

**MINUTES OF REGULAR PLANNING BOARD MEETING  
HELD ON THURSDAY, FEBRUARY 20<sup>TH</sup>, 2020**

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Chairman Blewett called to order the regular meeting of the Board and announced the meeting was duly advertised in compliance with the Open Public Meetings Act by notice dated February 12<sup>th</sup>, 2020 sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at Borough hall. All stood for the Pledge of Allegiance.

**PRESENT: BLEWETT, GEMIAN, KAUFMAN, KOLDYK, MARINO, MORREALE, TAORMINA AND TERRERO**

**ALSO PRESENT: PETRESKI, ENGINEER AND NEISS, COUNSEL**

**ABSENT: KAUFMAN, \*RUNFELDT AND FLORENTINO (ALT. #1)**

Chairman Blewett stated the first item on the agenda is approval of the minutes. Can we vote on any of them?

Ms. Ward mentioned yes. Arthur, the September 19<sup>th</sup>, 2019 minutes we've been carrying them forever, we have three members here out of the five, can we vote on them?

Mr. Neiss stated yes.

Ms. Ward mentioned okay. The members that can vote on these minutes are Koldyk, Marino and Taormina.

Mr. Koldyk moved to approve.

Mr. Taormina seconds.

**Roll call:**

**Yes: Koldyk, Taormina and Marino**

**No: None**

**Abstain: None**

**Absent: Blewett, Gemian, Kaufman, Morreale, Runfeldt, and Terrero**

Ms. Ward stated they're approved. The other sets of minutes almost everyone was present for the reorg and regular meetings.

Chairman Blewett stated the next set of minutes is the January 16<sup>th</sup>, 2020 reorg meeting. Any comments?

Mr. Koldyk moved to approve.

Mr. Terrero seconds.

**Roll call:**

**Yes: Koldyk, Terrero, Blewett, Gemian, Marino, Morreale, and Taormina**

**No: None**

**Abstain: None**

**Absent: Kaufman and Runfeldt**

Chairman Blewett stated the last set of minutes is the January 16<sup>th</sup>, 2020 regular meeting minutes.

Ms. Ward stated it would be the same members that can vote again.

Mr. Koldyk made the motion to approve.

Mr. Terrero seconds.

**Roll call:**

**Yes: Koldyk, Terrero, Blewett, Gemian, Marino, Morreale and Taormina**

**No: None**

**Abstain: None**

**Absent: Kaufman and Runfeldt**

Ms. Ward stated they're approved.

Chairman Blewett stated the next item on the agenda is Flood Plain Encroachment Application #FPE 19-03 and Grading Permit Application #G19-03 by Jourdan Bittencourt, on property known as Block 119, Lot 11 on the municipal tax map also known as 2 Linden Avenue. This is a consideration of a resolution of memorialization. Is the applicant here?

Ms. Ward stated no. The applicant, his engineer and architect were sent copies of the resolution but we haven't heard from them. The members that can vote are Blewett, Gemian, Koldyk, Marino, Morreale, Taormina and Terrero.

Chairman Blewett asked any comments on the resolution.

**RESOLUTION OF THE LINCOLN PARK  
PLANNING BOARD**

**RE: JOURDAN BITTENCOURT  
ZONING PERMIT #2019-30Z  
FLOOD PLAIN ENCROACHMENT APPLICATION # FPE 19-03  
GRADING PERMIT APPLICATION # G19-03**

**BLOCK 119, LOT 11  
2 LINDEN AVENUE  
LINCOLN PARK, NEW JERSEY**

WHEREAS, Jourdan Bittencourt (the "Applicant") applied to the Lincoln Park Planning Board (the "Board") for a zoning permit, flood plain encroachment approval and grading permit for property commonly known as 2 Linden Avenue and designated as Block 119, Lot 11 on Tax Map Sheet No. 44 of the Borough of Lincoln Park, Morris County, New Jersey (the "Property"); and;

WHEREAS, the Applicant seeks these approvals in order to demolish an existing one-story dwelling structure and two detached garages on the Property and construct a new, two-story single family dwelling with two attached garages; and

WHEREAS, the Board has considered the Applicant's development proposal as comprised and presented in the following:

1. Standard Development Application dated April 27, 2019, revised received on December 3, 2019.
2. Development Application Review Fee and Escrow Fee Computation Tables;
3. Checklist for General Information;
4. Checklist for Grading Permit;
5. Checklist for Floodplain Encroachment Plan;
6. Official Search of Municipal Liens dated May 16, 2019;

7. W-9 Request for Taxpayer Identification Number and Certification, signed by Jourdan Bittencourt, dated April 8, 2019;
8. Letter from Joan E. Ward, Lincoln Park Planning Department Secretary, dated April 10, 2019, enclosing Borough of Lincoln Park Zoning Permit Denial dated April 9, 2019, signed by Salvatore Marino, Lincoln Park Zoning Officer;
9. Site Plan prepared by Koestner Associates, P.O. Box 514, Hackensack, NJ 07602, dated 01/15/2019, last revised 10/31/2019 (1 Sheet);
10. Architectural Drawings and Elevations prepared by Marios Lachanaris, Architect, LLC, 1610 Center Avenue, Fort Lee, NJ 07024 dated 3-26-2019, last revised 11-25-19:
  - Sheet 1 of 4: Front Elevation, Rear Elevation
  - Sheet 2 of 4: Foundation Plan
  - Sheet 3 of 4: First Floor Plan; Second Floor Plan
  - Sheet 4 of 4: Left Side Elevation, Right Side Elevation

WHEREAS, the Applicant was self-represented; and

WHEREAS, the application, deemed complete as a previous meeting of the Board, was the subject of a single, non-public meeting held on January 16, 2020; and

WHEREAS, in addition to the above noted documents and plans, the Board considered the testimony, reports, exhibits and other evidence introduced at the hearing, including the December 27, 2019 report of Darmofalski Engineering Associates, Inc., Board Engineer, a copy of which is attached and made part hereof (the "Engineer's Report"); and

WHEREAS, during the course of the hearing it was established that the Property is in the R-15 Zone and that the lot conforms, the structure proposed to be built on the Property shall also conform with the Zoning Ordinance and, accordingly, the Applicant represents that no variances are required for this application, and because the development will be a detached dwelling unit (single family), the application is exempt from site plan approval (N.J.S.A. 40:55D-37a); and

WHEREAS, at the Board's meeting, the Applicant discussed the reasons and bases of application through his engineer who introduced Exhibit A-1 (Site Plan, no. 9, above) and his architect who introduced Exhibits A-2-5 (architectural drawings, no. 10, above), and

WHEREAS, the Board discussed with the Applicant the Engineer's Report, together commenting on each of items (nos. 1-16) shown in the "Technical Review" section of the Engineer's Report; and

WHEREAS, the Board also considered the questions and comments presented at the non-public hearing by members of the Board, and based thereon, made the following findings of fact and conclusions of law based upon the evidence submitted:

#### **STANDING**

1. The Applicant is the owner of the Property. As the developer (see, N.J.S.A 40:55D-4), the Applicant has standing to bring this application before the Board.

#### **EXISTING CONDITIONS**

2. The property is located in the R-15 Zone and is conforming. It consists of 16,398 s.f.

3. More than 5,000 s.f. will be disturbed by this development, implicating the need for a grading permit and flood plain encroachment approval. The Property is located in flood zone area and, in particular, within a FEMA 100-year flood plain. The development work qualifies for permit-by-rule consideration (see, N.J.A.C. 7:13-7, *et seq.*). The Board's jurisdiction in this regard is implicated in Borough Code § 17-133.1.

4. The application is to demolish the existing one-story dwelling and garages and construct a new dwelling that will be an elevated building (see, Borough Code §17-131).

5. The application suggests that the new structure will not affect the Property's compliance with the Zoning Ordinance.

### **CONCLUSION**

6. Subject to the conditions of this Resolution, this application meets the requirements for the granting of a zoning permit, flood plain development approval and grading permit approval.

**NOW, THEREFORE, BE IT RESOLVED** that this application by JOURDAN BITTENCOURT for zoning permit, flood plain development approval and grading permit approval be and is granted subject to the following conditions:

### **CONDITIONS**

1. All "WHEREAS" recitals, findings of fact and conclusions of law set forth above are incorporated herein by reference.

2. The Applicant's application to the Board and all materials submitted in support of and in connection with it, including all plans, transmittal letters (i.e., including nos. 1-10, above, some of which were marked as Exhibits A-1 through 5), the Engineer's Report, and the documents introduced and marked for identification at the Board's completeness review and January 16, 2020 meeting, together with the Applicant's stipulations on the record;, whether or not they appear herein as conditions or otherwise, as well as the testimony of the witnesses introduced by the Applicant and the statements of the members of the Board, are deemed and are hereby made part of the record of this matter.

3. The Applicant shall comply with all applicable Borough, County, State, and federal laws, ordinances, regulations and directives.

4. All construction, use and development of the Property shall be in conformity with the plans approved herein, all findings of fact and terms and conditions of this Resolution and, to the extent not inconsistent with this Resolution all representations of the Applicant and its witnesses during the Board's meeting. Any deviation from the terms or conditions of this approval as reflected in the terms and conditions of this Resolution, shall be deemed a violation of the terms and conditions of the approval memorialized in this Resolution and a violation of the Borough's Development Review Ordinance.

5. Based on its agreement, the Applicant shall comply with the Engineer's Report Technical Review comments (page 4 of 6 through 5 of 6) and the following are noted in particular:

(a) As to Technical Review comment no. 1, the architect shall submit a revised plan reflecting the number and size of vents in the exterior walls which will agree with those shown on the Applicant engineer's Site Plan;

(b) As to Technical Review comment no 2, no approved permit shall be issued prior to the approval of the application made to the Morris County Soil Conservation District;

(c) As to Technical Review comment no. 4, the architectural drawings shall be revised to reflect the elevation of the deck as reflected on the Applicant engineer's site plan;

(d) As to Technical Review comment no. 6, the Applicant's engineer has agreed to comply;

(e) As to Technical Review comment no. 7, the Applicant's architect has agreed to comply;

6. The engineer's Site Plan drawing shall be revised to reflect the Applicant and its correct address as the owner of the Property.

7. Prior to any Board representative signing the plans to be amended (as per

Condition paragraphs 5 and 6) and prior to the commencement of any construction:

(a) The Applicant shall submit to the Board Secretary a certification from the Borough Finance Department (i) setting forth the then-current balance in Applicant's escrow account; and (ii) confirming that all charges billed to such account have been or, to the extent known, are capable of being paid in full;

(b) The Board Secretary shall determine (after inquiries to the Board's professionals) that there is a sufficient balance in the escrow account to cover all remaining services chargeable to such account.

(c) Applicant shall submit to the Board Secretary a current certification from the Tax Collector that all real property taxes on the Property have been paid to date;

(d) The Applicant shall submit to the Borough Engineer a certification from its engineer or architect confirming that all other necessary governmental approvals have been applied for or obtained. Applicant shall not secure any building permit for this development from the Borough in the absence of proof that all required governmental approvals or waivers have been obtained by the Applicant.

(e) Applicant shall post inspection fees.

(f) Applicant shall arrange for and attend a pre-construction meeting with the Borough Engineer and such other Borough Officials as the Borough Engineer may deem appropriate and necessary.

8. The Applicant's construction activities shall be limited to those hours permitted by Ordinance.

9. The Applicant shall comply with the reasonable requirements of the Borough Engineer and Construction Official.

10. The Applicant shall submit eight sets of revised plans (engineering and architectural) as required in the Resolution and following the completion of all construction, the Application shall submit four (4) as-built drawings.

11. **ALL NOTES INCLUDED IN THE APPROVED PLANS, INCLUDING THE NOTES AND THE ADDITIONAL PLAN MATERIALS REQUIRED BY THIS RESOLUTION, SHALL BE DEEMED TO BE CONDITIONS OF APPROVAL HAVING THE SAME FORCE AND EFFECT AS CONDITIONS EXPRESSLY SET FORTH HEREIN.**

Mr. Koldyk made the motion to approve the resolution.

Chairman Blewett asked is there a second.

Mr. Terrero seconds.

**Roll call:**

**Yes: Koldyk, Terrero, Blewett, Gemian, Marino, Morreale and Taormina**

**No: None**

**Abstain: None**

**Absent: Kaufman and Runfeldt**

Ms. Ward stated okay approved.

\*Mayor Runfeldt arrived at the meeting.

Chairman Blewett stated the next item on the agenda is Grading Permit #G19-9 and Flood Plain

Encroachment Application FPE #19-06 by Michael Phillips, on property known as Block 4, Lot 10.12 on the municipal tax map also known as 20 Garden Street. This is a waiver request for completeness and a hearing. Good evening. Do we need to swear them in?

Mr. Phillips stated good evening.

Mr. Neiss stated no this is not a public hearing.

Chairman Blewett stated just a regular hearing with the Board okay. Can you please introduce yourself?

Mr. Phillips stated good evening, Michael Phillips, I'm the owner of 20 Garden Street, Lincoln Park. I appreciate your time this evening to discuss my proposed plan.

Mr. Egarian stated my name is David Egarian, I'm the engineer, I prepared the plans for the project.

Chairman Blewett stated okay thank you. Have you received the report from Darmofalski Engineering?

Mr. Phillips stated yes we did.

Chairman Blewett stated so why don't you tell us a little bit about what you want to do with the property.

Mr. Phillips stated sure. So as you'll see with the plans that have been shared with the Board, our plan is to modify the backyard of the property, remove our existing deck from the premises and replace it with a paver patio, attaching a pergola structure, open structure with a louvered roof that opens and closes and is automated. A paver patio with a pool, and based on the requirements just grading the property to comply with the Borough of Lincoln Park's standards.

Chairman Blewett asked have you gone through the report and do you have any concerns about anything in there.

Mr. Phillips stated I mean it is pretty straightforward. I guess the major considerations in working with Tom and Alex in terms of just the technical review, mainly one of the areas I wanted to get clarification on was specific to the permit-by-rule. Just understanding, I know that Morris County was required to be notified based on the soil disturbance and I just want to understand if there is any guidance in terms of the State of New Jersey needs to be notified based on permit-by-rule that there is no notification just because it is covered by permit-by-rule in those three statements that are noted in Tom's report.

Mr. Petreski stated yes, so permit-by-rules you do not need to notify the NJDEP as long as you qualify for those rules you can proceed with those.

Mr. Phillips stated okay.

Mr. Petreski stated Morris County Soil Conservation District needs to approve your plan if you are disturbing more than 5,000 square feet, and from what I understand you've received that approval.

Mr. Phillips stated thank you for the clarification. With respect to Item #8 under technical review, I've notified the contractors of the requirements and I've shared this report for their reference just to make sure everything is compliant as they proceed with the project and understand what is required from the Borough.

Mr. Petreski stated that is a standard comment we use in all of our letters. For your specific application I don't think you'll have much fill materials so it is just like a warning.

Mr. Phillips stated sure. I wanted to raise it just from the perspective that it wouldn't be an area of concern.

The only other thing I would say is where it makes reference to the applicant shall agree to stabilize earthwork with grass or other suitable landscaping, I know one of the waivers is for proposed landscaping.

Mr. Petreski stated yes.

Mr. Phillips stated I didn't see that specifically called out here, but I was just wondering based on potential additional landscaping, I know the property based on the Morris County requirements where we have the plan, you know how we'd approach that, does that mean create shrubbery, I just want to understand what is required.

Mr. Petreski stated it can be any number of things; trees and shrubbery being one of them, as well as lawn/grass.

Mr. Phillips stated okay.

Mr. Petreski stated so we just don't want the soil to be exposed for any extended period of time, any more than is necessary.

Mr. Phillips stated okay. Beyond that I don't have any further questions.

Chairman Blewett asked Mr. Egarian is it?

Mr. Egarian stated yes.

Chairman Blewett asked is there anything unique about this site that needs to be commented on that we should be aware of.

Mr. Egarian stated no not really, it is a straightforward backyard pool project, and it is in the 100 year flood plain. We modified our plans per Mr. Petreski's comments so that we have a net cut in the backyard instead of any fill. I believe that we fully comply with all of the engineering comments.

Chairman Blewett stated okay.

Mr. Petreski stated so the subject property is currently within the effective flood plain and it will be coming out under the preliminary flood maps, so the reason they are before the Board is they need a flood plain encroachment permit because they are still within the flood plain. They have satisfied all the Borough requirements for the flood plain ordinance, as well as NJDEP requirements.

Chairman Blewett asked okay are there any other concerns that Tom had.

Mr. Petreski stated no that's about it. We had a concern about whether in the calculation, the net fill whether the hot tub had been considered? I think it was.

Mr. Egarian stated it was.

Mr. Petreski stated then our other concern was the lighting, the lighting cut sheet be included in the application.

Mr. Neiss stated I'm sorry I misunderstood about the fill, Technical Comment #2 considered in the proposed fill calculations.

Mr. Petreski stated so as far as the flood plain ordinances, you have to have a zero net fill on the site so his calculations for the net fill on the site --

Mr. Neiss stated so you've gotten those and you are satisfied with those.

Mr. Petreski stated yes. My question about those calculations was whether the hot tub was considered, and based on the conversation we had he confirmed that the hot tub was considered

Mr. Neiss stated so that's been satisfied okay.

Mr. Petreski stated yes.

Chairman Blewett asked is there anything specific for the completeness waivers that we need to go through at all.

Mr. Petreski stated these are just standard waivers that we usually list the location and description of utilities within 200 feet of the subject property. All the utilities within the subject property within the frontage have been shown on the drawings. We have no engineering objection to granting that waiver, partially for all those items outside.

We had a comment about how the datum was referred to for the flood elevations but I think that's been addressed.

The existing lighting and landscaping there is not any landscaping shown, but the applicant understands that so as not to let that be exposed. Any place that's not the pavers or pool should be grassed or shrubs, so we have no objection to granting that waiver either. Finally, the existing information within 200 feet subject property; water courses, rail roads, bridges, culverts all though elements that affect the subject property have been shown on the site plan. We have no objection to granting those waivers for everything beyond the subject property and within 200 feet.

Chairman Blewett asked can you just go back to the flood plain and what is required there.

Mr. Petreski stated in relation to this application, what is required is a zero net fill. We are not allowed to fill within the flood plain. So what David produced was calculations that show that there is no net fill being created by the pool and the other development on the site which is the pergola structure and the hot tub. To achieve that, he cut a little bit of the grade, so the grade in the rear of the house went down a little bit and then he used that to buy fill basically up above grade.

Chairman Blewett stated okay, thank you. Does the Board have any other questions?

Mr. Neiss stated I just want to confirm with Mr. Phillips, you said you were willing to comply with all the technical comments to the extent that the applicant must do that? Did I hear that correctly?

Mr. Phillips stated yes I acknowledged that sir.

Mr. Neiss stated great, thank you.

Chairman Blewett asked what is the pleasure of the Board.

Mr. Koldyk asked is this a public hearing.

Chairman Blewett stated no it is not.

Ms. Ward stated we need to deem them complete.

Chairman Blewett asked are there any objections to --

Mr. Koldyk made the motion to grant the waivers for completeness and approval.

Mayor Runfeldt seconds.

**Roll call:**

**Yes: Koldyk, Runfeldt, Blewett, Gemian, Marino, Morreale, Taormina and Terrero**

**No: None**



**Abstain: None**

**Absent: Kaufman**

Chairman Blewett stated good luck.

Mr. Phillips thanked the Board.

Mr. Egarian thanked the Board too.

Chairman Blewett stated the next item on the agenda is waiver request with reference to Minor Subdivision and Variance Application #633 and Grading Permit Application #G20-01 by Wolfson Realty Associates, LLC, c/o Lester Wolfson, on property known as Block 3, Lot 2.16 on the municipal tax map also known as 107 Jacksonville Road. Good evening.

Mr. MianECKI stated good evening.

Chairman Blewett stated Joe hasn't been here for a while.

Mr. MianECKI stated I'm here tonight representing Lester, Mr. Wolfson. Mr. Wolfson purchased the property on the corner of Jacksonville Road and Buckingham over by Abundant Life Church. The lot now has an existing home on it and is kind of offset a little bit (inaudible), fronting on Buckingham. He is looking to subdivide that lot and create a lot on Jacksonville Road with a driveway off of Buckingham. It will be a new home facing Jacksonville Road with a driveway off of Buckingham.

Chairman Blewett stated with a separate lot on --

Mr. MianECKI stated with a separate lot for the existing home.

Chairman Blewett stated so the existing home is going to be retained.

Mr. MianECKI stated yes, the existing home will be retained. We are going to put a new driveway in for that new home that's why we are applying for a grading permit.

Chairman Blewett stated okay.

Mr. MianECKI stated it is Mr. Wolfson's intent not to build the home on the new lot fronting on Jacksonville Road, but once he gets the subdivision approved I assume he will find a builder and sell the lot as a fully conforming piece of property so someone can build a house there. So whoever is going to build the house there they will be coming back before this Board for a grading permit application.

Chairman Blewett stated okay. Did you get Tom's report?

Mr. MianECKI stated I did and I actually discussed it with him earlier today because he wasn't going to be here tonight.

Chairman Blewett asked do you have any concerns with that.

Mr. MianECKI testified I do not.

Chairman Blewett stated okay. Alex any concerns with reference to the report that we should know about?

Mr. Petreski stated Item #7 on the checklist for general information, a certificate from the Health Department approving sanitary facilities.

Mr. MianECKI stated we had test pits scheduled for this past Tuesday which we did on the proposed lot, and the soil testing came back and revealed adequate soils to support a septic system on the new lot. I sent the soils out for permeability testing so those will be coming early next week.

Mr. Boorady had a concern about where the disposal field was relative to new lot line and the new septic system on the other lot, so also under the witness by Mr. Fitzpatrick, of the Lincoln Park Health Department, we probed around and found the septic system and we verified that the septic system is in a location that is not going to impact the new one. Mr. Fitzpatrick said as soon as I get my permeability test results that he would then write a favorable letter for us verifying that the Health Department that it is a compliant application with regard to the septic.

Chairman Blewett stated okay.

Mr. Petreski stated Item #7 the stormwater management analysis and design.

Mr. Mianecki stated yes, we will provide stormwater management.

Mr. Petreski asked should I go over the waivers.

Chairman Blewett stated well I've read them and I don't see any objections to them. Does anybody else on the Board have any concerns about this? Okay.

Mr. Petreski stated there are a few items I didn't go over on the checklists. Are you okay with all of them?

Mr. Mianecki asked which ones.

Mr. Petreski stated let's say the comments on the standard development application.

Mr. Mianecki stated on the checklist for general information Item 1?

Mr. Petreski stated yeah.

Mr. Mianecki stated I'll correct that. There is one thing, the certificate for water and sewer, naturally there is no water and sewer the house is on an existing well.

Chairman Blewett stated well and septic yeah.

Mr. Petreski stated then 3.O. on the minor subdivision, the combine frontages.

Mr. Mianecki asked which one was that.

Mr. Petreski stated 3.O. on the checklist for the minor subdivision.

Mr. Mianecki stated I'll change that no problem.

Mr. Petreski stated then the architectural plan we have no objection to granting a checklist waiver for that because there is no home being proposed and constructed with this application. They will be coming back with a grading permit for the home.

Chairman Blewett stated okay.

Mr. Mianecki stated basically my plan shows a 30 x 60 house with a driveway, septic system, utility connection, purely conceptual so that we can demonstrate to the Board that this is a viable lot that a house can fit within the setbacks, accommodate a driveway, septic and we have municipal water and underground electric. It is kind of like an infill lot, a lot that will finish the Buckingham Road Subdivision.

Chairman Blewett stated okay. Any concerns? What's the Board's pleasure?

Mr. Koldyk made the motion to grant the waivers.

Mayor Runfeldt seconds.

**Roll call:**

**Yes: Koldyk, Runfeldt, Blewett, Gemian, Marino, Morreale, Taormina and Terrero**

**No: None**

**Abstain: None**

**Absent: Kaufman**

Mr. MianECKI thanked the Board, see you in about a month.

Mr. Wolfson thanked the Board too.

Chairman Blewett stated the next item on the agenda is waiver request with reference to Preliminary & Final Major Site Plan Application #367, Flood Plain Encroachment Application #FPE 19-01 and Grading Permit #G19-05 by Meridia Lincoln Park, LLC, on property known as Block 3.5, Lot 305.2 on the municipal tax map also known as 115 Main Street.

Ms. Kasetta stated good evening Mr. Chairman and members of the Board, Alyson Kasetta from the law firm of Prime and Tuval, appearing on behalf of the applicant. With me is Charles Olivo who is a principal of Stonefield Engineering & Design, the engineering firm that prepared the plans for this application.

We have reviewed Mr. Boorady's letter dated February 17<sup>th</sup> and we agree with his list of outstanding submission waivers, many of them are engineering details that he expressed no objection to them.

I just want to address briefly Item 10 on the general checklist that is the TBS application form, a completed copy. Our engineers and Mr. Olivo can tell you they went to great lengths to find this form and found out that it does not exist actually for residential applications. I'll let him tell you a little more about that but that is why we can't provide it.

Mr. Olivo stated good evening again, Charles Olivo from Stonefield Engineering. We did have the opportunity to speak with Mr. Bongiovanni regarding the application and what he mentioned that as part of the TWA approval, the treatment works approval that would come after should the Board be inclined to approve the project, following that we'd make application. There is a portion of that process where Mr. Bongiovanni's office would be involved and then they would sign off on the plans at that time, so that typically comes after a resolution of approval is adopted.

Chairman Blewett asked is that the way it works. It is kind of interesting after you approve something that they agree to the capacity.

Mr. Petreski stated it is an interesting condition, I'm not sure how that works I can discuss it with Tom.

Mr. Olivo stated it is not uncommon, the TWA process in New Jersey, rather than the DEP and the municipal utility authorities reviewing plans that a Board may not approve, typically there is a requirement you cannot start the TWA process with regards to the sewer capacity until you are approved in New Jersey. I think that's just to create efficiency in the process.

Chairman Blewett stated okay.

Ms. Kasetta stated I think we could agree prior to the hearing to try and obtain something from the engineer for TBSA confirming that this is the process, if that would make the Board feel more comfortable about it.

Mr. Olivo stated we'd be happy to submit to Mr. Bongiovanni's office a set of plans so that he is able to look at those documents and things, if that is necessary.

Chairman Blewett stated it makes no difference to me, I mean we could follow the process and let it run.

Ms. Kasetta asked Mr. Chairman, should I run through the engineer items that Mr. Boorady

listed.

Chairman Blewett stated yes. Do you have any comments or concerns about them?

Ms. Kasetta stated I don't really just to agree with what he said. Items 4 and 5 on the preliminary site plan checklist, as well as 8V have to do with compliance with flood regulations and DEP approved stream encroachment permit. The Borough is currently pursuing a letter of map revision which would remove this property from the flood hazard area, and on that basis we have requested waivers of these items. Mr. Boorady expressed that he had no objection to that.

The other two engineering items are Item 8M and 8OO they have to do with utilities and other features within 200 feet of the property. We have requested a partial waiver on the basis that we've shown all of these utilities and features both on the properties and within Main Street. Again, Mr. Boorady expressed no objection to those waiver requests.

The last two aside from the engineering items are an affordability control plan. We've requested a temporary waiver on the basis that that should be a condition of any approval granted by the Board because we would have to coordinate with the Borough's housing committee in order to implement such a plan, and finally, samples of exterior finishes, it would be a little bit difficult to submit them in advance of the Board's professionals so we are proposing to simply to bring them to the hearing to use as an exhibits. Those are all of the waive requests.

Chairman Blewett asked can you just explain so we have a clear understanding, I guess we are asking you to pursue a letter of map revision which doesn't necessarily --

Mayor Runfeldt stated we are pursuing it.

Chairman Blewett stated you are pursuing it.

Mayor Runfeldt stated yes.

Chairman Blewett stated but it doesn't necessarily mean that the map will ever be approved.

Mayor Runfeldt stated correct. Just briefly a little history of it, the new FEMA flood maps have this particular property coming out of the FEMA --

Chairman Blewett stated yes, right.

Mayor Runfeldt stated the changes that may occur to the maps are in the area where there are objections. We are not objecting to this area.

Chairman Blewett stated okay.

Mayor Runfeldt stated so when the maps, and they will be, whether it will be next week or next year they will be approved and this property will be, and we have no objection to it.

Chairman Blewett stated okay, so we have no objection to this lot being removed is what you are saying, the town right?

Mayor Runfeldt stated right. The only revisions they would make to the proposed maps is in the areas where the town has objections and --

Chairman Blewett stated if they agree with them.

Mayor Runfeldt stated right. We are fully okay with this particular property.

Chairman Blewett stated okay. Thanks. All right does the Board have any questions or concerns about these? What is the pleasure of the Board?

Mayor Runfeldt moved the waivers.

Mr. Koldyk seconds.

**Roll call:**

**Yes:** Runfeldt, Koldyk, Blewett, Gemian, Marino, Morreale, Taormina and Terrero

**No:** None

**Abstain:** None

**Absent:** Kaufman

Ms. Kasetta thanked the Board. We will coordinate with Ms. Ward about the scheduling of the hearing.

Chairman Blewett stated yes.

Ms. Ward mentioned we will need 20 copies of everything so I can distribute to the various departments and professionals for their comments.

Ms. Kasetta stated will do. Thank you for your time.

Board members you're welcome.

Chairman Blewett stated the next item on the agenda is the pod ordinance. After the last meeting I read through the minutes of the September meeting, and I hopefully adjusted it with the comments from the Board and sent them off to Arthur. What you are seeing here is a compilation of Arthur's revision and my changes which I felt came out of the minutes.

The only thing that I had a question about is I thought we were thinking of periods less than a year for a pod to be actually on site, and so it happens to state in here under 7 that it shouldn't go beyond one year from the date of issuance of the permit extension. You know originally I thought the intent was to keep it as short as possible that's why we had 90 day increments, but if everybody agrees up to a year is okay, I guess I'm okay. I thought we weren't going much past 6 months to be honest but we didn't limit the number of extensions.

Mr. Marino stated a year is a long time.

Chairman Blewett stated so that is the only concern I have about what I had read in this. Does anybody else have any comments or concerns, please raise them. But I think we can ask Arthur to change that if we agree on how we are going to manage it.

Mr. Neiss stated I will do anything you guys tell me.

Mr. Gemian stated the one question I have if 6 months goes forward, can the applicant apply for an extension? I don't see anything in here related to that.

Chairman Blewett stated originally it was for a 365 day period that you could only have a pod. Let say one instances of a pod and then you have the ability to extend it a little while, but I thought there was, but I don't know if it is still in here, I don't think it is actually, but conceptually when we put it together we were thinking within a year you get one opportunity to get a pod and then that's it until the next year.

Mr. Gemian asked I was just concerned with repeated requests for extension if there is a way to prohibit that possibility.

Chairman Blewett stated I think that's the intent of putting this in place in some way controlling that.

Mr. Gemian stated okay.

Chairman Blewett asked does anyone else have any comments.

Mr. Terrero asked if someone wanted a pod that we would justify that like remodeling their home,

sometimes projects do run long. So if the applicant can show a hardship and needs to go past the year, then we could probably consider it at that point if the project ran longer and say the second story never got built beyond their control, so may be in that instance we can justify the pod past the six months.

Mayor Runfeldt stated like you are saying, if someone's house burns down or something like that, then I would prefer to keep the initial period of time shorter and if they need to apply for some sort of hardship they can do it after that.

Mr. Gemian stated do it on an ad hoc basis in that fashion.

Chairman Blewett asked who would govern that. I guess Sal?

Mr. Taormina stated it can't be just at your discretion right? There has to be a rule whether fire, flood, demonstrate the hardship whatever it is, but just to say it is at the discretion of the --

Ms. Ward stated if they have a fire and they want to put a temporary trailer on the property to live in, they have to get permission from the Governing Body.

Mayor Runfeldt stated I would say the Governing Body.

Chairman Blewett stated so the Council that sounds good to me.

Mayor Runfeldt stated they are the approving authority for any hardship.

Mr. Taormina asked the initial drop off of a pod I don't see anything in here unless I'm reading it wrong.

Mr. Koldyk stated in #29 it says there is a 10 day period (Section 28-29).

Chairman Blewett stated well it starts in 5 right? At 5 we are saying a person could have a 10 day period to have a pod on site before the requirement for a permit kicks in, but he is going to issue a 10 day permit. Sal is that how that works?

Mr. Marino stated yes.

Chairman Blewett stated so you are not paying for that up until 10 days.

Mr. Taormina asked how does a new resident know that. How does somebody moving here from Wayne or Seaside Heights know they need a 10 day permit? This is what I don't like about that. You know what there has to be some initial grace period there. A family moves here and drops a pod and then the next thing they get a knock on the door the very next day, am I the only person that sees the unfairness of that? Yes/no? I don't care if it is 2 days, 2 days someone drops a note on whether it is someone from the Borough or Police Department, hey listen by the way welcome to Lincoln Park, oh by the way you need to go down to the Borough hall and get a permit first thing.

Mr. Runfeldt stated I think I can speak for our zoning officer and that's typically what the first step is in most instances it is a violation, we issue what's called a notice of violation not a summons.

Mr. Taormina stated right but you still are issuing that notice of violation.

Mr. Runfeldt stated it is basically like you are saying, hey just so you know this pod violates ordinance # blah, blah, blah.

Mr. Taormina stated but you don't have to issue notice you could issue a summons correct?

Mayor Runfeldt stated no we don't have to issue a summons, we can issue a notice.

Mr. Taormina stated right, but you can issue a summons on the first contact if you wanted to.

Mayor Runfeldt stated we could.

Mr. Taormina asked so what is to stop somebody from issuing that summons to a new resident that has no idea that this ordinance exists.

Mayor Runfeldt stated like I said, our general rule is we issue a notice of violation before a summons.

Mr. Marino stated yeah.

Mr. Taormina stated I understand, I completely understand discretion, but until someone doesn't use their discretion, maybe 10 years from now he'll be replaced.

Mayor Runfeldt stated nobody can replace Sal.

Mr. Taormina stated I'm sorry.

Mr. Marino stated not yet.

Ms. Ward mentioned a lot of people before they move in contact our department with reference to dumpsters and pod, etc.

Mr. Taormina stated I'm sure they do, but what happens if they don't call.

Chairman Blewett stated so if we put in the enforcement area some guidance around that, like if the zoning officer sees a pot he issues a violation and that puts them on notice.

Mayor Runfeldt stated a notice not a violation.

Chairman Blewett stated not a summons.

Mr. Gemian stated time is negotiated by when they need to get back right? It is not like an indefinite notice. You get a notice of violation and then there is some time arises that you have to respond to it by such and such a date.

Mr. Taormina stated oh yeah, again the discretion part like I've seen a lot of guys use discretion and others chuck it out the window. The point is, if we can either take that initial issuing of a summons out of this whole thing for the very first contact, then I have no problem issuing and say listen we'll get a permit. If you don't respond, then shame on you.

Mayor Runfeldt stated right.

Chairman Blewett stated let see if we can modify B in the back because it says the zoning officer, fire prevention officer and Police Department shall be responsible for enforcing the provisions of this article, and insert a sentence there where we believe there is a violation and a notice, is a notice called a violation?

Mr. Marino stated a notice of violation.

Chairman Blewett stated will be put in a package or given to the resident.

Mr. Gemian stated yeah.

Chairman Blewett stated unfortunately to be honest, I don't know that I know all our ordinances so we all live with this every day, I think it is sensitive to moving in and out though.

Mayor Runfeldt stated just like any law it is the person's responsibility to find out what the law is, but I can see what you are saying, it is an area where --

Mr. Taormina stated yeah.

Mayor Runfeldt stated but yeah this goes for just about every code violation that we observe, but typically it is a notice of violation followed by a summons, followed by court.

Mr. Taormina stated I completely understand that.

Mayor Runfeldt stated we've even gone so far as to have a three part form and a notice that somebody's grass is too long. Sometimes we have a preliminary step even before the notice of violation is issued. It is just this little three part form, hey your grass is a little long, didn't want to give you a notice but you throw it in the mailbox and then follow it up.

Mr. Marino stated more like a warning than a notice.

Mr. Taormina stated that's okay.

Mayor Runfeldt stated a notice that you are on notice.

Mr. Taormina stated I'm all for a warning. I'm for warning you know but if you don't heed the warning, then I'm for the sledgehammer.

Ms. Ward stated the two previous zoning offers before Sal they always issued a notice of warning first and then they had like ten days to respond. If they didn't respond, sometimes they got second notice on it before the summons was issued, it depends what it was. They did the same thing that Sal does.

Mr. Taormina stated I completely understand that, but my concern with that is they always do but they don't have to. If you don't have to, then you can hammer a guy the very first time you see it.

Mr. Neiss stated so we'll put in a notice of violation be issued.

Mr. Taormina stated some guys that worked for me some used discretion and some didn't and that might not be enough. If the intent is to issue a warning, then issue a warning.

Mayor Runfeldt stated we'll put that in.

Mr. Taormina stated Sal I would appreciate you issuing me a warning for anything you see around my house.

Chairman Blewett stated we didn't resolve the year time frame. How do we want to approach that?

Numerous Board member stated six months.

Mayor Runfeldt stated then they can go back to the Council and ask for a hardship.

Chairman Blewett stated I think under 7 take that year out and make it six months.

Mr. Neiss asked where are you.

Chairman Blewett stated well it says for any period beyond a year.

Mr. Neiss asked so change that to six month.

Chairman Blewett stated yes. Do we want to that point so that we have an affirmative action here, should we say that anything over six months has to go to the Council if they want to have a pod for whatever reason, a hardship reason, then it needs to go to Council.

Mr. Neiss stated well let's be clear, is it a hardship to send them to the Council or is it just the fact that they want to continue to have the storage unit.

Mr. Gemian stated I would just suggest to leave it at six.

Mayor Runfeldt stated leave it at six. Once again it is not written anywhere but I think the way it is handled within almost all departments is if somebody has a question and the ordinance or the code does not allow for what it is they are looking for, the answer from almost every department is you can bring it up to the Council and the Council can decide on it.



You know if somebody walks in and says, I installed a new water meter in my house and now I've got an actual reading for the first time in years and now it says I owe \$4,000 can I make payments? Well ordinance doesn't cover that, but the Water Department can say go speak to Council. I think like Gary was saying, just leave it out and when the time comes and they say what are my other options, the answer for everybody in town hall should be go to the Council.

Mr. Taormina asked with respect to hardship, is that something that needs to be defined or do you open yourselves up to lawsuits for arbitrary. You know of your Council grants extensions for pods except one time comes up and it is a Councilman's neighbor --

Mayor Runfeldt stated that's why we let the Council decide it.

Mr. Neiss stated just in the notation of hardship is the notion of discretion, so somebody has to make a discretionary call in that circumstance.

Mr. Taormina stated that's their problem.

Mayor Runfeldt stated right.

Mr. Koldyk asked could (inaudible) for the renewal of the permit.

Mr. Neiss stated yes.

Mayor Runfeldt stated better to make it their problem.

Mr. Neiss stated again this is just a recommendation, it is going to be recommended to the Mayor and Council.

Chairman Blewett stated they are going to change it no doubt.

Mr. Neiss stated well --

Chairman Blewett stated so the only other thing I saw in here is that second period of 90 days should it be the same fee or a different fee.

Mr. Neiss stated well I don't recall whether or not that fee of \$50 bucks was in the original review that I got from the subcommittee. I think I just threw that in so I just wanted to make sure that that was an appropriate amount, whether or not everyone is in agreement, obviously it is up to the Council regarding a fee.

Chairman Blewett stated I thought it was \$15/\$25 or something like that.

Mr. Marino stated we had a number in there, I thought we did.

Chairman Blewett stated 50 and 50 is okay for me.

Mr. Koldyk asked tack on 50 every time they renew it.

Mayor Runfeldt stated yes.

Mr. Neiss stated for each period of 90 days it will be \$50.

Chairman Blewett stated okay.

Ms. Ward mentioned if Council wants to change it, they'll change it.

Mr. Neiss stated correct it is going to become an ordinance.

Chairman Blewett stated and the only other thing just to make sure we talk about it is E which is the notice of violation and the \$100 per day.

Mayor Runfeldt stated that's kind of standard.

Chairman Blewett okay all right.

Mayor Runfeldt stated yeah right?

Mr. Gemian stated it serves an impedance.

Mayor Runfeldt stated it's at the discretion, we don't always issue it and the judge very often cuts it any way.

Mr. Neiss ask when you issue an NOD does it have a time frame.

Mr. Marino stated yes.

Mr. Neiss asked what is that time frame.

Mr. Marino stated it depends on what the violation is. I give them two weeks, a week, a month, three weeks.

Mr. Neiss stated discretion here.

Mr. Marino stated right.

Mr. Neiss and I asked that question because that is tied to this fine of \$100 bucks a day depending on how discretionary you are.

Mr. Marino stated pretty good.

Mayor Runfeldt stated just so you know, when Sal issue the notice of violation, it says this is a notice not a summons, and I believe you listed the pertinent code so then there is no question for the person at that point so like what do I have to do.

Mr. Marino stated oh absolutely.

Mayor Runfeldt stated they don't even need to come down here to get the answer they can just read that and say, if I don't get this they can start enforcing a \$1000 fine.

Chairman Blewett stated yeah but we did that. We said it initiated on the sixth day after the issuance of a notice of violation in E.

Mr. Neiss stated well in E it doesn't say it doesn't say sixth day. Well it says after issuance. That should change to whatever the outside date is that you issue the NOD for.

Mayor Runfeldt stated well that actually wouldn't be --

Mr. Neiss stated depending upon how much time they have. If Sal gives them the two weeks --

Chairman Blewett stated we were giving them 5 days to resolve it that is at least what we threw out on the table right?

Mayor Runfeldt stated I think you should reword E completely to say that the penalty for failure to obtain a permit can be up to \$100 per day and I would just leave it at that.

Chairman Blewett stated okay.

Mayor Runfeldt stated then take out the sixth day after issuing and take out the notice of violation.

Chairman Blewett stated okay.

Mayor Runfeldt stated we don't start issuing the fines until after the summons is issued and not before, so I think that cleans it up a lot and just say, failure to obtain the necessary permits can be subject of up to a penalty of up to \$200 a day.

Chairman Blewett stated that sounds good to me.

Mayor Runfeldt stated leave it like that.

Chairman Blewett stated okay. So with those changes are we comfortable sending this to the Council? Do we need to vote on it?

Mr. Neiss stated I think for the sake of good order it would be okay to do so.

Chairman Blewett asked shall we move this forward I don't want to see this again.

Mr. Terrero moved it.

Mr. Koldyk seconds.

**Roll call:**

**Yes: Terrero, Koldyk, Blewett, Gemian, Marino, Morreale and Runfeldt**

**No: Taormina**

**Abstain: None**

**Absent: Kaufman**

Ms. Ward stated we'll send it to Council.

Chairman Blewett asked is there any other business to come before us.

Mr. Koldyk made the motion to adjourn.

Chairman Blewett asked is there a second.

Mr. Taormina second.

Chairman Blewett asked all in favor.

Board aye.

Chairman Blewett asked any opposed.

Board none.

Meeting adjourned 7:50 P.M.

Respectfully submitted:

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Joan E. Ward, Secretary

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Charles W. Blewett, Jr.

