

**FRANKFORD TOWNSHIP LAND USE BOARD
DECEMBER 20, 2006 – 7:00 P.M.
MINUTES OF THE REGULAR MEETING**

CALL TO ORDER

The meeting was called to order by the board Chairman, Mr. Romania, by announcing that notice appeared in the New Jersey Herald and the New Jersey Sunday Herald in accordance with the requirements of The Open Public Meetings Act.

Flag Salute

ATTENDANCE

Those Present were: Mr. Ayers, Mr. Risdon, Mr. Zappile, Mr. Gstattenbauer, Mr. McDowell, Mr. Larson, Mr. Romania, Mr. Smolen, Mr. Dolan (arrived at 7:30 p.m.). Also present were Mr. Clark, the board attorney and his assistant, Ursula Leo, Esq. and Mr. Stoner, representing the board engineer.

Those absent: Mr. Hahn and Mr. Martin (excused).

MINUTES

The Minutes of the November 20, 2006 Regular Meeting of the Land Use Board were reviewed. A Motion was made by Mr. Gstattenbauer and seconded by Mr. Larson to approve the Minutes of the November 20, 2006 Regular Meeting of the Land Use Board. All were in favor. The Motion was carried.

ZONING OFFICERS AGENDA

The Zoning Officer reviewed his report dated December 20, 2006. No Formal action was taken.

Mr. Paterson reviewed with the board a Minor Site Plan approval for Windmill Developers (VanDeMoere) Block 11, Lot 6.01. He indicated that the minor site plan was reviewed by Mr. Fette, the Construction Official, Harold Pellow, the engineer, and himself and has been approved. The site plan was for a dormer on the front of the building with a few small windows and one large window for aesthetic purposes. He indicated the dormer will sit on top of the existing roof and will not be connected inside. Mr. Pellow did have a comment in his review that the soffit portion of the dormer extended 6 inches beyond the existing building, he felt this would be encroaching on the front yard setback. Mr. Paterson contacted the architect, Mr. Schafer, to notify him of this situation. Mr. Schafer sent a letter to him stating that the 6 inch encroachment on the front yard setback will be removed and it will be flush with the front of the building. Revised plans will be submitted.

PUBLIC PARTICIPATION

A Motion was made by Mr. Larson and seconded by Risdon to open this meeting to the public. All were in favor. The Motion was carried.

There was no public participation.

A Motion was made by Mr. Risdon and seconded by Mr. Smolen to close this meeting to the public. All were in favor. The Motion was carried.

APPLICATIONS CARRIED FROM THE PREVIOUS MEETING

Richard P. Schindelar/Winding Brook Village – LUB 06-12 – Block 8, Lot 2 & Block 9, Lots 2 & 3 – County Route 565, Armstrong Tract & Fenwick Road – “D” Variance:

Appearing before the board was the owner of Winding Brook Village and applicant, Richard Schindelar, his attorney, Glenn Kienz, Esq., his engineer, Owen Dykstra, his planner, Jason Dunn, and his architect, Frank Warr. Mr. Dykstra and Mr. Schindelar were sworn in by the board attorney. Mr. Dykstra gave his qualifications to the board and was accepted as an expert witness.

Mr. Kienz indicated that he will start the application over this month for the board members who were not present at the last meeting. Mr. Kienz reviewed the following exhibits that he will be reviewing this evening:

Exhibit “A-1”: Map of Open Space Study 6/27/06 prepared by Dykstra Associates.
Shows relationship to proposed town center, Roadways and railways.

Exhibit “A-2”: Map of Area Summary and buildout study plan 6/27/06 prepared by Dykstra Associates

Exhibit “A-3”: Use Variance Map dated 5/17/06 prepared by Dykstra Associates

Exhibit “A-4”: Aerial Map – Conceptual Layout Plan dated 5/17/06 prepared by Dykstra Associates

Exhibit “A-5”: Conceptual Layout Plan dated 5/17/06 prepared by Dykstra Associates

Mr. Dykstra reviewed Exhibit “A-1” with the board. Mr. Dykstra indicated that the property is located on both sides of the County Road Route 565. There is also a parcel located adjacent to the former railroad line or gas line that ran through there. The property is located a mile east of the proposed Frankford Center. He indicated that this exhibit shows the proposed town center, together with the open space plan from the township and how this site fits into this open space plan. What the exhibit shows in particular is where the applicant’s development would take place and how it would fit into the open space parcels.

Mr. Dykstra reviewed Exhibit “A-2” with the board. He indicated that this exhibit is a conceptual plan based on the current zoning ordinances. This plan shows approximately 163,000 square foot commercial development along the street and 8 residential single family homes on 5 acre lots. He further indicated that the property is in the 208 plan which allows for 20,000 gallons per day for the sewer for the commercial site. The sewer plant will fit in the proposed plan. The residential units in the rear of the property will be on individual septic.

Mr. Dykstra reviewed Exhibit “A-3” with the board. He noted that this exhibit shows the existing site. The proposed open space is in green on the map, which open space would be dedicated to the township as part of this project. The yellow and brown portions of the map are the proposed development areas. He indicated that the site is 138.82 acres. The development proposal encompasses approximately 19.5 acres. The remaining 110 acres would be dedicated to open space. Also, with this plan to the west side of Route 565 would also be open space and there is no development proposed to this parcel. On the west side of Route 565 are three existing structures, which are shown in the photographs on the exhibit. He further stated that running through the property is the Papakating Creek, which is a very picturesque piece of property. If this application was approved, the structures shown on this exhibit will be dedicated to open space. On the east side of Route 565 would be the bulk of the open space, which is approximately 75 acres. This

APPLICATIONS CARRIED FROM THE PREVIOUS MEETING CONT.

Richard P. Schindelar/Winding Brook Village – LUB 06-12 – Block 8, Lot 2 & Block 9, Lots 2 & 3 – County Route 565, Armstrong Tract & Fenwick Road – “D” Variance cont.:

will surround the proposed village and it will encompass the wetland area and also the upland off Fenwick Road. The applicant is proposing 132 units on the developed portion of this application (19.5 acres). The applicant arrived at the 132 units by the density they can have with the 20,000 gallon per day sewer plant under adult housing authorized by NJDEP. He indicated that this plan is consistent with the Planned Residential Zone of Frankford's Ordinance, which .8 units per acre. Mr. Dykstra indicated that on the east side of Route 565 currently is a quarry operation. This plan would be considered a re-use of the existing mining operation. He noted that the typical commercial zone in this area goes for 600' in depth.

Mr. Dykstra reviewed Exhibit “A-4” with the board. He indicated that this is an aerial photograph of the site. This exhibit shows the proposed site plan overlaid on the existing gravel pit to show the area that they are primarily impacting. The area is the existing pit. The exhibit also shows that the development proposed is not going beyond the existing pit.

Mr. Dykstra reviewed Exhibit “A-5” with the board. He indicated that this map shows the proposed traditional neighborhood development. This was designed in keeping with the town center plan that was adopted on April 20, 2006. Mr. Kienz marked the April 20, 2006 Frankford Center Plan as Exhibit “A-6”. Mr. Kienz questioned Mr. Dykstra as to the significance of the Frankford Center Plan to the applicant's Exhibit “A-5”. Mr. Dykstra indicated that when they designed this concept plan, they wanted it to be in keeping with what the township was doing with their Center Plan. The applicant's plan could be an alternative for housing in the area, but in close proximity to provide additional people living in the general vicinity to keep the center vital. Mr. Dykstra indicated that they are proposing a single entrance, which will be a dual landscaped entrance into the site. In the lower portion of the site, they will have the traditional condominium type homes which are separated individually vertically so there is no one above you. This is more or less a townhouse. In the center, there will be an active adult community center and an indoor pool. On the higher end, the back drop of this site, will be the manor homes, which will have subsurface parking, so each person will have a garage underneath. They will be elevator buildings.

Mr. Romania questioned Mr. Dykstra if the 132 units include the community center. Mr. Dykstra indicated that the community center is not considered a unit.

Mr. Dykstra indicated that the applicant tried to accomplish a very dense area where people could congregate, live separately, but they could also have areas where it is pedestrian friendly, with a center congregation area. He further stated that the community activities they are proposing are an outdoor dining area, where there could be barbeques, an event area with a small band shell and an indoor pool. This concept plan gives the residents a feel that they have their own neighborhood instead of a traditional garden apartment. He indicated to the board that this plan shows a streetscape plan. He stated that as part of the proposal, they plan to have a shuttle from this property to the proposed town center. He also noted that this is a major corridor and the Sussex County Transit does run by this street from Sussex to Newton, so this development could be a stop on this route. He noted that this property is approximately 1 mile from the Frankford Town Center and a little more than 2 miles to the Branchville Town Center.

Mr. Kienz marked the Use Variance report for Winding Brook Village dated May, 2006 as Exhibit “A-7”.

APPLICATIONS CARRIED FROM THE PREVIOUS MEETING CONT.

Richard P. Schindelar/Winding Brook Village – LUB 06-12 – Block 8, Lot 2 & Block 9, Lots 2 & 3 – County Route 565, Armstrong Tract & Fenwick Road – “D” Variance cont.:

Appearing before the board was the applicant’s planner, Jason Dunn, and their architect, Mr. Warr who were sworn in by the board attorney. Mr. Warr and Mr. Dunn gave their qualifications to the board and were accepted as expert witnesses.

Mr. Warr indicated they have used the larger 3 story buildings as a backdrop to separate the community from the rest of the township. They have shown the lower rise 1 and 2 story townhouses more towards the streetscape to soften the affect of the development on the community. The overall concept of this plan was to create a neighborhood community. Mr. Warr referred to other developments that he worked on in the surrounding townships and indicated that they were very successful. He feels that it was successful because the location of the project was in close proximately to the Sparta Town Center and the seniors in Sussex County need a place to stay and they want to stay in Sussex County. The proposed development this evening has the low rise town homes and a multistory living facility so as the seniors age that they can go from the more active level senior, starting at age 55, in the town homes to the multistory development. The town homes provide for 2 parking spaces within a garage with adequate living space. As the seniors age, they can move into the 3 story town houses that are more clustered and more protective with the weather. They are providing in excess of 1 space per unit for parking in the basement. He feels this is a stable development in the community.

Mr. Kienz presented to the board Exhibit “A-8” which is the Winding Brook Adult Living, Architectural plans prepared by Houghton Quarty Warr Architects, L.L.C. Mr. Warr reviewed the Exhibit. He indicated their will be three 3 story buildings. There are 31 units in each building. The units are approximately 1300 to 1500 square feet in size. Each one of the units will have its own laundry facility and heating and cooling units. The style of the building is conventional with Sussex County, a traditional style. They have tried to layer the building so it does not appear vertical. The building will be serviced by an elevator and the garage will be underneath.

Mr. Kienz presented to the board Exhibit “A-9” which is the architecture plans for the Typical Two Unit Townhouse and elevations prepared by Houghton Quarty Warr Architects, L.L.C. He also presented to the board Exhibit “A-10” which is the architecture plans for the Typical Three Unit Townhouse and elevation. Mr. Warr reviewed the Exhibits with the board. They have designed the garages so they will enter in the front or the side to give a variety of opportunity to access the garages on the site so you are not looking at sea of parking as you go down the street. Mr. Romania questioned how many 2 units are there and what is the square footage of each. Mr. Warr indicated that the square footage of the 2 units is approximately 2500 to 3000 square feet which includes the garage. Mr. Dykstra indicated that there are 7 buildings of the 2 units and 8 buildings of the 3 units which are also 2500 to 3000 square feet. The garages are approximately 500 square feet. Mr. Romania indicated that if you add the total square footage up of all the units, this is more than double the traditional style. Mr. Warr indicated that ½ of the square footage is on the second floor. Mr. Kienz indicated that the applicant has conformed to your planned residential zone. What triggered the size was the amount of the sewer allocation. The sewer allocation for commercial is based on a square footage, for residential it is based on a bedroom count. What the applicant is suggesting to the board is that the 132 residential units that were shown conform to DEP requirements and to 208 plan requirements, and as of right, just under sewer, not a Land Use issue, which really becomes the driving force, the residential plan that is presented is allowed. Mr. Romania indicated, however, it is allowed under sewer, but when you get to the land use issues, it is not allowed without a “D” Variance. Mr. Kienz indicated that is why this application is for a “D” Variance. Also, this is why they also applied the

APPLICATIONS CARRIED FROM THE PREVIOUS MEETING CONT.

Richard P. Schindelar/Winding Brook Village – LUB 06-12 – Block 8, Lot 2 & Block 9, Lots 2 & 3 – County Route 565, Armstrong Tract & Fenwick Road – “D” Variance cont.:

township's zone standards for the Planned Residential Development. The applicant believes that they conform under the Planned Residential Development. They do not comply under the AR, 5 acre zoning, however, they have the right to sewer under the 208 plan, which is good until October, 2007. Mr. Kienz noted that if this property is developed as of right, the town will get commercial along the highway and 8 houses on the hill. He does not feel the township would want additional commercial along Route 565 because this will create a problem with the integrity of the Frankford Center. Also, there is a cap as to how much can go in the center and this proposal will feed the center. He does not feel the center will survive on its own. The township needs massing and people to support the center. The applicant has tried to design a plan to take advantage of what is there, it takes advantage of an existing mining operation that is not an environmentally sensitive piece and the applicant will give the township the rest of the open space with a barn.

Mr. Smolen questioned if there would be basements to the units. Mr. Warr indicated that they do not propose any basements at this time. Mr. Dolan questioned Mr. Warr about the open space in the units that he referred to. Mr. Warr indicated that when they calculated the envelope, some of the spaces on the second floor are open cathedral spaces, he used the whole footprint as the second floor, which is actually less. Therefore, the estimated 3000 square foot footprint would be less. He feels the actual living space in the units is approximately 2000 square feet.

Mr. Dunn indicated when they started this project one of the things they were trying to consider was the intensity of development that could happen in the zoning as it exists today. Then they looked at what would be the best for the township and also the applicant to make this development happen in a more compact space using the zoning of the split zones as a basis of this development. There are 3 zoning pieces in play with this project: 1) The Planned Residential Development Zone, which is the .8 dwelling units per acre which is applicable to tracts of 100 acres or more, which the applicant complies with. Mr. Stoner questioned how the applicant feels they comply with this requirement because the tract that they are developing is not 100 acres. Mr. Kienz indicated the entire tract does comply. The lots are all contiguous which are separated by a road. He further indicated that there is case law that allows the applicant to do this. 2) The C-2 Zone. They felt that residential housing was more appropriate for senior housing and also an adaptive re-use for the soil mining operation. He further indicated that because of the close proximity of the proposed mixed use development of the Frankford Center, they thought it would be appropriate to provide a clustered residential neighborhood.

Mr. Dunn indicated that in a Use Variance situation there are positive criteria that had to be reviewed. This particular use was uniquely suited for this site because of the access to the County Road and the regional position of the site with Sussex, Newton, Branchville, and the future Frankford Center. He further stated that the rising need for senior housing in this County is a fact that has to be handled. He believes many seniors move out of the County because developments like this are not available in the area. This development in Frankford Township will keep local residents in the township so that they can be with their families. He stated that the geographic portions of this are already in the 208 Plan and the soils are suitable, based on preliminary studies, for the ground water recharge that could handle this size development. He noted that there is an area of the development that needs to be restored. He referred to Exhibit “A-4” which shows the existing soil mining operation and the site has been compacted within that area and is not disturbing the open space either on the other side of Route 565 or surrounding the mining operation.

APPLICATIONS CARRIED FROM THE PREVIOUS MEETING CONT.

Richard P. Schindelar/Winding Brook Village – LUB 06-12 – Block 8, Lot 2 & Block 9, Lots 2 & 3 – County Route 565, Armstrong Tract & Fenwick Road – “D” Variance cont.:

Mr. Dunn indicated that this concept plan is creating a village type concept. He stated that one of the goals of this concept was to make it a traditional neighborhood village in keeping with the Frankford Center Plan. Mr. Dunn referred to the Frankford Center Plan, Exhibit “A-6”, and how this plan is consistent with that plan. He referred to page “10” of the plan where the center plan speaks to the center residential design themes. The photos in this exhibit show a community center gathering places, such as fountains and event areas. He referred to page “13” of the exhibit where there are street furniture such as benches and trees. They tried to keep with the streetscape that is reflected in the town center plan with the on street parking, the boulevard entrance, the street layouts, and the pedestrian activity throughout the site.

Mr. Dunn reviewed the community center part of this development. He indicated that part of what makes this a traditional village concept is providing a central location for the residents for community activities such as physical fitness, attend health screenings, a show in the evening. It will be an attractive landscaped area with some structures, such as a gazebo and a band shell. In the community center, itself, they are proposing a dining area with outdoor and indoor seating, and an indoor pool. All of these activities can be reached by foot throughout the development. He noted that sidewalks were also proposed.

Mr. Kienz referred to Objective A of the N.J.S.A. 40:55D-2. He indicated that Objective A is to encourage municipal action to guide the appropriate use of development in lands of the State in a manner which will promote public health, safety, morals, and general welfare. He asked Mr. Dunn to describe to the board how this plan satisfies this objective. Mr. Dunn indicated that this satisfies objective A by providing a nod off of the proposed Frankford Center, meeting the unique housing needs of the area and allowing the people that age in place they grew up in a smaller, less maintenance intensive place. He noted that when a Town Center is created, it is very important to have areas outside that center which can feed the economy and the social activities that are available in that center.

Mr. Kienz referred to Objective E of the N.J.S.A. 40:55D-2. He indicated that Objective E is to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment. Mr. Kienz asked Mr. Dunn to describe to the board how this plan satisfied this objective. Mr. Dunn indicated that the applicant is satisfying this objective by providing 118 acres of open space and compacting the development in an already disturbed area as an adaptive re-use. Based on the capacity of limitations of the sewer package plant and the location and proximity to the center, he feels this is an appropriate population density. He stated that this plan does fit in the zoning for Planned Residential Development.

Mr. Kienz referred to Objective F of the N.J.S.A. 40:55D-2. He indicated that Objective F is to encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies. Mr. Dunn indicated that this project can satisfy this objective by dedicating the open space to the township or public entity. This dedication would save the township or some other public entity from purchasing this area as open space. In essence the applicant is developing the already disturbed area of the site and preserving the undisturbed open space of the parcel.

APPLICATIONS CARRIED FROM THE PREVIOUS MEETING CONT.

Richard P. Schindelar/Winding Brook Village – LUB 06-12 – Block 8, Lot 2 & Block 9, Lots 2 & 3 – County Route 565, Armstrong Tract & Fenwick Road – “D” Variance cont.:

Mr. Kienz referred to Objective G of the N.J.S.A. 40:55D-2. He indicated that Objective G is provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens. Mr. Dunn indicated that this is satisfied by running a village that is pedestrian friendly; it provides needed community and recreational facilities.

Mr. Kienz referred to Objective I of the N.J.S.A. 40:55D-2. He indicated that Objective I is to promote a desirable visual environment through creative development techniques and good civic design and arrangements. Mr. Dunn indicated that this promotes a desirable and visual environment through a pedestrian friendly neighborhood, well thought out architecture that fits into the county and the township.

Mr. Kienz referred to Objective L of the N.J.S.A. 40:55D-2. He indicated that Objective L is to encourage senior citizen community housing construction. Mr. Kienz indicated that this speaks for itself. Mr. Kienz referred to Objective M of the N.J.S.A. 40:55D-2. He indicated that Objective M is to encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land. Mr. Dunn indicated that this plan does this by preserving the open space which lessens the cost of entities that want to purchase it to preserve the Papakating Creek area and the surrounding area from cluster development.

Mr. Dunn referred to the Zone Plan and Zone Scheme of this project and it will not negatively impact the zone plan. The property has good site distance along Route 565 at the existing entrance which is already County approved with the soil mining operation. He further indicated that the open space they are proposing to dedicate can be linked to other open space which is pointed out in the Frankford Township Open Space Plan. He noted that this proposed housing will not put a burden on the school system in Frankford Township. He indicated that this project already has existing approved access to the County Road. This project is consistent with the Frankford Master Plan because it is in keeping with the State Development and Redevelopment Plan which is what the Master Plan is striving to do because they have created a compact development and they are providing open space and a pedestrian friendly environment.

Mr. Dunn indicated from a Planning perspective, his opinion is a pedestrian friendly residential development would be much more suited for this township than a commercial development. A commercial development will produce much more traffic and perhaps some other environmental impacts that the proposed development will not.

Mr. Smolen questioned what the estimated cost of the units would be. Mr. Schindelar indicated it would be approximately \$350,000 for the 3 bedroom unit. A lengthy discussion was held with regard to the size of the units. Mr. Dolan questioned where the COAH units would be. Mr. Dunn indicated that the applicant would comply with the COAH obligation and they will be built on site. Mr. Zappile questioned that he would like to see an age restriction for residency in this development. A lengthy discussion was held with regard to this issue.

Mr. Zappile questioned if the water supply for this project will be sufficient. Mr. Dykstra indicated that most likely in this situation, because there is going to be a town water system developed at the center, it will be likely they would connect to the town system as

APPLICATIONS CARRIED FROM THE PREVIOUS MEETING CONT.

Richard P. Schindelar/Winding Brook Village – LUB 06-12 – Block 8, Lot 2 & Block 9, Lots 2 & 3 – County Route 565, Armstrong Tract & Fenwick Road – “D” Variance cont.:

opposed to building another system for this project. Mr. Dykstra indicated that they can do a stand alone system on the site; however, they would have to do some well testing to demonstrate this. This would be a community water supply.

A Motion was made by Mr. Dolan and seconded by Mr. Zappile to open this matter to the public. All were in favor. The Motion was carried.

Janice MacDougall appeared before the board and was sworn in by the board attorney. Ms. MacDougall resides on Armstrong Road. She indicated to the board that the proposal of the applicant is a better use as compared to the allowed use. Ms. MacDougall did question the applicant about the buffer. Mr. Clark indicated this is a site plan issue; the board is only dealing with the Use Variance issue at this time. Mr. Dykstra indicated that the existing wooded buffer would remain. Ms. MacDougall also indicated that where the applicants are proposing the sewer treatment plant, she questioned the applicant if this is close to the stream. Mr. Dykstra indicated that there are hydrgeologist working on this issue and it may have to be moved when all the testing has been completed. Ms. MacDougall questioned when this project would start if approved. Mr. Schindelar indicated the day after the approvals are obtained. Ms. MacDougall questioned how this project would impact her well. Mr. Dykstra indicated that tests will be done and a report will be submitted and there must be no affect on her well. She questioned if the roads would be township roads or private roads. Mr. Kienz indicated that they would be private roads and maintained by the association.

Warren Blakney appeared before the board and was sworn in by the board attorney. Mr. Blakney resides on David Drive. Mr. Blakney stated that the sidewalks, as well as the roads should be privately maintained by the association, not the township. Mr. Clark indicated that this is a site plan issue which is not being discussed this evening. Mr. Blakney agrees with Mrs. MacDougall about the water supply. He questioned if the applicant would have to maintain the sewer plant. Mr. Clark indicated that they would be responsible for the maintenance of the sewer plant. Mr. Blakney was concerned bout a fire in the 3 story building and if the fire department could handle this. Mr. Kienz indicated that there is a 3 story building and the applicant would have to meet the fire sub code and a lot of uniform construction codes. Mr. Blakney was concerned with the COAH units.

Douglas Haugk appeared before the board and was sworn in by the board attorney. Mr. Haugk resides on Armstrong Road. He feels this is a good plan. He agrees with the buffer proposed and the open space. He questioned the applicant about the sewer system if it was a closed system. Mr. Dykstra indicated it was.

Richard Taylor appeared before the board and was sworn in by the board attorney. Mr. Taylor resides on Route 565. He feels this is a good plan and better than the commercial plan.

A Motion was made by Mr. Zappile and seconded by Mr. Gstattenbauer to close this matter to the public. All were in favor. The Motion was carried.

A Motion was made by Mr. Ayers and seconded by Mr. Dolan to take a five minute recess at 8:50 p.m. All were in favor. The Motion was carried.

A Motion was made by Mr. Larson and seconded by Mr. Ayers to reconvene the meeting at 9:00 p.m. All were in favor. The Motion was carried.

APPLICATIONS CARRIED FROM THE PREVIOUS MEETING CONT.

Richard P. Schindelar/Winding Brook Village – LUB 06-12 – Block 8, Lot 2 & Block 9, Lots 2 & 3 – County Route 565, Armstrong Tract & Fenwick Road – “D” Variance cont.:

Mr. Clark summarized the application to the board. This is an application for a “D” Variance and it is a bi-fricated application, the site plan aspect will come at a later time. There are 2 “D” Variance requests, one is for density and one is for housing types and also housing types located in the commercial zone. The applicant has shown that there is no hardship for the applicant. The applicant can develop the property in a traditional way in the current zoning. The special reasons are whether the property will be particularly suitable for the proposed development; which the applicant has indicated that this would be a nice connection to the Town Center.

A Motion as made by Mr. Risdon and seconded by Mr. Zappile to approve the 2 variances requested by the applicant for the density and the housing type and the housing type in the commercial zone. Roll Call:

- YES: 3 Zappile, Larson, Smolen
- NO: 4 Ayers, Risdon, Gstattenbauer, Romania
- ABSTAIN: 0

The Motion was denied.

Richard Cangialsoi – LUB 06-16 – Block 88, Lot 1 – 76 East Shore Culver Road – “C” & “D” Variance:

A Letter was received from the applicant’s attorney to carry this application without further notice to the January 17, 2007 regular meeting of the Land Use Board. A Motion was made by Mr. Ayers and seconded by Mr. Larson to carry this application without further notice to the January 17, 2007 regular meeting of the Land Use Board. All were in favor. The Motion was carried.

Branchville Manor Holding Company, LLC (Formerly Heritage Manor) – LUB 06-21 - Block 48.02, Lots 4.02 & 4.06 – 3 Phillips Road – Final Major Site Plan:

A Letter was received from the applicant’s attorney to carry this application without further notice to the January 17, 2007 regular meeting of the Land Use Board. A Motion was made by Mr. Dolan and seconded by Mr. Ayers to carry this application without further notice to the January 17, 2007 regular meeting of the Land Use Board. All were in favor. The Motion was carried.

NEW APPLICATIONS

Timothy & Anne Keller – LUB-06-22 – Block 104, Lot 5 – 11 Nook Lane, Culver Road – “C” & “D” Variance:

Appearing before the board was the applicant, Anne Keller, and her attorney, Stuart R. Koenig. Mrs. Keller was sworn in by the board attorney.

Mr. Clark indicated that by Mr. Pellow’s report dated December 5, 2006 the application is complete. Mr. Clark indicated that the legal notice was sufficient.

A Motion was made by Mr. Risdon and seconded by Mr. Gstattenbauer to deem this application complete. All were in favor. The Motion was carried.

NEW APPLICATIONS CONT.

Timothy & Anne Keller – LUB-06-22 – Block 104, Lot 5 – 11 Nook Lane, Culver Road – “C” & “D” Variance cont.:

Mr. Koenig indicated that this was an application for a “D” & “C” Variance. The “D” Variance is a Floor Area Ratio Variance. The applicant submitted a survey to the board with the application packet. The survey was last revised December 1, 2006 addressing the items of the incompleteness of Mr. Pellow’s report dated November 27, 2006. He also submitted architectural plans dated August 31, 2006 with the applicant’s packet. He indicated that the FAR Variance is from the township’s Ordinance 2005-09. The lot area of this property as shown in the survey is 7,766 square feet. The applicant indicated in their application according to the chart in the ordinance that they were in the 18% range for FAR, however, according to Mr. Pellow’s report they are actually at 17.95%. The FAR allowed is 1,394 square feet. The applicant is proposing is a ratio of .2022 or a square footage of 1,571 square feet. This indicates that the applicant is 177 square feet over the permitted number of square footage. In Mr. Pellow’s review, he took into account in his calculation a screened porch and added this to the calculation to come to a proposal of 1,640 square footage which makes the application 246 square feet over. The difference is 69 square feet which is the size of the screen porch. He indicated in review of the ordinance, there is an exclusion for screen porches if they are not enclosed by glass. Mr. Koenig further indicated that the other variance that they are seeking is a rear yard setback variance. He noted that the lot is surrounded on 3 sides by a street. The rear yard, is actually the rear of the house to East Shore Road. The township requires a rear yard setback of 50’ and the front yard is 30’. If it was a front yard, the applicant would comply. They are proposing a 4’ addition to the house which would bring the rear yard 43.9’ from the street. He noted that the other deficiencies on the property relate to the front yard requirement of 35’, which the applicant has existing 4.9’ to Nook Lane, with 1.2’ from the existing porch and 19’ from Carter Road, which is an unimproved street to the northeast. He also noted that lot depth is a pre-existing non-conformity in that the ordinance requires 150’ and this lot is approximately 97’ of depth. They do conform to side yard requirement of 15’. The applicant has a side yard setback of 36.7’, which is where the septic system is located. He noted that lot coverage is permitted to be 20% and the applicant is at 13.6% and proposing to go to 15.4%.

Mr. Koenig referred to the Randolph Town Center case, which set the standards for this type of variance which is the FAR, it was recognized that an FAR, a D-4 Variance under section 70 of the statute, that the strict requirements that you usually apply in a D Variance application when the use is not permitted, those strict standards do not apply. The standards do not apply because the use that is proposed is, in fact, a permitted use. The applicant needs to show the justification for the use, notwithstanding the deviation and what the site can reasonably accommodate. Under the statute, there are 3 types of special reasons: 1) Inherently beneficial, which does not apply to this application; 2) The classic hardship or inutility, which does not apply to this application; and 3) The promotion of the general welfare by the advancing of the purposes of the zoning act. He feels upon the testimony of the applicant, they will satisfy the third criteria. He referred to section 2a of the statute which states: Purpose of zoning being to encourage the appropriate use of the development of land. This is an appropriate use of the land. It is, in fact, a permitted use. The applicant is proposing a 4 foot addition to this home. They are retaining the existing lines to the building on the two fronts and the one side. It is the rear that the 4 foot addition is being added. The attempt is to modernize the building, to winterize it and make it all year round and add a garage. They are preserving the same number of bedrooms and to upgrade it for modern living so the owner can retire to this home.

Mr. Koenig referred to section 2c of the statute which states: To provide adequate light, air and open space. He feels through testimony the board will see that this is a

NEW APPLICATIONS CONT.

Timothy & Anne Keller – LUB-06-22 – Block 104, Lot 5 – 11 Nook Lane, Culver Road – “C” & “D” Variance cont.:

diminuous of the ordinance and what is being proposed this evening is a very low profile building in keeping with the surrounding area. It does not intrude on light, air or open space in any way.

Mr. Koenig referred to section 2i of the statute, which states: A special reason can be achieved by creating a desirable visual environment through good design and arrangement. He indicated that this is aesthetic improvement to the property in keeping with the style of the existing house and consistent with the surrounding community.

Mr. Koenig indicated that the applicant will have to satisfy the negative criteria which is that there be no substantial detriment to the public good, zone plan and zoning ordinance. He indicated that the emphasis in this section is on the word substantial because every deviation conceivably creates some detriment, the case law holds, but it is only those that are substantial that should be denied under the negative criteria. This application is a very diminuous exceedance of the ordinance. They are a factor of .03 of what the ordinance would permit. They are only adding 4' to the building, and maintaining a 1 ½ story with a low profile roof. They are trying to maintain it in keeping with the style of the lake community and the dwelling that exists.

Mr. Koenig indicated with reference to the setback, they are presenting the setback to the board under C1 Variance based on hardship or practical difficulties. Assuming the rear yard is East Shore, the applicant is moving the building 4' closer to that road. The lot depth in this zone is 150', they have approximately 97'. The applicant does meet the width requirements of this zone. It is the shape of this property that causes the hardship. It is also the location of the structure where it lawfully exists presently that creates the hardship, which is a C1a and a C1c test under the statute. He stated that the negative criteria is a diminuous exceedance of the ordinance.

Mr. Koenig submitted to the board 5 photographs of the property, which were marked “A-1” through “A-5”. Mrs. Keller indicated that her husband and herself own this property since 1967. She indicated that she has a son and daughter who live at the lake. She stated that they would like to make this property a year round house and retire there to be near her family. At the present time it is a summer home. The condition of the home is run down. They would like to winterize it, modernize it and add a garage. Mrs. Keller referred to the survey map and described the surrounding area of the property. She noted that Carter Road is a stoned road, one lane wide and is a one way road. The extension of Carter Road where there is not an extension of Nook Lane consists of woods. She referred to Exhibit “A-1” which shows Carter Road looking through the wooded area to her house. Mrs. Keller indicated that East Shore Road is to the South of the property. She described Nook Lane as a private road which is 16' wide which she maintains with the other owners on Nook Lane. She referred to Exhibit “A-2” which is looking across Nook Lane to the front of her house, which shows Nook Lane as a gravel stone road. She referred to Exhibit “A-3” which is the southwest side of the property from East Shore Road to the Lake. She referred to Exhibit “A-4” which is the other side of the house with the porch from Nook Lane and the front of the house facing Carter Road. She referred to Exhibit “A-5” which is the rear of the house from East Shore Road, which is the area they propose to expand 4' out. She indicated that the expansion is not going to go much further than the shed attachment shown in this photograph which already exists.

Mrs. Keller indicated that her dwelling is shown in close proximity to Nook Lane which has setbacks of 1.2' from the porch and 4.9' from the building. The dwelling is also 19' off of Carter Road. The existing porch is 11' of the side yard which is not shown on the survey. The rear of the house is currently setback 48' from the road.

NEW APPLICATIONS CONT.

Timothy & Anne Keller – LUB-06-22 – Block 104, Lot 5 – 11 Nook Lane, Culver Road – “C” & “D” Variance cont.:

She indicated that the survey shows an extension of the proposed building to the southeast which is approximately 4' which brings the setback to 43.9'. The garage will go into the building straight in from East Shore Road. She indicated that the septic system is located on the southwest side of the house, approximately 10' off the house. The field goes further to the southwest. She indicated that she does not have a well at the present time. The water is supplied from the lake, which is common for this area. She described the porch to the board, which is a 7' x 9' with screens.

Mrs. Keller reviewed the architectural plans with the board. She indicated that in rearranging this dwelling and adding 4', they are also adding a ½ story above the dwelling away from the lake to the rear side of the building. She indicated that they are trying to keep the 3 bedrooms and add a garage and fit it all in to what they have. By putting the garage in, it makes the first floor so that you can not have 3 bedrooms, this is the reason for the ½ story upstairs. She described where the 3 bedrooms are on the architectural plans to the board. The 3 bedrooms are on the right side of the house. In the front of the house towards the lake is a dining/living area. The kitchen is on the left side of the house. Behind the kitchen is the bathroom and laundry room, which is one room. The upstairs has 2 bedrooms and a bathroom. In essence they are going from a 3 bedroom to a 3 bedroom, and they are adding a garage. Therefore, in order to add the garage, they have to move the kitchen, the bathroom and the laundry room to the other side of the home and move the 2 bedrooms upstairs.

Mrs. Keller indicated that they are trying to keep the house appropriate with the neighborhood, which are all cottages. They have looked at the house and tried to keep the 3 bedrooms and add the garage and keep it within the required FAR, however, it was making the bedrooms 8' wide and they could not maintain 3 bedrooms on 1 floor with the garage. She indicated that they have discussed the plans with the neighbors and they are all in agreement with the plans.

Mr. Koenig indicated that they are also seeking a planning variance for Nook Lane. He indicated that the property does have frontage on an improved street, which is East Shore. However, this is considered the rear yard. He indicated that Nook Lane will not be improved. He further stated that Nook Lane is not a 2 way street. He indicated that the one street that they will be accessing with the driveway to the garage is, in fact, an improved Municipal street. Mr. Risdon indicated that he is concerned that the property has a Nook Lane Address with an East Shore entrance for 911 purposes. Mrs. Keller indicated that they were given the 11 Nook Lane address when 911 was put into affect.

Mr. Romania questioned if the ½ story that they are proposing will not impede the view of the neighbors. Mrs. Keller indicated that she spoke with the neighbors and they had no objection to this addition.

Mr. Koenig indicated that Mr. Pellow indicated in his report that a driveway permit will be required at the time of building permit application. He indicated that the applicant will comply with this request. Mr. Pellow's report also referred to a frame shed is located on Center Street, which should be removed. The applicant also agreed to this comment.

Mr. Koenig indicated that in reference to item “6” of Mr. Pellow's report, as indicated in previous testimony there is no well on this property. They obtain water from the Lake. Mr. Stoner questioned that there is a community well on Lot 4, Lot 103. Mrs. Keller indicated that there are two community wells that are not used any longer. Mr. Dolan questioned Mr. Clark that the change in the intensity of use of this house, plus the fact that it has an unimproved water supply, he questioned if this application should be made

NEW APPLICATIONS CONT.

Timothy & Anne Keller – LUB-06-22 – Block 104, Lot 5 – 11 Nook Lane, Culver Road – “C” & “D” Variance cont.:

contingent upon Board of Health approval before it goes any further. Mr. Koenig indicated that one of the submission requirements were the septic approvals for this dwelling which shows it is approved for a 3 bedroom. Mr. Stoner indicated that the board did not receive this approval, it only received a copy of the application for a 3 bedroom septic in 1968. Mr. Koenig indicated that they could not locate the actual septic approval. He indicated that the design was for a 3 bedroom. Mr. Koenig indicated that all the homes in this area are serviced by the lake for the water and some of the homes have been renovated. He indicated that if the health department has an issue with this, they will comply with them. Mr. Stoner indicated that the applicant should submit a letter from the County Health Department that there is no change in the use and they have no objections as to what is proposed. Mr. Koenig indicated he will contact the County Health Department and request this letter.

Mr. Koenig referred to paragraph “10” If the house will be totally rebuilt, it could be moved away from Nook Lane and still have room for a new drive and back-out area. Mrs. Keller indicated that they were told that they can not tear down the existing building. Their intension is to maintain the existing non-conforming walls. Mr. Koenig indicated that the applicant would like to tear the house down and move it over and build a new house the same size, however, the reality is that this is a pre-existing non-conforming conditions and anything they do here because of the small building envelope would require a variance. Mr. Clark indicated that the comment came because this board has on occasion recognized the non-conformity and the limitations and the rights affected if you take the whole thing down. Mr. Koenig stated that since the building was built in the 1920’s the smarter thing would be to take the whole building down and reconstruct it. He was concerned about this about the non-conforming use. Mr. Stoner indicated that some of the variances required for re-building will be less than what the applicant is requesting. Mr. Clark indicated that the other issue the applicant has is how the County will view this application for the repair or installation of a new septic system. Mr. Koenig indicated that the new septic code may be a problem with this application with the County. It was suggested by Mr. Clark for the applicant to reconstruct the house more centered on the lot with approximately the same size with consideration for the FAR and the applicant would contact the County and see how the County would treat the septic system. The board and the applicant agreed with Mr. Clark’s suggestion. Mr. Koenig indicated that if this application would trigger a new septic, the applicant would not want to take this option. A lengthy discussion was held with regard to this matter. Mr. Koenig indicated that the applicant would prefer to continue this evening with the proposal that is before the board. However, they will explore with the County and if the County would say yes they can rebuild this, your septic is okay, they may come back to the board and they would like an amendment to the application.

Mr. Clark questioned the applicant about the porch that is so close to Nook Lane, can this be revised somewhat or can there be a different addition or configuration on the house as shown to eliminate this. Mr. Gstattenbauer and Mr. Romania indicated that this configuration is common to the neighborhood. Mr. Koenig stated that the front door actually goes into the side of the porch as you look at the front of the house. The steps go up the front of the house into the porch and you turn the corner and go into the house. Mr. Stoner questioned if the front porch could be pulled back even with the front of the house where it jogs out 4’ and make that flush. Mr. Risdon questioned if they could locate the porch on the right side of the house were the parking area is. Mr. Koenig indicated that would require the front door to be relocated. Mr. Koenig indicated that they could redesign this and move the porch back, however, the board would have to give the applicant the variance to do that because it is in the setback area. Mr. Romania indicated that the porch could be flush with the front of the house and moving the steps

NEW APPLICATIONS CONT.

Timothy & Anne Keller – LUB-06-22 – Block 104, Lot 5 – 11 Nook Lane, Culver Road – “C” & “D” Variance cont.:

on the backside toward the driveway. Therefore, you are not promoting using the gravel area on the road. Mr. Koenig stated that there is a small deck off the front of the house towards Carter Road. The applicant could conceivably slide the porch back flush with the building line, eliminate the steps in the front and extend the porch deck so you have an entrance to the building.

A Motion was made by Mr. Risdon and seconded by Mr. Smolen to open this matter to the public. All were in favor. The Motion was carried.

There was no public participation.

A Motion was made by Mr. Risdon and seconded by Mr. Smolen to close this matter to the public. All were in favor. The Motion was carried.

Mr. Clark summarized that this is an application for a FAR variance with the percentages as described in Mr. Pellow’s report and by the applicant. In addition there is a request for a C1 hardship variance for East Shore Road because of the size and shape of the lot. There also would be a “C” Variance for the porch in the rear to be moved back so that the porch is flush with the Nook Lane side of the structure and that the steps would come from the East Shore side of that structure. The screen porch would be on the same square footage as what is shown on this plan. There may also be some vertical variances, in other words, some of the non-conformity is exceeded by some of the change in the plans. This application would be subject to the conditions of moving the shed, review with the board of health as to a letter that the septic system is sufficient for the property. To an extent a planning variance may be needed, however, the access is supplied on East Shore Road and he feels that takes care of this issue. The applicant is required to obtain a driveway permit. If the applicant chooses to move the house, based upon the review of the County Health Department of the septic, the applicant would have to return to the board for an amended application.

A Motion was made by Mr. Risdon and seconded by Mr. Gstattenbauer to approve the “D” Variance (FAR) requested by the applicant. Roll Call:

YES: 7 Ayers, Risdon, Zappile, Gstattenbauer, Larson, Romania, Smolen

NO: 0

ABSTAIN: 0

The Motion was carried.

A Motion was made by Mr. Risdon and seconded by Mr. Gstattenbauer to approve the “C” Variance request and conditions as outlined in Mr. Clark’s summary. Roll Call:

YES: 8 Ayers, Risdon, Zappile, Gstattenbauer, Larson, Romania, Smolen, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

NEW APPLICATIONS CONT.

Christopher & Christine Carney – LUB 06-23 – Block 176, Lot 1 – 9 Hemlock – “C”
Variance & Private Road Variance:

Mr. Larson stepped down from this application.

Appearing before the board was Christopher Carney, his attorney, Keith Hyché, and his engineer, Jeff Careaga. Mr. Carney and Mr. Careaga were sworn in by the board attorney. Mr. Careaga gave his qualifications to the board and was accepted as an expert witness.

Mr. Stoner reviewed Mr. Pellow’s report dated November 27, 2006 and revised December 18, 2006 for completeness.

The application can be deemed complete if the following items from the Checklist are considered a condition of completeness:

“Item 7”: Compliance with legal notice requirements. Mr. Clark indicated that the notice was sufficient.

“Item 9”: Listing of all variances, design standards and checklist waivers. Wrong requirements were used and there should be a revised map. Mr. Stoner indicated that since the dwelling can not be constructed inside the building setbacks for the 1 acre zoning, the property has to be in accordance with the 5 acre zoning. The applicant agreed to submit the corrections.

“Item 15”: Copy of Sussex County Health Department application. A Permit has been submitted.

“Item 20”: Record owner’ name and address. The application has a different address for the owner than the variance map. Mr. Carney indicated that the plans are correct because he has moved. He agreed to change the application.

“Item 21”: Applicant’s name, address, phone number and fax number. The application has a different address for the owner than the variance map. Mr. Carney indicated that the plans are correct because he has moved. He agreed to change the application.

“Item 26”: Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area, ratio, parking. Variance map to be revised because application used incorrect zoning requirements. The applicant agreed to revise the map.

“Item 42”: Building envelope. This should be revised to current ordinance regulations. The applicant agreed to revise the map.

“Item 55”: Sight triangle, drainage, utility, driveway and other easements. Sight easement at the intersection of Hemlock and Forrest to be shown for future work on these two streets. It has been shown and will be deeded to the Township.

“Item 75”: Building floor plan, elevation views and first floor elevation with overall building height. Only the first floor plans were submitted. It was noted by Mr. Stoner that the second floor plans were submitted.

A Motion was made by Mr. Gstatenbauer and seconded by Mr. Risdon to deem the application complete with the condition that the application modify the plan with the correct zoning chart and addresses. All were in favor. The Motion was carried.

NEW APPLICATIONS CONT.

Christopher & Christine Carney – LUB 06-23 – Block 176, Lot 1 – 9 Hemlock – “C” Variance & Private Road Variance cont.:

Mr. Hyche indicated that this is an application for “C” Variances for setbacks and a Planning Variance for construction of a home on an unimproved road.

Mr. Careaga indicated that this particular lot is a large lot for the area. The actual size of the lot is 2.12 acres. This is a proposal for construction of a 4 bedroom home. It has a street address on Hemlock Street, but they are proposing the driveway to come off of Forrest Street, since Hemlock Street is not improved at this point in time. The majority of the neighboring lots are a lot smaller than the subject lot. There is a mixture of different house sizes. They proposing an approximate 3200 square foot home. There is another 3200 square foot home next door to this property on Hemlock Street. The rest of the surrounding houses are smaller lake-type houses. There is a pre-existing setback in the area. The front yard setbacks for the surrounding houses directly adjacent to this property and across the street range from 25’ to 35’. The applicant is proposing a front yard setback variance of 43.46’ which is further back than the neighboring houses in the area. The site presently is wooded. He indicated that he has previously done soil logs at various locations on this property. They did find a seasonal high water table on the entire lot. Typical DEP standards for septic system construction is the seasonal high water table should not be any higher than 2’ to the surface of the ground for local health department approval. The DEP does regularly grant approvals for septic systems with higher water tables than 2’. This project they did do the soil logs recently. The soil was very good sandy soil down deeper, but the water is essentially trapped in the top. They applied to the DEP and received approval for the treatment works a number of months ago. They did apply to the Sussex County Health Department prior to the DEP and they obtained their comments and addressed them. The applicant has also obtained Sussex County Health Department approval. He stated that in order to maintain adequate treatment of the waste water so that it is treated properly before it gets to the high water table, the mound is a little bit higher than you would see for a septic system that meets code. If the water table was at 24’, you would have a mound out of the ground about 5 ½ to 6’. The applicant’s mound is actually 6.2’ above the existing ground level at the low side of the bed.

Mr. Hyche questioned Mr. Careaga to the planning variance and if there is adequate access to this property for emergency vehicles. Mr. Careaga indicated that the existing paved surface of Forrest Street is approximately 15’ to 16’ wide. There is an existing gravel turn around area at the end of the street at Hemlock and Forrest.

Mr. Hyche questioned Mr. Careaga if there are unique features of this lot which create hardships. Mr. Careaga indicated that the only hardship that they have is the building envelope, having to conform to the 5 acre zone setbacks. Due to the specific shape of the lot, there is no way to put a reasonable sized dwelling within the lot setbacks.

Mr. Hyche questioned Mr. Careaga by this proposal is there any substantial detriment to the public good, the zone plan or the zoning ordinance. Mr. Careaga indicated that there was no detriment to the public. He indicated that they are maintaining a wooded buffer around the septic mound. The limit of grading for the septic system is approximately 20’ from the front property line. There is a very large distance between the septic system and the closest house on Lot 3, which is adjacent to this lot.

Mr. Stoner continued to reviewed Mr. Pellow’s report:

Paragraph “3”: Driveway permit will be needed at the time of building permit application. Drive to be paved at least 50 feet. The applicant agreed.

NEW APPLICATIONS CONT.

Christopher & Christine Carney – LUB 06-23 – Block 176, Lot 1 – 9 Hemlock – “C” Variance & Private Road Variance cont.:

Paragraph “4”: The lot is very stony and has poor soil. Need to see soil logs and why the DEP granted a treatment works permit. With a 7 ft. mounded septic system, I surmise there is a very high water table in this area. Soil logs have been shown, and the water table is very high. Mr. Stoner indicated that previous testimony has been given on this matter.

Paragraph “5”: The applicant to grant the Township the right to drain runoff from Forrest Street and Hemlock Street onto Lot 1, Block 176 so there will not be a problem in the future-it is a private road. Mr. Clark to comment. Mr. Clark questioned Mr. Stoner where would the drainage be. Mr. Stoner indicated that the issue is if Hemlock Street or Grove Street were ever improved, if there was direct runoff from either of those roadways it would not go down onto the property. Mr. Clark indicated that the applicant should give easements to the township to allow the municipality to have the natural water from the roadway to drain from either Hemlock Street or Forrest Street onto this property. The applicant agreed to comply with this request.

Paragraph “6”: I do not understand the drive configuration at the house, as there are no house plans. Mr. Carney indicated that the garage is on the Grove Street side of the property. He noted that Forrest Street will be the primary access to the property. Mr. Careaga indicated that coming up the driveway there is a circular turn around and there is a side entrance garage with the garage entrance 2’ below the first floor. This is a typical colonial arrangement with a couple steps up from the garage to the house. Mr. Careaga indicated that the driveway turn around looks a little small on this plan; it will be bigger when they prepare the driveway permit.

Paragraph “7”: the application states the lot is located on 9 Hemlock Street. I believe the address should be from Forrest as Hemlock does not exist in this area. Mr. Carney indicated that his deed states this. He will apply to the Tax Assessor to change this. Mr. Clark indicated that the applicant should show proof of change to board. Mr. Carney agreed.

Paragraph “8”: Who plows and maintains Forrest Street? How do they turn around? Mr. Risdon indicated that the township plows the road and they have to do a K-turn to turn the truck around.

Paragraph “9”: Where will the well be located? Mr. Careaga indicated behind the house in extension of where the turn around is for the garage, 100’ from the septic and 20’ off the house. It will meet all requirements. Mr. Careaga indicated that they will show the location of the well on the revised grading plan.

Paragraph “10”: This is an irregular-shaped lot, and it should not be subdivided in the future. Mr. Carney agreed. His attorney will prepare a deed with a restriction to this condition.

Mr. Smolen questioned the applicant, if he is accessing the house by Forrest Street, the front of the house is Forrest. Mr. Carney indicated that the front of the house will face Hemlock Street. Mr. Smolen indicated that it does not matter where the house faces, the front setback is where the driveway access is. Mr. Carney indicated that this property is surrounded by 3 other roads, which all must have a front yard setbacks based on information received from Mr. Pellow. Mr. Stoner indicated that the most conservative route is to assume that he has a front yard on each side. If Mr. Smolen is stating that Grove Street should be a side yard, then the applicant would not need a variance. Mr.

NEW APPLICATIONS CONT.

Christopher & Christine Carney – LUB 06-23 – Block 176, Lot 1 – 9 Hemlock – “C” Variance & Private Road Variance cont.:

Smolen indicated that then the applicant would meet his front and side setbacks and he would be very close to the rear setback requirement. He feels if he moves the house forward a little, he would not need any setback variances.

Mr. Risdon questioned if the lots adjacent to this lot were vacant and if they are available for sale to make this lot a conforming lot and also this may be higher ground for the septic. Mr. Carney indicated that there are 2 lots across the street from Hemlock, which are owned by his neighbor. He further stated that there is 17 acres behind him, which are pretty much all wetlands. Mr. Hyche indicated that Hemlock Street is a dedicated street in the township and the township committee would have to vacate it in order to combine the 2 lots and the applicant’s lot. Mr. Risdon felt that he may be able to put the septic on this lot which is on higher ground. Mr. Clark indicated that this is true, but it would not make it a conforming lot for the 5 acres because it has an intervening street. Mr. Clark further stated that the applicant does have a permit. The other cases before the board that put septic across the street, they could not obtain a permit for a septic system.

A Motion was made by Mr. Risdon and seconded by Mr. Smolen to open this matter to the public. All were in favor. The Motion was carried.

There was no public participation.

A Motion was made by Mr. Gstattenbauer and seconded by Mr. Smolen to close this matter to the public. All were in favor. The Motion was carried.

Mr. Clark indicated that he reviewed the corner lot ordinance. He stated that it does not matter which way the house is facing, the ordinance states that the narrowest side is the front yard. Therefore, Forrest Street is the front and, therefore, the board should apply the setbacks as to Forrest Street being the front. The applicant will only need a rear setback variance and a planning variance. Hemlock will be the side yard.

Mr. Clark summarized the application. He indicated that this is an application for a “C” Variance which he believes would be a C2 Variance to have the house located in the proposed location. He indicated that arguably it is a hardship variance because of the septic. It is a better planning alternative on this lot considering the irregular shape of the lot. As to the Planning Variance there was testimony that there is suitable access to get to this property. This is also an undersized lot, because it does not meet the 5 acre zoning. A driveway permit, and drainage, the applicant will allow drainage from Hemlock, Forrest and Grove street, if needed, by the Township. The applicant to make the changes to the map for completeness. The applicant to show a viable turn around area in front of the house in the area of the driveway. The applicant will have a COAH obligation pursuant to the township ordinances. The front yard is Forrest Street and the applicant will have to change the 911 application to do this. The applicant will have to show the well on the revised plan. The applicant agrees to no further subdivision of this lot as a condition.

A Motion was made by Mr. Ayers and seconded by Mr. Smolen to approve the variance requested and conditions as stated in Mr. Clark’s summary. Roll Call:

YES:	6	Ayers, Zappile, Gstattenbauer, Romania, Smolen, Dolan
NO:	1	Risdon
ABSTAIN:	0	

The Motion was carried.

RESOLUTIONS

Alexander Loy – LUB 04-36 – Block 57, Lot 6.04 – 568 Kemah Lake Road – “C” Variance Revision:

The Resolution was reviewed. A Motion was made by Mr. Zappile and seconded by Mr. Gstattenbauer to approve the Resolution for Alexander Loy for a “C” Variance Revision to the Resolution. Roll Call:

YES: 3 Zappile, Gstattenbauer, Romania

NO: 0

ABSTAIN: 0

The Motion was carried.

Rainbows of Learning – LUB 02-28 – Block 11, Lot 13.08 – Preliminary & Final Major Site Plan Extension:

The Resolution was reviewed. A Motion was made by Mr. Zappile and seconded by Mr. Gstattenbauer to approve the Resolution for Rainbows of Learning for an Extension of the Preliminary & Final Major Site Plan. Roll Call:

YES: 5 Risdon, Zappile, Gstattenbauer, Romania, Smolen

NO: 0

ABSTAIN: 0

The Motion was carried.

Lois A. Pellow – LUB 00-14 -Block 39, Lot 10.02 – Minor Subdivision – Resolution to Amend Condition of Approval:

The Resolution was reviewed. A Motion was made by Mr. Zappile and seconded by Mr. Risdon to approve the Resolution for Lois A. Pellow for an Amendment to a Condition of approval. Roll Call:

YES: 5 Risdon, Zappile, Gstattenbauer, Romania, Smolen

NO: 0

ABSTAIN: 0

The Motion was carried.

Dorothea O.C. Wefing – LUB 06-19 – Block 174, Lot 3 & Block 173, Lot 1.01 – 31 Lake View Point Avenue – “C” & “D” Variance:

Mr. Clark indicated that the board approved this Resolution at the last meeting. However, after reviewing the minutes, they added a footnote on page “5” of the Resolution stating: “The Resolution will be adopted to reflect that the proposed new dwelling will utilize the footprint dimensions of the existing dwelling in the minutes from the October 25, 2006 meeting confirm the increase in side yard setback as an additional reason for the granting variance. He further stated that everything else in the Resolution is exactly the same.

RESOLUTIONS CONT.

Dorothea O.C. Wefing – LUB 06-19 – Block 174, Lot 3 & Block 173, Lot 1.01 – 31 Lake View Point Avenue – “C” & “D” Variance cont.:

The Resolution was reviewed. A Motion was made by Mr. Gstattenbauer and seconded by Mr. Ayers to approve the Resolution for Dorothea O.C. Wefing for a “C” & “D” Variance with a correction to previous Resolution. Roll Call:

YES: 4 Ayers, Zappile, Gstattenbauer, Smolen

NO: 0

ABSTAIN: 0

The Motion was carried.

BOARD BUSINESS

Return of Escrows:

A letter was received from an applicant, Christos Tsilios – LUB 06-03 – Block 11, Lot 13.01 – Amended Site Plan, for return of his escrow money in the amount of \$666.55. Mr. Tsilios indicated he would be withdrawing the application. A Motion was made by Mr. Ayers and seconded by Mr. Zappile to return the balance escrow monies to Mr. Tsilios. Roll Call:

YES: 7 Ayers, Risdon, Zappile, Gstattenbauer, Romania, Smolen, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

Correspondence:

The correspondence was reviewed. No formal action was taken.

Invoices:

A Motion was made by Mr. Ayers and seconded by Mr. Dolan to approve the December, 2006 Invoices on the Bill list attached hereto and made a part hereof. Roll Call:

YES: 7 Ayers, Risdon, Zappile, Gstattenbauer, Romania, Smolen, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried

Attorney and Engineering Services for 2007:

Mr. Romania noted to the board that the board should advertise for the position of board engineer and attorney for the year 2007 and ask the current board engineer and attorney to submit resumes to re-qualify. He further stated that this is not a statement as to

BOARD BUSINESS

Attorney and Engineering Services for 2007:

whether the township is dissatisfied or satisfied, it is just something periodically the township should do.

A Motion was made by Mr. Ayers and seconded by Mr. Risdon to have the current board professionals re-submit to the board their qualifications and fees and advertise for the position. All were in favor. The Motion was carried.

Route 565 Zoning:

A Motion was made by Mr. Zappile and seconded by Mr. Gstattenbauer to authorize the board attorney and engineer and the ability to consult Mr. Troast if required to draft an Ordinance for a zoning amendment for Route 565 from Commercial to Agricultural Commercial. All were in favor. The Motion was carried.

General Ordinance Review:

This matter would be carried to the next regular meeting of the Land Use Board.

ADJOURN:

A Motion was made by Mr. Zappile and seconded by Mr. Ayers to adjourn the meeting. All were in favor. The Motion was carried.

Respectfully submitted,

SHARON M. YAROSZ
Land Use Administrator