

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Frank A. Tomasello, presiding. Members present were Wayne Cain, Wayne Choyce, Kathi Lentz, John Sacchinelli, Bruce Strigh, Elaine Valentino and Alternate Member Amanda Zimmerman. Also present were Solicitor, Robert Cooper; Zoning Officer, Philip Sartorio; Planner, Robert Watkins; Steve Filippone (substituting for Chris Carey-Landscape Consultant) and Kevin Dixon, Engineer Consultant.

The Statement of Compliance was read.

Announcements – Due to the volume of applicants, the meeting will start with agenda item #7 (#34-11 Maurice McDonnell).

Maurice McDonnell– Application #34-11; Block 204 Lot 6 located at 7356 Woodbury Road was present and is seeking a variance to permit an accessory structure (ground mount solar panels) in the front yard area and any other variances found to be necessary. This is a continuation of the public hearing from February 27, 2012.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current. The applicant did not have to re-notice or re-advertise.

The following were sworn in:

Maurice McDonnell-applicant/owner
Anthony Chadwell - Greenpoint Energy Engineer
JR Castle – Greenpoint Energy Employee

Mr. Tomasello thanked the applicant for submitting the items which were requested at the previous meeting. Mr. McDonnell testified he cut trees (some were dead) down in the front yard area when he decided to install solar panels. His lot is almost 7 acres. The front yard area was chosen due to how the sun hits that area. The back yard area has trees and accessory structures.

Ms. Valentino visited the area prior to the last meeting but could not identify where the array was going to be due to it not being clear on the original submission. She noted that it is a residential property in a rural area and there is a pool in the back. There are some neighbors with solar arrays.

Mr. Cain went to see the property but could not get onto it due to the No Trespassing signs. The survey that was submitted showed all items on the property, including the septic system. Solar panel variances have been granted for others in that general area.

Mr. Choyce also visited the property and noted the other properties that were granted variances for solar panels in the front yard area had hardships (2 front yards). What makes this applicant different is the close proximity to the front property line (within 56'). The natural buffers have been removed and the array can easily be seen from the street and neighbors.

Mr. Chadwell testified why the solar arrays are being proposed in that particular area. The maximum the arrays could be moved back is 5' to 10'.

Discussion ensued about repositioning the proposed solar panels.

It was concluded that the solar panels will be closer than 100' to the front property line.

Mr. Tomasello opened this part of the hearing for public comment and there was no response. Mr. Strigh moved, seconded by Mr. Cain to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Ms. Valentino moved, seconded by Mr. Sacchinelli, on App. #34-11, Block 204 Lot 6 located at 7356 Woodbury Road to permit ground mount solar array panels in the front yard area with a setback no closer than 100' from the front property line. These panels are to be no larger than 13'.3" x 65' 10.5" and 13'.3" x 60'.7".

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE
MR. SACCHINELLI-AYE
MR. TOMASELLO – AYE

MR. CHOYCE-AYE
MR. STRIGH – AYE

MS. LENTZ – AYE
MS. VALENTINO – AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: Thank you for the diagrams that you brought tonight and I feel everyone came to a happy agreement. I vote yes.

MR. CHOYCE: I would like to thank the applicant for the detailed drawing that we needed for the structures and dimensions of the property and his willingness to compromise and meet with the Boards concern with the close proximity to the front property line. I vote yes.

MS. LENTZ: Thank you for working with us to come up with a compromise and I vote yes.

MR. SACCHINELLI: Thank you for your patience and time. I vote yes.

MR. STRIGH: Thank you and I vote yes.

MS. VALENTINO: I vote yes for the reasons previously stated.

MR. TOMASELLO: I vote yes. This is a solar panel application and under the municipal land use statute this has met the positive criteria for solar arrays. My personal feeling (which I have made before the Board many times) is that I am in favor of any alternative energy source that brings us more energy independence and less dependence of foreign oil. I appreciate your efforts on that regard. The negative criteria are satisfied and the applicant has compromised, at the suggestion of the Board, in locating the panels as far away from any possible view. This is a rural area and the panels will be perpendicular to the road.

Irvin Cruz– Application #1-12; Block 938 Lot102 located at5951 Peach Street was present and is seeking a front yard setback variance to construct a front porch and any other variance(s) found to be necessary.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

At this time Mr. Sartorio was sworn in.

Mr. Cruz testified he would like to build a covered porch (8’ x 20’) to the front of his house. The house was built 1978. This is a single family home and utilities will not be added to this porch.

Mr. Sartorio stated this is a non conforming front yard setback and the proposed porch would add another 8’ onto the non conformity. There are no issues with the side yard or impervious coverage.

Ms. Valentino visited the property and noted that the street has a variety of single family homes of different ages. There are various setbacks on that street and the addition (8’) of a porch in front of this house will not disturb in any way a setback of a building line. The other homes located on that street are similar to this one and have already added decks or porches.

Mr. Choyce also visited the neighborhood and agreed that there are other homes that do not meet the current front yard setbacks. What Mr. Cruz is proposing will not impact the neighborhood.

Mr. Tomasello opened this part of the hearing for public comment and there was no response. Mr. Choyce moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Ms. Lentz moved, seconded by Mr. Sacchinelli, on App. #1-12, Block 938 Lot 10 located at 5951 Peach Street to grant a front yard setback of 36’ for an 8’ x 20’ addition on the front of his house for the purposes of a open covered front porch.

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING “AYE”, NO MEMBERS VOTING “NAY,” and “NO ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. CHOYCE-AYE	MS. LENTZ – AYE
MR. SACCHINELLI-AYE	MR. STRIGH – AYE	MS. VALENTINO –AYE
MR. TOMASELLO – AYE		

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: Based on this originally being non conforming and other houses around having existing decks and porches. I don’t see anything detrimental so I vote yes based on the setback.

MR. CHOYCE: I see no negative impact to the request and it is not detrimental to the zoning plan for that area. What is being proposed is in character for the rest of the neighborhood. I vote yes.

MS. LENTZ: I vote yes for the reasons mentioned by my colleagues.

MR. SACCHINELLI: Yes for the same reasons.

MR. STRIGH: Yes for the same reasons.

MS. VALENTINO: Yes for the reasons previously stated.

MR. TOMASELLO: I vote yes. Traditionally this falls under the hardship provisions because it predates the zoning and was nonconforming once zoning came into place. The positive criteria are the owner is making an addition to the structure which will be beneficial to him and to the property and by presenting a façade to the front of the house which is pleasing aestically. There are no negative criteria and the applicant is entitled to the relief which is being requested.

William Dittus IV; Application # 2-12; Block 649 Lot 6; 5942 Estelle Avenue was present and is seeking a variance to permit an accessory structure (pole barn) in the front yard area and any other variance(s) found to be necessary.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Mr. Dittus is proposing a pole barn (24’ x 32’) in his backyard for storage of personal items and there will be no utilities added.

Ms. Valentino attempted to visit the area but when the paved street turned into compacted dirt she turned around.

Mr. Tomasello opened this part of the hearing for public comment and there was no response. Mr. Sacchinelli moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Sacchinelli moved, seconded by Ms. Lentz, on App. #2-12, Block 649 Lot 6 located at 5942 Estelle Avenue to issue a variance to grant a 24’ x 32’ pole barn in the front yard area of Maryland Avenue.

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING “AYE”, NO MEMBERS VOTING “NAY,” and “NO ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. CHOYCE-AYE	MS. LENTZ – AYE
MR. SACCHINELLI-AYE	MR. STRIGH – AYE	MS. VALENTINO –AYE
MR. TOMASELLO – AYE		

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: Based on the applicant having 2 front yard areas and having sufficient property this will not have a negative impact to anyone near to the applicant. As long as the pole barn will only be used for personnel storage I vote yes.

MR. CHOYCE: This applicant has a hardship of having property fronting on 2 streets therefore anything that the applicant proposes to build in his backyard area ends up being in the front yard even though that street is undeveloped. The property is heavily wooded and I don't feel anyone would be able to see the pole barn from either street. I see no negative impact on what the applicant is proposing. I vote yes.

MS. LENTZ: I agree with my colleagues and I vote yes.

MR. SACCHINELLI: I vote yes for the previously mentioned reasons.

MR. STRIGH: Yes for the same reasons.

MS. VALENTINO: Yes for the reasons previously stated.

MR. TOMASELLO: I vote yes. This is a hardship situation that we have dealt with many times on this Board. The other street that is involved is a paper street and that is what makes this a hardship for the applicant. There is no negative impact to the zoning plan. With the remoteness of this property and that is a heavily wooded area and that the pole barn will be placed in the back where it is unlikely that no one, other than the owner, will see it. It is for these reasons I vote yes.

Baker Residential/Robert Quigley; App. #3-2012; Block 1132.18 Lot 131; 260 Pheasant Run Road is seeking a side yard setback variance for a new home and any other variance(s) found to be necessary. Ms. Kelly Anne Johnson, Esquire of Fox Rothchild, LLC was present along with Robert Quigley, Project Manager for Victoria Pointe, who was sworn in by Mr. Cooper.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Ms. Johnson stated that a "C" variance is being requested for a side yard setback of 2 3/8".

A miscalculation was made in interpretation of the side yard setback to calculate the combined total of the side yards. The minimum combined side yard setback should be 12'. Mr. Quigley read that any 2 closest points could be 12' but it reads the 2 closest points should be 12'.

Mr. Tomasello opened this part of the hearing for public comment and there was no response. Mr. Choyce moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Choyce moved, seconded by Mr. Strigh, on App. #3-12, Block 1132.18 Lot 131 located at 260 Pheasant Run Road to issue a variance to permit a combined side yard of 11' 5".

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE

MR. CHOYCE-AYE

MS. LENTZ – AYE

MR. SACCHINELLI-AYE

MR. STRIGH – AYE

MS. VALENTINO –AYE

MR. TOMASELLO – AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: I see no negative impact or detriment. I vote yes.

MR. CHOYCE: This is a minor error and by trying to maximize the coverage on the lot the design didn't allow for any minor variation in either dimension. I see no detriment to the zoning plan for this area and no negative impact for accepting this error. I vote yes.

MS. LENTZ: I vote yes for the same reasons.

MR. SACCHINELLI: Yes.

MR. STRIGH: Yes for the same reasons.

MS. VALENTINO: Yes. I visited the property and while walking it I was approached by other neighbors (260 Pheasant Run Road-located to the immediate right of the subject property). They asked questions and I asked if they had any objections and they said no. They were hopeful the project would be completed.

MR. TOMASELLO: I also vote yes. I think Mr. Sartorio was duty bound to call this out. However diminimis is diminimis and I think that is exactly what this is. We are talking about a couple of inches on a property.

Alfred and Janette Freeman; App. #4-2012; Block 1313 Lot 13; 696 Harbor Avenue were present and are seeking a side yard setback variance for an addition and any other variances found to be necessary.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Mr. Freeman stated they proposing a 2 story post and beam addition (36' x 27') onto the left side of their house and it will consist of 1 bedroom, 2 bathrooms, dining area and a lower area open den. This will be not be used for commercial purposes. The house was built in 1989 which is after the zoning ordinance. Trees have been cleared in the front to the left of the house due to them being infested with pine beetles. The driveway is located to the right of the house which is why the addition is being proposed to the left.

Mr. Choyce asked about the front yard setback exception and Mr. Sartorio answered in situations where development in that area is consistently less than 175' from the front property line they can reduce their setback consistent with the established surrounding area provided that it is somewhat buffered.

Ms. Valentino visited the property and noted it is close to Hamilton Trails Golf Course, very well maintained and fits in with the area. She also noted that there is a sunroom on the back of the property and the addition will keep with the rest of the property and the rural nature.

Mr. Choyce also visited the property and agrees with Ms. Valentino that the property is well maintained and the outer buildings match the architecture of the home. The addition will also match the architecture of the existing home and very fitting for the area.

Mr. Tomasello opened this part of the hearing for public comment and there was no response. Mr. Strigh moved, seconded by Mr. Choyce to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Ms. Valentino moved, seconded by Mr. Strigh, on App. #4-12, Block 1313 Lot 13 located at 696 Harbor Avenue for a northeast side yard setback variance of 39' (+/- 1') to accommodate a 2 story residential addition (36' x 27') with the setback to coincide with the current setback of the primary dwelling.

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE

MR. CHOYCE-AYE

MS. LENTZ – AYE

MR. SACCHINELLI-AYE

MR. STRIGH – AYE

MS. VALENTINO –AYE

MR. TOMASELLO – AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: Based on the comments from the members of the Board and by visiting the site there is no negative impact to anyone. I vote yes.

MR. CHOYCE: I vote yes. I see no negative impact to what the applicant is proposing. What they are proposing is esthetic, will match their existing structure and be a great addition to the neighborhood.

MS. LENTZ: I vote yes for the same reasons.

MR. SACCHINELLI: Yes for the same reasons.

MR. STRIGH: Yes for the previously stated reasons.

MS. VALENTINO: Yes.

MR. TOMASELLO: I vote yes. On the positive side an addition is being added to a very well maintained and esthetically pleasing property. This addition will be in conformance with that ongoing condition and I see no negative side. The applicant did take into consideration other places for the addition but because a driveway and pool already exist to the right of the house, the only area to be considered is the left side. The amount of the setback encroachment is fairly minimal given the location and what is being proposed.

Michael Guterman/1317 Associates– Application #31-11; Block 1317 Lots 17.02 & 17.03 located at 4044 and 4068 Black Horse Pike was present along with Jeffrey Daniels, Esquire and is seeking a Use Variance to permit forestry in a Highway Commercial Zone (HC Zone); a certificate of non conformity pursuant to N.J.S.A. 40:55D-68 and any other variance(s) found to be necessary.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

The following were sworn in:

Michael Guterman, Applicant & owner
Robert Williams, Forest Manager & expert witness
Larry Divietro, Professional Planner
Robert Watkins, Planner, Mott Associates
Kevin Dixon, Dixon Associates, Engineer & Traffic Consultant
Steve Filippone, Engineering Design Consultants, Alternate Engineer

Mr. Williams gave his credentials for being qualified as an expert Forester and he has testified before. In 1992, the previous owner asked him to do a Forest Plan for this property to apply for Farmland Assessment. From 1992 to 2006 Farmland Application was made to the Tax Assessor and DEP and at least one time a new Woodland Management Plan was also submitted. When Mr. Guterman took ownership and he received a letter that Forestry was not allowed due to it being in the HC Zone. During that time the forestry operation was to mark trees that would be cut down.

Testimony was given about what a Woodland Management Plan is. Wood was removed just about every year from the site. Trees were cut 3-4 days per year - chainsaws and tractors were also used. There would be 2-3 people cutting these trees and approximately 6-7 cords produced. Mr. Williams stated 30-50 trees being 6” -8” would produce 6-7 cords of wood. Access to the property was gained by primarily by using a neighboring property. There is no direct access to this property. There has never been a controlled burn on this property due to its proximity to the highway.

When Mr. Guterman received a letter that Forestry was not a permitted use in 2006 all activity stopped and if he continued he would have been in violation of the ordinance.

Mr. Guterman stated he purchased the property in 2003 and felt it was suitable for commercial building in the future. He kept the forestry permit active and hoped to sell it to a client for commercial activity. The market dropped and there have been no investors to get the property developed. He tried to sell but it was getting costly to maintain it. This would be an interim assessment until the property could be developed commercially. He never intended to develop it as forestry. That is still his intent.

When he was looking to buy this property the previous owner and Mr. Williams told him there was Farmland Assessment for forestry on it. He never contacted the state or the municipality to verify the forestry.

Mr. Strigh spoke of the upcoming development happening in that area.

Mr. Divietro testified that the applicant is applying for a Use Variance to continue Forestry Management and gave information in regards to forestry from the 1988 Master Plan. Mr. Guterman would maintain the property until a development application was applied.

Ms. Valentino read from the Master Plan update (pg. 6 and pg. 30) and stated that it speaks specifically about large lot zoning in Forest Areas and Rural Development Areas in the township with no recommendation or concentration in business highway zones or any other zone. The focus of activities in existing forest areas around the tributaries of The Great Egg Harbor River with a concentration around Mayor Run, Makepeace Lake, Gravelly Run, etc. which is more specific as to the townships thinking as to where these areas should be located. No indication that any place in the township, specifically saying, in the Forest Areas and Rural Development of the township.

Mr. Divietro stated under the Zoning Code, the Hamilton Township developed specifically zoning in the agricultural and rural residential zone stipulates Forestry as one of the permitted uses. In any and all of the business zones, forestry is not mentioned as a permitted use.

Ms. Valentino stated that on pg. 6 of the 2006 Master Plan Update "Commercial Development and Use Considerations are as follows: Encourage concentration of commercial development within the Commercial Core formed by the existing highway commercial, recreational commercial, and designed commercial districts concentrated around Route 322 and Route 40 corridors, East of Cologne Avenue to the Egg Harbor Township boundary".

Mr. Divietro read from the original Master Plan (1983) under Section 1, Land Use Element.

Mr. Watkins stated that since 1988 there have been 4 re-examinations of the Master Plan. Discussion ensued about the intent of the 1988 Master Plan and the Zoning Ordinances for this property.

Ms. Valentino questioned if Mr. Divietro was asking to rezone this piece of land. He stated he is not asking to rezone but asking for a use that is not permitted in this zone. Mr. Sacchinelli stated that it seems as if the applicant wants a tax break until this property could be sold to a developer.

Mr. Strigh asked how the Township would benefit from the change of use that the applicant is asking for. Mr. Divietro answered that the Master Plan sets goals for the Township and certain areas should be preserved and that there is an inconsistency between the Master Plan and the local zoning ordinance.

Mr. Sacchinelli stated that the property is located in a high density development area and most desirable area in the township. There are other areas in the township which are designated for forestry.

There was discussion in regards to Mr. Guterman and the upkeep of his property.

There also was discussion of what the intent of the original Master Plan is.

Mr. Tomasello recessed the meeting starting at 9:49 pm and the meeting reconvened at 10:02 pm.

Mr. Divietro gave negative criteria in regards to this application-the property had been used as forestry with no complaints. The proposed use will not generate any traffic, imposes no burden on municipal services (waste collection, management, police services or local school system burden). The same exact use was being conducted on the property from 1993 until 2005 without any impact. The township had acknowledged that the prior forestry use was permitted on the property for tree removal. For those reasons it satisfies and does not have any impact on the property. With respect to the ordinance 203:174 (forestry operations)-the proposed use is consistent with the goals, objectives and intent/purpose of the township ordinances.

Mr. Watkins referred from his report dated 1/18/2012 (pg. 3 section d) in regards to the special reasons that the applicant feels they should be able to use this area as forestry and why those uses does not meet the intent of the HC Zone. It is his opinion that a Forestry Operation will discourage the growth of Commercial Use along the Black Horse Pike and is inconsistent with the Master Plan of the Township of Hamilton. The latest re-examination report (dated 11/9/2006 pg. 30 letter f) states that Commercial Development is along the Black Horse Pike Corridor from Cologne Avenue to Egg Harbor Township boundary line. The applicant's property is within that area.

Mr. Dixon stated a traffic report that was requested on 12/13/11 and has not been submitted. The concern is there is not a driveway access point on the Black Horse Pike and the applicant did not give any

testimony as to how many vehicles are entering/exiting the property. Due to this a recommendation cannot be made to the Board but feels they should request this report.

Mr. Strigh stated he visited the site twice and agrees that the way to access it is unsafe.

Mr. Filippone spoke next and stated he went to the property the same day as this meeting and took 14 photos of the site. The site is not maintained; trees have fallen and have been cut or are laying there for the past 5-6 years. He feels the applicant stopped maintaining on his own and all the activities that are on the Woodland Management Plan could still be performed on his own. There is commercial development starting on the Black Horse Pike; Hamilton Mall Expansion, Longhorn Steakhouse, Buffalo Pike Associates, Buffalo Wild Wings, an Acura Car Dealership, and additional retail space. In his opinion this is a healthy commercial corridor.

Mr. Tomasello opened this part of the hearing for public comment and there was no response. Mr. Strigh moved, seconded by Ms. Zimmerman to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Daniels gave final testimony as to why the applicant should be granted the Use Variance for Forestry in the Highway Commercial Zone.

Mr. Strigh moved, seconded by Mr. Tomasello, on App. #31-11, Block 1317 Lots 17.02 & 17.03 located at 4044 and 4068 Black Horse Pike to grant a Use Variance to permit Forestry in a Highway Commercial Zone with a limitation that there be no more than 5-6 cords of wood taken per year, a traffic study with access designation performed and Site Plan (if the Use Variance is approved).

SAID MOTION CARRIED WITH **NO MEMBERS** VOTING "AYE", **SEVEN (7) MEMBERS** VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – NAY
MR. SACCHINELLI-NAY
MR. TOMASELLO – NAY

MR. CHOYCE-NAY
MR. STRIGH – NAY

MS. LENTZ – NAY
MS. VALENTINO –NAY

SAID MOTION **DENIED**.

NOTE: The following Board Members made comments

MR. CAIN: The Highway Commercial Zone states clearly that this is not a permitted use. I don't see any valid points for positive criteria. He talked about maintaining the property and he can do this on his own. The pictures that have been taken of the property show that he hasn't been doing it. A traffic study wasn't done to talk about how to gain access to the property. The applicant stated he enters the property through someone else's property. I vote no.

MR. CHOYCE: The Master Plan and the Zoning Ordinance for the Township clearly defines this corridor for Highway Commercial. The Township recognizes in the Master Plan there won't be a great deal of protecting the environment in this area due to type of development that has been identified in this type of corridor. I don't see the positives of what the applicant is proposing and how the Township benefits from the proposed use. I vote no.

MS. LENTZ: Our current Master Plan does not show this as a permitted use and I agree that the applicant has not met the positive criteria of how this will benefit. We put a lot into the Master Plan and the development that is designed to take place in this corridor. Our forestry and farming areas are in the western part of the municipality. The property can be maintained zoned as Highway Commercial and access to the property is a concern because of the traffic. There is no place to safely park and go in and out with trucks. I vote no.

MR. SACCHINELLI: I agree with what has been stated so far from my colleagues regarding traffic issues. The way the Master Plan has been developed, agricultural and farming activities are toward the western end of the township, not the eastern end. I agree with our professionals and the evidence they gave us. I vote no.

MR. STRIGH: I vote no. I agree with our professionals as well. I think the interpretation of the Master Plan by our applicant is a bit of a stretch. I don't think forestry operations intended in a Highway Commercial Zone. There will be no benefit to the Township to grant a Use Variance on that property.

MS. VALENTINO: One of the most recent updates (2006) clearly delineated this particular area of the Township, specifically from Cologne Avenue to Egg Harbor Township boundary, as a Commercial district, even talking about landscaping so continuity of this use along the highway. Forestry operations are identified but not along this specific area. There has been no indication from the testimony that the property cannot be used as zoned only that there has not been a buyer for the property. It was never the intention of this applicant to continue forestry operations. It was intended to develop commerciality. By his admission it is an interim use of the property until that is accomplished. The only benefit of this application would be to the applicant. I vote no.

MR. TOMASELLO: I agree with my fellow Board members and professionals. From our training use variances are suppose to be granted sparingly and as the exception and not the rule. Each case should be decided on its own merit. In this case, we have what is a last remaining island in a sea of commercial development. Our decision is to be made based on what the Land Use law tells us to do and it tells us in order to grant a “D” variance we must find special reasons for that particular development. The applicant and expert were asked to demonstrate the special reasons to allow this use. Essentially they came down to the general obligations of any land owner (maintain open space, keep fire & flood at bay, to be able to clean and clear the forest area) and all of those activities the applicant is free to do without a variance. I fail to see any special exceptions that would warrant a “D” variance. We would normally not get to the negative criteria at this point due to finding no positive criteria. However, let me address that in case there is any further review. I feel the negative impact to the Zoning Plan is substantial. I understand what is being proposed is on an interim basis but our zoning exists here and now. We are concerned with what is going on here and now. This is Highway Commercial in an area where commercial activity has not been abandoned; it may have slowed for the economic downturn but overall it is still there and continuing to grow. To allow this enclave of trees in the middle of this commercial development has a substantial impact. I find it telling in addition our own zoning, our neighboring municipality, Egg Harbor Township, borders on that area and has the same sort of zoning we have. According to the law that is something we can consider. There are 2 municipalities that have looked at this area and decided the best use to be permitted is in this area is Highway Commercial. To say that forestry is to be encouraged throughout the township in general and now overlook the zoning that is there and allow forestry to continue in an area that has been designated for commercial growth. I think that is a substantial negative impact for the intent of the zoning plan. My vote is no.

Approval of Minutes – Ms. Valentino moved, seconded by Mr. Cain to approve the minutes from the February 27, 2012 meeting. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING “AYE,” NO “NAY” and ONE (1) “ABSTAIN”.

Memorialization of Resolutions – Resolutions prepared by the Solicitor for the following applications from the February 27, 2012 meeting were adopted as follows:

Mr. Strigh moved, seconded by Mr. Sacchinelli to adopt the resolution for Luis Guzman- App. #32-11; Block 682.02 Lot 4. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. CHOYCE-AYE	MS. LENTZ – AYE
MR. SACCHINELLI-AYE	MR. STRIGH – AYE	MS. VALENTINO –AYE
MR. TOMASELLO – AYE		

SAID MOTION CARRIED.

Mr. Sacchinelli moved, seconded by Ms. Lentz to adopt the resolution for Nadia Cayce– App. #33-11; Block 1030 Lot 2. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING “AYE,” NO “NAY,” ONE (1) “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. CHOYCE-AYE	MS. LENTZ – AYE
MR. SACCHINELLI-AYE	MR. STRIGH – AYE	MS. VALENTINO –AYE
MR. TOMASELLO – ABSTAIN		

SAID MOTION CARRIED.

Zoning Application Review- Mr. Strigh asked this is tabled until the April 23, 2012 meeting. Ms. Valentino stated that the subcommittee is waiting to meet with Mr. Sartorio in reference to the Zoning Permit changes he is making. The language should be consistent so applicants are not confused when obtaining a permit or variance.

Mr. Tomasello opened this part of the hearing for public comment. There being none Mr. Choyce moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Sacchinelli made comment that he would like Mr. Sartorio stay for the entirety of all future meetings in case there are questions to be answered about previous meetings. Mr. Tomasello stated he also had questions for Mr. Sartorio and would address his staying for entire meetings with him.

Mr. Strigh pointed out that Committeewomen Dix is in attendance and maybe she could take this up with the highest levels.

Adjournment – Mr. Sacchinelli moved, seconded by Mr. Cain to adjourn the Zoning Board of Adjustment meeting at 10:47 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment