

**WALL TOWNSHIP PLANNING BOARD  
MINUTES - REGULAR MEETING  
MUNICIPAL MEETING ROOM  
MAY 4, 2009**

Chairman Aromando called to order the regular meeting of the Wall Township Planning Board at 7:40 P.M. Members present were Ralph Addonizio, Laurie Aromando, second alternate George Bednarski, Michael Clayton, Timothy Clayton, first alternate Kristin Coman, Dominick DiRocco, Mary Hearn, Todd Luttmann, George Newberry, Attorney Hirsch, Engineer Dahms, Planner Bergailo, Planning Board Secretary Lang, Planning Board Recording Secretary Schinestuhl and Court Reporter Arnone. Mr. Farrell was not in attendance.

Chairwoman Aromando announced the meeting was being held in accordance with the "Sunshine Law" and a resolution adopted on January 12, 2009.

**SALUTE TO THE FLAG**

Chairwoman Aromando announced we have three applications before us, Scharfenberg, Metrovation and Ocean Ventures. We have a tight schedule so we are sticking to our 50 minute rule.

**CARRIED APPLICATION**

**SCHARFENBERG - #PB-9-2007** – 1617 Twin Lakes Drive, Block 876, Lot 18, R-20 zone. Application complete: May 13, 2007. Carried from July 9, 2007, October 1, 2007, December 3, 2007, February 5, 2008, May 5, 2008, June 16, 2008, July 21, 2008, October 6, 2008, December 1, 2008 and January 26, 2009. The applicant proposes to subdivide property. Minor with variances.

Jurisdiction was previously accepted.

Chairwoman Aromando said everyone was previously sworn in.

Attorney Pepe said Mr. Thomas is stating this is a major sub-division not a minor. Mr. Thomas said correct. Attorney Pepe said the reason is because there was a previous subdivision. Mr. Thomas said correct. Attorney Pepe asked what land exists today that was not subdivided previously. Mr. Thomas said back to 1620 all land was subdivided. Attorney Pepe said if we took that literally all land was previously subdivided. Mr. Thomas said, in his opinion, under the Wall Township ordinance this would constitute a major subdivision. Attorney Pepe asked what part of the ordinance. Mr. Thomas said the MLU section.

Attorney Pepe said you are a planner. Mr. Thomas said yes. Attorney Pepe asked did you ever look up what constitutes a flag lot. Mr. Thomas said there is a definition in Wall Township. Attorney Pepe said this definition indicates that a flag lot not meeting the minimum frontage and which lot has access to a public road, etc. Mr. Thomas said it is different.

Attorney Pepe said in Ms. Bergailo's report she said under the definition any lot that does not meet on an approved street would be a flag lot. Mr. Thomas said yes. Attorney Pepe said in Wall Township if it does not front on a street the bulk requirements are different. Mr. Thomas said yes.

Attorney Pepe said under MLUL bulk requirements do not change if not on a through street. Mr. Thomas said he doesn't know. Attorney Pepe provided him with a copy in the Cox' book. Attorney Pepe read the section for the Board. It is section 26. Attorney Pepe said MLUL does not change the bulk requirements if a lot does not front on an approved street. Mr. Thomas said you have the definition for a flag lot. The fact is it is not permitted in the zone. Look at that section of the ordinance. Attorney Pepe said in the definition of a flag lot it changes the bulk requirements for that zone. That is not in the MLUL. Mr. Thomas said that is correct. Mr. Liston said does the MLUL in the definition section have a definition for flag lots. Mr. Thomas said no.

Mr. Liston said while the section Attorney Pepe referred to refers to all lots that do not abut a public street are not all flag lots. Mr. Thomas said that is correct.

Attorney Pepe said under the flag lot ordinance any lot that does not front on an approved street is a flag lot. Mr. Thomas said you can have lots that are landlocked. You have now created a flag lot within a flag lot. The main lot is a flag lot. Attorney Pepe said it was made landlocked by the town. They vacated the street in front of it. Mr. Thomas said there must have been a reason why they vacated it. Attorney Pepe said the town created the landlocked piece of property.

Beverly Ginglin, 2518 River Road, asked do you know when River Road was vacated. Mr. Thomas said he doesn't know. Chairwoman Aromando said it was approximately 2001 when the subdivision with Twin Lakes Drive was done.

Ms. Ginglin asked when the applicant purchased the property. Mr. Thomas said he has no idea. It was May 2001 when the minor subdivision occurred.

Ms. Ginglin was sworn in. Ms. Ginglin said when did you purchase the property. Mr. Scharfenberg said in 2006. Ms. Ginglin said the road was vacated in 01. Mr. Scharfenberg said yes. Ms. Ginglin said it was vacated five years before. Attorney Pepe objected.

Randy Mitch, 2513 Ramshorn Drive, was sworn. Mr. Mitch said he came up with a brief outline. He asked if he can present that to the Board. Attorney Hirsch said your testimony is what you place under oath.

Mr. Mitch said there has been lots of discussion about lot 18. In 2006 he applied to build a house on lot 20. He said he submitted the application to build a new home. When submitted it came back that my property was a flag lot. He said he went in and spoke with Mr. Hoffmann and asked him about the other lots along Twin Lakes Drive. They were not proposed the same restrictions. They were approved in 2001 and were given an extension so they did not have to

meet the flag lot definition. Mr. Hoffmann told me that all of the lots along Twin Lakes Drive are flag lots. He said I had to adhere to the flag lot definition. The flag lot definition does require three times the lot size and that would be 90,000 s.f. A lot of this site is lake. There really is no hardship with respect to that. He said his property is next to lot 18. He said Mr. Otteau did not include his property in his list. This will have a significant effect on my property. This is putting someone's front yard in my back yard.

Mr. Mitch said in this case the emergency vehicles need to turn around. This subdivision creates a fire hazard for the surrounding properties. When he came for his approval he needed an LOI from DEP. It was in February 2008. He has his letter from DEP. He said he would like it put into evidence. Attorney Middleton said we have a determination from DEP that there are no wetlands on this lot. Mr. Dahms said it is State Open Waters no buffer is required. Attorney Hirsch said we will take it into evidence but we have to go with the DEP letter for this property.

Entered into evidence:

OM-1 Randy Mitch's letter from DEP dated September 25, 2007 signed by Dave Fanz

Attorney Hirsch said the letter refers to the on site inspection and that the wetlands and water as shown on the map is 1607 Twin Lakes Drive. There is no reference to lot 18 in the letter.

Mr. Mitch said in summary I would like to say I have a flag lot and I met the requirements of a flag lot. He said by allowing this subdivision to go through it would negatively impact my property. He said he thinks it will violate all of the flag lot regulations. It is no benefit to the community.

Attorney Pepe said you own lot 20. Mr. Mitch said yes.

Attorney Pepe said in 1984 did you own lot 24. Mr. Mitch said yes. Attorney Pepe said you owned the entire parcel. Mr. Mitch said yes.

Attorney Pepe said you had a subdivision and created a flag lot. Mr. Mitch said yes. Attorney Steinberg said you created a staff which you own and you still own the property in front. Mr. Mitch said correct. Attorney Steinberg said you created the flag lot. Mr. Mitch said correct.

Attorney Steinberg said he has a photo of Mr. Mitch's property before he built his house. Attorney Hirsch said you took the photo. Mr. Scharfenberg said he did.

Entered into evidence:

A-40 Photo of Randy Mitch's property taken February 23, 2008

Attorney Steinberg said do you recognize this. Mr. Mitch said yes. Attorney Steinberg said you had taken down all the trees in that area. Mr. Mitch said no he took some of them down because he had to have the house 80' away because it was a flag lot. I had to move the house because it

needed an 80' setback. He said all he is asking is that everyone adhere to the requirements.

Attorney Hirsch asked you created that as part of a subdivision. How many lots? Mr. Mitch said two. Attorney Hirsch asked if he applied for any variances. Mr. Mitch said no. Attorney Hirsch said it has no frontage. Mr. Mitch explained it has 25'. Lot 20 was the original lot and lot 24 was a fully conforming lot.

Attorney Steinberg, using PB-30, said in your opinion the Fire Marshall is wrong and you are saying it is not safe. Mr. Mitch said this does create a hazard to my property if there is a fire.

Mayor Clayton said you said in 1984 you subdivided your parcel and created lot 24. Were you before this Board? Mr. Mitch said he was before the Board of Adjustment in 2007. He explained the flag lot requirement was that my setback was 80'. The original house was 40' away. He said he needed a variance because it was not 80' it was 50'. Mayor Clayton asked you did not go for any further subdivisions. Mr. Mitch said correct. Mayor Clayton said you never owned L-18. Mr. Mitch said no.

Beverly Ginglin was sworn. Ms. Ginglin said she has photos of her property line and the proposed.

Entered into evidence:

OG-2 Photos of the end of River Road

Ms. Ginglin, using OG-2, showed the Board where the proposed driveway will be. There are some trees at the end of the ravine. Ms. Ginglin read a statement. She said this is an existing flag lot. There are multiple variances needed. This is an environmentally sensitive piece of property. There are reasons why there are rules, laws and codes. She asked the Board to deny the application.

Attorney Steinberg said you said this will be irregularly shaped. Ms. Ginglin said yes. Attorney Steinberg said this is bisected by a lake. Ms. Ginglin agreed. Attorney Steinberg said you indicated that you had fire and safety issues. You heard testimony from the Fire Marshall. Ms. Ginglin said yes and she also read some of the report herself.

Attorney Steinberg said you said you are also concerned about the wildlife. Mr. Ginglin said yes. Attorney Steinberg said we have several letters indicating there is no threat to endangered species, etc. He said the Department of Interior said there are no endangered species. Ms. Ginglin said she did not see that. There are quite a few species living there. I can't see how they can put a driveway in and not bother them in some way. Attorney Steinberg said we would have to abide by the town rules for safety measures.

Mr. Addonizio, to Mr. Mitch, said you have a letter from DEP and they said there were wetlands. What map did you submit to them? Mr. Mitch said due to the concern the town had with my development near the lake they asked that I get an LOI. I hired an engineer to go down there

because you can tell wetlands by the growth around it. He submitted it to DEP. They sent out an inspector. Mr. Addonizio said when you submitted your map to DEP did they not take that into consideration. Attorney Pepe said they did an inspection on the property. When they did the letter for Mr. Mitch they only referred to his property. They did not refer to our property when they did it. When they did our property they did not refer to Mr. Mitch's property. My survey states there are no wetlands on lot 18.

Chairwoman Aromando said they are referring to the lake. The DEP letter states it is not wetlands but State Open Water. Mr. Dahms looked at Mr. Mitch's map and letter from DEP. The map shows Mr. Mitch's lot 20. The only wetlands shown on this map are on lot 20. There are no wetlands on lot 18. The wetlands shown have a 50' buffer. The letter that was obtained by Mr. Scharfenberg shows the same lake and DEP states it is State Open Waters. There are some conflicts. The letter for lot 20 is dated September 25, 2007 and Mr. Scharfenberg's letter is dated March 26, 2008.

Attorney Pepe said the latest determination by DEP states there are no wetlands on the property.

Chairwoman Aromando said this application will be carried to July 13, 2009. No new notice is required.

Attorney Pepe waived the time limits.

**METROVATION TERRANOMICS – PB#14-2007** – 2150 & 2157 Highway 36, Block 276, Lot 20 & Block 263, Lot 5. Application complete: August 8, 2007. Carried from October 1, 2007, November 26, 2007, January 7, 2008, February 25, 2008, April 21, 2008, June 2, 2008, September 8, 2008, November 17, 2008 and February 2, 2009. The applicant proposes to construct a traffic signal and associated parking lot/driveway improvements. Site with variances.

Timothy B. Middleton, Esq. appeared for the applicant.

Attorney Hirsch stated there was re-notice on this. He reviewed the file and stated the Board had jurisdiction to proceed.

Attorney Middleton said this is our third meeting. We heard testimony from Mr. Kenderian and Mr. Troutman. The applicant is proposing a traffic light between Brook 35 East and West. Testimony provided the reasoning for the request for the traffic light, safety issues. The light itself is a jurisdiction issue controlled by NJDOT. The reason is we are seeking some site modifications. We do require approval from the Planning Board. One of the owners is here. He is here to explain why they want to place a traffic light.

Sworn by Reporter Arnone:

Chris Cole  
D. Troutman  
R. Kenderian

Entered into evidence:

A-14 Photos of bike rack

A-15 Pedestrian crossing on 35

Mr. Cole explained he is part owner of Brook 35.

Attorney Middleton asked how long has your company owned Brook 35. Mr. Cole said since September 1996.

Attorney Middleton asked you also own the property at Brook 35W. Mr. Cole said yes.

Attorney Middleton asked Mr. Cole to describe the site. Mr. Cole said about three years ago we tore down the old motel and put another shopping center there. We designed it so both centers worked together.

Attorney Middleton said you own several shopping centers in the area and on the west coast. Mr. Cole said yes.

Attorney Middleton said the last three years you were very concerned about the safety of pedestrian's ingress and egress on 35. Mr. Cole said it started right after we purchased it. People who shop at one and shop at the other can either walk or drive across. We have bike racks. The idea of these is to get people to use them. We want to create a safe environment. We put in wider sidewalks.

Attorney Middleton said the main reason for your proposal is for safety. Mr. Cole said correct. About one year after 35W was opened we saw people walking back and forth. We called Wall Police Department to help direct traffic and they told us it was a State road so we called the State Police. They would not come out there. We started to design a traffic light. We don't want anyone to get hurt. We met with Wall Police and everyone's main concern is safety. In the last two months we have taken a bunch of pictures. There are a number of people crossing 35 between the two. It is employees, it is customers. Rather than getting in a car they walk. These photos were probably taken November, December 2008 and January 2009.

Attorney Middleton said you don't have someone out there everyday. Mr. Cole said correct.

Attorney Middleton asked if there is any concern with vehicles going across from west to east. Mr. Cole said he has some concerns. He said he thinks a traffic light is necessary because they are going to continue crossing 35.

Attorney Middleton said any discussion about the number of traffic accidents. Mr. Cole said Mr. Troutman will talk about that but April 3<sup>rd</sup> was the last one. There is a lot of competition out there. We need to make it an easy environment for people to come to. We put a petition in a few stores asking if they would support our efforts for a traffic light. We counted the signatures today over the last two months 757 people signed it. We are just trying to make the centers work

better.

Attorney Middleton asked about the cost. Mr. Cole said anywhere from \$200,000 - \$400,000.

Mr. Addonizio asked when the signatures were taken. Mr. Cole said around the holidays.

Mr. Addonizio asked how many people were from Wall. Mr. Cole said based on the zip code about 80% live within five miles of the shopping center.

Mr. Addonizio asked you put those in multiple stores. Mr. Cole said yes.

Mr. Addonizio asked if some were the same signatures. Mr. Cole said he went through and there were not a lot of duplicates.

Mr. Luttmann said at our previous meetings we discussed the light being placed at the entrance of Tarpon Drive. In my opinion that would be a much more logical spot.

Mr. Addonizio said he is over there quite often both parking lots are pretty full. We are talking about losing parking spaces. How is that going to work when the operation is losing spots? Mr. Cole said the engineer can answer that. The proposal that we have the traffic light doesn't lose any spots on 35 Plaza on 35 Plaza West he thinks they will lose six or seven.

Attorney Middleton said Plaza 35 East is technically much more heavily accessed than 35 West. Mr. Cole agreed.

Mr. Addonizio said wouldn't it be better just to put up signs don't cross here instead of putting the traffic light up? Attorney Middleton asked why anyone would want to cross 35. I go there myself. Why would anyone do it? A lot of employees from Fountain 9 Mall cross 35 to get to 35 West. It is so difficult to cross in your car. It is easier to walk

Mike Driscoll represented the occupants of the Medical Building to the south of Brook 35.

Mr. Driscoll said your primary concern is for pedestrian safety. Mr. Cole said it is both pedestrian and vehicle safety.

Mr. Driscoll asked Mr. Cole to address the use of two separate shopping centers as to business purposes. Mr. Cole said it would help business if there was a traffic light.

Mr. Driscoll said is your purpose behind this to do the right thing for pedestrian and motorist? Mr. Cole said it is two fold helping pedestrians and vehicle safety. The traffic light would combine the centers together.

Mr. Driscoll asked if you were to remove pedestrian safety would your business sense be to continue installation of the traffic light. Mr. Cole said he doesn't know.

Attorney Middleton asked Jay Troutman if he was qualified as a traffic engineer. Mr. Troutman said yes.

Attorney Middleton asked Mr. Troutman to discuss moving the light to the north. Mr. Troutman said we evaluated that opening at Tarpon Drive.

Entered into evidence:

A-16 Plan for Route 35 signal

Mr. Troutman explained this shows Tarpon Drive and its relationship to Plaza 35 East and West. We had to reconfigure Plaza 35 East losing parking spaces on that site, Plaza 35 West our proposal is not to lose any spots on that site. He explained there is a driveway right across from Plaza 35 West and that is where we propose the light.

Attorney Middleton said the Board suggested moving the light to align with Tarpon Drive. Mr. Troutman said that is correct. The first problem was the loss of parking spaces on the east side. The west side has the extra parking as well as Fountain 9 Mall.

Attorney Middleton said how many would you lose? Mr. Troutman said Mr. Kenderian will testify to that. On the west side the problem has to do with getting all the traffic from the retail center to Tarpon Drive. It just will not work.

Chairwoman Aromando said the property next to Tarpon Drive you would have to close that off. Mr. Troutman said that is the Fountain 9 Mall exit.

Attorney Middleton said you can't make a left out of Tarpon Drive. We can re-locate Tarpon Drive through Fountain 9 Mall to our proposed light. Mr. Troutman said the only possible way it would work is to have some kind of connection making a right turn into Fountain 9 Mall parking lot. Chairwoman Aromando said you are willing to send the residents from Tarpon Drive to a private drive to the light. Mr. Troutman said yes it is very lot intensity. It is just an idea.

Mr. Kenderian explained if we do that we are losing 12 parking stalls on the most crowded site. He said they really do not want to close off either access point. You have circulation inside and then you have to get to one of the other access points. Now we have left turn lanes. I don't know why Tarpon Drive is not allowed a left hand turn out. We are losing parking spaces whether it's five or eleven. It is important to tie these together. You benefit less from moving it to Tarpon Drive. It doesn't make sense to have it at Tarpon Drive.

Mr. DiRocco said if 35 West is sold and becomes professional the traffic would not be the same. Mr. Troutman said it would depend on what the tenants were. It is always going to be there.

Attorney Middleton said people who use 35 West and Fountain 9 Mall would continue to walk across to get to 35 East. Mr. Troutman said yes. Attorney Middleton said you don't see that going away in the near future. Mr. Troutman said I don't see it going away at all.

Attorney Middleton said did you review any of the accident reports relating to around Plaza 35. Mr. Troutman said yes he reviewed accident reports for a five year period. We found in that period there were thirteen accidents trying to exit and not being able to enter the flow on 35. More recently, 2008, there were nine accidents out there. The first of 2009 there were five. In the last two years it has increased. Attorney Middleton asked how many in 2007. Mr. Troutman said two. Attorney Middleton asked how many in 2009. Mr. Troutman said five so far.

Mr. Addonizio asked how many of these were because people were pulling out of the shopping center. Mr. Troutman said twelve out of the thirteen. Mr. Addonizio said people making a left onto 35. Mr. Troutman said yes people trying to make a left and right out. Mr. Addonizio asked how many pedestrians have been struck. Do you have those numbers? Attorney Middleton said no one has been struck yet.

Mr. Addonizio said on any given day do you have any idea how many people cross. Mr. Cole said at least one. He said he is there only in the morning. Mr. Addonizio asked how many cars from East to West or West to East? Mr. Cole said a lot but it is not easy to get between the centers right now. Mr. Addonizio said we don't know if a traffic light will be used. Mr. Cole said it will be used.

Chairwoman Aromando said we will carry this application to July 20, 2009.

Attorney Middleton waived the time limits.

Chairwoman Aromando said no new noticing is required.

9:50 P.M. the Board recessed.

9:55 P.M. the meeting resumed.

**OCEAN VENTURES – PB#12-2007** – 2404 Allenwood-Lakewood Road, Block 976, Lots 1, 2, 4 & 5. Application complete: June 15, 2007. Carried from September 10, 2007, October 29, 2007, December 3, 2007, January 28, 2008, May 5, 2008, August 4, 2008, September 8, 2008, November 17, 2008, February 2, 2009 and March 2, 2009. Applicant requests permission to subdivide existing lots 1, 2 4 and 5 into three separate lots. Proposed lots 1.01, 1.02 and 1.04 will contain existing units and Lot 1.03 will be a new building lot. Major with variances.

Timothy B. Middleton, Esq. appeared for the applicant.

Chairwoman Aromando stated this has been carried since 2007.

Attorney Hirsch reviewed the file and stated the Board has jurisdiction to proceed.

Attorney Hirsch said the notice mentions a minor subdivision. It is being classified as a major. It is four lots. Attorney Middleton said we are going from four to four. We are changing lot lines. Attorney Hirsch said he understands it is going to be four lots. Technically it is to be a major

subdivision.

Sworn by Reporter Arnone: Anthony Graziano

Attorney Middleton said everyone else has been sworn.

Attorney Middleton reintroduced Kenneth Schlatman.

Attorney Middleton said we are here to subdivide block 976, lots 1, 2, 4 & 5 into four lots. Lot 1.01 fronts on Allenwood Lakewood Road, the others front on Herbertsville Road. The biggest issues were clearing of trees and drainage. We proposed a conservation easement along the parkway.

Entered into evidence:

A-8 Minor subdivision of tax map last revised September 2008

PB-7 Planning plan review prepared by Cheryl Bergailo dated January 9, 2009

PB-8 Engineering plan review prepared by Charles Rooney dated January 9, 2009

Mr. Schlatman said the original application was to subdivide the property. When that was presented we talked with the owner of lot 2 making an exchange of property. There would be an additional 50' rear lot area. The triangle shape of that property would be cut off and used to provide lot frontage for lot 1.01. There would be improvements to lot 2. The rear yard required setback would be brought more into conformance. Lot width required is 300' and 245' and 268' are being provided. In addition to the subdivision there would be a 50' wide tree conservation easement. The trees would be maintained in the area. That would be deed restricted. On lots 1.01, 1.02 and 1.04 the structures would remain. There would be a 20' wide conservation easement and would also be deed restricted.

Attorney Middleton said there is a 30' wide tree conservation easement along lots 1.02 and 1.01. Mr. Schlatman said correct.

Chairwoman Aromando said in the past the driveway was also being moved. Mr. Schlatman said the original goes to the Garden State Parkway. We relocated the driveway back and it is now on the east side. It meets all the setbacks.

Ms. Hearn said you are going to change that house. Mr. Schlatman said on Allenwood-Lakewood Road the house will be modified. We are taking off ½' by taking off the bay window. Ms. Hearn said it seems like a lot for just 6". Attorney Middleton said we would like to keep it. Chairwoman Aromando said we don't have a problem with that. The applicant has been working with the neighbors and the Board so there is no problem in leaving the bay window.

Anthony Graziano gave his credentials which were accepted by the Board.

Attorney Middleton asked Mr. Graziano to address if the Board can grant this without having a negative impact on the surrounding properties in the area. Mr. Graziano said he reviewed the application. He said to the north there are single family dwellings, to the south are single family dwellings and YMCA, to the east is the Garden State Parkway and to the west is Howell Township. The dwellings range from Colonials to ranches from one and one half acre to up to seven acres. Prices in the area range from \$450,000 to \$1 Million. There are 43 parcels in the area 33 were not conforming to lot width, 14 out of 43 did not conform to lot size. Block 974, Lot 2 was subdivided. Variances were granted. Homes were developed on those two lots. They sold for \$999,999 in 2006. Lot 899, Lot 6 this was actually a flag lot and two lots were created. Both lots sold for \$660,000 - \$775,000. To grant this will not create any negative impact on the surrounding properties.

Victor Furmanec gave his credentials which were accepted by the Board.

Mr. Furmanec explained with the revisions to the plans the non-conformities will be reduced. There are benefits that were generated by revising the plans. We are providing screening. The homes will fit on the lots comfortably. There will be no impact on the neighborhood. It meets the positive and negative criteria.

Chairwoman Aromando said you talked about the 50' wide tree conservation on lot 1.03 what type of trees. Mr. Furmanec said he will work with the Township Professionals. Attorney Middleton said there will be some arborvitaes.

Andrew Lebowsky said he spoke with the neighbors regarding this. He is proposing to put up some buffer along lot 1.03. He said he will put in a lower buffer so they have lower screening. We will work with the neighbors as to what type of trees.

Attorney Hirsch said a landscape plan must be filed with the Board so there is something on record.

Mr. Lebowsky said we will grade the property. We will not put any water in the line of their houses. That was also a concern of the neighbors.

Attorney Hirsch said submit a grading plan prior to construction. Mr. Lebowsky agreed.

Mayor Clayton asked about the easement along lot 1.04. Attorney Hirsch said that is just an easement. Attorney Middleton agreed.

The application was open to the public.

Dr. Lansing was sworn. Dr. Lansing said his main concern is how we make sure that the trees are not cut before construction. People come to clear the property and they take more trees down. What would prevent the next owners from cutting down more trees? Attorney Middleton said there would be a deed filed it would be recorded with Monmouth County. That would run with the land. Mayor Clayton asked if it will also be on the plans. Mr. Dahms said yes.

Dr. Lansing asked about the land that is not in the conservation easement. Attorney Middleton said it will be deed restricted. Dr. Lansing asked if there is a way of restricting the rest. Chairwoman Aromando said there is a tree conservation easement on the whole back of the lot.

Mr. Dahms asked if they are going to be held to the tree clearing that is on the plan. Attorney Middleton said yes and the 50' conservation easement will be additional plantings between 1.03 and 6.01 and 3.01. There is a proposed 20' easement between 1.01 and 1.04. The Doctor will have a 50' easement. The 30' wide conservation easement along the back will provide sufficient buffering.

Dr. Lansing said he is concerned about the cluster.

Mayor Clayton asked about the rest of the site. Chairwoman Aromando said the wooded area could we have a tree conservation easement so we know you won't remove the trees. Attorney Middleton agreed.

Mr. Dahms said in addition to the green area in the rear yard of 1.01, 1.02 and 1.03 that would be tree conservation easements. Attorney Middleton said along 1.01. Chairwoman Aromando said the setback is 20' and you are giving an additional 10'. Attorney Middleton said yes.

Chairwoman Aromando said there will be a 50' conservation easement along lot 1.03 and a 30' conservation easement along the Parkway ROW. There will also be 50' rear yard setbacks on lots 1.01, 1.02 and 1.03 which will be conservation easements. Lot 1.01 will have a 30' side yard setback on the west property line and that shall be a conservation easement.

The application was open and closed to the public.

Mr. Addonizio moved to approve the application for major subdivision subject to payment of taxes and applicable assessments. The applicant will comply with the requirements of Freehold Soil Conservation district, Monmouth County Planning Board, Monmouth County Board of Health, NJDOT and NJDEP. The applicant will comply with Wall Township Affordable Housing Trust Fund and ADA requirements. The applicant will obtain a tree removal permit. Variances are granted. The applicant shall deed restrict the 30' tree conservation easement along the Parkway ROW. The applicant shall work with Board Planner regarding type and number of plantings. The applicant will submit a landscape plan. The applicant will submit a grading plan showing no water run-off and that plan shall be filed with the township. Lots 1.01, 1.02 shall have a side yard tree conservation easement. Mr. Dahms added the grading plan will not encroach on the conservation easement. We are going to allow the front yard setback for the bay window. It will remain as is. Mayor Clayton seconded the motion, which was unanimously approved by a roll call vote. (Messrs. Addonizio, Clayton, Ms. Coman, Mr. DiRocco, Ms. Hearn, Messrs. Luttmann, Newberry and Ms. Aromando voted yes.)

Stephen Schuler, Esq. representing Guy Peterson in reference to the Vicki Karagiannis application.

Attorney Schuler presented a document to Attorney Hirsch. It is the primary election petition for Ralph Addonizio. Tim Middleton signed the petition and he was also the attorney for the applicant. This petition was submitted by Mr. Addonizio. This is a conflict of interest. This taints the application. This Board must not approve this application. He wants the application re-opened.

Attorney Hirsch said in order to re-open the record there would have to be an application to the Board so the Board can have the opportunity to respond. There has to be a motion filed. The Board would have to consider the grounds. Taking of an oath by an attorney does not create a conflict of interest. It was a notarization. It could be on any document. Attorney's can notarize. He said at this point there is no motion. This is the first he is hearing about it. This is just to memorialize the resolution. The Board is not voting to approve or disapprove.

Chairwoman Aromando said she is a notary and she notarizes documents on a daily basis. All you are doing is making sure the signaturee is saying who he is.

Mr. Addonizio said Tim Middleton did this because he was where I was. I have never used Tim Middleton as an attorney. He was just at the same place I was. There is no business relationship. We don't go out and socialize. He was there and notarized my signature.

Attorney Hirsch said even memorializing the resolution is not going to change your ability to appeal.

Attorney Schuler said he is just asking for the memorialization to be carried.

Attorney Hirsch said if they do it will not change the status of the application. The action has been taken.

**RESOLUTION TO BE MEMORIALIZED**

**VICKI KARAGIANNIS – PB#7-2008**

Block 206, Lots 7 and 8

Attorney Hirsch read the resolution of approval. Mr. DiRocco moved to adopt the resolution as read. Ms. Aromando seconded the motion, which was unanimously approved by a roll call vote. (Mr. DiRocco, Ms. Aromando, Messrs. Addonizio and Bednarski voted yes.)

There being no further business to come before the Board, a motion was made, seconded and unanimously approved to adjourn the meeting at 11:05 P.M.

Respectfully submitted,

Betty Schinestuhl  
Recording Secretary