumpster would be located in that area.

We have a 9' parking stall, a 5' curb return and two additional feet for 16' and it is my feeling that the dumpster itself could be located within that area there so it would only be one parking stall instead of two that we would lose in relocating that dumpster.

MEESE: And that would change the parking variance from 31 parking spaces down to 30.

EICHENLAUB: That's correct. It wouldn't be 90 degrees, we would skew it so it would be at a 60 degree angle but the truck would have to come in early morning prior to the parking lot filling to access that dumpster. It doesn't have to be before 7:00am.

MEESE: You also submitted drainage calculations?

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EICHENLAUB: Yes.

MEESE: That supported your testimony of last month that...

EICHENLAUB: With regard to the detention system, correct.

MEESE: Any questions of Mr. Eichenlaub?

MITAL: Right at the beginning you mentioned the sight distances at the corner of So. Maple....400' to the west and obviously that is not going to change, you have no control over that...you have 300' to the east; do you have the existing condition by any chance?

EICHENLAUB: To be perfectly honest with you, to obtain that sight distance, one would have to encroach within Park Avenue since the curb line doesn't extend out as we show it now. You could obtain that sight distance if the nose of your car is right at the existing curb line. That 300' is a clear sight distance without cars parked along the south side of Park Avenue.

That in essence is really the obstruction...cars, not necessarily the building.

MITAL: It was just that there was no much extensive conversation about that sight distance and the building.

EICHENLAUB: Right. Our building is being shifted to both the east and the face of the building is being pulled back so there is a clear sight line through the porch that is being created in that new building. The actual obstructing corner is 10' further back than the actual corner of the building that exists there now.

TEN HOEVE: Your last plans still show the 31 spaces.

EICHENLAUB: Yes, because we hadn't relocated the dumpster.

TEN HOEVE: You will revise your plans?

EICHENLAUB: Yes.

MAGUIRE: The So. Maple side of the building (could not hear...not speaking into microphone)

EICHENLAUB: Is the building line.

MAGUIRE: On the first floor?

EICHENLAUB: That's correct.

MAGUIRE: And that's the line you moved in...

EICHENLAUB: That's correct. We've got a dimension on there of 1.33...that's the 16".

MAGUIRE: What is the distance from the edge of the building to the curb line?

EICHENLAUB: It would be 9.5". The actual dimension...we actually show a dimension of 8'1" and that's an actual field measured dimension from the curb line to the property line. The 23'9" is the actual distance between face of curb and face of curb along Maple Avenue.

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MAGUIRE: The edge of the building will now be 9'5"?

EICHENLAUB: That's correct.

MAGUIRE: The overhang?

EICHENLAUB: The roof, the parapet, the eave of that would be right on the property line, correct.

MAGUIRE: I think the tie-in to the park is correct. You were trying to limit the amount of grading and disturbance?

EICHENLAUB: Correct, and again it's located into our site the way it is is to avoid the landscaping of that front corner as well.

MAGUIRE: The parking in front of the building...how many spaces would you estimate are there today?

EICHENLAUB: We are showing 5 spaces, there are 6 spaces but they are not delineated, people just pull up and they park and then another patron will pull in either behind them or in front of them but there are no delineated spaces.

MAGUIRE: Is there a reason you made that curb bump out 4'?

EICHENLAUB: It just gave us a better line of sight for traffic coming in a westerly direction. And that is not important for traffic pulling out of Maple Ave and going in an easterly direction, it's important for traffic coming out of So. Maple and going in a westerly direction. You want to see that traffic as it is coming towards you. What that did is it gave them a better line of sight if there were cars parked in this area here.

Again, it is not that much further than the sign that exists out there now that says "*no parking from here to corner*"...

MAGUIRE: You're hardly eliminating any spaces...looks like one.

EICHENLAUB: Yes, it comes to one.

VON BRADSKY: On that same area, how many feet is that new curb going to go into the street from where it was before.

EICHENLAUB: It's extending out probably in the neighborhood of 4'.

VON BRADSKY: It's narrower there so it's fine if...

EICHENLAUB: At that point. Again, it's set back in to the south two feet. The parking stalls themselves extend out from the proposed curb eight feet. The corner radius and return extend out only six feet. So it does not extend out to the full width of the parallel parking space.

VON BRADSKY: It's a good way to help the line of sight.

I still go back to the curb and the sidewalk in the area where the curb is being bumped two foot towards the building and to get back to what you said today, that the planter was going to be 1' closer to the road from where the wall of the building is right now...

EICHENLAUB: I'm sorry...the wall of the existing building or the proposed building?

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VON BRADSKY: The existing building is roughly one foot back from the ...

EICHENLAUB: Correct. The planter was going to be right on the r-o-w.

VON BRADSKY: From looking at it the planter would be one more foot closer to the street from where the wall is right now.

EICHENLAUB: Correct.

VON BRADSKY: And taking two foot for the extra parking spaces, it just seems tight and I understand what you're saying about eliminating the planter, which will alleviate that a little bit...

EICHENLAUB: What we are doing is, we're widening Park Avenue by pulling the curb line to the south two feet as requested by this board. In so doing, it has also reduced the paver area and the sidewalk area that exists there today.

The county has turned around and said they want 4' sidewalk. In order to accommodate them, I am suggesting that we remove that planter area and in its place provide the sidewalk. We knew we were going to have an easement along a portion of that anyway for sidewalk area that the county requested. Now it will just be an easement for approximately 1'4".

VON BRADSKY: Yes, I was thinking along the same lines when I was looking at it and my thought at the time was it seemed tight but taking 1' away as the planner requested for the length of the street...I guess my question is more architectural, if you left the planter where it is, is it a crazy idea to reduce the width of the canopy itself? Because you have 10' now and if you take a little bit off of it, I don't know how much that does architecturally, it's not affecting the building at all, it's just affecting the canopy...so that was just a thought I had when I was out there and maybe that helps to alleviate it and open up the sidewalk a little more.

EICHENLAUB: So I guess what you are saying is to reduce the width that we have with this porch area now, reduce that, pull the planter in but maintain the planter?

VON BRADSKY: That would be an alternative.

MEESE: What affect would that have on the internal walkway?

CUSANELLI: We would prefer that solution, to maintain the planter...the planter is there not only aesthetically but to eliminate the necessity of a rail along that walkway as we proceed in front of the retail stores maintaining a maximum height not to exceed 30"... the planter really needs to stay.

MEESE: In doing that, what would the width be of the sidewalk internal to the planters to the front of the store?

CUSANELLI: Well, if six inches is the question, it would be reduced from 8'4" to 7'10".

EICHENLAUB: That would provide you with your 4' sidewalk, 2' of pavers and an 8" curb.

VON BRADSKY: Yes, well anyhow... I was thinking of more than 6" but if the county is not interested...I was trying to make that walkway in front of the building more...

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EICHENLAUB: Well don't forget there is width there...a portion of that is pavers.

VON BRADSKY: But we're going to want trees there.

EICHENLAUB: There are trees going back in there, right. The trees there now are coming out and we will plant new trees.

MAGUIRE: How many trees are there now?

EICHENLAUB: Three trees there now, at present.

VON BRADSKY: Could the canopy come back a little more than 6"?

CUSANELLI: You have the doors of the retail spaces swinging out for egress, they're three foot...we would probably not want to get much below 7' or 7'6" clear in that space so somebody can walk by safely without having the door interrupt. It is 8'4" and we could go 7'4", in which case that area would be 4'6" instead of 3'6"...the sidewalk.

And that 2' paver is stepping with grade also...obviously you can't walk on it but as far as walking alongside of it, obviously it is not liking walking alongside the wall of a building...those planters vary from 6" above the sidewalk level to 1'6" above the sidewalk level.

VON BRADSKY: I understand that. I like the idea of leaving the planters there.

TEN HOEVE: I think they are saying that it is a good suggestion and they are going to do it...revise the plan, correct?

MEESE: Yes.

MITAL: Any other questions from the board? Ok, we move on to the professionals.

BOGART: I just have one question...will this sketch be part of the revision?

EICHENLAUB: Yes, we will now incorporate that into our plans. I know you just looked at it but if you have no problems we will do it and if you have problems, call me. They will be revised beginning next week. This gives you a few days to look at it and study it.

MAGUIRE: I will bring this back to the Mayor and Council to see how they feel about it.

EICHENLAUB: Would you like additional copies?

TEN HOEVE: Do you want to do that prior to this board making a determination or have the board make it contingent upon them approving it? What's your suggestion?

BOGART: There is also another element to this. I suggested to Rick that maybe we could talk to the Mayor and Council about tagging it onto their Bergen County Grant application so we could get half the funding for it but that would have to be done now because the deadline is coming up.

MAGUIRE: (could not hear any comment)

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BOGART: Well, that's an option but we usually get some money from the county and I know we are applying for funds for one project and we could probably do two of these...it will be minimal cost, I think.

TEN HOEVE: Does any of that make any difference with regard to the timing of the board's review of the application?

MEESE: Not from the applicant's perspective, it should work out.

TEN HOEVE: What I am saying is it could be that the applicant agrees to do it unless the funds are provided through the grant.

BOGART: That works.

MEESE: And if it is modified a little by either the Council or the planner, that's not an issue.

MAGUIRE: I don't see an issue with this. I want them to have an idea of what this discussion is about and as part of the Open Space process.

BEER: Is this the plan you would like to show the Mayor and Council? Ok, I'll make copies of the plan for the councilman.

MITAL: Ok, anything else from the board? Ok, then I am going to open up to the public for questions about the revised plans.

TEN HOEVE: In the interest of time, what we will do is allow people to both ask questions and make statements. We will swear you in if you wish to make any statements so you don't have to be running back and forth.

Mary Beth McGuinn, 105A South Maple Avenue came forward and was sworn.

MCGUINN: My condo faces Park Avenue and I am very concerned about the ground water seeping into my storage room. I had a problem this past year and had a lot of damage and mold issues.

The return air from my storage room comes into my living room and I was very, very sick. I want to know how this construction is going to affect the ground water and the drainage.

EICHENLAUB: The system we are proposing is an underground system. It is a recharge system so the water will be reintroduced into the soil. Are you located right on the corner of the building? Is there a basement in that building?

MCGUINN: (did not respond in microphone)...there is this portion that goes right into the garage and then you walk upstairs and you have your apartment. My return air comes right into my living room. I've had mold and I was deathly sick. The homeowners did not pay for any damage. They said it was not sudden and unexpected. I don't want any problems. I don't need any problems. It cost me a lot of money to get things dried out...

EICHENLAUB: We really should have no impact whatsoever on the condos.

MCGUINN: I just want to make sure, to make very sure. I want somebody to go over it again just to make sure. Maybe an engineer...I don't know if there is an engineer here.

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EICHENLAUB: That would be me.

MITAL: In the drainage design, haven't you improved the situation?

EICHENLAUB: Well, understand what exists there now. There is no drainage. It is simply 100% impervious. We are going to take the water from our building and the parking lot and we will be putting it into the ground.

MCGUINN: There is something that you said at the last meeting and I don't know what it means...but you said something about water going up and water going down. I don't know what that means but if anything is coming up by me, it is going to be a problem. My wall had to be waterproofed in that storage room because water was on the ground.

EICHENLAUB: Again, what we are talking about is by the time this water is in the ground...and if I am not mistaken you are sitting higher than this driveway entry here...if you would give me your particular unit number I will look at it before the next meeting. There really should be absolutely no problem. And you are not right at the corner; you're telling me you are not right at the corner of this building?

MCGUINN: No...

EICHENLAUB: You're further to the south on Maple...

MEESE: She's further east...she is uphill.

CUSANELLI: Do you know where the water is coming from?

MCGUINN: The ground.

CUSANELLI: It is coming from the ground, not from this site here, is it?

MCGUINN: I am not an engineer, I have no idea of where it is coming from.

EICHENLAUB: If you would just give me your unit number, I will take a look at it.

Erwin Greenberg, 105B So. Maple Avenue came forward and was sworn.

GREENBERG: I'm concerned about the sight...when I exit So. Maple either to go east on Park or go west on Park..I feel that between the power pole, even though you are going to move the building back and taper the wall, I don't think you have enough line of sight.

The traffic on Park Avenue is horrendous and we also have a problem with No. Maple. It is not in line with So. Maple so I feel that this building should be pulled back even more than what you are talking about.

Our sidewalks on So. Maple are 8'8" and on Park Avenue is it 8'. 4' is rather narrow for a sidewalk. Two people can't really walk side by side unless they are my wife's size. I feel you are not considering the people that live in the condos. Don't forget that we have 114 homeowners there and then there's Forino, the manufacturer, there's 13 homes on the east side of Maple...you have Mania...you have a busy business.

MEESE: (to engineer) Would you just quickly summarize again the changes from the present condition...

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EICHENLAUB: He is correct in his statement. The actual sidewalk on Maple is 8'7". From the curb to the property line is 8'1"...we've got six inches of sidewalk between the property line and the existing building and we are pushing the proposed building an additional 10' to the west...so we are increasing it even further there.

So the sidewalk is going to be 10" wider along Maple.

GREENBERG: You're going to take this wall this way.

EICHENLAUB: Correct...the west wall of the building is still going to parallel So. Maple but the corner of the building itself, the actual structure of the building, is going to be pulled back 10' to the south.

GREENBERG: But you're going to put a planter up and you're going to have a column there to support the overhang.

EICHENLAUB: That's correct.

MEESE: And we changed the curb line too.

EICHENLAUB: We are pushing the curb line out 4' from where it is now. A good portion of that is being pulled to the south 2' to widen for parking but in this area, there is 47' from the intersection of the east curb line and the south curb line of Park Avenue. In that intersection we are going to put new curbs in for a total distance of 47', which will allow you to get out into that intersection beyond the planter, beyond the building to get a clear line of sight.

Now there is nothing we can do about the parking, the parking exists. Without the parking there you have a clear line of sight, in actuality all the way to the railroad tracks. We measured to an object height of 6", measuring it that way, you have a line of sight of 300'.

GREENBERG: I don't think so.

MEESE: With the new curb line you actually have. You will now be able to take your car out into that intersection further than you can today...

EICHENLAUB: Cars no longer can pull across and park in this area here. They have got to stay away from that intersection.

MEESE: It takes you beyond the building wall.

EICHENLAUB: That's correct.

MEESE: And beyond the planter and post for the overhang.

EICHENLAUB: That is correct.

MEESE: And it also takes you beyond the utility pole.

EICHENLAUB: And we are now widening and pulling the building face back an additional foot, so it is giving us an additional foot back. In that respect it is increasing and bettering our sight distance as well.

So the north face of the building is being pulled back an additional foot. So you are going to be able to see a clear line of sight, especially if there are no cars here...if there are cars here, those are obstructions...

GREENBERG: Have you ever tried getting out?

EICHENLAUB: I have.

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GREENBERG: Well, I do it on a daily basis and I leave around 12:00 and when I come up to the Stop sign, I can't edge out into Park Avenue. I don't even think I can put my bumper onto Park Avenue where the cars going west to east don't stop. The cars coming from east to west, unless you have a tank, it is rather difficult to get out.

EICHENLAUB: You are at a higher elevation here than the cars and traffic coming from a westerly direction. You can clearly see down to the bridge, however, cars coming up...what there obstruction is parking along Park Avenue here.

GREENBERG: You can't...you're wrong...you can't see that far. I would really like you people to listen because I do live there and it is very difficult, without some traffic control on South and North Maple and Park Avenue.

TEN HOEVE: One of things the applicant is trying to tell you is that they could rebuild the building exactly where it was, exactly like it was and all of the concerns that you are raising would be much worse.

GREENBERG: But the building is down now, when that building was up it was probably put up prior to the 50's...

TEN HOEVE: Right, it's a pre-existing building.

GREENBERG: It was a factory...

TEN HOEVE: But they could rebuild that.

GREENBERG: They could rebuild it but meanwhile the building is down and we do have these issues and I would like the board to think about what we have.

TEN HOEVE: What I am saying is that they have the right to do that. They have the right to build it exactly as it was, which would be much worse for you.

GREENBERG: What about the 114 homeowners who live there?

MAGUIRE: We certainly appreciate your concerns and we certainly will and have considered them.

GREENBERG: While Krell was there we lived with it. Now the building isn't there and they'll have to consider the people that are living there now.

John Kane, 145 So. Maple Avenue came forward and was sworn.

KANE: One question about the traffic. I like the bump out and I'm just concerned...and this is the first time I have seen this up close...traffic coming up Park Avenue towards the railroad tracks, have they looked at that pattern specifically because of the bump out because now cars are going to come all the way up to that spot...did the county look at the whole flow overall?

EICHENLAUB: They did. There is parking to the west of us along Park Avenue here. What this basically does is it extends out to line up with the parking along Park Avenue. The curb line to the west of us is actually extended a little bit further to the south than our curb line is....I understand but we are widening the curb line and the cars will be another two feet further to the south under this arrangement.

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And what this does is it more or less lines up...these cars aren't coming up along this curb line and have to go out like that...these cars are coming up along Park Avenue basically already out at this point. That's why the county has no problem with it. We've got that situation.

KANE: Ok, that's fine.

For the parking out to the bump out, we haven't seen it yet and I know at the last meeting, reading the minutes, that someone suggested...couldn't we start with no parking in that first spot. And you don't have lines today...I also suggest we actually do lines but maybe we just don't put anything in that first spot after the bump out as a test.

Leave it like it would be a car spot, just make it *No Parking* to start...line the other three spots or just what you can get out in front and that might be an idea to consider.

Can we go on to another item to consider...

TEN HOEVE: That's a good question. Why don't you see what the engineer and applicant's comment would be?

EICHENLAUB: That's up to the borough. Those aren't our parking spaces. We've already eliminated one. Measuring from where the *No Parking* sign is now, we would be able to get six spaces in here. We are now showing five spaces to the end of our property. It is not completely one full space because that fifth space as it exists today would probably extend a little further to the east but directly in front of our site, we are proposing five parallel parking spaces.

To eliminate this most westerly parking space...if the borough has no problem with that, that's certainly something we can do and entertain. I don't know how you would regulate that...

TEN HOEVE: Yellow curb as we have outside here in several places. I've gotten a ticket out here for parking in front of the yellow curb.

KANE: We ran into similar issues in front of the post office and anything can be done but I didn't know how it played into the 31 spaces of the overall design.

TEN HOEVE: It has nothing to do with it.

KANE: So the ones in front don't count.

TEN HOEVE: No.

KANE: Ok, then I guess I'll bring it back to the borough and we can talk about it.

TEN HOEVE: The board can discuss that.

KANE: If you eliminate one more it puts the issue to bed is the way I look at it. You don't have to do it permanently, you do it as a test and you see.

OPPELT: How close can a car park to Maple right now? The back of the car...how far would that be from the corner?

EICHENLAUB: Probably about 30 - 35'...

OPPELT: Not with the bump out...as it exists right now.

EICHENLAUB: As it exists today...that is where that sign *No Parking Between Sign and Corner*...

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OPPELT: 30'?

EICHENLAUB: There's a sign there, it is only regulated by sign.

OPPELT: A car could park two feet from the corner but it would be in the *No Parking* zone.

EICHENLAUB: Exactly.

VON BRADSKY: So the bump out will go beyond the sign.

KANE: I'm not worried about tickets, I'm worried about safety, that's all. It's just a suggestion to you guys on the board.

The next items is for drainage. After reading it and hearing more testimony tonight, just to let you know, the units all have underground storage units so if you are up the hill, down the street and even where I live way down by Forino, there's always part of the property tucked underground.

The garages may be entrance level but you touch earth on one of your walls usually. So the item where I read that we don't have a main around Park Avenue or So. Maple just because it is such an old area and it was industrial, I just thought maybe this would be the time, if we are doing all this development...I don't know where the nearest connector is...but to think of something other than just draining it back.

Now your drainage system that you mentioned is the system and a recharge system...I'm sorry I'm a comptroller not an engineer, I don't know what that means...but if the water is going to go into the ground versus a pipe that goes somewhere else, that is a concern for the area in general for the flooding that comes off of the back of that property.

If there are people in the condos that have units that have storage areas that touch the same back of Memorial Park, back of the Krell parking lot, it's all underground, you know what I mean? So if more water is being dumped underground and seeps through the ground...

EICHENLAUB: The closest unit to us is located in this area here, the front northwest corner of your site...as you come into the driveway there's not a driveway that goes down behind this block of units, there's a second building to east of that and anything to the east of that is well beyond our site.

The system that we are talking about is located to the west end or southwest end of our site and the only one that would be impacted by that is the front building facing So. Maple. The flow of gravity and this is all drawn by gravity would be in a westerly direction towards the brook.

There is nothing that leaches out this slope. I've walked back there several times and there is no water unless somebody can tell me that during very heavy rains there is some leaching through this slope. I have not seen it. So there is no water leaching through that slope.

MEESE: All that water on the site flows out to the street.

EICHENLAUB: That's correct. Right now, there is no control of runoff from this site. It simply runs in a westerly direction out to So. Maple.

MITAL: Once it hits So. Maple does it go towards Park or where?

EICHENLAUB: It actually runs in a southerly direction. There are inlets further to the south on So. Maple, a good distance...probably 200 to 300' because there is an easement that runs through the properties on the west side of So. Maple that drains down into the ball field area.

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VON BRADSKY: Can you explain how it works.

EICHENLAUB: Yes. We've got two catch basins located at the two low corners of the parking lot. We have a trench drain along the mouth of the driveway. All of the water runs down in a westerly direction, is intercepted by the two catch basins and this trench drain. It then feeds back into this underground system. It is crushed stone, there's a series of chambers with perforations in them, which basically acts for storage as the water percolates into the soil.

SCHWAMB: Will those need to be serviced?

EICHENLAUB: There will be service on manholes located to be able to get in there, yes.

KANE: Thank you for that.

The one other item that didn't come up tonight and I was just wondering if it still plays into the line of sight and that's the utility pole on the corner. I read how we can't move it and that's a utility issue but we are putting up a new line, a major circuit right there and if it at all is still an issue...I have no idea at all where it is on that map...but if it is a recommendation that you think it should be moved, not tomorrow, but eventually, I'm sure that is something we can work out. But I just want to see how that plays into the design.

EICHENLAUB: Basically there are a series of lines that feed that pole or that pole supports coming across Park Avenue, coming up Park Avenue and running down So. Maple. My understanding that they can't locate that one is because of what's on it and because of the tension those lines have on that pole.

We have already asked them if it can be relocated.

KANE: I can think you put another one three feet down and you rejig what you already have. To me that's what I would do.

EICHENLAUB: Supposedly that pole is being replaced with a brand new pole but it has to be put back in the same location. If you go out there and see, they've marked out where it is going to go...it is marked slightly to the south of the one that is there now but right alongside of it.

KANE: Just checking my notes...one last thing on the sidewalk width. Keep in mind that we have a heavy handicapped community that comes up from the Sulak area and they buzz right by the front of that building, so 4'...again, I leave that to the board, I don't know what the right number is to make sure you have foot traffic plus the handicapped safety that you need...but keep that in mind with the final plans.

Thank you.

Hazel Greenberg, 105B So. Maple Avenue came forward and was sworn.

GREENBERG: I've been looking at your plan here and because of the increased activity in the parking area and the loading and unloading of garbage at the dumpster, we have a row of mature pines and a fence, however, the trees are aging and all the lower branches are being cut away. So I can look right through and see all of this, hear the noise, see the lights, so I had a thought that perhaps a hedge or something along that line would add to the aesthetic and keep us from hearing and seeing the traffic and noise.

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EICHENLAUB: We are proposing that.

GREENBERG: A hedge?

EICHENLAUB: Yes. Let me point it out...these are all new plantings along here.

GREENBERG: Right...how high would they be?

EICHENLAUB: The planting height at the time of planting would be about 18" high and properly maintained they can grow as high as 3' and still maintain a nice hedge line along there.

GREENBERG: I'm not sure that really would be adequate because these trees...the bottoms...

EICHENLAUB: They are White Pines and that's what happens to White Pines. If those White Pines had been pruned out at the top you'd get heavy growth at the base because the higher they grow the less growth on the bottom.

GREENBERG: But it would be very nice to have a barrier for noise.

MITAL: Thank you.

Joseph Carlo, 5A So. Maple came forward and was sworn.

CARLO: Just three issues. As far as the water issue, I did take a walk and there's a storm drain that they can tie into right in front of the candy store. That would be the first one down on Park Avenue and that would put this water issue to rest because all of the condos...the front is steeped with higher dirt and the back is open to the garage doors. So they are all 8' and water does seep in and you are going to dump it all underground. That would protect it. Plus you said a 25' year storm....if you dug it up at the end of the driveway and tied it in that would be appreciated.

As far as the pole...

TEN HOEVE: Do you want to let them respond just so...

EICHENLAUB: There is and I indicated that at the last time. The inlet that he is talking about is down at the store to the west of us...it's on Park Avenue and is a county line and to be perfectly honest with you, the line that is there now is probably undersized to accept our water.

The county usually does not allow you to add additional flows to their system but that would be the closes inlet to us.

CARLO: And that also dumps right out...I walked down to the bridge so it is not a long line.

As far as the pole...can I ask you who you talked to about moving the pole on the corner.

EICHENLAUB: The utility company, I don't have his name here.

CARLO: I talked to Bill Beattie and he is in charge and he said that no one has ever contacted him about moving it. He actually walked over there yesterday for me, because I told him about the meeting tonight and he said the feeder he was talking about feeds the hair place across the street.

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He said no one had ever contacted him about moving that pole and he didn't know why. He said it is not an issue. He has never been contacted to this point.

EICHENLAUB: Did he say it could be moved?

CARLO: He said that his end of the electric pole could be moved but he doesn't know about...

EICHENLAUB: We were told it could not be moved.

CARLO: If they can build a bridge across the ocean they can move that pole. Is it worth the expense? Maybe it's not.

EICHENLAUB: We are already moving a pole.

CARLO: He told me about the pole you are moving...it is in the middle of the driveway. So if he can move one, I'm sure the other one can be moved.

EICHENLAUB: We are replacing that pole, so that would be the time to move it if we can.

CARLO: That's what he said.

EICHENLAUB: It was pointed out where the pole was marked and they said it could not be moved.

CARLO: I'm just telling you he has never been contacted and he is in charge of all those guys.

And the last thing is the parking variance for these parking spots. How many are you asking for, less than what should be?

EICHENLAUB: We will be providing 30 and the ordinance requires 36. At the end stall there will be a sign stating that during certain hours that parking stall has to be left open for deliveries.

CARLO: Certain hours only.

EICHENLAUB: Yes. Not all day long.

CARLO: And do these units have back doors for them or is it just going to be the one main door in the back.

EICHENLAUB: Are you talking about the stores?

CARLO: Yes.

EICHENLAUB: There are rear entrances and front entrances.

CARLO: No, for the trucks to unload...where are they going to come in?

EICHENLAUB: From the back...

CARLO: But for the upstairs they'll go through the main door and then go up?

EICHENLAUB: They will go through the main lobby.

CARLO: And is that the same door that everyone is going to be walking through?

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EICHENLAUB: No, no...the stores themselves have entrances directly to the stores...in the lobby there is a stairwell and an elevator that services upstairs.

CARLO: But the main lobby...so the people will walk in the main lobby and the trucks will unload through the main lobby.

Ok, that's it. I just want to say that on the parking variance I'm a little bit concerned if the parking lot is full, the trucks don't have a place to turnaround and pull out and I know that it may be too late for them to exit onto the east side of the building, the way it is now, but it would have been the best to make it a one way in and one way out, to keep it the way it was. It would have alleviated any trucks coming out onto So. Maple and turning into the oncoming traffic because it is only 23' wide and if we could continue them going out the same way, it would be great. It is already there...has that ever been considered?

EICHENLAUB: Yes, and one of the things the county was happy about is we were eliminating that driveway.

CARLO: I understand but they just put a post office up and they're coming out onto the road. They are all coming out onto Park.

Ok, that was it.

MITAL: Thank you very much. Anyone else from the public. No, Ok.

TEN HOEVE: You are going to have to revise the plans again, I guess in conformity with this? There are two issues that the last resident raised and I wonder if it is worth looking into on the part of the applicant...you have to talk to the county anyway about the changes that are being proposed for the sidewalk, right?

EICHENLAUB: We'll tell them that we can provide the 4' sidewalk they want.

TEN HOEVE: Right but it's not what they expected you to do, you are actually going to do something different by moving the building porch back. Can you check with them to find out if they would permit any connection into that drain? I suspect that they won't allow it either but at least you can find out and see if it is an option that's available.

And secondly, the pole issue. Was it the local utility department or was it..

EICHENLAUB: I have to talk with my office, they are the ones who contacted them. And if not, I will personally call Mr. Beattie.

TEN HOEVE: It might have been PSE&G as opposed to the local utility.

MEESE: It is a feeder pole for them.

TEN HOEVE: But you can look into that and find out the answer.

MITAL: I imagine PSE&G have priority over that pole and position.

EICHENLAUB: I will have an answer for you at the next meeting.

MANCUSO: Mr. Chairman, another item...is there an interest in removing that one additional stall in the interests of improving the sight distance?

MITAL: Eliminating it or delineating it?

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MAGUIRE: I'm not sure about permanently eliminating that parking spot, there's a shortage of parking downtown as it is. If we want to try an experiment and mark it out temporarily that might work.

TEN HOEVE: That we be something we couldn't do anyway, we could only recommend the Mayor and Council would have to do whatever they would want to do in any case.

I don't know if a hearing is necessary but the public is entitled to hear what response is being provided in connection with the concerns that were raised so if he comes back and says, we can tie into the line...if he comes back and says, No, the county said absolutely not...then it's a non-issue and if he comes back and says the utility department and PSE&G says....

BEER: We can do it on October 13th....the first hour is being given to the previous hearing and we can do it after that.

TEN HOEVE: Yes, if the board is willing to do that...I don't think it will take more than 15 or 20 minutes.

EICHENLAUB: I am not available that evening.

MEESE: Would it be alright if Mr. Cusanelli came in and gave the report of the county rather than the engineer?

EICHENLAUB: I can certainly relay it to your professionals.

TEN HOEVE: Fine, they can check if they need to do that themselves...you can give them the names of your contacts so Eve could actually speak to them.

BEER: Mr. Meese, can you professionals have their revised maps in by the 5th...that gives them three weeks.

MEESE: Yes.

SALUZZI: You might want to check Sub-Chapter 7 of the Accessibility Code; I think they have made a change here to prevent people from using that middle spot.

EICHENLAUB: Ok, we'll check because we always used the 5' and we will check it out.

MEESE: It's primarily the width of the striping.

SALUZZI: Right.

TEN HOEVE: You'll be back on the 13th...the other application is being given a little time and then you and I don't think it will take much time.

BEER: Probably about 8:15pm...give or take.

TEN HOEVE: For the benefit of the public, the final hearing will be on the 13th of October, probably around 8:00pm but the meeting will start at 7:00, there's another application on first.

MEESE: Very good, thank you.

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APPROVAL OF MINUTES:

Motion made by Mr. Oppelt and seconded by Mr. Mesiano to approve the July 28th closed session and July 28th public hearing minutes as written.

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

ABSTAIN: Messrs. Saluzzi and Schwamb

Motion made by Mr. Oppelt and seconded by Mr. Mesiano to approve the August 11th closed session and August 11th work session minutes as written.

AYES: Messrs. Browne, Mesiano, Oppelt, Saluzzi, Councilman Maguire

ABSTAIN: Messrs. Mital, O'Donoghue, Von Bradsky, Schwamb

Motion made by Mr. Mesiano and seconded by Councilman Maguire to approve the August 25th minutes as written.

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

ABSTAIN: Schwamb

NEW BUSINESS:

37 Park Avenue, LLC – 37 Park Avenue – Bond reduction request
Lot: 4 Block: 1505

WHEREAS, 37 PARK AVENUE, LLC, 37 Park Avenue, known as Lot 4 of Block 1505 on the Tax Map of the Borough of Park Ridge, has posted a cash Performance Bond in the amount of \$96,660; and

WHEREAS, the cash Performance Bond was reduced to \$80,910.00 in October 2009; and

WHEREAS, the cash Performance Bond was further reduced to \$74,910.00 in December 2009; and

WHEREAS, the cash Performance Bond was reduced again to \$43,910 in January 2010; and

WHEREAS, the applicant has requested their Cash Performance Bond be further reduced; and

WHEREAS, the Borough Engineer has conducted a site inspection and submitted a report dated September 13, 2010, copy of which is attached; and

WHEREAS, the Borough Engineer has now recommended that the cash Performance Bond be further reduced by \$26,150.00, leaving \$17,760.00 to guarantee completion of listed items.

NOW, THEREFORE, BE IT RESOLVED by the **PLANNING BOARD OF THE BOROUGH OF PARK RIDGE** that the cash Performance Bond of \$43,910 be reduced to \$17,760.00.

Offered by Councilman Maguire,
Seconded by Mr. Oppelt

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AYES: Messrs. Mesiano, Saluzzi, O'Donoghue, Browne, Oppelt, Schwamb, Mital, Councilman Maguire

Proposed Ordinance Amending Chapter 101-Zoning to Provide for an AHR-15 Affordable Housing Zone.

BOGART: I prepared the ordinance that is to be attached to the COAH mediation settlement agreement and basically what it does is eliminate the AH10 Zone, which was the zone for the property on Pascack Road, which was developed for an RCA agreement that no longer exists and basically replaced it with what I am calling AHR15 zone.

The reason I call it that it is basically modeled after our R-15 zone district with very similar area and bulk regulations. The only difference none of the lots will ever meet the street frontage requirements of 75' that we have and will be reduced to 50'. I left the FAR regulation there...I don't know if you want them to abide by an FAR regulation.

Those are the two main issues. Other than that everything is still the same. Lyn had picked up on the fact while we are amending this and we amended for the Neighborhood Business District and a couple of other things this year, there are some inconsistencies throughout Chapter 101, which is the zoning chapter, which I am preparing an additional ordinance to correct all of those inconsistencies that have been created. We will talk about that another time.

For tonight we just need to provide a general recommendation that this draft ordinance can be attached to the settlement agreement and that you have no issued with the lot width. I did increase the front setback requirement from what the objector had wanted at 25' to 35' because I felt the 25' was a little too close for to those two-story homes to the street. I'm sure the objector won't be happy with that.

I also increased the side yard setbacks from 12' to 18'. Other than that it is straight forward.

TEN HOEVE: The purpose of this is essentially because the Planning Board review is required before the Mayor and Council adopt any changes to a zoning ordinance.

BOGART: Actually it is done between first and second reading.

TEN HOEVE: But we can do it in advance.

BOGART: The Mayor and Council wanted to make sure that the Planning Board thought it was Ok before they introduced it.

MAGUIRE: So right now in the R-15 zone we have 75' street frontage, right.

BOGART: Right.

MAGUIRE: Are you saying that the way he has proposed it and I guess I haven't seen any of the details about his proposal..but they way you laid it out, you think that none of them will have the frontage...

TEN HOEVE: If we are going to discuss items beyond the scope of this ordinance and discuss litigation we should go into closed session.

MAGUIRE: I'm just asking about the ordinance in general and I thought we could have that discussion in open.

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TEN HOEVE: Correct but if you start talking about items that are things that we would not disclose on the record because it might jeopardize our negotiations...

MAGUIRE: Then I move that we go into closed session in order to discuss litigation at 11:02pm.

Second by Mr. Mesiano.

Carried unanimously.

At 11:10 the board came out of closed session.

ADJOURN;

There being no further business to come before the board a motion was made by Mr. Oppelt that the meeting be adjourned.

Second by Mr. Browne.

Carried unanimously.

Respectfully Submitted,

Helyn N. Beer
Secretary

11:10pm.