

**MINUTES**

**PLANNING BOARD**

**OCTOBER 25, 2011**

**LONG HILL TOWNSHIP**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Chairman, Mr. Connor, called the meeting to order at 8:00 P.M. He then read the following statement:  
Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in January, 2011.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

On a call of the roll, the following were present:

Christopher Connor, Chairman  
Mayor Nanette Harrington, Mayor  
E. Thomas Behr, Member  
Donald Butterworth, Member  
Kevin Dempsey, Member (arrived @ 8:04 PM)  
Guy Piserchia, Member (arrived @ 8:15 PM)  
Brendan Rae, Member  
Michael Smargiassi, Member

X X X X X X X X X X X

**Excused:**

Mead Briggs, Vice Chairman  
Dawn Wolfe, Planning & Zoning Administrator

**EXECUTIVE SESSION** - It was determined that there was no need to hold an executive session.

**APPROVAL OF MINUTES**

The minutes of September 13, 2011 were approved as written on motion by Mr. Butterworth and seconded by Mr. Smargiassi. Dr. Rae abstained as he was not present at that meeting.

**PUBLIC QUESTION OR COMMENT PERIOD**

The meeting was opened to the public for questions or comments.

Mr. Dennis Sandow, Millington, said that he looked at the statewide equalized assessment reports which were published in July which contained numbers for the previous 36 calendar months. In the 2011 report, he said that the Long Hill Township assessment went up 1/100<sup>th</sup> of a percent. The 9 year growth for all towns in the State was up for 6 of the 9 last years. We are now in a situation where the 2011 number shows 3 bad years in a row. Long Hill Township ranked 533 out of 566 (the lowest 5<sup>th</sup> percentile) of true equalized evaluation growth in the State. We had, for the first 6 years, the run up in property values, then the run down in property values, but what we were missing was the component based of equalized assessment which is new growth. We came out at 39% (the statewide average was over 50%) and now we are in the lowest fifth percentile of equalized assessment growth in the State over the decade. He said that the Planning Board should probably in its Master Plan decide if we want to stay there or move up.

There being no further questions or comments, the meeting was closed to the public.

**DISCUSSION – SIGN ORDINANCE AMENDMENTS**

Mr. O'Brien said that during the Twenty-Twenty Conference of 2007, many business folks decried the fact that no off site signage was permitted in the Ordinance. Mr. Connor, over the years, has urged the Board to consider it on the main thoroughfares. The Board has discussed off street signage erected by the Township under some authority, whether it be in conjunction with the Promotions/Enhancement Committee, the Chamber of Commerce, or other groups and discussed whether it should be in the R.O.W. It was also discussed as to whether such signage, if allowed, would be specific to a particular business, or generic, and no final decision was made and no action was taken by the Township Committee.

Mr. Dempsey's recollection was that the Planning Board has been pushing this off and promising our businessmen for 5-8 years now. He said that we can't take that long to reach a conclusion and he felt that it needs to become a priority. It needs words on paper to discuss and move this topic forward.

Mr. Connor said that a proposal was written on paper from the Chamber of Commerce with specific recommendations which should be used as a starting point. There are a number of issues such as who is to pay for them and who would maintain them.

Mr. O'Brien believed that one of the Chamber of Commerce's comments was that the merchant himself would pay for the sign and the Township itself would erect the post. That way control would be kept over where things are. He said that the signs could be purchased by the merchant for a certain amount of time, such as the "Welcome to Long Hill Township" signs which are sponsored for a 3 year period and the sponsor gets their name at the bottom.

Mr. Connor asked who would get listed – everyone, or only those who pay? Also, how many could be listed, since the sign could get relatively long. Would they be generated for any sort of business (i.e. light industrial), or just for retail organizations?

Mr. O'Brien replied that the Chamber of Commerce's proposal specifically exempts any business that is on a major thoroughfare such as Valley Rd., Main Ave., or Central Ave. So if you were on Main Ave., you would not get a sign on Valley Rd., but if you were off of Main Ave., you would get a sign on Main Ave. If you were off of Valley Rd., you would get a sign on Valley Rd. The other piece of the proposal by the Chamber of Commerce does discuss retail and service establishments rather than manufacturers or warehouses.

Mr. Piserchia asked if there are any restrictions on a County road.

Mr. O'Brien replied, "Yes", although he did not think the County is going to rip out our signs, however legally they have the right and we should confer with them.

Mr. Piserchia felt that you do not notice such signage if done properly in terms of being aesthetically pleasing. He asked Mr. O'Brien if he had any idea in other towns who pays for them. He felt that there must be some consistency.

Mr. O'Brien replied that other towns do it consistently, however there are different ways in which to do it. Most install them in the R.O.W. so that they are within their control. Most erect the post and then it is either a Township responsibility or a delegated responsibility as to who puts the signs up. It can be done either way. The same is true concerning the manufacturing of the signs, laying out the rules as to who gets a sign, where they are placed, and what the sign says – they are all a part of the guidelines that you use. In this area, you see multiple signs for the City of Newark and Jersey City, but what they do is that they are municipally sponsored, owned, established signs that point to neighborhoods or areas or public places such as the N.J. Performing Arts Center, the Riverfront Stadium, or the universities, rather than an individual store. For instance, in New Brunswick, Lawrenceville, Manville, and So. Bound Brook, they all have signs in the R.O.W., put up by the municipality, that point out particular merchants from the main roadway and there are different places and different combinations, and the township puts it up and the Chamber of Commerce has a committee of who decides who goes on them. In other places, the Township does it themselves. The cost is borne by the merchants.

Mr. Piserchia said that it would then not be atypical of us to have the Chamber of Commerce work it out and organize it, including the cost.

Mr. Connor said that it might be appropriate for the Chamber of Commerce or other organizations in the Township to work with an established body such as the Promotions Committee or a separately designated Sign Committee.

Mr. Piserchia added that this Board would dictate the aesthetics and color.

Mr. O'Brien added that the Township Committee would because that would be an ordinance.

Mr. Piserchia felt that the Township Committee would lean on the expertise of the Planning Board to suggest something.

Mr. O'Brien said that, no doubt, the Township Committee will ask this body to present them with a draft.

Mr. Piserchia added that there are certain municipal items that we might want to look at, such as the Police Dept. this way....

Mr. O'Brien agreed about public places.

The meeting was opened to the public for comments.

Mr. Sandow said that just about everything discussed is covered in one way or another in the paper he had sent to the Board on 9/29/10 and re-sent 2 weeks ago. With regard to the cost issues, he felt it is very clear that the individual merchant will pay for the sign and there is language in the proposal that says from a manufacturer acceptable to the Superintendent of Public Works which means they will get the signs from the same place he gets his signs from. With regard to additional committees, he felt that is unnecessary and probably cumbersome because if you try to get one representative from each of 4 committees together at one time, it would take 3 months to schedule the meeting. The authority for the sign installation is a site plan review issue and can be handled by the Site Plan Review Committee assuming that everything is in order. He proposed in the draft ordinance that certain site plan review requirements be waived for off premise signs – specifically things like a survey, engineering report, architectural, etc. which he felt are unnecessary and horribly expensive for a small sign. He believed that the actual mechanism would be that the business owner would present an application for a sign on a form that the Township would devise and, as long as it conforms to the Ordinance, and as long as his intention is to buy a sign which is acceptable to the Superintendent of Public Works and meets the graphic standard that's been set down, it would be rubber stamped and he would not go before a Board and he would not be at liberty to propose any other design or any other scheme of location without coming before a Board for a full waiver or hearing and that would be a variance issue. He felt that it is fairly straight forward that this could be handled administratively. With regard to the volume, he did not think anyone could name more than 10 businesses in the whole town that require this. These are retail, storefront service businesses which are located off of the 6 main streets that we have defined. There are 4 on Poplar Dr. (but 1 is not retail); the new gym on Stonehouse Rd. that might want a sign on Division Ave.; Copper Springs that might want a sign at the circle; and Dr. Garafolo on Warren Ave. He said that we have included Mountain Ave. so, therefore, the fringe shops on Mountain Ave. and Plainfield Rd. would not get signage on Valley Rd. He said that Lombardo Farms is covered separately under the farmstand sign ordinance which was introduced and enacted 9-10

years ago for the predecessor business at that location. He felt this would pretty much turn out to be a one shot deal until the ball starts going on redeveloping the business district and additional businesses come in on the Poplar Dr. area and perhaps on Warren Ave. Otherwise, he felt it would be a one shot operation until businesses change hands. With regard to the County R.O.W. issue, he did not see that as a problem. Long Hill Rd. is a County R.O.W. and if you go to the corner of Long Hill Rd. and Pleasant Plains Rd., you will find that the First Presbyterian Church in Stirling has a sign at that intersection which he doubted was ever approved by the Township or the County. It is one of about four signs on the NW corner. The Police Dept. has a small sign at the corner of Main Ave. & Mercer St. The American Legion has a sign at the corner of Union Ave. & Main Ave. The Shrine has a sign at the corner of Valley Rd. and Mountain Ave, which is 1 ¾ miles away. He did not exhaustively check every intersection to see if there are more. It seemed like the non-businesses sneak in there with signs, but the businesses seem to have no recourse to do something similar, and they are the taxpayers. There had been proposals to allow signs to go on private property. For example, Murphy's Garden Center could install one on the front lawn of the Elks Club and the notion was rejected for several reasons. First, it involves two property owners in a variance action and there is the question of which property owner has the authority to apply for the variance since it affects a lot which is not the lot of the business owner. Which lot does it run with, and what standards would be applied? He recalled the Montebello case where they wanted to preserve an oversized sign and the argument was that it was back off the road and since vehicles travel at 35 m.p.h., it has to be a big sign. He said that the intention here is to get it up close to the road in the R.O.W. and keep it a small sign and you could not do that if it were back off the road on private property. There's also a question of signage standards. If the property owner has his own signage standards, what standard would you apply to the business sign? It would be a very complicated issue if it was on private property and not the applicant's and it would be much easier if confined to the public R.O.W. with a request to the County. He could not see that this is a problem, noting that they never tore down the Presbyterian Church sign yet. He was sure we never got permission to put the Library or Riverside Park signs up in front of this building. He noted that there are 4 signs in front of this building and we are trying to reduce the visual clutter by mounting multiple signs on the same post and that is why the work has to be done the D.P.W. If the D.P.W. provides the post or selects an existing post, and if the sign itself is provided at the expense of the applicant, the only question left is who pays for the labor of actually attaching the sign to a post. He was sure that the Township Committee will decide which kind of a fee will be appropriate. He said that he had estimates of up to an hour's labor to set a post in the ground, probably a lot less if it only involves bolting a sign to an existing post. He felt it is a minor point and the Township Committee can just slip that into the annual Fee Ordinance. He said that, if they forget to do that, then the DPW can just do it on their rounds.

Mr. Smargiassi asked if we will consolidate all of the other signs. So, the Shrine sign would be taken down and given to the Shrine if they want it. His concern was that, if we do this, we end up with these signs *and* all the signs that currently exist. He said that he would want to see a consolidation and move to one standard and a process where the DPW would go through and, as we get the new signage, it would replace what currently exists.

Mr. Sandow said that the answer is that the current Sign Ordinance is very specific and community signage can only be on the premises of the applicant and so, therefore, all of the other signs are in violation of the Ordinance and that is strictly an enforcement issue that can be enforced at any time the township Committee nudges the Zoning Enforcement Officer to go do that.

Mr. O'Brien said that, not only that, they are in the R.O.W. which belongs to the Township and so they can be removed by the Township.

Mr. Smargiassi said that he would like to see some type of limit of the number of signs per post set even if we may never reach it. He preferred that the businesses be able to brand themselves with their specific name versus generic signage. He also wanted the Township to know that they are committed to spend a little money on the Township's side to put all of the applicable public spaces on those signs, as well. So if we're going to have one on Poplar Dr., it should include the Township Little League or ball fields. He said that he would want a buy in from the Township Committee that they are committed as well.

Mr. Sandow said that there are very few Township facilities that are off the beaten path anymore, but he agreed about the Little League field and added the Meyersville ball field. He noted that the Community Center already has it's own "monster sign" out on the road, so he did not feel we need to add one for them.

Mr. Smargiassi asked what was meant by the "sign on each side of the main road".

Mr. Sandow replied, "Coming and going".

Mr. Smargiassi asked for clarification that for Poplar Dr., all of the businesses would be on a sign at the Exxon Station and there would also be one on the other side at the Elks.

Mr. Sandow replied, "Yes" – assuming that that is what the business owner applied for. He said that they may choose not to apply for both but he would have the right and wherewithal to apply for both. He could not think of a situation where he wouldn't, although he was not exactly sure how you would put signage up at the Meyersville Circle, but all the rest of it is pretty clear cut.

Mr. Smargiassi replied that he was not sure if he was crazy about that.

Mr. Sandow asked Mr. Smargiassi what he wanted. He asked if he wanted people looking across the street when they should be paying attention to the traffic light.

Mr. Smargiassi replied that he was not sure he was crazy about looking at “x, y, z” sign on the left side by the Exxon Station and the same exact signage also right in front of the Elks.

Mr. Sandow said that, if you consider the number of signs that are already in the R.O.W. at those points, which are redundant to each other, everything from “no standing” to “no left turn” – what is the good of not incenting half of the traffic to find your business?

Mr. Dempsey said that it depends on how the sign looks. If there is nothing more than a metal sign below a street sign on a metal pole, he felt that is relatively ugly for what we are looking at. He said that if he is seeing more decorative sign posts that are going to direct him rather than “no u-turn”, he could see it on both sides of the street because when you are going down the street it is on two sides and it is more pleasing to the eye as you are walking or driving through. But if it is nothing more than the businesses to go on a metal sign strapped to it, he did not think that is signage. It is something else and he did not know what you would call it. When he thought of it, he thought of something more along the lines of some of the examples that were provided where it is more of a decorative post with names on it.

Mr. Sandow said that, obviously, if the merchant is going to pay for it, he is going to want his own name on it.

Mr. Dempsey agreed, but wanted Mr. Sandow to say it.

Mr. Sandow noted that Copper Springs is actually operating 3 different businesses on the property. He asked how you would generally describe those 3 businesses on a single sign?

Mr. Piserchia agreed with most of what Mr. Dempsey and Mr. Smargiassi said. He felt that the name of the business is going to be the draw ultimately.

Mr. Sandow said that next to Tony’s Barber Shop there is a medical apparatus supply house which is a retail establishment but he was not sure how to generically categorize it so that somebody would know that orthopedic supplies really means that it is the place you are looking for if you want to buy a walker. It has a name and his advertising carries his trade name and that is what we are looking to do. He asked Mr. O’Brien if he had pictures of the So. Bound Brook “mess”? He said he sent a bunch of pictures of So. Bound Brook, which he felt is the wrong way to do it. He said they literally had signs on every lamp post and they have a very side by side by side street level downtown because it is a very old village. On every lamp post there are 5 or 6 signs that talk about the 5 or 6 little bitty storefronts within sight of that lamp post. It is terribly redundant and impossible to read as you are driving through the town. He said that is not the intention here because of the fact that we are spread out and we have side yard setbacks and parking and the like. We are not talking about putting additional signage in the R.O.W. for businesses that front on the street.

Dr. Rae said that we started off tonight being business friendly, which he felt is a good idea, and that we should have signage for businesses otherwise people might not know what is around. He asked if we are now talking of tearing down the existing signs and having common types of aesthetically pleasing signs throughout the whole Township? It starts off being a good thing which is business friendly and it mushrooms into this project which he felt will take another 5 years until we actually get around to doing it. He said that his sense of “aesthetic” may be different from everybody else’s. He said he has lived in the Township for 16-17 years and it never occurred to him that there is a broad mismatch of signs as he has been driving through. He suggested that if we do want to be business friendly in a relatively short time frame, we perhaps look at the various signs that we have because we are only talking about 10 businesses at the moment and we broadly make them uniform. Whenever the situation changes, if it ever does, in the business district on Valley Rd. and we get this great influx of businesses, then we can revisit it and perhaps impose these standards of the aesthetics.

Mr. Sandow said that there is only one church in town that is not on one of the main thoroughfares, and that is the Gillette Chapel. All of the others, including the Shrine, are on one of the named streets.

Mr. Dempsey said that, technically, St. Vincent’s is not on a main street.

Mr. Sandow said that St. Vincent’s has its signs fronting on Central Ave. All of the other churches have their property on the named streets. Why the Stirling Presbyterian Church has an additional sign at Long Hill Rd., he did not know, and why the Shrine has a sign on Valley Rd., he did not know. He said that he has not counted to see if there are any others at the principal intersections, but he suspected that there are very few, if any. However, he said that it is an enforcement issue because we have existing standards for signage and it is not anything he cared to advocate for or against.

Mr. Smargiassi felt that anyplace where we are going to have a sign, if there is currently existing signage someplace where a new sign is not being put up, he was not saying that we should say to take those down just for the sake of taking them down. He was saying, if we are going to put this (new) sign up, everything else at the intersection should go on the sign and be cleaned up. He said that the whole town won’t be done at once, it will be a couple of intersections based on whatever businesses want to do. He said that that will be our standard and what we’ll move to.

Mr. Piserchia agreed with Mr. Smargiassi and said that odds are that someone who has a random sign someplace almost certainly will prefer being party of this new standard, as opposed to a sign that blends into the treescape and isn't really visible. He felt that even the ones that have those types of signs would prefer a new one.

Mr. Sandow said that you could make a case that the American Legion might not want to pay to have its sign upgraded but then at that intersection there may never be any additional signs and so we just leave well enough alone. He said that, perhaps the Stirling Fire House would like a sign, but perhaps they wouldn't – they are not a business. He supposed they could make application for a sign if they wanted it – it would be granted and they would still have to pay for it. He was hard pressed to come up with many others, however, the businesses on the west side of Main Ave. are all not store front retail – quite a number of businesses on Essex St. & Morris St. (in fact its an industrial zone) don't have retail and he doubted they'd be interested in the signs. He felt it is a one shot project that will last a few months and then go dormant.

Mr. Dempsey felt that if it is done right and quickly, as other businesses start to develop along those lines, we will have standards and a vision of what you want it to look like when driving down the road.

Mr. Sandow noted that Mr. O'Brien had made an analogy in his discussion that this would be like the "Welcome to Long Hill Township" signs which are on a 3 year subscription basis sponsored by the businesses. The applicant for these signs makes an application on a simplified basis, buys the sign, it gets installed, and its there for life. He does not have to renew the franchise periodically. This is unlike the "Welcome to Long Hill Township" signs which are, in fact, a form of advertising and so the sponsorship has additional value. In pointing out that we do have a Burger King in town, and so he could see how those have to be renewed every 3 years to keep the sponsorship alive, but these are purely direction, they are not advertising or sponsorships.

Mr. O'Brien said that these signs will wear out at some point and have to be redone, which is why you would put them on some sort of 5 or 10 year plan.

Mr. Sandow replied that we've got ordinances which talk to you about if the sign is decrepit, the Enforcement Officer will tell you to replace it and for 20 years the "Welcome to Long Hill" signs disintegrated into dust and we never did anything about them. He said that he would be glad to show his picture gallery of our own welcome signs which were in absolutely horrid shape before we finally got around to replacing them. He said that there are probably some signs in town that could probably use a little "spiffing up" but they are your basic wood signs or wood-like Coke bottle plastic signs. These are metal signs manufactured like stop signs and are much less likely to wear out than the ordinary signage – but we have an enforcement process in place. We don't have to charge people just in case the sign has to be replaced at some future date and they don't want to replace it. If the Enforcement Officers say it must be taken down because it looks "ratty" and they don't want to replace it, it is their loss. It is nothing the Township wants to get involved in. He said that that smacks of the same discussion we went through when we said that septic tank owners should pay an annual fee so that at the end of 5 years, we can give them the money back so they can clean out their septic tank. This is an unnecessary infringement and these sorts of things can go away. It's a one shot deal.

Referring to Mr. Sandow's photos, Mr. Connor said that most of the signs that look out of place are not commercial signs but are our own signs. He noted a N.J. Transit sign and asked if they have the right to keep that sign up or do we have control over it?

Mr. Sandow replied that it is a State agency. He said that those signs serve a very useful purpose when the trains stop running. They tell the emergency bus drivers where the train stations are and, if you plot where the signs are in the Township, you'd see that they form the route to connect. He said that you will not regulate what State agencies do, nor can you regulate what the Feds do, speaking of which, the Meyersville Hamlet is the gateway to the Great Swamp National Wildlife Refuge. He didn't think anyone would be willing to tell Uncle Sam where they can put their signs, although they haven't chosen to put up any signs.

Mr. Connor said that the sign at St. Joseph's Shrine is there because a lot of people wander from places like Brooklyn with bus drivers and they've got to tell the bus driver where to turn. It's probably less needed that it used to be with GPS and things of that order. He said that the sign is pretty innocuous and his gut reaction is "Why mess with a little sign for St. Joseph's Shrine"?

Mr. Sandow said that he took no position on that sign. He noted that Verizon is getting out of the pay phone business and he said that we will see how long it takes to get rid of their little sign under the N.J. Transit sign.

Mr. Piserchia asked Mr. Sandow if he anticipated that there are no stores or businesses that are on a main thoroughfare that might want to be part of this sign program. What came to his mind are the stores on the side of Shop-Rite.

Mr. Sandow replied that they have that big ground sign right on the corner and they are all listed. The same is true for the Valley Mall where the principal stores are listed on the big sign out front. He did not anticipate that any merchant who is actually located on the street would want one of these signs when he has permission in the existing Ordinance to put up his own sign on his front lawn.

Dr. Rae asked Mr. Sandow if he felt that only 10 businesses would want to avail themselves of the proposed sign procedure.

Mr. Sandow replied, “No”, and said that that is the maximum number he thought would *qualify*. If he had to guess, only 3 or 4 of them would actually bother to go through with it. The rest would just assume their customers know where they are and they are not looking for customers coming from a great distance.

Dr. Rae asked if we are advocating for 3, 4, or 10 businesses at intersections who would have signs like this because, in that case, he'd have to have a moment for pause because he felt it is a real mish-mash and is so different from anything we have in this Township. He suggested that we have the signs for the businesses because it is a wonderful idea which helps businesses and potential patrons as well. He would say that, until things get going and we have a lot of businesses coming into town, we keep the signage more in line with what we have at the moment and that, to him, makes perfect sense and he is completely behind it. He said that, if we have a sign like this, it is so out of place and we've only got it for only 3-10 businesses throughout the Township. He felt that “It makes us look ridiculous”.

Mr. Sandow agreed and said that he didn't want to advocate for getting carried away with this. He said that the signs don't have to be Victorian or Federal.

Dr. Rae said that the signs should be uniform throughout, but for the moment they should be what fits the Township.

Mr. Connor said that one of the things is the number of signs proposed. He said that you don't want a space for 5 businesses when there are never going to be 5 businesses off the road.

Mr. Sandow said that the application would be reviewed by the approving authority's engineer.

Mr. Connor said that if one business signs up and later a second or third business signs up, how do we add that? Do we have a standard three line sign or do we somehow add to the bottom of the sign?

Mr. Sandow said that his proposed language says that if a second business comes along and wants a place where there already is a sign, he would remanufacture a larger sign at his expense that includes both businesses. The approving authority would protect the interest and rights of the first guy and the first guy gets about 2 ½' and the second guy gets about 1 ½' below that. If there's a third guy or a fourth guy, you may have to go to a second post. He said that they would let the engineer determine that as part of the site plan review. The signs will not have blanks. If, in fact, at Poplar Dr. you wanted to start out by saying Little League Field; Dan Murphy; Tony's Barber Shop – that would probably work and be just about enough and, if they were smart enough to all apply at the same time, the cost could be pro-rated with the Little League picking up 2/3 and the other guys picking up 1/6 each.

Mr. Connor said that the second issue is generic versus trade and he heard everyone say trade and *not* generic. To be done intersection by intersection and when put at an intersection, all the signs there have to be cleaned up. If we don't do anything and the American Legion signs stay there forever, they can stay forever.

Mr. Sandow referred to Mr. Smargiassi's comment that he did not like two signs on opposite sides of the street and asked Mr. Connor if that was worthy of additional discussion.

Mr. Connor said that he could see both sides. He would like to see fewer signs and said that it would be nice to have one at every intersection, but he also could see the advantage of having one on each side. He was ambivalent.

Mr. Sandow said that people are not accustomed to reading the back side of aluminum sheet metal signs on the other side of the road because they are inevitably the back sides and are blank. For proof of that, he said try going out of this parking lot at night at a reasonably high speed. You don't know there is a speed bump there because there are no speed bump signs facing the back end of the parking lot. All you see is the blank back side of the sign.

Mr. Connor said that clearly you would have a sign facing both directions.

Mr. Sandow replied that people aren't accustomed to looking at the opposite side of the road for directional signs. They're seeing the back side of signs and not even seeing them because they're not looking there.

Mr. O'Brien said that people do read street signs which are double sided.

Dr. Rae said that he was completely in favor of both sides of the street, as someone who gets lost frequently.

Dr. Behr was also in favor of both sides of the street.

Mr. Connor told Mr. O'Brien that he had Mr. Sandow's recommendation and the recommendation from the Board. He welcomed any Board member who may wish to provide him with additional input to do so. He asked Mr. O'Brien to put together a draft for the Board to review within the month.

Mr. O'Brien said that he had what he thought to be a consensus that:

- A standard be set for the type of sign and the post;
- There will be no blank signs;
- The name of the business will be used for signs;
- They will be done intersection by intersection and as each intersection is done, it will be cleaned up from the other existing signage;
- There will be signs on both sides of the street.

Dr. Behr said to include, if needed, any municipal locations.

Mr. Sandow said that the Board should probably discuss the exception sign for Lombardo Farms.

Mr. Connor replied that we still have the Ordinance for farmstand signs.

Mr. Sandow agreed and said that they are supposed to be up only 6 months of the year, at the opposite ends of Morristown Rd. They are at the two opposite ends of Morristown Rd., but they are ground signs and are inconsistent with what we are proposing for the other businesses. He referred to Sec. 155.3j.

In response to Mr. Piserchia, Mr. O'Brien said that the signs would be made of metal. He noted that some existing signs are made of hard foam that appears to be carved wood.

Mr. Piserchia asked if something similar could be used instead of metal.

Mr. Connor added, so that it does not look like it has been stamped out of a metal press.

Mr. Sandow said to look at the Library and the "No Parking" signs. He said that it's not going to look much different than those. He asked why you would want it to look any different if mounted on a steel post.

Mr. Piserchia said, since we're talking about "forever" – to Mr. Smargiassi's point, let's do it right. He did not want to do this on the cheap. He did not know what the best material is, although he said that metal does not sound as nice as wood composite.

Mr. Lemanowicz said that he could try to find some standards as to intersection clutter and if there are some standards to lean on as far as how many we should put at an intersection of a street at a certain speed and how far they should be from an intersection. With respect to materials, he said that there area a lot of signs and trail posts made of plastic/wood. It is all recycled material which looks and cuts like wood. They are covered with rosin and are the same color through and through, so basically they last for a long time.

Mr. Sandow said that he knew what it costs to fabricate the welcome signs and it probably doesn't cost a whole lot less to fabricate a little sign if you are going to the business of routing, framing, gold leafing, and all, whereas the sheet aluminum street sign is an old and well established technology. He said that he was not prepared to advocate for a silk purse.

Mr. Connor said to look at a metal sign versus another sign that might be reasonable. If marginally different, that's fine. If 5 times the cost, that's a different issue.

Mr. Sandow said that the Promotions & Enhancement Committee had a meeting coming up in the next two weeks. He suggested giving it to them.

Mr. Connor said he would like Mr. O'Brien to draft something and possibly share it with them. He said that he would let Mr. O'Brien provide assistance and figure out the best way to proceed to get something out in a month or so.

Mr. Piserchia asked Mr. O'Brien if there weren't some businesses in Tifa that might be interested.

Mr. Sandow replied that nobody in Tifa does retail.

Mr. O'Brien noted the cheerleading academy.

Mr. Sandow replied that he had already counted them as being a Stonehouse Rd. business rather than a Tifa business.

Mr. Connor agreed that the rest are on Division Ave. He felt that if Tifa wanted to put a sign out, they probably could.

Mr. Sandow said that nobody goes into Tifa to transact business, although he noted a door manufacturer that is operating in the gym building on Stonehouse Rd.

Mr. Connor recalled a provider of promotional material operating on the Tifa site.

Mr. Sandow also noted the Bio-Retention business upstairs.

Mr. Connor felt that, at any rate, there doesn't seem to be a cry for Tifa wanting a sign outside.

Mr. Sandow agreed.

**X X X X R E C E S S X X X X**

**DISCUSSION**

**VALLEY ROAD BUSINESS DISTRICT**

Mr. Connor said that a subcommittee consisting of 3 people (Mr. Piserchia, Mr. Smargiassi, and Dr. Behr) worked with Mr. O'Brien in looking at the Ordinance and coming up a set of recommendations.

Mr. O'Brien also thanked Mr. Lemanowicz who attended a couple of meetings. He said that the Ordinance the Board received last week is the Ordinance that was returned to this Board from the Township Committee back in April with all mention of residential uses removed from it. Over the course of the past month, he said that the Subcommittee looked through the Ordinance and went through a number of topics for discussion – how they felt about the topics and whether they wanted to include them in the Ordinance or not. Those discussions revolved around the residential uses that had been discussed along Valley Rd. – their type, location and the conditions that would be associated with those residential uses. He looked towards members of the Subcommittee to help out in terms of interpreting. He put into the Ordinance what he thought they arrived at in terms of consensus. If we go through the Ordinance, he said that he would point out where the changes are. The changes are underlined in the body of the document and on the right hand side are more technical changes to the writing itself which came out. The first change is on Pg. 3 and was to add a general term for live work residential use which later on is allowed in a particular area along Valley Rd. On Pg. 7, the large lots on the north side of Valley Rd. near the intersection of Morristown Rd. were removed from the list of properties to be placed in the B-D Zone and, since those properties are removed, that means they would remain O (office) zoned properties. There would be no change to them.

Mr. Connor asked Mr. O'Brien to identify the properties and the rationale for removing them.

Mr. O'Brien said that these are the properties that exist on Valley Rd. back to the railroad and are the first 4 lots from Morristown Rd. going west?

Mr. Connor asked if they are the lots facing Town Hall going west.

Dr. Behr said that his recollection is not that these were removed – the Subcommittee wasn't saying we are doing anything permanent with these nor was it recommended that these be permanently allowed to remain Conservation and Office. His sense was that they were simply saying, because this was under consideration by the Township Committee, perhaps for public space, that we were excluding it from our recommendation at this point. But he did not recall the Subcommittee saying that it was endorsing that this continue to be office space or commercial.

Mr. O'Brien said that Dr. Behr was correct in that nobody said, "Oh, we've got to make these Office and Conservation", instead by not pulling them into the BD-Zone, they remain where they are currently which is a combination of Office and Conservation.

Dr. Behr did not recall any decision that was made that suggested that were they not --- he said that it might still be possible to include them in the BD Zone. So, we are not precluding that, we are just saying we are not making any decision right now because it is currently under consideration. He said that was his recollection, but he may be mistaken. He did not think they were saying "it should be". He did not think they made a recommendation that it should continue in perpetuity to be Conservation and Office.

Mr. Smargiassi agreed and said that we basically didn't take a position one way or the other on it.

Dr. Behr said that we are just saying that right now the Township Committee is looking at this and so we are simply not making a recommendation on this part of it right now, leaving it open for the Township Committee, should they so wish to act on it – that's great – if they don't, then the Board could come back and relook at that again and say what is the best use for this.

Mr. O'Brien said that the Board can do that any time and maybe he didn't state it accurate or artfully enough.

Mr. Connor felt that the issue there is that there are going to be public hearings – (he asked when the public hearings will be on the grant recommendation for purchase with County funds)?

Mayor Harrington believed that the Township Committee passed that Resolution (not an Ordinance). She said that the application has already gone up to the County.

Mr. O'Brien agreed that there was some Resolution by the Township Committee authorizing that application to the County and that has gone up the ladder already.

Mayor Harrington agreed. She said that, if we have to pass a bond ordinance, ultimately there will have to be a public hearing. She could not recall the timing on when a decision may be expected from the County.

Mr. Connor said that as long as that is up in the air, there is no reason to try to change thing. It will either be decided upon and there will at least be potential funding for that or, basically, it is a place holder saying let's not do something with this until we have at least some decision on whether or not it will be purchased by a County grant.

Mr. Dempsey said that the decision is, by not putting it in the BD-Zone, it keeps it in the O & C Zones and that is what Mr. O'Brien is trying to make sure everybody understands.



Mr. Connor said that if it comes back that the grant is granted, it doesn't really matter and, if not, then at that point in time we need to take a look to see if we want to keep it there or does it make sense to have other uses. He noted that office use has not been a very successful area. He said that he would never support making it permanently office given that we have never done that, so it needs to be changed, but he did not think it is the time to do so.

Mr. O'Brien asked if that was clear?

Dr. Behr replied that it is clear, but he was not entirely comfortable with it. He asked Mr. O'Brien to read the language one more time.

Mr. O'Brien said that the 4 properties are to be removed and that there is no language in the Ordinance because we are not changing anything.

Mr. Connor agreed and said that it would just stay as it is.

Mr. O'Brien agreed. He said that by leaving it the way it is, the front parts of those properties remain in the O-Zone and the back parts in the C-Zone.

Dr. Behr agreed with Mr. Connor that the Office Zone is a useless zone and is not consistent with anything else that is going on for the Valley Rd. Business District and so he was reluctant to do anything that suggests that that is a desirable outcome. He said that right now we are only temporarily saying we are not including this in the definition of the Valley Rd. Business District.

Mr. Connor said that the way he read this is that we have identified the Valley Rd. Business District and temporarily we are excluding these particular properties and, at some future date when we know whether or not things have been resolved, we will either include them or not. He said that we are changing everything else except for these 4 properties which are still going to be zoned to the old ways.

Dr. Behr replied to Mr. Connor that he liked the initial language he had which said that all we are doing is defining the business area right now to exclude temporarily these properties.

Mr. O'Brien said that the word "temporarily" doesn't go into a Zoning Ordinance.

Dr. Behr said that, at some point, you have to show here's where we are talking about – it is this area, and define the area we are talking about and it does not include those 4 properties.

Mr. O'Brien replied, "Not exactly". Because we are not making any change for those 4 properties, we are changing the change and rescinding the change of putting them into the business district and leaving them as they are, we make no mention because nothing changes to them.

Mr. Connor believed that the record shows the intent which is certainly to have this particular definition for the Valley Rd. Business District with the intent of later considering including this piece of property, if appropriate.

Dr. Behr asked Mr. O'Brien if the copy we are looking at still contains the guiding principals.

Mr. O'Brien replied, "Yes". He referred to Pg. 9 and said that the Board put in an overlay district a while back which was called a Light Industrial Overlay which is the Bay St./Poplar Dr. area where the Board allowed all of the light industrial uses that are currently there to remain and be allowed in the zone. The subcommittee took a look at that zone and the live work craftsperson artist uses and they thought that that type of a residential use was a good idea, but where to put it? Rather than to allow it everywhere through the zone, the thinking was to allow it in those particular properties in the Light Industrial Overlay because there are a number of residential properties there already – a number of small properties and it seemed to be a good place to try it out. So that change of the LWI (Live Work Overlay District) includes all of those properties that we discussed east of Poplar Dr. and in the vicinity of Bay St.

Mr. Dempsey said that that's taking out live work from everywhere else.

Mr. O'Brien replied, "Correct". He noted that live work had been removed by the Township Committee and this Subcommittee is putting it back in, but only in that overlay district. He said that the next change is on Pg. 14 where the BD Zone starts. The purpose is laid out and the language that is underlined is language that has been added by the Subcommittee to further explain the purpose of the Ordinance and of the Zone.

Mr. Lemanowicz noticed that on Pg. 13, the very first line is a superscript of one there.

Mr. O'Brien replied that there was a reason for that, because it comes out of the General Ordinance. He said that is a footnote to #1 – fitness centers. He said that he would make sure that it gets carried over to whatever goes over to the Township Committee.

Dr. Behr referred to Principal #7 and said noted there is a comma closely following residential with a space before it that should be removed.

Mr. O'Brien agreed and said that the space will be removed.

Dr. Behr also said that the "mini-neighborhoods" should have a close quote on it.

Mr. O'Brien agreed to make that correction as well.

Mr. Dempsey asked Mr. Connor if he felt that the meeting should be opened to the public at this time.

Mr. O'Brien noted that there are not a lot of changes left to discuss.

Mr. Connor agreed and felt that the Board should go through Pg. 20 because they hook together and then there are some grouped together after that.

Mr. O'Brien referred to Pg. 16 and said that what we took out of the permitted primary uses was the live work residential unit as well as #21, affordable housing, and #28 - restricted and senior citizen housing. They had been removed from the original Ordinance that came back from the Township Committee. The Subcommittee made them conditional uses and they show up later on. If you go to Pg. 17, 4a & 4b (age restricted and senior citizen housing) and affordable housing mandated by State statute or Township Ordinance, they are listed there and a number of conditions placed for those uses. Among those conditions were a minimum lot area of 3 acres; they may not only be placed on the north side of Valley Rd.; the density can only be calculated upon the developable portion of the lot (meaning if there is a 10 acre property and 4 acres are constrained wetlands that cannot be developed on per the NJDEP, then that means you have 6 developable acres and if you have 8 units per acre, then you can only do 8 by 6).

Mr. Smargiassi thought we had talked about not west of Poplar Dr. and asked how that is working.

Mr. O'Brien agreed and said that it became very difficult to put in in terms of a map.

Mr. Smargiassi said that, basically, we decided the north side of Valley Rd. from Plainfield Rd. to Poplar Dr. because that is the dry area and if you go further west you have flooding. The thought was that we don't want to encourage any residences to be located in an area that we know floods.

Dr. Behr asked if that wasn't already covered because there is very specific language prohibiting residential construction in any flood hazard area, wetland, or required buffers.

Mr. O'Brien replied that that will show up later.

Mr. Connor said that that is the item number right underneath.

Dr. Behr said that it doesn't matter whether it is north, south, east, or west of Poplar Dr. If it is in a flood hazard area, you can't have a residential use in that area.

Mr. Smargiassi asked if that will include a flood plain.

Dr. Behr replied that it says flood hazard area, wetland, or required buffers. He said that the purpose is not to restrict residential housing per se, but just simply to restrict it where it is undesirable and certainly those areas are undesirable.

Mr. O'Brien said that the problem is that on the north side of Valley Rd. there are about 6 properties that are greater than 3 acres. Once you exclude the ones that are staying in the O-Zone, when you go west from slightly north of Plainfield Rd. and then go west to Main Ave., there are about 6 lots that are 3 acres or greater. But once you get away from that area west of Plainfield Rd., the area between Plainfield Rd. and Poplar Dr., there is one lot over near the gas station which is mostly dry. The developable part of that lot is certainly not a wetland and there was no language he could come up with that would eliminate that one lot off to the west, so he just left it in there. He said that he could talk to Mr. Pidgeon about it, but left it in there pending this discussion.

Dr. Behr asked if we need the double protection if we have very explicit language saying you cannot put a residential structure up in an environmentally sensitive area.

Mr. Smargiassi said that he would like Mr. Lemanowicz to clarify that. He asked if you couldn't build in the area of Little Footprints or the bike shop.

Mr. Lemanowicz confirmed if a property is in a flood hazard area that is correct.

Mr. O'Brien added that those lots are under 3 acres.

Mr. Smargiassi understood, but said that you could do lot consolidation to get those 3 acres.

Dr. Behr said that flood hazard areas, wetlands, or required buffers are what we talked about. He said that the purpose is not to allow people to place residential units where they are going to be unwise and that is in areas that are likely to flood and, since we are not likely to have a flood wall, there are going to be a lot of areas down in this part of town that will continue to flood every year and we don't want people living in them.

Mr. Lemanowicz referred to a map and said that the green shaded areas are wetlands. He said that it was FEMA data so the blue dots are the flood plain. In response to Mr. Smargiassi, he said that the flood plain is within the flood hazard area.

Mr. Connor said that you are going to have to build on dry land and then you have to exclude areas, so then you might have an acre and a half left if you are lucky.

Mr. Lemanowicz said that this is part of the issue he was discussing with the Subcommittee and what he suggested is on that Sec. 122.8e(1) where it says “Residential uses in any flood hazard area, wetlands, or required buffer area”. He was wondering if we should change it to “or buffer area required by the NJDEP”, because you do have landscape buffers and people do use that term. He said that it sounds simple but it is always those things that get you.

Dr. Behr replied that that’s a good change.

Mr. Lemanowicz said that on Sec. 122.8d(4)F, it says “Gross density shall not exceed 8 unites per acre”, but we are not using the whole lot which “gross” may suggest, so he suggested changing it to “Density shall not exceed 8 units per developable acre” which will make it closer to being foolproof.

Mr. O’Brien said that the way that Mr. Lemanowicz just explained it is that the 3 acre lot to the west of the gas station is now out. So what is left is the acreage to the east from north of Poplar Dr. and east towards Plainfield Rd. and there is developable land on most of those, as has been noted under Prohibited Uses, #1 is residential uses. The next change is at the bottom of Pg. 19. The bonus landscape standards are removed because the only way that they worked was with residential on the 2<sup>nd</sup> floor and commercial on the 1<sup>st</sup> floor which allowed for a sharing of parking and allowed for greater density of both commercial and residential. So, without the residential, the commercial bonus makes no sense because you can’t possibly do it.

Addressing Mr. Connor, Mr. O’Brien noted that “New and expanded residential development shall require left turn access onto Valley Rd.” was added as Item 4(f). Referring to Sec. 122.8a(b)6, he said that the live work industrial overlay zone has got to be renamed. He said that Item #6 was added which is the live work residential units for an artist or a craftsperson. He said that only the artist or craftsperson could live and work there, it could not be rented out or subleased in some way.

Dr. Rae stated that he was not sure that Items 122.8a(b)1-4 will work.

Mr. O’Brien replied that that is what the Subcommittee suggested – to have an area to try to see if this live work will work in the Township rather than just throwing it out to the entire district.

The meeting was opened to the public.

Mr. James Luke of the Greenhill Group said that at the beginning of the discussion there was mention of the Township passing a Resolution to seek funding for the acquisition of the 4 properties that are now being excluded from the Business District Zone. He asked if that was correct.

Mr. Connor replied affirmatively.

Mr. Luke then asked how it was possible to acquire those properties if they are owned by a private land seller engaged in a private contract.

Mayor Harrington replied that our assumption is that, should we get County funds, we would then attempt to negotiate the sale of the property.

Mr. Luke asked, “With the property owner?”

Mayor Harrington replied affirmatively.

Mr. Luke asked Mayor Harrington if she was familiar with the term “tortuous interference” and said that maybe counsel could give her guidance on that.

Mr. Connor asked Mr. Hoffman to break in when needed.

Mr. Hoffman said that he would not venture an off the cuff opinion on a legal issue of that sensitively and importance and, even if he was more familiar with the specifics (which he said he was not), he said he would defer it to the Township Attorney, reminding that he is just counsel to the Planning Board.

Mayor Harrington said that she too would defer to the Township Attorney to negotiate as appropriate. She said that her assumption as a layman would be with the owner but acknowledged that she could be entirely incorrect and certainly the Township would not take any action or make any advances without the guidance, advice, and counsel of the Township Attorney.

Mr. O’Brien felt that it is a matter that is probably more properly placed before the Township Committee because that is the body that has authorized the Resolution with the County. He said that the Planning Board this evening is

discussing an ordinance that changes the zoning along various parts of Valley Rd. It does not affect the properties that Mr. Luke had referred to.

Mr. Luke asked, “It does *not* affect them?”

Mr. O’Brien replied, “No it does not”, and since the question as to whether or not there are grant monies or not and who will buy from whom is properly before the Township Committee and not before this Board.

Mr. Luke said that when you opened the meeting saying you are not going to include those properties in the potential BD-Zone because it is up for consideration for public funding, he did not think that is an accurate statement to say they are not affected by this Board. He felt it was a gross overstatement.

Mr. O’Brien replied that no change to those properties in terms of zoning is being proposed by the Planning Board.

Mr. Luck replied that, because as he heard tonight, they are up for consideration for open space public funding from the County. He asked if that was correct.

Mr. O’Brien replied, “As the Board has stated”.

Mr. Luke addressed Mayor Harrington and say that she had stated that the Township Committee passed a Resolution to seek public funding on property that is known by this Board and the Council to be in contract with a private landowner and a private developer. He asked if that was correct.

Mayor Harrington replied that the Township Committee did make a grant application – that is correct.

Mr. Luke thanked Mayor Harrington.

Mr. Sandow said that without access to the text that the Board members were reading it is obviously very hard for him to comment on the Board’s discussion. He said that it appeared that he would have to wait for a formal introduction of this either to the Planning Board or the Township Committee in order to make intelligent comment. However, picking up pieces of dialogue he said that he had two items. One is that Mr. O’Brien mentioned the 4 properties that are being excluded. He asked if those 4 properties are immediately west of Morristown Rd. or are those 4 vacant properties in the O-Zone.

Mr. O’Brien replied that they are the first 4 properties west of Morristown Rd.

Mr. Sandow said that that would mean that it includes IMA and the funeral parlor.

Mr. O’Brien disagreed. It was his belief that they are the first 4 properties west of Morristown Rd. and also the vacant ones identified as Lot 1, 1.01, 1.02 and 2.

Mr. Smargiassi said that that includes IMA and the funeral parlor.

Mr. Sandow said, so we are not talking about the Kurz lot, the Bank of America, or Spiro’s lot opposite Plainfield Rd. Those will continue to be in the BD-Zone according to your recommendation.

Dr. Behr said that the intent of this Board was to say that the Kurz property currently is not included in the BD-Zone.

Mr. Sandow said that there are 3 lots in the Kurz property. One of them lies between Spiro’s property and the funeral parlor and exits Bank of America. The 3 lots wrap around. If you want to include the third lot, then there are 5 lots west. But as you may recall from Spiro’s application 3 or 4 years ago, that additional lot between him and the funeral parlor is a very nice developable parcel and it only has about 200’ of frontage, so as a recreational thing, it is miniscule.

Mr. O’Brien replied that that is Lot 3, contains 18.55 acres, and is owned by the same people who own Lots 1 & 2.

Mr. Sandow said that that was what he said.

Mr. Dempsey asked, so that property would not go to the BD-Zone?

Mr. O’Brien replied, “Correct”.

Mr. Sandow said that although that particular parcel is in the application to the County for an open space grant, it probably shouldn’t be because of the way it wraps around the funeral parlor. He also pointed out that the funeral parlor and IMA are not in the open space application, they are in fact existing commercial properties. They are not office zoned uses and there is no particular reason, as long as they are not in the open space grant, to exclude them from being rezoned as BD. The Office Zone extends all the way from Primavera to Morristown Rd. and includes about 7 or 8 lots. He said that we tend to think of it only in terms of the vacant Kurz lots on the corner but there is a lot more to the O-Zone, including the funeral parlor and IMA which are not appropriate uses in the O-Zone. He then acknowledged that the funeral parlor *might* be and said he wasn’t sure.

Mr. O'Brien replied that they are.

Mr. Sandow felt that, if the excuse that the Township Committee is making for excluding those 4 lots from the BD Zone is that they are part of an open space application, then you should be cognizant of the fact that two of those lots (the funeral home and IMA) are not part of the open space application.

In response to Dr. Behr, Mayor Harrington said that she believed that Lot 3 *is* a part of the grant application.

Mr. Sandow agreed.

Mr. O'Brien said that we should then leave Lot 3 in the O-Zone.

Mr. Sandow disagreed because it is a perfectly desirable commercial property that is bracketed by commercial properties on both sides (the funeral home on one side and Spiro's property on the other).

Mr. O'Brien replied, only for the first 200 or so feet.

Mr. Sandow said that that is the Valley Rd. frontage that we hope to make walkable.

Mr. O'Brien said that that is something the Board will have to think about.

Mr. Sandow replied that he hoped so.

Mr. Connor said that he would think that clearly the two businesses ought to be in the business district. He felt it is pretty clear in his own view that the 200' frontage lot probably belongs in the business district but it also seemed to belong in the request to be funded through a grant for community purposes. He said that the rationale was clear that we didn't want to touch the grant but there is some illogic to it.

Mr. Sandow said that there is also the possibility of dividing that lot – it contains 18 acres with 200' of frontage. You could divide it at the wetland line and put the back end into open space and keep the little front piece which is only 2 or 3 acres (200' by the depth of the funeral home) in the commercial district. He said that it's too narrow to be a soccer field and there is no place for parking available to make it a soccer field so he was not sure what the purpose of making it open space would be other than the foolhardiness of taking good commercial property off of the tax rolls.

Mr. Connor asked Mayor Harrington, to the extent that you get funding for a particular set of properties and you choose not to buy one of those properties, are you required to buy it? If it makes no logical sense to buy it even though you received the funding, it seemed to him that you ought to have some leeway.

Mayor Harrington did not know what would happen if the Township Committee chose not to attempt to make an offer to purchase part of the property. She said that it may be that some of the funds would be returned to the County that were earmarked for that. It would change the cost of the estimate and potentially any development cost.

Mr. Sandow said that our track record is very consistent in this area. We continue to apply for funds and then don't use the money after we receive the award because it turns out not to have been such a smart idea in the first place. He said there have been two examples in the past 6 years where we've had to return the money because it just didn't make any sense to go through with it.

Addressing Mr. Sandow, Mr. O'Brien said that Lot 3, while you are correct that it's got the 200' of frontage, goes back all the way to the railroad and, except for the first 300 or so feet, it is contiguous with Lot 1, so altogether that is one extremely large piece of property.

Mr. Sandow disagreed and said that Mr. O'Brien was misreading that.

Mr. O'Brien said that Lot 1 is the 45 acre property.

Mr. Sandow replied that it is all wetlands in the back and is under the power lines.

Mr. O'Brien replied that, nonetheless, it abuts Lot 3 for about 7/8 of its length.

Mr. Sandow replied that that is what he said. You could subdivide it and keep the front piece of it – 200' by the depth of the funeral home (which would be about 2-3 acres) and keep that for commercial use and take the back 15 acres (which is wetlands) and merge it with the property that runs behind the funeral home and behind IMA, which was all covered in the slide show he gave at the last meeting. He also restated the whole business of unlawful taking. He said that our Engineer and Consultant keep talking about the developable acreage as opposed to the deeded acreage. You cannot simply declare, for formula purposes, that only the dry land can participate in the formula. The wetlands should be allowed to participate in the formula. They have economic value and the value shows up in the assessment and the owners are paying taxes on the wetlands, and why are they paying taxes on unbuildable wetland? Simply because under current Ordinance, the undevelopable wetland acres participate in the formulas. There is no such thing as a developable aspect to the formula. The developable only applies to where you can put the building which is allowable by the formula. If you disallow all of the wetlands from the formula, then you reduce their

economic value to zero and thus you have been overtaxing the owners of those wetlands all these years. He said that you would certainly have to reduce their assessment and, in a situation where total assessed growth last year was 1/100 of 1%, he was not sure how we can throw away the assessment on those large tracts of wetlands which the owners have been holding all these years so that they can participate in the formulas that we created. He said that you are changing them in a way that, first of all, reduces the amount of development that is possible on a lot, which has an economic impact and, secondly, you are devaluing entirely the wetland of the property holders by not allowing it to participate and he strongly resisted that and urged the Board to get competent counsel about the taking of the economic value from the business owners in the Township.

Mr. Connor asked Mr. O'Brien if the Subcommittee considered the validity of the proposal, and what conclusions did they come to?

Mr. O'Brien replied that the Subcommittee did consider that. They considered correspondence from Mr. Pidgeon who found that there is a Supreme Court ruling concerning developable land and that it is a formula that the Township could use. He said that Mr. Sandow has discussed his philosophical differences with that and it is a decision for the Board to make. In response to Mr. Connor, he confirmed that the Subcommittee had received a legal opinion that what is proposed is sustainable in a court of law.

Dr. Behr said that there would seem to be two different things here. On the one hand, you are saying that buildings cannot be placed in wetlands, and when you calculate the area that can be developed, the formula for that is disallowing the wetland property from the total formulas that dictate what can be developed. He said that they are two very different things.

Mr. O'Brien agreed.

Mr. Sandow thanked Dr. Behr.

Dr. Behr said that the effect of what Mr. Sandow is saying is, I cannot comment on the legal issues of taking, but he did want to emphasize the point that he makes is, if you are disallowing the wetlands from the formula, you are *significantly* limiting the potential for commercial development on those lands. He asked if he was correct.

Mr. O'Brien replied that you are eliminating the potential for development on the lands that are undevelopable.

Mr. Dempsey disagreed. He said that you are eliminating the potential of developing land that *is* developable.

Mr. Connor added, because you are changing the formula.

Mr. Dempsey said, therefore, you have a smaller footprint than what *is* available.

Dr. Behr asked if you are shrinking the developable land.

Mr. O'Brien replied, "Yes".

Mr. Dempsey if Mr. Pidgeon had an opinion on reducing its economic value, hence reducing its tax value. He asked if the Subcommittee had gone into that level of detail with Mr. Pidgeon.

Mr. O'Brien replied that they had not.

Mayor Harrington asked if the formula for calculating lot coverage for residential and other areas of the Township *includes* undevelopable wetlands.

Mr. O'Brien replied, "Yes".

Mayor Harrington asked if there is any issue that we've changed the formula from one set of zoning to another. She asked if that was an issue for the Board.

Mr. O'Brien replied that the only proposal in what you have in front of you is for residential uses on the north side of Valley Rd. of 3 acres or more. Those proposed residential uses will be conditional uses and one of the conditions would be that only the developable acres would count. It is only for residential use.

Mayor Harrington asked if, for commercial use, the lot coverage calculation is the same as it is currently.

Mr. O'Brien replied that there would be no change. He said that it includes all of the undevelopable land.

Mayor Harrington asked if this is only under the circumstances where the proposed construction is a residential use.

Mr. O'Brien replied, "Correct", and said that affects about 6 lots on the north side of Valley Rd.

Mr. Sandow asked Mr. O'Brien if he hadn't said that all residential is prohibited.

Mr. Connor replied, "No" and said that that has been excluded.

Mr. Sandow said that that was the first of the prohibited uses that he had read off.

Mr. Connor disagreed.

Mr. Sandow asked if was a deletion of a deletion?

Mr. Connor replied that prohibited use has been deleted.

Mr. Sandow asked if someone wanted to buy, for example, the car wash which is more than a 3 acre lot and build a house there, the size of the house would be constrained by the dry portion of the lot?

Mr. Connor replied that single family use is not permitted.

Mayor Harrington asked what if somebody wanted to build a small set of apartments or townhouses?

Mr. O'Brien replied, only for senior citizens or affordable housing.

Mr. Smargiassi said, but not *only* for those, but inclusive of those.

Mr. Connor said that the thrust of this would be to allow the building of condos or townhouses and those sorts of residential units would be allowed. What would not be allowed are second floor apartments on particular retail businesses. 10% was recommended of any new building would be dedicated and we'll get into that - into COAH affordable housing. So this is a significant change from what was returned to us.

Mr. Sandow asked if this mythical advise from counsel was privy to this committee?

Mr. Piserchia replied that that advice was at a public meeting.

Mr. Sandow asked if it is in writing and if it is available for publication on the Planning Board's website?

Mr. O'Brien replied that we would have to ask counsel.

Mr. Sandow said that you certainly cannot act on secret advice from your lawyer that can't be refuted.

Mayor Harrington replied that it wasn't secret advice, it was advice that he provided verbally to us at a public meeting.

Mr. Sandow said that, in the absence of reading the transcript of the meeting, is subject to all kinds of interpretation. He said that what Mr. Pidgeon says is always subject to all kinds of interpretation if you don't get it word for word. So, if he put it in writing, he asked if that written text is available to the public so that we can see exactly what it is that he is basing this on in case anybody wants to say that is one case, or one set of restrictions that don't apply here. He said that we can't go on making decisions based on hearsay.

Mr. Hoffman said that it was not rendered advice in an executive session or a session that was closed to the public but, rather as he thought he was hearing, it was openly given at a public meeting that anyone could have attended and certainly a copy of it is obtainable.

Mr. Connor agreed that whatever he gave at a public meeting is obtainable. To the extent there is any additional advice that the Subcommittee received directly from Mr. Pidgeon may not be open.

Mr. O'Brien replied that that is open.

Mr. Connor asked Mr. O'Brien if the material he received from Mr. Pidgeon was material that was at a public hearing.

Mr. O'Brien said that the subcommittee meeting was a public meeting. The memo that he received from Mr. Pidgeon was used at the subcommittee and he saw no reason why it cannot be made public, however he said that he would check with Mr. Pidgeon on that.

Mr. Smargiassi said that he wished to address his personal thoughts on why this was discussed. Speaking at the subcommittee level, he said that one is that it was being discussed or had been brought up at the Township Committee level. His personal concern was that there are two ways to get there for him. When you drive down Valley Rd., we say its 10 units per acre and you have a 100 acre lot, but half of that lot is wet and not buildable, it allows for a density on the front piece which, when you think of 10 units per acre, it will be more dense up front. That is the visual aspect in reality and he felt you need to consider that. Whether you go this route or factor that into the decision of what do we want Valley Rd. to look like based on how the properties are there and how much space you want around them and those types of things. But you can go with 4 units per acre – there are lots of ways to get there, but he felt we need to be careful about how we need to set this up and what we decide to do and that we end up with something that is how we want it to look versus something that is very heavily developed and gives the appearance of a much higher density than maybe was out intent.

Mayor Harrington asked, because the lot coverage calculations apply only to residential, would it make sense then to case the allowable density to be based on the buildable property?

Mr. Connor felt that we are at the point of trying to put forth recommendations from the Planning Board to the Township Committee and they are going to have the first public hearings and certainly at that point in time, the legal issues can be raised again with Mr. Pidgeon to assure that we have something that makes sense. He said that his take on this was that we need to get something that the Board agrees to where we believe that there is a legal precedent for us to go on. When it goes over to the Township Committee, he said that it is certainly their ordinance and it is up to them to make sure that the information that we've been given in public is well documented and sustainable. If the Township Committee for some reason feels it isn't, then we have to reopen the issue. But he said that he would not like to tie up all the loose ends right now because he knew that when it goes over to the Township Committee, there will be more discussion and he felt this is one issue that can be discussed by the Township Committee and not be resolved by the Planning Board. If we do that, he said that we're going to be waiting another two weeks or another month and we'll send it over and you'll do it again anyway because you will give it over to Mr. Pidgeon to take another look at it and tell us we can do it and he'll come back and hear comments here and he'll either say yes, here is the case law – we can do, it or here is something else and maybe we can't and then the Township Committee has to act. He did not want to have something so tied up because he knew it will get untied up anyway. If it is the sense of the Board that it is comfortable with this, given that we have to look at some final legalities and make sure it is legal – fine, but he said let's not try to resolve that before referring it to the Township Committee because we've been doing this long enough. He said that we seem to have some consistency between the Board and at least the Township Committee representatives and we need to take action rather than to kick it back and forth.

Mr. Smargiassi felt that the Subcommittee did very carefully consider what the Township Committee may or may not approve and try to come to some compromise. He did not think any of us could say we got what we wanted – it was definitely a compromise. He felt that they came up with something that has a shot or has at least moved the needle in the right direction where we do get feedback on a specific issue from the Township Committee and then we'll go back and look at it.

Mr. Piserchia agreed.

Mr. Sandow asked if the Board will reveal in public the final document that it intends to transmit to the Township Committee?

Mr. Connor said that it is unfortunate that we don't have the document. He said that it was his intention to get it over to the Township Committee as quickly as possible so that they can take action on it. He said that it is up to the Board whether they want to do that tonight or if they want to have another hearing. He noted that we've had a lot of public input on both sides at both the Township Committee level and on the Planning Board side. He did not feel we need another public hearing before the Township Committee or the Planning Board since there will still be a couple more public hearings to go.

In response to Mr. Sandow, Mr. Connor acknowledged that he remembered when he and Mr. O'Brien discussed this at the Township Committee meeting on 1/12/11.

Mr. Sandow said that that was 9 months ago. He said that another 2 weeks of carrying this in order to put a written document before the public on the agenda here would certainly save a good deal of hassle at the Township Committee hearings.

Mr. Dempsey agreed with Mr. Sandow. He did not believe that the Board has given the proper feedback or the ability for the paperwork to be read by the public, therefore handcuffing their ability to speak to it. He said that we have to do that. If we don't, the wheels of this Town Hall stop at the Committee tomorrow night or 2 weeks later and everything on that docket just stops and for 3 ½ hours we go through with what should be gone through here. He said that we should have it tightened and buttoned it up nice here, gotten a consensus from the public, handed it properly written to the Township Committee and thoroughly thought out, and not send them something that they then can discuss with the public and rewrite it for us. He said that we should do that work ahead of time.

Mr. Smargiassi said that the only issue there is that they send us back a document that said no residential whatsoever. We are proposing something that says some residential in these places and to go through all that work and for them to have to come back and say no residential. He felt it should be sent to them saying this is what we are proposing, give us some additional feedback if you want. He said that he would hate to see us spend many, many more meetings about the minutia for them to come back and say they don't agree with the big picture and kick it back to us.

Mr. Dempsey said that then that is not sending it up as a recommendation for approval of an ordinance. He said that it sounded like there is going to be a vote tonight where we say this is the ordinance in a form it is supposed to be and throw it up to the Township Committee, then to have the public talk at the last moment of when the public is supposed to talk.

Mr. Smargiassi concurred with Mr. Dempsey that it should come back. His comment was to Mr. Dempsey's comment to make sure everything is dotted and crossed because if we go through that level of detail and the Township Committee comes back with a big picture comment that we're not going to vote for this, we wasted that time.



Mr. Dempsey replied that he felt it was pretty clear to begin with.

Mr. Sandow felt it was worth pointing out that after tomorrow's meeting of the Township Committee, there are but two meetings left of the Township Committee in this calendar year. He said that it's too late to put it on the agenda for tomorrow night, so at best it will go on the agenda of the only meeting in November and if it doesn't get blocked, it will go on the agenda for the meeting in December which is the last meeting of the year and he hated when land use ordinances are approved in December by an outgoing committee. He said that it has happened before and some of us have worked frantically to prevent that from happening. He said that it looks like patronage.

Mr. Connor felt that we miss that under any circumstances – getting it over there to the Township Committee, getting it back for our review. He felt that by the time it goes back it is January under any circumstances.

Mr. Sandow said that you don't carry ordinances over at the end of the year.

Mr. Connor said that at least we can get some concurrence on this rather than putting it up. He asked the Board if they would like to see this document, with whatever corrections, as a full document before sending it up to the Township Committee.

Dr. Behr said that, while waiting to be appropriately discreet in these comments, he felt it is fair to say that the makeup of the Township Committee is going to change in January and one could speculate that that new Township Committee could have some very strong opinions on what is permitted and not permitted on Valley Rd. Since it is not going to be possible to have this voted on by the existing Township Committee, he was wondering if this is not all a waste of time.

Mr. Connor replied that he did not believe that.

Mr. Dempsey agreed. He thought that everything discussed here about this town is very important and he knew that's not what Dr. Behr meant. He said that he felt we should continue to discuss it in a public forum.

Dr. Behr suggested sending it to the Township Committee that exists now and say that this is conceptually what we are proposing, can you go along with the conceptual? He asked if that is the idea we are talking about here?

Mr. Connor replied that it is pretty specific except there is a piece of it where the public didn't get a chance to give their feedback on the document we are sending forward and he felt that is an issue.

Dr. Behr asked how the Board felt about sending it to the Township Committee and simply striking the limitation on residential lot coverage?

Mr. Connor said that he was not in favor of that idea and did not want to play anymore. He said that we essentially seem to have some agreement on this and he would like to get somebody on the Township Committee to say yes, we agree with this and the Planning Board agrees with this. He said that maybe we'll have to lay it over until next year to take a final action, but at least there is a sense that there's some consistency between the Township Committee and Planning Board.

Mr. Piserchia said to keep in mind that one of the reasons the Township Committee unanimously sent it back here without reservation is the lack of clarity which remains, but he said that it's becoming a little clearer regarding COAH and we had advice from counsel here and advice from counsel at the Township Committee level that was a little different as to whether we should or should not include COAH in this document. He said that something happened on 10/19 when we received an e-mail where it looks like COAH is going to remain. It is unclear.

Mr. Hoffman said that the Appellate Division has raised a question on that issue of the continued viability of COAH, so it is unclear what the ultimate outcome will be.

In response to Mr. Connor, Mr. Sandow said that he had just about said his piece and will read in the newspaper what the Board's final decision is on allowing the public written participation in your deliberations.

Mrs. Marleen Kurz, property owner, said that she would like to see the things proposed for change in a written format before going to the Township and she asked that that be noted in the minutes of this meeting.

In response to Mr. Connor, Mr. O'Brien agreed to put the proposed amendments to the document in written form for the next meeting.

Mr. Connor suggested finishing with the remaining changes to the document beginning on Pg. 35.

Mr. O'Brien said that there is a new Sec. 155.5 which allows the signs permitted in the BD-Zone. He said that they are annunciated there and are a compilation of what's allowed in the current B-3 and O Zones and the Subcommittee has been through this previously.

Mr. Connor added that they are not significantly different from any of the signage we have, we just need signage in a new zone and they are an amalgamation of those pieces.

Mr. O'Brien agreed and said that is something that has actually gone before the Township Committee in the past and the original document is unchanged.

The meeting was closed to the public. Mr. Connor requested input from the Board members.

Mr. Smargiassi concurred with Mr. Dempsey that he would like to see a full written document that would be made available to the public and then carry this to the next available meeting for discussion.

Other Board members agreed.

Dr. Behr asked Mr. O'Brien if there is any way to speculate, given these restrictions, on the number of residential units that might get constructed on Valley Rd.?

Mr. O'Brien felt that he and Mr. Lemanowicz could come up with some ideas.

Mr. Lemanowicz agreed, given the density and the fact that we know where the wetlands are.

Dr. Behr asked, should a developer want to buy the existing Shop-Rite property, what would be permitted there under this proposed ordinance?

Mr. O'Brien replied that no residences are allowed there because it doesn't meet the conditions of being north of Valley Rd., amongst other conditions.

Dr. Behr then replied that basically what we have done is to say that not only are residences permitted in flood plains, but we have also geographically said that there are places where residences are not permitted even if on dry land.

Mr. O'Brien replied, or conversely, we have indicated only where residences may occur and among those conditions are: greater than 3 acres; out of wetlands; out of the flood plain; and north of Valley Rd.

Dr. Behr asked where are the areas where residences might be permitted?

Mr. O'Brien replied, on approximately 6 lots on the north side of Valley Rd.

Dr. Behr asked what commercial properties they are contiguous to?

Mr. O'Brien replied that there are commercial properties located on them now.

Dr. Behr said that he kept going back to the Master Plan because it was his clear understanding that the ordinances that we create, according to Article 8, which is Sec. 40:55D-62 (which he read). Therefore, he said that it was clearly the intent to him that first you plan and then you put your ordinances in place to effectuate the plan, then it goes on to say and all of the provisions of such Zoning Ordinance or any amendment or revision thereto shall either be substantially consistent with the Land Use Plan Element and the Housing Plan Element of the Master Plan or design to effectuate such plan elements. It goes on to say that the Township Committee has the right to say we are going to create an ordinance that does not agree with the Master Plan, there are just certain conditions they have to meet to do it. His concern was that we may be, in effect, so limiting what can be done to Valley Rd. commercially that we wind up defeating the purposes of the Master Plan which was to create a more vibrant sustainable commercial entity on Valley Rd. That was the only caution he had because he said that we first said you can't put residential uses in the flood plain and that is an entirely appropriate thing to do. He said that it looks like one possibility would be the Kurz property would be pretty well carved out as a commercial entity for the town. He said that we have also put strict limitations on what kinds of residential units can be constructed where they are allowed. His concern was that, if we want to do this and this is what's happened, it might be necessary for a future Board to come back and say, "I guess we'd better rewrite the Master Plan because we have basically undercut the intent of that Master Plan".

Mr. Dempsey said that that is what he said several months ago when it came back to us and they basically told us that our Master Plan is inappropriate and he said, "Let's go back and rewrite the Master Plan". He said that he could see an attempt to bridge the two and try to hold on to some concept of the Master Plan where you can see that it kind of gets there. He said this is pretty good but he had some reservations over some of the things, but he said that it is a very good compromise. He did not know if he could vote for it or not, but he said it's a very good attempt at a compromise. He said that it at least gives us something to talk about or maybe not even talk about that much because there are some very good things in it.

Mr. Connor asked Mr. O'Brien to look at the properties that currently, under this proposal, could have residential units and do the calculations and let us know what the number is.

Mr. O'Brien agreed to do so.

Mr. Piserchia said, "That is exactly right". He said that it was the large number that was speculated of residential units that could go on Valley Rd. that he felt spooked the public and, as a result, spooked the Township Committee. He said that the number Mr. O'Brien comes up with is going to be very important. He did not think that anybody on

the Subcommittee got exactly what they wanted, but in the interest of trying to come up with a compromise and get something that can be passed, that is why Dr.Behr presented what he did. He said that we want something that will make it through the Township Committee.

Mr. Dempsey agreed and added that it should also benefit the Township, not just get it through the Township Committee.

Mr. Piserchia replied that that was why he added, it's not so much the Township Committee, it's what the residents want and can be comfortable with – it's that number regarding residential units so that we don't have 1,200 being thrown out there and then it morphed into 1,600.

Dr. Behr said that he would like to take us back in time to understand why the Master Plan was created the way it was. He said that all of us need to keep in mind that small towns like us (below 10,000 residents) are an absolutely endangered species in N.J. and we cannot be naïve about this. He said that there has been a real move to limit State aid to towns our size and at the same time the ability to raise property taxes. He said that we have, in the 5 or 6 years he has taken a look at it, cut the town budget to the bone. There are not going to be a whole lot of economies left anymore. The specter that we face in 5 or 10 years is that a town this size is going to become economically unviable unless it finds some ways to raise additional revenues. He said that he has been working with residents in meetings, many of which he has facilitated on the future of Long Hill Township for 20 years going back to the Friends of Long Hill Township meetings held in the Grange in the early 1990's, and it is abundantly clear that the people in this town love this town for what it is and, if this town ceases to exist because the Planning Board and the Township Committee lack the creativity to enable us to exist in a different future – economically, that will be a real shame. Because once we are simply subsumed under greater Chatham Township, we'll be like all those little towns in Franklin Twp. which is huge and has places like Millville and places that used to be towns. He wanted it understood that it doesn't make a good idea to drive into the future, driving in reverse. His concern was that we try to remember that the original intent of this was to find some kind of approach that would allow a town like us to continue to be who we are, but to be economically viable. His concern was that we may get this thing to the point where businesses are simply not going to want to come in because there is just not enough here to attract them.

Dr. Rae suggested putting some kind of a press release together for the Echoes to outline the major points in the document.

Mr.Connor felt that the Board could charge the Subcommittee and Mr. O'Brien to come up with it. He felt it was an excellent idea – sort of like an executive summary but one that's readable and publishable. He noted that Mr. Sandow told us earlier that we were 533<sup>rd</sup> out of 566. Unless we can get some ratables that actually make us money and don't cost more than bringing them in, he said we're going to continue to go down. He also noticed in the Star Ledger (or Daily Record) when they had who was above the budget cap and the taxes and who was below, even with all of the work we've done, the budget was increased by 3+% and we got one of the plus marks that said our taxes increased a little more than 1% than the average taxes in N.J. and he certainly didn't want to see that. He said that we had a problem for a long time where we increased very quickly. We are not increasing very quickly now, but we're not reducing to the level of other towns. One of the reasons may be that other towns had more fat, but we're back on the wrong side of tax growth and even though it is low, we're not as low as the State average. He said he would like to see us below the State average and the only way we will do that is to get more ratables. He said that the Valley Rd. Business District is the only place we will find ratables – we don't find them in Stirling or the Millington village. He said that if we can't figure out how to get ratables on Valley Rd., we're going to go down hill continually.

Due to the lateness of the hour, the meeting adjourned at 10:50 P.M.

---

DAWN V. WOLFE  
Planning & Zoning Administrator

