

MINUTES

SEPTEMBER 9, 2014

PLANNING BOARD

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

Chairman Pfeil called the meeting to order at 7:32 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, 2014.

MEETING CUT-OFF

Chairman Pfeil read the following statement: Announcement is made that as a matter of procedure, it is the intention of the Planning Board not to continue any matter past 10:30 P.M. at any Regular or Special Meeting of the Board unless a motion is passed by the members present to extend the meeting to a later specified cut-off time.

CELL PHONES AND PAGERS

Chairman Pfeil read the following statement: All in attendance are requested to turn off cell phones and pagers as they interfere with the court room taping mechanism.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

J. Alan Pfeil, Chairman
Ashish Moholkar, Member
Guy Roshto, Member
Gregory Aroneo, Member
David Hands, 1st Alternate

Kevin O'Brien, Bd. Planner
Thomas Lemanowicz, Bd. Engineer
Cynthia Kiefer, Bd. Secretary

Excused:

Guy Piserchia, Mayor
Suzanne Dapkins, Vice-Chairman
Brendan Rae, Mayor's Designee
Timothy Wallisch, Member

Daniel Bernstein, Bd. Attorney

Ms. Kiefer advised Chairman Pfeil that he had a quorum and could proceed.

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

PUBLIC QUESTIONS OR COMMENTS

Chairman Pfeil opened the meeting to the public and asked if there were any comments or questions on items that were not on the agenda that evening.

Dennis Sandow, 29 Windsor Way, Millington, noted that the agenda listed a discussion on Valley Road. He assumed that this was not a public hearing and, given that, he asked how comments from the public on that topic would be accepted.

Chairman Pfeil stated that the Board would review what came out of the Ordinance Review Subcommittee and therefore would be open to public comment.

Hearing no further comments, Chairman Pfeil closed the meeting to the public.

DISCUSSION - VALLEY ROAD ORDINANCE

Chairman Pfeil noted that this ordinance had been reviewed at a number of meetings of the Ordinance Review Subcommittee (O.R.S.).

Mr. O'Brien began a review of his memo to the Board dated September 3, 2014 which summarized where the Board was at that time. He stated that ordinances follow the Master Plan element and support that element by creating regulations that are in accordance with the Master Plan. It is important to have a "presumption of validity" which he referred to on page 2, meaning that the ordinance and the Master Plan were in conformance. The element was adopted in 2012. The O.R.S. and the Board did discuss the ordinance since 2012. This year the O.R.S. met in May and in June, reviewed and changed the ordinance. The final draft was now in front of the board members as approved by the O.R.S.

Mr. Hands asked if it contained changes to the current ordinance.

Mr. O'Brien said that everything in the draft ordinance in front of the board members would be inserted into the current ordinance. In places such as on the very first page, 103.5, the sentence would be added to that current part of the ordinance and a new zone on page 3, 122.8, would be added. That would be entirely new language in the ordinance. That new zone was created in the Master Plan Element 2012. Most of the uses that existed in the current business zones, carried over to the Valley Road Zone as well. The Board and the committee went much further in specifying other additional uses in an effort to promote more business use along Valley Road. They actually went so far as to create a list of prohibited uses in this zone which the other zones did not have. Instead, there was a township wide list of prohibited items. Here, one was inserted into that zone to show that those particular uses were really not wanted in that particular area. Those were two (2) of the biggest changes. The bulk standards were similar to what currently existed in the B-2 Zone which took up much of the space along Valley Road. Two other zones also existed there: the LI-2 (Light Industrial) and the O (office) Zones.

Mr. O'Brien affirmed Committeeman Roshto's comment that the B-2 Zone would be going away.

Committeeman Roshto said that that was not indicated in the ordinance that was before the board members. He wanted to know how the board members would be sure that those items that were going to be stricken from the current ordinance would actually be stricken.

Mr. O'Brien said that he would work that out with Jack Pidgeon to ensure that that would happen.

Committeeman Roshto wanted a final draft of what would actually go into the ordinance before it went to the Township Committee.

Mr. O'Brien affirmed that that would be the case. He stated that the purpose tonight was to get the Board's feedback and come up with a final draft.

Committeeman Roshto said that what the board members were looking at that evening was *not* what they would actually be voting on to send to the Township Committee.

Mr. O'Brien said that hopefully by the end of the evening, they would know exactly what they were doing with that document. It would have to come back to the Board for final review. He advised that he would check with Mr. Pidgeon to see whether the B-2 Zone would be stricken at this level or at the Township Committee level.

Committeeman Roshto said that if the Planning Board was going to send the ordinance to the Township Committee, it should be in its entirety and he felt that the Planning Board would want to show the stricken language so when the board members voted on it, they were clear on what they were removing.

Mr. Hands asked if there were some references to residential previously on Valley Road.

Mr. O'Brien said that there had been a prior Valley Road Business District Element which was adopted in 2008 which did have a different focus. The ordinances that were written in support of that element reflected that different focus. The ordinances that the board members had in front of them reflected the focus of the current Master Plan. Residential was not an allowed use in the Valley Road Zone. "Any residential use" was prohibited.

Chairman Pfeil noted that the ordinances in front of the board members had been agreed upon by the O.R.S. which consisted of Mr. Hands, Committeeman Roshto, and himself. He suggested that they review the ordinances point by point.

Committeeman Roshto clarified the role of the O.R.S. What he approved was the feeling that what was being sent to the Planning Board was enough to get it started. He felt there were changes that he would like to see before it went forward.

Chairman Pfeil started with 103.5 of the proposed ordinance document and asked for comments. Mr. Moholkar noted the section that discussed "no more than one principal building" and asked if that was a generally accepted definition of what a principal building was.

Mr. O'Brien affirmed that it was.

Mr. Sandow stated that he had extensive comments about the list of Blocks and Lots. He said that there were 65 items on it and that he would comment on 32 of those items.

Chairman Pfeil asked Mr. O'Brien if the list was from the map and what was in the zone.

Mr. O'Brien affirmed that it was.

Mr. Sandow started with Block 10601, Lot 4, which was shown on the map in green. It was currently in the Conservation Zone and he felt it should not be on that list unless the Planning Board intended to move it out of the Conservation Zone and into the Business District Zone.

Mr. O'Brien said that the intent was not to move any of the properties out of the Conservation Zone. He stated that he would check that block and lot.

Mr. Sandow referred to Block 11401, Lot 15, and said it was part of the Transcontinental Gas right-of-way and currently in the C-Zone. The new map showed it in the C-Zone; it had no frontage on Valley Road and should not be on that list. He then referred to Lots 16, 16.01, and 17 which had no frontage. Two of those three were mapped in the C-Zone and should be left in the C-Zone. Lot 17 was currently in B-2; however the current map placed it in Business District. It had no road frontage; it was wet and had no potential for development. He felt it should be placed in the C-Zone.

Mr. O'Brien said that all of the right-of-way lots that were in the current B-2 Zone which was a line that went out from Valley Road were included in the Business District just to transfer them over.

Mr. Sandow said that that was incorrect. Lots 16, 16.01, and 17 were never in the B-2 Zone however they were included on the list even though they were not color coded on the map. Lot 17 alone was dragged into the Business District Zone and he felt it should be moved to the C-Zone because it was unfit for development as part of the right-of-way. The fact that it was currently in B-2 was an "accident of history" which could now be corrected.

Chairman Pfeil asked why not leave it in B-2.

Mr. Sandow asked what would be the purpose of putting a lot in the Business District if it has power line running overhead and it was unbuildable.

Mr. Sandow said that they were fee simple lots. He said that there was a Lot 22 owned by Public Service which came out to the road. It was mapped as a skinny sliver between the new sports shop and Santander Bank. It was marked as being in the Business District Zone and he felt it could remain in the Business District Zone because it had frontage although it could not be developed because it was mostly the creek which had overflowed five times since 2000.

Mr. Sandow noted Lot 23 in that same block was currently in the C-Zone and had no frontage. It was swamp land behind Walgreen's shown in the C-Zone on the new map which he felt was correct. It should not be on the list.

Mr. Sandow skipped down to Block 11514, Lot 8 which was the lot on Mercer Street across from the Police Department. It was in the LI-2 Zone and should be left there because it only had frontage on Mercer Street. It was not a part of the walking environment on Valley Road. There was no reason to move that into the Business District Zone.

Mr. O'Brien noted that a decision had been made by the Planning Board to do that. That was where the line was drawn on Mercer Street that eliminated that part of the LI-2 Zone that came out to Valley Road.

Mr. Sandow said it was one thing to eliminate a part of the zone for the sake of aesthetics. The other question was what the purpose was. It was never cited to foster the goals of the Master Plan for the Valley Road walking environment. It was only accessible by pulling out of the Police Department driveway and crossing the street. It would probably never be converted to a retail use because it was so isolated from the rest of Valley Road. It was located behind Thermoplastics. He believed it was an accident to place it in the Business District Zone because it was in the LI-2 Zone.

Mr. Sandow asked the board members to look at Block 11501, Lots 1 and 4. Those were the two lots just north of the power line on Warren Avenue which were colored white. Those two lots were in the LI-2 Zone. The small triangular lot was vacant wetland and not developable for environmental reasons. The other was a working industrial warehouse and not likely to ever change. He proposed that those two lots be left in the LI-2 Zone.

Mr. O'Brien said that the decision to move the second lot was made because it did face Valley Road. The thought process was that at some point a change could occur in the industrial use there.

Mr. Sandow said that it did *not* face Valley Road. It faced Warren Avenue. It was the second lot up Warren Avenue. It was 1.14 acres, Block 11501, Lot 1. The commercial property across the street (the dentist's office, Block 11513, Lot 21) was moved out of B-2 and into LI-2. It was B-2 on the old maps but for some reason it was moved into LI-2 instead of into Business District.

Mr. Sandow noted that there was no such lot as Block 11401, Lot 19, either in the assessor's book, the tax map, or the county records. There had not been such a numbered lot since before 2001 and should be stricken from the list.

Mr. Sandow said that the Master Plan Element dated June 26, 2012 that the Board was trying to implement, was entitled "Valley Road Business District". Throughout that document, Valley Road was referred to and virtually no reference to the side streets was made, specifically Warren, Popular, Bay, and Plainfield. Parts of those streets had been in B-2 but the Valley Road Master Plan spoke only to Valley Road. In this implementation of the ordinance, it had been expanded to the side streets that were formally in B-2. He felt it was done in an imprudent way. For example, everything on Plainfield Road/Metzler Place with one exception, was residential: Block 10515, Lots 5 through 11. The exception was a gift shop in one of the houses. Whether these lots should remain in the Business District Zone or rezoned residential was discussed during testimony prior to 2012. There was testimony as to what these lots were and how they should be zoned sometime during 2009 or 2010. In the 2012 rewrite of the Master Plan, it was decided that these houses were to remain in the Business District Zone as successor to the B-2. The problem was that they violate the Business District Zone making them a non-conforming use forever.

Chairman Pfeil noted discussion at the O.R.S. said that that street specifically should be in the Business District.

Mr. O'Brien affirmed that.

Mr. Sandow asked if this was meant to drive these houses in the direction of commercial development.

Chairman Pfeil felt that that had been part of the discussion just recently at the O.R.S.

Mr. Sandow proposed that those houses be rezoned as R-4 and the two houses across the street which were just south of the Valley Mall side entrance should be rezoned as R-3 because they fit physically. He noted that one of those houses was on the Historic List and felt it would be imprudent to tear it down just because it was in the Business District.

Mr. Sandow suggested that the Board adopt the conclusions reached in the prior version of this which was sent to the Township Committee by omitting those lots from the Business District. He added that the Master Plan Element was entitled "Valley Road" and the houses on Plainfield and Metzler were never contemplated in the language in this Master Plan element which only addressed Valley Road. He did not object to the Board zeroing out the B-2 Zone in this ordinance, however he felt that they should not presume that everything in the B-2 Zone had to go to the Business District simply because it was part of the Master Plan Element. He felt it was not part of the Master Plan Element since it was Valley Road only.

Committeeman Roshto responded that the name of the element was the "Valley Road Business *District*". It did not necessarily mean that the properties had to be on Valley Road, just that they be within the district as it had been designated. The map clearly identified what was being called the Business District.

Mr. Sandow said that that map was the same map that accompanied the ordinance and although the *map* encompassed Valley Road and the other parts of the B-2 Zone, the *text* spoke to Valley Road. As an example, he noted, "All buildings shall face Valley Road." **Engineered Plastic** on Mercer couldn't face Valley Road. The houses on Plainfield Road could not face Valley Road. The text of the Master Plan was clear: frontage on Valley Road. He argued that the Plainfield Road residential properties were outside the scope of the Master Plan and should be cleaned up as appropriate but not necessarily retained in the B-2 or the Business District.

Committeeman Roshto acknowledged that Mr. Sandow had made a good point. It should be looked at holistically and redrawn so that either it was only those properties exactly on Valley Road or change the language in the element to agree with the map.

Chairman Pfeil said that it should be brought back to the O.R.S. to work on the language since he felt that everyone liked the way the properties were assigned. Cleaning up the language would be the first step.

Committeeman Roshto asked if there were any properties on Metzler that would be non-conforming if the zoning were to be changed to residential.

Mr. O'Brien answered that at an earlier stage they had been in an R-4 Zone and they met the use. He did not recall if they met the bulk. He noted that the R-4 Zone was the smallest zone for residential in the township so it was thought that it would be the most friendly to those properties since they were all on the small side.

Committeeman Roshto said currently they were in a business zone. If they were put in the R-4 Zone, would that make any other properties in that area non-conforming?

Mr. O'Brien said that if they stayed with the properties on Metzler, no. There were two lots at the western end of Metzler that were currently vacant and quite small. Unless they were annexed by a next-door property to the north or to the west and used for business purposes, it would seem more likely that they might be residential given flood conditions, wetlands, and the other considerations that would go with those properties.

Mr. Sandow said that if one looked at the picture, one would see that it was clearly enumerated that, going down Plainfield with the white lots on the west side, there were two fairly deep lots, three shallow lots, then as the turn was made into Metzler, there were two houses and two vacant lots. That was the area that he believed should be rezoned as residential. The only hazard was that one of those residences housed a gift shop in it, directly across from the exit from Valley Mall. He presumed it was a grandfathered use.

Committeeman Roshto felt that the Planning Board needed to consider whether they wanted Plainfield to be residential or business or a mix of both. Currently, the B-3 Zone was across the street. Valley Mall was on one side and across the street would be residential. He asked if that should be a part of the business district or residential. Which direction did the Board want to go for the future?

Mr. Sandow said that in order to convert it to a business district, a developer would have to come in and buy up residences, including one fairly new "McMansion", and tear them down in order to build a business. He did not feel it would be likely.

Committeeman Roshto felt that Mr. Sandow was proposing a change to the element, not a change to the ordinance.

Mr. Sandow disagreed because Plainfield Road was not specifically mentioned.

Committeeman Roshto said that the moment there was a proposed change to the zone map which was part of the element; the element itself had to be reviewed.

Mr. Sandow said that that was correct however earlier he had pointed out several “ditty little flaws” in that map which ultimately would have to be changed.

Committeeman Roshto asked if Mr. Sandow agreed that they would have to go back and change the element.

Mr. Sandow said to the extent that the map overstated the element, yes. He would make the map conform to the text of the element.

Committeeman Roshto said the Planning Board would have to decide whether the map conformed to the words or the words to the map or a little of both.

Mr. Moholkar noted that those lots had a lot of trees and he preferred that they be left residential.

Committeeman Roshto said that the discussion for the meeting was about an ordinance that was based on an element that had been approved by the Planning Board in 2012. They were now discussing a *change* to the element.

Mr. Sandow said that other than changing the zone boundaries on the map to conform to the language about business oriented front-doors-facing-Valley Road, etc., he did not think it was a serious problem. He felt they should make the map conform to the Master Plan and then those lots would drop out of the Master Plan and be corrected in the ordinance by moving them to the residential zones simply because in the process of mopping up, every lot in B-2 must be disposed of since they were not specifically covered in the Master Plan element. He pointed out that the Master Plan element said “no residential” on Valley Road and to retain these residential lots on two blocks violated the principal of the Master Plan although there was no sound economic alternative because nobody would ever tear them down in order to build a strip mall.

Mr. Hands said that Committee Roshto’s suggestion that they rethink the element sounded good to him. He felt that the ordinance should be determined from the element. He said that there were a number of inconsistencies that warranted further review.

Mr. Sandow asked the chairman for permission to go to the last of the points on the list. He said there were seven lots mapped as being in the Business District which were not on the list. The “Industrial Overlay Zone” on Poplar, Bay, and Magnolia included a warehouse, two construction businesses, an auto repair shop, and a garbage center. They were all off of Valley Road and off the beaten path and not “walk-in” businesses. The Industrial Overlay Zone was created in 2009 or 2010 and allowed those businesses to continue to exist on their current properties as permitted uses as long as they continued to exist. It was recognition that these would never be part of the walking aesthetically pleasing zone. He felt that they should not have been placed in the B-2 Zone since they were all of an industrial nature. That overlay would have protected these commercial and industrial businesses. The Planning Board voted to ignore that recommendation. He felt that that could be corrected by declaring that the industrial lots off of Poplar were not a part of the Valley Road Master Plan and should be assigned to something else--an industrial overlay on the Business District or to the Light Industrial Zone. There were two violations of the “no residential” because there were two houses in that zone. There were two uses in that area which would conform no matter what was done: the barber shop and the day care center on Bay Street. They would conform in the Business District and by creating an industrial overlay; they would continue to conform without prejudice to the truly industrial uses which needed to take advantage of the overlay. He requested that they review the last version of the ordinance and the Master Plan which covered this discussion along with the minutes of the meetings when the overlay was discussed.

Committeeman Roshto reminded the Board that in 2012 these were discussed and it was agreed by the Planning Board that there would not be an overlay zone. Those areas that Mr. Sandow had correctly pointed out as being residential uses would be left in the Business District. That was what the Board voted on and approved in the 2012 Master Plan. Mr. Sandow was referring to a previous draft of a Master Plan that was not approved.

Chairman Pfeil said that if the Board had discussions on it, agreed on it, and nothing had changed since then, they should just go on.

Mr. Sandow said that the Master Plan was also approved in 2008 including residential in this zone and the Board in 2012 chose to reopen it because there was a necessity to remove residential.

Chairman Pfeil said that the Board consciously made that decision so it should be left alone.

Committeeman Roshto said that the Board had come to the meeting to work on an ordinance that was based on a 2012 element. Mr. Sandow had pointed out some legitimate issues. The question was whether the Board should review these points and fix them or should they be accepted and let the ordinance move forward.

Mr. Moholkar said, if the intent was to, as Mr. Sandow pointed out, leave that industrial overlay type idea behind it, the Board was looking at adding comments to a few sections, not completely redoing the element. Those comments would allow the Board from an ordinance standpoint to “block them out with overlay”. It would be tweaking the element.

Committeeman Roshto felt that they were substantial changes. He felt that the impact would be significant to property owners.

Mr. Hands felt that those lots that were conservation in nature should be in the C-Zone. The overlay issue, Metzler, etc. should be revisited also. The element should be "fine tuned" with the corrections that Mr. Sandow had pointed out. The more substantial issues revolved around changing the uses. He asked what the urgency was to get the ordinance passed.

Mr. O'Brien said that currently there was an element that had no ordinance to support it and it had been that way for over two years. If it continued, they would lose the "presumption of validity" of the ordinance. Currently, there was an ordinance for the B-2 Zone but the Master Plan said that that zone no longer existed. He said that if the Board wanted to go back to the 2012 element, rewrite it, and made certain changes, it should move quickly. If the element was accepted as is, the ordinance must conform to the element.

Mr. Moholkar said that it was a continuous improvement because, "... as you work on one, you realize you missed something somewhere else and you have to go back and fix it in order to make the rest of it work otherwise you end up with six or seven residences in one area that are now non-conforming unless you can grandfather them in."

Mr. O'Brien pointed out that those residences were non-conforming anyway because they were zoned business and that the Board had discussed whether or not to zone them residential. In their most recent decision, they decided not to do that.

Mr. Moholkar said that he felt that that many residences were built either when that area was zoned residential or there was no zoning.

Mr. Moholkar said the Board should not create a problem in an area where there currently was no problem. If they were all residential and then were changed to business and grandfathered in--that was one thing. But if, as a result of this change--

Committeeman Roshto said that because they were currently non-conforming, if they are moved to an R-4 Zone, they could improve their properties without coming before a Board.

Mr. Hands felt it came down to what would be the most practical thing the Board could do for these properties which were on the borderline of the Business District. Would it make sense to call them what they were or was the Board trying to foster some long term changes to that area?

Chairman Pfeil suggested that they should begin with the map and the properties that should not be on the list as a starting point.

Mr. Sandow said that in the 2012 Master Plan where it said "Board Recommendations", Business Development bullet item #5 "Eliminate the industrial zone on Valley Road and encourage such uses on the side roads off of Valley Road". By not creating the industrial overlay the Board was not encouraging the development off of Valley Road. He said that the language was in the Master Plan. All that was necessary was ordinance language that implemented the encouragement of development of the side roads.

Mr. Sandow said that the Business District prohibited the industrial uses, without the overlay. The B-2 Zone was converted into the Business District without changing the boundaries to reflect the wording of the Master Plan. The Master Plan as written said that such uses should be encouraged on the side roads off of Valley Road. They had not *encouraged* the industrial uses that currently existed off of Valley Road as the Master Plan instructed. The way to encourage those uses would be to make them permitted and the only way to permit them *off* Valley Road and prohibit them *on* Valley Road would be to create an overlay.

Committeeman Roshto felt that one of the flaws of the element was the use of the phrase "Valley Road" and the use of the phrase "Valley Road Business District". If that language was clarified so that when the Board said they were eliminating industrial use on Valley Road they meant *on Valley Road* as opposed to *in the district*. There seemed to be confusion between Valley Road and the district.

Mr. O'Brien disagreed saying that from the beginning, the Valley Road Business District had been a study area that had gone beyond just Valley Road itself and that had been well defined since 2007 or 2008.

Committeeman Roshto said that was his point. Mr. Sandow correctly pointed out that the element used the words "eliminate the industrial zones *on* Valley Road" without using the word "District" which would have made it clearer.

Mr. Sandow said that on the next page there was a bullet item on the top which said, "Ensure that the Land Use Ordinance allows permitted uses in the Valley Road *District* that are substantially similar to uses currently allowed." Since those uses in the back of Poplar were currently allowed, it had not been catered to in the ordinance. It buttressed the statement on the previous page that such uses should be encouraged on the side streets. He felt that the text in the element did not need to be changed however the implementation had to be friendlier. He said the only thing in the ordinance that had to be changed was the map itself.

Committeeman Roshto disagreed. The zone map in the element had to be made to agree with the element.

Mr. Sandow said to the extent that an overlay was created in order to encourage development off of Valley Road that could be mapped.

Committeeman Roshto said the board members needed to decide what was right for the future business district area. The Board had to decide whether to revisit the element or go forward with the 2012 element.

Mr. O'Brien advised the board members that the Master Plan element was a visionary document that laid out how the board members felt the township should be developed. Every point in the element did not necessarily translate into a piece of an ordinance but instead was meant as a guide to not only the Planning Board, but to the Board of Adjustment and the Township Committee so as decisions were made on properties on a township wide level, this vision was part of that decision making process. If the Board felt that something should be said, then it should be in the ordinance. If it felt that something could be left as a goal, it could be left as a goal in the Master Plan.

Mr. Moholkar referred to the second bullet on page 3, "Ensure the Land Use Ordinance allows permitted uses in the Valley Road Business District that are substantially similar.." and said that that grandfathered in from an ordinance perspective any existing businesses or similar businesses. He said that was how he viewed that statement. They were not looking to discourage similar types.

To underscore what Mr. O'Brien had said about the goals, Committeeman Roshto referred to the bullet that said, "Ensure the Land Use Ordinance allows permitted uses in the Valley Road Business District that are substantially similar to the uses currently allowed." He felt that the ordinance did support that goal albeit not to the full extent that Mr. Sandow was advocating.

Mr. Moholkar said that if the map in the ordinance was updated to catch the examples pointed out by Mr. Sandow, the ordinance would still support the element.

Committeeman Roshto said that if the boundaries of the zone were changed, it would be changing the element itself, in his opinion. To talk about changing something to residential or putting in overlays, he felt, would necessitate going back and reviewing the element.

Mr. O'Brien agreed. He said, if the changes to the element were minor, based on the map or for example, moving the houses on Metzler and Plainfield to R-4, it would be a simple, one paragraph change as well as a change to the map. If that was being considered, the ordinance which was currently in front of the Board could be corrected and then go backwards to the element to make those very few changes. However, if there were going to be substantial changes to the element, the Board should listen to what Mr. Sandow had to say so at least it had those changes for the future.

Mr. Moholkar was in agreement with Committeeman Roshto in that he felt they had to go back to the element.

Committeeman Roshto said, for the sake of time, the Board should decide how successful it would be if it went back and looked at the element. If the Board believed that at the end of the day those things (R-4 Zone and an overlay) would be added, it would make sense to go back. The Board had to decide if it wanted an R-4 and/or an overlay zone. Committeeman Roshto said a previous Board in 2012 had made a decision. The question for this Board was whether it wanted to change that decision.

Mr. Sandow said the question was whether they could interpret the language in there to allow the modifications to the ordinance. The phrase "...encourage off Valley Road..." was already there. The Board would just have to write an ordinance that would implement an overlay zone. Similarly with the residential, it said, "...no residential..." and he suggested the Board implement an ordinance that would take the residences on Plainfield Road somewhere else. He did not feel that anything needed to be changed in the Master Plan element other than the picture.

Committeeman Roshto disagreed because Mr. Sandow had already pointed out a number of flaws and ambiguities in the element.

Mr. Sandow noted that five of the eight members who voted for the element were not longer on the Board.

Mr. Sandow said that the only suggestion that he had moving beyond this was that there was some redundancy in the prohibited uses having to do with gas stations, service stations, fuel storage.

Mr. O'Brien explained that the reason those were there was that they were individual definitions in the ordinance. That was why they were listed separately.

Chairman Pfeil felt there was no harm in those redundancies.

Mr. Sandow the prohibited uses specifically excluded some of the businesses that were in the overlay zone. It was not that they were conditional or grandfathered; they were specifically prohibited. He drew their attention to the Barrette issue where he had to fight to protect the grandfathered status of what was now called a prohibited use. He felt that the prohibited uses did *not* encourage the development of industrial uses off Valley Road and in fact prohibited those uses. This could be adapted by moving those prohibited uses to the overlay only. Automobile repair and service is prohibited even there are three of them in the zone, for example.

Mr. O'Brien stated that he would work with Mr. Sandow to insure that the list represented what the map represented.

Mr. Hands asked whether it would be what the map represented or what potentially could change.

Committeeman Roshto said even the ones that Mr. Sandow was talking about earlier were included on the map. If the Board went with the recommendations that Mr. Sandow made, essentially what would change in the map were those two sections.

Mr. O'Brien stated that they would fix the errors such as lot numbers that didn't exist and lots that should be places elsewhere.

Committeeman Roshto said there were one or two that were errors however the ones that were being pointed out were actually on the map that was voted on in 2012. Most of Mr. Sandow's suggestions would change what was on the map in the element if the Board adopted those changes.

Mr. O'Brien stated that first, they should fix what was on the map currently. Then they should take Mr. Sandow's list and decide what to do.

Committeeman Roshto said he did not want to come back, talk about ordinances, and then have the discussion yet again about changing things to R-4 or adding an overlay zone. If those conversations came up, then board members needed to go back and talk about the element. Bottom line, he wanted to know if that conversation going to come back up with the Board or if they were going to move forward with the ordinance. The Board must make a decision.

Chairman Pfeil felt that, with the exception of errors on the map, he was comfortable with the Business District Zone and what it encompassed including Metzler and including the area where the overlay was discussed. He did not feel that the overlay was appropriate. This was the vision they had about what that business zone should be.

Mr. Hands asked if the conservation suggestions were accepted, would that change map.

Mr. O'Brien said that anything that would not longer be in the Business District Zone would change the map.

Mr. Hands felt that some of those suggestions should be reviewed. He felt that the properties on Mercer that had no access to Valley Road should be reviewed.

Mr. O'Brien said the element itself discussed the Valley Road *corridor* which was a key word mentioned in the introduction a few times. The "*corridor*" was envisioned as a strip paralleling Valley Road going out a certain amount depending upon how far various lots went and where the cut-off was between the business part of the zone or the conservation part of the zone. That was why that corridor was made, not just the properties facing Valley Road but rather those that were thought to be connected to Valley Road as a business or *could be* consolidated down the road into lots that would face Valley Road.

Mr. Hands said that although he could appreciate that, there were one or two properties that might still not fit that bill because "...you would have to go around a couple of corners before you got onto Valley Road." He felt it would be worthwhile looking at those situations as well. He felt that the R-4 and the overlay would be larger discussions.

Mr. Aroneo asked Mr. O'Brien to describe the implications of the overlay zone.

Mr. O'Brien said there was a discussion about the south side of Bay Street, Walnut, and the east side of Poplar where there were a number of nonconforming properties that were not retail oriented towards the street but--

Mr. Aroneo asked if they were currently in the B-2 Zone.

Mr. O'Brien answered yes and added that everything in the B-2 was being moved over to the Valley Road Business District. One of the discussions was to carve this little area of Bay and Poplar and Walnut out because of the pre-existing uses that were there and give them their own little "overlay" zone. It did not change the underlying Business District Zone, but in this particular area, allowed additional things which would include what existed. At that time, they came up with a list of what existed and the overlay was limited to existing uses.

Mr. Aroneo asked if that use was to stop either by the existing owner or subsequent owner, would it have to conform to the Business District Zone going forward or would someone else be able to acquire the property and use whatever existed at the time.

Mr. O'Brien said that the use could continue forever. Owners could change and the use could continue. If the use was ever stopped by an owner and changed to something else, it could not go back. Once the use conformed or was abandoned, it could only be used as a conforming use or it would require a variance.

Mr. Aroneo asked if Mr. O'Brien was in attendance during those discussions and Mr. O'Brien affirmed that he was. He asked Mr. O'Brien what the intent was when the Board contemplated this.

Mr. O'Brien answered that the Board specifically decided *not* to do that.

Committeeman Roshto added that he was there as well and said that the reasoning, in his opinion, why the Board chose not to include an overlay was that there was a heightened desire to finish the element. One piece of it was residential and there was some divide amongst the Board about making changes or not. The Board decided to leave everything else except residential. They wanted to make residential changes, put them in there, and move forward. So while it was true that the Board decided to leave the overlay out and residential out, it really wasn't discussed at length. It was feeling pressure to want to have it finished.

Chairman Pfeil asked if they wanted to have that particular area evolve over time into a Valley Road retail environment as opposed to an industrial environment. If that was no longer a permitted use, the Board would be *discouraging* that industrial use and *encouraging* those properties to evolve.

Committeeman Roshto answered affirmatively.

Chairman Pfeil followed with, "What does the Board want there? If we want that area to change, including Metzler and including the overlay, if we want that to change over time, the way to do it is not to make those permitted uses."

Committeeman Roshto agreed with that. He added that the Board continually approved these projects that were in and of themselves, non-conforming. As a township, in his opinion, they were not doing what they were saying in that area. A huge building was just built there.

Chairman Pfeil noted that the Planning Board's job was to make suggestions to the Township Committee as to what they really wanted. "We want that area to evolve."

Committeeman Roshto responded by saying the element was giving mixed signals such as "eliminate the industrial zone on Valley Road but encourage it elsewhere." He felt that that was a valid point to having an overlay zone. He felt they were not saying "discourage industrial", we're saying, "just don't put it on Valley Road."

Chairman Pfeil said, "Or don't put it in the Valley Road Business District. We want it somewhere else." He felt that that was what the map was about.

Mr. Moholkar asked if an overlay would negate the point of doing the Business District Zone in the first place.

Committeeman Roshto said that the overlay was the one thing that could be justified and not change the element because as Mr. Sandow pointed out, the element supported the words. It was just the map that didn't support it. The overlay zone would not change the map.

Mr. Moholkar asked if the entire map was made Business District, drawing in the ones that needed to remain as conservation, potentially making the ones residential that would more than likely never turn to business--

Committeeman Roshto said that, in his opinion, the moment the lines on the map were changed, the element should be revisited.

Mr. Moholkar said that the overlay sounded like an "exception zone". The map would say this was what everything should be but when this was laid over it, these were the exceptions and these should remain.

Committeeman Roshto looked at it as an "addition zone".

Mr. Moholkar felt that at the end, it removed it from the Business District Zone and put it in this exception zone.

Committeeman Roshto disagreed. He said it would be kept in the Business District Zone and then adding the ability to have limited industrial in it.

Chairman Pfeil said that with Metzler, a small area would be carved out and changed to an R-4. Metzler would no longer be in the B-2 Zone.

Committeeman Roshto said that potentially, an R-4 overlay could be created into the Business District Zone so that essentially, it would be a mixed use area. That would still conflict because the element said there should be no residential in the Business District Zone.

Chairman Pfeil said that there were such few residential properties in that Business District Zone which was what the township wanted.

Committeeman Roshto said they were not harming them. They were allowing them to do something that was new.

Mr. Aroneo asked if the township had heard from any of those property owners.

Committeeman Roshto didn't recall anybody coming in.

Mr. Moholkar said it was already a B-2 district and they had to get variances regardless of what they did because it was a non-conforming use.

Chairman Pfeil said given that, there was no reason to change it back to a residential zone.

Mr. Hands said that if the change was made, the property owners would not have to come to the boards for variances.

Mr. O'Brien affirmed that since they were a non-conforming use, any expansion would require a variance.

Mr. Hands noted that the last house had been approved.

Mr. O'Brien noted that that house was in the Conservation Zone and did need variances.

Chairman Pfeil added that residential properties are permitted in the Conservation Zone.

Mr. Hands said that it was that property owner that was being hurt if he wanted to develop or make improvements to his property for the sake of having a line that was contiguous.

Committeeman Roshto said that the question that needed to be answered was: on Plainfield Road 20 years from now, did they want to see a business district or on one side a mall and on the other side, residential homes.

Chairman Pfeil noted that in 2012, the Board said that it wanted it to be a business district down to the Conservation Zone. He felt that there was nothing wrong with the Board making that decision since it was the vision. The Board didn't want to encourage any more residential in that area just like this Board doesn't want industrial warehouses on Bay and Popular--wherever that overlay are was proposed. The Board wanted that to evolve into a multi-street retail environment similar to what might be in Summit.

Mr. Hands said he was only referring to a few residential properties that were in that situation. If it were limited to that Metzler spot, the Board would be exposing them to a hardship to some degree as opposed to commercial businesses.

Committeeman Roshto said that they were not placing any hardships; they were simply not removing any. They had the hardship now. He asked how long it had been zoned that way.

Mr. O'Brien said since at least 1996. He was unsure about the status before that.

Committeeman Roshto said that if that was the case, pragmatically, what would be the chance even if they left it as a Business District Zone that 20 years from now it would change in the direction in which the Board in 2012 wanted it to go. The test had been tried since 1996 and it was still residential. How long should the test continue?

Mr. O'Brien added that in those days there was the presumption that retail would continue to expand which it did until the recession. Odds were now that retail would not expand, rather it would contract. There would be more "non-retail" retail in that things were not going to be sold in a place where people would walk into but rather at a distribution center or it would be shipped to them.

Committeeman Roshto said he did not have a problem discussing the element again and felt it could be done quickly.

Mr. Moholkar felt that ordinances had to be put in place to support the element at some point.

Mr. O'Brien said that was important to do. He added that the Master Plan Subcommittee was reviewing all the current elements to see if any changes needed to be made. As the subcommittee went through the ordinance, it could make the ordinance conform to the current Master Plan. As they went through the process and identified problem areas such the residential zone and the overlay zone, the Planning Board could present that to the Master Plan Committee to work on since they would be looking at the element anyway. When the Master Plan was redone, and new ordinances were written to support that new Master Plan, the circuit would be completed.

Chairman Pfeil said even if it went in that direction, the Board still wanted to get the Valley Road Business District ordinance through.

Mr. O'Brien said that if substantial problems were found, the Board might decide to change direction and take it on itself. However, if the problems were not huge but needed to be reviewed, the Master Plan Committee might be the way to do it.

Chairman Pfeil said that the Board could clean up the errors on the map and make whatever changes to the text.

Mr. O'Brien added that they should keep track of the issues that the Board saw.

Chairman Pfeil said that it could be moved forward to the Township Committee as an ordinance with the understanding that the Master Plan Committee might want to review it.

Committeeman Roshto referred to the statement, "fix the errors on the map". He said there were no errors on the map because it was what was voted on and agreed to. By definition, the map was correct. The errors would be in the ordinance listing of the lots and blocks.

Chairman Pfeil said there was a disconnect between the lot numbers that were listed and the map.

Committeeman Roshto said there were only a couple of those. The other ones under discussion such as the ones in the Conservation Zone were on the map.

Mr. O'Brien clarified that these were changes to the map. There were errors and there were changes.

Committeeman Roshto added that the element conversation would be accelerated within the subcommittee. It could be discussed at their next meeting and through that process; they would decide how to get the ordinance done quicker without the Board taking time right now.

Chairman Pfeil agreed and affirmed that he wanted to move it along to support the goal of getting the ordinances on the books.

Mr. Sandow advised the Board not to proceed on the basis that "...we pass an ordinance and then think about whether or not it should be revised in a year to two." He felt that it would be deadly to the business people or to any developer to know that they could not rely on the ordinance because the Board might want to make corrections later.

Chairman Pfeil answered that that was why it would go to the Master Plan Committee first.

Committeeman Roshto said it would be accelerated at the Master Plan Committee point.

Mr. Sandow asked the Board to consider the concept of "partially pregnant". The Valley Road studies which were funded by N.J.A.C. and the ones that were done in the beginning, the 2020 Vision Study, envisioned a Valley Road Business District that extended from one end to the other. He stated that they were "partially pregnant" because several areas along that corridor were carved out and left in the Office District even though one of the express goals of the Valley Road studies was to eliminate the Office District. The two shopping malls were to be consolidated into the Business District Zone and then it was decided to leave them in B-3 with all those existing rules and regulations. "We are 'partially pregnant' in terms of already having constrained in an artificial way the notion of an 'end to end' business district. I can't in good conscious say what we already approved is consistent with the original planning--it's not. There are about 110 acres of Valley Road out of the element and out of the ordinance. Any of the adjustments discussed that evening were peanuts compared to those major adjustments."

Mr. Moholkar asked if the intent of the Master Plan Committee was to make it align with the 2020 Vision Study.

Committeeman Roshto asked for guidance from the Board, since the Master Plan Committee was now going to accelerate the review of the element, as to whether they should review the Light Industrial Overlay and changing the R-4, or did the Board want the subcommittee simply to clean up the element so that the ambiguities discussed earlier were fixed.

Chairman Pfeil said, in his opinion that it should be cleaned up. He did not want them to venture into the overlay or the R-4. He felt that that had already been decided.

Mr. Moholkar felt that if the subcommittee did not do the overlay, they would be aligning with the vision to create a single zone. If the overlays were added, the conservation areas and residential areas were changed, the Board would start going down the road of more "partially pregnant". It would create a map of pieces here and there which was what the Board had now. If the property was conservation, it should be conservation. That should not be taken away. For the rest, if additional fousls were not being created and the fousls were already in place, it should be left in place. In the residential example, no hardship would be added unless the element was revisited. If an ordinance was put in place that did not support the element and had a different idea, it opened up the "is that what we really wanted" argument.

Mr. Hands said he was interested in seeing whether they could do an analysis with Mr. Sandow's lot discussion to see how many lots and where they would fall. He thought it would be a ring around the outskirts of the business district. He was also interested in seeing what the impact on the Mercer situation would be.

Mr. O'Brien said that would be if the Board wanted to make a change because the original concept of the map was to go from business zone B-2 to business zone Valley Road. Those power line rights-of-way for instance that go diagonally across Valley Road were currently B-2 and it was deliberately kept in the Valley Road Business District because there was no change. They could be conservation since nothing could be done there but nothing could be done there now or tomorrow. The Board decided to leave it as it was for continuity on a map.

Mr. Hands asked if it needed to be recognized anywhere that even if they were in B-2 they were probably prohibited from any development.

Mr. O'Brien said it was simply a matter of fact that nothing could be done there since it was a power line.

Mr. Hands asked if it was semantics at some point: conservation versus business. He agreed with the concept of the Master Plan which set a tone and a vision. It might take 20, 30, 40 years to get there. Or you may never get there. But it set a tone and a vision for what should be done.

Committeeman Roshto said that it was currently called the Valley Road Business District. He felt that it had caused some confusion. If the Master Plan Committee said that it was not the *Valley Road Business District*, it was the *Central Business District*, would that be something the Board would be receptive to?

Mr. O'Brien suggested "Valley Road Corridor Business District".

Committeeman Roshto said the problem was Plainfield, Bay Street--

Mr. O'Brien said that corridor would expand that.

Committeeman Roshto said that corridor was the same thing and he wanted to change it.

Chairman Pfeil said that Mr. Sandow had mentioned that already decisions were made in the past that the two biggest properties along the Valley Road corridor were not part of the district. He was surprised when he first saw that there was not a unified plan for the entire area. He felt that that “Central Business District” was a good idea because then it could go off Valley Road. He felt calling it the “Valley Road Corridor” when it left out the two biggest properties on Valley Road made no sense.

Mr. Hands agreed.

Committeeman Roshto said if they went in that direction, should they try to fit the Plainfield area where quite a few uses were residential, into the Central Business District or say that it wasn’t really part of the Central Business District. It was residential.

Mr. Hands felt that the Plainfield issue was a little different. He was a little bit more sensitive to the fact that on Metzler, there were properties there that were residential. Plainfield was a main thoroughfare out of town from Valley Road and therefore fair game for the business district.

Chairman Pfeil felt that the Board was unanimous about Plainfield.

Committeeman Roshto reiterated that Plainfield would be part of the business district however Metzler should be discussed at the Master Plan Committee meeting.

Chairman Pfeil asked why change something that had been a business district for a long time.

Mr. Moholkar said that there were an equal number of houses on Plainfield and on Metzler.

Mr. Sandow said there were seven (7) lots on Plainfield and four (4) on Metzler.

Mr. O’Brien said if a line was drawn from Valley Mall to the south, which was what the original residential district discussed, that would be the three (3) lowest on Plainfield on the west side, the two (2) on the right side, and the four (4) on Metzler.

Mr. Moholkar said that not very many would be helped if the zoning was changed.

Committeeman Roshto said that he felt that the Board wanted the Master Plan Committee to look at Metzler but have a good reason as to why an island should be created there if that was the recommendation.

Mr. O’Brien said that Metzler had two (2) residences and two (2) vacant lots.

Committeeman Roshto said, in terms of the overlay zone, the Master Plan encouraged such industrial zone uses off of Valley Road. He wanted to know if the language should be struck.

Mr. Moholkar said that he did not think that it should be prevented since the Board allowed it anyway when there were requests. Maybe the overlay should match the Master Plan. The Master Plan didn’t want to discourage that, just wanted to take it off the main thoroughfare.

Committeeman Roshto asked Mr. Moholkar if he wanted to keep the wording in the Master Plan.

Mr. Moholkar said yes and then have an overlay that supported it.

Committeeman Roshto said there were three (3) directions. One would be to have it anywhere off Valley Road as stated. Two would be to include a statement that would place it in the Bay Street area. Three would be a decision not to have it at all in the Central Business District.

Mr. Moholkar asked what would be allowed and prohibited in the “industrial zone”. He assumed that they were referring to “LI” when they discussed “industrial”.

Mr. O’Brien said that in the “LI Zone”, manufacturing, packaging, processing, research labs, recording studios, wholesale trade, and warehousing were examples of the type of industrial uses that were allowed in the LI-2 Zone. The original overlay that was discussed specified the uses that currently existed in the properties that were proposed to be in the zone. It could be anything that the Board wanted.

Mr. Hands answered that currently it was designed to be specific to what existed at that time. So if they did have any overlay, the Board could be very specific on the allowed uses.

Mr. O’Brien affirmed that that was correct. The Board could use the current LI-2 or use what existed currently or something in-between.

Committeeman Roshto said that it should say in the element that there should be an overlay zone in the Bay Street area, period, instead of saying that it should be encouraged on the side roads.

There was discussion about how and if they wanted to encourage it.

Mr. Moholkar liked the overlay since some of them already existed but he felt that it had to be defined so that it was limited to a certain scope.

Committeeman Roshto felt that the ship had sailed in that area. He would prefer that it be part of the Central Business District if it could effect change but that would not happen. So all they would be doing is penalizing them. They are there and ingrained in that area so there should be an overlay zone.

Chairman Pfeil said he could live with that. It wouldn't be his first choice. His first choice would be no.

Mr. Hands agreed. He felt if that was done there, then why not go back to Metzler and do the same thing there.

Committeeman Roshto said he was on the fence.

In answer to Mr. Aroneo's questions, Committeeman Roshto said there was no discussion about an overlay zone for residential in 2012.

Mr. O'Brien said the suggestion was to rezone to R-4. There may have been phrases left in the Master Plan that weren't changed to reflect a new direction because maybe they weren't sure where they were going to wind up. The Board was free to follow the Master Plan or not.

Mr. Aroneo said that he was inclined to explore the overlay.

Mr. Hands said he did not want the overlay. It should be kept as part of the Central Business District with everything that entailed.

Mr. Aroneo said essentially that would eliminate the industrial.

Mr. Hands said he would get all industrial off of that package that bordered between the river and Valley Road. If they really wanted a Central Business District where ideally people could park and take a stroll, they should start to build around a center and unfortunately those properties were pretty much in the center of that whole thing.

Mr. Moholkar said that he could be persuaded either way depending on what came back from the Master Plan Committee. He liked the idea of making all one and the same but there were businesses already there doing this type of work.

Mr. Aroneo said that he was having a hard time picturing what Mr. Hands had described. He saw that more on Main Street. He felt that there was too much in existence there now. He wanted to see more bike paths.

Committeeman Roshto reviewed what had been decided. At the next Master Plan Committee meeting on September 22, 2014, they would discuss the Valley Road Business District element, talking about changing it to conform to more of a Central Business District concept. As part of that, they would discuss the pros and cons of an overlay zone and as well as determine whether or not Metzler residential should become an island residential or not and bring back to the Planning Board recommendations on that area. The Board believed that Plainfield residential area as it stood right now should remain in the Central Business District. He also added the bike paths.

Mr. Hands asked about the conservation areas in reference to Mr. Sandow's comments as they pertained to the ordinance.

Mr. O'Brien said, with Mr. Sandow's permission, he would forward a copy of his suggestions and he would check the block and lot list to insure that it conformed to the map. If there were to be any changes, that would be a separate matter that would go to the Master Plan Committee.

Chairman Pfeil said that they should hold off on that and come back to it later.

Mr. O'Brien said that in the meantime, they would pause on the Valley Road ordinances.

Chairman Pfeil asked for a motion to adjourn. Mr. Aroneo motioned, Mr. Moholkar seconded. Voice vote was taken and the meeting as adjourned at 10:00 p.m.

CYNTHIA KIEFER
 Planning and Zoning Secretary

Date