

MINUTES

APRIL 29, 2014

BOARD OF ADJUSTMENT

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Chairman, Dr. Behr, called the meeting to order at 8:05 P.M. He then read the following statement: Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in December, 2013.

MEETING CUT-OFF

Chairman Behr read the following statement: Announcement is made that as a matter of procedure, it is the intention of the Board of Adjustment not to continue any matter past 11:00 P.M. at any Regular or Special Meeting of the Board unless a motion is passed by the members then present to extend the meeting to a later specified cut-off time.

CELL PHONES AND PAGERS

Chairman Behr read the following statement: All in attendance are requested to turn off cell phones and pagers as they interfere with the court room taping mechanism.

PLEDGE OF ALLEGIANCE

ROLL CALL

On a call of the roll the following were present:

Excused:

E. Thomas Behr, Chairman
Edwin F. Gerecht, Jr., Member
Richard Keegan, Member
Felix Ruiz, Member
Michael O'Mullan, 1st Alternate
Michael Pudlak, 2nd Alternate

Sandi Raimer, Vice Chairman
Jerry Aroneo, Member
Michael Pesce, Member

Thomas Lemanowicz, Bd. Engineer
Kevin O'Brien, Twp. Planner
Dan Bernstein, Bd. Attorney
Cyndi Kiefer, Planning & Zoning Secretary

Barry Hoffman, Bd. Attorney

X X X X X X X X X X X X

EXECUTIVE SESSION

It was determined that there was no need to hold an executive session.

APPROVAL OF MINUTES

The minutes for August 20, 2013 were approved as written on motion by Mr. Ruiz and seconded by Mr. Keegan. Chairman Behr and Mr. Gerecht abstained since they were not present at the meeting. Mr. O'Mullan and Mr. Pudlak abstained since they were not members of the Board at that time.

The minutes for March 4, 2014 were approved as written on motion by Mr. Gerecht and seconded by Mr. O'Mullan. Mr. Keegan and Mr. Ruiz abstained since they were not present at the meeting.

RESOLUTION OF MEMORIALIZATION

**JENNIFER FILO &
ESTEBAN SANTIAGO**
413 Elm Street
Block 13005 Lot 7

13-05Z
Appeal of Zoning Officer's
Determination
N.J.S.A. 40:55D-70a

Chairman Behr asked Ms. Kiefer which members were eligible to vote.

Ms. Kiefer replied that Chairman Behr, Mr. Gerecht, Mr. O'Mullan, and Mr. Pudlak were eligible.

Chairman Behr explained that the applicant had asked for a ruling on the determination by Thomas Delia, Zoning Officer, regarding the height variance, 40:55D-70a. The Board determined that, given the existing ordinance, the accuracy and appropriateness of Mr. Delia's determination was affirmed. He asked if there was any further discussion on that item.

Chairman Behr asked for a motion to adopt the Resolution of Memorialization on the issue of the Zoning Officer's determination. Mr. Gerecht moved and Mr. O'Mullan seconded the motion. A Roll Call Vote was taken. Those in Favor: Mr. Gerecht, Mr. O'Mullan, Mr. Pudlak, and Chairman Behr. Those Opposed: None. Abstentions: None. Motion was passed unanimously.

RESOLUTION OF MEMORIALIZATION

**JENNIFER FILO &
ESTEBAN SANTIAGO**
413 Elm Street
Block 13005 Lot 7

13-05Z
Appeal of Use
Variance (d-6)

Chairman Behr explained that the next item was the interpretation of height variance and the issue at hand was whether a building that met the height restriction of 35 feet but exceeded the 2.5 stories permitted in the ordinance required the expanded burden and proofs and super-majority of five (5) affirmative votes. The Board decided by a vote of 3-2 to approve to amend the current interpretation so that a building that met the 35 foot height requirement but *not* the 2.5 story requirement was to be treated as a "C" Variance.

Mr. O'Mullan moved the motion and Mr. Pudlak seconded. A Roll Call Vote was taken. Those in Favor: Mr. O'Mullan and Mr. Pudlak. Those Opposed: None. Abstentions: None. Mr. Gerecht and Chairman Behr were ineligible to vote since they had not voted in favor of the amended interpretation. Mr. Ruiz and Mr. Keegan were ineligible to vote since they were not present at that meeting. Motion was passed unanimously.

APPLICATION (cont'd.)

**JENNIFER FILO &
ESTEBAN SANTIAGO**
413 Elm Street
Block 13005 Lot 7

13-05Z
Bulk Variance
Relief frm Sec. 142.1(d&e)
Relief frm Sec. 124.14(a)

Present: Jennifer Filo/Esteban Santiago, Applicants
Steven K. Warner, Attorney for the Applicants
William Hollows, Engineer for the Applicants
Nicholas J. Ferrara, Architect for the Applicants
David Karlebach, Planner for the Applicants

Steven K. Warner, **Ventura, Miesowitz, Keough & Warner, P.C.**, 783 Springfield Avenue, Summit, New Jersey, 07901, attorney for the applicants, gave a brief overview of the application. The applicants had acquired the property from the estate of Ms. Filo's grandmother. He noted that the home had been in the family for generations and Ms. Filo wanted to continue that. The applicants wanted to renovate the old, small, two (2) bedrooms, one (1) bathroom house with a large wooden handicap ramp in the front and no garage. The renovation would create a four (4) bedroom, 2.5 bathroom residence with a one (1) car attached garage which was more akin to a typical current home. He described the lot as very narrow, very undersized, and very environmentally constrained with respect to steep slopes leading down to the rear of the property and the railroad tracks. He noted that there were nine (9) variances listed although in actuality there were only eight (8) variances that the applicants were seeking and those were all "C" Variances by virtue of the Board's interpretation of the height variance (d-6) in that the height was just under 35 feet. In his opinion, and in the planner's opinion, all of the variances were a result of the undersized nature and environmentally constrained nature of the lot. Most of them were preexisting and most of them were not changing or were to be improved. In other words, the deviations would be lessened. One of the deviations that existed, the driveway setback which

was two (2) feet, would be eliminated in entirety as a result of the proposal. The driveway would be five (5) feet from the property line which was the current requirement.

Mr. Warner said that Mr. Hollows and Mr. Karlebach, both of whom were sworn in and spoke at the last meeting, would return to further discuss the aspects of the various reliefs sought. He noted that the architect for the applicants, Mr. Ferrara, was also in attendance and would testify if there were any questions about the architectural aspects of the application.

William G. Hollows, an engineer with **Murphy & Hollows, LLC**, Stirling, New Jersey, was sworn in previously. He noted that his firm prepared the site plan and then briefly reviewed some of the information from the previous meeting as far as property location and dimensional characteristics. The applicants were proposing to put a 515 square foot addition on the existing house including a garage and a second story over the entire footprint of the house. Because of the slope of the property which sloped towards the railroad on the southerly property line, the home would look like a two (2) story home from the street and three (3) stories from the back because of the walk-out basement. That was why it was considered a three (3) story dwelling requiring a "C" Variance. Mr. Hollows said that the three (3) houses to the east of the subject property were also similar in that they were two (2) stories from the front and three (3) stories from the back because of the walk-out basements. He noted that eight (8) additional houses on Elm Street going down towards Central Avenue were also two (2) stories from the front and three (3) from the back because the land sloped down from Elm Street to the railroad.

Mr. Warner referenced Mr. Hollow's October 21, 2013 last revised set of plans, sheet 1 of 2. He noted that the lots to the east of the subject property that Mr. Hollows had referenced were lots 6, 5, and 1.

Mr. Hollows said that in the R-3 Zone, 30,000 square feet per lot is required. This lot had 9,750 square feet (50' X 195"). The property to the east is also the same exact size as the subject property. The lot to the west had been subdivided in 2010 and those lots are also deficient. There was no way to add any land to the subject property.

Mr. Warner said that the pre-existing insufficient lot area and lot width could not be brought more into conformity by virtue of acquiring adjacent property.

Mr. Hollows said that the applicants were applying for a lot width variance. In the R-3 Zone, 150 feet and the existing lot has 50 feet of frontage. Both lots to the east and west are substandard existing non-conforming situations.

Mr. Ruiz asked what the square footage of the existing house is.

Mr. Hollows answered that it is 1,154 square feet.

Mr. Warner added that it is a two (2) bedroom, one (1) bath residence.

Mr. Hollows said that since the last meeting, he had prepared a drawing that was meant to be a detail of the area of the lot that was going to be developed.

Mr. Warner said that it was a new drawing and that it should be marked Exhibit A-8. The exhibit was submitted more than ten (10) days prior but Mr. Hollows was referring to a colorized version of that so he felt it should be marked as a separate exhibit.

Mr. Hollows realized at the last meeting the detail on the original drawings was rather small (20 scale) so he made a drawing at 10 scale of just the area of the lot being developed to show the detail better. If the Board approved the application, he would incorporate this detail into the set of drawings that would be finalized and signed.

Mr. Warner said that the board members had this drawing. It was dated March 13, 2014.

Mr. Hollows stated that the detail showed only 100 feet of the property. There was another 95 feet that went further back but because of the critical areas, he only needed to show this portion of the property. He referenced twelve (12) comments made by Mr. O'Brien from the last meeting.

The first comment was to change the steps off the deck which originally went towards the rear of the property. The steps were turned so that they are farther away from the critical area.

Mr. Warner said that that alleviated the previous exacerbation of rear yard setback to the steep slopes. In other words, it would remain at 12.6 feet as it existed before. It was not further encroached upon by making the change in the orientation of the steps.

Mr. Hollows affirmed that this was correct. He pointed out that the front porch was going to be removed from the property along with the wood ramp.

Mr. Warner said that that would improve the existing front yard setback deviation, moving it from approximately 16 feet to an approximately 21 foot setback.

Mr. Hollows affirmed that. He addressed Item #3. By removing a tree which was in poor shape, it would allow the driveway to be moved to five (5) feet off the property line and come straight into the proposed garage which he felt was a big improvement over the initial plan.

Mr. Warner said that that would eliminate what was a previous deviation. The existing driveway was only two (2) feet from the property line. It would now be a conforming five (5) feet.

Mr. Hollows affirmed that. He referenced utility lines and said that they would be in the proposed driveway so that they would stay away from the large tree. He said there was a note on the plan.

Mr. Hollows said that the roof leader drains would be piped to the drywell in the back of the property.

Mr. Hollows stated that snow fencing would be added along the top of the bank of the critical areas which was included on the drawing.

Mr. Warner said that all the comments made were adhered to by the applicants. The applicants proposed to proceed with the development in accordance with those comments of the Board professionals.

Mr. Hollows said that with removal of the front porch, it would go from 16.2 feet to 21.2 feet for the front yard setback. The sideyards were the only parts to be increased. The westerly sideyard was 5.2 feet and the proposed sideyard for the house on Lot 8.01 which would be built in the future would be 25 feet on that side. It would be approximately 30 feet between the applicants' house and the next house.

Mr. Warner said that the proposed location for the other house to the west is based on the Board's approval of the subdivision with variances.

Mr. Hollows affirmed that that was correct.

Mr. Hollows said that the east side of the property was the side where the applicants were reducing the size of the sideyard. It would be reduced to 4.8 feet. There would be a garage on that side of the property which was not there before. The addition included a garage with a second story over it and some living space behind the garage.

Mr. Warner said that the garage, in and of itself, brought the "less than two (2) garage" deviation more into conformity by increasing the lot from having no garages to having one (1) garage. He said it was a trade-off—more in conformity with respect to one deviation and somewhat less in conformity with respect to another.

Mr. Hollows agreed. The proposed project would change from 18.3 feet to 4.8 feet on the easterly side. He wanted to bring to the Board's attention that there is a house on the lot to the east and that house is 20.5 feet at the front porch line to the property line. The house goes back and has a slight jog midway back and at that point is 18.5 feet from the property line. At the closest point, there will still be almost 25 feet between the two (2) houses.

Mr. Warner clarified that this 25 foot distance was from dwelling to dwelling because the driveway is located adjacent to the property line.

Mr. Hollows said that the adjacent property's driveway is parallel to the applicants' driveway along the same property line.

Mr. Warner added that this was driveway on driveway, not building on building.

Mr. Hollows explained that as far as Floor Area Ratio (F.A.R.), the application met that requirement. It would be less than allowed.

Mr. Hollows said that the application also met the lot coverage requirement.

Mr. Hollows added that the application also met the building coverage requirement.

Mr. Hollows summarized that it was sideyards and the front yard, the lot area and lot width as far as the bulk variances were concerned.

Mr. Hollows said that the applicants were proposing a dry well stormwater management system that would capture the rainfall from the proposed 515 square foot addition to the house. It actually had a little bit more storage than the 515 square feet.

Mr. Warner stated that the stormwater management system would satisfy the ordinance requirement if not exceed it.

Mr. Hollows affirmed that it would. It would store four (4) inches of rainfall in that area.

Mr. Warner added that the steep slopes limited the location of the dry well and how far the rear building line could be from the dry well or vice versa.

Mr. Hollows said that it did. Because of the steep slopes, the dry well could only be placed 14 feet from the house which would be a waiver.

Chairman Behr asked if the board members had any questions for Mr. Hollows.

Mr. Keegan asked what the dark black line towards the street side of the property, running left to right, represented.

Mr. Hollows answered that it was the street right-of-way.

Mr. Keegan asked what the distance was from the garage to the right-of-way.

Mr. Hollows answered that it was approximately 23 feet which would be enough for another car.

Mr. Keegan asked what the object was, at the back of the house to the right of the drywell, the circle with the line.

Mr. Hollows said that the circle represented the area for the topsoil stockpiling during construction. It would be removed once construction is complete.

Mr. Gerecht asked for the size of the drywell. He did not see any dimensions on the plan.

Mr. Hollows answered that it was nine-by-nine (9 X 9) with a six (6) foot diameter drywell. It was listed on the original plans.

Mr. Gerecht asked if that had remained the same.

Mr. Hollows affirmed that it had.

Chairman Behr asked for comments or questions from the consultants.

Mr. Bernstein asked if the 515 square feet of the addition was the ground floor coverage.

Mr. Hollows said that that was his understanding.

Mr. Bernstein then asked what would be the dimensions of the second story. He wanted to know the size of the house with the addition, if the application was approved.

Mr. Hollows answered that he did not know.

Chairman Behr asked if there were any questions or comments from the public. Seeing as there were none, he closed the meeting to the public.

Mr. Hollows said that the current architectural plans represented a vast improvement over what had been presented at the last meeting. Sheet A-1 of the architectural plans (March 17, 2014) showed the first and second story floor plans. It was the same footprint as was seen at the original meeting however some of the rooms and walls had been changed to make them more functional. The powder room that was located in the garage was removed and placed to the rear of the stairway. The deck was slightly enlarged.

Mr. Hollows referred to Sheet A-2 which was a drawing that he did not have at the last meeting. It was a drawing of the basement showing where the mechanical features would be located.

Mr. Warner said that that was generated in accordance with one of the comments made by one of the Board professionals.

Mr. Hollows said that it showed the supporting lally columns presently in the basement.

Mr. Hollows moved to Sheet A-3. It showed the front and rear elevations. The windows in the front lined up with the garage door. The windows for the upstairs bedroom matched up with the living room windows. This drawing also depicted the type of shingles (Timberline, charcoal in color). The vinyl siding will be willow green in color. The cultured stone on the bottom will be a gray color. These were all items that were open items at the last meeting. One of the most important items on this sheet was the architectural building height—34'-10". The parging on the foundation will be painted in a gray color that will match the cultured stone in the front of the house. He felt that this was a much better plan than the original.

Mr. Hollows referred to Sheet A-4 which was the right and left side elevations. In response to the Chairman's comment about the long wall with no window, there was now a window so that the people to the east would see a more uniform look. The plan tried to match up the windows as much as possible. He reiterated that all of this was on the same footprint. No rooms were added. The changes were made to make everything function better.

Mr. Hollows added that each floor was just under 1500 square feet and that included the garage.

Chairman Behr referred to Sheet A-3, the front north elevation. He asked if the window above the door would have any mullions or would it be solid plate glass.

Mr. Hollows said that it would be a clear one pane window.

Mr. O'Brien noted that Mr. Hollows, a professional engineer, had been describing the architect's plans when the architect himself was sitting right behind him. He said that the Board did have the authority to ask the architect to testify.

Mr. Warner said he would be happy to introduce the architect, Nicholas J. Ferrara, 29 Greenwood Drive, Millington, New Jersey, as an expert witness as long as he could go back to Mr. Hollows later on.

Chairman Behr agreed.

Mr. Warner advised Mr. Ferrara that he would have to be sworn in and felt that he had been accepted by this Board in previous cases as an expert witness.

Chairman Behr swore Mr. Ferrara in. He said the Mr. Ferrara had appeared before this Board many times and was qualified as an expert provided he was still licensed by the state.

Mr. Ferrara affirmed that he was. He said that the footprint had not changed. He had taken the original concept drawings from the applicants and fine tuned the floor plans to get some

symmetry and some order. He addressed the finishes as requested at the previous meeting. These drawings represented a refinement of the original ones. Although there were some internal dimension changes, there were no changes to the external dimensions of the project.

Chairman Behr had a stylistic question. He asked if the use of two (2) separate materials on the front of a house which had become very popular thanks to “McMansions”, was more desirable on a house this small.

Mr. Ferrara felt that it was. He said it gave more texture to the building and he liked the way the stone grounded the building, using the natural stone material up from the grade.

Chairman Behr asked if there were any other questions for this witness from the board members or the consultants.

Mr. O’Brien asked Mr. Ferrara to describe the finish of the vinyl siding and the finish of the painted foundation.

Mr. Ferrara said that the painted foundation was a parged, or cement plaster, finish on concrete block and there was a paint application for that. The vinyl siding was four (4) inch scale.

Chairman Behr asked Mr. Ferrara to review the colors again.

Mr. Ferrara said that the Timberline roof would be in charcoal which was one of the standard Timberline colors. The vinyl siding would be willow green, a light green. The cultured stone veneer would have a series of gray tones. It would not be solid gray.

Chairman Behr asked if on the exposed foundation, the color would match the veneer.

Mr. Ferrara affirmed that it would.

Mr. Lemanowicz asked about reinforcement of the foundation. There were comments in the structural report by the Apex Group.

Mr. Ferrara said that he had reviewed that report prepared by Harry Braich.

Mr. Lemanowicz said that there were some issues in the report pertaining to supporting or reinforcing the foundation in the form of pilasters. He asked Mr. Ferrara to describe that.

Mr. Ferrara said that once they got through this preliminary stage and started the development of a framing plan of how the house will be put together, they would identify the critical bearing points. He would then consult with the engineer to make sure to address reinforcing any particular stress points but he would need more development of the structural plans before he could address that question. He noted that pilasters are a system of adding vertical elements to the foundation wall or reinforced concrete block just to give some stability to walls at certain increments and at certain critical bearing points. It would be developed from the roof all the way through the second and first floors and then to the basement. He assured the Board that it would all be addressed by the time the drawings were submitted for construction permits.

Chairman Behr asked if there were any other questions from the Board consultants. There were none.

Mr. Warner asked the Board’s permission to ask some follow-up questions of Mr. Ferrara with respect to the structural integrity report by the Apex Group. He said that Mr. Braich said that the foundation walls would require some *minor* reinforcement in the form of pilasters at the load points.

Mr. Ferrara affirmed that statement.

Mr. Warner said that the report also advised that there would be some modifications or reinforcements that were “very normal” for such additions depending on the architectural configuration of the second story.

Mr. Ferrara affirmed that statement.

Mr. Warner said that Mr. Braich concluded that there would be no unusual modifications or reinforcements required with respect to the structural integrity of the dwelling.

Mr. Ferrara said that they do not see any at this time.

Mr. Warner asked Mr. Ferrara, in his opinion as an architect, if the post-renovated dwelling would be substantially more visually appealing than the current dwelling.

Mr. Ferrara said that he believed it would be.

Mr. Warner asked if he was familiar with visual appearance of the dwellings within the neighborhood.

Mr. Ferrara said that he was and he had been involved in a couple of renovations along Elm Street very close to this building.

Mr. Warner asked Mr. Ferrara, from an architectural perspective, if the proposed post-renovated dwelling would be within the character of the neighboring buildings.

Mr. Ferrara said it would be very consistent with the neighborhood and in fact it would be a real asset. He felt it would be one of the better buildings in the area.

Mr. Warner said that he had nothing further.

Mr. Lemanowicz asked Mr. Ferrara about the finished floor area. He said that it appeared that the second floor came over the front door when previously it had not done that. It did not appear to be included in the floor area. He said there was not an issue with the floor area. He just wanted the numbers to work.

Mr. Ferrara said it was done at the request of the applicant.

Mr. Lemanowicz said that right now, the plan was about ten (10) square feet shy of the maximum impervious cover and there is no concrete pad outside the back door nor is there one at the base of the deck stairs. He felt that something would be required. If two (2) four-by-four (4 X 4) pads were installed, the project would be over the maximum impervious coverage.

Mr. Ferrara said that they had fine-tuned this project to under ten (10) square feet. He felt he could put something on a smaller scale underneath the stair which would stay within the ten (10) square feet. He did not think anything was necessary out the back door. If necessary, he would put in a couple stepping stones and stay within the maximum permitted.

Mr. Lemanowicz felt that a pad at the bottom of the stairs would max it out. He addressed Chairman Behr and said that if they were that close, it would seem that a person would normally want to step out on to something, it might be worth discussing.

Chairman Behr asked if that raised a problem of a new variance that was not included in the notice.

Mr. Lemanowicz affirmed that it did.

Mr. Warner said that there was "catch-all" language in the notice and the applicant was not requesting it. He understood that there was a question as to *whether or not* it would be required by code. He had not heard anyone opine that it was required or that the Board may wish to have it. He also understood that they could still comply with the lot coverage requirement by virtue of the ten (10) foot or under landing. He asked Mr. Bernstein if he felt the notice was sufficient even if the lot coverage deviation was required, although he was not sure at this point that it would be required.

Mr. Bernstein said that nine (9) variances were requested and if the discussion was about five (5) square feet in addition, it seemed to him that this would be one of those cases where an applicant could amend an application because he felt that the square footage in excess would be so small. He also felt if any neighbor had any concerns about the greater variances such as the sideyards,

they would have been in attendance. There were no members of the public present in conjunction with this application. Given the facts of this case, he would have no problem with it. He felt it was diminimus and the Board would have jurisdiction and the authority to give relief.

Mr. Gerecht said that he felt that Mr. Lemanowicz was addressing the fact that after this was all said and done, someone living in the house could decide they didn't want to step directly on the grass and then put something there. At that point they would be in violation. He wanted to avoid that.

Mr. Bernstein said it was not something that the Zoning Officer would pick up.

Mr. Gerecht said that he would rather look at it if it was something that someone would want to naturally have there. He felt it should be addressed now.

Mr. O'Brien advised that it could be done by phrasing it as "if upon review by the construction official or other officials of the township, it is found that a landing is required for either or both the stairway and the sliding door exit, then one of "X" number of square feet could be granted as a variance". That would tie it directly to "if" the code says they have to do it.

Mr. Warner said that he appreciated Mr. O'Brien's suggestion and he believed that the applicants would stipulate to such an agreement should the Board request that.

Chairman Behr said that if the Board was to approve the application, that note would have to be included. He asked if the plans would then be revised to indicate that that might happen.

Mr. Bernstein said that he thought that they should.

Chairman Behr asked if there were any other questions for the witness.

Mr. O'Brien said that after discussing at great length that the project would be at 19.9% of coverage when 20% coverage is allowed in this zone, he wanted to make sure that the applicants were aware that that meant they could not add anything such a pool or shed without coming to the Board for relief because they are at the maximum.

Mr. Warner felt that they were well aware.

Mr. Warner asked Mr. Hollows to address the report by The Apex Group concerning the structural integrity of the foundation.

Mr. Hollows felt that that had been covered by the architect. He affirmed that he had worked with Mr. Braich on the report.

Mr. Hollows then began to address the latest review letters. He felt that they had touched on many of the items listed in the letters during testimony.

Mr. Lemanowicz said that there were still some consistency issues between the original set of plans and the supplemental plans. There were differences in the grading. He wanted to know which one to use.

Mr. Hollows explained that he had prepared the drawing so that everyone could see the project a little bit better than the 20 scale drawing. The grading change happened when Mr. Ferrara asked if the garage could be raised slightly so there would be one less step in the garage to get more useable space. It had to do with the driveway.

Mr. Warner said that it was his understanding that the most recent detail superseded the original plans with respect to the numbers.

Mr. Hollows stated that if the Board approved the application, his plan would be revised to include the detail as part of the plan. He would take off some of the detail on the 20 scale drawing showing only the building, take off the proposed grading, the offsets, and put a circle around and say, "See detail on page 3 of 3" so that "everyone knows that that's where you go for the important stuff." In essence, they would be correcting the inconsistencies.

Mr. Lemanowicz said the original set had an increase of 337 square feet of impervious. The supplemental showed 424 square feet. The math showed 402.

Mr. Warner said that he thought that 402 was the correct number.

Mr. Hollows agreed saying that a mathematical error probably occurred.

Mr. O'Brien said that regardless, they would be within the 20%.

Mr. Warner said that using the 402 number, they would be *more* within that 20% than with the 424 number.

Mr. Lemanowicz referred to the comment in the review indicating that the lot area was different.

Mr. Hollows said it was 9,750 sq. ft. which would be shown on everything. He said that if approved, he would submit drawings for signature that would show that number on every drawing.

Mr. Lemanowicz said the survey showed 95.

Mr. Hollows agreed.

Mr. Gerecht asked Mr. Lemanowicz if he was confident that the plans could be coordinated.

Mr. Bernstein addressed the Chairman and said he normally inserts a phrase which says that the plans will be revised to the approval of the Board engineer or Board planner and it would be up to the applicant to satisfy that condition.

Mr. Gerecht wanted to ensure that there were no issues that could not be easily clarified.

Mr. Lemanowicz said that he didn't feel there would be any issues with the consistency items. The main issue was the impervious coverage number which appeared to be high so lowering it would be positive.

Chairman Behr said it should be listed in the conditions and Mr. Lemanowicz agreed.

Mr. O'Brien said the only item remaining in his report was on page 8, Item A, the Shade Tree Commission's Report which was published on the 26th of March. The commission made a number of suggestions and he asked Mr. Hollows if he would address them.

Mr. Hollows felt that the applicant was doing the township a favor by taking down a tree that was in very very poor shape. He said that the Shade Tree Commission looked at the drawing and saw a 12" maple and wanted a replacement however in reality the tree had only a very few branches and had been damaged by a storm, possibly Hurricane Sandy.

Mr. Warner asked if it was near the driveway.

Mr. Hollows said that it was located in what would be the driveway.

Mr. Warner said it was also near the driveway of the adjacent property.

Mr. Hollows affirmed that it was.

Mr. Warner asked if Mr. Hollows felt there could be a sight issue associated with putting in a new tree in that location or nearby.

Mr. Hollows said that the trees that were placed along Elm Street were right under the wires and were probably in the way of people backing out of their driveways for visibility. He did not know where they could put another tree. The Shade Tree Commission said "at their direction" and he didn't know if that meant somewhere else in town since it really did not fit on the site.

Mr. Warner said that the Board had the jurisdiction *not* to impose the requirement that there be an additional tree planted to replace the tree that was questioned to be removed.

Mr. Bernstein said the Board had that discretion.

Mr. O'Brien summarized the testimony as follows: There was no space in front of this house given the width of the lot to plant an additional street tree once the 24" tree in the middle of the lot and the 18" maple to the right were taken into consideration.

Mr. Hollows affirmed that that was correct. He also commented on the Shade Tree Commission's assertion that the plan was incomplete because no trees were shown on the adjacent lots. He noted there were three (3) trees in front of the adjoining property so to put another tree on this property would cause competition for the sunlight. There was a nice tree in front of the house even though it was under the wires and the utility workers trimmed off half of it. He did not see the benefit of having another tree there.

Mr. Warner said there were two (2) trees in front of the house, not counting the one (1) that was proposed to be removed.

Mr. Hollows agreed.

Mr. O'Brien said that the commission had also asked that the existing trees be protected during construction.

Mr. Hollows said that there would be snow fencing placed around the drip line of the two (2) trees in the front and around the locust tree in the back. He said that because of the slope, there would not be a lot of excavation in that area.

Chairman Behr wanted the protection of the existing trees noted.

Mr. Hollows said it would be noted on the drawing.

Mr. Warner said that the applicants would stipulate to that as a condition of approval.

Mr. Hollows addressed another comment from the commission in reference to the piping from the leaders to the drywell system. He said that in order to keep it away from the locust tree, he could look at installing a sweep, bringing the discharge point more towards the middle of the building and then coming out to the drywell. He felt that that would work.

Chairman Behr asked if the revised plans would show that.

Mr. Hollows said that they would.

Mr. O'Brien said that Mr. Hollows had already testified that any new utility lines would run to the northeast corner of the house.

Mr. Hollows said that that was correct.

Mr. O'Brien said that those were all the comments from the Shade Tree Commission.

Mr. Hollows addressed the letter from the Environmental Commission which had been distributed earlier that day. He felt that they had looked at the detail drawing and thought it was the entire property.

Mr. Warner asked if Mr. Hollows was referring to the report dated April 28, 2014 which was received the day of the hearing.

Mr. Hollows said he was. He explained that there was another 95 feet of property.

Mr. Warner asked if Mr. Hollows was referring to the lot coverage and impervious coverage comments.

Mr. Hollows answered that he was.

Chairman Behr thanked Mr. Hollows for his testimony.

Mr. Warner called David Karlebach, P.P., to testify and indicated that he had already been sworn in and accepted as a professional planner at the last meeting. He asked Mr. Karlebach to explain to the Board what he had reviewed and the opinions he had arrived at with respect to the eight (8) remaining variances that were at issue since the driveway setback variance was eliminated. He also asked Mr. Karlebach to speak to the diminimus potential lot coverage variance.

Mr. Karlebach began by saying that he had visited the site and the surrounding area. He had reviewed the municipal zoning ordinances and Master Plan. He had also prepared a planning exhibit which showed the site and some of the surrounding area including lot lines within the R-3 Zone. He had reviewed relevant case law. The exhibit was introduced into evidence as A-9 and A-10 and marked by Ms. Kiefer. Copies were given to all the board members and professionals.

Mr. Karlebach described the site as being exceptionally narrow at 50 feet. It was also exceptionally small in reference to the lot area requirement in the zone at 9,750 square feet where 30,000 square feet was required. He also referenced the critical area or steep slope that bisected the property and increased the difficulties in attempting to conform to the zoning requirements.

Mr. Karlebach explained in terms of the surrounding land uses, this was a single family residential neighborhood with lots ranging in size from approximately 3,600 square feet to approximately 34,000 square feet. He noted that there was a great deviation in lot sizes within this R-3 zone. There was a mix of older and newer homes and a mix of smaller and larger homes. He felt that there was a nice co-mingling of different types of housing styles. He noted that there was a church located nearby along with Elm Street School and that St. Vincent de Paul Cemetery was located at the west terminus of Elm Street. He felt there was no need to discuss the proposed use.

Mr. Karlebach discussed the existing nonconforming conditions and the variances that were being sought. The minimum lot area requirement in the zone was 30,000 square feet. The existing lot area was 9,750 square feet. This was an existing nonconforming condition that would be continued since, as was testified to earlier, there was no opportunity to acquire land from the abutting land owners in order to bring this lot closer to conformity with the ordinance.

Mr. Karlebach said that the minimum lot width requirement was 150 feet and 50 feet was existing. Again this was an existing nonconforming condition proposed to be continued.

Mr. Karlebach said that the front yard setback requirement in the zone is 50 feet where 16.2 feet was existing and 21.2 feet is proposed so although a front yard setback variance would be required, it represented an improvement over the existing conditions. He reminded the Board that the ramp and the porch were proposed to be removed from the front of the dwelling.

Mr. Karlebach said that the side yard setback variance would be required since 25 feet was required in the zone and 30% of the total lot width was also required. The applicant was proposing 5.2 feet and 4.8 feet which represented 20% of the lot width.

Mr. Karlebach explained that the height variance related solely to the amount of stories being proposed: three (3) stories versus 2.5 permitted. The height, in terms of feet, would not be exceeded: 35 feet was permitted and 34'-10" was being proposed. This would then be a "C" variance, not a "D" variance for exceeding the number of stories.

Mr. Karlebach noted that the driveway setback variance had disappeared. Currently the driveway setback was two (2) feet where five (5) feet was required and five (5) feet was being proposed.

Mr. Karlebach stated that the rear yard setback to a critical area required 50 feet and 12.6 feet was both existing and proposed. Therefore that condition remained exactly the same.

Mr. Warner clarified that that was with respect to the steep slope.

Mr. Karlebach affirmed that this was correct. He said as far as the placement of the drywell on the property, to the extent that a waiver or a variance would be required for that, the applicant

would also request that relief. He explained that the drywell was placed in the most logical portion of the property where it could occur.

Mr. Karlebach discussed the two (2) to four (4) garage parking space requirement. One (1) garage parking space was being proposed and although this would be a variance, it did represent an improvement over the existing nonconforming condition which was zero garage parking spaces. He explained that the applicant could not comply with the two (2) car garage requirement because they would be further intensifying the other variances.

Mr. Karlebach said that the lot cover variance *might* be required and if it was, it would be a *diminimus* variance somewhere in the neighborhood of five (5) square feet.

Mr. Karlebach felt that all of the variances could be construed as C-1 variances in that they represented a hardship. The Municipal Land Use Laws (M.L.U.L.) state that a Planning Board may grant variances in cases where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or physical features restrict application of the regulation would result in peculiar and exceptional practical difficulties and undue hardship upon the developer. He felt that the hardship arose out of the narrowness of the lot and the critical area which constrained the development of the property. When the 25 foot side yard was applied to this property, Mr. Karlebach noted that the building envelop completely disappeared so any time a shovel was placed in the ground, it would require a variance.

Mr. Warner clarified that the minimum side yard setbacks were 25 feet on each side and the lot width in its entirety was 50 feet so therefore there could be no building that could exist.

Mr. Karlebach affirmed that that was correct.

Mr. Karlebach said that there were other topographic features including the steep slope area which accounted for half the lot area so if one were to look at all the exceptional features in combination, one would see that development was severely constrained.

Mr. Karlebach wanted to discuss the R-3 Zone and referred to Exhibit A-9 which was an aerial photograph of the site and surrounding area. He said that only three (3) of the 33 lots in the R-3 Zone complied with the minimum lot area requirement and the minimum lot width requirement. Those conforming lots were represented by a purple asterisk. Approximately 90% of the lots in the R-3 Zone did not conform as this lot did not conform.

Mr. Karlebach believed the width and size of this house were reasonable proportions. At 1,150 square feet, the current house was undersized by modern standards. Additionally, there was no garage as required by ordinance. He shared the following statistics from the United States Census Bureau: 34% of single family homes built in 2009 had four (4) or more bedrooms and 53% had three (3) bedrooms. Further, in those houses built in 2009 that had four (4) or more bedrooms, 54% also had three (3) or more bathrooms. 53% of homes built in 2009 had two (2) or more stories. The average American house size has more than doubled since the 1950's. It stood at 2,349 square feet. The move towards larger homes was a trend that has been accelerating for a number of years. He noted that back in 1950's and 1960's, people thought it was normal for two (2) or three (3) brothers to share one (1) bedroom or an entire family to share one (1) bathroom. Although this lot was undersized, the applicants complied with the maximum lot coverage requirement and the F.A.R. requirement. It cannot be said that this lot would be overdeveloped.

Mr. Karlebach said the height variance could be construed as either a "C-1" or a "C-2" variance. There was a hardship that was caused by the steep sloping land which in turn caused the walkout basement. The properties to the east have the same situation and hardship.

Mr. Warner said that notwithstanding the walkout basements, from the streetscape perspective, the subject home post renovation would look like a two (2) story home.

Mr. Karlebach affirmed that that was correct. He said it would look like the other homes in the neighborhood and that the only people that would feel the effect of the three (3) story home would be those standing in the rear yard of the property looking at the rear of the house.

Mr. Warner added those riding in a train speeding by.

Mr. Karlebach said that the height variance could also be construed as a "C-2" variance. He shared with the Board a court case which was actually in the planner's review memo to the Board, *Grasso v. Borough of Spring Lake Heights* when the court opined that, as in the case with "D-3" and "D-4" variances, plaintiffs could prove special reasons for a height variance if they could persuade the Board that a taller structure than permitted by ordinance would nonetheless be consistent with the surrounding neighborhood. He felt that this project had that consistency. There was no additional height being proposed above that which was permitted because it would stand below 35 feet therefore this building would not interfere with the penetration of air or light onto the adjoining properties. It would not create any impact upon the surrounding properties. The dwelling would be two (2) stories at the Elm Street elevation and the three (3) stories in the rear are due to the sloping topography. Visually, it would be a two (2) story home when viewed from Elm Street similar to the other two (2) and 2.5 story homes in the neighborhood. Many of the other homes in the neighborhood have three (3) stories and a walkout basement in the rear of the property and were similarly situated in terms of topography. Lots 1, 5, and 6 were all within Block 10005 had three (3) stories at the rear of the property. These were the lots that existed to the east. The lot to the west recently received subdivision approval and will likely be developed with homes of a similar scale to this home. Visually, the height of this home would harmonize with other similar sized homes on the block. There would be no disruption to the visual quality of the area.

Mr. Karlebach outlined other special reasons for the granting of the variance. One of the purposes of the M.L.U.L. was to promote a desirable visual environment through creative development techniques and good civic designs and arrangements. This proposal would eliminate an older outdated structure and replace it with a new addition with modern architectural treatments and landscaping all of which would have an immediate impact of beautifying the site. The garage space that was being proposed would remove one (1) car from public view and further improve the visual quality of the site.

Mr. Karlebach felt that, in terms of the negative criteria, there is no substantial detriment to the public good. The reduced side yard was consistent with the pattern of development in the neighborhood which included other homes on 50 foot wide lots with reduced setbacks. The distance between the addition and the nearest home to the east would vary between 18.5 feet and 20.5. As was stated earlier, these would be driveways that would abut each other. The benefits of a harmonious consistent style of home would outweigh any aesthetic detriment arising out of the provision of an additional half story at the rear of the property. So any detriment caused by the bulk variations would not be so substantial as to cause damage to the character of the neighborhood. In fact, it would improve the character.

Mr. Karlebach said that there would be no substantial impairment of the zone plan and zoning ordinance. This proposal would actually bring the property closer in conformity with the zoning ordinance particularly with respect to the front yard setback which would be improved as would the driveway setback to a property line, providing a garage space where none currently exists. It would eliminate a wood porch and ramp within the front yard. The yard area and lot width variances were existing conditions which were proposed to be continued. There would be no proposed increase in the height above which was permitted. It would observe the lot coverage requirement and the F.A.R. requirement. He reminded the Board that these setback requirements were designed with 30,000 square foot lots in mind so they had little or no applicability to a 5,000 square foot lot.

Mr. Warner asked Mr. Karlebach, with reference to the *potential* diminimus lot coverage deviation, if it was his professional opinion that the benefits of the stormwater management and other benefits associated with this proposed development would substantially outweigh any detriment associated with the *potential* diminimus lot coverage exceedance.

Mr. Karlebach said he would agree with that statement. He explained that the reasons for lot coverage requirements were (1) to prevent a sea of asphalt and buildings and (2) to prevent stormwater runoff. Visually, no one would notice the additional five (5) square feet nor would it change the drainage pattern.

Mr. Warner added that the five (5) square feet would be behind the dwelling and not visible from Elm Street.

Mr. Karlebach said that that may be true but the entirety of the site would be over. However, the stormwater management system could certainly accommodate that small addition above what was permitted. He wasn't concerned about the aesthetic quality being jeopardized and he wasn't concerned about stormwater management so, as a planner, he had very little issue with exceeding the 20% by a small amount.

Mr. Karlebach said that Mr. O'Brien had mentioned the 1996 Master Plan in his memo to the Board listing some of the goals in the plan. One of those was to conserve and enhance the essential rural and residential character of Long Hill Township in order to provide for the health, safety, and general welfare of its residents. He felt that this proposal would not harm the rural and residential character of the area since no commercial use was being proposed. There would be nothing to upset the quality of the neighborhood.

Mr. Karlebach cited another goal in the Master Plan which was to maintain the township's identity as a fundamentally low-density residential community and ensure that future development is compatible with existing residential areas and established neighborhoods. This proposal would not increase the residential density since it would continue to be a single family home, as it currently exists.

Mr. Karlebach cited another Master Plan goal which was to uniformly encourage the upgrading and beautification of nonresidential properties throughout the township including improved building design, landscaping, signage, and so forth. Although this would be a residential building and the goal seemed to deal with nonresidential properties, nonetheless, this represented an overall improvement to the visual quality of the area and it would add curb appeal.

Mr. Karlebach said, on balance, these public benefits would far outweigh any perceived detriment. He felt that the scales tipped heavily in favor of those public benefits that would be derived and that the Board should feel very comfortable in granting all the "C" variances that were being sought.

Mr. Warner asked Mr. Karlebach, in his opinion as a professional planner, if the applicant had satisfied both the positive and negative criteria with respect to either the C-1 Undue Hardship Variance criteria or the C-2 Benefits Substantially Outweigh Detriments criteria, if not both with respect to each and every one of the variances sought by the applicants.

Mr. Karlebach said that he believed all of the statutory requirements for granting the variances had been put into the record.

Chairman Behr said that since there were no members of the public present, he would dispense with any public comment.

Mr. Keegan asked Mr. Karlebach if he agreed that the proposed house would be geared towards a larger number of people living on the property than the current structure would support.

Mr. Karlebach answered that any time there is an increase in bedrooms, yes, it would connote more people living in the house.

Mr. Keegan said that there had been testimony that there would be spots for two (2) cars on the property—one (1) in the garage and one (1) in the driveway. He asked, if there would be more people living in the property, could having only two (2) parking spaces be justified.

Mr. Karlebach said that that was all the lot could support. There would be only two (2) adults living in the proposed home. Down the road there might be teenage drivers but at this point in time, it would be safe to plan there only being two (2) drivers at the site.

Mr. Gerecht commented that it might be possible to fit two (2) cars in the actual usable driveway since it did not end at the property line plus one (1) in the garage.

Mr. Karlebach said that, given the large right-of-way, the driveway could accommodate a few cars in practical use.

Mr. Ruiz said they should not speculate. He noted that in his house, there were only two (2) cars. He felt that if it was two (2) cars now, that was perfectly fine.

Mr. Gerecht said he just wanted to represent what the reality was as opposed to where the property line was.

Mr. O'Brien summarized the conditions. He referred to his memo dated the March 26, 2014, on page 9, Items 1 through 11 and said that the applicant had testified that they were acceptable and in fact had been placed on both the architectural and engineering plans. He suggested that on page 8, Item A from the Shade Tree Commission Report, the last three (3) items starting with "Protect existing trees under construction... Move the leader drain away from locust tree... Utility lines to run to the northeast corner of the home." also be added to the list of conditions. He further suggested that having heard the testimony of both the engineer and the architect that the various checklist waiver items that had been requested during the Completeness Review (Items 11, 12, 15, 17, 18, 30, 31, 33, 35, and 47) be granted by the Board. Staff had no objections.

Mr. O'Brien also said that Mr. Lemanowicz had worked up some language on the lot coverage so that while the Board would not be granting a variance over 20%, if there was an exception, Mr. Lemanowicz had that language.

Mr. Lemanowicz explained that given more time, he could condense the language but as of that moment it might read, "The plan contains certain inconsistencies with respect to lot coverage. As a condition of approval these inconsistencies shall be addressed and verified to be within the 20% maximum lot coverage permitted. Following verification of the lot coverage, the applicant shall be permitted to exceed the lot coverage maximum only for the purpose of providing a three-foot-by-three-foot (3' X 3') impervious landing at the bottom of the deck stairs and at the rear door of the lower level to the rear yard."

Mr. Gerecht clarified that each one would be 3 X 3.

Mr. Bernstein told the Chairman Behr that if he found something in his notes when he did the resolution, he would like permission to add it as well. He said there had been a lot of testimony that evening and felt there might be something else.

Chairman Behr said that the standard procedure was that when the attorney draws up the resolution, additional issues that were brought up in testimony would be included.

Mr. Bernstein said he just wanted to make sure it was on the record.

Chairman Behr asked Mr. Lemanowicz to give his copy of the language to Mr. Bernstein.

Mr. O'Brien said that he would have the list of conditions forwarded to Mr. Bernstein.

Mr. Warner said that he was authorized on behalf of the applicants to reiterate that they stipulate to each and every one of the proposed conditions should the Board wish to implement and impose each one.

Chairman Behr asked the board members if they were ready to deliberate. They were.

Mr. Gerecht thanked the planner, Mr. Karlebach, for the good beneficial testimony. In reviewing the two hearings that the Board had for this application and the conditions and the requests that were made from the first meeting to the second meeting, he felt that changes were made in the plans to accommodate the Board's suggestions. He noted the applicants' continued willingness to comply with the Board's suggestions. He felt that the application had met the requirements for the "C" variances requested based on the testimony of their experts and based on their willingness to comply with the requirements that had been set forth in the professionals' reports. In his opinion, the negative criteria had been met and this project would be an improvement in the area. Even though the house would be made larger, it would not be a detriment to the neighborhood. It would be a structure that would be pleasing to the area and would comply with the area constrictions. He understood that the lot could not be made bigger. He was happy that there would be a dry well installed to capture the water and he felt that the applicants had done what they were required to do by the Board and by the Board's experts. He noted that he had grown up in the neighborhood, knew the house, and felt it would be a big improvement in the

area. It was a very quaint neighborhood and it would remain as such therefore, he would be in favor of it.

Mr. Ruiz concurred with Mr. Gerecht. He noted that all of the applicants' professionals did a great job in presenting the case. He felt that what the house lacked in lot size it would more than make up for in character and he was in favor of the application.

Mr. O'Mullan agreed that the applicants had met their burden. He felt that the most difficult part of the case was the left side but since there had been no complaints or comments from neighbors, he was in favor of the application.

Mr. Pudlak echoed the sentiments of his colleagues. He felt that the applicants were well represented by their professionals and that they had been very accommodating to the recommendations of the Board and the Board's professionals. He said given the land they had been dealt, the applicants were doing their best to comply and he was in favor of the application as well.

Mr. Keegan said that he was not in favor of the application because he had serious concerns over the house that would be created and the parking constraints on the lot. He acknowledged that the lot was difficult but the existing structure or something along those lines would be better suited for this lot. There would be two (2) legal parking spots, three (3) if the extra space from the right-of-way was factored in and he did not feel it was enough, given the size of the proposed dwelling. There would be no wiggle room on the impervious coverage so no additional parking could be added. Also, a shed could not be added. The garage would have to accommodate all the things that went along with having a house like that and having a family in it. Due to the narrowness, he felt the lot could not support the house.

Chairman Behr agreed with the majority of the Board. He felt it was a difficult piece of property with many constraints. He felt that the applicants were putting a reasonably scaled house on an undersized lot. The applicants had no opportunity to remedy it by purchasing additional land and he agreed with the board members who felt that this application would alleviate some non-conformities, would be consistent with the neighborhood, and would add to the sense of neighborhood quality while being a more modern house. He felt the distance to neighboring houses would create desirable open space. The height variance was consistent with the purposes of zoning and he saw absolutely no detriment to the purpose of the ordinance or the Master Plan. He noted that the stormwater provisions would provide the appropriate level of protection so he was in favor of the application.

Chairman Behr asked Mr. Bernstein for sample language for the motion.

Mr. Bernstein answered, "Resolve that the Board approve the application subject to a memorialization. Resolution will be approved within the statutory time limit."

Chairman Behr added, "With the conditions that were discussed and on the record."

Mr. Ruiz moved approval of the application. Motion was seconded by Mr. Gerecht. A Roll Call Vote was taken. Those in Favor: Mr. Gerecht, Mr. Ruiz, Mr. O'Mullan, Mr. Pudlak, and Chairman Behr. Those Opposed: Mr. Keegan. Abstentions: None. Motion to approve the application passed 5-1.

Chairman Behr said that the Board attorney would prepare a draft resolution of approval which would be reviewed by those board members eligible to vote on the application. The resolution would be memorialized at the next meeting following receipt of the draft resolution. He said, "After it is memorialized and certified, a copy will be sent to you. You must read the resolution carefully and satisfy all the conditions of approval by providing the requested information and documentation, directing it to Dawn Wolfe, Planning and Zoning Administrator. Once all conditions have been satisfied, your plans will be approved and signed by the Board officers. You will be provided with a signed copy. After receiving your signed copy, you may apply to the construction office for the necessary permits. You must submit a copy of the signed resolution with your building permit application."

Mr. Warner thanked the board members and professionals.

Chairman Behr suggested a five (5) minute break at 9:45 P.M.

X X X X R E C E S S X X X X

The meeting was called back to order at 9:50 P.M. Chairman Behr announced that the last item on the agenda was the Annual Report. He asked if there were any comments or questions.

Mr. O'Brien explained that the M.L.U.L. required that the Board of Adjustment prepare a report which outlined the work that was done over the past calendar year. As part of that report, the Board told what type of applications it received, what was done with them, the nature of those applications as well as a summary of what remained open. Under the M.L.U.L. after adoption by the Board, it would be shown to the Planning Board and it would be forwarded to the Township Committee. Should either of those bodies see a trend towards a particular type of variance being requested on a more frequent basis than others or see a particular part of the township being the subject of more frequent variances than others and they feel that this constituted a problem, the Planning Board and/or Township Committee would take note and if necessary, take action. Mrs. Wolfe had prepared the report with the assistance of Ms. Kiefer. He asked Ms. Kiefer if she had anything to add.

Ms. Kiefer answered that Mr. O'Brien had summarized it quite well.

Chairman Behr reviewed the report with the board members and noted those applications which had been completed since the December 31, 2013 cutoff date of the report. He stated that there were three (3) still pending, one (1) was withdrawn, and no applications were denied. He asked for any further questions or comments. Seeing none, he asked for a motion to accept the report. Mr. Gerecht moved approval of the Annual Report. The motion was seconded by Mr. Ruiz. A Voice Vote was taken. The motion to approve was passed unanimously.

Mr. O'Brien added that some of the open items listed on the report would be coming to the Board shortly. He said the Feinberg application was scheduled for the following week's meeting (05-06-14). He added that there was another application scheduled for June and several others in the "pipeline".

Chairman Behr asked Mr. O'Brien to comment on Application No. 12-01Z, Anthony and Kathryn Bontomase.

Mr. O'Brien indicated that this was an unusual situation since the application had already been approved by the Board. However, during the course of delivering the final plans to the Board, the designers of the plan found that certain deviations had to be made to the plan. It has been the practice of this Board and also most boards, that, if upon review by the Board's staff and officers, it is found that those minor changes are insubstantial in nature, the Board officers could sign off on those revised plans. If, however, the professionals and officers find that there is deviance in the plans that arises to a substantial level, arises to a change that was not contemplated by the resolution or adds a variance or intensifies a variance, the officers could require that the applicant return to the Board.

In the case of the Bontomase application, there were some changes made to the interior of the rooms that allowed extra air, light, and open space, as well as an addition of several windows which it was felt gave a nicer appearance to the exterior of the house. In no way did it affect the variances that were granted. In no way did it trigger any additional relief. Because these were extremely minor changes, it was felt by the Board's staff and officers that the change was not substantial and that the officers could sign off on it.

Chairman Behr said that the Planning Board has an official process that in a commercial application, if an applicant is changing the inside of the building but doing absolutely nothing to the outside of the building, the Administrative Site Plan Waiver Committee can grant the approval to go ahead without it having to come up in front of the entire Planning Board. The purpose is to try and save applicants money when no useful purpose would be served by making them go through the entire board process and pay for all the rest of it. The control factor is that absolutely no change in any way that affects what has been granted. There is no additional relief so it truly is a diminimus situation and in that regard if the Board's consultants say, "It's diminimus," the Board officers have the ability to give the go-ahead. He felt that it was a useful procedure. He asked if there were questions or comments from the board members.

Mr. Gerecht felt that it was a good procedure since it facilitated the applicant's ability to make minor insignificant tweaks that wouldn't affect any of the variances that the board members voted on. The applicant would not have to pay for their experts and the Board's experts for another hearing. This was somewhat in compliance with what the Planning Board does in that sense. It benefitted both the applicant and the Board.

Chairman Behr asked for a motion to adjourn. Mr. Gerecht moved and Mr. Ruiz seconded the motion. A Voice Vote was taken and the motion was unanimously passed. The meeting was adjourned at 9:58 P.M.

CYNTHIA KIEFER
Planning and Zoning Secretary