

**HILLSBOROUGH TOWNSHIP PLANNING BOARD**  
**PUBLIC MEETING MINUTES**  
**November 03, 2016**

Chairman Shawn Lipani called the Planning Board Public Meeting of November 03, 2016 to order at 7:32 p.m. All stood for the Pledge of Allegiance. The meeting took place in the Courtroom of the Hillsborough Township Municipal Complex.

Chairman Lipani announced the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

**ROLL CALL**

Mayor Frank DelCore – Absent  
Robert Wagner, Jr. – Present  
Deputy Mayor Carl Suraci – Present  
Robert Peason – Present  
*Seat #5 - Vacant*  
**Neil Julian, Vice Chairman** - Present

Sam Conard – Present  
**Shawn Lipani, Chairman** – Present  
**Kenneth Hesthag, Secretary** – Present  
Sally Becorena (Alt. #1) – Present  
Stephanie Forrest (Alt. #2) – Present

Also present: David K. Maski, PP, AICP, Township Planning Director; Eric M. Bernstein, Esq., Board Attorney (Eric M. Bernstein, & Associates); William H.R. White, III, PE, CME, Board Engineer (Maser Consulting P.A.); Lucille Grozinski, CCR, Board Court Reporter; and Caz Bielen, Board Videographer (Premier Media, LLC).

**DISPOSITION OF MINUTES**

■ October 13, 2016

A motion to approve was made by Mr. Hesthag, seconded by Deputy Mayor Suraci.

**Roll Call:** Mr. Conard – yes; Mr. Hesthag – yes; Mr. Wagner – yes; Vice Chairman Julian – yes; Deputy Mayor Suraci – yes. Motion carries.

**DISPOSITION OF RESOLUTIONS**

■ **Meadow Brook at Hillsborough – 16-PB-02-MJSR**

A motion to approve was made by Mr. Peason, seconded by Mr. Conard.

**Roll Call:** Mr. Peason – yes; Mr. Conard – yes; Mr. Wagner – yes; Mr. Hesthag – yes; Ms. Becorena – yes; Vice Chairman Julian – yes; Deputy Mayor Suraci – yes; Chairman Lipani – yes. Motion carries.

■ **Mountainview Associates, LLC / R. GROSSO – 16-PB-07-SRV**

A motion to approve was made by Mr. Conard, seconded by Mr. Peason.

**Roll Call:** Mr. Peason – yes; Mr. Conard – yes; Mr. Wagner – yes; Mr. Hesthag – yes; Ms. Forrest - yes; Vice Chairman Julian – yes; Deputy Mayor Suraci – yes; Chairman Lipani – yes. Motion carries.

**PLANNING BOARD BUSINESS**

None

**SPECIAL COMMITTEE REPORTS**

None

**BUSINESS FROM THE FLOOR**

None

**CONSIDERATION OF ORDINANCES**

■ Definition and Location of Utilities – for discussion

Chairman Lipani said the matter would be reviewed after the application hearings.

**PUBLIC HEARING – SUBDIVISION/SITE PLAN APPLICATIONS**

■ ***GLEN GERY (GG RE Co.)*** – File 15-PB-04-MR - (**TOD: 11-30-16**) - Block 182, Lots 10, 11, 12, 45 & 46 – 95 Hamilton Road. *Revised plans submitted 07-28-16.* Applicant seeking Minor Subdivision with waivers to reconfigure lot lines by merging five lots totaling 238.7 acres and then subdivide a lot in the southeasterly corner to create one lot consisting of approximately 29.14 acres (Proposed Lot 46) and one lot consisting of approximately 209.595 acres of remaining land (Proposed Lot 11), on property in the M, Mining Zoning District (Zone permits uses otherwise permitted in the GI Zoning District) (*EC Reviews: 03-23-15 / 09-26-16 / 10-24-16*). **Adjourned from October 06, 2016 without further notice.**

**Exhibits from 9-1-16 Hearing:**

A-1 – Revised Subdivision Plan  
A-2 – Revised Subdivision Plan superimposed to Topographic Survey  
A-3 – NJDEP Negative Declaration, dated 07-17-90

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A-4 – “Environmental Cleanup Responsibility Act Initial Notice Site Evaluation Submission (SES), dated 05-16-88

**John Marmora, Esq. of K&L Gates LLP**, representing the Applicant, gave a brief review of the application, leading up to the hearing. He said the results of groundwater sampling had been submitted and reviewed by the Environmental Commission. The Environmental Commission issued a report on October 4. Due to the open issues, a request was made to adjourn from the October Planning Board meeting. After that time, a supplemental report was provided for review by the Environmental Commission. A report was issued, dated October 30, indicated that all three of the Commission’s issues were answered.

Mr. Marmora said Mr. Zederbaum is present to answer questions but has completed his testimony. The application is for subdivision approval at this time.

Mr. Bernstein said the items could be marked into the record but need not be marked as exhibits.

Mr. Marmora had the following marked: The original EC Report dated October 4, 2016; the supplemental report by AMEC Foster Wheeler, dated October 11, 2016, signed by Theodoros Toskos, LSRP; and the supplemental report dated October 30, 2016, from Vice Chairman Folli, stating that the three issues raised had been satisfied.

Mr. Marmora said he believes the Applicant has worked hard with the Board and Environmental Commission to satisfy any issues. The Property has been cleaned up to “unrestricted standards”. Mr. Marmora asked for the Board’s consideration for minor subdivision.

Chairman Lipani asked the Board’s professionals for any questions.

Mr. White said Maser is satisfied with the groundwater testing. He recommended to the Board that if this application is approved, further investigation is needed at the time of site plan.

Mr. Maski noted for the record the plan being considered is dated July 5, 2016,

Mr. Marmora agreed.

Chairman Lipani reiterated the application was essentially for a lot line adjustment. An application would need to go before the Board for development of the property as a major site plan.

Vice Chairman Julian said it took a while to work through the process and a lot of information has been reviewed. He said the Environmental Commission concurs that as much as can, has been done to protect the environment, Hillsborough and the Applicant as well.

Open to the public to comment.

Close public

Deputy Mayor Suraci said one of the earlier concerns was the egress which has not been fully addressed because the application is not for development.

Mr. Marmora said to address the point raised by Mr. Maski, the one lot was increased from 150 ft. on Hamilton to 596 ft. A full traffic report could not be provided since there is not a site plan and proposed use, but as marked for the record, Mr. Zederbaum’s sight distance report, dated August 4, 2016 was provided to address the new frontage.

Deputy Mayor asked Mr. White if he had any concerns with the frontage.

Mr. White stated there would now be sufficient sight distance. He said by widening out the frontage, they have provided enough of a distance for the hump in the road from the bridge.

Chairman Lipani thanked the Applicant for taking the time to give the Board everything it asked for and for returning to the Environmental Commission until everyone was comfortable with the proposal.

A motion to approve with all conditions was made by Vice Chairman Julian, seconded by Mr. Peason.

**Roll Call:** Mr. Peason – yes; Mr. Conard – yes; Mr. Wagner – yes; Mr. Hesthag – yes; Ms. Becorena – yes; Ms. Forrest – yes; Vice Chairman Julian – yes; Deputy Mayor Suraci – yes; Chairman Lipani – yes. Motion carries.

Mr. Bernstein stated for the record that the Resolution that will follow will contain all of the agreements, conditions, and issues discussed by the Board and professionals.

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- **Danielle LEVATINO** – File 16-PB-13-MRV – (TOD: 01-12-17) - Block 205.05, Lot 45 – 621 Hillsborough Road. Applicant seeking Minor Subdivision approval; and 'c' bulk variances for relief from minimum lot width at setback (2) for Proposed Lot A and Lot B, and minimum side yard setback (Proposed Lot B), to subdivide 2.63 acres into two lots: New Lot - Proposed Lot A (1.4 acres), and Remainder Lot B (1.2 acres to contain existing residential two-story dwelling and improvements), on property in the R, Residential Zoning District. (EC Review: 09-26-16)

**David Singer, Esq. of Vella, Singer and Associates**, representing the Applicant, called the Applicant's Engineer for testimony.

**Deborah D'Amico, PE of D'Amico Engineering, LLC**, was sworn in, reviewed her credentials, was accepted by the Board and gave the following testimony in response to Mr. Singer's questions:

Ms. D'Amico said the subject Property is located east of Woods Road and west of Van Arsdale Road. A single-family detached residence exists on the easterly portion of the 2.63 acre site. There is an existing side yard nonconformance with the existing home. The requirement is 30 ft.; the existing is 7.8 ft.

Ms. D'Amico said a notice was received today from the Assistant Township Engineer, Thomas Belanger, regarding fill that was placed on the vacant portion of the site back in March, 2016. She said at that time, the property owner called the SUSCD and was told to seed the yard that had been disturbed to stabilize the soil that had been exposed. The owner complied and the soil was stabilized with vegetation. She said the Township Engineer has requested an as-built drawing of the grading on-site today, which will be provided. Ms. D'Amico noted the survey provided does reflect the current conditions.

Ms. D'Amico said the proposal is to subdivide the property into two lots: a new lot consisting of 1.4 acres, and a 1.2 acre lot that will contain the existing home, which will remain. A newly constructed detached single-family dwelling will be constructed at some point in the future and will comply with all of the zoning requirements of the zone. The existing home is currently serviced by public sewer and well water. Public water is available. NJ American Water has indicated they will serve the lots.

Ms. D'Amico reviewed the comments from the 10-18-16 Planning report from David K. Maski, PP, AICP. She said an additional column showing the existing conditions will be added, and that the appropriate signature blocks will be added to the plan. Ms. D'Amico stated there is sewer connection for both lots and that NJ American Water will service both lots.

Mr. Maski asked for information on the location of the sewer connection.

Ms. D'Amico confirmed the existing lot is serviced by public sewer. The new dwelling would also be connected to the sewer easement at the rear. Public water is located at the front of the property on Hillsborough Road.

Ms. D'Amico said the proposal is for a subdivision only. Whoever develops the property would be compelled to follow the ordinances of the Township and provide a plot plan which provides grading and utility connections at that time. Drainage control will likely be controlled through a drywell. The size of the drywell would be contingent on the square footage of the new dwelling and reviewed at the time the developer applies to develop the new parcel.

Mr. Maski said the existing dwelling is serviced by public sewer and well water.

Ms. D'Amico agreed.

Mr. Maski informed the Board it is important to make the distinction because the zoning allows for a minimum lot size of 1 acre, if the property is serviced by public sewer and public water. The testimony provided is that both lots will have public water and sewer. The question is at what point will the existing dwelling be connected to public water; without it, the lot would be undersized.

Ms. D'Amato said they do not propose to switch the water over at the time of subdivision but rather when there is a need; the house is fine as it is.

Mr. Maski pointed out that if a property does not have both public water and public sewer, it required 2 acres. Mr. Maski suggested to the Board that they may wish to condition a subdivision upon immediate hook-up to public water. He said otherwise it would require an additional variance for an undersized lot.

Mr. Singer asked that the Applicant be provided additional time due to the expense.

Mr. Bernstein suggested to the Board that the Applicant be required to connect to public water by the time of the adoption memorializing the resolution of approval, if so granted, and that documentation verifying the connect be provided. If at the time the resolution comes before the Board and the connection has not been made, the lot would be undersized and the Board would need to rescind the approval.

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Mr. Singer said the Applicant would be agreeable.

Ms. D'Amico continued saying there are no variances for size or setbacks other than the existing side yard setback for the house that is there. The new house will comply with side, front and rear yard setbacks. A variance is required for lot width at the setback. The new lot is proposed to be 111.6 ft. where 150 ft. is required; the existing lot will be 125 ft. in lot width. The hardship is due to the narrowness of the lot and creates no detriment to the public.

Ms. D'Amico addressed the outstanding comments from the Maser Engineering report dated September 23, 2016. She said the subdivision will be filed by Deed, with the appropriate descriptions submitted for review prior to filing. The Tax Assessor will be contacted to determine the new lot numbers created by the subdivision. The application number will be provided. Ms. D'Amico said there is no objection to having a condition of submitting a grading plan for the proposed house on the undeveloped lot.

Mr. Singer said SCPB has no objection to the application. The comments provided are regarding matters at the time of development of the new lot. He said the Township Environmental Commission had no objections to the application, nor did the Fire Marshal.

Mr. Maski asked Mr. Singer if the Applicant had received anything in writing from the SUSCD regarding the grading.

Mr. Singer said his Client is away but that his understanding is that Ms. Levatino has a contact name and something in writing as to what was required of her to do. However, if something more substantial is required, it will be obtained.

Mr. Maski suggested that if the Board were to approve the application, a condition would be imposed that Proposed Lot A would be subject to approval of both the Township Engineer and SUSCD.

Mr. Singer said they would have no objection.

Chairman Lipani asked if a driveway opening permit would be required for the new lot.

Mr. Singer said the County reviewed the subdivision application and made no comment regarding the driveway. Mr. Singer confirmed Hillsborough Road is a County Road.

Mr. Maski said the Chairman's comment is in reference to Mr. Belanger's letter which references the appearance of a stone driveway being installed. An additional driveway would require a road opening permit and a zoning permit.

Mr. Maski asked the purpose of the stone driveway.

**Ms. D'Amico said if the stone driveway were improved beyond what it is today, it would not require a road opening permit.** A County road opening permit most likely would be required at the time the water is connected.

Mr. Maski reviewed the comments in Mr. Belanger's memo for response from Ms. D'Amico.

Mr. Maski said testimony has been provided that an as-built will be submitted regarding the grading, and that evidence will be provided that the SUSCD will be satisfied.

Ms. D'Amico said that is correct.

Mr. Maski said the Township has an ordinance which says that soil brought in from outside of the Township needs to be tested. Mr. Maski asked if the conversation with Mr. Belanger spoke to that.

Mr. Singer said it had not been mentioned. He said all that was asked for at this time was the as-built for the grading.

Mr. Maski asked if the Applicant would agree to have the soil tested.

Mr. Singer said they would conform with anything that needs to be done.

Vice Chairman Julian asked what was the intent of the fill.

Mr. Singer said it is unknown. The work was done by the Applicant's ex-husband without her knowledge.

Vice Chairman Julian asked where the fill came from.

Ms. D'Amico said she did not know where it came from.

Chairman Lipani asked when the work was done.

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Ms. D'Amico stated Ms. Levatino had been out of town when the work was done.

Mr. Singer said the original notice came in March 2016 so it was sometime before then.

Chairman Lipani asked if there had been a large tractor on site for grading of the fill dirt.

Mr. Singer said his Client was not in a position to be able to ask her estranged ex-husband of the details. He said according to his Client, it was done while she was away on business so she would not be able to answer that question.

Deputy Mayor Suraci asked if the property is completely owned by the Applicant or owned jointly.

Mr. Singer said the property is in Ms. Levatino's name.

Mr. Conard said he is very familiar with that area and noticed a lot of trees have been removed.

Mr. Singer said they believe the trees were removed at the time the fill was put in.

Chairman Lipani said the image on Google Earth shows a lot more vegetation than exists today. He said part of the reason to bring up if there was heavy equipment on the site was in reference to the downed trees. Chairman Lipani said if an approval was granted, the soil would need to be tested.

Mr. Singer said there would be no objection.

Mr. Maski said it appears many of the cut trees were just piled in the back of the property, some trees are tipping over. Mr. Maski asked if the Applicant would agree to clean up the site to remove dead and diseased trees, anything that is falling over and clean up the debris.

Mr. Singer said the Applicant will comply.

Open to the public.

**Tim Stys – Vliet Drive**

Mr. Stys said his property is directly behind the subject property. He stated several trees were taken down and placed there in a pile. He commented that many of his questions have already been asked by the Board.

Mr. Stys said there is a 30 ft. sewer easement that runs on his property which is covered by trees and heavily vegetated. He said in 2004 they had a similar experience with the eastern end of their property for a project with the MUA. He said when that area had been cleared, the runoff rushed down to his property like a waterfall. At the time they had a playground in the back area that was impacted, washing the wood chips away. Mr. Stys said he brought the letters and correspondence from that time with him to show.

Mr. Stys said what the MUA did was have the contractor build a berm so when the water came down, it went to that retention area on the side. Mr. Stys said similarly, once the back area is opened up and the trees and vegetation are cleared to get to the sewer connection, he said his back yard is going to be a pond. Mr. Stys asked what assurances he has that the runoff is not going to flood his property, and if there is any plan to replace the trees and vegetation removed.

Mr. Bernstein asked Mr. Stys to point out his property on the display map.

Mr. Singer said they could not comment on what the Utility Authority did in the past on another project on a different property. He said when and if the property is developed, stormwater management would be addressed at that point in time. The application before the Board is for a subdivision, not a site plan or development. Mr. Singer said he would allow their Engineer to also see what can be done to prevent an issue on the other property in the future.

Ms. D'Amico responded by saying a berm could be done at the time of plot plan and be included in the grading plan. She said at that time is when they would address restoration of any vegetation. Ms. D'Amico said the satellite images she had seen indicated clearing on the front of the lot which would have needed to be done anyway for the construction of a new dwelling. She said the area back by the easement can certainly be addressed at the time of the plot plan when the grading plan is addressed.

Mr. Stys said he understands there is a process but said he worried that his concerns would not be addressed a few years down the road when the lot is developed. He said it took multiple times of water impacting his property before anything was done previously. Mr. Stys said he understands the need to disturb the easement area in order to hook into the sewer but that he was not confident that his concern was being addressed and that the runoff issue would not be a major concern for him again in the future.

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Mr. White asked is the issues presented when the major trunk line was put in.

- Mr. Stys provided his review of the project.

Mr. White said that was a major project for which a 25 ft. wide or so stretch swath was clearcut and excavated to put in the sewer line. Mr. White said the main lines run deeper and wider than 4 in. lateral lines. He said in this case, they will only be picking up one house and should stay as shallow as possible to keep costs down. They will not need to cut down nearly as many trees and the work will probably be within a small area. Needless to say, the Board could consider some type of grading plan that includes some type of stormwater management with regard to runoff onto Lot 13. Mr. White said the stormwater management will not be triggered because the disturbance will be less than an acre.

Chairman Lipani said the water could be directed away from that property at the time of the grading plan for the new home. He said the Board is always concerned with runoff. Chairman Lipani asked Mr. Stys about the existing buffer.

- Mr. Stys said the buffer is about 30 ft. There is a large tree that is dying that will probably need to come out. There is low vegetation and a handful of trees.

**John Bodnarchuk – Hillsborough Road**

- Mr. Bodnarchuk said his property line is adjacent to the subject property. He pointed out his property on the display map.
- Mr. Bodnarchuk said he is very familiar with the tree removal since he witnessed it. He said 50 – 60 Spruce trees were bulldozed over; hooked up with chains and dragged to the back of the property with a backhoe. He stated “horrific” fill dirt was brought in, which contained boulders. He said he had had conversations with Ms. Levatino’s now ex-husband about his concerns with the grading and how it would impact his property.

Mr. Bernstein interrupted to instruct Mr. Bodnarchuk be sworn in.

- After being sworn in, Mr. Bodnarchuk continued, saying the now ex-husband told him he would build a berm to remedy any issue with runoff. He stated the berm was started, but not completed during the time the neighbor lived next door. Mr. Bodnarchuk estimated the length of the berm.
- Mr. Bodnarchuk stated he specifically remembered the neighbor telling him he had connections and was able to have fill dirt from a school site being built in Bridgewater to be trucked to his property.
- Mr. Bodnarchuk said his problem is not in the future when another house is built but now, as it now exists. He said without the berm being completed, he now has runoff coming into his side yard where he never had water before. Mr. Bodnarchuk said he has lived there for 50 years. He said had the berm been completed, he probably would not have an issue with water coming in as a result of the fill dirt being put in.

Mr. Maski asked Mr. Singer, when he spoke with Mr. Belanger earlier in the day, if a timeline was given in which a grading plan had to be submitted.

Mr. Singer said they will submit a grading plan within a week.

Mr. Maski said a grading plan will be submitted to the Engineering Department within a week’s time, which will show any corrections that need to be made. He asked Mr. Singer if the Applicant would undertake any necessary corrections immediately.

Mr. Singer agreed.

- Mr. Bodnarchuk said then he would not need to wait for a dwelling to go up before the issues he has are corrected.

Mr. Maski and Mr. Singer both said that is correct.

- Mr. Bodnarchuk said he drinks the water that comes out of his well. He expressed his concerns with the wash-off from the fill dirt.

Chairman Lipani said the Board already established the fill needs to be tested.

- Mr. Bodnarchuk asked the Board if a decision to approve or deny this application could be delayed until such time that all of these issues have been addressed.

Chairman Lipani explained any approval could be subject to conditions. The Applicant would need to fulfill the conditions

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before the variance was granted.

Deputy Mayor Suraci commented the issues need to be fixed regardless.

- Mr. Bodnarchuk asked if the permits required, as noted in the referenced letter, have since been addressed – the fill dirt permit and driveway permit.

Mr. Singer said the lack of comment for the driveway in the SCPB letter was already noted.

- Mr. Bodnarchuk responded that the letter referenced came from the Township.

**Patricia Stys – Hillsborough Road**

- Mrs. Stys stated she had pictures of the issues discussed with the trees and heavy equipment. She said the trees were then put on the existing dwelling's property, where it sits. They now have foxes on their property. Mrs. Stys said she also had pictures of the flooding. She thanked the Board for all of their questions, especially the testing of the soil.
- Mrs. Stys said she understands they have a township easement on their property, but that it is still on their property. The former neighbor went onto their property with a front-loader. She said she had a conversation with the male neighbor because she did not believe he was in the right to do so.

Mr. Bernstein said technically no, but in reality, he was driving on the Township's property. That does not make it any better, but that the Township was not aware of the work being done.

Before closing public, Mr. Bernstein asked Chairman Lipani to call a break.

Break 8:33 – 8:43

Mr. Bernstein asked Mr. Singer if the Engineer was the only witness.

Mr. Singer said yes.

Mr. Bernstein said the break was requested to allow discussion with the Township Engineer and Township Planner on the issues that have been raised by the professionals and neighbors, in conjunction with the letter from the Assistant Township Engineer, the second notice dated November 01, 2016, an apparent continuation of a prior March 10, 2016 notice to the Applicant. He said all of the Board professionals have significant concerns with the testimony provided regarding the grading, testing, possible disturbance issues, and directly what Mr. Belanger did or did not conclude after his conversation with Mr. Singer. Mr. Bernstein said the Board needs to hear from the Applicant because questions have been raised that only the Applicant can answer. He said it would be premature for the Board to make a decision on the application based solely on the Engineer's testimony, unless Mr. Singer suggests the Board make a decision on what has been presented.

Mr. Bernstein suggested the application be carried until a December meeting; that the grading plan be submitted and reviewed; that Mr. Belanger, Mr. Maski and Mr. White have the opportunity to respond accordingly; that any additional agency input has been received; and that Ms. Levatino be present for the next hearing.

Chairman Lipani said he agreed, saying it was only fair to the Applicant, as well as the Township and the neighbors.

Mr. Singer agreed. He said he was just recently made aware of the letter.

There was discussion on the continuation date. Mr. Maski said enough time should be given to allow for Mr. Belanger and Mr. White's comments to be in ten days in advance of the next hearing.

Mr. Singer was excused to allow time to call his client to confirm a hearing date.

During the break, Mr. Bernstein updated the Board on the outcome of the Kyle Day lawsuit regarding the actions taken by the Planning Board regarding the Pierson Properties application. Mr. Bernstein informed the Board that his Honor's decision was that the Board's actions were appropriate and that the Objector's consolidated appeals were dismissed. His Honor's 40-page decision was distributed to the Board for review. Mr. Bernstein said if his Client so desires, Mr. Gasiorowski now has 45 days in which to file an appeal to the Appellate Division.

Mr. Bernstein noted the applications scheduled to the next agenda.

Vice Chairman Julian informed the Board he would not be in attendance but that the Yannuzzi application had gone back before the Environmental Commission for further review. Time was spent at the meeting going over various concerns,

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including the riparian issues. The bottom line is that the flood hazard permit will need to be submitted. NJDEP will need to determine if there is a “river” involved. A memo will be provided by the Commission.

Attendance matters for the next meeting were discussed.

Mr. Singer returned to report the Applicant is available for either December meeting but will choose the 8<sup>th</sup> to allow time for the soil testing to be done. Mr. Singer said the Applicant wants to comply with everything that needs to be done.

Chairman Lipani called for a motion to continue the application without notice to December 8<sup>th</sup>.

Mr. Maski reiterated the materials need to be submitted in enough time to allow the Board’s professionals to comment, and have those comments in the file ten days in advance of the hearing.

Chairman Lipani informed the public that copies of photos can be provided to the Planning Department for the file.

Mr. Bernstein clarified that if submitting photos, you will be required to testify at the hearing. The Board cannot accept the pictures without testimony on the who, when, and where the pictures were taken. The Applicant will have the right to cross-examine the witness.

Mr. Singer requested the exhibit be marked.

Ms. D’Amico identified the exhibit:

**Exhibit A-1** – Variance Plan, dated August 3, 2016 - Revised September 22, 2016

A motion was made by Mr. Conard, seconded by Deputy Mayor Suraci.  
All were in favor; motion carries.

Chairman Lipani invited Mr. Maski to continue his review of the definition and location of utilities.

Before proceeding with the ordinance review, Mr. Maski informed the Board that the Krismic Assoc., application, carried multiple times since its 2014 submission, would again be coming up on an expiration date for the time of decision. Mr. Maski asked if the Board had any instructions to relay prior to the 12-08-16 expiration date.

After discussion, the Board decided the application would be scheduled to the December 01, 2016 agenda with notice given, and that representation is required for the December 1 meeting.

**CONSIDERATION OF ORDINANCES** *(revisited)*

■ **Definition and Location of Utilities – for discussion**

Township Planning Director, David K. Maski, PP, AICP, explained the reason for this exercise was that some questions had been raised some months back regarding a potential power plant locating in town. When reviewing the ordinance, it came to our attention that some clarification was needed.

Mr. Maski said his memo dated September 27, 2016 identifies the five different ways in which “utilities” are identified throughout the CODE, noting that the way in which utilities are identified is inconsistent. Mr. Maski said the memo provides various definitions used on the state and local levels. The Land Use Law does not speak specifically on how a utility can be governed on a local level. However, there is a provision in the Land Use Law that if a utility gets denied, they can appeal to the Board of Public Utilities.

Mr. Maski said it is best to revise the ordinance so it is clear and precise so if someone wanted to appeal a decision, there would be a firm basis. Three definitions are proposed: “Basic Utility” are street-level utilities that are put in all the time and part of the landscape. They do not need to be controlled through Zoning; “Minor Utility Facility” are above-ground, relatively small utilities such as pump stations, and transmission stations, with minimal impact but should have some requirements for Board review; and third, “Major Utility Facility” which include power plants, water treatment plants, sewer plants, and all large plants that are an industrial facility.

Mr. Maski explained the charts provided, showing how utilities are currently referenced and the locations allowed. He said there is currently no identification as to where the utilities are permitted and at what level. Mr. Maski reviewed the proposed locations, referencing the colorized map provided with his report. He said the Township does not have large industrial zones; there are pockets. The proposal is for a consolidated zone of the GI, I-2 and the ED (Northern) for the major utilities. The GI is currently the heaviest industrial zone.

Mr. Maski referenced the proposed location chart, reviewing that basic utilities would not require zoning; minor utilities are permitted in all zones as a conditional use; and major utilities which would need to conform to the current Industrial Zone standards, with the exception of an increase in the minimum lot size from 5



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acres to 10 acres and increased buffer requirements.

Mr. Maski said the proposal before the Board for review defines what a “utility” is; establishes where they can go; and provides the standards in which to control them.

Chairman Lipani asked if solar energy would be included.

Mr. Maski said there are currently separate sections of the ordinance in place that specifically address solar energy, small wind energy, and telecommunications. In time those sections may be able to be consolidated and updated but for now, the proposal is meant to make sure the Township is covered with the basic utilities such as electric, gas, etc.

Mr. Maski asked the Board review that proposal for future consideration of the Board and subsequently the Township Committee.

Chairman Lipani said the Board could revisit the matter for more formal discussion in the future. Chairman Lipani suggested the memo also be provided to the Board of Adjustment and Environmental Commission for comments.

Chairman Lipani announced the next meeting will be held on November 10<sup>th</sup>.

**ADJOURNMENT**

A motion to adjourn was made and seconded. All were in favor. Motion carries.

The meeting adjourned at 09:09 pm.

*Submitted by:  
Debora Padgett  
Administrative Assistant / Planning Board Clerk*