

In compliance with the Open Public Meetings Act of the State of New Jersey adequate notice of this meeting has been mailed to The Daily Record and posted at the municipal building.

ROLL CALL:

Members Present: Joe Fleischner, Brian Schaechter, Nelson Russell, Steve Bedell, Jim Staszak, Paul Ottavinia, David Koptyra, Howie Weiss

Members Absent: Dan Nelsen, Pat Walsh

Professionals Attending: Chuck McGroarty, Planning Consultant, Gene Buczynski, P.E., Tiena Cofoni, Esq., Catherine Natafalusy, Planning Administrator

Professionals Excused: Edward Buzak, Esq.

APPLICATION #PB 12-14 – JENNIFER & KEVIN POWERS

MR. WEISS: Okay before we open the meeting tonight I just want to make an announcement to the public, if anybody is here on behalf of application PB 12-14 which is Jennifer and Kevin Powers that has been removed from the agenda this evening it will be carried until January 17, 2013 and no further notice. So if anybody is here for that application it will not be heard tonight.

APPROVAL OF MINUTES

September 13, 2012 Public Meeting

Motion: Jim Staszak
Second: Steve Bedell

Roll Call:

Brian Schaechter - yes
Nelson Russell - yes
Steve Bedell - yes
Jim Staszak - yes
Paul Ottavinia - yes
David Koptyra - yes
Howie Weiss - yes

APPROVAL OF RESOLUTIONS

Resolution #PB 12-20 – John & Terris Garbarini – (Block 5410, Lot 24)

Motion: Steve Bedell
Second: Brian Schaechter

Roll Call:

Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
Steve Bedell - yes
Jim Staszak - yes
Paul Ottavinia - yes
Howie Weiss - yes

Resolution PB 12-21 – The Land Conservancy of NJ – (Block 8100, Lot 3)

Motion: Joe Fleischner
Second: Nelson Russell

Roll Call:

Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
Steve Bedell - yes
Jim Staszak - yes
Paul Ottavinia - yes
Howie Weiss - yes

Resolution #PB 12-17 – Waterloo Road Development Co., LLC – (Block 106, Lot 1 & Block 107, Lot 1)

Motion: Steve Bedell
Second: Jim Staszak

Roll Call:

Joe Fleischner - yes
Nelson Russell - yes
Steve Bedell - yes
Jim Staszak - yes
Paul Ottavinia - yes

Resolution #PB 99-31 – ARD Mt. Olive Associates – (Block 4400, Lot 79)

Motion: Jim Staszak
Second: Steve Bedell

Roll Call:

Joe Fleischner - yes
Steve Bedell - yes
Jim Staszak - yes
David Koptyra - yes

MR. WEISS: And these yes votes are to approve the resolution as they're drafted.

MRS. NATAFALUSY: Right for the extension of the final approval of the 66 lots.

Resolution #PB 99-31 – ARD Mt. Olive Associates – (Block 4400, Lot 79)

Motion: Brian Schaechter
Second: Nelson Russell

Roll Call:

Brian Schaechter - yes
Nelson Russell - yes
David Koptyra - yes
Howie Weiss - yes

MR. WEISS: As Catherine had said Tiena is on her way so I don't know if we have many committee reports. Brian anything from the Mayor?

MR. SCHAECHTER: The Mayor has nothing to report today.

MR. WEISS: Council, Mr. Walsh isn't here so we'll skip that. Nelson I have to assume that your meeting is this week and you'll report next?

MR. RUSSELL: Yes.

MR. WEISS: Ordinance committee, Joe?

MR. FLEISCHNER: Nothing.

MR. WEISS: I have nothing from the street naming committee and of course Pat Walsh is on the open space committee and he's not here. So much for committee reports.

EXTENSION REQUESTS

APPLICATON #PB 10-23 – RICHARD BRUNO

MR. WEISS: Okay the first order of business tonight is we have an extension request on application 10-23 Richard Bruno. Here for an extension of a variance approval for an approval that was granted on December 15, 2011 at 89 Crease Road. Mr. Bruno welcome this evening. What we'll do is our attorney will swear you in.

(RICHARD MICHAEL BRUNO SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your business address for the record please.

MR. BRUNO: Richard Michael Bruno (B-R-U-N-O) 119 Kenmar Road, Boonton, New Jersey 07005.

MR. WEISS: Mr. Bruno this is a painless process, here's what I need you to do. You're asking for an extension of your variance which was granted on December 15, 2011 one year the variance expires soon.

MR. BRUNO: Yes.

MR. WEISS: So I need you to explain to the Planning Board briefly what is the situation that brings you back here tonight and what you're requesting from the Planning Board.

MR. BRUNO: My situation is that because of the real estate market and the housing market I had to have one call on the property that I wanted to have a single-family home built on it and I'm trying to sell it. I didn't want to but because of my wife's health and mine its deteriorating and I need the money to pay for bills. So the property has to be sold.

MR. WEISS: So you're not changing your direction you're still going to go forth with the proposal that you presented last year.

MR. BRUNO: Yes.

MR. WEISS: You don't have any circumstances that would hamper your building for example, are there any Highlands problems that you're dealing with?

MR. BRUNO: No.

MR. WEISS: Okay so it's essentially just an economic situation a hardship that you're finding.

MR. BRUNO: Yes sir.

MR. WEISS: Do you have any . . . you said you haven't had anybody looking at the property?

MR. BRUNO: I have it in the real estate for over a year, I've been advertising it myself, not one phone call. I've lowered the price about three or four times already.

MR. WEISS: Is your marketing strategy at all listed with a professional real estate company?

MR. BRUNO: Yes.

MR. WEISS: Or you haven't done that.

MR. BRUNO: Yes.

MR. WEISS: Oh you have done that.

MR. BRUNO: Yeah it is right now.

MR. WEISS: Oh it is listed, okay so it seems to be doing the proper things to help sell the property. Does anybody have any questions for Mr. Bruno? And before I ask that you're asking for another one year or two year?

MR. BRUNO: Whatever, I don't know if the market is . . .

MS. COFONI: I don't think it says in the ordinance how much he can get. Catherine I don't think the ordinance provides for a . . . I think it just says vaguely the Board can grant an extension am I correct on that do you know?

MRS. NATAFALUSY: Variances are good for a year so I . . .

MS. COFONI: Right.

MR. WEISS: So if Mr. Bruno was to request something like a two year we would definitely consider that request?

MS. COFONI: I think it's silent as to the length of the extension I think it leaves it up to the Board.

MR. BEDELL: What's the variance for, I missed that initially. I remember you know it looks familiar from a year ago but . . .

MR. BRUNO: Yeah to build a single-family home on four acres.

MR. WEISS: Okay and the variance request was relief from what? Do you remember what it was for? Like were you short on side yard setback or . . .

MR. BRUNO: I was short on setback yes.

MR. WEISS: Okay so they were minor.

MR. BRUNO: Yes.

MRS. NATAFALUSY: It could have been lot size too.

MR. WEISS: Lot size was small, undersized. Is it a 5 acre zone?

MS. COFONI: Its 4 acres required and 3.6501 acres existing.

MR. WEISS: So let's keep in mind what Mr. Bruno is asking, he owns 3.65 acres in a 4 acre zone and obviously Mr. Bruno is motivated to sell this property as soon as he can to help with some health issues.

MR. BEDELL: Right now this is just the raw land nothing built on it?

MR. WEISS: One single-family home. So Mr. Bruno your request is what?

MR. BRUNO: To get an extension on my property so . . .

MR. WEISS: How long would you like us . . .

MR. BRUNO: I would like it for two years.

MR. WEISS: Two years, is there anything prohibiting us from offering a two year extension?

MS. COFONI: It's 400-241.

MR. WEISS: Make sure that we're within our . . .

MR. BRUNO: Thank you.

MR. WEISS: And that way it takes a little pressure off of you. It's not an unreasonable request.

MR. BRUNO: Otherwise I'd be back. I'm just hoping the market is changing.

MR. WEISS: Yes we'd all like to get that.

MR. BRUNO: Absolutely.

MRS. NATAFALUSY: 241 the variance shall expire one year from the date of the adoption of this resolution unless otherwise extended by the Board.

MR. WEISS: Okay so we've been advised that there's no restriction even though the original variance is for one year there's no reason that we can't honor Mr. Bruno's request if he so desired to accept that. I have no questions; does anybody on the Planning Board have any questions for Mr.

Bruno? Seeing none let me turn it to the public, does anybody from the public have any questions for Mr. Bruno based on the testimony he's given. And I see none from the audience therefore Mr. Bruno has requested a two year extension. I will entertain a motion.

MR. BEDELL: I'll make a motion for PB 10-23 for Richard Bruno for a two year extension.

MR. STASZAK: Second.

MR. WEISS: Is there any conversation? Seeing none Catherine roll call.

MRS. NATAFALUSY: Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
Jim Staszak - yes
Paul Ottavinia - yes
David Koptyra - yes
Howie Weiss - yes

MR. WEISS: Mr. Bruno good luck to you.

MR. BRUNO: Thank you very much. Hopefully I won't see you again. Have a great holiday everyone.

APPLICATION #07-40 ZBA – LOZIER ESTATES, LLC

MR. WEISS: Okay our next extension request is 07-40 ZBA Lozier Estates, LLC coming in for the fourth extension of a variance approval on Lozier Road located at Block 2801, Lots 11 & 14. We have Mr. Levitt. .

MR. SOLONDZ: Mr. Levitt is not here tonight I'm his partner Mr. Solondz and my attorney is coming.

MRS. NATAFALUSY: This is just an extension request.

MR. WEISS: Well this is what we'll do; you're going to speak on his behalf

MR. SOLONDZ: Here he is.

MR. WEISS: Okay so let me reintroduce 07-40 ZBA Lozier Estates again this is the fourth extension of a variance approval on Lozier Road. So I will ask our attorney to swear you in and at that point you can introduce yourself to the Planning Board.

(ROY SOLONDZ SWORN IN FOR THE RECORD)

MS. COFONI: If you could just state your full name spelling your last name and giving you business address for the record please.

MR. SOLONDZ: Roy Solondz (S-O-L-O-N-D-Z) business address is at 39 Main Street in Succasunna.

MR. WEISS: Okay and so Mr. Solondz, I'm going to call you Roy if you don't mind.

MR. SOLONDZ: Roy is fine.

MR. WEISS: I need you to explain to the Planning Board about why you're here tonight you're obviously asking for an extension from a variance approval that was granted?

MR. SOLONDZ: Right we asked for this extension because we've been having some problems with the title on this property. We contacted at that time the State about trying to sell them a piece for

MR. LEVITT: If I may Lee Levitt for Lozier Estates in this matter. In essence what occurred was the applicant who received the variances was in negotiations with the State of New Jersey to

purchase a large majority of the land. We did not enter contract there was somewhat of a deal in principal, the State has a procedure for this open lands to run their own title. Although we have a title insurance policy, an actual final policy the State ran it reviewed it and said some 60, 75 years ago there appears to be almost what would somewhat be called a wildcat deed when the properties were first granted. That a small piece in the center of the property does not have proper chain of title. So they said well we're not going to buy it and you know our title company had said we'll indemnify over this, we have no problem and the State said no. So at this point and what we've been going through over the last year, year and a half is going back and forth with the insurance company asking them to file an action to quiet title. It's not an inexpensive procedure for lack of a better term. We are to the point that we may have to file it ourselves and seek some subvervation from them seeking them to pay for it. They have not been willing to do it they've been stonewalling us is really the answer. In fact the last correspondence was I believe, was in late November where I basically had to put them feet to the fire saying if I don't hear a response from you that you are going to cover this that we are just going to file an action. So unfortunately whether our insurance policy covers this or not, which it does, we're not getting the proper response we need from the title insurance company's attorneys.

MR. WEISS: Do you have any idea what time of timeframe we're looking at?

MR. LEVITT: A quiet action title I would hope, and I would defer to the Board's professional, you could be looking at 6 to 9 months up to a year because of probably the notice requirements. The judge may require us to post it in a paper you know I don't know what would happen. It's kind of rolling the dice when you get in front of the judge and they say well here's how I want you to try to notice these people who may or may not have an interest in the property back from the 1930's.

MRS. NATAFALUSY: Can I ask a question?

MR. WEISS: Sure.

MRS. NATAFALUSY: You said you were going to sell a portion of the property?

MR. SOLONDZ: Yes.

MRS. NATAFALUSY: How do you do that without a minor subdivision? Or is it one of the lots of Lot 11 and 14?

MR. SOLONDZ: We could sell a part of it? It was State Green Acres I'm not sure.

MR. LEVITT: Well at that time it was State Green Acres . . . whether . . . because I remember there was a Highlands issue that received . . . isn't there an existing house on the property?

MR. SOLONDZ: Yeah there's an existing house.

MR. LEVITT: Well we weren't in contract and I think the thought process was at the time that we would come in and get a minor subdivision, a two lot subdivision in order to sell off that portion.

MRS. NATAFALUSY: Oh.

MS. COFONI: I guess I wasn't . . . oh this is a Board of Adjustment application originally.

MRS. NATAFALUSY: Yes.

MS. COFONI: So this was to construct a single-family home on this lot. That home was constructed?

MR. SOLONDZ: No we didn't want to start the house until we got the title straightened out.

MS. COFONI: So do you own the property now?

MR. SOLONDZ: Yes.

MS. COFONI: And you're looking to sell a portion of the property to DEP?

MR. SOLONDZ: State Green Acres.

- MR. LEVITT: It's State Green Acres.
- MS. COFONI: Sell it or give an easement?
- MR. SOLONDZ: Sell it.
- MR. LEVITT: Sell it.
- MR. MCGROARTY: So they'd need a minor subdivision.
- MS. COFONI: Right well not on that but they got a variance to construct a house . . .
- MR. MCGROARTY: It would change the acreage.
- MS. COFONI: I mean it would change everything. So to be honest if you were to sell a portion of the property to DEP your approval that you're asking for an extension for would be null and void. Because you wouldn't have the same lot that they granted an extension for.
- MR. SOLONDZ: True but even if we don't sell it to them we might construct a house and not be able to transfer title because we still have this problem with the title.
- MS. COFONI: Right so . . .
- MR. SOLONDZ: So that's why we want the extension to leave our choices . . .
- MR. LEVITT: We have options.
- MS. COFONI: Okay I understand now. So this extension, if you were granted another extension it allows you to still build a house if you don't sell to DEP. Because if you do sell to DEP this extension does you no good because you can't go forward.
- MR. SOLONDZ: Correct.
- MS. COFONI: Okay I'm sorry I didn't understand it.
- MR. LEVITT: We would have to come back before the Board, seek a subdivision, seek a new variance or I don't think you guys would be building the house.
- MR. SOLONDZ: We would exactly.
- MR. LEVITT: That would all go away and it would . . .
- MS. COFONI: I'm sorry I didn't understand that okay.
- MR. WEISS: Okay and so you'll just note it that the timeframe is out of your hands.
- MR. LEVITT: Unfortunately yes.
- MR. WEISS: Okay and I only have one concern which is this is the fourth request and it goes back to 2007, I'm not really sure why you've requested extensions before us nor does it matter it's got nothing to do with tonight's request. I think the Planning Board from my perspective doesn't like to keep applications open for so long. You certainly have the right although I think we'd like to see something happening. We understand this one is out of your hands your requesting one year?
- MR. SOLONDZ: Yes.
- MR. LEVITT: Yes.
- MR. WEISS: Okay you're requesting a one year extension, does anybody have any comments? Did you guys have anything else?
- MR. LEVITT: I think the one comment I would like to make is that I think the representation to be made to the Board that obviously we're at the point of either filing suit and I think a year gives us enough time to know if we can . . . if my client decides to push through and pay for the quiet title action

on a contract with the State a lot of the minor subdivision and everything could be moved forward or they can made the decision to start the building process. I think a year gives us an adequate time to be able to accomplish either or.

MR. WEISS: Because if I was to throw out something like six months, say in six months you'll give a better direction if your moving at all or if you're going to scrap your plan and . . .

MR. LEVITT: I think six months we'll have an idea, you know my concern is to come back and have the Board deny a further extension if it was almost you know I don't want to throw it back on the Board but to say look if we're diligently pursuing either or that we would have the Board's . . .

MR. WEISS: You know I'll give you my insight to even suggesting six months it kind of keeps a fire under you.

MR. LEVITT: Correct.

MR. WEISS: Because if I give you a year you could say six months don't worry about we have some time but then pick up your pace as you approach your year I think we're going to be back at the same thing. Nobody wants to take your approval from you but I want to make sure that we're moving in a legal process you have two approaches. You can just let it take its course or you could keep the fire going. And my thought is that six months might keep it a priority and that's all I'm throwing out. If it's as simple as you saying I would say in six months you come by yourself, not that I want to take billable hours away from your attorney but if it's as simple as we're talking give us an update in six months. I think that would be preferable to me I don't know if anybody on the Planning Board agrees or disagrees.

MR. BEDELL: I don't know enough about the process to weigh in on what they have to do to be honest.

MR. LEVITT: What I think I was trying to impress upon the Board is if I were to file suit today I might be at in three months hearing back after an answer and a you know it's be filed, they be served I would receive an answer your talking 60 days, 65 days if I were to file it today. By the time you turn around and do anything and you're having a case management conference in front of a judge you're talking four to five months. But if that's what's going to satisfy the Board you know to come back and report to you and say hey look we're in litigation or they've picked up the ball and they've filed a quiet title action. If that's going to satisfy the Board yes I can tell you within six months we're going to be one or the other way.

MR. WEISS: Does the Board have any opinion on whether it's a six month as I suggested, a year.

MR. BEDELL: I might be more inclined for the year.

MR. STASZAK: Given that I would be inclined to give them a year also.

MR. WEISS: Okay that's fine. All right so we're seeking a one year extension to this approval and it doesn't look like anybody on the Planning has anything else. Brian?

MR. SCHAECHTER: How about if we deny it and they get their act in order and they come back a year from now and they refile I mean that's an option to correct?

MR. WEISS: Well I don't think it's that simple. If we do not then the applicant has to go back to the drawing board and come in with a new application.

MS. COFONI: They'd have to file a new application.

MR. SCHAECHTER: Okay.

MS. COFONI: If they wanted to pursue in that direction.

MR. SCHAECHTER: Okay.

MR. WEISS: That is an option of course and you know we all have an opportunity to vote as we see fit. All right seeing nothing from the Planning Board is there anybody from the public that has anything? Seeing none gentlemen do you anything else?

MR. LEVITT: No.

MR. WEISS: So on the table we have a request for a one year extension to 07-40 ZBA I will entertain a motion.

MR. STASZAK: I make a motion that we approve 07-40 ZBA Lozier Estates for a one year extension.

MR. RUSSELL: I'll second it.

MR. WEISS: Okay Nelson second. Comments? Seeing none Catherine roll call please?

MRS. NATAFALUSY: Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
Steve Bedell - yes
Jim Staszak - yes
Paul Ottavinia - yes
David Koptyra - yes
Howie Weiss - no

MR. WEISS: Well for the reasons I spoke about I'm going to say no but good luck I'm sure we'll . . . hopefully it will be resolved as quickly as possible.

MR. LEVITT: Thank you very much. The fire is under us just as a final comment. We want I mean this has been sitting for several years.

DISCUSSION MATTER

KEVIN LEWTHWAITE – ESCROW ACCOUNT

MR. WEISS: Our next item is a discussion matter I don't know if Mr. Lewthwaite is here and being that he's not Catherine we're going to take it off the schedule and how should we handle that? Applicant doesn't appear.

MRS. NATAFALUSY: Tiena he's objecting to some of the bills and he was supposed to be here tonight to give the reasons to the Board.

MS. COFONI: I think we would probably want to reschedule.

MRS. NATAFALUSY: Okay.

MR. WEISS: Okay we'll reschedule and try to get it on in January some time.

MS. COFONI: Yeah certainly if he wants to reschedule, if he's not interested in pursuing it then that's fine.

MR. BEDELL: What was that?

MR. BUCZYNSKI: I'm sorry?

MR. BEDELL: What was Lewthwaite?

MR. WEISS: Mr. Lewthwaite is just objecting to some of the bills that he's received by the professionals.

MRS. NATAFALUSY: It was an application from 1999 for a subdivision. He's come back there was some issues and it wasn't this Board.

MR. BEDELL: Okay.

APPLICATION #PB 12-22 – GREG & CHRISTINE HELLER

MR.WEISS: Our first developmental matter for the evening is PB 12-22 Greg & Christine Heller seeking a variance for lot coverage at 68 Waterloo Road which is Block 2900, Lot 1. It looks like both Greg and Christine Heller are here?

MS. COFONI: Yes.

MR. WEISS: Welcome this evening.

(GREGORY & CHRISTINA HELLER SWORN IN FOR THE RECORD)

MS. COFONI: If you could just one at a time state your full name spelling your last name and giving your address for the record please.

MS. HELLER: First name Christina Heller (H-E-L-L-E-R) 68 Waterloo Road, Budd Lake.

MR. HELLER: Gregory Heller (H-E-L-L-E-R) 68 Waterloo Road, Budd Lake.

MS. COFONI: Thank you.

MR. WEISS: Okay so we have a report Mr. & Mrs. Heller about your request to build an 18 foot round swimming pool and your requesting a variance because you have insufficient lot coverage to build this? And so the process is again fairly simple there's no reason to get nervous, what we're going to do is again I'm going to ask you to describe your plan to the Planning Board. We do have copies of the plan, we have the survey and if you need to refer to it I know you have a copy. But essentially your obligation to the Planning Board is to explain to us what you want to do and why you need to build it according to the plan that you have. And we'll ask you some questions and we'll go from there.

MRS. NATAFALUSY: It's to maintain it he's already built it.

MR. WEISS: Oh it's built okay. Okay and perhaps part of your testimony you'll explain how that happened.

MS. HELLER: Actually we had a pool before that but it was one of the ones you put I guess water in and it goes up?

MR. HELLER: It's like inflatable.

MS. HELLER: Inflatable. So we put this up and we didn't realize we needed a permit so we put it up and I have to confess that other people in town were talking about putting in above ground pools and I told them they didn't need permits. So if you have other people coming before you it might be my fault.

MR. WEISS: That's quite all right. I think again so explain to the Planning Board what is it that you'd like to build, do . . .

MS. HELLER: It's already there.

MR. WEISS: Explain the situation please.

MR. HELLER: Like we said we had an inflatable pool you know it's a nice size pool I knew where to put it I'm in construction so I knew to keep it off of our brand new septic bed and all of that stuff and I pushed it back away. But it's within the setbacks from the property lines it's just that the lot fill is we're at like 2 percent over. We have a big lot it's all surrounded by woods I think you can see in the pictures that it's really its far away from the house its off the septic field. They said that it was on the reserve field so if we do have a problem with our main septic field we know we'd have to take it down to utilize the reserve field if that ever became an issue. It's just an above ground pool it's not . . . if we have to take it down . . .

MR. BEDELL: How long has it been up for?

MR. HELLER: We put it up this summer.

MR. BEDELL: Oh just this summer.

MR. HELLER: This summer yeah.

MR. BEDELL: Okay. How long was the other pool up for?

MR. HELLER: Three years, three seasons. It's the one you get at Toys R Us you . . .

MR. BEDELL: Like the blue one?

MR. HELLER: Yeah you set it down you fill it with water and the sides go up.

MR. BEDELL: About 3 or 4 feet tall or something?

MR. HELLER: Yes.

MS. HELLER: We think the bear ripped it.

MR. WEISS: Will the bear be testifying?

MR. HELLER: The bear is deceased he was taken care of, the Lozier Road bear was actually hunted down. He was 700 and something pounds because it looked like a Volkswagen coming down the road.

MR. WEISS: Okay so let's just go forward as we talk about you know the Planning Board's position to grant a variance for the situation. So obviously we understand the situation, like I said it's not the first time it's happened we're not an unreasonable Board we understand a certain ignorance of the zoning is appropriate and to be expected. Let's talk a little bit about your neighborhood, the condition I know you told me you have a large lot tell me how big that lot is?

MR. HELLER: It's a third of an acre but it's surrounded by woods, by the town's woods actually.

MR. WEISS: Okay so that kind of leads me to the next question. Why don't you talk about the neighborhood, your neighbors to your right and to your left and behind, the feel for the neighborhood is it wooded is it private?

MR. HELLER: Yeah the lot to the right of us is unbuildable it's small for whatever.

MR. WEISS: Nothing is unbuildable.

MR. HELLER: Well unless you have a canoe.

MR. WEISS: It's vacant.

MR. HELLER: Yeah and the lot behind us as well. There's a paper road and there's

MRS. HELLER: It's all town owned.

MR. HELLER: Very little interest in the lot being sold.

MRS. HELLER: And our neighbors are at the pool.

MR. HELLER: Yeah the neighbors like swimming in the pool I haven't had any complaints about it.

MR. WEISS: Now Catherine you can confirm that it was noticed properly correct?

MRS. NATAFALUSY: It was noticed properly.

MR. WEISS: And so I don't know if there's any neighbors here, are there any neighbors here? Okay so there's none of your neighbors are here to object which is always a good thing. Now tell me about the property, actually it doesn't really matter it's an undersized

MRS. NATAFALUSY: I can put something on the record.

MR. WEISS: Yeah why don't you do that.

MRS. NATAFALUSY: This is for Block 2900, Lot 1, otherwise known as 68 Waterloo Road. This actually if you look at the tax map it's a property that surrounded by township property. In 2005 the applicant received a variance from the Zoning Board of Adjustment to construct an addition on the property and after construction of that addition coverage on the property totaled 25 percent where 20 percent is the maximum so they got a variance for that. Now with this construction of the pool it brings the impervious coverage up to 27 percent so they need a variance. I believe they were cited by the Construction Code Official and that's why they're here tonight.

MR. WEISS: Okay were you the same owner that built the addition on the house?

MR. HELLER: Yes.

MS. HELLER: Yes.

MR. WEISS: Okay yeah we're looking at a larger lot surrounded by township property.

MRS. NATAFALUSY: It's in the RR-A zone which is the 3 acre zone and they've got 12,680 square feet so it's a substandard lot in that zone.

MR. WEISS: So if the Board was to consider granting this variance request was it your opinion that it would not deter from the nature of the community. A swimming pool in your neighborhood, is that out of line?

MR. HELLER: No there's a couple of other above ground pools on our street.

MR. WEISS: Okay and so you don't see there's any disadvantage to having a swimming pool in your home in this neighborhood.

MRS. HELLER: Just having people over all the time. Which isn't a problem but there's lots of kids there.

MR. WEISS: I'm not hearing any disadvantage to granting such a variance. Tiena would you say that we have met some of the negative criteria that if we granted this . . . I think I heard the Heller's tell us that if we granted this variance it would not be a substantial detriment to the community. Is that an accurate statement?

MR. HELLER: Absolutely yeah.

MRS. HELLER: Yes.

MS. COFONI: I think an important thing that they mentioned and that I see on the map is that they actually have no adjacent neighbors. They are surrounded by property owned by the town.

MR. WEISS: Right so we can assume that the pool would not affect anybody.

MS. COFONI: Right.

MR. WEISS: Steve?

MR. BEDELL: Let's say this application was approved, let's say the bear comes back and knocks this pool down, since they've already have the variance can they just rebuilt a pool on that same spot?

MR. HELLER: It is.

MR. BEDELL: No I'm saying let's say this pool gets . . .

MR. HELLER: Oh, okay.

MR. BEDELL: What happens now they come back in for another variance for same pool, same spot?

MS. COFONI: No they would be able to build the same size pool in the same spot if they got, if they received approval tonight.

MR. BEDELL: Yes okay then they can just rebuild okay.

MR. HELLER: We would just have to go through the permitting process again right?

MR. WEISS: I think it also would be necessary to point out that based on the fact that it was originally 20 percent lot coverage and now it's 25 plus.

MS. COFONI: 27.

MR. WEISS: 27 it's highly recommended that you don't build anything else or add anything else to that property because you're already . . . not that you don't have the right to come back to the Board but just understand even something like a shed you would need a variance. So I want you to understand that. Does anybody have any comments or questions for the Hellers?

MR. SCHAECHTER: Does the pool meet all other Code as far a Construction?

MR. HELLER: Yeah I figured that the biggest part of it is the electrical and I imagine . . . I'm an electrician so that's pretty good. But we're going to go through the permitting stage and obviously have it all inspected and everything.

MR. WEISS: Yeah that might be a Construction issue.

MR. FLEISCHNER: That should be part of the variance.

MR. WEISS: Yeah good idea.

MRS. NATAFALUSY: Well the Construction Code Official cited him so he has to.

MR. WEISS: Well your right Joe just to keep our records straight I'll make sure that the resolution if approved would say that to make sure that whatever permits and Codes need to be met. It's a pretty standard affair. Anybody on the Planning Board have anything else? Seeing none anybody from the public have any questions for the Hellers? I see nothing from the public I'll close it to the public and at this point I will entertain a motion for this application.

MR. FLEISCHNER: I move we approve the variance for PB 12-22 Greg & Christine Heller.

MR. RUSSELL: I'll second.

MR. WEISS: Thank you Joe, second by Nelson any conversation? Seeing none, Catherine roll call?

MRS. NATAFALUSY: Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
Steve Bedell - yes
Jim Staszak - yes
Paul Ottavinia - yes
David Koptyra - yes
Howie Weiss - yes

MR. WEISS: Mr. & Mrs. Heller good luck to you.

MRS. HELLER: Thank you very much Happy Holidays.

MR. HELLER: Thank you I appreciate it.

APPLICATION #PB 12-23 – JON GESELL

MR. WEISS: The next application that we'll call is PB 12-23 Jon Gesell requesting a variance for encroaching on the front yard setback on an accessory structure located at 26 Tamarack Road which is Block 2201, Lot 3. Good evening Mr. Gesell is that correct?

MR. GESELL: Yes close enough.

MR. WEISS: Our attorney will swear you in so if you wouldn't mind.

(JON GESELL SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your address for the record please.

MR. GESELL: Jon Gesell (G-E-S-E-L-L) 26 Tamarack Road, Budd Lake, New Jersey.

MS. COFONI: Thank you.

MR. WEISS: Okay Mr. Gesell as you saw before we're going to ask you to give a good summary to the Planning Board as to why you're here, what you're looking for and why you need a variance. And then I think after you do that Catherine I'm going to come back to you then you could give us the technical data.

MRS. NATAFALUSY: Okay.

MR. WEISS: So if you would just explain to the Planning Board what it was that you want to do?

MR. GESELL: It's a 12 by 16 foot shed, storage shed I need a variance because I believe its 8 foot from the property line. I live on a corner lot so my . . . they're different it would be like in the middle of my yard.

MR. WEISS: You have two fronts I guess?

MR. GESELL: Yeah. It's just strictly storage.

MRS. NATAFALUSY: Just for the record real quickly I have a typo in my report my report says 12 by 8 but it's 12 by 16 on the one shed so I apologize.

MR. WEISS: The shed is 12 by 16?

MRS. NATAFALUSY: 12 by 16 for the first shed we're going to talk about.

MR. WEISS: Catherine would you tell us what the standards are in the zone where Mr. Gesell is?

MRS. NATAFALUSY: It's in the R-4 zone with a minimum lot size of 10,000 square feet and accessory structures have to be a minimum of 50 feet from the front lot line and 5 feet from the rear and the side property lines. He meets the setbacks for the accessory structure from the side lot line however he's proposing to locate the accessory structure 37 feet from the front lot line therefore he is going to encroach 13 feet in the front yard setback for the first shed that he wants to construct.

MR. WEISS: Okay so I'm looking at the map of your property it looks like you have a fairly larger piece of property. How big is that again?

MR. GESELL: The actual property?

MR. WEISS: Yeah.

MR. GESELL: I think it's 112 by 91.14 I think. It's kind of longer on one side.

MRS. NATAFALUSY: Its 9,642 square feet.

MR. WEISS: Okay so it's right under a quarter acre.

MR. GESELL: Yeah.

MR. WEISS: Okay so tell us Mr. Gesell you have a plan to build this shed is there any other place on the property that you'd consider to put it so that you wouldn't need a variance?

MR. GESELL: Well where I'd like it is . . . you have the plan I guess in front of you and it's basically at the end of my driveway. I have kayaks and stuff just strictly unloading; I have a four wheeler I'm going to put in there. It's just to load things right from my truck, the driveway into the shed. Where it is I have a wood pile on that side no one really uses that side. I have a plastic shed you can see in the corner that I'm getting rid of. It's like a Rubbermaid thing that's starting to lean to one side.

MS. COFONI: Here I have pictures right here.

MR. WEISS: So this is the shed that you're going to get rid of?

MR. GESELL: That's the one that's going yep.

MS. COFONI: If I may?

MR. WEISS: Sure.

MS. COFONI: I see that your application was amended to keep one shed?

MR. GESELL: The little I think it says 8 by 8 shed? Yeah that the previous owner bought it I did not know he didn't get permits. It was where it was when I moved there.

MS. COFONI: Okay. It's kind of right next to the proposed shed right? Is that the one that's right next to your wood deck?

MR. GESELL: It doesn't actually show it on my plans how close but it's within 3 feet?

MS. COFONI: But I'm just trying to make . . . the one that says to be removed is still going to be removed?

MR. GESELL: That's going yeah that's way in the back corner.

MS. COFONI: Okay so it's the other two sheds that are kind of next to where . . .

MR. GESELL: Yeah the little one that's right on the deck I would like to keep and . . .

MRS. NATAFALUSY: In both instances the sheds are insufficient setback from the principal structure. This one is proposed to be about 8 feet and the other shed that's existing is within inches of the deck. So that's why he needs variances for that shed too and for front yard setback for that second shed that he wants to maintain.

MR. BEDELL: Can the larger shed be moved back 10 feet? Because I think it's 13 feet encroachment?

MRS. NATAFALUSY: He still would need a variance even moving it back 10 feet he's still encroaching . . .

MR. BEDELL: All right there's 13 feet I think without the variance?

MRS. NATAFALUSY: I think he just said that he wants it at . . .

MR. BEDELL: Yeah.

MR. WEISS: Certainly the special reasons that Mr. Gesell told us about, the logistics of loading his equipment kind of makes sense. I would say that that would give him the criteria the positive criteria that he needs for his request for the variance. Tiena do you agree with that?

MS. COFONI: I do.

MR. WEISS: So he's certainly met his positive criteria so he has the right to ask for the request. And so we need to look at some of the negative criteria if possible if there really is negative criteria. You made a very clear statement that you have an irregular shaped lot I don't think that's negative its positive right? So I'm just going to double up on the positive. The fact that you have an irregular shaped lot is certainly standard that we would consider as we address your request. The negative criteria for us we look at the impact on the neighbor so by having this shed where it is Mr. Gesell would you say and would you tell us if it has any impact on the neighbors, on the neighborhood is it out of line for homes in your neighborhood to have a shed?

MR. GESELL: There are a couple like that I mean I'm getting it from the Amish place up the street it's not going to be an ugly building. I can't see any reason why they wouldn't like it.

MR. WEISS: So that shed that you'll put up is similar to other sheds that will be found in the neighborhood?

MR. GESELL: Yes absolutely.

MR. WEISS: So I don't expect you to testify as to what's in the neighborhood but as a general commentary the shed that you're going to put up is in the spirit of the neighborhood.

MR. GESELL: Yep.

MR. WEISS: I was going to say then would you agree or would you testify that building or putting up such a shed would not have any negative or substantial negative impact on your neighbors?

MR. GESELL: Exactly.

MR. WEISS: And I suppose Catherine you could confirm for me that the notice was proper?

MRS. NATAFALUSY: Yes.

MR. WEISS: Notices were sent to all of your neighbors and I don't know is there any neighbor here that has comments? I see none of your neighbors but like I said earlier it's a good thing none of your neighbors are here to protest your shed. I would say that Mr. Gesell just testified to support his negative criteria needed and I don't know if the Planning Board has any questions or comments? Tiena?

MS. COFONI: I just have a point of clarification. When I'm looking at a portion of the tax map at this lot it looks like it fronts on Mountain View Place Tamarack Road but yet the plan says Oak Place and Tamarack.

MR. GESELL: Yeah I asked the guy to change that when I emailed him back I have six copies that all have the wrong road on the side . . .

MS. COFONI: Okay so that is a mistake then.

MR. GESELL: Yeah that is a mistake it's not Oak Place.

MS. COFONI: Okay it's Mountain View Place.

MR. GESELL: Yeah that's right yes.

MS. COFONI: Okay.

MR. WEISS: Brian?

MR. SCHAECHTER: The shed is going behind it looks like a wood fence?

MR. GESELL: Yeah there's a wood fence along the whole back.

MR. SCHAECHTER: In the front of the driveway?

MR. GESELL: Well on Tamarack I consider that my front but I guess I have two fronts because I'm on either side, yeah it's going next to . . . it's 8 foot from that wood fence along the back.

MR. SCHAECHTER: Okay but it's going to be hidden.

MR. GESELL: Yeah you won't see . . . the neighbor will see the peak of the roof and that's it.

MR. SCHAECHTER: Okay.

MR. WEISS: Catherine you mentioned that we might need a variance for the existing shed?

MRS. NATAFALUSY: Yes.

MR. WEISS: So perhaps because it was something that you inherited when you bought the home?

MR. GESELL: Yes it was there.

MR. WEISS: So we would look at that as a preexisting nonconforming use?

MS. COFONI: Well I think he is asking for a variance for . . . to amend his application to include that.

MR. WEISS: Okay. And there's nothing . . . there's no action to be taken you're not planning on moving it.

MR. GESELL: No, no.

MR. WEISS: Your just requesting us that we deem it that it's been in compliance with our variance.

MR. GESELL: Right.

MR. WEISS: Any other questions? Mr. Gesell anything else?

MR. GESELL: That's it.

MR. WEISS: With that I will entertain a motion unless Tiena you have anything else for us?

MS. COFONI: No.

MR. WEISS: Any conditions that if we were to approve such an application we might want to put on there? I don't think we discussed that.

MS. COFONI: I don't have any no.

MR. WEISS: Okay so we don't have any conditions.

MR. FLEISCHNER: Unless you want to put removal of that other . . . I mean he said he's going to do it but maybe if you put it on there it just kind of finalizes it.

MR. WEISS: Okay so with that one condition to remove the blue plastic Rubbermaid shed.

MS. COFONI: Along with the general conditions that typically accompany all of these resolutions.

MR. WEISS: Right. Which would be a zoning permit . . .

MS. COFONI: Payment of fees, compliance of any other requirements State, Local and otherwise.

MR. WEISS: Pretty much boiler plate. Okay I will then entertain a motion.

MR. SCHAECHTER: I make a motion to pass PB 12-23 for the variance to encroach front yard setback.

MR. WEISS: Thank you Brian.

MRS. NATAFALUSY: And insufficient setback from the principal structure.

MR. SCHAECHTER: Yeah.

MRS. NATAFALUSY: Thank you.

MR. RUSSELL: I'll second it.

MR. WEISS: Seconded as was amended by Nelson thank you very much any comments? Seeing none, therefore Catherine roll call.

MRS. NATAFALUSY: Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
Steve Bedell - yes
Jim Staszak - yes
Paul Ottavinia - yes
David Koptyra - yes
Howie Weiss - yes

MR. WEISS: Good luck Mr. Gesell.

MR. GESELL: Thank you.

APPLICATION #PB 12-12 – OLD HICKORY ESTATES

MR. WEISS: Okay our final developmental matter of the evening is PB 12-12 Old Hickory Estates seeking a minor subdivision with variances on Woodland Avenue which is Block 3107, Lot 10. Good evening again.

MR. LEVITT: Good evening Board again Lee Levitt on behalf of Old Hickory Estates again as just stated we are seeking a minor subdivision. The applicant does ask for I believe two "c" variances for front yard setback of a pre-existing home that is presently on the lot. This evening if I could have Mr. Smith sworn in as an expert Planner.

MR. WEISS: Okay Mr. Smith welcome we're going to have our attorney swear you in.

(STEVEN IRA SMITH SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your business address for the record please.

MR. SMITH: Yes Steven Ira Smith (S-M-I-T-H) I'm a principal of Jaman Engineering Associates I've been associated with the firm for an excess of 35 years. I'm a licensed professional planner in the State of New Jersey licensed since 1985, I'm also a licensed professional land surveyor licensed in the State of New Jersey since 1984. I've testified before Planning Boards and Zoning Boards of Adjustment throughout Bergen, Essex, Middlesex, Morris, Somerset, Sussex and Warren County. I previously appeared before this Board although quite a while ago.

MR. WEISS: Mr. (inaudible) hold on one second. What I'd like to do just one question, have you testified in front of Mt. Olive Planning Board?

MR. SMITH: I have.

MR. WEISS: Okay.

MR. SMITH: Again it was quite a number of years ago but I've actually appeared before the Board a number of times.

MR. WEISS: Okay I have no problem accepting Mr. Smith as a licensed planner. (Inaudible) so I'll throw it back over to you.

MR. LEVITT: Thank you. Mr. Smith first if I may you prepared a minor subdivision plans correct?

MR. SMITH: That is correct.

MR. LEVITT: Okay should we have that marked in as A-1?

MR. SMITH: They're the plans that are before the Board with no modifications.

MS. COFONI: Okay then we don't need to mark them.

MR. LEVITT: Okay very good thank you. Mr. Smith if you could, could you please go over the plans that you prepared for the Board?

MR. SMITH: Certainly. We are seeking a minor subdivision on Block 3107, Lot 10 it's a piece of property that contains 55,868 square feet. It is bounded to the south by First Street, to the east by Woodland Avenue and to the north by Second Street. What I'm going to do is flip to sheet 2 of the plans that there is an existing one-story stone and framed dwelling on the property that is in the basically the easterly corner towards the intersection of Woodland Avenue and First Street. There's also an existing masonry out building which is basically dead center on the property. That what we are proposing to do is keep the existing dwelling, remove the masonry building and the existing concrete area that's just to the north of that existing building. We're also proposing to remove an existing wood fence that lies in the Second Street right-of-way I was told by my client that the fence that I show in the First Street right-of-way has already been removed. And we are proposing to subdivide this parcel into three tracts. Now the property lies in the R-4 zone and in the R-4 zone we're required a minimum area of 10,000 square feet, minimum front yard setback of 35 feet, minimum rear yard of 35, minimum side yard of 12, minimum lot width of 80 feet and then maximum building coverage 20 percent, maximum lot coverage 30 percent and maximum building height of 35 feet. Now for the three proposed lots proposed lot 10.01 which fronts on Second Street will be 10,527 square feet. On the plan which is sheet 3 I'll be showing the required building setback lines a specific house has not been picked for that lot yet but any house that's been constructed on it will comply with the setbacks and the lot coverage and building coverage standards.

MR. WEISS: Without requesting variances.

MR. SMITH: I'm sorry?

MR. WEISS: Without requesting variances.

MR. SMITH: Without requesting a variance. So Lot 10.01 will not require any variances. Lot 10.02 which is the proposed corner lot at the intersection of Second Street and Woodland Avenue contains 11,547 square feet that will also not require any variances. Now as part of the subdivision we've also shown a sight triangle easement in accordance with the town standards as well as dedicating a small return at the corner of that intersection. Proposed Lot 10.03 is the lot that fronts on First Street and Woodland Avenue that will have the existing dwelling on it. That lot is 33,273 square feet that there are, and I'm not sure if Mt. Olive considers them variances or not, that the lot area complies, the minimum front yard setback in the zone is 35 feet. Off of Woodland Avenue we have a preexisting setback of 23 feet, by doing this subdivision we will not be intensifying that preexisting nonconforming condition. As well on First Street there is a setback from the front yard of 18.26 feet to the building itself there's an awning that goes on the side it's 16.02 feet, again where 35 feet is required by ordinance. And those are preexisting conditions that will not be intensified by the subdivision. That the rest of the zoning requirements for that lot comply, that the minimum side yard setback where 12 is required we have 17.62 feet, the minimum rear yard will required 35 feet, we have 259.76 feet, maximum building coverage of 20 percent we have 6.68 percent and maximum lot coverage of 30 percent we have 9.45 percent. Now the existing dwelling as well as the proposed dwellings will be serviced by public sewer and by private wells.

MR. LEVITT: I guess one of the things we were going to ask the Board and we defer to the Board on this, although we noticed on variances whether the Board considers preexisting . . . it's a preexisting nonconforming house that exists on the property that would require the variances.

MR. SMITH: Is a front yard setback a variance

MR. LEVITT: On a preexisting condition.

MS. COFONI: I will tell you this, the Board has taken the position that it's not required for you to obtain a variance however, if you don't specifically obtain a variance and that structure gets demolished you won't be able to replace it in the same spot. So if you want the ability to replace the structure should it be demolished in that same location you would need to obtain variances for it.

MR. LEVITT: If the Board wouldn't mind may I take 30 seconds with my clients?

MR. WEISS: While you're doing that I have a question just a general question. When you subdivide a lot aren't we creating a new set of standards and we would need a variance?

MS. COFONI: It depends on the variances that are requested.

MR. WEISS: This one seems to be pretty simple it's a front yard setback.

MS. COFONI: But it's not affected by the

MR. STASZAK: It would need it whether it's a subdivision or not.

MR. WEISS: Now we're creating a brand new lot that's substandard. Why would we create a brand new lot with

MR. STASZAK: Well the lot is not substandard.

MR. WEISS: Not substandard I mean with a variance request.

MS. COFONI: Well because this is actually an existing house. Subdividing the lot and making more lots doesn't change the setback.

MR. LEVITT: Right so we are going to withdraw the well again if we're not required to seek a variance in order to obtain the subdivision we will in essence take the risk if the house were to burn down that we would have to move the house back in order to meet the front yard setbacks.

MR. WEISS: Okay so if I could summarize a little bit Mr. Smith and I think the Planning Board is pretty clear, your proposal to subdivide this really has no impact on the situation that's currently there.

MR. SMITH: That is correct.

MR. WEISS: You're not creating any new problems, your two lots are going to meet . . . that's why I asked the question, you're going to meet every one of the standards and again the creation of these lots don't improve or make it worse what's already there.

MR. SMITH: That is correct.

MR. STASZAK: In fact if there is a problem you'll be forced to comply with the zoning right?

MR. LEVITT: Correct if the house were to burn and we sought to rebuild it we would have to either seek a variance to build it in its same or comply.

MR. STASZAK: Okay.

MR. WEISS: Okay. Maybe I don't want to interrupt but do you have other testimony I missed because I know that there was some engineering comments that you made. I'm not sure how you'd like to address them.

MR. SMITH: Yeah I didn't know if we could just go right through your engineer's report.

MR. WEISS: Okay you want to address it that's fine.

MR. SMITH: I think it I relatively easy for us to go through the report.

MR. BUCZYNSKI: You want to go through it you've got the report there go ahead.

MR. SMITH: We're in receipt of the report from Van Cleef Engineering dated September 27, 2012. In going through the report item 1 is a statement of fact. Item 2 we will revise the plans to show that additional information. Item 3 we will show the additional information requested at the time of the building permits as requested in the item 3. Item 4 I'd like to . . . I'm going to defer that one to you, to our other to Roy to talk about. Item 4 I'm going to have my client comment on. Item 5 is a statement of fact regarding the two sight triangle easements that we are proposing. Item 6 we agree that we will provide the town with the deeds. Item 7 talks about the sanitary sewer allocation with the associated cost. Item 8 talks about the fences, the one on First Street according to my client has been removed there is a fence on Second Street that shows on the existing condition plan there's a note that says to be removed so it wasn't then shown on the subdivision plan as well as the existing structures that were to be removed once we noted them to be removed they were not shown on the subsequent plans as well. Item 9 we agree that we will comply with that requirement. Item 10 now with this I would like to mark the map if I may and can I call this A-1 with today's date?

MS. COFONI: Yes.

MR. WEISS: Why don't you tell us what A-1 is to.

MR. SMITH: I shall. Okay A-1 is sheet 3 of the subdivision of the minor subdivision plan that was supplied to the Board that item 10 of the report reads as follows; "all the streets in the area are undersized with no curbing or sidewalk with the exception of the new development on Second Street northeast of Woodland Avenue. I recommend that at a minimum Second Street should be widened at the Woodland Avenue intersection so Second Street is widened to be parallel and 10 foot off of the right-of-way line. The existing road width on Second Street at the intersection is only 16 feet wide. The proposed minor widening would open up the intersection to have a width of 30 feet. This widening would taper back to the existing 16 foot road width near the common lot line between Lot 9 and proposed Lot 10.01." All I did on this sheet was to take a read pencil up and draw on it where we would agree to widen it . . .

MR. BUCZYNSKI: That's exactly what I show. I drew it on my drawing too same thing.

MR. SMITH: Right, in accordance with Mr. Buczynski's report I've drawn it on it so I could show my client what it was that we were going to tell you that we could do. I just figured we would put this on the record to indicate that we were agreeing to do it. And then Item 11 at the time when proposed Lots 10.01 and 10.02 are developed they would be required to submit plot plans, driveway permits and application for sewer connection to the Department of Public Works. So we agree to comply with that as well.

MR. WEISS: Okay so the only issue that's open on this report is Item number 4.

MR. SMITH: Correct.

MR. LEVITT: If I may at this time call Roy Solondz.

MR. SMITH: And I'll stay up here if there are questions from the public.

MR. LEVITT: If I can have Mr. Solondz sworn in please?

(ROY SOLONDZ SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your business address for the record please.

MR. SOLONDZ: Roy Solondz (S-O-L-O-N-D-Z) my business address is 39 Main Street in Succasunna.

MR. LEVITT: Mr. Solondz you had an opportunity to review the September 27, 2012 report of the township's engineer?

MR. SOLONDZ: Yes.

MR. LEVITT: Okay and number 4 could you please explain to the Board how you are going to address that.

MR. SOLONDZ: We'll get the permits from the State and then we will apply to the town for the permits and we'll install the wells.

MR. LEVITT: Okay so in essence prior to the issuance of any building permits you agree to obtain the State required DEP permits for those wells.

MR. SOLONDZ: Correct.

MR. LEVITT: Okay and also to the Township of Mt. Olive Health Department.

MR. SOLONDZ: Yes.

MR. LEVITT: Okay.

MR. WEISS: Fairly simply not much conversation needed after that. Gene I think as we look over the report are you satisfied that Mr. Smith has addressed all of your concerns?

MR. BUCZYNSKI: Yeah I am.

MR. WEISS: Okay.

MR. BUCZYNSKI: This (inaudible) thank you Mr. Smith.

MR. LEVITT: Mr. Smith do you have anything further?

MR. SMITH: I do not.

MR. LEVITT: Okay at this time we ask the Board for any comments and/or questions for the applicant?

MR. WEISS: What I usually will do is before we do comments let's open it to the public. If anybody in the audience has any question for I guess at this point Mr. Smith or Mr. Solondz for their testimony if you would. Mr. Hart you can speak into the microphone you'll state your name and address. And again what you're going to do I guess you can ask questions and then also you can open it up if you have any comments.

MR. HART: My name is Donald Hart 27 First Street. I've been at this residence for 18 years and I just wanted to know when they do start the building there is there any liability if something happens to my well system if it goes dry or anything in that way?

MR. WEISS: Mr. Smith I think, are you qualified to answer that question?

MR. SMITH: I am not.

MR. LEVITT: I am not qualified the only thing I can say is that there are State and Local Health Department permits that are a requirement before a building permit can be issued. We've already obtained DEP permits so we have met certain requirements that the DEP requires in order to be able to put a well in. We also have to meet any Health Department requirements that may or may not increase beyond the DEP requirements. So as far as a liability

MR. HART: I can see if anything happened the day of or the day after I would have a concern but you now let's say six months down the road it would be no issue. I'm just talking about just like within that week or in a small timeframe . . .

MR. LEVITT: You mean the first week when they first drill.

MR. HART: Yeah let's just say they started drilling and all of a sudden my well goes dry.

MR. LEVITT: I do not have a working knowledge and I can't make any representations and I apologize. I can tell you that I would think from prior experience that if a well is drilled it has to be

tested prior to going full board. I don't know if anybody else can speak any more knowledgeably than myself.

MR. WEISS: I don't think this is the first time this question . . . it's a legitimate question and I think we've addressed it before. Do you recall how we've answered that?

MR. BUCZYNSKI: Well this came up if you recall it came up in more detail for an application on the other side of Woodland Avenue it was a major subdivision there was concerns about the water table and the ability to drill wells on the site. Now I guess at this point as they do the testing as you had just stated Mr. Levitt they will be testing well levels on adjacent properties to see if there's a draw down and see if there's an effect on those wells. That's part of the process.

MR. LEVITT: The procedure with the DEP and the town to make sure that

MR. BUCZYNSKI: Again if there's a draw down then there's certain concerns at certain levels. The Health Department is better to answer that but if there's an effect on your property as they're drilling the well when they do their testing they'll know and they'll meet certain standards if the well is dry.

MR. LEVITT: Then they can't put the well in, right.

MR. HART: Okay I understand. One other issue I live right next door to the one vacant lot where I assume they're going to put one of the houses. I still have part of the fencing between my property and there's that is old and rickety and they took down the front part along First Street but there's still other sections that go zigzag into other properties. I was just wondering if that was going to be taken down also or . . .

MR. LEVITT: Would you prefer it down?

MR. HART: I would I've fixed it over time.

MR. LEVITT: Again we're hoping this will beautify the neighborhood.

MR. HART: Oh it will, it will. I know Mr. Wyatt and

MR. LEVITT: So the answer is my client just stated they'll take it down.

MR. HART: It's right on the line.

MR. LEVITT: We'll take it down.

MR. WEISS: Just want to clarify what we just discussed. Mr. Hart lives on Lot 11 which is adjacent to the proposed Lot 10.03 and you gentlemen have just agreed to remove the fence that's existing between those two lots.

MR. LEVITT: That's correct.

MR. WEISS: So just for the record

MR. LEVITT: That can be in the resolution.

MS. COFONI: Is it a chain link fence or a wood fence?

MR. HART: It's an old wood fence she used to have horses there and it's old, rotted . . .

MR. SMITH: Is it a split rail?

MR. HART: Kind of split rail.

MR. BUCZYNSKI: It's in a very deteriorated state.

MR. LEVITT: Whatever it is we're going to remove it.

MR. HART: Okay.

MR. MCGROARTY: Either way whatever fence is out there it's going to be removed.

MR. LEVITT: That's correct.

MR. HART: And it doesn't have to be tomorrow I understand that so . . . And I know Mr. Wyatt from the neighborhood I've seen his houses go up and I'm sure everything they do you know will just beautify the neighborhood.

MR. WEISS: Mr. Hart is there a chain link fence on your property?

MR. HART: Yes on the other side of my house.

MR. WEISS: That's yours?

MR. HART: I'm not sure if it was mine.

MR. WEISS: It's not your then.

MR. HART: I think it's mine. It's right on the line.

MR. SMITH: But that's not our line it's on the other side.

MR. WEISS: We're seeing it on the plans that's why.

MR. LEVITT: Anything else we could address?

MR. HART: No that's it thank you.

MR. LEVITT: Thank you.

MR. WEISS: Anybody else from the public? I'll close it to the public seeing no other comments. Anybody from the Planning Board?

MR. WEISS: You know one of my concerns that I usually have in a development like this where your adding three lots to a neighborhood that's fairly small in size, the homes are close together I know the neighborhood very well. I'm concerned about stormwater management and I think in Gene's report it was, I made a note to myself, in number 9.

MR. SMALL: Yeah he does address the dry wells and the roof leaders.

MR. WEISS: No I had a comment complimenting the fact that stormwater management is a problem it's a concern. It's really the one thing that gets created that's not there now is runoff from impervious coverage and the fact that it's been addressed exactly as our engineer requested. It satisfies me and I think we should be a little more comfortable because that becomes a nightmare for this Planning Board that you build homes in a tight neighborhood and don't really properly account for the stormwater management as much as we think we are and it becomes a problem. So I'm confident this has been addressed.

MR. SMITH: And not every town requires that. Your ordinance is very proactive in making sure that it doesn't create an issue.

MR. WEISS: Gentlemen anything else? Nelson?

MR. RUSSELL: I'm just wondering why proposed Lot 10.03 is 3, 4 & 5?

MR. LEVITT: Why isn't Lot 10.03 Lot 10.3, 4 and 5?

MR. RUSSELL: 3, 4 and 5 I mean you can carve two more lots out of it.

MR. LEVITT: He wanted to know why we aren't carving three more lots out of it.

MR. SMALL: Because in order to be a minor subdivision the most number of lots you can do is three.

MR. RUSSELL: What's to prevent you coming back and taking Lot 10.03 and subdividing that?

MR. SMALL: The State has requirements they used to refer to them as creeping minors that restrict developers from coming back in a month and doing the same thing over again.

MR. MCGROARTY: Our ordinance says three years.

MR. SMALL: Three years.

MR. WEISS: That's an excellent point but it doesn't mean you can't come back in three years.

MR. SMALL: No it just means it's not something that can be done now.

MR. WEISS: And just for the record if you wanted to do that five years from now with absolutely no variances you would still need to come before this Planning Board?

MR. LEVITT: Absolutely.

MR. WEISS: Because it's a minor subdivision. Okay anything else? Seeing no other questions I'll entertain a motion on this application PB 12-12. And actually let me take that back for a second, I did see Tiena take some notes so if this application is approved there will be some conditions, they are minor because we didn't really get into some but I think they should be noted. Tiena can you read your notes?

MS. COFONI: Yes I have that the applicant will remove the wooden fence between Lots 10 and 11 per Mr. Hart's request and essentially I have the condition for compliance of all of Gene's report.

MR. MCGROARTY: They'll have affordable housing fees as well when the time comes.

MR. WEISS: I think what I'd like to see on that first condition is just a little bit more because right now it's all Lot 10 the fence is going to come down between 10.03 and 11. Just to clarify because there's (inaudible) just a minor comment. And Tiena do we need any kind of language on if you're looking at item number 4 that Mr. Solondz spoke about he did testify that they would comply with all standards, requirements and obtain all necessary permits or is that standard.

MS. COFONI: Um yeah I'm actually going to include most of Gene's report.

MR. WEISS: Okay fair enough. Okay anything else? So those conditions as noted minor as they are, I'll entertain a motion.

MR. RUSSELL: I move PB 12-12 Old Hickory Estates be approved.

MR. WEISS: Thank you Nelson.

MR. STASZAK: Second.

MR. WEISS: Jim second thank you. Any other comments? Seeing none Catherine roll call?

MRS. NATAFALUSY: Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
Steve Bedell - yes
Jim Staszak - yes
Paul Ottavinia - yes
David Koptyra - yes
Howie Weiss - yes

MRS. NATAFALUSY: Just one thing they're going to have to get zoning permits for the individual houses prior to construction.

MR. LEVITT: Get zoning permits?

MR. MCGROARTY: Yeah and then you'll pay your developer's fee at that time.

MRS. NATAFALUSY: Right .

MR. LEVITT: You'll apply for a zoning permit prior to getting your building permit you'll pay a developer's fee then submit for the building permits.

MR. WEISS: Okay good night gentlemen.

EXECUTIVE SESSION – LITIGATION MATTER

At this point the Planning Board is going to go into executive session. Before we do that if anybody has any new business for the Planning Board you're more than welcome. Otherwise there will be no business conducted. We'll come back to session and close our meeting. So at this point we need to have a motion made to go into executive session.

MS. COFONI: The executive session is going to be regarding current litigation which means Soranno vs. Township of Mt. Olive.

MR. STASZAK: I'll make a motion we go into executive session.

MR. FLEISCHNER: Second.

MR. WEISS: All in favor?

EVERYONE: Aye.

(EXECUTIVE SESSION – LITIGATION MATTER)

MR. WEISS: Okay we're back in open public session we have completed our agenda thank you for opening the door Catherine. And do we have any other issues? That being said I'll entertain a motion to adjourn.

MR. SCHAECHTER: I make a motion to adjourn.

MR. STASZAK: Second.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 8:40 P.M.)

Transcribed by:
Lauren Perkins, Secretary
Planning Department

