

MINUTES

**DRAFT**

**PLANNING BOARD**

**FEBRUARY 28, 2012**

**LONG HILL TOWNSHIP**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Chairman, Mr. Connor, called the meeting to order at 8:04 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, 2012.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

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

Christopher Connor, Chairman	Sandi Raimer, 1 <sup>st</sup> Alt.
Brendan Rae, Vice-Chairman	Charles Arentowicz, 2 <sup>nd</sup> Alt.
Donald Butterworth, Member	Barry Hoffman, Bd. Attorney
Joseph Cilino, Member	Kevin O'Brien, Twp. Planner
Kevin Dempsey, Member	Thomas Lemanowicz, Bd. Engineer
Jerry Aroneo, Mayor's Designee	Dawn Wolfe, Planning & Zoning Administrator
Guy Roshto, Member	

**EXCUSED:**

Mead Briggs, Member  
Michael Smargiassi, Member

X X X X X X X X X X X X

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

**PUBLIC QUESTION OR COMMENT PERIOD**

The meeting was opened to the public for questions or comments. There being none, the meeting was closed to the public.

**DISCUSSION**

**ORDINANCE #298-12 – AN ORDINANCE CREATING A TECHNICAL REVIEW COMMITTEE AND SUPPLEMENTING AND AMENDING THE TOWNSHIP LAND USE CODE**

Chairman Connor stated that Ordinance #298-12 was passed by the Township Committee on first reading on February 22, 2012. The Municipal Clerk requested that the Planning Board review the same at its next regularly scheduled meeting and indicated that the public hearing is scheduled for March 28, 2012.

Mr. O'Brien said that it is up to the Planning Board to review the ordinance and report back to the Township Committee whether or not it can be reconciled with the Master Plan. He said that comments from the Board are requested.

He said that the Technical Review Committee (TRC) was proposed by a subcommittee of the Planning Board in various committee meetings going back to 2010 where it was recognized that certain applicants coming before both Boards were less than prepared and did not have the required materials ready for the Board to review. The thought was that by having a TRC, consisting of Board staff and applicants and their consultants, it would make the process go smoother, take less time, and save the applicant a considerable amount of money by reducing the number of hearings that would be necessary.

Mr. Lemanowicz said that this is something that he has tried to do with some of his other clients because, if you give the applicant a little more of a heads up on some of these items, there is less that you need to discuss at the Board level. He said that there are some things that are obvious enough that, rather than to bring it to the Board and spend 10 or 15 minutes discussing how the architect's plan doesn't meet the engineer's plan on the grade in the front yard – that is easily repairable and really isn't an issue for which a discussion needs to take place and there is less time in front of the Board and less frustration on the part of the applicant if we can get these things taken care of before they show up here. He said that it is a technical preview. He noted that a lot of professionals representing applicants don't communicate with the Board's consultants and this process would bring them to a TRC meeting in advance of full Board review and would save time on everybody's part.

Mr. O'Brien noted that the entire process is optional according to the wishes of the Planning & Zoning Administrator. If she sees, as we go through the process at completeness review, that an application is so very simple and doesn't require anything additional, she can waive it completely so there is no time or expense whatsoever on the part of an applicant.

Mrs. Raimer referred to Pg. 2 of the Ordinance where it defines a "Complete Application" and said that it requires the submission of all required fees and professional review escrow funds. The clarification she was looking for was what is meant by *required*. The reason she asked is that there are fees that are statutorily required and there are fees that are required as a matter of procedure. She wanted to make clear that perhaps those that are statutorily required would be those that are necessary in order for an application to be deemed complete.

Mr. O'Brien said that, as an explanatory discussion, the Zoning Board of Adjustment is entrusted by the M.L.U.L. with the ability to interpret the Zoning Ordinance. Last year we had a situation before the Township where the Zoning Board was asked to rule and interpret the Zoning Ordinance to find whether or not we could ask for more fees than those fees that are required by the Ordinance and the Zoning Board of Adjustment ruled that we could *not*

ask for more fees than were required by the Ordinance– that we could advise the applicant that more fees would be needed as time goes on and more review is done, but according to the Board they interpreted the Ordinance to read that *only* required fees could be required of the applicant at that particular time. So, what Mrs. Raimer is saying is that that is consistent with what the Zoning Board of Adjustment found last year.

Mr. Cilino asked if that was a legal issue or is it just an issue that falls on the Zoning Board and its interpretation.

Mr. O'Brien replied, "Both". It is a legal issue and the Zoning Board of Adjustment is a quasi-judicial Board in that it can actually make rulings of law, which is one of the four powers that is assigned to it. He said that a ruling that they make concerning the Zoning Ordinance is a legal interpretation of that document.

In response to Mr. Cilino, Mr. O'Brien confirmed that there is legal counsel to the Board of Adjustment.

Mr. Aroneo said that, at the Township Committee meeting last Wednesday, they talked about what constitutes a complete application and it was his understanding that, statutorily, the Township does have the power to say in its Ordinance what constitutes a complete application so, therefore, he took that to mean that if there are required fees, that they would also be required for it to be a complete application.

Mr. Lemanowicz replied that what he felt the issue was with this particular application was that the fee schedule....

Mr. Aroneo interjected and said that he did not mean to talk about any particular application, only the Technical Review Ordinance in general.

Mr. O'Brien said that the required fees would be the ones required by statute.

Mr. Aroneo added, "Or the Township's fees as well – they are still required, is that right?"

Mr. O'Brien replied, "Only the ones that are in the Ordinance – those are the ones that are required". He said we require "x" amount of dollars up front as part of an application fee and they don't have to give any more, although the Township advises them that a particular application may cost more based upon the number of meetings they have.

Mr. Aroneo agreed. He said that the required fees must be paid up front and other fees can obviously come later. He said that he thought the question was, are the Township's fees included in what is required for a complete application?

Mr. O'Brien replied, "Yes, they are".

Mrs. Raimer said that her comment was a request for clarification because routinely we ask for fees that are beyond those that are required by statute just to get the application heard because the statutorily required fees are so modest that they are not sufficient in order to get an applicant through one typical hearing and so, it has been our pattern and practice for years to ask for more than what was in the statute. She said that suddenly someone questioned whether or not they were obligated to pay beyond what the minimum fee was in the statute when it had *always* been the case that applicants were paying what was requested of them and not necessarily the modest fee that was in the statute. When the Board of Adjustment was confronted with the question, it took the position that we really could legitimately only ask for what was statutorily required and not what was procedurally necessary to get the hearing off the ground and, in order to ask for more than what was asked for, we needed a different type of Ordinance change which would address the fees in particular. But she said that we are not talking about that, we are just talking about what is required for something to be deemed complete and so to avoid any controversy as to whether or not they have to submit beyond what is statutorily required, or just the minimum statutory fee – that was the only reason that she thought that perhaps we might want to add the language "statutorily" required.

Mr. Connor said that the issue of the fees that we require under Ordinance is being reviewed and, based upon whatever information we have, need to be increased because they haven't been increased for a significant period of time. For example, if an applicant were to take a complete meeting, the required fees would not cover the expenses for the Board Attorney, Engineer, and Planner, including their backup work. He felt that we should address this in the next few months and there should be a minimum of at least up front money for one meeting. He said that nobody wants to raise the fees but the problem is that we get into a position where the statute says one thing and it turns out to be two or three times that and people wonder why we are asking for more money than the Ordinance requires.

Mr. Aroneo agreed and said that the fees should be reflective of the costs. He said that the Township should not bear any of this cost and we should not have a fall in the escrow accounts either. He also did not feel it is fair to ask the consultants to discount their labor.

In response to Mr. Cilino, Mr. Connor said that Mr. Briggs had done some work on a fee study but he was not sure of its status.

Mrs. Wolfe said that she has done quite a bit of work on a fee study and her part of it is nearly complete but, due to the current workloads, finding the time to get together has been a problem.

Mr. O'Brien explained that on his list is for Mrs. Wolfe to meet with him and Mr. Lemanowicz to try to get something together, but he agreed that we have a lot on the plate right now.

Mr. Connor said he understood.

Mr. Cilino felt that it seems important because there is conflict on this and it sounded like we are losing money with every applicant. He asked if we could set a time line on it.

Mr. Connor explained that we are not losing money. He said that applicants must replenish their escrow when it reaches a certain level, however often the money doesn't come in on time. He acknowledged that there have been some problems. He said that ultimately we collect *most* of the money, but there have been a couple of instances where we haven't.

Mr. Aroneo said that the Township has put up some money and the consultants have discounted their labor.

Mr. Cilino suggested that we shoot for a deadline here given that Mr. O'Brien's plate is full at this juncture and then we fine tune it. He felt that it is important that we have a target in site.

Mr. Connor agreed. He said that he would like to hold off setting up a deadline until the next meeting and then see if we can determine a good deadline given the various things that are there and the status of the information that has been collected. He did not have any problem adding the word "statutory".

Mr. Aroneo asked if that then says that the Township fees are not required?

Mr. Connor replied, "No" and said that the statute is the Ordinance and so whatever is in our Ordinance will be required.

Mr. Aroneo said that he was thinking that that might refer to state statute. He asked if the word "Ordinance" should be used instead?

Mr. O'Brien replied that you could use the word "statutorily" and that would refer to all of the numbers that are in the Ordinance book.

In response to Mr. Connor, Mr. O'Brien said that the Technical Review Committee was worked at the subcommittee level here at the Planning Board in 2010 and 2011. A small group worked on it and came up with the concept and forwarded it to the Planning Board.

Mr. Connor said that some modest corrections were made and Mr. Pidgeon split it into two – it was originally a single ordinance and the two are very consistent with the one. He noted that Mr. Roshto had some very specific comments that were incorporated into the revision which was forwarded up to the Township Committee. He also noted that there had been discussion of having Board members on the TRC and he believed that it was the agreement of the Planning Board and the Township Committee that this is a professional board and, therefore, should have professional membership and that individual Board members aren't necessarily professionals and, therefore, that the committee *not* have Planning Board members on the TRC.

Mr. O'Brien said that some towns *do* have it, but this discussion here revolved around if the Board did not want any Board members leading the discussion or discussing the merits of an application and keeping it strictly technical on the actual application itself, whether it is good or bad, or the impacts.

Mr. Connor said that this will now establish when the Board and the Township says that it is complete and that starts the clock on any action that comes before us. He said that this is still a legal question that hasn't been completely resolved with the new time of decision, but at the Township Committee Mr. Pidgeon felt that this is probably a very good start of staking our claim as we have pretty well defined what completeness is, so that question should not come in front of us.

There being no further discussion, Mr. Dempsey made a motion that Ordinance 298-12 is consistent with the Master Plan and should be forwarded to the Township Committee for adoption, as amended by Mrs. Raimer. Mr. Roshto seconded the motion.

A roll call vote was taken. Those in favor: Dr. Rae, Mr. Butterworth, Mr. Cilino, Mr. Dempsey, Mr. Aroneo, Mr. Roshto, Mrs. Raimer, Mr. Arentowicz, and Mr. Connor. Those opposed: none.

X X X X X X X X

**DISCUSSION**  
**PROPOSED DEVELOPMENT APPLICATIONS CHECKLIST**

Mr. Lemanowicz said that the proposed Development Applications Checklist was developed as a time and cost saving measure for applicants. He said that the current way that the Ordinance sets forth the requirements for completeness is, essentially, in paragraph form on the order of 20 pages or so and is unwieldy. By putting it in its proposed format, he said that it is very easy for an applicant or for the Township to go through and figure out what is needed for a given application. He said that it also has on the right side, a place where the applicant can mark the

status of each item, whether it complies, or whether it needs a waiver. He said that, technically, an applicant is required to request a waiver when they are not providing a completeness item and next to it there is a place for Township mark for its opinion as to whether it believes it complies or needs a waiver. He said that it speeds up the process because, for example, if an applicant has a major subdivision with a c variance and he only finds the subdivision portion of that 20 some odd pages in the Ordinance and misses the variance section, the application will be incomplete and the applicant must come back. The intent is to speed things up and clarify and reduce from 20+ pages down to 5. He said that the preparers of the checklist tried to be realistic as far as what items are required, which is somewhat difficult to do because every application is different.

In response to Mrs. Raimer, Mr. O'Brien agreed that a statutory change is required to make a change to the Application Checklist.

Mrs. Raimer asked, if it should ever come to pass that there is a conflict between the Ordinance (in general) and the Application Checklist, then the Ordinance would take precedence based upon the severability clause?

Mr. O'Brien replied that he was not positive of that although he believed so, noting that it is a legal question.

Mrs. Raimer said that as she read Sec. 9, the severability clause (although not labeled so), if there are any inconsistencies then what we have before us (that particular portion) would be repealed and the Ordinance would take precedence, so there could come to pass where an Ordinance has changed and the requisite conforming amendments are not made so that the checklist is amended, in which case she was confirming that the Ordinance would take precedence.

Mr. O'Brien replied that that is his understanding.

Mrs. Raimer said that, in speaking with Mrs. Wolfe, this would be even better than it already is if Item #54 would spell out the recipients of the 4 as-built plans so that any of the staff members could be in a position to take on the task.

Mr. O'Brien replied that it is in the Ordinance now, so they would just have to transfer that over.

Mr. Connor asked for clarification.

Mrs. Raimer said that Item #54 requires 4 sets of as-built plans, but it does not say who they shall go to. She said that the beauty of this checklist is that you are not forcing somebody to go back and forth to check the Ordinance and this would just be the last thing that wouldn't require them to do that.

Mrs. Wolfe commented on Item #35 regarding rapid access key boxes (also known as Knox Boxes) on non-residential properties. She said that they are not required in many cases and wanted to make sure that it is written in accordance with our Ordinance now. She said that it is very clear in the Ordinance now as to which cases *require* rapid access key boxes.

Mr. Aroneo said that a few years ago the Township adopted an ordinance on Knox Boxes and that a lot of commercial buildings are required to have them.

Mrs. Wolfe replied that some are and some are not and that she has been told by the Construction Official to take the requirement out. She said that it is definitely addressed in the Ordinance and it is very clear.

Mr. Lemanowicz said that an applicant can always ask for a waiver, however he said that he saw Mrs. Wolfe's point, if we are *implying* something.

Mr. Aroneo said that, in order to keep the checklist updated, easier than updating an ordinance every time, we could reference it in an ordinance. He said that the Ordinance could reference a checklist that is adopted annually by this Board and/or the Township Committee. He felt that the Township Committee would still have to adopt it by ordinance. Instead of making the checklist a part of the actual ordinance, he said that it just could be an ordinance that says that there will be a checklist and that checklist can be maintained by the Planning Board. That way it is easier to make changes to it and it does not have to go through the ordinance process. He said that the Township Committee has done that on other occasions.

Mr. Lemanowicz said that he has seen it done that way.

Mrs. Raimer asked if you would reference it as amended and then it wouldn't be attached as part of the Ordinance and then on an annual time period.....

Mr. Aroneo replied that it wouldn't be part of the actual Ordinance, the ordinance would say that there shall be a checklist maintained by the Planning Board, adopted annually by the Township Committee. So that if errors are found or ideas that would work better, you could make those minor changes by Resolution by this Board and forward it to the Township Committee, who would change the checklist rather than the whole Ordinance.

Mrs. Raimer felt that sounded great and would speed up the process.

Mr. O'Brien asked if that would require an annual process on the part of the Planning Board.

Mr. Aroneo replied that he did not know if it would be required. He said that the Township Committee would certainly do it and that they do it annually with all other such attachments to ordinances, such as fees, so that they just adopt the fees as schedules rather than parts of the Ordinance themselves.

Mrs. Raimer asked if it would have to be adopted or revised annually, or as needed?

Mr. Aroneo did not think that you do, but they do it as a matter of good business and look at it annually.

Mr. O'Brien said that, when you do that on an annual basis, he thought that the fee schedule is in one place. He asked if the Township Committee is readopting the annual fee schedule and is that done by ordinance?

Mr. Aroneo said that, with most fees, they do fees by reference, so they are actually adopting fees annually – usually at the Reorganizational Meeting or the meeting after that.

Mr. O'Brien asked if that would still be by ordinance?

Mr. Aroneo replied, "As reference". He said that they do not pass a new ordinance every year, they just pass a resolution that says that they acknowledge that these are the current fees for whatever item.

Mr. O'Brien said that, up until now, the Ordinance has been the ruler of the checklists. He said that if the Township Committee is comfortable with putting it in the Planning Board's hands, that is certainly something that we can work out. But the way that this ordinance is currently written is that it stays as part of the Ordinance book.

Mr. Aroneo said that it is a suggestion and that he is one member of the Township Committee. He said that, to him, it is easier for changes and housekeeping.

Mr. O'Brien said that, without legal counsel, he was not quite sure how that works, but said that it certainly sounds easy.

Mrs. Raimer asked if the Ordinance needs to be amended to say that it is obviously referencing the Checklist but that any such changes to the Checklist can be done through a Resolution?

Mr. Aroneo replied that it doesn't reference it in that way, it just says that there will be a Checklist maintained by whoever is designated in the Ordinance.

Mrs. Raimer asked, if you wind up amending the language to just do it by reference, could you just put language in that would advise an applicant where they may find the checklist (either on the website or available at Town Hall).

Mr. Aroneo said that that is one benefit of having it as part of the Ordinance – it stays with the Ordinance and you know where it is.

Mrs. Raimer said that it is appealing to hear that there are things that could be done to expedite the changes that might be minor so that they wouldn't require the whole ordinance process.

Mr. Lemanowicz said that the only part of the Ordinance where he found Knox Boxes referenced is in the Administrative Site Plan Waiver application where it says to indicate if a Knox Box exists on the subject property – if yes, show location.

Mrs. Wolfe said that it could be under Rapid Entry Access Boxes.

Mr. O'Brien felt that Mr. Aroneo has a very interesting idea, but he thought we would have to run it by counsel to see if that would be the way to do it because, up until now, it has been done by the Ordinance book and looking through the book very quickly, he did not see anything in the current Ordinance that mentions giving that power to anybody else.

Mr. Aroneo said that, even if they don't delegate the power even if they keep the power, this Board could certainly recommend that the Township Committee change something, even if they don't delegate the power to this Board.

Mr. O'Brien said that the Ordinance does allow the Board to have certain powers and to make certain rules, typically governing the way that they do things or the way that they hear applications. He said that, if everyone is comfortable with it, it could be done by the Board provided that counsel is okay with it on the Board's part and on the Township Committee's part.

Mr. Connor felt it was a good suggestion. He asked if the members were generally in agreement with that approach. If so, he said that he was not going to bring this officially in front of the Board and, instead, allow counsel to look at it and bring it before the Board in two weeks.

Mr. O'Brien said that the Checklist is usually not that quite dynamic where we are looking to adjust it on a regular basis. He said that this is the first time that we have looked at the Checklist since the 1996 Ordinances. He said that

the new Ordinance Book was adopted in 1996 and this is really the first comprehensive look at checklist issues since then. He said that we wanted to look at the entire process which is why it came to the Board two years ago or so, to try to make it more friendly instead of the 20-30 pages in the Ordinance Book. He said that the question remains as to whether it is that important to have it done by the Board in the interest of trying to put your finger on something right away – is that necessary? He said he did not know and that it is a matter for the Board to answer.

Mr. Arentowicz said that, because in the past we didn't change it, with today's technology we can put it out on the internet on the Planning Board website. He said that, if we have to change it in 6 months, we change the website. He felt that Mr. Aroneo's suggestion is "right on" – that we keep it out of the Ordinance so that we can change it if need be.

Mr. Connor asked if there is a downside of having it as a reference.

Mr. O'Brien replied that the only concern he had would be if it is a legal one.

Mr. Connor said that, seeing that it did not look like there is a downside in doing it, he suggested that the Board not take action on the matter tonight and that they work with Mr. Hoffman and Mr. Pidgeon and let them look at it and come back with a suggestion in two weeks.

Mr. O'Brien asked if there was enough time to get it back to the Township Committee before their next hearing on this?

Mr. Connor replied that it is only 6 days old. He asked when there will be hearings on it.

Mrs. Raimer replied that the public hearing is noticed for March 28<sup>th</sup>.

Mr. Connor and Mr. Aroneo felt that that is plenty of time.

Mrs. Wolfe referred to Item #16 on the Checklist which calls for photograph(s) showing the property as it currently exists and all structures thereon. She asked the Board to consider a minimum size photograph, noting that recently she had someone submit an 8 1/2" x 11" piece of paper containing about eight 2" x 3" black and white photos which were very hard to see.

In response to Mr. Connor, Mrs. Wolfe suggested that the minimum size be either 4" x 6" or 5" x 7", or even 3" x 5".

Mr. Connor suggested a *minimum* of 4" x 6".

Mr. Roshto asked if this is something that could be left open ended for Mrs. Wolfe to decide based upon the application. He asked if it needed to be written down in the Checklist.

Mr. Connor felt that a minimum size is probably a good idea which makes sense and gives guidance.

X X X X X X X X X X X X

**DISCUSSION**  
**DRAFT ENVIRONMENTAL ORDINANCE**

Mr. O'Brien said that the draft Environmental Ordinance came out of the adoption of N.J. Statewide stormwater regulations in about 2004 which mandated that towns look at development based upon the size of the development and the effect upon stormwater that that development would have. He said that, basically, it came down so that there would be no additional runoff from any site after development – that things would not be worse after development as opposed to how it was beforehand. As part of Long Hill's meeting that mandate, the Master Plan was amended and ordinances were adopted that met the requirements of the state stormwater statute, and that would be in regards to major development.

Mr. Lemanowicz said that a major development is something that creates more than 1/4 acre of new impervious cover or disturbs 1 acre of land. Once you hit that threshold through requirements now that the town has had to have adopted, there are 3 criteria that you have to meet. You have to meet a rate reduction criteria depending upon the storm size; you have to meet a groundwater recharge criteria; and you have to meet a water quality criteria which means that the water that does runoff and leave the site has to be clean to a certain extent. Below that major development threshold, the town is the authority that decides what is to be done. Part of the issue with the Long Hill Ordinance is that it wasn't very clear. As discussed last time in talking about the BMP Manual, he said that there were also conflicts within the Ordinance and it was very difficult to follow. He said that that is part of why they decided to take this on and actually introduced two developments below the major. He said they included a "small development", which is between 400 S.F and 2,500 S.F. and a "minor development" which is between 2,500 S.F. to 1 acre of disturbance and that was to basically allow them to recommend or require certain controls, given the size. He said that a control for a .9 acre development is going to be different from a control for a 40' x 30' swimming pool, but we do need to control it because swimming pools can be as much of a difficulty as a development because they change the topography and the grading. The idea was to give clearer direction and use some of the criteria that is found elsewhere, such as the R.S.I.S. and make it a little easier and more intuitive so that when engineers come in to Long Hill Township to serve a client, they can see this and say that they have seen this before and that it follows the

B.M.P. and R.S.I.S. and solves a lot of issues because, as much as the town would like to have things just the way they like it, it can become cumbersome when it comes to designing it. He said that this not only provides us with the ability to say that we didn't make this up on our own and that this is a standard, in case it does get challenged. He said that the regulations that the state put forth are fairly stringent and it is all aimed at making it a little easier to deal with and the town still gets what they want with regard to stormwater controls.

Mr. O'Brien said that the state laid out the requirements for the large developments, but they did not make any requirements for small developments, particularly homeowner size developments. Yet by our Ordinance, since at least 1996 and perhaps back to the 1986 Master Plan, we have required no net increase in stormwater runoff as a Township. The Township has also regulated any improvements of over 400 S.F. because those are in the Ordinance and now you've got the state coming down saying that these are the stormwater regulations that we have. He said that our problem was that a homeowner has taken a look at this very large state mandated book of stormwater regulations in trying to pick out what applies to them, when it was really written for the large developer. By doing this, he said that this Township took the direction that we wanted to carve out an area that would apply directly to the homeowners to make it as simple as possible for them so that in their adherence to the stormwater regulation, they would be able to find an easy place to go that would tell them what they had to do without having to consult the statewide manual. He said that this document about the environmental regulations leads directly to the Best Management Practices Manual which is written specifically for those homeowner regulations and telling them what they need to do.

Mrs. Raimer noted that on Pg. 1 it allows for waivers and exceptions and one of the conditions for which you would grant a waiver or an exception is undue hardship. Under the M.L.U.L. undue hardship or hardship is a term of art and is not meant to mean personal hardship or the applicant's financial hardship. In this case, she asked what hardship means?

Mr. O'Brien replied that an undue hardship is still the same as it is in the statute and that pertains to the size and shape of the land and other hardships that come along with the actual topography and the land itself.

Mrs. Raimer asked if an applicant could claim that it is excessively expensive or anything like that and that would not qualify as their hardship?

Mr. O'Brien replied that that would *not* qualify as a hardship. He said that what we are trying to do is part of that BMP Manual to show that there is a range of things that could be done, most of which are very inexpensive.

Mr. Lemanowicz said that in dealing with residents, when we have a situation that is a hardship financially, which we are not supposed to deal with, a lot of times it will become another issue. For instance, if there is a particularly steep piece of property and the only way to get a drywell on it is to put up a retaining wall to carve a side of the hillside out – yes, it is expensive, but it is also a lot of disturbance. In that case, he said that granted it is expensive, but do you really want a resident to carve out a side of the hillside and put up a 5' – 7' high masonry block wall and carve out a flat spot to put in a drywell. He said that, environmentally, that is a hardship because it is not something you want them to do. He said that many times there is more than one hardship involved.

Mr. Roshto asked how we deal with anything *less* than 1,000 S.F. of disturbance.

Mr. O'Brien replied that a small development is 400 S.F.

Mr. Roshto said that it says that any commercial or residential project that disturbs *more* than 1,000 S.F., so what if it disturbs 950 S.F.?

Mr. O'Brien said that there are two triggers. He said that disturbance is an area that is an engineering term which refers to the land that is being worked upon. However, it also has to meet whether or not it is more than 400 S.F. or less than 1,000 S.F. of impervious cover.

Mr. Roshto said that he understood, but let's say it meets the impervious coverage requirement but 950 S.F. of land is disturbed. How do we deal with that in our Ordinances because it is less than a small development?

Mr. Lemanowicz said that, if it doesn't come to a Board, he believed that there is a grading plan process that you go through. If there is a property in town that is undeveloped and someone wants to put a house on it that doesn't need a variance, that is an administrative issue that is dealt with by the Township Engineer or by Soil Conservation.

Mr. Roshto said that from an environmental impact aspect, if it contained 999 S.F. of disturbance of disturbance, the environmental ordinances wouldn't take effect.

Mr. O'Brien agreed, but said that it would be dealt with elsewhere.

Mr. Dempsey said that we talked about that and it was quite a low number. He said that when we were thinking about exactly what we were looking at, we brought up a 10' x 10' shed. He said that you could file the paperwork and it is properly away from the property lines, etc., and all of a sudden for a 10' x 10' Home Depot shed, you have to go to a Best Practices Manual and build yourself some sort of detention basin or a rain garden. He questioned where is the good balance that was at 400 S.F. before? He felt that there is one that ranges from 400 S.F. and that is

why they stayed with the numbers that were in the Ordinance before. He said that they actually came to us from the Environmental Commission.

Mr. Roshto asked if, for example, the land that is disturbed is a critical area, then would the Critical Area Ordinances that are listed here be considered?

Mr. O'Brien replied that you cannot build on a critical area.

Mr. Roshto said that the definitions are only applicable to Sec. 146 – Stormwater Management and not across all of the ordinances that we are looking at.

Mr. O'Brien replied that the definitions of a small development would apply throughout the Ordinance. However, he noted that there are other portions of the Ordinance that directly address critical areas and there can be no development in a critical area.

In response to Mr. Dempsey, Mr. O'Brien said that the definitions in Sec. 111 – "General Terms" will apply throughout the Land Use Ordinance.

Mr. Roshto said that he now understood and was clear on it.

Mr. Lemanowicz said that he wanted to be sure everyone understood the difference between disturbance and impervious cover.

Mr. O'Brien said that somebody could come in and disturb an area and then go back and put it back how it was and it is done. It is not necessarily a permanent change to that particular land. For instance, to get that shed to the back yard, you've got to disturb everything you drive over and everything where those people are standing to put that shed into position, but once you retreat from that and go away, that land/grass recovers or is put back into the state in which it started out with as a homeowner would do.

Mr. Lemanowicz said that we have seen applications that come in with 43,559 S.F. of disturbance and the applicant claims they are 1 S.F. under and are not considered to be a major development. At that point, we start talking about the need for a snow fence on the line of disturbance and you basically show them that we understand what they are trying to do and we don't want them to be within 1 S.F. of their maximum and we start putting a snow fence about where they are going to be tracking and the property owner eventually realizes they cannot get a machine through a 4' wide opening. In that case, they've got to disturb more and eventually they work it out. He said that you will always have somebody who is right up against that line and it is just one of the things we have to deal with.

Mr. Connor recalled a discussion on how to make simple changes easy for a property owner, how far we wanted to regulate, and how much freedom they had to work their property versus how much they had to do and meet various ordinances. He said that the intent was to find a balance between something that protected the environment and stormwater, but not being so definitive and limiting that a simple change like a 10' x 10' shed would all of a sudden cause a whole bunch of paperwork and fees that a homeowner might not want to do or even think about.

In response to Mr. Connor, Mr. O'Brien said that the draft Environmental Ordinance went to the Township Committee and was discussed last June. The Township Committee and Township Engineer made some suggestions and he took a number of those suggestions and put them into the document in front of the Board, so it is up to the Board to send it back to the Township Committee with whatever suggestions or changes it wishes.

Mr. Arentowicz asked Mr. O'Brien to highlight what was changed.

Mr. O'Brien replied that under "Development, Small" on Pg. 3, he spelled out the more than 1,000 S.F. and less than 2,500 S.F. on commercial/residential projects for disturbance. Under Sec. 142.1a on Pg. 4, we added driveway or walkway to the no principal building, accessory building, parking area, pool, tennis court, patio or deck. Item 142.1d was rewritten. The original language was "All single family lots shall provide a principle building setback of at least 35' from any critical area located in the front, side, or rear yard of the lot" and the comment was that it was a pretty wordy way of saying what it says now in front of you. Under Sec. 146.1a on Pg. 5, he said that at the very end of that particular paragraph where it says Sec. 146.6, it then goes on to delineate the detention/retention ordinance language that is there currently. He said that the Township Engineer had some suggestions, some of which were covered elsewhere in the ordinances. He said that one of the shortcomings when we look at a particular ordinance like we are on this one is that there is a whole book of other zoning ordinances and there is a whole other book of Township ordinances that may or may not have a bearing on what we are looking at. So a number of things that the Township Engineer talked about had been dealt with in other areas of the Ordinance which were pointed out to him or some of his questions were where did this come from and why are we using this particular number or this level and the answer was, because that is how it has been in the Ordinance and we are just carrying that number forward.

Mr. Dempsey pointed out a numbering error in the Sections noted on Pg. 7.

Mr. O'Brien agreed and said that they should all read Sec. 146 (rather than Sec. 145).

Mr. Connor recalled something else that was considered because at the time there were references to the Best Practices Manual and that was under Construction.



Mr. O'Brien agreed and said that one of the comments was that we really shouldn't include it if it is not there, but here it is.

Mr. Connor said that that gets us in to the second item (Item 11) on the Best Practices Manual. He asked Mr. Lemanowicz to bring the Board up to date on it.

Mr. Lemanowicz first referred back to the draft Environmental Ordinance and said that the way they wrote that specifically was for specific guidelines see the N.J.D.E.P. Best Management, as amended or supplemented by, so if it didn't exist yet, you still had something to go by. In any case, he said we are there now.

Mr. O'Brien asked if there was anything else to discuss on the draft Environmental Ordinance.

Mr. Dempsey asked if a motion was needed, or if the Board wanted to review the Best Practices first.

Mr. Connor preferred to review the Best Practices because he felt that, if there is agreement with the Best Practices and the Environmental Ordinance, then the Board will have a package that they could send together.

Mr. Roshto said that he has heard some things tonight and would like some time to knead it and go back to look at the history of all of this before we make a motion tonight.

Mr. Connor agreed that it could be handled at the next meeting.

Mr. Roshto referred to Sec. 142.1d and asked what the setback would be if you had a single family lot that was *not* in a critical area.

Mr. O'Brien replied that it is shown in the bulk requirements in Sec. 131.

Mr. Lemanowicz added that it would depend upon what residential zone the property is located.

Mr. O'Brien agreed and said that every zone is different.

Mrs. Wolfe added that the *minimum* front yard setback in a (single family) residential zone is 50'.

Mr. O'Brien said that there are minimum front, side, and rear yard setbacks, as well as a minimum combined side yard setback. He said that the minimum front yard setback in an R-2 Zone is 75'; R-3 Zone is 50'; and R-4 is 50'. The minimum side yard setback in an R-2 Zone is 25'; R-3 Zone is 25'; and R-4 is 10'. The aggregate width of side yards in the C; R-2; and R-3 Zones is 30% of the lot width at the building line; and in the R-4 Zone it is 35%. He said that the minimum rear yard setback in an R-2 Zone is 50'; R-3 Zone is 40'; and R-4 Zone is 25'. He said that those are setbacks from lot lines. What you are discussing in the critical area is the setback from the critical area itself.

Mr. Roshto said that when he read that, it was not clear to him. He asked if that was a typical statement. He said that he would expect that it would be written as a setback from a critical area.

Mr. O'Brien said that it should say that all single family lots shall provide a setback of at least 35' from any critical area to any structure.

Mr. Roshto apologized and said that he must be reading an older document. He said that his copy says that all single family lots shall provide a setback of at least 35' from any structure.

Mr. Arentowicz agreed that this was what was sent out and that he had printed out his copy.

Mr. O'Brien apologized and said that that is not the way it is supposed to read. He said that it is supposed to read that all single family lots shall provide a setback of at least 35' from any critical area to any structure. He said that he thought that that was one of the latest revisions he had made.

Mr. Arentowicz said that, if we are getting editorial, the word thirty-five on his copy wasn't hyphenated.

Mr. O'Brien said that it sounded like he needed to check the various versions and again apologized. He asked if the language he had described makes better sense.

Mr. Roshto replied that it was "perfect".

Mr. Connor asked if there were any other comments on the ordinance itself. If not, he said there will be time to comment on it prior to or at the next meeting. He invited comments to be sent to Mr. O'Brien directly.

X X X X X X X X X X

**DISCUSSION**

**DRAFT BEST MANAGEMENT PRACTICES FOR STORMWATER**

Mr. Lemanowicz said that we are looking at the Long Hill Township Best Management Practices Manual for Stormwater of December, 2011. He said that this document was initiated back when Dr. Len Hamilton was involved and he contributed a lot to it. He said that he (himself) added the technical information to it. He said that the Best Practices Management Manual that was put out by the state has to do with *major* developments – more than 1/4 acre of new impervious coverage or more than an acre of disturbance, so we are talking about *sizeable* amounts of water. He said that the things we deal with in Long Hill right now, with the exception of a few potential developments, are not sizeable – they are single family houses. He said that we wanted to be able to give applicants some direction on how to scale down some of these treatment methods to be more in keeping with a single family residence. He said that he would go through some of the items *briefly* noting that it is here to read. He said that the beginning is a bit of a narrative on why we are doing this. He said that there are issues with flooding and erosion and that discusses that issue. He said that the BMP Design Alternatives starts with rain gardens. Rain gardens are, essentially, a depression in the ground with water tolerant plants and a gravel bottom that allows water to seep in. He said that it is not as intrusive as you might think. He said that if you go into for a few pages, you will find some photographs of some rain gardens that people would walk past as if it was just another attractive landscape feature that adds interest to the area. He said that it is something that can be done on any piece of property. He said that he provided some design ideas, dimensions, and such just trying to let the residents have an idea of what we are looking for as far as BMP measures. He said that it also provides some plant lists, as well as some standard maintenance, noting that rain gardens basically take care of themselves and require less maintenance than a lawn. He discussed infiltration trenches which are gravel filled and allow rain and snowmelt to be collected and seep naturally into the ground, or to be collected for conveyance to another stormwater facility. He said that, as you go through, you will see a bike trail and next to it is an infiltration trench. He said that it is interesting, although he did not know if he would put gravel next to a bike path because if the bike runs onto the gravel, there could be an accident. He said that the point is that it is not something that has to be painfully obvious as a drainage system. He said that the next item is Pervious Paving Systems, of which there are two types. He said that we have permeable pavement and permeable pavers. He said that the first one shown is a permeable paver. In that case, the paver itself (the brick or cobblestone) in itself is not permeable, but you will notice that the way the pattern is set up, there is a little square filled with pea gravel. The water goes between the pavers and there is stone underneath the pavers and that is how the water drains. He said that a lot of paver manufacturers, once they heard that stormwater was going to be an issue, decided that every paver is now permeable because it is has got some kind of sand joint between it. He said that he has seen large areas of pavers puddle. He said that a lot of the pavers now have very little joint between them because of the way they are designed. He said that what we have here is something that has a sizeable opening. It is not just 1/4" of sand. He said that once you get leaf debris, which turns into a powdery type of material with traffic, it will clog and that is where we start talking about a 5/8" opening to count as being a pervious paver, otherwise it doesn't count. When you get to a small joint, he said that it is not effective. He said that he did not want to have people ordering pavers because the salesman at the paver store said that the open joint between will drain and we wind up getting something that doesn't work and nobody is happy. He said that there is a detail shown and that particular detail does *not* have an under drain, although you can have an under drain depending upon what you are doing. He recalled a project on Long Hill Rd. where a permeable paver area was fairly steep and when you have a permeable paver on a slope, you can put a foot of gravel underneath but the fact of the matter is that it is going to continue to go down hill, so even though you have got 100' of driveway with gravel underneath it, it is all going to go down to the bottom and come out. He said that you can install piping and, once it is caught by the permeable paver, it can be piped to a drywell or someplace else to infiltrate. He said that it just depends upon the application. He said that "Green Roofs" are something that is still being worked upon. He said that they are a little difficult to work with because they can only take a limited amount of water. He said that the way this is written is that we are basically looking for them to provide data because green roofs are something that is going to evolve and it is still evolving. He said that we haven't had a lot of it out there and the economy has really slowed down the development of some of these things because when developing was good and there was money out there, people would spend the money and make it extra nice and that hasn't been happening for the last few years. People are trying to cut back as much as they can, but it is coming back. People are starting to realize now that there are better ways to take care of stormwater and, hopefully, this will help the residents when they come before a Board and we are talking about impervious cover and restricting runoff. He said that when people hear "stormwater", they envision what happens when there are floods and such and everybody wants to say "but it is only one house". He said that "only one house" over the entire Passaic River Basin is a lot of houses. He said that once people understand that there is a big state manual out there but we have a local manual that is a little easier to follow, they will hopefully call the Board's professionals to try to help them through the process. He noted that gravel trenches and rain gardens are not expensive, in fact, they are probably cheaper than the drywells which have been used all along.

Mr. O'Brien said that the Manual was put out as part of this distribution and the Board members are the first members outside of the subcommittee that worked on it and the Environmental Commission that helped work on it in the beginning. He said that feedback would be appreciated to see whether or not it makes sense, as written, to a lay person. He asked the Board to take a very critical eye on it to see if it can be made better, whether it reads correctly, whether it needs to be rewritten in some areas, whether the illustrations correctly show what we want to show, or whether we need additional or different illustrations. He said that the Board may want to think about it and bring it back at a subsequent meeting.

Mr. Connor said that his intent was to discuss the draft Environmental Ordinance and the draft BMP for Stormwater at the next meeting. He said that the BMP for Stormwater will ultimately be revised, but it seemed to him that if we have one that meets reasonable criteria that it will be addressed in the Ordinance and made available. He said that

we need to be clear that the BMP for Stormwater is a living document. He said that what was not mentioned was there is a history in that the old Ordinances referred to a Manual that didn't exist.

Mr. O'Brien said that Mr. Lemanowicz has pointed out in the past that one of the Manuals that our Ordinance specifically references as a guide, is something that hasn't existed in a number of years and is something that comes from Somerset County.

Mr. Lemanowicz agreed and said that the Ordinance requires the use of the Somerset County Detention Basin Design Manual and when he called Somerset County to look for it, they indicated that they don't even use it anymore and haven't used it for the past 10 years. He said that although he had explained permeable pavers, he did not get into permeable pavement. He said that there are two types of permeable pavements. One is concrete and one is asphalt. He said that if you can think of a Rice Krispie Treat, it is a hard surface, but yet it can flow through. He said that it is expensive and, in fact, to use this product on the road, he believed that you would need 10" of permeable asphalt where you would need 4" of regular asphalt, so not only do you need a lot more of it, it entails a special procedure to put it down. He said that the state has been messing around with and one thing they found, oddly enough, is that it is quieter than regular asphalt. He said that it is a little bit on the new side and he has seen it in public parks on walking paths more than anything, but the problem you have is that leaf litter gets into the holes and can clog it. Once it is clogged, there is really nothing you can do with it – it is a matter of taking it all up and putting it down again. He said that there are plusses and minuses to it. He said that it is something that is created in place and is not something that you buy like a paver. He said that it comes out in a truck and is put down similarly to the way you would see someone pave a road or a driveway.

Mr. O'Brien said that the section of Rt. 24 near the Short Hills Mall was paved with this about 4 years ago as a demonstration project and one of the side results that nobody expected was that traffic was much quieter because of the way that it interacted with the rubber at the time.

Mr. Lemanowicz agreed that the sound goes down instead of bouncing. He recalled that it was put down someplace on the N.J. Turnpike too.

Mr. O'Brien said that in Long Hill Township we have it at the PNC Bank at Plainfield Rd. and Valley Rd. He said that their parking lot has been paid with a permeable pavement and they did that as a stormwater control measure. One of the maintenance items that came with it was that they couldn't lay down salt or sand during the winter because that would clog up all the nooks and crannies. Instead, it has to be plowed.

Mr. Lemanowicz said that salt will probably dissolve and continue on its way, but the sand would cause clogging.

Mr. O'Brien invited the Board's input. He said that one of their thoughts when they talked about the final draft was that maybe we need more illustrations, but they didn't want to make changes until they saw what the Board thought about it and what their feedback was.

Mr. Connor asked the Board members to direct their comments to Mr. O'Brien and copy them to Mr. Lemanowicz. He hoped to have further discussion at the next meeting and have an adoption to send up to the Township Committee. He noted that no members of the public were present and, therefore, said that he would not be opening the meeting to the public. He asked if there was any other business that any Board member wished to bring up.

Mr. Arentowicz said that Mr. Aroneo had introduced comments on the Valley Road development to the Township Committee and we deferred that discussion because some members were not present. He asked when the matter will be re-discussed.

Mr. Connor asked the Board members if they were ready to discuss it at the next meeting.

Mr. O'Brien asked Mr. Connor if there was anything he wanted the Board to have besides those comments and the last draft Ordinance.

Mr. Dempsey said that there was talk about all of the different types of documents that were out there to give everybody a chance to read them all. He believed that all of the appropriate links and/or documents were sent out.

Mr. Cilino asked if there is a listing of all of the final documents that one could point to in order to make sure that their packages are complete.

Mr. O'Brien replied not that he was aware of in terms of a straight forward list.

Mr. Cilino asked if that is something that could be done relatively simply.

Mr. O'Brien said that he would refer to the Status Update. He noted that all of the current documents are listed there and anything else is either in the Master Plan.....

Mr. Connor apologized for missing Item #12 on the agenda this evening which is "Planning Initiatives Status Report #2 – 2012".

Mr. Aroneo suggested that someone just make a list of all of the documents and circulate the list by e-mail to all of the Board members.

Mr. Dempsey said that he felt that the documents have been circulated between Mr. O'Brien and Mrs. Wolfe.

Mr. Aroneo said that it was apparent to him that it is coming from two places and there is a question as to whether or not we have all of the documents. He said that, if we have a list of all the documents, one could compare what they have against the list.

Mr. O'Brien said that he was trying to think of what there is besides what is in the Status Report and the drafts that it refers to.

Mr. Aroneo asked Mr. O'Brien if he was saying that, if we have the e-mail from Mrs. Wolfe from last Wednesday, and the e-mail from him shortly after that, then we have all the documents required to discuss Valley Rd.

Mr. O'Brien said that he would have to look at Mrs. Wolfe's e-mail.

Mr. Dempsey said that she was saying that there were people that wanted to read the minutes of the meetings and get caught up. He said that she sent out all the minutes and Mr. O'Brien sent out the latest versions of all of the documents.

Mr. O'Brien said that Mrs. Wolfe had sent out a list of all the meetings at which Valley Rd. was discussed and all of those minutes are on the Township's website.

Mr. Lemanowicz said that all that he could think of was the conceptual layout that he prepared on AutoCadd. He could not recall if he converted it to a PDF.

Mr. O'Brien said that it *was* and was sent out last year.

Mr. Lemanowicz asked if it had gone out in the package.

Mr. O'Brien replied that he truly did not mean to sound uncooperative, however this has gone on for quite a while and he did not know exactly who has what. He said that so many documents have evolved over time so that, even though we started out with a draft ordinance back in 2008 after the Master Plan was adopted, that was updated constantly so that the draft ordinance the Board has now replaces the one that started out back in 2000 and 2009.

Mr. Cilino said that, coming in as a new member, there are a lot of documents here and he spent a lot of time reviewing everything and trying to rebuild this from scratch without a road map. He said that it is like taking a trip without looking at a map. He said that he could get there, but it would take him a lot longer. He said that the members who have sat on the Board for a long time have a sense of where we are at, but he did not. Looking at the Master Plan, he said that there are new items, but he was not really clear on the Master Plan as to what is outstanding to constitute a complete plan.

Mr. O'Brien said that there is currently a complete map, but being discussed are changing various elements of the Plan and updating them, just like we are doing with some of the ordinances right now. He said that the updates are listed in the Status Report. He said that the prior document would be the one that is in effect as a part of the Master Plan currently. He presumed that everyone had a copy of the Master Plan and its Elements. He said that Mr. Lemanowicz just mentioned one of the concepts we did for Valley Rd. towards the end of last year which was a Layout Plan.

Mr. Lemanowicz said that he could PDF that in and that it is on 11" x 17" paper.

Mr. O'Brien said that when the Board was discussing density on Valley Rd. last year, it wanted to see what a layout might look like, which is what Mr. Lemanowicz worked on.

Mr. Lemanowicz said that it contained unit sizes and held discussions on 6 or 8 units per acre, building coverage, lot coverage, and parking spaces and it was all very much up in the air and was difficult for people to visualize what that meant. So, he went by and took a sample size property of about 5 acres and created a development and made it as big as he possibly could without exceeding any of the parameters just to give the Board a picture. He said that it was really helpful because when you are dealing with unit sizes, then that is going to affect units per acre. But if the building coverage is such that you can't build big buildings, then you want small units to get more units into small buildings. He said that it entails juggling back and forth to figure out which criteria controls and you meet that at the max and everything else comes together. He said that it just provides a picture so that you can see what you are up against.

Mr. O'Brien felt that what happens on a practical level is that the Valley Rd. ordinances were discussed in 2010 and 2011 by the Planning Board. He said that there were a lot of discussions and meetings and we went through a number of different concepts, write-ups, and drawings and, at the end of 2011, the Planning Board made a decision and the decision was "this density, these locations, this type of development". So everything that was discussed in that time period became part of that document that was forwarded to the Township Committee but it didn't include every single piece of paper that was disseminated over that 2 year period or every discussion item because once that

decision was made, it became part of this evolving changing document. He said that he could certainly appreciate wanting to know how we got to where we are, however that does entail going back and seeing all the decisions that were made over time. He said that what you have in the Status Report are where we are right now on each of those different items and it shows whatever the active document is for that particular item and any work that has been done in the past, in terms of support or illustration, has been put into that document somehow as part of the discussion that was held by a Board in the past through a decision that was made.

Mr. Cilino said that he was not advocating going back and looking at every piece of paper. He said that, just as long as he had a road map going forward, he could ask questions.

Mr. O'Brien said that, like this concept plan that Mr. Lemanowicz just spoke about, he wouldn't have even thought about saying that we should pass that out because that is now part of the ordinances that went to the Township Committee. This Board looked at it and a decision was made based on it and it got put into the ordinances as a density number and then we moved on, so that has fallen off to the side. He could see how that would be an interesting thing that somebody may want to look at, but he said that it doesn't spring to mind that that's part of the road map as to how we got here and we should have all of these various documents lined up. He said that, if anybody can think of anything that we've done in the past that would help anyone, whatever you want we will find for you and get it out to you. He said that it is just that it is not always obvious that these are the things that we need to disseminate in order to get everybody up to speed as opposed to the documents that we have in front of us that are open and still under discussion.

Mr. Connor said that during the last 6 or 8 months of 2011, a lot of these discussions went on and that clearly was changes as a result of the Township Committee.

Dr. Rae said that it seemed like we could go on forever disseminating documents and looking back into sessions but he was not too clear on why we are doing it. He said that it seemed that we have a state of play that is reflected right now in the documents before us. He said that there are some decisions that have to be made based on those documents and he felt that one way to move forward would be to plow through those documents and, as questions are asked, they could be answered. He said that that may be the quickest and most efficient way in dealing with this rather than digging through mounds of paper. He said that decisions were taken and they are now reflected in what we have in front of us.

Mr. Connor said that there may be some critical documents and the one that Mr. Lemanowicz mentioned is one of them that may be useful to share with the members. He agreed that most of that was done over the last 6-8 month.

Mr. O'Brien said that we want everybody to be comfortable with wherever we are and he did not want to just say to look at the report. He said that, if there are questions and concerns and we can provide background, he would like to provide it, but do we need to have a discussion – that's up to the Board.

Dr. Rae said that we may all have different needs when it comes to the amount of paperwork we want to see whenever we are looking at decisions and an efficient way of dealing with it is to discuss what we need to discuss and then have those questions asked and answered at any appropriate time so that each one of the members concerns are dealt with rather than doing a scattered approach where we say that here is every paper we can think of and put it in everyone's inboxes. He said that you end of paralyzed by that amount of documentation.

Mr. Aroneo said that he could see how someone new to the process would want to sift through that and decide what is important to them. In fairness to people who haven't been with the process the whole time, he said that it should be made available and if they have questions we'll take the time to answer them.

Mr. Connor noted that Mrs. Wolfe took reasonably complete notes, so if you know at what meetings a matter was discussed, you can go on line and review the minutes, which he felt would give a flavor of the discussion. He said that there may be some reference to a document in those minutes.

Mr. Aroneo said that, certainly, you would want to start with the Master Plan and the Ordinance itself and then go from there, at a minimum.

Mr. O'Brien said that joining this Board is like jumping on a moving train that is going pretty fast, because the train reflects everything that has happened and been decided by this Board and by the Township for the last 60 years. He said that the Master Plan that we have in front of us is a document that dates back to 1938. He said that this is like speaking a foreign language for the vast majority of people. He felt that we all have a lot of sympathy for anybody who is new at this because it is a moving target and is difficult and you really have to learn the jargon and what is going on and there are an awful lot of documents to assimilate. He said that if there was anything we could do at any time to make it easier, that is all of our jobs.

X X X X X X X X X X X

**DISCUSSION**  
**PLANNING INITIATIVES STATUS REPORT #2**

Mr. O'Brien said that he brought his latest Status Report up to date with what happened in January at the Township Committee level and things that the Board was doing back and forth, so it is updated. He said that he had nothing of

significance to point out because the Board has been on top of things for the last two months. He invited questions on the part of Board members.

Mrs. Raimer referred to Pg. 7 and said that she saw that Mr. O'Brien updated it as recently as the last Planning Board meeting on February 14<sup>th</sup> and it reflects the Tree Ordinance. She said that the last line indicates that the

Chairman asked that Planning Board members be allowed to introduce the draft to the Twp. Committee and explain its significance. She asked if that is what the next step is, because the sentence before that doesn't support that. She said that she wasn't clear on what the next step really was.

Mr. O'Brien said that there were two issues. One was that Committeeman Aroneo suggested that the Township Committee provide some specific feedback to this body and, in addition to that, the Chairman suggested that when this ordinance be reintroduced to Township Committee, that it be accompanied by perhaps a letter of introduction or the Chair or other members of the Board introducing it to the Township Committee and explaining the various changes that have been made and the significance of it.

Mrs. Raimer asked where we are today with it.

Mr. O'Brien replied that we are waiting for input from the Township Committee and, once that comes, it will be up to the Chair and to this body to review it and send it back to the Township Committee.

Mr. Roshto replied that that was a point that he felt there was a "disconnect" on. He said that his notes from the last meeting indicate that the Board had a discussion about *pulling* the Tree Ordinance from the Township Committee agenda because there were questions and that we were going to give some direction at the Township Committee on what we wanted or expected from a Tree Ordinance and that was what Mr. Aroneo was going to provide to the Board but the actual Tree Ordinance wouldn't be considered at the Township Committee level. Instead, it would come back and we would then discuss it with the direction of the Township Committee.

Mr. Connor said that it was going to be a quasi-informal feedback without having a discussion and passing, etc.

Mr. Aroneo said that the status of that is that he discussed it with the new Mayor about putting that on an agenda for discussion amongst the Township Committee. He said that he did not get a response as to the date.

Mr. Roshto said that it is a discussion, not on the Tree Ordinance, but on giving guidance.

Mr. Aroneo said that it was "pretty broad" and basically the Planning Board discussed the Tree Ordinance and wants the Township Committee to hear the Tree Ordinance again. He said that that is what he thought the message was – that the Planning Board wanted to present the Tree Ordinance again.

Mr. O'Brien replied that he thought it was *after* they got feedback.

Mr. Aroneo agreed. He said that he said that we need to discuss that as a Township Committee and give them direction, so that is where it is. He said that it will probably be on one of the next few agendas of the Township Committee.

Mr. Connor requested that he be notified and also the Shade Tree Commission.

Mr. Aroneo replied, "Right".

Mr. Connor said that he also noticed that we haven't heard anything back from Tifa as to what their plans are.

Mr. O'Brien replied that there was presentation before the Township Committee last week which he heard third hand that is supposed to be made to this Board at some point in the future.

Mr. Connor said that it will be and that he just received a letter asking to do that and it needs to be discussed. He said that there are two issues. He said that the real number that is relevant there is that, if anything happens, it is not going to happen for 18-36 months. He said that we will have to realize that it is possible that whatever we do will be redone 2 years from now, but it is also possible that that it won't be, so he did not think it would be a reasonable thing to say "Well, now that you might be redeveloping this in 2015, just go ahead in the way that things are". He did not think that is an appropriate approach. He felt that they need to come in with plans on what they want to do.

Mr. Cilino said that he thought the tone was set for them to look at their plans based upon where the conversation went at the meeting and to come back and, hopefully, they will have something redone for us when they present here.

Mr. Connor said that, maybe they don't really believe it, but next time somebody shows up and wants to continue to rent those locations for a new use, they are not going to get a site plan waiver and then their building will be starting to get empty, or the applicant is going to have to come in and spend a lot more money than he/she normally would under an Administrative Site Plan Waiver. He said that he did not quite understand why they haven't responded yet.

Dr. Rae said that they got waivers for the past 20 or so years and they are used to not coming in. He said that the Administrative Site Plan Waivers are all well and good, but asked if there is anything else we can do to compel them

to get some work started on this. He said that it is a dangerous situation and, because he passes that way on a daily basis, he is actually sensitized to the number of people who use that side of the street. He said that there should be something there sooner rather than later.

In response to Mr. Connor, Mrs. Wolfe estimated that between 10-12 Administrative Site Plan Waivers are filed by Tifa each year.

Mr. Connor said that, if we don't get 1 or 2 from them in the next month or two, he would be surprised. He said that if somebody wants to say that they don't have to do it now because there is a tentative plan for 2 years from now, that is not a good reason not to come in with a plan.

Beyond the future site plan approvals, Mr. Arentowicz asked what we can do now to get the sidewalk acted upon.

Mr. O'Brien replied, "Enforcement". He said that you could send the Zoning Officer up there to start issuing a ticket every single day for failure to comply with the site plan requirements.

Mr. Connor explained that, ultimately, if they don't comply, you take them to court. He recalled that that is how we got their attention a number of years back.

Mr. Arentowicz said that this is obviously a legal matter and asked why wouldn't we recommend that Mr. Hoffman or Mr. Pidgeon have a conversation with the land owner and say that we would like some cooperation here. He asked if that would be a good approach.

Mr. Aroneo said that he would say that enforcement is definitely the Township's responsibility and not this Board's responsibility. He said that, if they want enforcement action, this Board should refer this to the Township to be enforced.

Dr. Rae said that that is a course of action that he would recommend because this has gone on way too long.

Mr. Cilino said that we are spinning our wheels here and, obviously, they are not paying attention to us and that is the appropriate direction to take. He said that this waiting to see if they are going to come in for a waiver is a "wait and see" thing and will waste more time.

Mr. Butterworth said that they will come in for a waiver.

Mr. Cilino replied that it is irrelevant and that they have already shown their position. He said that he was in agreement that the Township should take over and legal actions in some form should be started.

Mr. O'Brien said that you could actually take both actions if you wanted to. He felt that Mr. Arentowicz's suggestion to have Mr. Pidgeon call them and say "What is going on?" and, at the same time, you could send the Zoning Officer there to start issuing citations.

Mr. Aroneo said that he felt that the way it works is that you refer the issue to the Township and then they decide how it is handled.

Mr. O'Brien said that this Board does not have any authority whatsoever other than to suggest to the Zoning Officer that this is a violation.

Mr. Connor said that the Zoning Officer clearly has the authority to issue violations. He said that he would have to figure out exactly what the violations were because this isn't the standard one. He felt that he will have to talk to legal counsel on it.

Mr. O'Brien agreed that the Board can only direct that, in their opinion, this site is in violation of their site plan approval and to advise the Zoning Officer that he should look into that.

Addressing Mr. Aroneo and Mr. Roshto, Mr. Arentowicz said that he didn't mean to take on their responsibilities in talking to the Township Attorney, but he said that he would like whatever the Board has to do, or if they could go forward in bringing this issue up from the Planning Board, or however we have to do it – let's do it.

Mr. Connor said that he could certainly do that.

Mr. Aroneo replied, "Absolutely, of course". He said that he did not mean to imply that. All he was saying was that it is a matter of procedure and that is how things are typically handled. They would be discussed with the Township Committee and it would decide the course of action on something like this.

Mr. Connor said that he would do something. Although he could not guarantee it would be tomorrow, he said that it would certainly make sure that it is brought to the Township Committee's attention by the end of the week, as Chair.

Mr. Cilino asked for a review of the subcommittees, noting that Dr. Behr is involved.

Mr. Dempsey replied that it is not a subcommittee. He asked Mr. Cilino if he was talking about the architectural standards.

Mr. Cilino replied that he thought that is what it was.

Mr. Dempsey said that it is not a subcommittee. He explained that he was on the Board and that it is not an official subcommittee of the Board. He said that Dr. Behr took it on upon himself along with a couple of other citizens and he is just continuing to do that. He said that it is a matter of citizens giving their information/view of architectural

standards and bringing in some of the expertise for the Board to understand it, listen, and then when the standards ordinance comes up, we have been educated on it. He said that it is no different from Mr. Sandow who stands up and does the same thing to the Board.

Mr. Cilino asked if any of the citizens are architects.

Mr. Dempsey replied affirmatively.

Mr. Connor said that we actually had a group of architects last year come in and show the Board some possible designs and there was a desire to see if we wanted to put together some sort of architectural standards manual somewhat like the Stormwater Manual that was just discussed, with pictures. He said that there are some towns that do have those documents.

Mr. Dempsey said that part of it comes from a few years back when we've had people come up and say that here is a new building and this is what we are going to do – put a new façade on it and because of this one particular window or one little accent piece, now it is Colonial. He said that we are not experts in the field and there was a lot of talk about getting more information and getting a document around so we could see examples. He said that beauty is in the eye of the beholder. He said that the idea has been in play for at least 5 years.

Mr. Cilino asked if we have a set of plans from these architects that show us various facades based upon the questions that were asked or the information given.

Mr. Connor recalled receiving copies during a presentation. He asked Mrs. Wolfe to check to see if we have copies and, if so, to provide hard copies to the new Board members. He said that it was a 2 hour session that showed some of the design criteria that can be used, most of which is consistent with our architectural standards.

Mr. O'Brien said that there were two discussions at two Board meetings – one in 2009 and one in 2010. He said that at least one of them had a slide show. He said that it all actually dates back to 2002-2003 when the Township turned down the application of Commerce Bank which was slated to be located at the corner of Plainfield & Valley Rds. Commerce Bank came in with their "cookie cutter" design that you see in many, many places and the Township said that we have architectural standards in our current Ordinance and the proposal does not meet those standards. After Commerce Bank refused to change their design, the Board turned down their application and Commerce Bank took the Township and the Board to court and the court upheld the design standards that were in the Ordinance and upheld the denial of the Commerce Bank application. Through that process, many on both Boards felt that the design standards, while upheld, could be strengthened and made better and made clearer. He said that various architects and design professionals such as William Kaufman, Patrick Jones, Walter Carell, and interested citizens in the Township came together before the Board and made presentations about how design standards could be made better.

Mr. Cilino asked if the Board was satisfied with what we have on hand in the file at this point.

Mr. O'Brien replied that, regarding what is in the file, there were no decisions made. It has been an open and ongoing discussion.

Mr. Cilino asked how we could move forward with all of our planning in land use if we don't have a basis to start from.

Mr. Dempsey replied that we do. He said that we have architectural standards. He said that it is just like stormwater management. We had stormwater management and we're trying to make it better.

Mr. Cilino said that it is different than stormwater management.

Mr. Dempsey disagreed. He said that we have stormwater regulations in place and wanted to make them a little stricter. He said that we also have architectural standards and are trying to make them a little clearer and better. He said that it is also just like our checklist – we are just trying to make it clearer and better. He said that it is taking a lot longer than everybody wanted, but there *is* something there.

Mr. Cilino asked if it was something that we could get another architect to come in and help us move this process along. He said that where he was having a little bit of problem is that when you are paving a ground for water runoff, he could understand it because there are only a few simple choices. When you get into architectural designs that fit into the Township as diverse as Long Hill he said that, in his mind, it becomes more complicated.



Mr. Dempsey agreed and said that that is why it has taken so long.

Mr. Cilino said that his question is, “Are we happy with what we have?”, and he understood the answer to be “No”.

Mr. O’Brien said that no decision has been made and the discussion is ongoing.

Mr. Cilino said that that tells him that we are in a position just to say, from a legal standpoint, that we have something, but from a Township standpoint that it is a moving, living, organism here and really should be the basis

of where we are starting with these decisions and we are sort of trailing a little bit. He said that his thinking was that maybe we should accelerate the process.

Mr. Dempsey replied that he understood where Mr. Cilino was going, but where do you start? He felt that we started several years ago. He said that he knew that Dr. Behr would have liked to have started with the architectural standards as he said it a thousand times if he said it once. However, the Board said that it had the Master Plan and Valley Rd. and the architectural standards we have now covers us. He said that he was trying to provide the history of it and, of the holes that we had, there were bigger holes to address than architectural standards.

Mr. Cilino replied that understanding, for him, is not as important as seeing how we can move forward and get this done, realizing that there is a lot going on at one time. He asked what it takes to move forward and then how do we get that process taken care of.

Mr. Connor said that right now there are architectural standards that give some reasonable consistency, particularly to new buildings and significant renovations. Things that are already there, we’re going to make them as nice as you can look at, but there are structural limits as to what you can do with an existing building.

Mr. O’Brien said that any of these rules only apply to the new site plans.

Mr. Connor replied that it is a combination of guidance and, hopefully, we will get some applicants before us and they’ll come in and they will present their buildings and refer to our architectural standards which, while he felt they can be improved, are reasonably adequate and it’s turned out that, given all of the other priorities, we have looked at it but never really gone to the effort of redoing a manual, if that would be one way to do it, which is going to be entail a considerable expense and time. He said that that is the other problem that we deal with every year and that is the actual time that we have because this also involves professionals and that becomes an issue of what we do with the resources that we have.

Mr. Cilino asked if this would constitute an outside representative and, in this case, an architect coming in and supplementing what we have based upon what we tell him? He said that that wouldn’t be our time, it would be the outsider’s.

Mr. Connor said that the issue is that we have multiple architects and not each has the same issue, so ultimately it is a balance. He said that we have had 3 local architects before is over the last year or two who have various recommendations that are relatively consistent with the guidelines that we currently have. He said that most of the time we have had visual representations of the guidelines that are actually in place with very modest differences. So the problem that most Board members have, including himself, is that reading the verbiage doesn’t really help him very much and having a document refer to something like the Best Management Practices Manual that describes Georgian and whatever the various requirements are is something that would be helpful for the professionals and for hearings. He said that, obviously, we get professional architects and we have the planners and engineers who do understand, so that is the reason it became a lesser priority. He felt that they are working reasonably well, plus he said that the Planning Board can make suggestions that are consistent with the guidelines and the applicants normally will agree to our suggestions even if they aren’t quite so defined in the Ordinance. He felt that it would be better to clean it up, but we just haven’t taken the time to do it.

Mr. Aroneo asked, if the Board was to consider hiring an outside architect to present to the Board what we have versus what other suggestions are from that architect and also maybe getting input from the Board, would that be helpful? He said that the Board could receive a quick overview of what the standards are now and the recommendations that they have after reviewing, and maybe take input from the Board and then it could make a determination if we should continue with that.

Mrs. Raimer asked why we would do that if we have the opportunity to use the services of 3 professional architects that are offering their services gratis.

Mr. Aroneo replied that one reason is the failure to progress. He said that we have had this issue referred since 2002 and we have said that it is important and yet it has come up again for the last few years. He said that, nothing against those people, we are all busy professionally, but if we hire that, somebody could handle that from an administrative view and somebody could outsource that. He said that if it is indeed important enough, he felt that that would help give launch to that project.

Mrs. Raimer asked if we have actually reached out the people that have been focusing on this to let them know that the Board is anxious to move it forward? She said that she was under the impression, as was explained, that there are other priorities and so there wasn't this insistence by that panel of experts to come before you again.

Mr. Aroneo said that the panel of experts, as was represented by Mr. Dempsey, is just a group of concerned residents, business owners, or interested parties who have an interest in the town, yet they are not necessarily part of this Board so we really can't direct them.

Mr. Connor said that what was happening previously was that Dr. Behr, who had the prime interest in this, was coordinating those activities. He said that he felt that what he should do is contact Dr. Behr and just see what he has. He said that he knew that he still has the interest and, certainly as Chairman of the Zoning Board, he obviously gets involved with such things on a monthly basis.

Mrs. Raimer said that it is not just that he has the interest, but the work from what she understood has progressed to a point where it was a matter of fine tuning it or awaiting the appropriate moment for presentation.

Mr. Connor said that he would see about bringing it before the Board to see what sort of data and information has been put together.

Mrs. Raimer said that she was not saying that the Board needs to accept it, she was just suggesting that if the work has already been done, we should at least look at it.

Mr. Roshto said that, two meetings ago, Mr. Briggs put a question before the Board asking if Dr. Behr should continue on with the work that he was doing on the standards. He said that he looked at everybody and asked if anyone objected and no one objected. From his perspective, he said that that is the baseline and is where we are starting. He said that, if we are having this re-discussion here of the right people to do it, let's have it, but let's also recognize that we have already gone through this two meetings ago. He said that he completely agreed with Mr. Aroneo on the second part in that we need to move this forward. He felt that the current architectural standards are subpar and we need to make them better. He felt that Dr. Behr is a *very* capable person that bring some of those ideas to this Board and he said that he loved the idea that he is going to come and present to us but, at the same time, if we don't get it in some sort of a time line, we *do* need to start looking at other options, whether it be grant money or paying for it ourselves because we need to continue on.

Mr. Connor said that the next step is to talk with Dr. Behr and see if they can get information to us on where we are to include not only sending documents but, perhaps, a presentation.

Mr. Dempsey asked if the Board is going to talk about architectural standards or Valley Rd. He said that that is where the architectural standards always took a second seat.

Mr. Cilino replied that, in his opinion, you can't talk Valley Rd. if you don't know what your architectural standards will be.

Mr. Roshto felt that that is a legitimate question to ask because he did not think this Board has really decided upon what the priorities are. He said that he knew what previous Board's decided, however he felt that the (current) Board has collectively not decided. He said that what he continues to hear meeting after meeting over the past couple of months are status reports from Mr. O'Brien (which he said are "excellent status reports") about what's happened in the past, which is very good, but what we haven't discussed is what are the priorities that this Board wants to drive? For example, he said that he believed that the Land Use Element should be a higher priority than right now what the current status document talks about. He said that previous Board's believed that we should do that *last*. He said that he thought we should be doing it earlier, although he did not know what the rest of the Board believes in terms of those kinds of discussions. He said that we haven't had that discussion – what is important to this Board, what should we work on first, and what should we work on next. He said that the only thing we have said is, let's getting the lowest hanging fruit, like the Historical Element, done and out of the way and yet we haven't done that. He said that he was a little anxious to get going and start talking about what is the priority, what is the thing we want to attack – is it the Master Plan, or is it ordinances? To him, the priority is that we've got 21 months left to deliver a Master Plan and we are running out of time quickly. He asked if we are going to talk about Master Plans or are we going to talk about ordinances? He said that we haven't had that discussion.

Mr. Cilino agreed with Mr. Roshto. He said that there isn't the priority list. He said that we have a lot of things on the table and keep talking about a lot of things – things that are outstanding because of other issues but, again, the Master Plan, architectural standards – if you don't have the basis it is like trying to race a car when you haven't got the right tires. He said that you have to start from the ground up. He said that he was not saying that that's not here – that we haven't started and haven't got a foundation, he said that all he was saying that he was in agreement with is that the low hanging fruit is not where you want to start. It's the old adage that you have important things to do, semi-important things that you can put off to the next day, and things that you'll never do. He said that most people do the things that you never need to do to start with because it feels good – you are getting them done. But the "A's", the priorities, are not done because they are the hardest things to do. He said that the "A" is the Master Plan, the architectural standards, all the things that we need that we feel confident moving forward that the decisions we are making are based on good, solid information, not on information we will get to and revise.

Mr. Aroneo felt that that makes a lot of sense – to start with the Master Plan and all of those components.

Mr. Connor said that it is the Land Use Element that is the key we have.

Mr. Aroneo added that, as Mr. Cilino said, the things that we will rely on to make the ordinances, as opposed to going back and changing the architectural standards *after* we have drafted an ordinance.

Mr. Connor said that we need the plans before we can do the ordinance, in any case, and they can't be done the other way around. He said that we want to drive the ordinances with the plans that we currently have. He said that some of the things we have are, obviously, documents for the Planning Board but others go into ordinances. He said that we've got the Status Report and suggested taking a look at it. He said that he would get Dr. Behr to bring the Board up to date on what the architectural group has done in the way of work and get that before the Board as quickly as he could. He said that it is something that none of us have a good knowledge of where we are at and it needs to be taken care of and then we will take a look at the other issues on priorities.

Mr. Arentowicz asked when the Board will discuss priorities.

Mr. Connor said that he was not going to put everything on the next meeting and that it certainly has got to be a high priority.

In response to Mr. Connor, Mr. O'Brien said that there are no applications at this time to be scheduled. He said that in earlier discussion, Mr. Connor had mentioned bringing back the Checklist, Environmental Ordinance, and the Best Management Practices Manual back to close out those discussions. He said that that could be the next meeting, if so decided.

Mr. Connor replied that that is not a full meeting, so we probably should be able to handle priorities at the next meeting. He said that he would talk to Dr. Behr and perhaps at the meeting after that we will get to discuss the architectural standards.

Mr. O'Brien asked Mr. Connor if he wanted to discuss having the Tifa people at the meeting after that.

Mr. Connor said that he had a note from them and he was not sure what their plans were. He knew that there were some discussions and they may be revising their plan. He said that he was not sure if they are going to come. He said that he knew that there were some thoughts about this plan looks okay, but there were some suggestions and whether or not they are going to come in with what they showed to the Township Committee or if they are going to do something different. He said that once he gets in touch with them we will figure it out.

Mrs. Wolfe said that Mr. Wolfson (attorney representing A.R. @Millington, LLC) called her the day after he met with the Township Committee requesting an application packet for a concept plan, and so she felt something will be coming.

Mr. Connor said that his suspicion is that whatever they come in with will be somewhat different than what they presented to the Township Committee. He suspected that the differences would be modest based upon the comments made. He said that we will be guided by them.

Mr. Cilino felt that the Board needs to guide them, actually. He said that, what he got from the Township Committee is that they were not really overly happy with the plan and he did not want to sit through an hour presentation of the same thing.

Mr. Connor replied that he felt that they received enough guidance that he would be surprised if they came in with the same plan. He said that, as Chair, he was not going to tell them what to do.

Mr. Cilino asked if they are under the same guidelines as anybody else that wants to develop a piece of land where they should come in and talk to us *prior to* coming in and making a presentation so that we could give them guidance at that point, or is this considered something different.

Mr. Connor replied that this is not the Application Review Committee (ARC).

Mrs. Wolfe explained that it will be for a concept plan and there are provisions for the same in the Ordinance.

Mr. Connor added that there are fees required in order to present a concept plan, but it is not as formal as a site plan application. He said that it will become an agenda item for an hour or an hour and a half.

Mr. Dempsey explained that appearance before the ARC is *optional*, rather than required.

Mr. Connor said that we don't even have to agree to have them come in with a concept plan, however we have done so in the past.

Mr. O'Brien agreed that there is no requirement to have them come in *prior to* an Application for Development or any kind of discussion prior to that.

Mr. Cilino said that he understood and that it was set up to save everyone time and they took a lot of time to prepare the presentation, but it is not within the scope of where we might want to be going.

Mr. Connor said that one of the reasons for a concept plan is to get the feeling of the Board as to just comments back from the Board. He felt that the fact that we have had one presentation with one set of comments will influence the second one but, ultimately, it is up to them to decide and it is up to the Board to listen.

Mr. Arentowicz asked, if he wanted a better understanding of the process and the procedures that this Board works with with someone presenting a concept plan, where would he find that?

Mr. O'Brien replied that it is spelled out in the Ordinance. He said that everything we do is found in the Ordinance because we can't just do things because we want to do them, which is why the Technical Review Committee is before the Township Committee now. He said that we can't make up a process or a procedure unless it is approved in an ordinance somewhere.

Mr. Connor said that Mrs. Wolfe can provide the clarification and answer any questions for the Board.

Mrs. Wolfe said that, if you look up the definition of a "concept plan" in the Ordinance, it will explain that the review is non-binding and the applicant has the right to come before the full Board and make a presentation. She added that the applicant must pay for it – it is not free.

Mr. O'Brien added that, in addition to that, they can come to the ARC which meets informally prior to Planning Board meetings and they can lay out their ideas and receive general feedback.

Mr. Roshto asked if that is an approach that we may want to consider here?

Mr. Connor replied that the problem is that that is really limited, theoretically to 15 minutes, but no more than ½ hour. He said that also, it is limited to only 3 members of the Board + the professionals and is designed for residents or people with smaller projects who want to receive guidance on a proposal and the reaction of the ARC.

Mr. Roshto said that his only concern with the concept plan is that, if it is largely a repeat from the Township Committee. He said that any of the members here can watch that. He said that he thought the Board is probably going to respond the same way the Township Committee did. He said that they are 3 story, 4 apartment buildings, and 1 building with some limited amount of retail space. He felt that the Board will probably given them the same guidance that they would get from the Township Committee. He said that it might help them if they spend 30 minutes in front of the ARC *before* they come to the Planning Board.

Mr. O'Brien replied that the ARC is really the first step for people as they consider how to move their project along. He said that somebody who has a full fledged hour or hour and a half presentation on a project is way beyond the ARC level. He said that applicants before the ARC, for example, say that they have a couple of thoughts and they provide some sketches and ask the members what they think. He said that, if you are coming in with a full blown concept that is already laid out and designed, you are too far beyond that. He said that the concept plan, which is allowed for in the Land Use Ordinance, as well as by statute, is really an appropriate way for a Planning Board to review that type proposal.

Mr. Roshto asked if the Board can limit the time.

Mr. Connor replied affirmatively and said that we can limit them to one hour and put them first on the agenda.

Referring back to the Checklist, Mr. Aroneo said that he sent the Township Attorney an e-mail during the Board discussion and he responded and said that, unfortunately, we cannot do that because the MLUL requires that the Checklist be adopted by the ordinance.

Mr. O'Brien said that the other open item before the Board that it discussed in the last couple of weeks is the Valley Rd. Ordinance.

Mr. Connor said that we will need to establish priorities, noting that the Board has a lot of #1 priorities and cannot do them all in one meeting. As long as there are no applications before the Board, he said that we will keep working on them.

Mr. O'Brien confirmed that, for the next meeting, the Board had discussed the Environmental Ordinance, the BMP Manual, and then priorities.

Mr. Connor said that the priority list will be finalized by next Tuesday. He said that, once we do the priorities, that will drive some of the other meetings.

Mrs. Raimer said that, if the only reason we were tabling the decision on the Ordinance was because we were waiting to hear back from Counsel, now that we have, that was the sole basis for why we were holding it. She said that we still have 25 minutes before adjourning and maybe this is something that could be done right now to get it done. She said that we have had the discussion and that it was *only* resting on whether or not that issue was pending.

Mr. Aroneo said that we may not need to do that because didn't we say that we wanted to hear from the Board's Counsel before making a decision?

Mr. Connor agreed that he would prefer to wait until the Board hears from Mr. Hoffman, as well. He said that it won't make much difference whether it is tonight or at the next meeting.

There being no further business, the meeting adjourned at 10:35 P.M.

---

DAWN V. WOLFE  
Planning & Zoning Administrator