

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

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, Ludwig, Mital, Oppelt, Schwamb, Von Bradsky,
Ms. Eisen, Councilman Maguire (8:10pm)
Absent: Messrs. Mesiano, O'Donoghue
Also Present: John E. 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 12, 2011, setting forth a schedule of regular meetings, by mailing of said schedule to the Record and The Review on January 13, 2011 and by posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereat and by filing the said schedule in the office of the Borough Clerk.

INTRODUCTION OF NEWLY APPOINTED BOARD MEMBERS:

Raymond Mital -	reappointed Class IV member - term expiring 12/31/14
David Mesiano -	reappointed Class IV member - term expiring 12/31/14
Don Browne -	reappointed Class IV member - term expiring 12/31/14
Don Schwamb -	reappointed Alt. 1 member - term expiring 12/31/12
Terence Maguire -	newly appointed Class III member - term expiring 12/31/11
Robert Ludwig -	newly appointed Class II member - term expiring 12/31/11

REORGANIZATION:

Chairman announced the following had been elected as the 2011 Officers of the Board.

Chairman - Raymond Mital
Vice Chairman - Robert Oppelt
Secretary - John O'Donoghue

Chairman announced the following appointments:
John E. Ten Hoeve, Jr. – Counsel to the Board for 2011
Brigette Bogart, PP – Burgis Assoc – Planners to the Board for 2011
Eve Mancuso, PE, Brooker Eng – Engineers to the Board for 2011
Helyn N. Beer – Secretary to the Board for 2011

DESIGNATION OF REGULAR MEETING NIGHTS, OFFICIAL PUBLICATIONS & FEES:

Chairman announced the 2nd & 4th Wednesdays of the month as the official meeting nights with the exception of September, November &

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

December, which are on the 1st and 3rd Wednesdays of the month.

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

There was no one.

PUBLIC HEARINGS:

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

Antimo Del Vecchio, Esq., Beattie Padovano came forward stating he was representing the applicant. Mr. Del Vecchio submitted the Affidavit of Notice for the snowed-out date, which was carried forward to this evening.

DEL VECCHIO: We had previously requested, by letter dated December 30, 2010, that the board reconsider certain conditions imposed in connection with the resolution of approval for this project.

The request essentially boils down to three issues, two of them are very much intertwined and related and once of which is distinct. Perhaps I am misreading what I heard from our request was considered for scheduling but I think the easiest of the three requests to deal with first is our request concerning the maintenance and cleaning of the drainage structures in the easement area. And that is page 12, Condition G-2 of your resolution of approval.

I thought I had heard and hopefully correctly, that there was some agreement when this was scheduled that that condition was not meant to require the applicant to perpetually perform the maintenance that would be required on the Borough's drainage easement that current exists on the property. It is the applicant's position that while we had agreed to perform certain improvements to that drainage easement, by way of installing some upgraded pipe, it still is a system that deals with water that doesn't start at our property, doesn't end at our property and we don't add to it from our property. It really is a conveyance structure for water that starts off-site and is traversed over our property.

I have Mr. Eichenlaub with me this evening in case there are questions about that drainage structure or about what it does and doesn't convey but it is the applicant's position that that condition should not have been imposed and that there is really no basis or nexus between the condition as we read it on paper and what we presented to the board. Initially we are asking for clarification and if our reading of the resolution is correct, then ultimately we are asking for a modification of the provision pertaining to the drainage structure.

My suggestion is to try to handle these individually. I'm not sure what the board's preference is but since they are very separate items I thought it would be best to try and handle them separately. If you would like me to do it in one big ball, I would do it that way.

TEN HOEVE: The only problem I have is it would probably be cumbersome and time-consuming because the public is here so if they are going to have to come up and back and up and back addressing each one of the issues, it might be simpler to do it all at one time.

DEL VECCHIO: That's fine.

(Councilman Maguire joined the dais at this time)

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

The other two areas of our concern stem from condition G-1 on page 11 and condition 5 on page 12. Those two conditions really pertain to what used to be, primarily the area intended for the fourth home in part and the balance of what now has become the rear lot with access to Local Street. Through the DEP process permitting the wetlands and ensuring their continued existence, we have been required to provide a conservation easement to the DEP. That information was provided to you in testimony very early on back in April 2010 and we were peppered with questions concerning that drainage easement during the entire course of the hearing.

Our position has always been that we are prepared to grant to the Borough a co-extensive conservation easement for those areas that we were going to otherwise have to conserve by way of the Conservation easement to the DEP. The resolution as it was ultimately written, whether intentionally or otherwise, seems to require the applicant to essentially conserve virtually all of the area to the west of the driveway and/or the easement that exists on the property as proposed to be modified for drainage to the Borough.

That essentially encumbers an extensive amount of the area of the fourth lot that is outside the drainage easement or the conservation easement being required by the DEP and in part, also touches upon an area that is shaded almost in a triangular form for which a general permit was requested by the DEP for a fill of an isolated wetlands area. I had a chance to go back and reread all the minutes of the hearings and Mr. Eichenlaub was questioned along the way about the isolated wetlands and what happens if it's filled or not filled and I believe the testimony was pretty clear from Mr. Eichenlaub that the filling of that wetlands has no impact upon the drainage to the balance of the property and will not impede the drainage for the balance of the property.

There is on one of the sheets a play set shown for that particular area. It was always shown on the plans that way and I think early on, when we had the fourth lot in there it was shown as a patio as opposed to a play set in that isolated wetland area. Quite frankly, I'm not sure we are married to the play set and the applicant has no objections to showing it as a patio. We would be happy to have it revert to a patio in that area as opposed to a play set but we do intend to utilize that area in connection with the large lot in the back of Local Street because a lot of the balance of the property is encumbered by either wetlands, Conservation Easement to the DEP, drainage structure to the borough and it does provide an area for outdoor use for that lot. We don't see that it violates any provision. I have Mr. Eichenlaub here and he can testify to the existence or the extent of the existence of the Conservation Easement being required by the DEP, if there are any questions regarding the nature and extent of what the DEP is requiring.

Mr. Eichenlaub was asked at the final hearing, I think it was in response to a comment in the Borough Engineer's final review letter about whether or not the applicant would be willing to remove that play set as part of the application and Mr. Eichenlaub clearly responded at that time that the applicant was proposing to use that area and not to restrict it any further beyond what the DEP was requiring.

I think I am going to save, just because of the way this meeting has been structured, my legal arguments for, perhaps, my closing remarks but that I think, summarizes our application or request to the board in consideration of the changes to the resolution that the applicant believes not only are appropriate but are warranted by the testimony in the record.

TEN HOEVE: Just a couple of questions. I am not sure I understood the last comment. Are you saying that if the board so required, the applicant would be willing to not place the playground equipment in that area?

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

DEL VECCHIO: Right, we would put a patio there instead of the playground set.

TEN HOEVE: Second question. My understanding was that there was a recent letter that came from the DEP, which established a Conservation area that was somewhat greater than that which was testified to at the time of the hearing...is that correct?

DEL VECCHIO: I don't believe that is correct.

Mr. Eichelaub, do you have the Conservation easement map? I will hand to you, Mr. Ten Hoeve, and you can look with the board members...but this is a copy of the Conservation Easement metes and bounds map that is attached to the draft deed of Conservation, which was just prepared and submitted to the DEP in connection with the permitting. And again, we've always said, whatever the DEP mandates that we comply with, that is the extent of the easement that we are prepared to grant to the Borough as a co-holder, if you will, of that Conservation Easement.

TEN HOEVE: One of my suggestions to the board is that it first hear from the borough engineer, since many of the conditions that were included were the result of testimony and positions she had taken in reports. Maybe it would be best to have her comment and then maybe Mr. Eichenlaub or Mr. Del Vecchio could respond.

MANCUSO: Thank you. We will start with the first item which was regarding the maintenance of drainage structures within an easement. I think it would be helpful to clarify the language in the resolution. The intent is that the applicant or the subsequent owner of that lot, Lot 1.02 is fully responsible for the maintenance of the drainage improvements associated with the construction of the driveway. So it should really be clarified that it is the drainage improvements that are within the conservation easement they are fully responsible...

TEN HOEVE: Within the conservation easement?

MANCUSO: Correct. And that would include the catch basins on the driveway, the culvert under the driveway and the rip-rap apron. That is fully the responsibility of the property owner.

DEL VECCHIO: We would agree.

MANCUSO: In terms of the drainage easement. It is a drainage easement to benefit the borough and the borough has been maintaining the easement and will accept the easement once again, once the pipe is replaced with the new concrete pipe but it should be clarified again that any improvement associated with the construction of the driveway that is encroaching in the easement is the responsibility of the property owner to the extent that day to day and also, if in the event that the Borough needs to access that pipe, they are required to move portions of the driveway, the curb, the wall, anything that is associated with access to that easement and restore it at their own cost as well.

That was one of the conditions we discussed because we did permit a portion of the driveway to encroach over that portion of the easement.

TEN HOEVE: So that's acceptable?

DEL VECCHIO: Yes.

MANCUSO: And I believe that's what we had discussed.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

DEL VECCHIO: I believe the Borough Engineer is accurate in her reflecting the testimony and we have no objections to that.

TEN HOEVE: That's one.

MANCUSO: And that should be clarified because that's what we understood it to mean but when you read the resolution....

TEN HOEVE: We can amend the resolution if the board instructs me to do that and I will contact you to make sure I have that exact language.

MANCUSO: With regard to the second item. This is the first time I am seeing the Conservation Easement plans but it is very difficult to determine at what point these were developed. Were they developed with a four-lot subdivision or a three-lot subdivision because the impact is substantially different and these easements, called Conservation Easement Plan and it is dated 12/19/10 doesn't seem to relate to the letter that we recently received from the DEP, which is dated January 25, 2011.

The DEP letter very specifically goes through limits of transition areas and this Conservation Easement plan doesn't show any of that.

TEN HOEVE: Do you have that letter?

DEL VECCHIO: I don't have it with me.

TEN HOEVE: I do, if you need to see it.

DEL VECCHIO: Ok, I'll take a look at it but we believe that the conservation easement that is shown in this cross-hatch on the plan that was submitted to you on Sheet 2 of 6 and approved by the application...that cross-hatched area on Sheet 3, that is on the board now, we believe reflects the limits of the conservation easement required by the DEP and that, being said, I agree it is very hard to read and scaling doesn't really work very well when you reduce it to that level but we had to for recording purposes, is intended to match what is on that sheet, 3 of 6.

TEN HOEVE: Ms. Mancuso, I was going to ask you about that letter and perhaps you were going to comment on it now?

MANCUSO: The DEP letter, the one dated January 25, 2011, very specifically says in #7, *the remaining wetlands and portion of the wetlands transition areas on proposed Lots 1.02, 1.03*, which leads me to believe that they are looking at a different subdivision than what the board approved. They are talking very specifically about transition areas not only the conservation easement. The transition area is a 50' area beyond the area of these easements and the DEP is saying *the deed restriction will include a provision that allows for the continued maintenance of areas that were legally converted to lawn and yard* but it says that *the remaining wetland and portions of the wetlands transition areas must be deed restricted*.

DEL VECCHIO: I think what has happening, and I agree, this plan is accurate still and I was just reviewing it with Mr. Eichenlaub...this cross-hatch area represents the grade one sacrosanct area, you can't touch it for lawn or anything, it stays the way it is. The remaining transition area that exists on these properties is from this edge of the cross-hatching to the transition area line that is show on the plan...that area is currently grass and that is the area that this letter is referencing that will remain as grass.

Our deed of easement that was sent down to the DEP specifically mirrors what this letter says, which is areas in the cross-hatching can't be touched or anything that isn't permitted and the area between the cross-

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

hatching and the remaining transition area can only be grassed to the extent that it is grassed today and can be maintained as grass. So I think we submitted a document that, does in fact, mirror this letter. The last set of plans that the DEP had did show still show the four lots because we didn't know until December, when this board approved the three-lot subdivision, that it was going to be converted to three lots and we just prepared our resubmission to the DEP with the three-lot subdivision with the metes and bounds for the Conservation Easement, with a draft of the actual Conservation Easement document and I believe Mr. Albin has all of those submissions...that package was submitted down to the DEP today with all the revised documents.

What is in this letter factually matches what is on the plan already although the language is rather crossed between what is...

TEN HOEVE: Yes, that's what is confusing me.

MANCUSO: Ok, but I don't agree with that statement. Unless there is another plan that the DEP has the benefit of, that we don't have, the plan that the board has clearly shows that the wetlands transition area falls west of the drainage easement substantially. It is not only the area in the vicinity of the lawn area and there's another note, which was added to the plan somewhere during one of the revisions, that's indicating a lawn area to the west of the drainage easement that is not a lawn area. It's a lightly wooded area and it has wood chips.

DEL VECCHIO: This area here, are you referring to?

MANCUSO: Exactly.

DEL VECCHIO: Well, what happens there is because of the general permit to fill the isolated wetlands. With the grant of that general permit, the wetlands doesn't exist and therefore the transition area goes away as well.

MANCUSO: But you are sort of putting the cart before the horse. The reason the board was not in favor of the four-lot subdivision was because of the environmental constraints on that property, which included the isolated wetlands.

DEL VECCHIO: Which was always intended to be filled, even in the four-lot configuration. We had always intended to have that isolated wetlands, and I think Mr. Albin clearly testified and subsequently asked to provide a copy of the GP application for that very filling, so we believe it will, but assuming the GP is granted, the wetlands goes away on that portion that you make reference to and therefore the transition area goes away as well.

MANCUSO: But does the DEP understand that the board did not approve a lot in that position due to the environmental constraints so there is no need to fill that wetlands any longer?

DEL VECCHIO: The DEP has a plan that shows three-lots in a place on the isolated wetlands.

MANCUSO: I'm sorry, I thought you said they had the four-lot subdivision.

DEL VECCHIO: They had the four-lot, we just delivered the three-lot...

TEN HOEVE: Today it was delivered.

DEL VECCHIO: Because we now have gotten all the pieces together after the board's approval to resubmit, which is what caused our delay in

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

resubmitting to the DEP in the first place. We wanted to make sure we gave them a set of plans, which matched what the community was approving.

TEN HOEVE: So this letter doesn't address the new plan. They haven't seen the new plan?

DEL VECCHIO: They just received it.

MANCUSO: And I still have a question regarding #7 because it says, *the deed restriction will include provision that allows for continued maintenance for areas that were previously legally converted to lawn and yard*, the area by the isolated wetlands was not converted to yard, the last time I was there, and it clearly says on the plan *lawn area*, so that was not previously converted to lawn, it is still a lightly wooded woodchip area.

So there seems to be discrepancies between the plan submitted to the DEP and what the board understood to be the case.

DEL VECCHIO: The area that I just marked in yellow on the plan and we are kind of talking two different issues and I agree they are related and it makes it a little confusing.

The area that I just highlighted in yellow is the transition area that is shown on the plan on the east side of the cross-hatching. That is the area that is covered by the "if it is grass it says grass provision"...

TEN HOEVE: And if it is not?

DEL VECCHIO: And if it is not, it stays the way it is. It is a transition area that can't be touched. The area to the west side of the conservation easement and I am going to mark in orange the actual isolated wetlands and then the area that is cross-hatched in orange now, is the wetlands and the transition area that is associated with the isolated wetland for which a GP has been requested to fill. Again, assuming the GP is issued, the wetlands and the associated transition area with it all disappear as a regulatory feature.

MANCUSO: You are missing the overlap of the transition area that is being generated from the wetlands that is east of the easement, which goes on approximately 1/3 through your isolated wetlands in the other direction.

TEN HOEVE: I'm still confused. If all of the area that Mr. Del Vecchio has marked in both yellow and orange are required to be deed restricted, in essence, a conservation easement, how does that differ from what the board has put in its resolution?

MANCUSO: When you look at the DEP letter and eliminate the transition areas associated with the wetlands, there is a small piece of property left in the north/western portion of the lot that, if you recall the plan...

TEN HOEVE: Just that little section?

MANCUSO: Correct, where all the trees, essentially, are located. It is approximately 50 x 60 but it is west of the easement in the northwest corner.

TEN HOEVE: Is that all we are talking about?

MANCUSO: That is all the area that appears to fall outside of the transition area that I see.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

Mr. Eichenlaub from his chair in the audience & at easel)

EICHENLAUB: With regard to the conservation areas or the isolated area? This yellow line here that Mr. Del Vecchio has shown would be the westerly transition line to those conservation or wetland areas. Under our application to them we are looking to maintain and be allowed to use this area in grass in lieu of the dwelling on the fourth lot. All of this transition area is going to be disturbed under the proposal for four lots.

What we are looking to do is simply use this area for recreational purposes.

TEN HOEVE: For the record, Rick Eichenlaub, PE is testifying and was previously sworn in.

DEL VECCHIO: I think perhaps and if it is the board's intent to require us to live with the DEP's requirements as to what is required for the conservation easement and the wetlands on-site and wants to be a co-holder of that easement, we are happy to do that. And, if the DEP looks at the revised plans and says, "no, we want the easement to be wider, longer, deeper, we want you to cover the overlap of what was the old lot four, and we are required to give that easement to the DEP, we are happy to give it to the borough as well. I just don't want to be in a position where I'm granting two different easements and they are not co-existent with one another. One may be disparately bigger or smaller than the other and it sounds to me that the board is saying, "the DEP may require you to do something different in terms of what's submitted" and if that's the case we are happy to live with a condition that says whatever easement the DEP requires, you need to make the borough co-holder of it. We are happy to do that. We're not looking to shortchange the borough, the neighborhood or the public from what conservation requirements the DEP may impose on the wetlands. That is not our intent.

MANCUSO: When you look at the orange area that you have cross-hatched, that's the area associated with the isolated wetlands. The transition area, that I've marked in yellow, and I will hold it up, is the area that belongs to the wetlands that's associated with the conservation easement.

I don't believe the DEP is suggesting that you eliminate that transition area at all. In fact, they are saying that that is to remain in its natural state because it hasn't been historically lawn.

DEL VECCHIO: If I am reading what you are saying correctly that area in blue generally matched the overlap area that you are identifying verbally.

MANCUSO: It extends all the way to the south of the property to the west of the easement. It goes off the page. That line goes off the page and encumbers that whole corner, correct. So, the only real discussion is the status of the...oh, and the transition area is, of course, to the east of the wetlands that is within the conservation easement, which is what covers that lawn area currently. That's also what they are saying should be deed restricted and on the other side.

DEL VECCHIO: Our understanding, from meeting with them previously, the area that is cross-hatched is what they want to be deed restricted, just because this other yellow hatched area to the south of the proposed dwelling is not covered by the conservation easement does not give us any permission to disturb a regulated transition area. The Conservation Easement will only record permission to allow the area to the north and the ease of the proposed dwelling to be disturbed to the extent that it is already grass. That's what the document we submitted provided, again,

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

everything I am hearing tonight is the DEP may, the DEP might and our position is whatever the DEP requires we're going to comply with.

So, if our reading of the DEP is incorrect and they are going to require something more extensive than what we submitted, that's what we have to live with.

TEN HOEVE: What have you submitted to them today? What have you asked them to do in the submission that you made today?

DEL VECCHIO: We gave them the three-lot subdivision plan.

TEN HOEVE: Well, on that plan can Mr. Eichenlaub show us what you've asked them to change?

EICHENLAUB: We really haven't asked them to change anything. We are still requesting a GP for the isolated area as we were on the four-lot. We are still requesting that and the conservation easements, which are basically what is the wetlands and the transition line...

TEN HOEVE: All remain?

EICHENLAUB: We're not asking them to change this.

TEN HOEVE: Are there any changes that you have requested in the plan that was submitted today?

EICHENLAUB: The changes are the fact that we have now eliminated that fourth house and there is some relocation of the drainage easement, which falls within that transition area. The driveway, itself, has always been in that configuration. In fact, we may have straightened it out a little bit but it has always been there. The driveway was requested under the fourth lot and the three lot. So that really hasn't changed. Everything they asked us to place within the wetland areas by way of plantings and such, none of that has changed. We have given them everything they asked for.

DEL VECCHIO: And I am sure you are familiar with, Mr. Ten Hoeve, the DEP's form list. We used that form.

TEN HOEVE: I was just going to ask our engineer. Apparently what they are saying is, is it acceptable to you to have a Conservation Easement in the board's resolution that is co-extensive with whatever the DEP determines? That is essentially the issue as I understand it.

MANCUSO: If it follows the transition areas as was shown on the original plan.

TEN HOEVE: When do you anticipate a response?

EICHENLAUB: They were just submitted today, hopefully within a few weeks.

MANCUSO: I think at a minimum, that blue area needs to be written in the Conservation Easement. I think it was the Planning Board's discussion and everyone's desire not to disturb that isolated wetlands also but I am not sure whether that is within the jurisdiction of the DEP or the Borough. But the whole decision to eliminate that lot was due to the environmental constraints and it seems that now the sensitive areas are being disturbed.

MITAL: This seems to be boiling down to that blue area.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

BOGART: What we are discussing is within that 50' transition area, in accordance with the letter we have here as well, that should be deed restricted as well from south of the dwelling. There are some areas back there that haven't been lawn.

MANCUSO: That have not been fully developed yet with lawn.

DEL VECCHIO: There is no intention and there is nothing shown on the application, there is no intention on behalf of the applicant and I know that doesn't count for much because the property will get transferred but more importantly there is nothing in the permit we applied for and the board's approval that gives any authority to anyone to disturb the 50' transition area without further DEP approval and any activity in that area would constitute a violation of the Freshwater Wetlands Act...

TEN HOEVE: They would never get caught. If it is not a deed restriction, they are never going to know. That's the point of having the deed restriction, to say it they go ahead and do something and somebody catches them and goes to the DEP, they are going to be subject to violations. You know the reality of how it works.

DEL VECCHIO: Yes and it makes this no different from 99 out of a 100 or perhaps 100 out of 100 situations where there is a freshwater transition area.

TEN HOEVE: That may not have board oversight.

DEL VECCHIO: Even with board oversight. I would respectfully submit that requiring a conservation easement on every wetlands transition area that exists within a municipal boundary is something that was pre-empted by the Freshwater Wetlands Act.

TEN HOEVE: Well that's not what is being done here. That's not what the town is attempting to do.

DEL VECCHIO: But you asked me a question and then suggested that having a restricted feature by freshwater wetlands doesn't really give it enough (?) because somebody may not know and they may subsequently come in there and never get caught...my point is that the DEP has struck the balance through the Freshwater Wetlands Act as to where conservation easements are required and when the mere regulation of the area is sufficient.

TEN HOEVE: No, what I am saying is...

MANCUSO: But they are requiring it and the only description we have in the letter is based upon lawn area. The lawn area isn't clearly defined here and as we know, over time the landscaper comes in or a future property owner may extend over the course of time another five feet, another five feet and before you know it, the lawn area will fully encroach into that transition area.

That's our concern. And the map right now shows within the transition area, west of the drainage easement, is clearly labeled "lawn area" and that is not a lawn area. So if you are basing your conservation easement on lawn area, it doesn't really seem like a definitive area.

DEL VECCHIO: Again, I think we are mixing a little bit the wetlands to the west, which is labeled lawn area is *proposed*...we agree, that doesn't exist,

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

that's proposed lawn area and perhaps, if we need to, we should further delineate that on the map to indicate that and clarify that.

DEL VECCHIO: If they're telling us that the transition area, that is within the transition area, correct?

MANCUSO: Yes.

TEN HOEVE: If they're telling us the transition area has to be deed restricted and it can't have a lawn area unless it was previously a lawn area, how do you intend to make that lawn area?

DEL VECCHIO: This area to the west of the drainage easement is intended to be removed from regulatory oversight by the DEP through the general permit process. We believe that is what they are prepared to approve...

TEN HOEVE: Why would they have then put the language they did in this letter if that was their intent?

EICHENLAUB: One of the other things when we had the four-lot, that's what the State had in front of them...the four-lot subdivision. All this area was going to be lawn area anyway. This area was going to be lawn area. We got rid of the house. We got rid of the driveway, all of the structural features, we've just maintained that as a lawn area. Now, they haven't seen this without the house. If they come back and tell us "you're not having lawn there" we'll take the lawn off but we did propose to maintain this lawn area...

TEN HOEVE: Maintain it as lawn area? What do you mean by that?

DEL VECCHIO: Continue to propose.

EICHENLAUB: Continue to propose this as lawn area because that's what we were proposing under the four-lot. Again, given the restrictions on this lot, we have all of this area on the west side of the lot and we are simply looking to making improvements on the lawn area and that's it. Now if the State comes back and says "ok, you got rid of the house and we want you to get rid of the lawn as well", we'll do it but at this time we are looking to maintain that lawn.

MAGUIRE: Ok, so going along that path, the issue then is that blue transition area. Are you objecting to including that blue transition area in the Conservation Easement?

EICHENLAUB: We weren't proposing any improvements back in that area, that's all...

MAGUIRE: I know you are not considering any improvements but are you willing to include that in the Conservation Easement?

DEL VECCHIO: If the DEP requires it to be in, we will include it. Our real concern is we don't want to have two different documents...

MAGUIRE: So, that's a "no".

DEL VECCHIO: The answer is we would prefer not to do that. And if the DEP says we have to, we're going to do it. Our position is the DEP is the controlling body on the conservation easement and they are going to dictate the ultimate response and whatever it is, we as the applicant, are likely to have to deal with it because their decisions are rarely overturned.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

MAGUIRE: I'm sorry, so you think by filing the general permit the DEP is going to change that transition area in addition to making a decision on your isolated wetland?

DEL VECCHIO: We believe that the DEP will permit this area, in concert with the...

MAGUIRE: I'm sorry, you pointed to the isolated wetland area and ...

DEL VECCHIO: I'm going to do it with the pointer, so the microphone picks it up...we believe that the whole triangular piece from the edge of the driveway around the perimeter of the property that forms the triangle with the drainage easement...

MAGUIRE: Including the transition area...

DEL VECCHIO: Yes. We believe that the DEP will permit, with the issuance of the G.P. that area to be utilized. If we are wrong and the DEP requires more, we stand prepared to accept that and provide it within the Conservation Easement.

I really hate to say it but it is out of my hands and it is out of the board's hands, it's in the DEP's hands. Whatever it is, we are prepared to live with it.

MAGUIRE: So if the DEP comes back and says, "Ok, you can't fill that isolated wetland and that transition area has not changed", you would be willing to include that transition area in the Conservation Easement.

DEL VECCHIO: The blue area.

MAGUIRE: Right.

MANCUSO: If they don't fill the isolated wetlands, then we go to the orange area.

MAGUIRE: Then everything is included.

MANCUSO: No...there's a little piece approximately 50 x 70 feet.

EICHENLAUB: That's the wooded area.

MANCUSO: That's the wooded area...

EICHENLAUB: And we are looking to maintain that. We were taking trees down under the four-lot proposal, under this proposal we aren't looking to take any trees down in that area.

DEL VECCHIO: And I answered the blue area because that is the Conservation Easement. If the isolated wetland is not permitted to be filled in by permit, there would still, as your borough engineer points out, be a transition area associated with it that even without the Conservation Easement couldn't be touched. That's a regulatory requirement.

TEN HOEVE: That doesn't mean that the Board can't require a restrictive covenant in a deed that's co-extensive with that, while I think that maybe not under wetlands issues but I don't think the Board is precluded from adopting conservation easements for other reasons.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

DEL VECCHIO: Philosophically I may disagree with you because I am not sure the ordinance contains such authority and I don't believe there is a reasonable nexus to any of the particular variances that we have requested...

TEN HOEVE: And would have to be analyzed and considered, I understand that argument but what I am trying to say is that it appears, at least with the old plan, the DEP was going to require that transition areas be deed restricted. That's what it says in the letter and what I am probably going to suggest to the Board here, if you are going to get an answer within several weeks, all of this may be simply resolved with a final determination by the DEP. It might satisfy the board and it might be...

MAGUIRE: To that end we might have the resolution follow the DEP...

TEN HOEVE: If you are happy with the DEP result. Now, I know Mr. Del Vecchio's position with regard to that but it is connected with other issues here. It would leave only one issue open and that is this issue because the other two are apparently resolved.

What do you think of that, Ms. Mancuso?

MANCUSO: I think that the plan that was submitted to the DEP probably could have been clarified a bit, specifically that note regarding lawn area. It appears that it is saying it is now a lawn area not that it is a proposed lawn area. So if they were not to visit the site and I'm not sure even if they did at this point in time...a lot of their determination is based upon the previously disturbed areas that were made to lawn and that's how the regulations are written and this plan says *lawn area* in an area that is not a lawn area.

DEL VECCHIO: We have no objection if it helps the board to sending a letter to the DEP in supplement of what went in today clearly indicating that the area labeled as *lawn area* to the west of that easement is *proposed lawn area* so that it is absolutely clear. DEP has been out to the site repeatedly and they are very familiar with it but just as an added measure of comfort to all, we don't intend to mislead the DEP and we have no problem sending them a letter saying, we want to be clear, there was some concern or confusion when we talked about this with the Board and we want to make sure you are not similarly having questions...that lawn area is *proposed* it does not exist today.

We have no objection to sending that letter.

MAGUIRE: And just to clarify, what you submitted to the DEP included a play-set or a patio?

DEL VECCHIO: I think it was a play-set. And from their standpoint, a regulatory event, they don't care if it is a play-set, patio, sandbox, it is a disturbance and again, if the board's desire is for us to say the board has objections to the play-set but might be willing to consider a patio...

TEN HOEVE: Where is it located on that plan?

DEL VECCHIO: In the triangular, isolated wetland area. We have no objection to putting that in the letter as well. Just again, so everybody is on the same page.

TEN HOEVE: What yard is that considered under the Zoning Regulations. Is it a front yard or side yard?

EICHENLAUB: It's our side yard.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

MAGUIRE: Do you need a variance to put a play-set in the side yard? I guess you do.

TEN HOEVE: Front half of the side yard? Accessory structures can't be located in the front half of the side yard is what I believe the ordinance provides.

DEL VECCHIO: We are well behind the front yard setback.

TEN HOEVE: No, it is not the front yard setback; it is the front half of side yard...

DEL VECCHIO: Ms. Bogart is going to have to help us measure this.

TEN HOEVE: Isn't that what the ordinance provides?

BOGART: It has to be set behind the building.

DEL VECCHIO: I couldn't find it when I looked for it in the Code because that was the first thing I was concerned with, was whether or not it triggered a variance.

TEN HOEVE: It's 101:A-21...Accessory structures shall not be located in the required front yard or within the front half of the side yard and I think that is going to apply to a patio as well.

DEL VECCHIO: Patio is not a structure, historically here. A deck has been.

TEN HOEVE: We have a really broad structure definition.

BOGART: Section 101:21A – 1a, talks about patios as an accessory structure.

TEN HOEVE: I would not interpret this to mean you could put a patio in the front half of the side yard. (to the planner) Do you believe this section would permit a patio in the front half of a side yard?

BOGART: No.

TEN HOEVE: I don't think it changes it.

BOGART: No, not at all.

DEL VECCHIO: The question is, how do you measure that?

BOGART: The way you measure a side yard is actually the space from the front façade to the back façade on the side of the dwelling. So the front half of a dwelling take a line and split it down the middle and anything in front of that you would need a variance for.

TEN HOEVE: So, I don't think you can do it any way...

BOGART: Look at your definition of yard, front yard, side yard.

TEN HOEVE: And we've resolved the drainage easement issues. Doesn't it make more sense to just wait and see what the DEP does in the next two weeks?

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

DEL VECCHIO: The problem is we have a statute problem, which runs out the end of the week.

TEN HOEVE: When the hearing is reopened and you have an amended resolution, I would be willing to stipulate an interpretation that extended that.

DEL VECCHIO: If we can enter into an agreement that the statute isn't raised as a defense as a condition of awaiting the DEP's comments.

TEN HOEVE: I would recommend that to the Board for sure.

DEL VECCHIO: Then I'm not sure I would have any objections.

TEN HOEVE: to the board: Do you understand what I am saying, in terms of any limitation on the time of filing a prerogative rite complaint.
(board and professionals all agreed)

TEN HOEVE: And I would like that letter to go to the DEP to say...

DEL VECCHIO: We will be happy to submit it. We can copy you and the board on it. There is no problem at all about that.

The only area that I would have some trouble with and would want some additional time to take a look at, is the interpretation just given to us by the planner on the side yard definition because theoretically this house could be built at the front setback line which would change where the accessory structure could be built. I almost read that section to mean the required side yard setback and therefore you would have to draw that line somewhere down the middle of the building envelope as opposed to exactly where that structure exists but again I didn't take a look at it. I am just sharing with you what is going through my head. I don't want to leave here with passive acquisition that I agree with that interpretation.

She may turn out to be right but I just want to take a look at it.

TEN HOEVE: I can tell you it has never been interpreted as a building envelope.

BOGART: The section clearly says *it cannot be located in the required front yard or the front half of the side yard* not the required side yard. The reason the ordinance is written that way is it depends on where the structure is located.

DEL VECCHIO: But even if you were to draw that line in that manner, I would take the building envelope from here to here and that front line may end up being right here, which may allow us to shift that patio back a little bit. It still would be within a portion of the isolated wetlands but again I need to take a look at it.

TEN HOEVE: So you mean you may not build the house exactly as is shown on that plan and if it were altered it might be possible to do it in such a fashion...

DEL VECCHIO: That line, if you were to draw it, halfway between this edge and what you constitute a structure in your broadest definition, may change where that line is drawn. I need to have my engineer do that on paper and need to look at your ordinance just a little bit more carefully and it is not something we are going to resolve here tonight.

I don't propose to do that tonight. I'm just speaking out loud.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

MITAL: Anybody from the board have any more comments or questions? No? Anybody from the public have any comments or question
Diane Manzione, 81 Lillian Street came forward and was sworn.

MANZIONE: I just have a question. Back in April Mr. Albin testified about the restoration plan that was required by the DEP because of vegetation that had been removed from the property, does that restoration plan still need to take place with everything that has changed I am not sure where that stands.

EICHENLAUB: Yes, we are still required to do that restoration.

MANZIONE: Ok, and here's my concern. Since the property is for sale, that restoration plan, will that be handled by Mr. Prusha prior to the sale or are we waiting for a buyer to do it. My concern is if someone doesn't buy that property for two or three years, that restoration plan is not going to take place and whoever buys that property can come to you and say those plans have been there for five years, why is this now my problem?

DEL VECCHIO: The restoration plan will be a condition of the DEP permit and is not something this board can grant relief from nor would I would even venture to ask for that to occur.

TEN HOEVE: I think your question is the timing.

MANZIONE: Yes.

DEL VECCHIO: The timing is going to be within the life of the permit. DEP doesn't typically put a time limitation beyond that of the permit period. They may but...

TEN HOEVE: Are you saying it is not your client's intention to complete that prior to a sale?

DEL VECCHIO: The restoration? Probably not.

TEN HOEVE: And that it would be an obligation of the subsequent purchaser?

DEL VECCHIO: Yes, that permit is recorded in the chain of title as you are aware, Mr. Ten Hoeve, and that will put the subsequent owner clearly on notice as will the building department as a condition of the issuance of the building permit to make them aware of the need for it to take place in conjunction with the ultimate issue of the C.O. of the house.

TEN HOEVE: It will be a condition of the Developer's Agreement.

MANCUSO: Right and we will have the money in the Performance Bond to guarantee that.

MANZIONE: It wasn't money I was concerned with as much as the work actually being done.

TEN HOEVE: What she means is, that a Performance Bond would be posted to guarantee that the work would get done and if it didn't get done, the municipality could arrange to have it done and paid for by the bond that was posted.

MANZIONE: Again, it is the timing.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

TEN HOEVE: This process is done with regard to any type of improvement. If it is putting in a curb, if it is putting in a sidewalk, a street, where a bond is posted and if the applicant doesn't do it, goes bankrupt, stops, does something the bond covers that so the municipality can arrange to have the work done anyway. It is not anticipated that is going to happen here but it is a guarantee that the work gets done.

MANZIONE: Again, my concern is since there are properties surrounding the property in question that have experienced flooding, which may have been exacerbated by the vegetation being removed, the longer that doesn't get placed the more those people will suffer with flooding. That's my concern. I just needed to voice that because it isn't spelled out anywhere in the resolution. I figured since it was reopened I would bring it to your attention.

MITAL: Thank you.

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

SANTORO: Two things really. Basically you are saying a Performance Bond for the planting of the vegetation, who is responsible, who pays for that?

TEN HOEVE: The applicant.

SANTORO: The applicant pays for it not the tax payers.

TEN HOEVE: No, no.

SANTORO: And the other thing...basically what I'm hearing here as far as the development of the land is that they basically want to develop the fourth lot without putting a house there. That's basically what I'm getting. They want to develop it but just not put a house there. And to continue on that, my concern would be you develop a piece of property and somebody buys that property and eventually five or six years from now they come back and say they want to put another house there.

TEN HOEVE: It can't be done. Anyone can make an application to do anything at any time but this board can't prevent someone from making a future application at any time. There's nothing we can do to stop that from happening.

DEL VECCHIO: In terms of developing or using this area to the west, the intent is to use it because the owner of the proposed home almost can't walk out the back deck without stepping into a regulated transition area. That area can't be used for any meaningful outdoor use. The only place outdoor recreation can take place on this lot is in that quadrant. That really is the reason we try to maintain some usability, some functionality of that front area.

If we are going to end up with a subdivision of three lots, where the third lot is extraordinarily large from what is required in the zone but still can't be used for anything except looking at it from your deck, the lot really is not a very good lot. And for those of us who have "rug rats" running around, you know the best place to put them is outside and having some place to do that on this lot is an important feature.

SANTORO: On that end of it, my concern would be that excessive dirt fill being brought in, there has already been fill brought in that wasn't supposed to be brought in, so I'm concerned that the level of the ground will be greater and back of the water.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

TEN HOEVE: Again, I am sure Mr. Eichenlaub can address that.

EICHENLAUB: This low area right in here has no impact whatsoever on the water coming in off Local Street. What we are looking to do, is not change the grades in this area except for filling this low area here, which is now an isolated wetlands and all we are looking to do is bring that up to grade on either side.

We are not looking to change the grade outside that, we are simply looking to bring that up, level that out so it doesn't fill up with water anymore.

SANTORO: And where is the water going to go?

EICHENLAUB: It will drain into the ground.

SANTORO: My concern is that it is going to drain back up into the properties.

EICHENLAUB: No, we are not changing the flow of water on this property in that area.

MITAL: Anyone else from the public?

TEN HOEVE: Today is the 9th, the next meeting is the 23rd and do you anticipate that you will have something back that fast? I'm just suggesting that it might make more sense to push it off to the first March meeting? That date is March 9th. And I was just told that our Borough Engineer will not be available on the 23rd either.

DEL VECCHIO: Neither will I. I already have three hearings that night.

TEN HOEVE: So the 9th of March would be better as well?

DEL VECCHIO: It would have to be although it is not exactly what my client would like.

TEN HOEVE: Safer for the time frame for the DEP.

So for anyone from the public who is here, there won't be another Notice, it will be heard on March 9th.

DEL VECCHIO: I just want it on the record that we are going to agree on the statute issue so that I do not have to worry about filing on Friday.

TEN HOEVE: That's acceptable to the board?

(Board – absolutely)

We so agree and I so agree. You can prepare it and send it to me.

DEL VECCHIO: I will send you a boiler plate and if it is acceptable...

TEN HOEVE: No problem.

DEL VECCHIO: Thank you so much for your consideration. I know it has been an arduous application. I apologize but I do want to get it right.

TIMOTHY & DENISE BRODERICK/SAVERIO GAGLIOTI

79 Spring Valley Rd
Lot: 6 Block: 503

87 Spring Valley Rd.
Lot: 5 Block: 503

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

Nancy Saccente, Esq., Hillsdale, NJ representing the applicants, Timothy Broderick came forward.

SACCENTE: It is a very simple Minor Subdivision application where we are moving a lot line to straighten out a lot line to give the Brodericks a little more rear yard space and just reducing the neighbor's rear yard slightly and they are the contract purchasers of that triangular piece on the left on the plan.

We did receive both Ms. Bogart's and Ms. Mancuso's reports regarding the application and we are prepared to address any of those concerns raised in the reports.

Denise Broderick, 79 Spring Valley Road was sworn in.

SACCENTE: Ms. Broderick, you are the owner of 79 Spring Valley Road, is that correct?

BRODERICK: Yes.

SACCENTE: And you are the contract purchasers of a sliver piece of property assuming the Board grants the subdivision from your neighbor, Mr. Gaglioti. Is that correct?

BRODERICK: Yes.

SACCENTE: And he consented to the application, is that correct?

BRODERICK: Yes.

SACCENTE: And he indicated that you could testify regarding this application without his being present, is that correct?

BRODERICK: Yes.

SACCENTE: And you and your family currently live at 79 Spring Valley Road, is that correct?

BRODERICK: Yes.

SACCENTE: And there is a wire fence that currently exists along the rear lot line of your property, is that correct?

BRODERICK: Yes.

SACCENTE: And are you proposing to remove that and if this Board approves the Minor Subdivision that we are proposing to move the lot line, do you proposed to put a new fence in that area?

BRODERICK: Yes, eventually.

SACCENTE: And would that fence comply with all town requirements with regard to height, type and location?

BRODERICK: Yes.

SACCENTE: Are there any structures currently either on your property or Mr. Gaglioti's property, accessory structures, be impacted at all by the movement of the lot line? Any sheds or other accessory structures anywhere near that area?

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

BRODERICK: No.

SACCENTE: One of the comments in Ms. Bogart's report asked for Floor Area Ratio and I believe, Ms. Bogart, I had faxed to you Mr. Eichenlaub's calculations but not to the board.

TEN HOEVE: (to the planner) Are they all within the requirements of the Zoning Ordinance?

BOGART: Yes.

SACCENTE: If the Board were to grant this application, do you feel this is a more uniform shape and a better configuration of your property, is that correct?

BRODERICK: In our opinion, it is.

SACCENTE: And it gives you more usable space in your rear yard, is that correct?

BRODERICK: Absolutely.

SACCENTE: And the variance that is being requested is actually a lessening of the existing condition, is that correct because the lot line is currently only 9.7' from your rear deck and with the movement of the lot line, it would be moved to 25.1, is that correct?

BRODERICK: Yes.

SACCENTE: Which is still less than the 50' required, correct?

BRODERICK: Yes, but it's a lot better than what it is now.

SACCENTE: So you feel that the movement of the lot line and the creation of a more usable rear yard for your lot and the changing of the lot line of the neighbors' lot is the main reason for the application, to give you more usable space, right?

BRODERICK: Yes, it will look nice.

SACCENTE: I have no more questions. I believe it is a very straight forward application and I believe we have addressed the concerns in the report with regard to the fencing and Floor Area Ratio and the other questions that were raised by your professionals and we ask that the Board grant the application as presented and we would be glad to submit to the engineer and attorney the proposed subdivision deeds for approval in order to effectuate the application.

OPPELT: Do you have any plans to do anything with that property in the rear as far as developing it in any way?

BRODERICK: There are some tree stumps in the area now that we are just going to grind up and just put grass there to have a little bit more of a back yard.

OPPELT: No deck extension?

BRODERICK: No, we just put new wood down on the deck.

MAGUIRE: It makes it a lot more conforming, I have no questions.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

TEN HOEVE: What this board usually does is have me prepare a resolution before they actually act on it so it will be on the meeting of the 23rd, if I actually get it done, that the Board would adopt that resolution. I'm sure you could tell that it is not anything that anyone had a problem with.

SACCENTE: If you do have it ready for the next meeting, may I take a look at it...

TEN HOEVE: No, we don't do that.

SACCENTE: You don't give it out ahead of time?

TEN HOEVE: No, we never do that.

SACCENTE: Ok, some boards do and some boards do not. Thank you very much for your time.

APPROVAL OF MINUTES:

Motion made by Mr. Oppelt to approve the minutes of December 15, 2010 as written.

Seconded by Ms. Eisen

AYES: Messrs. Schwamb, Von Bradsky, Oppelt, Browne, Mital, Ms. Eisen, Councilman Maguire.

ABSTAIN: Mr. Ludwig

BUSINESS & CONDITIONAL USES:

70-72 PARK AVENUE, LLC – 70-72 Park Avenue
Modification of Resolution of Approval and Developer's Agreement

TEN HOEVE: This is simply to permit the construction to proceed prior to the closing on the municipal property that is expected to happen.

BOGART: The issue pertains to Green Acres and the DEP disposal of land in order to get the land subdivided and purchased by the applicant. You have to go through this process and the applicant's attorney has provided us with 95% of the information. However, there is some mapping work that needs to be done and I had brought this to the attention of the Open Space Committee at the last meeting last month and the recommendation was to discuss this with the Board, estimate how much time it would take and make sure there were escrows in order to do this work.

TEN HOEVE: What's the answer to that last question? Do you know?

BOGART: Do I know the answer, no.

TEN HOEVE: Who would know if we have the escrows to cover that?

BOGART: I hope Mrs. Beer.

TEN HOEVE: She may not know that right now. (to Mrs. Beer) There is additional work that Ms. Bogart has to do in connection with this disposal.

BOGART: There are seven maps that need to be prepared and some additional items that need to be modified. I think in the end I am going to

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

end up doing all the maps, which won't take that much time, however, it is going to require a meeting with the DEP, an application meeting and probably a subsequent meeting.

BEER: We might have to take that out of Open Space .

MAGUIRE: This is to update the ROSI, right.?

BOGART: Yes. There is one step prior to updating the ROSI and it is this diversion process, the application process. Greg Meese has provide me with 95% of the information but obviously mapping needs to be done and it would make more sense for us to do it because we have all the base maps.

BEER: I have a couple of hundred dollars left in the applicant's escrow.

BOGART: The Borough is going to have to go to the DEP for the pre-application meeting and subsequent meetings.

WHEREAS, 70-72 PARK AVENUE, LLC, a Limited Liability Company of the State of New Jersey (hereinafter referred to as "Applicant"), being the owner of premises known as 70-72 Park Avenue in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also being known as Lot 1 of Block 1604 on the Tax Assessment Map for the borough of Park ridge, together with the Borough of Park Ridge (hereinafter referred to as the "Board"), seeking Minor Subdivision/Redivision of the aforementioned parcels together with Preliminary Site Plan Approval in order to permit the demolition of the structure currently located on the site and the construction of a new, commercial building on the site; and

WHEREAS, the Applicant received Minor Subdivision/Redivision approval and Preliminary Site Plan Approval by way of a Resolution of the BOARD dated November 3, 2010; and

WHEREAS, said Resolution included a provision conditioning the approvals on the conveyance of the Borough owned property adjacent to the site to the Applicant and the creation of a conservation easement on said Borough owned property; and

WHEREAS, the BOARD wishes to amend said Resolution to provide that the Applicant may commence demolition and construction on the site with the understanding that the Applicant would have to return to the BOARD if it is unable to secure the conveyance of said Borough owned property.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE BOROUGH OF PARK RIDGE that the BOARD hereby amends its Resolution of Approval dated November 3, 2010 to provide that the Applicant may commence demolition and construction on the site prior to securing a Deed conveying the adjacent Borough owned property subject to the condition that the Applicant return to the BOARD in the event it is unable to secure the conveyance of said property from the Borough.

Offered by: Councilman Maguire
Seconded by: Mr. Oppelt

AYES: Messrs. Schwamb, Von Bradsky, Ludwig, Mital, Councilman Maguire, Mr. Browne, Ms. Eisen.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

NEW BUSINESS:

Chairman stated the Board had a request from an applicant to release their escrow funds dating back to a soil moving application of several years ago.

M. MONTALBANO – 80 Kinderkamack Road
Lot: 3 Block: 1905

WHEREAS, MICHAEL MONTALBANO, 80 Kinderkamack Road, Park Ridge, New Jersey, known as Lot 3 in Block 1905, on the Tax Map of the Borough of Park Ridge, had posted an escrow in the amount of \$1,165.00 in support of his Soil Moving application; and

WHEREAS, the Soil Moving application was approved on August 27, 2008; and

WHEREAS, applicant, Michael Montalbano, has requested a refund of any unexpended escrow; and

WHEREAS, there remains \$97.31 in the aforementioned escrow account and since the application has been approved, no further action is required.

NOW, THEREFORE, BE IT RESOLVED by the PLANNING BOARD OF THE BOROUGH OF PARK RIDGE that the remaining escrow of \$97.31 and any accrued interest be refunded to the applicant.

Offered by Councilman Maguire.
Seconded by Mr. Schwamb

AYES: Messrs. Browne, Ludwig, Mital, Oppelt, Schwamb, Von Bradsky, Ms. Eisen, Councilman Maguire

JAMM REALTY – Park Avenue & Broadway
Lots: 1,3,4 Block: 1901

Board Secretary advised that applicant for the units built on Park Avenue and Broadway had contacted her requesting their Performance Bond release. This is long beyond needing Maintenance as it was done over five years ago. Notified by the bank there were funds and has requested release of them.

WHEREAS, JAMM REALTY CORP, Broadway and Park Avenue, officially known as Lots 1,3,4 in Block 1901 on the Tax Map of the Borough of Park Ridge, had posted a Performance Bond in the amount of \$409,200.00 and a cash Bond in the amount of \$40,920.00 in 2005; and

WHEREAS, applicant has also posted a Maintenance Bond in the amount of \$51,150.00; and

WHEREAS, all previously submitted bonds have been released; and

WHEREAS, there remains cash and escrow balances in the amounts of \$49,573.77 and \$13,887.97; and

WHEREAS, the applicant has requested the outstanding funds be released.

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

NOW, THEREFORE, BE IT RESOLVED by the PLANNING BOARD OF THE BOROUGH OF PARK RIDGE that the cash and escrow balances of \$49,573.77 and \$13,887.07 be released plus any accrued interest.

Offered by Councilman Maguire
Seconded by: Mr. Oppelt

AYES: Messrs. Browne, Ludwig, Mital, Oppelt, Schwamb, Von Bradsky, Ms. Eisen, Councilman Maguire.

70-72 PARK AVENUE, LLC - 70-72 Park Avenue
Authorization to sign Developer's Agreement

Motion made by Councilman Maguire to authorize the appropriate officers to sign the Developer's Agreement.

Motion seconded by Mr. Oppelt.

Carried unanimously.

NEW BUSINESS:

Email request received from attorney representing PRAH, 38 Park Avenue for a second conceptual meeting. Attorney was advised that since one conceptual meeting has already been held, it is policy for applicant to then apply.

Board discussed whether or not it was a new plan and if so, would consider the request...if it was the same plan and still without authorization and agreement from the Temple, they would not meet again.

Board secretary told to have applicant's attorney call the Board Attorney.

APPROVAL OF VOUCHERS:

Burgis Assoc., PP	
70-72 Park Avenue, LLC	\$ 543.75
Ridgemont Shopping Ctr.	1,885.00
Broderick/Gaglioti	187.50
Ridgemont Shopping Ctr.	1,468.25
Brooker Eng. PE	
70-72 Park Avenue	320.00
Ridgemont Shopping Ctr.	1,680.00
Ridgemont Shopping Ctr.	160.00
Montalbano Soil	165.00
John E. Ten Hoeve, Jr., Esq.	
70-72 Park Avenue, LLC	149.00
Ridgemont Shopping Ctr.	805.00

Motion made by Councilman Maguire to approve the vouchers as presented.

Seconded by Mr. Browne

AYES: Messrs. Browne, Ludwig, Mital, Oppelt, Schwamb, Von Bradsky, Ms. Eisen, Councilman Maguire

ADJOURN:

Minutes of the Park Ridge Planning Board
Meeting of February 9, 2011 – 8:00pm

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

Respectfully Submitted,



Helyn N. Beer
Secretary

(9:45pm)