

Minutes of the Park Ridge Planning Board
Meeting of October 27, 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. Schwamb, Von Bradsky, Mesiano, Mital, Oppelt, Browne,
Ms. Eisen, Councilman Maguire (9:00pm)
Absent: Messrs. Brouwer, O'Donoghue, Saluzzi
Also Present: John Ten Hoeve, Jr., 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.

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

There was no one.

PUBLIC HEARINGS:

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

MITAL: Last week the planner testified and finished her testimony and I expect you will have some questions for her.

DEL VECCHIO: I do, thanks.

Antimo Del Vecchio, Esq., Beattie Padovano, Montvale came forward representing the applicant advising he was here on a continued public hearing on a major subdivision application last here October 13th.

DEL VECCHIO: Ms. Bogart, during your direct testimony to the board you raised some concerns about the lot orientation in connection with the proposed subdivision. I don't recall and I didn't make a note of your exact terminology but it was a concern that the orientation wasn't more typical. Is that accurate?

BOGART: It was a quote from the Master Plan, yes.

DEL VECCHIO: What do you find unusual about the lot orientation or the home orientation for the proposed lots?

BOGART: That two of the lots are not fronted on a 50' r-o-w as required by ordinance.

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DEL VECCHIO: Was there anything else? I was trying to be nice and let you finish, I wasn't sure if you were done or if I should continue, so I'm sorry if there was an elongated pause.

So it was just the lack of frontage, if you will, for the two lots being 1.03 and 1.02 on Local Street, in terms of unusual or atypical orientation.

BOGART: Their lack of frontage results in their front property lines being adjacent to one another, which is not typical in the borough and I think your planner testified that he didn't know anywhere else in the borough where that situation existed.

DEL VECCHIO: So that's the only place in this proposed subdivision where you find an atypical situation to exist as it pertains to lot orientation? I am not trying to trick you I just want to make sure I understand the full breath.

BOGART: Yes.

DEL VECCHIO: So the lot orientation for proposed Lot 1 and 1.01 with homes directly fronting on Rivervale Road and rear yards facing the rear of the lot lines, that would be a typical lot orientation.

BOGART: On Rivervale Road, yes.

DEL VECCHIO: With regard to the home proposed on Lot 1.03, that proposed home would be oriented toward the proposed common driveway that is proposed, is that correct?

BOGART: Let me look. 1.03 is located on the common driveway.

DEL VECCHIO: And proposed Lot 1.02 is also equally located or oriented to the common driveway.

BOGART: Yes.

DEL VECCHIO: If we were to erase and make this property devoid of any wetland restraints and wetland requirements and were able to, instead of putting a common driveway where it is proposed, magically drew in and were able to construct a cul-de-sac, the orientation would be the same, would it not?

BOGART: That depends on how it would be designed. I am not sure that Lot 1.03 would exist because the cul-de-sac would encroach upon the front yard.

DEL VECCHIO: Let's just say that all the wetlands are gone and we just shift the house down.

BOGART: I understand that but at this point in time, your dwelling is only 19' off the property line, so if you were to put a cul-de-sac bulb in there I am not sure you could fit that dwelling there, so I'm not sure the orientation would be the same.

DEL VECCHIO: Well, let's say the cul-de-sac bulb were to be drawn in right off the stub of Local Street, it would probably go over the driveway stub into proposed Lot 1.03 as it is currently laid out and instead of locating the home there, just shift it further to the south on the property so as to maintain that 19' distance off the back..just slip it to the south to make room for the cul-de-sac. The orientation would essentially be the same, would it not?

BOGART: I am not sure I agree to that because if you put the cul-de-sac there, I am not sure the driveway would work, how the garage would be

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oriented and how the vehicles would access the dwelling, so it's a hypothetical question and I am not sure the orientation would be the same.

DEL VECCHIO: As a professional I assume you could answer a hypothetical question. I've accepted you as an expert so I know you can do it.

BOGART: It depends on how this is designed.

DEL VECCHIO: The proposed rear yard for the home on Lot 1.03 is directly opposite a rear yard for the adjacent property on Block 2007, Lot 7?

BOGART: Yes.

DEL VECCHIO: The home proposed on Lot 1.03 has its rear yard oriented directly to the home on the adjacent property of Block 2007, Lot 4 is that correct? The side to rear configuration.

BOGART: It should be rear to rear.

DEL VECCHIO: I stand corrected. You are correct. That is a typical configuration for a lot orientation, is that correct?

BOGART: Yes.

DEL VECCHIO: Now you indicated that the atypical lot orientation was derived from a statement in the Master Plan, correct?

BOGART: My testimony was derived from it, Yes, we were discussing the Master Plan at that point.

DEL VECCHIO: Was that Master Plan statement carried out or carried through by way of a zoning enactment in the Zoning Code of the Borough of Park Ridge?

BOGART: Specifically discussing lot orientation?

DEL VECCHIO: Yes.

BOGART: No, but through other means of regulations.

DEL VECCHIO: But there is nothing that carries through on lot orientation.

BOGART: I don't believe so, No.

DEL VECCHIO: So that a variance for lot orientation is not required in context to this application.

BOGART: No, but it is a planning goal in the municipality to have dwellings oriented in the same direction as the typical development pattern within the municipality.

DEL VECCHIO: I understand the purpose of Master Plans but my point is that goal has not been legislative enacted into the Zoning Ordinance.

BOGART: No, nor did I suggest a variance was required.

DEL VECCHIO: I think one of the other statements in the Master Plan that you made reference to was a desire or goal to be sensitive to the environment, I use that as kind of a catchall, is that a fair catchall for the environmental concerns that you raised?

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BOGART: I think there were three or four different goals, not only the Open Space element but also the Land Use element pertaining to environmental constraints, sensitivity and ensuring that future development is considerate of environmental constraints, Yes.

DEL VECCHIO: In your opinion, given the wetlands constraints that exist on the property, and forget about what the lot yield is or might be in the configuration, but given the fact that these wetland constraints exist, would it be more or less sensitive to the environment to come in and put a cul-de-sac bulb where these wetland constraints exist as opposed to a private driveway?

BOGART: I think I testified throughout this project that my opinion was that it would be more appropriate to have a cul-de-sac come off of Rivervale Road and do a cluster development and leave the environmental constraints as is.

DEL VECCHIO: Your ordinance allows cluster development for this property?

BOGART: No, but our Master Plan discusses it.

DEL VECCHIO: But that also wasn't carried through legislative enactment embodied in your zoning code.

BOGART: No.

DEL VECCHIO: So it is a goal but it's a non-ratified goal by the governing body of this community.

BOGART: But I think you would require less variances in a cluster development off Rivervale Road than you do currently.

DEL VECCHIO: In the context of my original question though, assuming that the ability to secure zone change or variances for cluster development in a single-family home is not possible and not even desirable by the applicant, would a cul-de-sac coming off Local Street have a greater or lesser impact on the environmental features you identified in your direct testimony than the private driveway?

BOGART: Not sure that is an appropriate question because it goes directly to your professional planner and your environmental consultant who had suggested that wasn't even an option.

DEL VECCHIO: We've testified that it can't be permitted, I'm telling you to forget about the DEP....

BOGART: Forget about DEP permits, forget about environmental constraints...

DEL VECCHIO: I just want to know in context of your testimony on being sensitive to the environment, is a cul-de-sac more or less sensitive to the environment than the common driveway?

BOGART: Well, if we are forgetting about DEP and all the constraints, I'm not sure in what context you are suggesting a cul-de-sac is appropriate because we're not sure where the wetlands are, we're not sure where the environmental constraints are.

DEL VECCHIO: I didn't say to forget about the constraints. I said forget about the DEP permitting, in context of the constraints, the constraints exist, I want you to...

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BOGART: So we will leave the constraints there but we're forgetting DEP exists.

DEL VECCHIO: We're forgetting that we need permits, we're asking don't worry about permits from another outside agency, that's not your venue to do, all I am asking is, if we were to drop a cul-de-sac bulb on the front of the property off of Local Street, as opposed to the private driveway that is being configured, would it have more or less of an impact in your opinion on the environmental features you seek to preserve through your statements in the Master Plan?

TEN HOEVE: And part of your question, I assume, is then forget about the cul-de-sac off of Rivervale Road that she described?

DEL VECCHIO: I didn't ask that question, she answered it and answered it and I want my question answered.

TEN HOEVE: But do you want her to forget about that as well?

DEL VECCHIO: We've heard that answer; I've asked her to answer my question. If I can't get an answer to my question just tell me and I'll move on and I'll note my objection for the record.

TEN HOEVE: I am just trying to understand your question. I want to know if you want her to forget about that as well in your question.

DEL VECCHIO: And my question is Local Street. I have indicated nothing about Rivervale Road and securing an approval for an unlegislative zone alternative that isn't in the book. So, yes, in that context, Yes, forget about something that isn't in the zoning code.

TEN HOEVE: That she recommended as a better planning alternative?

DEL VECCHIO: Yes.

TEN HOEVE: Ok.

DEL VECCHIO: We all having opinions and until the governing body exercises theirs, theirs is the only one that controls.

BOGART: The difference is my opinions are backed by the Borough's Master Plan. The impact of the cul-de-sac off of Local Street would depend on the design because right now you are proposing a driveway for the dwelling on proposed Lot 1.02, which is almost 40' in width, which is the width of a paved cul-de-sac. It's 28' wide at the driveway of the garage and then you have a K-turn design there, so it could be very similar.

DEL VECCHIO: Ms. Bogart, you kind of retorted at the end there about your opinion has backing of the Master Plan, which leaves me with the impression that I need to ask, is it your opinion that the statements in the Master Plan exercise preference over the governing body's legislative enactments in the zoning code?

BOGART: No.

DEL VECCHIO: You also indicated some concern in your direct testimony about the setback patterns and the limit of the development because of the environmental features that exist on the property. I'd like to explore that a

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little bit more. I'm not sure I understood what you meant by that in your testimony.

BOGART: Can you repeat that, it doesn't sound like something I had said.

DEL VECCHIO: You had raised, I think, some concern about the setback of the homes and I think it was primarily, and I think if I interpreted it correctly, geared toward proposed Lots 1.02 and 1.03 about their setbacks not being consistent with neighborhood or the streetscape that they would be part of and I think you were making reference or trying to carry their setback references to what exists on Local Street and I didn't understand it to be honest with you and that's what I am asking the question.

BOGART: I'm not sure that I understand your interpretation of my testimony, so give me a second.

I don't see anywhere that I talked about that. I talked about lot width, lot frontage...I talked about your planner's analysis regarding lot width...

DEL VECCHIO: Let me ask the question perhaps, this way...Do you find that the setbacks for the proposed homes are consistent with the neighborhood?

BOGART: I don't know. There was no analysis presented about the setbacks of the proposed homes.

DEL VECCHIO: You don't recall Mr. Preiss providing any of that information?

BOGART: He provided analysis on lot width and lot frontage.

DEL VECCHIO: There are no variances for front yard setbacks for any of homes that are proposed, isn't that correct?

BOGART: Correct. Oh, now I understand your question. I believe I testified to Section 87:36E, which states that if there is a question to the suitability of a lot due to environmental constraints, the board can withhold approval of such lot and I said this goes back to the reasons for the variances and that this is more typical of permitting a setback variance versus a lot width and lot frontage variance. Is that what you are referring to?

DEL VECCHIO: Perhaps. The environmental constraints that exist on the property, those are the reasons that many of the variances are created, particularly the inability to bring a cul-de-sac in off of Local Street? Would you agree with that statement?

BOGART: No.

DEL VECCHIO: So you believe that even if a cul-de-sac could be created off of Local Street, the same variances would be required for those back two lots?

BOGART: I think I started my testimony by suggesting that I am not sure if I agree with the planner's basis for his analysis because if I was looking at this from its inception, as your planner had suggested, I would have looked at preserving the back half of the property and pulling a cul-de-sac in off of Rivervale Road and doing a cluster development towards Rivervale Road where the non-constraint land was.

DEL VECCHIO: A cluster development that would require either a zone change of perhaps a D variance.

BOGART: No, actually I think that it would require less variances than you are proposing here tonight.

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DEL VECCHIO: Would a D variance be required?

BOGART: Because of density?

DEL VECCHIO: Yes.

BOGART: No, because you would still incorporate the lot area that you are incorporating now. You still have the same amount of lot area.

DEL VECCHIO: And still carving off the back end of the property for preservation?

BOGART: Regardless of whether you carve it off for preservation or not, you're still entitled to count it towards density.

DEL VECCHIO: You also indicated, I guess in your direct testimony, when talking about the general suitability provision that not every lot needs to be developed to its maximum potential, is that correct?

BOGART: That statement was in the Borough's Master Plan since 1983.

DEL VECCHIO: And again, that doesn't appear anywhere in the Zoning Code, does it?

BOGART: That specific statement, No.

DEL VECCHIO: If this property were regularly shaped with typical frontage and being the size that it is, do you think it would yield more or less lots than the four that are being proposed on the site?

BOGART: I don't know. I didn't do that analysis.

DEL VECCHIO: Let's do a very rough analysis if we can.

This property is over two acres in size and lies in the R-15 zoning district, correct?

BOGART: Yes.

DEL VECCHIO: And the R-15 zoning district would almost allow three units per acre?

BOGART: Yes...less.

DEL VECCHIO: Just a hair off, like 2.8 maybe if you did the math exactly?

BOGART: I was thinking 2.7.

DEL VECCHIO: I will get out my calculator since we didn't come to the same rounding....2.904, so we are both wrong.

At a hair over two acres, we would be at about 6 lots if we had a regularly shaped property with frontage on existing street.

BOGART: We're in that special place that doesn't require DEP permitting?

DEL VECCHIO: Yes.

BOGART: And this is just a square piece of property?

DEL VECCHIO: Yes...and without the...

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TEN HOEVE: Do you mean bounded on all sides by streets?

DEL VECCHIO: I'm just saying bounded frontage on an existing street whether it be one or two, just a very rough number.

TEN HOEVE: Frontage on one street, you could get six lots. Is that your question?

DEL VECCHIO: I just asked if you had a regular shaped typically situated...

TEN HOEVE: That's what I am trying to understand...your question...what do you mean by regularly situated. I don't know what you mean by that.

DEL VECCHIO: I've asked my question and gotten an answer. Apparently the witness understood the question and answered it so I'm not sure why we are having this dialogue.

TEN HOEVE: I didn't understand the question.

DEL VECCHIO: I wasn't asking you so apparently you don't have to answer it.

TEN HOEVE: Well, I think the board needs to understand it, not only the witness.

DEL VECCHIO: You can do that on redirect, Mr. Ten Hoeve, if you wish but I would like the courtesy of asking my questions and if the witness doesn't understand it, I'm happy to rephrase but I didn't interrupt you when you were asking your questions.

TEN HOEVE: I'm just trying to understand the question, Mr. Del Vecchio, because when you say a regularly situated lot, I don't know what you mean. I guess the planner knew what you meant when you said a regularly situated lot.

DEL VECCHIO: I assume so because the question was asked and answered.

BOGART: I had clarified by asking if it was a perfect square lot and you said, Yes. I was (??) on one or two streets.

DEL VECCHIO: The existing home in the middle of this property, would you consider that to have adequate access to a public street?

BOGART: For what purposes?

DEL VECCHIO: For what purpose would a lot need access to a street.

BOGART: For emergency vehicles, for regular vehicles, commercial vehicles, people.

DEL VECCHIO: All of the above. I think those are all within my parameters of the question.

BOGART: Yes, it has adequate access.

DEL VECCHIO: Even though the driveway stops short of that home by an excess of 200', do you consider that adequate for emergency services?

BOGART: I didn't do that analysis. Can a vehicle access the property, Yes.

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DEL VECCHIO: An emergency vehicle has adequate access despite not having 200' of pavement between the edge of pavement and the existing home in the middle of the lot?

BOGART: Wasn't the question, could a vehicle access the property?

DEL VECCHIO: No.

BOGART: You mean access the dwelling? I'm not sure. I'm not an emergency vehicle expert. I'm not an EMS expert nor the Fire Department, I'm the borough planner. I deal with government regulations.

DEL VECCHIO: But isn't providing access for emergency vehicles to promote the public health and safety a goal of the MLUL? Within what we do as a planner is to call out what is necessary for appropriate access according to the zoning code?

BOGART: We typically rely on the local Fire Department and EMS to review applications to determine if it is adequate or not.

DEL VECCHIO: You don't have an opinion then on whether the EMS access is appropriate for the existing home in the middle of this lot given the existing conditions on the site?

BOGART: No, I did not do that analysis.

DEL VECCHIO: You had indicated, I guess in response to several of my questions, that if you had been involved early on you would have recommended a cul-de-sac with a cluster configuration off of Rivervale Road. Have you done that analysis?

BOGART: I have.

DEL VECCHIO: And is it on paper?

BOGART: Probably on my computer in the office.

DEL VECCHIO: And for what purpose was that analysis done?

BOGART: Curiosity.

DEL VECCHIO: And was it shared beyond your curiosity?

BOGART: No.

DEL VECCHIO: Has that document ever been disseminated, either electronically or in paper form?

BOGART: I think I just said, No.

DEL VECCHIO: I'm just clarifying. I asked about verbal and now I am asking about written format or electronic format.

BOGART: No.

DEL VECCHIO: For Mr. Ten Hoeve's benefit I want to be very particular.

TEN HOEVE: Thank you.

BOGART: We certainly appreciate that.

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DEL VECCHIO: In connection with Mr. Preiss' testimony, he indicated that there was a high degree of non-conformity, I think that was his term, in the neighborhood in terms of general conformity with the zoning standards that are applicable in each of the adjoining districts, since we are right on the boundary line, here. Would you agree or disagree with that statement?

BOGART: I don't think he provided enough information to agree or disagree. He didn't know the actual lot widths or frontages for those lots nor did he provide the dimensions for them, he just suggested whether it was conforming or non-conforming. I think if you were actually going to do the analysis you would have to look at the actual dimensions.

DEL VECCHIO: Is that a long way around of saying you don't have an opinion either way?

BOGART: I don't have an opinion because not enough information was presented.

DEL VECCHIO: I have no further questions at this time.

MITAL: Do any board members have any additional questions on any of the cross-examination of the planner this evening?

If not, we will go to the public. Is there anyone in the public who has any questions of the planner?

TEN HOEVE: There are some certifications that we have to mark into evidence. I am not sure what exhibit we are up to but I will just mark these as Board Exhibits since they are only certifications of people having listened to the transcripts.

For the record there is a Certification from Peter Von Bradsky of having read the transcript of the September 15, 2010 meeting - marked as B-2

B-3 will be Certification from Ms. Eisen having read the transcript of the September 15th meeting.

B-4 will be Certification from Mr. Von Bradsky for reading the transcript of the May 26, 2010 meeting.

B-5 will be Certification from Mr. Browne for reading the transcript of the May 26, 2010 meeting.

B-6 will be Certification of Mr. Mesiano for listening to the original tape of the April 28, 2010 meeting.

B-7 will be Certification of Ms. Eisen for listening to the original tape of the April 28, 2010 meeting.

B-8 will be Certification of Mr. O'Donoghue for reading the transcript of the May 26, 2010 meeting.

B-9 will be Certification of Ms. Eisen for reading the transcript of the September 15, 2010 meeting.

Before we conclude this, I know that there was Certification that was provided to Councilman Maguire for one of the transcripts that he read and intended to sign tonight. He is not here at this point and he obviously has not heard any of this testimony. So that, if he does arrive he can sign the certification and we will mark it into evidence tonight.

Do you have more witnesses, Mr. Del Vecchio?

DEL VECCHIO: Just my client and I haven't decided if I will call him.

TEN HOEVE: There is also a letter that was given to the board this evening from the Borough Attorney with regard to the question concerning the easement. As you recall the board had asked the Borough Attorney for some

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comment with respect to the easement issue and we did get that letter this evening.

I know one of the residents who appeared and asked the question at the last meeting also asked if we had received a response. We have received such a response and I know you were just given that this evening, as was the board.

I don't know if you want to comment with regard to that, have any engineering testimony with regard to that, I know the public hasn't spoken and they are here, so that is probably the next thing that we will do. What is your pleasure with regard to that?

DEL VECCHIO: Well, I would actually like to show it to my engineer, who hasn't seen it yet and I only saw it about five minutes before I walked into the room and Kevin really hasn't had a chance.

BEER: Mr. Del Vecchio, I have an extra copy that your engineer might have.

TEN HOEVE: To have the public testify at this time, is that a problem? If you need some time to speak directly with your engineer, we can take a break and you can do that.

MITAL: At this point, you have all asked your questions, so if anyone from the public would like to come up and testify.

TEN HOEVE: This is your opportunity to say anything you would like to say and what you weren't able to do during some of the prior meetings.

You will have to be sworn this time.

Diane Manzione, 181 Lillian Street came forward and was sworn.

MANZIONE: I cannot present evidence of a legal or technical nature because I am not qualified to do so. I can however testify as to the events that have occurred over the last few years and the concerns that I have as a neighboring property.

Three years ago an environmental expert was hired to confirm the existence and location of wetlands on the property. Nine months later Mr. Prusha notified neighbors that he had applied to the DEP for a Letter of Interpretation. When I went to Borough Hall to ask what the letter meant I was told Mr. Prusha planned to subdivide the property into three lots.

Approximately five months later Mr. Prusha began moving soil onto the property. There has been testimony stating that the soil was only placed in the dog run area and that Mr. Prusha had a permit to move the soil.

I have two problems with this testimony. First is that none of the people can testify to this actual supervised movement and placement of the soil. So I don't understand how they could testify as to where it was placed. The only person who does know the answer, as of a few minutes ago, wasn't planning to testify.

The second problem is Mr. Prusha was moving soil onto the property before he applied for a permit. The only reason he got a permit was because neighbors complained to the town and Mr. Saluzzi told him he had to apply for a permit, hire an engineer and do drainage calculations. If neighbors had not complained the town would have been unaware that anything was taking place. His permit application says nothing about a dog run.

When I visited Borough Hall in June of 2008, Mr. Vinci and Mr. Saluzzi told me that the soil was being brought in to alleviate the flooding problem that neighbors had experienced. Was the town misled by this application? Did the borough assume professionals would be doing the work especially since a wetland area was involved? More unanswered questions.

The permit was for 271 cu yds of soil, just shy of the minimum requirement to appear before the Planning Board. But how much was

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brought in before the permit application and again the only person who knows for sure, has, as of yet, not testified.

Is the soil important at this point? Maybe, maybe not. Did its placement skew any test results on this property? We may never know. What is important to those of us who adjoin the property is the careless regard for the wetlands that has been exhibited so far. No one knows why he would bring in approximately eight truck loads of dirt to an area that you plan to excavate. By doing the work himself, Mr. Prusha removed vegetation that should have remained in place. He allowed his neighbors children to ride around for hours on the property on their two all-terrain vehicles.

But now we are to believe that every precaution will be taken to protect this land just as we are to believe that Mr. Albin will provide plantings that will never die. Mr. Eichenlaub will provide seepage pits that will never fail and if they do will cause no damage. Mr. Preiss has tried to convince us that the definition of hardship is not being able to squeeze four pounds of bologna into a two pound bag.

We have been promised new neighbors who will gladly abide by the letter of the law and comply with the numerous deed restrictions being placed on their very expensive new homes. They will gladly forgo a pool, playground, shed or patio because they will have the pleasure of being able to pay for any necessary repairs required if the town needs to service the pipe that runs under their driveway. As neighbors we are to feel secure in the knowledge that Santa Claus is suddenly ready, at the eleventh hour when the vote is scheduled, to provide changes that were requested at least six months ago.

Will Santa Claus also guarantee that financing won't run out before the project is completed? Who do we see when we experience increased flooding of our properties because promises weren't kept? Who do we see when our property values plummet because we are left with an eyesore that will affect 11 surrounding homes? If the cavalier attitude, with which Ms. Mancuso was questioned at the last meeting, is indicative of the attitude with which this development will be handled, we all have much to be concerned about.

Thank you.

TEN HOEVE: Does any board member have any questions?
Does Mr. Del Vecchio have any questions?

DEL VECCHIO: No, the witness indicated she wasn't qualified to give any evidentiary testimony, so I am happy with that.
Do you have any more you would like to say?

MANZIONE: Plenty, but I will leave it at that.

MITAL: Anyone else from the public?

Xandra Wilhovsky, 74 Rivervale Road came forward and was sworn.

WILHOVSKY: I brought a document and I would just like to tell you what it is. In the latter part of December 2007 the neighbors of 82 Rivervale Road received a letter from Connolly Environmental, Inc. , dated 11/16/07 advising that Mark Prusha had applied to the New Jersey Department of Environmental Protection, Land Use Regulation for a Letter of Interpretation. The letter also advised that the Department welcomed any information concerning the presence of wetlands, open water or transition areas. The attached is a copy of the neighborhood submission to the NJDEP, dated 1/08/08.

These documents will give the board a detailed picture of the drainage problems and history of the neighborhood and why the wetlands are so necessary as is and why limited building on the property should be permitted but not in any way affecting the runoff of ground water from the surrounding neighbor property.

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TEN HOEVE: Are you suggesting that you want to present that document to the board?

WILHOVSKY: Yes.

TEN HOEVE: Would you let Mr. Del Vecchio look at that?

WILHOVSKY: Surely but Mr. Prusha received copies of every document that we sent to the DEP, so he should have them in his file.

TEN HOEVE: This is a letter that you sent to the DEP?

WILHOVSKY: The neighborhood sent it, Yes.

TEN HOEVE: Is it signed by several residents?

WILHOVSKY: It is signed by everybody who gave any description of water problems.

DEL VECCHIO: Because it contains multiple signatures, I am going to render an objection because essentially it is into a ...

TEN HOEVE: Well, the alternative is to have her read it, which we can do, if you prefer to do that.

DEL VECCHIO: There are also several attachments to the letter that are not authored by this witness that appear to be letters written to her by adjacent neighbors. Again, all of which can go unchallenged in these proceedings and on that basis...

TEN HOEVE: Well, are they here?

WILHOVSKY: Two of them are here, three of them.

TEN HOEVE: My suggestion to the board is that you can read the initial letter, which is something that you composed and it was signed by other people, into the record and Mr. Del Vecchio can question you if he wants with regard to it.

If there are other letters, that are written by other people they would have to do that so Mr. Del Vecchio could cross examine them. So if two of the people are here they can read those into the record as well.

See, the issue is, Mr. Del Vecchio has to have the opportunity to question the people. You can't just submit a letter and then have no opportunity to cross-examine or raise any questions, as to why they said it, whether it was accurate.

WILHOVSKY: The statements that people made that are attached are part of this.

TEN HOEVE: I understand that but they are signed by other people.

DEL VECCHIO: The board has to give the directions.

TEN HOEVE: I am only going to do that if you object. If you don't object and you let it all go in, then we won't worry about that. I'll leave it up to you.

DEL VECCHIO: The only other way to do it is if the signature page is removed and this witness testifies that the statements in the letter are her own.

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TEN HOEVE: Well, she has already said that is not the case.

DEL VECCHIO: Then I am not sure how you allow hearsay and then if the statements in the letter...

TEN HOEVE: I am not going to allow that. I am going to let her read in her letter and then the other attachments for the people who are here will have to come forward and...

DEL VECCHIO: Let's go back because I think we are missing a piece. The main letter, if those statements are all that of the witnesses here, I don't have a problem with that portion of the letter being read in with the removal of the signature page.

TEN HOEVE: I understand that there are attachments to that letter as well?

DEL VECCHIO: The attachments are three letters written by apparently three separate neighborhood residents to this witness and are attached. Those letters, unless the witnesses are here, I have objections to.

TEN HOEVE: Ok, (to Ms. Wilhovsky), can you separate that first letter from the attaché letters.

DEL VECCHIO: I figured that would be easier ...

TEN HOEVE: Yes, we will have that introduced as O-1 and then the other statements you will have to have someone else come forward and indicate that they wrote it and read it into the record.

WILHOVSKY: Those are part of the main letter.

TEN HOEVE: What am I missing? They are actually incorporated into the letter?

WILHOVSKY: Yes.

DEL VECCHIO: Delete those statements that are attributable to...

WILHOVSKY: And we only attached the original letters that went into the main letter because...

TEN HOEVE: How many attachments are there?

WILHOVSKY: Three.

TEN HOEVE: And two of the three people are here?

WILHOVSKY: Yes.

TEN HOEVE: How long is the third letter that is not...

WILHOVSKY: I'm sorry, there is only one family here.

TEN HOEVE: One is here? Mr. Del Vecchio, are you telling me that those other two portions are incorporated into that first letter?

DEL VECCHIO: That's what the witness is saying. I haven't had an opportunity...

TEN HOEVE: Well, take a look so you can see it for yourself.

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DEL VECCHIO: Yes, I haven't had a chance to do that.

TEN HOEVE: We are not bound by strict rules of evidence as you know, but I don't want to let the board consider items that you have no opportunity to review.

DEL VECCHIO: Yes, the text of the letters appear to be....the formatting is different, but the text seems to be identical to the attachments incorporated by a cut and paste into the main document. It occurs in two distinct locations...

DEL VECCHIO: Ok, here is my suggestion. Can you read the letter without those two portions for us, right now? Do not refer to the two portions that have been taken from the letters of individuals who are not here tonight.

WILHOVSKY: Yes.

TEN HOEVE: Go ahead.

WILHOVSKY: *To the N.J.D.E.P., Division of Environmental Regulation, Land Use Regulation Program, P.O. Box 439, Trenton, NJ 08625-439...Attn. Bergen County Section Chief...marked Prusha, 82 Rivervale Road, Block 2007, Lot 1, Borough of Park Ridge, Bergen County, January 8, 2008...*

Please review the following information concerning the above property and surrounding properties. From at least 1950 to 1955,56 there was an open stream fed by rain water coming under and across Morningside Avenue and (?) drain pipes that lied under homes at 70 Rivervale Road to 80 Rivervale Road with the water eventually running into an open dam bond on the 82 Rivervale property.

A fully intact (?) pipe is still at the back of 74 Rivervale Road emptying into a dry well. With a heavy rainstorm the dry well fills and the water backs up to a hole in the basement.

1955/1956, homes were built at 73 Local Street with a basement and 182 Morningside...

TEN HOEVE: Let me interrupt you for one second.

Just for the record, Councilman Maguire has arrived.

WILHOVSKY: *and 182 Morningside Avenue on a slab.*

1955/1975, the open stream was covered over with dirt and an underground drain pipe and easement with the Borough of Park Ridge was installed on Local Street opening up approximately 2/3 of the way behind 82 Rivervale Road and then running as an open brook under Lillian Street eventually into the pond, which is on the public park on Prospect Avenue.

1965/1975, the open dam pond on the 82 Rivervale Road property was allowed to naturally fill with leaves and debris and the dam was taken away.

1969/1970, the owners of the home at 74 Local Street hired a contractor and obtained the necessary permit to install and in-ground swimming pool in the backyard. Upon digging into the earth at the designated area, water came up immediately and the contractor advised the owners that a pool could not be installed. Presently water seeps into the basement whenever the rain accumulation is around one inch or more. The northwest corner of the property is constantly soggy and flooded after a rainstorm.

(Ok, I have to skip this part and this part)

1995, 1/07/08, written statement from property owner...attachment to DEP mailing...We have lived at this address since October 1, 1995 and we are deeply concerned about the recent letter we received from March Prusha....Protection of Wetlands by soaking up and storing water the wetlands that reside on his property have helped prevent flooding.

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environmental impact importance to the health of the ecosystem...(???) is also an issue, the preservation of the wetlands is our paramount concern. That was given by Nick Santius and Mary Alice DiBella.

2002/2004, the home property at 76 Rivervale Road was purchased. The original home was dismantled and rebuilt. Rebuilding was mandatory. Seepage of water in the rear right basement was evident and French drains were installed with an outdoor, underground pump at the rear of the house activated by the water level.

2005, the home property at 70 Rivervale Road was purchased and the owner had experienced only one incident of water seepage into the perimeter of the basement floor during a heavy rainstorm in 2007...very worried about the animals that live on all this (?) property.

2005, a home was built on slab at 176 Morningside Avenue. The ground level was raised to accommodate the new home and storm...No, I can't read that...that's also part of a letter.

2004/2008, one of the tenants at 71 Rivervale Road reported there was water seepage into the basement from the front to the back on the left side with heavy rain.

We request that you carefully review the stated information.

The undersigned thank you for your consideration.

Do you want the names?

TEN HOEVE: No, that is not necessary; we just wanted to be able to let you get into the record whatever you wanted to say. You understand that all of that was given to the DEP and the DEP has still approved this project.

WILHOVSKY: Yes. We're concerned about the wetlands. That the wetlands will be preserved. That was our major concern. The water from our property eventually went to those wetlands. Without those wetlands, everything would be backing up onto our property.

TEN HOEVE: I understand and the engineers that have testified in connection with this have indicated that the areas that are required to be preserved by the DEP are being preserved as part of the proposal.

WILHOVSKY: We're aware of that. Thank you.

TEN HOEVE: I'm sorry, Mr. Del Vecchio...any questions?

DEL VECCHIO: No, questions.

Michael Santoro, 73 Local Street came forward and was sworn.

SANTORO: My testimony is basically just to reiterate what Mrs. Manzione had said in prior testimony about the situation about the dirt that came in, which was not supposed to come in and the work that was done on the property, where the wetlands were disturbed, the trees that were taken down, that were not supposed to be taken down and now they say they are going to be replaced. I don't know why they were taken down in the first place and nothing happened because of that.

I have a concern about how things will be done going forward if this was approved. No matter how it is approved, whether it was three or four.

MITAL: You have a concern as far as...

SANTORO: Construction. Any construction going forward because it just seems like there aren't any concerns for the neighborhood at all.

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TEN HOEVE: Are you saying soil was moved to this site before permits were obtained?

SANTORO: Yes.

TEN HOEVE: How much soil?

SANTORO: I would say about six to eight truckloads.

TEN HOEVE: When?

SANTORO: Two to three years ago.

TEN HOEVE: And your testimony is that trees were taken down?

SANTORO: Yes, trees were definitely taken down.

TEN HOEVE: How many and when?

SANTORO: I would say about the same time. The trees were taken down before the soil was moved in.

TEN HOEVE: How many?

SANTORO: Between five and ten.

TEN HOEVE: Do you know where they were located on the property

SANTORO: They were located from Local Street going straight back, right where the road ends, the stub...straight back, that's where the trees were. I would assume there would be records of that from the Landscaping Company that did the work.

I have one other thing too, but there has been a pile of woodchips sitting there for like two years now. It's kind of like an eyesore and it has been there and is part of the same thing of not really caring about what's going on in your neighborhood.

OPPELT: Were they brought in?

SANTORO: No, I think they came from the trees that came down.

MITAL: As far as your questions on construction, we have to deliberate, decide and that's still down the road.

DEL VECCHIO: I have no questions.

MITAL: Anybody else from the public? No, Ok we are finished with the public.

TEN HOEVE: I don't know if Mr. Del Vecchio has any comments that he wants his engineer to make with regard to the letter or that he wishes to make with regard to the letter and I don't know if he wishes to call anymore witnesses.

DEL VECCHIO: I would like a couple of minutes to confer with Mr. Eichenlaub. I have been listening to the residents and haven't had a chance to speak to Mr. Eichenlaub.

DEL VECCHIO: I only need about five minutes.

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MITAL: Sure, we will take a five minute adjournment.

ROLL CALL:

Mr. Schwamb, Mr. Von Bradsky, Ms. Eisen, Mr. Mesiano, Mr. Browne, Mr. Oppelt, Councilman Maguire, Mr. Mital.

TEN HOEVE: For the record, we have one other Certification. Councilman Maguire did sign a Certification, which I marked B-10 indicating that he read the transcript of the September 15, 2010 meeting.

I do have a list of those members that are currently eligible to vote if you wanted that.

For the record, it is Mr. Mital, Mr. Oppelt, Mr. Browne, Ms. Eisen, Mr. O'Donoghue, who is not here tonight and Mr. Von Bradsky. Councilman Maguire would be eligible if he read the transcript of that portion of the meeting, which he missed this evening.

DEL VECCHIO: With reference to that letter, which is a letter dated October 26, addressed to the Borough of Park Ridge, attention Mrs. Beer and signed by Robert Mancinelli, the Borough Attorney.

The applicant takes the following position with regard to the letter. We do not agree with some of the findings or statements in the letter, however, we do recognize that there is potentially a need to secure approval from the Governing Body for whatever modification may or may not be needed for that easement area, either to enlarge it to accommodate the pipe which falls outside of its scope or to talk about what might be built upon it.

We would submit that that requirement is essentially the same as another governmental approval under the MLUL and that any action that this board would take should be conditioned upon securing that approval from the Governing Body since it is a discussion we need to have with the Governing Body, who obviously are not in the room tonight and we can't have that discussion and come to some conclusion.

I can talk to you and I am happy to do that and spend some time but at the end of the day, neither you nor I are going to have the ability to reach a mutual agreement on the meaning of the easement. We believe it is essentially another governmental approval and we would submit that it needs to be a condition of whatever action the board may take.

That will also afford us an opportunity, more than the few moments we took during the break, to actually research some of the terms that were used and why they were chosen as opposed to other available terms and reaching the conclusions they did.

That was Part One...I have a Part Two but...

MITAL: When you say *findings*, findings as far as the definition of the structure, is that what you're saying?

DEL VECCHIO: That's one of the issues. We don't necessarily agree that the definition chosen is a controlling definition and would initially point out that the definition chosen is purported to be, and I have not verified this, from the Flood Hazard area rules, which are not applicable to the area in which this easement sits because the area in which this easement sits is not subject to the Flood Hazard Area regs, so why that definition controls as opposed to probably 20 to 30 others that we can select, I can't say this evening without further research.

MITAL: The N.J. Administrative Codes, I guess to look in there and see what other definitions they may have for that particular situation.

DEL VECCHIO: There are a variety of sources where definitions of the term "structure" can be secured from and I would need to look at all of them to get

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an understanding of where and why they fall where they do before we can comprise what is legally the applicant's position.

MITAL: Ok, Part Two?

DEL VECCHIO: Part Two, we would like to request an opportunity to amend our application and present a revised plan to you at the next meeting. We will provide the board with the necessary Extension of Time to the next meeting and submit a revised plan.

We heard some comments and we'd like to react to them and provide you with a revised plan that we think, hopefully, will address the comments and address the concerns that have been raised today.

MITAL: Which meeting would this be?

BEER: Mr. Del Vecchio, the board meets next Wednesday night, can you have your maps ready that soon?

DEL VECCHIO: When is the next meeting?

BEER: November 17th.

DEL VECCHIO: The 17th we would be able to have the maps ready.

TEN HOEVE: Is that acceptable to the board? I don't see any reason why it wouldn't.

DEL VECCHIO: Mr. Eichenlaub indicated he could have them in by this Friday...

TEN HOEVE: That's too soon, the MLUL requires maps to be submitted 10 days prior to a meeting.

DEL VECCHIO: That is only for the initial filing, Mr. Ten Hoeve.

TEN HOEVE: Well, the public would have very limited opportunity in any case, to see any of this if they wanted to do that. And I don't know what you are talking about, some minor change would take two seconds to take a look at...

DEL VECCHIO: I think the extent of the change may be to remove one of the lots.

TEN HOEVE: That's not a minor change.

DEL VECCHIO: It will be a minor change because the access will stay the way it is except for the removal of one of the lots. It will diminish the number of variances clearly.

TEN HOEVE: I just don't think it is feasible to do it.

DEL VECCHIO: That's fine, I'm just putting out full information so we can make a selection.

BEER: We have a new site plan coming in for next week and could give you much more time on the 17th.

MITAL: That's sounds more like it.

DEL VECCHIO: Will we have a quorum?

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MITAL: Yes, except for two members.

TEN HOEVE: And they along with a couple of the others can listen to tapes or read the transcripts.

MITAL: Ok, we will see you on the 17th.

DEL VECCHIO: It will be carried without further Notice?

TEN HOEVE: Yes. (to the public) The next time this application will be heard will be on November 17th. Plans should be available for your review if you want to see them by November 9th.

DEL VECCHIO: We repeat our offer to send them directly to your professionals, if that would assist you.

MITAL: Sure.

BEER: If they are in by November 9th, the office can handle it.

70-72 PARK AVENUE, LLC. – 70-72 Park Avenue

TEN HOEVE: The next matter is the 70-72 Park Avenue hearing that has been concluded. The board should discuss whether they would like to have a resolution prepared in the affirmative in this case and to also determine whether there are any specific conditions. If the decision of the board is in the affirmative, I can prepare a resolution and circulate among all board members and professionals to make sure all conditions are included.

It was the unanimous decision of the board to have a resolution in the affirmative prepared for adoption at the next meeting.

MITAL: I think we wrapped it up at last meeting.

TEN HOEVE: I think the planner had some landscaping conditions she wanted included and after speaking to her, I did include them.

The board discussed the walkway, staircase, width of sidewalk, walkway and visibility at the corner and then authorized a resolution of approval to be drawn with the conditions as board requested.

NEW BUSINESS:

LC DEVELOPERS, LLC, Grand, Lafayette & North Fifth

(Mr. Browne recused himself & stepped down)

MITAL: Applicant has submitted his Landscape As-Built plan.

BOGART: We had reported a while back on the As-Built for the other lots and they had to revise their As-Built plan because what they had actually planted was not what had been approved. The new As-Built reflects what has been planted and we are Ok with that. The only outstanding item are the street trees which are located on the lot that fronts on Grand Avenue. This was an issue for the engineer because there was discussion of whether it could be done through a plot plan for a single-family house versus the subdivision and whether it is a bonding issue or if it is going to be an issue for a single plot plan.

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MANCUSO: Lou Chiellini called me regarding those three shade trees. The reason being is he wants us to accept the subdivision project, release his Performance Bond and flip him over into Maintenance Bond. I suggested to him that we couldn't release the Performance Bond when he hadn't performed fully meaning the three shade trees. So we were thinking of a way we could possibly put those three shade trees in an escrow account because if, in fact, he does not build that lot, we have no means of having a new person install the shade trees. So there was much discussion back and forth regarding that.

At this point, I believe the three shade trees should be planted because I did get a message from him late in the afternoon that they were in.

TEN HOEVE: In the ground?

MANCUSO: In the ground but I didn't have the opportunity to check them because I was running a few minutes late so I think that issue is resolved. If they are not in, he did commit to put them in. In fact, he said he installed something larger than what was required because they didn't have the smaller size available.

MAGUIRE: And where are they to be located?

MANCUSO: The three shade trees are along Grand Avenue, the front yard of the house that is not yet built. The reason he did not want to plant them initially is because we did not have a plot plan for that lot yet and he did not know what type of structure it would be and the orientation of the driveway. So there is the potential that we might have to relocate a tree but that's the chance we take. If they have to relocate a tree, it is their obligation to put it back.

TEN HOEVE: Is there a final DEP approval on this?

MANCUSO: No, that is the one item remaining and I suggested to him that until we receive that letter we are not closing out the subdivision, he is still under Performance Bond and he understands.

TEN HOEVE: So, we can't do anything until the DEP letter is received.

(Mr. Browne returned to the dais)

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 Browne:

Carried unanimously.

Respectfully Submitted,


Helyn N. Beer
Secretary