

REGULAR MEETING

Meeting called to order by Chairman Gilbert Foulon with a salute to the flag at 8:05 P.M.

READING: Open Public Meeting Announcement

This is the Regular Meeting of the Wanaque Planning Board and adequate notice has been given and it has been duly advertised by the placement of a notice in the Suburban Trends and the Herald News on January 26, 2011 and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk.

ROLL CALL: Chairman Gilbert Foulon, Vice Chairman Graceffo, Councilman Dominick Cortellessa, Members Kevin Platt and David Slater.
Mayor Mahler arrived at 8:20pm

PRESENT: Attorney Steven Veltri and Engineer Michael Cristaldi

ABSENT: Members Mark Reuter, John Shutte and Eugene Verba

MINUTES: from the May 19, 2011 Meeting

MOTION TO APPROVE: made by Councilman Cortellessa, seconded by Vice Chairman Graceffo. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Councilman Cortellessa, Members Platt and Slater.

COMMUNICATIONS REPORT: None

APPLICATION STATUS REPORT (Engineer's Report): Nothing new. All matters are on tonight's Agenda.

REVIEW OF SITE PLAN #17-99

Property Address: 207 Ringwood Avenue, Wanaque (Block 204, Lot 5)

Landlord, Ibrahim Fayed, of 206 Warren Street, Harrison, New Jersey, 07029, appeared before the Board to discuss the amount of tenants in the building along with assigned parking for each of the businesses located at the property. Cars are not parked in the lot for any length of time. Patrons are in and out of the businesses very quickly. There are never a lot of cars in the parking lot at any time.

There are six units in the entire building. There is the deli, liquor store, Before and After Care, yoga, Gingerbread Academy and upstairs is karate business. Right now there is no vacant space; each unit is presently rented. According to the Resolution approved by the Board when the previous owner received approval, there should be 85 parking spaces on site (by Ordinance there should have been 109, but approval was given with 85). One of the dilemmas is that tenants are appearing before this Board for their new business applications and they can't answer the Board's questions about parking, leases, etc.

Attorney Veltri requested Mr. Fayed provide to the Board a letter, before the next meeting, containing the following information:

1. A list of each tenant;
2. Approximately how many square feet each tenant is occupying; and
3. How many parking spaces each tenant is being allotted.

This will help the Board in the future and, if a tenant comes before this Board who may need a lot of parking, we can see whether that tenant is a viable tenant.

Also, in the future, when a new tenant comes in for a business application, the Landlord appears with them.

APPLICATION #PB2011-03 "Ruth Ann Elwood", Block 305 Lots 14, 15, 16

Property Address: 13 Maple Avenue, Haskell

Application For Minor Subdivision

(CD 5/19/2011)

Authorized Agent is Jeffer, Hopkinson & Vogel, Esqs.

Attorney for the Applicant, Jerome Vogel, Esq. of Jeffer, Hopkinson & Vogel, 1600 Route 208 North, Hawthorne, New Jersey

This application is for a minor subdivision with a bulk variance. It is originally three lots and the idea is to combine the three lots and create two lots. The property was previously the subject of an application that went before the Board of Adjustment because the attorney believed that a density variance was needed. The application received a 4 to 3 vote in favor of the subdivision by the Board of Adjustment, but because they ruled it was a density variance, it needed 5 votes. Eventually, it went to court and the court said a density variance was not needed, but the jurisdiction really belongs before the Planning Board so you need to start all over.

The zone requires 10,000 square feet. Of the two lots that are proposed, one is 8,790 square feet and the other is 7,552 square feet. There is a required depth of 120 feet, and the property has 96.18 feet for both lots. There are benefits that will be derived from this vacant property. Whatever drainage occurs in the area now, will be enhanced. This will be supported by testimony and the storm water report we have filed with the application. In addition, all of the other aspects of the subdivision, except for the fact that the lots are undersized, comports with the intent and purpose of both the Zoning Ordinance and the

Master Plan of the Borough of Wanaque. Also, all of the lots across the street from this property are smaller than what is in the Ordinance, and smaller than the lots we propose.

Attorney Veltri has reviewed the Proof of Services and the Advertisement and they are in order so we can proceed.

Attorney Veltri swore in both witnesses:

Bruce Rigg, 1000 Maple Avenue, Glen Rock, New Jersey

Michael Kauker, 356 Franklin Avenue, Wyckoff, New Jersey.

Bruce Rigg is a New Jersey licensed Professional Engineer (1982), Land Surveyor (1976), and Planner (1981). Degree in Civil Engineering from Newark College of Engineering; Certified Municipal Engineer by the New Jersey Society of Municipal Engineers. Appeared before approximately 85 different municipalities, Planning Boards, Boards of Adjustment in Morris, Passaic and Bergen Counties.

Let the record show Mayor Mahler has arrived for the hearing at 8:20 p.m.

Testimony of Bruce Rigg

I have prepared a Topographic Survey, Subdivision Plat and Storm Water Drainage Report for 13 Maple Avenue.

Referring to the Subdivision Plat, sheet 2, we have two proposed parcels for subdivision. The first is on the corner of Locust and Maple, which is called proposed Lot 14.01 (corner lot), and has 7552 feet of frontage on Maple and 103 feet of frontage on Locust and the property is 8790 square feet and 96.18 feet deep, which is the existing depth of the property. The second is proposed Lot 16.01 which is 8246 square feet in the front and 7458 square feet in the back.

Our objective was to draw a right angle as most ordinances call for on the property line and we have the 80 feet of frontage, which is required by the Ordinance.

Zoning requirements for each lot requires 10,000 square feet (one is 8790; and the other 7552). The lot width requirement is 80 feet and both lots meet this and the corner lot exceeds the lot width at 84.5. The lot depth is required to be 120 feet and the existing condition for that is 96.18 so we are asking for a continuance of the non-conforming rear or depth. We are asking for a front yard setback of 20 feet where 30 feet is required, and we have a second front yard on Locust and we are also asking for a 20-foot setback. We will not exceed, nor are we asking for any variances on the side yard setback, rear yard setback, building height, building coverage and finished livable floor area.

The two houses that are shown on the plan are 35' x 42'. The present objective was to increase the size of the homes from the previous one on the property because of conditions of the market to try to provide a larger product for probably the same price as they would have been asking a few years ago.

With regard to the front yard setback variance, we measured the setback of all the area homes and they range from 4.7 to 14.8. Our setback of 20 feet is actually beyond every house down Maple Avenue on either side and the adjoining house on Locust Street. Also, with regard to lot size, the three adjoining properties are 5000, 10,000 and 15,000, but the majority of the properties immediately across the street are smaller and our lots would be consistent or more of an average of the neighborhood so all the lots would be conforming in size.

Referencing Sheet 3 which shows the proposed dwellings, grading for the properties and utility connections. The grading for the property on Maple Avenue only has a few inches of pitch. The road is very flat and the property itself had some slight pitch going to the east. We included a berm along the south and the east of the interior lot (16.01) to make sure any storm water that hits the lawn will go out to the street and not onto the adjoining property. It is being graded so none of the storm water will go onto the neighbor to the east. The larger parcel (14.01) is higher in the back and we are leaving the height in the back and grading it towards Maple Avenue again to insure all the storm water makes it out to the roadway. We have proposed seepage pits for each of the units that will contain any additional runoff for the sites. Accordingly, to the storm water report it is for the 10, 25 and 100 year storms. They will be verified at the time of construction. We will go out and do permeability tests to insure that they will function the way we are proposing. We have essentially collected all the storm water from the roof of both buildings so that they would provide the zero increase in runoff for the properties. All the utilities we believe are in the street and we will be connecting to the water and verifying the size of the main. There is one existing service on the site and we will be adding a new one for the corner lot.

Vice Chairman Graceffo had questions about the sewer line.

We show on the plans that a sewer lateral was cut off and capped. We received that information from a previous survey and this will be verified. We will be connecting to the existing location and proposing a new connection for the other lot. There is also a manhole directly in front of Lot 14.01. For Lot 14.01, all the utilities would have to go out into the street. There are no storm drains in front of the property.

Mayor Mahler commented that the end of Maple and Locust floods.

There is essentially no pitch on the roadway at this point of time. This is why we have proposed on-site seepage pits so that the construction of the houses would not add to whatever exists in the street now. The subdivision would not increase whatever the condition is now. All downspouts would run into the seepage pits. Originally, there was an old house on the property that was taken down, but there is presently an existing garage in the rear of the property.

Engineer Cristaldi commented that the Water Department is not sure of the size of the main for the water in the street. They show four, but it might be six. At some point, you will have to go to the Water Department and work it out with them for the capacity and pressure. If not, you may have to do some improvement and post a bond to do any off site work.

We agree to do this.

Councilman Cortellessa questioned the fact that there are no buildings on the property now, does the water flow into and possibly cause some of the flooding down at the end of the road? The way that the property is right now, and when there is heavy rain, does that water flow out into Maple and cause a little bit of flooding?

The property is all pitched towards Maple now. It will be pitched towards Maple when it is finished. The only difference is that all the roof drains will be connected to a sub-surface system. Our objective is to meet the zero increase in runoff for all the storms, which we believe we have done with the system we have designed. Our intention is that the construction of both houses with the seepage pits should interrupt some of that flow and we should be able to capture a lot of that on site. In fact, the drainage issue could improve.

Vice Chairman Graceffo questioned that the calculations on those seepage pits are to bring it to zero?

The design criteria are for 25-year storm; however, the criteria actually ends up creating a zero or less than zero increase for all the storms, including the 100-year storm. It is hard to predict the future, but it will decrease the storm water from this site with the existing condition.

Councilman Cortellessa asked about the size of the homes – single-story homes? I believe they are two-story homes. We meet the maximum height of 35’.

Testimony of Michael Kauker

I am a New Jersey Professional Planner, received my license in 1970 and have been practicing since then as Michael Kauker Associates and currently Kauker & Kauker. We serve approximately 14 municipalities in Bergen and Passaic Counties and Rockland County, New York. We appear before various boards related to use variances and variances of this nature.

I reviewed the maps submitted by the applicant drawn by Bruce Rigg. I visited the site as late as yesterday and have become familiar with the particular bulk regulations of the R10 Zone and have crafted a view and opinion as to a support testimony related to this application.

I believe this application can be viewed as a C-2 Variance, wherein the benefits that are generated by the proposed construction outweigh the detriments. My reasons for this are as follows: Firstly, I believe the proposed drainage improvements will benefit the general neighborhood. Secondly, and very importantly, the development of a scarce resource, which is vacant developable land. This particular parcel is relatively flat and does not have any physical development constraints, which would limit its capacity to accommodate two homes on less than 10,000 square foot lots. The lots proposed are on a 16,342 square foot total parcel of land. The map shows three lots specified. Those lots still exist on the tax map but by virtue of *Locker v. Campolie* they are probably merged, so legally, they are one lot.

Secondly, there are six homes located across the street, which average approximately 5,000 square feet in area and they are obviously one-half of the requirement of 10,000 square feet. The neighborhood area of influence that relates to this application is focused on Maple Avenue and Locust Street. In that particular area, there are fourteen lots and the average lot in this area is 5,700 square feet. The proposed lots at 8,790 and 7,552 would be a larger than the average lot size of the surrounding area, but slightly less than the required 10,000. In this context, there is a case called the *Kaufman* case where a variance for a lot area request was granted because the lot, in and of itself, was much larger than the average lot size in the surrounding area and was a little bit out of context with all of those surrounding lots. This particular case essentially proposes to bring the two proposed lots into closer conformity with the neighborhood development pattern, which obviously predated the zoning overlay which required 10,000 square feet and, therefore, it is essentially a better plan for this neighborhood. I believe this proposed variance, in addition to the rear yard variances and the front yard variances could be granted without any substantial detriment to the public good. Nor do I believe that your consideration of the proposed variances would have a negative effect on the intent and purpose of the zone plan. This is a mixed lot area neighborhood and I believe that the construction of two new homes would be very compatible and comparable to the surrounding, existing residences. In terms of the depth variances that, even the lots across the street, are 96 feet deep because that is the lay in which the blocks were crafted back when this subdivision occurred so that we are consistent with the lot depths of the surrounding lotting pattern as well.

CHAIRMAN FOULON ENTERTAINED A MOTION TO OPEN THE HEARING TO THE PUBLIC ON THIS APPLICATION: made by Member Slater, seconded by Councilman Cortellessa. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt and Slater.

Donna Peterson, 16 Maple Avenue, Haskell, NJ

I was present during the previous hearing, and I still have some questions.

Referring to the map, I am questioning the minimum rear and side yard setbacks, if one house is facing Maple and one is facing Locust.

Mr. Rigg answered that both houses are facing Maple. One has a side entrance garage. They both have the 40 rear yard setback and a side yard opposite Locust.

I have a comment to what was said about all the other lots being 50 x whatever. That was prior to the ordinance that is currently on the books. If you authorize this subdivision that all the other properties that I have on this map circled in yellow, that are at least 100, 143, 105, etc., would that not be setting a precedent in this little area for subdivision and increasing that much more water problems into the area? How does this precedent also affect all the other judgments that might be brought before you if you allow this one to go through?

Mr. Kauker believes it would not be setting a precedent mainly because of the prevailing area of influence within the 200 foot radius, and we are the absolute largest residential lot at 16,000, comparable to that, but for the existing 15,189 which is located on Locust. Each and every application is reviewed on its own merit. We have 6,000 square feet more than

those lots so that if there were a potential for a re-subdivision, our situation is significantly different than the lots in the surrounding area. Every homeowner has a right to request relief from the regulations, but in this particular instance, this application rises and falls on its own specific characteristics which may be much different than other lots which obviously are larger, but are not within the 200 foot radius.

Does the Court also agree that that doesn't set a precedent for any other subdivisions that come before you? Attorney Veltri explained, this is a Planning Board and we look, as Mr. Kauker said, at each application based upon its own merits. It is a variance for this particular land based upon the evidence that comes before us and what our experts are also telling us and guiding us with.

I am not sure what a density variance is, but as far as the seepage pits, it was explained to me at a prior meeting that seepage pits recharge the water back into the ground water and add to the existing water. Because it is an open field now, any time you add something that is an impermeable surface, it is going to increase the output of the water. Technically, would they not be increasing the runoff, but only decreasing the runoff rate? Chairman Foulon answered "no", that is what the seepage pit is for. It is to retain the impervious water.

My question is, they can collect the water and, instead of it being absorbed into the dirt that it is now, it is being seeped out into the other surrounding areas? Right.

If you look at the area, it is steep down to the corner where Locust and Maple come to a point, that dirt road fills up on a heavy rain and, because my property is the lowest, and all those houses on Maple Avenue on that side are low, that ground water seeps through my basement. Just from the last storm that we had this spring, I pumped from that one storm eight days to get that ground water through the basement and out down Ringwood Avenue. My concern is that, even if they are putting seepage pits in, that ground is still not there to absorb that water, that water is still getting funneled and can come back down into that area where it is collecting. Meaning that, maybe the rate will be slower and maybe I will have to pump for twelve days instead of eight. The water is still coming down to the lowest point. I am the first house on Maple Avenue (Block 308, Lot 1) next to Locust.

Engineer Cristaldi asked how she pumps the water all the way to Ringwood Avenue?

I have a sump pump, run the hose out through my fence, over the grade of the street so that it pumps onto the opposite side of the block to their property side, so it goes over the crest so that the water runs down to Ringwood Avenue. There are no storm sewers in the area. I have about a 3" raised wooden floor, the water goes underneath into the sump pump, pumps it out up through the hoses, across the roadway, the town gives me a cone so I can leave the hose in the street, so that it crests over to the other side and then the water pumps all the way down to Ringwood Avenue.

Is the bottom of your basement far below grade? Are there windows around the house?

Yes, and she described the size of the window and the foundation with her hands.

Does the water come into your basement or do you have a French drain around the house?

How does the water get into your house?

The water comes in through the back rear corner of the house, into what we call the mudroom. It runs through that floor, then I have a small room where my furnace is on a little pad that has a cement floor so that it runs down through that; it is all pitched. Then I

have a 3" raised wooden floor where the water goes under and into the sump pump. From the sump pump, it gets pumped out and then through the hoses, across the street.

Member Platt asked if this is surface water you are talking about? It is not coming up through the ground?

It is not coming in over my windows. It is the ground. It is not on the walls; the walls aren't wet. It is from the ground. The whole basement does not get flooded. It only comes in one spot. My concern is that, even though they put the seepage pits in, the dirt that would have been there is no longer there to absorb the water and it is going to come back down.

Engineer Cristaldi said the seepage pits just take the water that would lay on the ground and soak in; it just gets it right under the surface to start with. Either way, all the water in that area ends up in the ground. It does now and it will later. There is not going to be any more rain that falls in the area, it is the same amount of water.

She is afraid that there is going to be less dirt absorbing that rain, less surface area for that evaporation.

Chairman Foulon stated that this is what the seepage pit will do. It will take the place of the dirt where the house is; the seepage pit will absorb that rain where the house is. There is not going to be more water. It is going to be the same amount of water.

Mr. Rigg explained the seepage pits. We have two seepage pits on each site, 6' x 6' in diameter and six foot deep, 1000 gallons. We usually dig out a rectangular area and two pits in and backfill with stone around so it has stone below and on both sides. The objective of the seepage pits is to actually create a cistern to hold the water instead of spreading it out on top of the ground, it is putting into the ground as it should be. We test the soil before the pits are put in to make sure they are the right size and, if there are conditions that change, we make sure they are modified before they are installed so it is done properly. This is the standard we all follow.

Speaking to Ms. Peterson, if you are getting water right after a rainstorm, it is definitely not ground water. Ground water is stagnant during the winter, it rises up, and you may get a fluctuation of a couple feet possibly during an extreme year. If you get storm water right after a rainstorm, it is the surface water somehow finding its way to your basement. Ground water does not fluctuate that fast. It is not the water table.

What we try and do is get the system, if at all possible, right above the ground water since the ground water really doesn't fluctuate. We take advantage of that and make sure the water goes back into the ground. That is the objective of these systems to put it into the ground instead of on the street.

Engineer Cristaldi questioned if the new homes were going to have basements? No, they are on slabs. If they do have basements, we either design the seepage pits further away from the basement or we try and get them below the basement.

Mayor Mahler requested if they changed the placement of the seepage pits, maybe behind the structures, would it help? No. If it is actually ground water, Ms. Peterson won't see it from this. If it is a storm situation and the water is getting to her house, the water would

have to travel across the 50' right-of-way, over 100' underground to get to her house and, compared to what she has now, our water should not affect her at all. We are quite a distance from where her house is and our objective is to put it down in the ground water. I don't believe the water table is the issue that she has right now especially if it is happening right after a storm.

Ms. Peterson questioned the visibility at the corner. How many feet is the dwelling supposed to be from a corner? They are asking for 20' on each corner. My home is 4' off the road and right now it is already a difficult turn for getting through there and the visibility is not too good. I took pictures by putting the camera on the ground to show the visibility and the applicant's property is in the picture. Attorney Vogel has no objection with the Board looking at the pictures.

Engineer Cristaldi questioned Mr. Rigg about the house being set back 20' from either corner, so if you would pull up with a car, your entire car would be passed the structure in either direction, so you, as the driver, would have nothing blocking your view. That is correct, you would have to slow down to make the turn. As you slow down, you will have full view.

Attorney Vogel stated that our set back is greater than any other set back in the area and we are set back 20' feet so it is at least a full car length, greater than the average car length, so a full car would be up to the corner before it started to make the turn.

Ms. Peterson asked if the town would put up a Stop sign there? That would be up to the Mayor and Council.

Ms. Peterson looked up 98-78, the variation of minimum requirements, and referenced part (b): "if the developer or agent can clearly demonstrate because of particular condition pertaining to his land..." There was a house on the property right where he wants to subdivide the land. The house got knocked down and now there is an empty lot that he wants to subdivide. Does he have to prove a hardship or what his intent would be for a hardship as to why he couldn't just develop the existing property, which already had a house on it?

Attorney Veltri advised that Mr. Kauker's testimony started off with a statement that they are applying for bulk variances on a C-2 basis. Essentially, the courts have developed that analysis and given us guidance in terms of what the applicant needs to prove. Mr. Kauker went through a benefit-detriment analysis. What I heard him say in his testimony, he believed based upon all the factors he outlined that the benefits to granting these variances outweighed any detriments. So the way we are assessing the variances, is on a C-2 basis because the applicant has the right to apply for bulk variances with that type of analysis. As a homeowner in the area, I don't necessarily agree with Mr. Kauker. I believe the two houses in the area are going to be significantly larger and I don't see how this is an advantage to the area and me.

My main concern is the water. What happens if the my property floods worse with this subdivision? What do I do? Where do I go? Who do I go to when my water situation gets worse? There is no guarantee that the water won't get worse. It shouldn't be to the benefit of someone else to cause a potential harm to my property.

Chairman Foulon stated that we have heard expert testimony that says it will not happen. There will not be any more water.

Is there a guarantee? Where is my relief?

Attorney Vogel is aware that Ms. Peterson's is very much concerned with her home and the quality of her life. However, it is not for her to stand before a Planning Board and ask where do I go if something happens in the future. If she has comments about the subdivision, certainly she has had the opportunity to make them. But to suggest that "what if something happens in the future, where do I go", that's not really an appropriate question to ask the Planning Board.

Councilman Cortellessa believes she is just expressing her frustrations and concerns. It is my hope and view that the seepage pits would actually reduce the impact on her property. After a heavy storm, I view the water flowing off of that property faster than it being absorbed into the ground and, as a result, that may be some of the cause of the flooding in that area. I think the seepage pits have the concept of holding the water and gradually releasing it into the ground.

Vice Chairman Graceffo asked what is causing her water problem if it is not ground water?

I wish I could answer the question easily. Usually when this happens, it is a situation with gutters or a non-maintenance of a seepage pit system that backs up and affects the house. If it is coming in as quick as she says, it is definitely not ground water, not to say it is not storm water, but it is finding a path to her house that needs to be prevented.

Engineer Cristaldi stated that if it is ground water, it will come up all around the house so it is kind of strange that water is only coming in at one corner. If it is ground water, it would come up everywhere and completely surround her basement.

Ms. Peterson stated the corner is along the backside of the property along the dirt road (the old railroad bed). If we don't know what the cause is, and we keep building, how is there ever going to be any relief? Every time there is a heavy rain, that dirt road turns into a lake. The railroad bed runs along Locust. Chairman Foulon said that is probably where your water is coming from. Mayor Mahler stated it is coming from the reservoir. There is a pipe that comes out of the reservoir. The gentlemen who lives on the other side of the old railroad track on Maple has a major flooding problem with water coming off the hill next to him from the reservoir. He has an ongoing battle with the reservoir about this.

I am just at a loss that if additional construction in the area has the potential to put more water back onto that land then it would only seem that it could cause more flooding through my property. Does that seepage pit truly give you a zero net runoff?

Attorney Veltri asked Mr. Rigg to again explain the seepage pit.

Mr. Rigg again explained the seepage pit. We do is we calculations per the New Jersey Residential Site on Permanent Standards which tells us certain storms that we are suppose to design a system for. They have set a standard for us to follow for a 2 year, 10 year, 25 and 100 year storm to make sure how much water you would get during what they would consider that storm for this site. We then design the system using it without impervious areas and then with impervious areas, calculate what the additional volume is and make sure that is contained within the drywells. We make sure we have at least that much

volume in the system, baring any permeability out into the soil. If there is a real fast storm and the water comes immediately and drops into the ground, it goes in and fills the tank and we then go out and test the soil to make sure it all goes away in 72 hours. This is the standard that New Jersey has given us and that is what we have used here. It has all been designed so that there will be no additional water beyond what leaves the site now going onto Maple Avenue. If you go through the calculations, you will see we have actually reduced beyond that. We always put a safety factor into it. There is additional stone used. Part of the requirement is that these systems can be maintained so if, in the future, something goes wrong, they can go in, clean out the system, and fix it. Whatever leaves the site now, there will be zero increase in runoff. The State of New Jersey says whatever water leaves the site now, we are entitled to allow that to leave the site tomorrow. We've designed it so that we will have less water leaving the site tomorrow, then what leaves it today. There will definitely not be a zero runoff on this site. We are not containing everything and we are not proposing that, just no increase of water leaving the site.

Attorney Veltri summarized saying that the water runoff won't be any worse than it is now.

She would like to research how much water currently would be on an open field without any seepage pits versus what there would be now with impermeable surfaces and a seepage pit. Am I permitted to do this research?

Chairman Foulon advised that the Board would probably vote on this application tonight. We base our judgment on the experts that are approved and licensed by the State of New Jersey.

If I find someone that tells me something different that is an expert, I would have to come back with an expert to contest any findings that they have?

Attorney Veltri advised that, if we vote tonight, we will either approve or deny the application and then you would have the right to appeal, but you would not be coming back here, that would be in court.

John Tallman, 8 Maple Avenue, Haskell, NJ

My biggest issue is that all the properties have been there for pretty much a long period of time and I think the variance should stay and shouldn't be allowed. If they want to build on one property and it is a big home, they should be allowed to do that. It shouldn't be subdivided to be two other homes, which will obviously change the street as it is right now. What involves the seepage pits being serviced and is this required by the homeowners?

Mr. Rigg stated the Standards have us provide the criteria so that the municipalities insure that the seepage pit is maintained on every new home and, in most instances, the municipalities just don't have the manpower to do that. We provide the criteria and tell them how to do it. The recommendation is they check the system at least once a year to open it up and see if the system is properly functioning. I do not know of any municipality that has in their storm water management ordinance that it actually mandates that it is done and documented. To get a homeowner to do this is tough. The system is set up so that they can do it. There is one large cover (manhole size) on the system so that you can actually open it and get access.

Attorney Vogel stated it is self-limiting to the extent that if water becomes visible above the seepage pit, then it is fairly obvious that it is not working.

Mr. Rigg said that if the system actually fails just like a normal seepage pit, you are still 25 years from now before the system gets to that point. These systems last a long time. However, I cannot guarantee that this will be done.

Robert Clearwater, 7 Maple Avenue, Haskell, NJ

I am here for the excessive water coming down my street. However, I am impressed with what they are saying here tonight. I have water coming into my driveway. I just recently paved it and it has improved drainage on my land, but it still runs down the street. I believe there are only two storm drains at the end of the Maple and Ringwood Avenues, and all the water goes there. Whether it is ground water or surface water from the land or the dirt road, either way it is coming down the street. I feel the subdivision is going to affect that water flow. I am sort of getting the opinion from what was said tonight that is not so.

Unfortunately, my wife could not come tonight but she would like to express her thoughts. I have a letter signed by my wife for the Board.

Attorney Vogel has read the letter and is not going to object to the Board reading the letter. Attorney Vogel read Margaret Clearwater's notarized letter into the record for the Board.

Paul Brieva, 9 Maple Avenue, Haskell, NJ

I live directly adjacent to the property being developed. The other residents have pretty much summed up all my concerns, aside from rodents or what not when stuff is being developed. I did notice prior to purchasing my property that it was subject to water damage, but I am not getting water damage now. My concern is with the development, will I start to get water? Will I be affected by it? If I am not, then I don't have a problem. If I am, what recourse do I have? I am not 100% for this because I don't have enough information as to whether or not what they are proposing is going to be the correct thing and whether or not it will affect me.

Chairman Foulon stated that it has been testified to that there will be the same amount of runoff or less with the systems they are putting in. If anything, it should slightly improve the area from a runoff standpoint.

Mr. Rigg stated that they propose building a berm on the back and side of the property. Right now, the storm water does go towards your property. When this is done, the storm water will not go towards your property. We are actually creating a hill to make sure the water goes out into the street to protect your back yard. If anything, you should benefit the most with the least amount of water because any water that is going towards you now will no longer go towards your property.

CHAIRMAN ENTERTAINED A MOTION TO CLOSE THE PUBLIC HEARING PORTION OF THIS APPLICATION: made by Member Slater, seconded by Vice Chairman Graceffo. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt and Slater.

Attorney Vogel had no other testimony, but did summarize his clients' application.

CHAIRMAN ENTERTAINED A MOTION FOR APPROVAL OF THE SUBDIVISION:
made by Vice Chairman Graceffo, seconded by Member Slater. Voting yes were
Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa,
Members Platt and Slater. Motion Carried

APPLICATION #PB2011-05 “Maria Ethel Sieber”, Block 304 Lot 14

Property Address: 26 Locust Street, Haskell

Application For Minor Subdivision

(CD 5/19/2011)

Raymond Vivino, Esq., 401 Hamburg Turnpike, Wayne, NJ, Attorney for the Applicant
The applicant makes an application to subdivide the property, which she has been living in
since the 1950’s, in order to have her daughter have a house next to her. Mrs. Sieber is 88
years old so she will not be testifying, but her son will be. This particular application is on
Locust Street. The property is presently 22,797.34 feet. The subdivision would provide
that the lots do not need any variances since one lot area would be 12,200 feet and the new
lot area would be 10,584 feet. The new lot would require a 70 foot side yard. Lot depth
would not need a variance. The bulk variances are basically because there is an old garage
next to Mrs. Sieber’s house. The front yard of the new house would have a 31 foot setback
so no variance would be needed. The rear yards are 80 feet and would not need variances.
The building height would conform and building coverage, which 25% is required, would
only be building coverage of 11% and 12%.

Attorney Veltri swore in Edward Sieber, Contractor for over 30 years.

The present older home is a single-family house with three bedrooms and a detached single
car garage. The driveway exits onto Locust Street. We are proposing a subdivision to
build a single-family raised ranch house, with three bedrooms, and a garage underneath
with all utilities above grade.

Attorney Vivino questioned Mr. Sieber about the sewer lateral for the new house and about
testimony he heard about a water issue. Does this particular area have water problems?

Chairman Foulon questions the expert qualifications of this witness to answer the water
question. He recommends that the applicant get a planner and engineer because a variance
is being requested. Attorney Vivino will return before the Board with these experts at the
September meeting.

Attorney Veltri stated that we have started the application, and there may be members of
the public that have been noticed and that are here and would like to comment. Anyone
here for this application? No.

We are going to carry this application until September and, with the Board’s approval, Mr.
Vivino will not have to re-notice or re-publish.

PUBLIC DISCUSSION: None

RESOLUTION: None

VOUCHERS: None

MOTION TO ADJOURN AT 9:50 P.M.: made by Member Slater, seconded by Vice Chairman Graceffo. Carried by a voice vote.

**Jennifer A. Fiorito
Planning Board Secretary**