

**MINUTES**

**SEPTEMBER 25, 2012**

**PLANNING BOARD**

**LONG HILL TOWNSHIP**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Chairman, Mr. Connor, called the meeting to order at 8:02 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 January, 2012.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

On a call of the roll, the following were present:

Christopher Connor, Chairman		<b><u>Excused:</u></b>
Charles Arentowicz, Member	Ashish Moholkar, 1st Alt.	Brendan Rae, Vice-Chairman
Jerry Aroneo, Mayor’s Designee (arrived @ 8:25 PM)		Sandi Raimer, Member
Donald Butterworth, Member		Barry Hoffman, Bd. Attorney
Joseph Cilino, Member	Kevin O’Brien, Twp. Planner	
Guy Roshto, Member	Thomas Lemanowicz, Bd. Engineer	
Michael Smargiassi, Member	Dawn Wolfe, Planning & Zoning Administrator	

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**EXECUTIVE SESSION** - It was determined that there was no need to hold an executive session.

**APPROVAL OF MINUTES**

The minutes of April 24, 2012 were approved as amended on motion by Mr. Roshto and seconded by Mr. Smargiassi. Mr. Aroneo, Mr. Cilino, and Mr. Moholkar abstained as they were not present at that meeting.

The minutes of May 8, 2012 were approved as written on motion by Mr. Smargiassi and seconded by Mr. Roshto. Mr. Moholkar abstained as he was not present at that meeting.

**PUBLIC QUESTION OR COMMENT PERIOD**

The meeting was opened to the public for questions or comments. There being none, the meeting was closed to the public.

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**DISCUSSION**

**MEYERSVILLE ORDINANCES**

Mr. Connor excused himself from this discussion due to potential conflict of interest. Mr. Smargiassi chaired this portion of the meeting.

Mr. Smargiassi gave a brief outline of what has been happening in regard to the Meyersville Ordinances. It was sent to the Township Committee in 2011 and feedback dated May 7, 2012 was received by the Planning Board for further comment and consideration.

Mr. Roshto said that there were eight things that the Township Committee was hoping that the Planning Board would address. Some were reaffirming what we liked in the Ordinance. The first was the changing of the name to Meyersville Hamlet which was a step in the right direction from the B-1-20 Zone. He said that, as you read through these you will see “as recommended” which means that the Planning Board recommended them to the Township Committee and the Township Committee reaffirmed them. The major ones that will require discussion from this Board include No. 4 which deals with setbacks. The Committee and most of the comments from the public were such that they didn’t want to see much change at all in the Meyersville Circle area. They wanted to bring the building setbacks up closer to the road.

Mr. O’Brien said that the recommendation that was sent up to the Township Committee called for a minimum setback of 10’, with a maximum of 25’.

Mr. Roshto said that the other thing the Township Committee discussed was residential space on the first floor. There was some confusion in the Ordinance that was submitted and the Township Committee would like the Board to discuss whether or not we really want to have residential space on the first floor.

Mr. Smargiassi suggested going through the items in the order as presented.

Point 1-Concerned changing the name to the Meyersville Hamlet and it appears the Committee agreed with that.

Point 2- To prohibit repair shops and automobile parts stores.

Mr. O’Brien said that repair shops are general repair shops and are service oriented businesses, while automobile parts are a retail business. He wondered why the two particular items had been picked out and asked if there was a particular reason for that.

Mr. Roshto didn't recall the exact discussion except that the Committee, in general, felt that those types of businesses were not in keeping with the historic nature of the Meyersville Hamlet area.

Mr. Smargiassi recalled a discussion about the repair shops which included things like computer repair shops and non-mechanical/engine related repair shops. He questioned if the concern was repair shops across the board.

Mr. Roshto replied they had not gotten that deep into the discussion.

Mr. O'Brien said the repair shop meant a general repair shop and not an automobile repair shop. Automobile parts would just be a retail store like the other retail uses. He said that these uses *do* match the uses in other areas of the Township. He also noted that engine and or mechanical repair shops are prohibited in all of the village business districts now.

Mr. Roshto said that the only thing that he was saw as prohibited uses were drive-in uses or drive-up windows.

Mr. O'Brien said that they are prohibited in the Meyersville Zone. In the other zones if it is not specifically listed as an allowed use, it is prohibited. Also, if it is listed as prohibited, that is a stronger prohibition.

In response to Mr. Smargiassi, Mr. O'Brien said that the language in the Meyersville Zone for the permitted primary uses mirrors the language used for the other village zones in the Township. The fact that automobile shops is not listed means that they are prohibited in all of those zones. He said that we also have a list of prohibited uses which is rather lengthy. He referred to Sec.123.3 on pg. 39.2 of the Ordinance.

Mr. Roshto asked, when an ordinance is written for a permitted use such as retail service uses "including", what is the purpose of the word "including"? Is it to give examples, or is it to say that these are these the only types of retail services?

Mr. O'Brien replied that the use of the word "including" means it's an example.

Mr. Smargiassi asked if a repair shop would include an antique dealer.

Mr. O'Brien needed more specifics but thought that in a *very general way* an antique dealer would be a separate use and they may be restoring antiques but antiques is the umbrella that they fall under rather than repairs where the umbrella there is that they are fixing things. He said that a vacuum repair shop would be much like an antique shop and if they also sell vacuums, then they would be part of a retail trade use.

Mr. Roshto thought the Township Committee was aware of the permitted uses in the Meyersville Hamlet. From the discussion, he felt that that repair shops and automobile parts stores were inappropriate uses for an area that small.

In response to Mr. Smargiassi, Mr. O'Brien said that you could specifically prohibit engine part stores. He asked if the Board would like to strengthen the automobile parts to include any type of engine parts, be it automobile, lawnmowers, snowblowers, etc. (Some members nodded in agreement, but not all).

Mr. Butterworth thought the Township would be micromanaging what would go into the Hamlet. He felt that the market place will determine what would fit in this kind of community.

Mr. Roshto said that the alternative that the Board could choose to take is that if it felt that it wanted the types of retail shops that we are talking about now, we could explain it to the Township Committee and provide them with additional information and explain why it would be a benefit to the Circle.

(Mr. Aroneo arrived at 8:25 P.M.).

Various types of businesses were discussed along with what currently exists in Meyersville. Mr. Roshto read Section 7 & 8 of the Meyersville Hamlet Element and questioned how an auto parts store fits when there are just 8 properties to deal with.

Mr. Cilino felt the language in the Ordinance was very broad in scope.

Mr. Roshto asked if the Planning Board could pass this and say that we would remove the repair shops and automobile part stores from the Ordinance?

Mr. Smargiassi asked if we removed 122.6(b)1, which lists primary uses and it has automobile parts, could we simply just take that out. Would that be enough?

Mr. Roshto said yes for that one but for retail you would have to take it out of the proper section.

Mr. Cilino suggested just rewriting it to state what he said previously less the computer internet store. It could be stated in such a way, such as, "In order to preserve the historical area, the following are the only businesses that will be allowed if space becomes available". You would only be listing three or four and that is it. There is no need for further definition and is straight forward.

Mr. Smargiassi noted that what Mr. Roshto had read was from the Master Plan and we are discussing the Ordinances.

Mr. Cilino asked if the Master Plan could be modified?

Mr. Roshto replied “No” and said that tonight we are discussing the Ordinance. However, he said that we could certainly go back and open up the Master Plan at a later date.

Mr. Smargiassi suggested focusing on the Ordinances tonight. He said what he had heard so far regarding automobile parts stores is to remove it from the Sec. 122.6(b) list of permitted uses for Meyersville.

Mr. Roshto said, based on what Mr. O’Brien has said about the word “including” meaning an example, then you are not really prohibiting it just be removing it. You could probably remove all of these examples and still any retail service would be applicable. He said that he would think if we want to make it not permitted we have to state it as not permitted.

When asked his opinion, Mr. O’Brien said it was the pleasure of the Board. The fact that it is not stated and the fact that it has been removed means it is a prohibited use. Listing it as prohibited would make it stronger so that there is no chance of anyone saying the auto parts are sort of a retail trade use.

Mr. Roshto said he would then say that retail trade uses, including automobile parts, is an example so any retail trade use of these types of examples would be permitted.

Mr. O’Brien agreed and said that those are examples of what would be permitted. If that is not an example of what is permitted, the fact that it is not listed there means that it is prohibited. But to strengthen it, you would list it under the prohibited uses. He said that our Ordinance defines retail trade as “Establishments engaged in selling goods or merchandise for the general public for personal or household consumption and rendering services incidental to the sale of such goods”, which is a very broad definition.

Mr. Roshto said that he would say that automobile parts should be prohibited uses (stated specifically) and repair shops should be stricken and not made prohibited because of the possibility of an antique store that is fixing dolls in the back room.

Mr. O’Brien asked if this was to be a prohibited use for the entire Township, or just for Meyersville Hamlet. (The consensus was just for Meyersville Hamlet).

Mr. O’Brien then asked if repair shops were to be stricken.

Mr. Roshto said that would be his recommendation.

After discussion of lawnmowers, Mr. Smargiassi suggested removing auto parts from (b)1 and removing repair shops from (b)2 and in (e) and to Prohibited Uses you would add automobile parts and engine repair shops.

Mr. Roshto, Mr. Arentowicz, Mr. Moholkar, Mr. Cilino and Mr. Aroneo agreed. Mr. Butterworth said that it did not matter one way or the other to him because he did not believe it will happen.

Mr. Smargiassi suggested continuing with the comments of the May memo from the Township Committee.

Point 3 - To prohibit all drive-in uses - there was no change.

Point 4 - Refers to the B-1-20 Zone where currently the minimum front yard is 50’.

Mr. O’Brien said that was correct which makes every property in the Zone, with the exception of one, non-conforming. He said that that is why the Planning Board recommended changing the front yard setback to make 7 of the 8 properties conforming (rather than 1 of 8 conforming).

Seeking clarification, Mr. Arentowicz asked, if we want 7 of the 8 to be conforming, what is the setback?

Mr. O’Brien said the proposed setback had been a minimum of 10’ and at one time there was a maximum of 25’, which he believed took care of everyone except for Archie’s. He said that 2 properties; The Meyersville Inn and Casa Maya, have zero setbacks. 3 of the properties are between 8’ and 15’. The Meyersville Café is 55’ and Archie’s is 75’. Under the current Ordinance which is the 50’, (he corrected himself and said that) Archie’s and the Meyersville Café meet that. All the other properties are non-conforming.

Mr. Smargiassi said the proposed ordinance from the Planning Board moved it much closer to what currently exists. The only question would be is if we want to take a look at the 10’ and 25’ and make any adjustments.

Mr. Roshto said his impression from the Township Committee and the residents was by changing or making it easier to develop in the area will make it so. There was a question as to whether or not we wanted to develop in the area. The reason for the variances would be to manage what we want to do in the future. The question is how the Planning Board wants to see the Meyersville Hamlet in the future. Do you want properties to push up closer to the road?

Mr. Aroneo and Mr. Cilino didn’t want to see that.

Mr. Moholkar asked, if we don’t change it and the current owners don’t want to make any changes, do we have to do anything? (Several members replied, “No”). He then said, if we *do* allow this and the current owners decide to sell, that would give them the opportunity to build something up to 10’ from the front and then they would have to come to the Board to ask for variances to do something that is in the current list, but they could do something as is without requesting variances. He asked if he was correct?

Mr. Aroneo said that with any addition to the building or any material changes they might have to come to the Board.

Mr. O'Brien said most would have to come for site plan approval (if they are a commercial use). If they are non-conforming in setbacks or other bulk requirement they would have to go before a Board for relief. A property may stay as it is forever as long as they make no change.

Mr. Roshto said the people he has spoken to *overwhelmingly* have said they like it the way it is.

Mr. O'Brien said that the Planning Board, at that time during discussions, thought that leave it as it is meant make things conforming so that people *could* leave them as they are.

Mr. Aroneo said that the guidance he has always gotten from Mr. O'Brien and the attorneys is to try to make them conforming. He asked if that wasn't an objective when you are redoing a Zone? He said that to redo a Zone and leave most of the properties nonconforming doesn't really fit with zoning theory.

Mr. O'Brien agreed, unless there is some goal you are trying to achieve.

Mr. Smargiassi said 50' for the whole Zone felt like too much to him. He said that the majority of the buildings, except for 2, are 15' and under. That is the current feel of Meyersville. If you want to keep it the same, then 10' to 25' seems reasonable, but 50' does not.

Mr. Roshto said that when you talk about Archie's, you have now left the Meyersville Circle and, if you are going to go up about 100 yards outside of where the closed in properties are, now we are talking about building properties on a 10' setback for quite a distance.

Mr. Smargiassi recalled the house that is to east of Archie's has very little setback.

Mr. Butterworth said that he had done a site plan assessment there and the setback is more like 35'-40'.

Mr. O'Brien said that his information shows it to be very close to the property line, within 2'-3' tops.

Mr. Smargiassi said that he thought there was some logical reason not to have the setback be 50'.

Mr. Moholkar suggested that by changing it you allow the 2 larger properties to build right up to the road. If you leave it, the current places cannot build more in the front as they already encroached on the 10'. He wanted to make sure he understood what the point of this is. Is it to allow them to update their existing buildings, because just adding it to update the Zone because the buildings are already there also allows the ones that are meeting it to go to all the way to the end as well.

Mr. Roshto said that, for example, the Meyersville Church as it is today would require a variance to do work because of the setback. He asked, do you want to help the Church by rezoning so that they become a conforming property? The debate is where do you want Meyersville Hamlet to go? He asked if there was a compromise, noting that 2 properties are non-conforming at 10'.

Mr. O'Brien said there are 3 listed between 8' and 15'. I suspected the Church may be around 8'; the antique shop is pretty close, and the other residence at the corner of New Vernon and Meyersville is also very close

Mr. Roshto felt that changing it to 15' will still leave you with roughly with the same number of non-conforming properties.

Mr. Smargiassi asked Mr. O'Brien, if there was seating out front of the restaurant on the sidewalk or a place for people to walk, how much space would be needed? 15' seemed more reasonable to him than 10'.

Mr. O'Brien said sidewalks are generally 4' wide and we have allowed people to set up café seating outside, but currently they have to leave a 4' wide aisle so that people could walk back and forth. Other than that you may need another 12' to 20'.

Discussion ensued regard establishments with outdoor tables.

Mr. Arentowicz asked if any thought had been given to 15' and 30' to allow people options based on the size of the property. The current ordinance just has a minimum front yard, whereas we are proposing a minimum and a maximum. He asked Mr. O'Brien if going from 15' to 30' would make a difference.

Mr. O'Brien replied that approximately 5 would then be non-conforming.

Mr. Cilino said that the issue, as Mr. Roshto stated before, is that the residents want to maintain the feel of the Meyersville Hamlet and we want to continue to have on openness to it as an historic site. He said that it seems that we are not focusing on the objective.

Mr. Arentowicz asked if it should be left at 50'.

Mr. Smargiassi thought there were a lot of bulk requirements that go into how open things feel and the front yard is just one component. He was *not* in favor of leaving it at 50', as he did not think it will keep the current look and feel of the Hamlet and did not think it helps the owners of the properties there.

Mr. Arentowicz said we have tried to come to a compromise. We were at 10' to 25', then we bumped it to 15' to 30' - that is not 50'. He asked if 15' to 30' is helping?

Mr. Cilino said he would go with that.

Mr. Roshto said he was looking at the map and saw that the bigger properties are set back. The ones closer to the property lines are on corner lots and have to deal with the setbacks on two sides. Visually, he said that they are back further because of the lot sizes. If you move them up, you will dramatically change the look and feel of the Hamlet. He believed that if you move it to 10' you would see quite a dramatic affect.

Mr. Cilino asked if there wasn't a Meyersville renovation proposal several years ago where a developer did come in and drew a plan to redevelop Meyersville. He was curious as to whether anyone remembered that, what that proposal entailed, and how it affected the Circle. He thought it was turned down because of the overwhelming show of hands of the residents. He asked, whatever we do with the ordinance, would it allow a developer more leeway?

Mr. Aroneo thought that was a good point. He felt that 10' setbacks might afford a developer another crack at something like that and said that the use has to come into play.

Referring to Mr. Cilino's recollection, Mr. O'Brien did not think there was ever a *formal* application to the Board.

Mrs. Wolfe agreed.

Mr. Aroneo felt it would be an argument for a larger setback.

Mr. Butterworth felt that the Board should focus on the one big piece of property that *will* be developed at some time and what would that section of the road (where Archie's is) look like with a minimum setback. He felt that it should have been torn down a long time ago. He noted the storage of junk outside and described the place as "horrendous". He also questioned if anything has been done about the asbestos on that site, noting that it is laying right on the ground in plain view. He said that that location is where the road narrows and goes out and he felt it is more important, as far as the "look and feel" goes in that area. He agreed that a 10' minimum would be too narrow there. He felt that you would probably want a 20'-25' minimum setback there. He did not think it is important to worry about the maximum since we just don't want things too closed in.

Mr. Roshto asked Mr. Butterworth if he felt it would be appropriate for the Meyersville Café to have a minimum setback of 25'.

Mr. Butterworth replied that if they wanted to do a major rebuilding that would be allowable.

Mr. Moholkar noted that that would be 25' from both Meyersville and Gillette Rds.

Mr. O'Brien said that it would be measured from the property line which is set in from the roadway.

Mr. Roshto thought it an interesting dilemma. He felt that closer in along the Circle makes a lot of sense. He suggested bringing the Meyersville Café up with the parking in the back and allowing for nice walkways. When you move away from the Circle, he agreed with Mr. Butterworth. He felt that bringing something up 10' off the main road doesn't quite make sense. The dilemma here is that we are talking about the Circle as well as further off of the Circle.

Discussion of rear parking lots followed. Mr. Lemanowicz said that they can be difficult on a smaller site because, in the situation of a restaurant, you have to get your deliveries someplace and your dumpster has to be someplace. He also said that, in a situation where you have a variance, you can generally ask things of the applicant to get that variance, whereas if a variance is not involved, the ability for the Board to say that this is the Meyersville Hamlet and we like to see things this way....it gives you a little more strength. Although not the best way to do things, he said that the reality is that it does give you that option to say that our setback is 40' and you want 25', so we would like to see the architecture look a little more like this.

On the other hand, Mr. O'Brien said that a conforming site plan that is presented to the Board, by law, must be approved unless you can find something under general health, safety and welfare to deny it.

In response to Mr. Smargiassi, and after further discussion, the Board members indicated that they were in favor of 25' front yard setbacks with no maximum.

Mr. Smargiassi continued with the remaining comments of the Township Committee's May memo regarding Point 5 – First Floor Residential. Conflicting Ordinances.

Mr. O'Brien didn't think there was a conflict because there is no residential allowed on the first floor anywhere in the Zone. He will rewrite the language to allow work space on the first floor and to reflect that there is absolutely *no* residential permitted on the first floor in *any* situation and that any residential must be on the second floor or above.

With regard to Point 6 – Live Entertainment, Mr. O'Brien said that a comment was made to make that consistent with the other zones. If acceptable to the Board, he said that live entertainment at restaurants and existing bars should be added and be consistent with the rest of the Ordinance. (No comments were expressed).

With regard to Point 7 – Sec. 122.5, Mr. O'Brien said it was there for comparison purposes and there was no

change. He said that it was merely included in the transmittal documents so that everyone could see what had been allowed in the Zone. He said that he will remove Sec. 122.5 from the draft (and not the Ordinance).

With regard to Point 8 – Rename section number for Meyersville Hamlet to Sec. 122.11. Mr. O’Brien said that he had no problem with that and will renumber it as suggested.

In response to Mr. Smargiassi, Mr. O’Brien reviewed a list of the changes to be made, as discussed.

Mr. Roshto made a motion to adopt the Meyersville Ordinances with the changes stated by Mr. O’Brien which was seconded by Mr. Butterworth.

(It was noted that no members of the public were present).

A roll call vote was taken. Those in Favor: Mr. Arenotwicz, Mr. Aroneo, Mr. Butterworth, Mr. Cilino, Mr. Roshto, Mr. Smargiassi and Mr. Moholkar Those Opposed: None.

After making the changes discussed, Mr. O’Brien will forward a revised copy to the Board for its review and, after a short period of time, will forward a copy to the Township Committee.

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(Mr. Connor returned and chaired the remaining portions of the meeting).

**DISCUSSION**  
**SHADE TREE ORDINANCE**

Mr. O’Brien pointed out that the Township Committee has put this ordinance through a first reading and said that it did *not* originate with the Planning Board. According to the MLUL, anything dealing with the Zoning Ordinance must be referred to the Planning Board for its review and recommendation to the Township Committee as to whether or not this Ordinance conforms to the Master Plan.

Mr. Roshto said this was before the Township Committee. He said that the Shade Tree Commission would like to see applications coming to the Construction Office. The Township Committee thought it was a reasonable request so it sent along some language that the Township Attorney drafted. He said that they felt it should be sent to the Planning Board for its input and that it will be on tomorrow night’s Township Committee agenda for a second reading. The first one, Sec. 106.4(a) has one small change in spelling to the word “the”, and the addition is (b). He said that he had spoken with the Shade Tree Commission and they had some constructive changes they would like to see - generally word changes.

Mr. Connor asked Mrs. Wolfe if she had any comments on this particular change.

Mrs. Wolfe said she had read it and had no comments. She said that she did not receive any feedback from the Zoning Officer, although he had received a copy of it.

Mr. Roshto said that the Township Committee’s concern was if this was going to be an additional burden because they do not want an additional burden on the employees. He said that Mr. Delia came back and said that it would be perfectly fine.

Mr. O’Brien said he did have some concerns as there are no timelines (maximum or minimum) for review in the ordinance. Also, there is no requirement that a review by the Shade Tree Commission be completed prior to the permit issuance. He wondered if this might be confusing to an applicant who is asked to give something else for another purpose and observation. In the past when the Boards have requested commission or committee reviews of applications, on occasion, there has been a problem in terms of timing because their meetings may not coincide with this Board’s or the Zoning Officer’s schedule. He was concerned that the Shade Tree Commission may want to look at these applications but may not have an opportunity to do so because of when it’s sent and when the Zoning Officer has to make his decision.

Mr. Lemanowicz said he was looking at the last paragraph of Sec. 106.4(a) and wondered if it may be restrictive. He said that he may want to contact the MCSC District or the County Arborist. He did not know if we could give them a little more leeway to contact somebody. Perhaps add something similar to “other appropriate official”

Mr. Cilino wanted to understand why it was written and asked what is the objective?

Mr. Roshto said that in the past there have been situations where trees on public right-of-ways have been damaged or removed. The Shade Tree Commission has the responsibility to insure that these trees are protected from construction and, had they been informed of the applications, they would probably have gone out to review it and give recommendations. The Shade Tree feels that this is a way for them to be informed.

Mr. Conner asked for further comments. There were none. He went on to say that we could wordsmith this or we can get a sense of the Board and then pass some sort of Resolution indicating that we agree with this and would advise the Township Committee to consider our comments.

Mr. O’Brien reminded the Board that there was no time line for review and if the review is not provided to the Zoning Officer, then he is free to approve or deny the application based on its own merits.

Mr. Roshto agreed with Mr. Aroneo in saying that the Township Committee did not want to slow down the application process. He said that they trust our Zoning Officer to make the right decisions and get it to the appropriate individuals in a timely manner and that all they were trying to do was to recognize that the Shade Tree Commission should be involved in some way, especially when there are trees in right-of-ways.

Mr. Connor asked Mrs. Wolfe how long it would take for this particular application to be approved.

Mrs. Wolfe replied that before anything goes to the Building Department it goes to the Zoning Officer who has the person complete a Zoning Permit application. He reviews the proposal within 7 or 10 days and then he would either approve it or deny it. If approved, the person can proceed to apply for construction permits. If denied, the person is directed to apply to either the Planning Board or Board of Adjustment. She felt that the proposed procedure would catch those cases that do *not* require Board approval.

Mr. Connor thought that might present a problem in bringing it before the Shade Tree Commission as they meet only once a month.

Mrs. Wolfe said that, if the Zoning Official has to act on a permit within a week or so, he will have to contact the Shade Tree Commission and they will then have to come in to Town Hall to review it and they would have to act *quickly*.

A discussion ensued as to the processing of an application, notification of applications to the Shade Tree, and the time lines involved.

Mr. O'Brien asked if the intent was for every tree on the property, or just the R.O.W. trees.

Mr. Roshto replied that the Shade Tree Commission would say that the intent is for every tree on the property, but he did not know if that is what the Township Committee would say.

Mr. Aroneo said that they don't have the authority for that.

Mr. Roshto said that we don't have an Ordinance to control privately owned trees, so the property owners are going to do what they are going to do, except for clear cutting, but we do have authority on the R.O.W. and trees *have* been cut down illegally on the public R.O.W. and that is what the Township Committee is trying to solve.

Mrs. Wolfe said that she had recently replied to Committeeman Piserchia indicating that, while we do not like to see such instances happen and ideally would like to prevent such occurrences before they happen, if it *does* happen, we do have a mechanism for enforcement. In such cases, the homeowner(s) have violated our Ordinance and they can be made to replant trees. Understanding fully that this is *not* the way we want it to go, she said that we do have recourse and it is never too late to do *something*.

On a practical basis though, Mr. O'Brien said that the Shade Tree Commission would have to come in on a weekly basis and review the applications for Zoning Permits in order to get input back to the Zoning Officer prior to the issuance of a Zoning Permit.

Mr. Connor replied, however, that if the Shade Tree Commission decides to use some procedure other than having a regular meeting, it seemed to him that this is something that they could handle in such a way that some subset of the Shade Tree Commission and the Chair would have some responsibilities in this area. Obviously, if there was a huge concern, then they would go back to Mr. Delia and say that they do not approve and if he agrees, he would reject it and they could start all over again. He said that it does put additional responsibilities on the Zoning Officer to make sure that those decisions are made correctly, but we assume that we have employees that can do that. He asked if anyone had any comments or recommendations to send to the Township Committee.

Mr. Roshto welcomed input to provide to the Township Committee, otherwise he felt that the Board will move forward.

Mr. O'Brien said if anyone wanted to make a recommendation it could be included in a motion. The motion from the Board would be a finding that the Board finds that the proposed Ordinance is in conformance with the Master Plan and recommends it to the Township Committee. If the Board has any suggestions to make in terms of a condition or statement, he said that it could be added to it or, conversely, the Board could find that it is *not* in conformance with the Master Plan.

Mr. Butterworth made the motion that the proposed Ordinance is in conformance with the Master Plan (without restrictions) and recommends it to the Township Committee which was seconded by Mr. Aroneo.

A roll call vote was taken. Those in Favor: Mr. Arenowicz, Mr. Aroneo, Mr. Butterworth, Mr. Cilino, Mr. Roshto, Mr. Smargiassi, Mr. Moholkar and Mr. Connor. Those Opposed: None.

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**DISCUSSION**  
**BUILDING HEIGHT ORDINANCES**

Mr. Lemanowicz said this issue had to do with how building height is determined for the purposes of the maximum building height allowed. There are two aspects to building height. One is a physical height - a dimension from some ground level to the highest point of the building. The other regulation has to do with the number of stories. They both go together and the more stringent one applies. Concerning the actual dimensioned height, he said that

the Ordinance currently says that the height of the building is a vertical distance from the lowest ground elevation around the foundation to the level of the highest elevation point of the roof surface. The Board of Adjustment has had some variances with respect to this because it is a single lowest point. If you have a dwelling that is normal looking, it has a typical exposed foundation of 2' or 3'. If in the back or side of the building there is a stairway going down to a basement entry, the height is measured from that slab at the basement entry, regardless of what else is going on around the house. When you deal with building height you are generally trying to control the visible mass of the building and you don't want a very large building. To that end, he proposed that the height dimension be taken from the *average* grade to the roof, with that average grade defined as the elevation computed by averaging the proposed spot elevations taken along the *entire* perimeter of the building. He said that spot elevations shall account for changes in grade and shall generally be spaced 15' to 20' apart. In the case of retaining walls or abrupt slopes that terminate at the building, spot elevations at the top and bottom of such wall or slope shall be included in the calculation regardless of spacing. The municipal reviewing agent reserves the right to add, delete and/or relocate the spot elevations using the calculations as may be found appropriate by the agent to result in a reasonable approximation of average grade. He said that that is a long definition, however building height is one of the reviews that is very difficult because builders are always trying to find a way around it. He said that he has used this definition and one builder got around it by putting a modular block retaining wall 4' off the building and the wall was 2' high. He measured from the top of the planter rather than the entire lawn area because it sat against the building. In another town he deals with, he said that you actually measure the grade 10' away from the building so it doesn't look like it's a house on top of a little stand. When it comes to height, because volume is money, people like 10' ceilings and so builders want to do that type of work. What it allows (particularly with the houses on Long Hill Rd. where properties are steep) is for the front of the house to be set into the slope and still, at least some of the house does not need a height variance because of the property. If the property is sloped, that is the condition of the lot and it would be eligible for a c-variance because of the unique condition, but still it is a variance that we tend to see a bit of, and is why he was suggesting to change it to *average* grade. He said that he has worked in towns with average grades and the houses don't appear that much bigger. In a situation where you have one particular spot that is causing a problem for the whole building, it mitigates it by using that.

Mr. Roshto said that when this came before the Township Committee one of the members asked a question that they couldn't answer relating to the look on a steep slope. He asked Mr. Lemanowicz if what he was describing helps with that, or makes it worse.

Mr. Lemanowicz replied that, because it is *average* grade, it would allow *more* of that. If the grade is 2' from the finished floor in the front and 10' from the finished floor in the back, you would *average* that. So now the average is 6'. Even though you have more exposed in the back, you are not counting all the way down to the bottom because you are taking some credit because of the fact that from the front you are into the slope.

Mr. O'Brien said the reason this came up is because on Long Hill Road properties on the south side of the road are at either street level or below. But the back of the house as it descends down the slope means that the entire basement is typically exposed and could appear as 3-3 ½ stories from the back. He said that people had to come to the Board of Adjustment for a use variance for a regular house which met all the setbacks and met every requirement, but because of that back end being taller than what was allowed, they needed the most difficult variance to get which is a use variance.

Mr. Connor asked for the average size of the lots.

Mr. O'Brien replied that most all of them were standards sized lots.

Discussion ensued regarding possible variances needed.

Mr. Aroneo questioned, given how steep the slopes are and specifically on the south side of Long Hill Road ,if you did the average how many people do we really end up helping. He was advised it would help some and this is just an attempt to ease some of the height situations. He questioned whether we were asking for more trouble than what we will get by changing it.

A question was raised as to whether this was standard now across towns where they had to come up with this definition if you have height restrictions.

Mr. Lemanowicz said more people are going for height and there are variations. Some concept of average grade is probably more common. When asked if there were "x" number of points that he used to average, Mr. Lemanowicz said he put in the definition 15' – 20' apart around the perimeter in order to try to get a reasonable estimate of it.

In response to Mr. Smargiassi, he said that when people make this change, he has not seen any changes to maximum allowable heights. He said that 2 ½ stories or 35' is almost universal for a single family home.

Mr. O'Brien said that there are some exceptions out there that go down to 32', but you could wind up with a flatter roof because of that. He said that 3 or 4 towns that he knew of have reduced it to that amount.

Mr. Lemanowicz said that the other issue is the architecture now. He said that 40-50 years ago, the architecture of a ranch had flatter roofs than they have now. Most homeowners now want a strong pitch to it and architects come in an argue that that is common practice now. He said that you also have to deal with what exclusions you might want to apply. For nonresidential buildings, he said that you've got the whole rooftop utilities and you either count something or you don't count something – where they have the HVAC unit and the screen around it, is that part of the building height or not? He said that you have to consider such things as cupolas, tall chimneys, lightening rods, flag poles on top of buildings, steeples on top of churches, the widow's walk that you see on some houses, etc., and those are some exclusions you might want to consider.

Mr. Lemanowicz said that another item is number of stories. Right now your single family residential has a 2 ½ story maximum. He read the current definition of a story and said that, if a basement is finished, it is counted as a story. The memo he provided contained a picture of a ranch. If that house has a finished basement, he said that it would be considered a 2 story building, so you could not add a level to that house without a “d” variance, which is somewhat counter to the stormwater management desires of the town because if that person wanted to expand he would have to increase the footprint which would increase the impervious coverage on the lot. If that finished basement did *not* count, you could go up and increase the living area without increasing impervious cover. Because height generally is to control visible mass you can’t tell from that picture if that house has a finished basement. He questioned why you would want to punish someone for it if, instead of increasing the visible mass by going up for a family room, he is doing it in his basement. He felt that you would want to encourage that. He said that that is why, in the definition of a basement, he made his suggestions on how that could be dealt with.

Mr. O’Brien said that at one point in time we did look at neighboring towns. Chatham Borough, Warren Township, and Berkeley Heights used an average, while Harding echoed what we currently have - from lowest to highest.

Mr. Connor asked for comments from the Board.

Mr. Cilino was in agreement with the parameters that had been discussed.

Mr. Aroneo agreed with most of Mr. Lemanowicz’s comments but was not sure we want to count the entire height, depending on the size. In general, he felt it makes a lot sense.

Mr. Connor said that if the Board agreed, Mr. O’Brien could rewrite and present a new recommended draft Ordinance.

Mr. Lemanowicz said that, basically, we are changing definitions. He said that he could probably massage the definitions for the next meeting.

Mr. O’Brien said that there is a lot going on at the next meeting.

Mr. Connor said that, if Mr. Lemanowicz could have it ready by the next meeting, we might be able to discuss it.

Mr. Roshto said the key theme from the Township Committee was on steep slopes we were concerned that we would see large 3 1/2 story structures. What he thought he heard from Mr. Lemanowicz was that what he had written here could actually make that worse rather than better for the goal of reducing the number of variances that are coming before the Boards.

Mr. Connor disagreed. The way he heard it was, by using the *average*, you would take what is normally being done and approved and at least take it out of a d variance and put it to a c variance. But for those extremes making it worse, they will still require a d variance because they are going to be more than 10% over.

Mr. Lemanowicz added that they are not going to have the required setback to a critical area. He suggested that he provide a sketch or cross section through a piece of property with a house on it to provide a visual.

Mr. Roshto felt it very important to say with clarity what number of properties in our Township could potentially benefit from the change in definitions in terms of making their property appear larger than they would otherwise.

Mr. Lemanowicz understood the concern and said that it’s a balancing act. You want to make it less strict because you don’t want to get too crazy with variances, but on the other hand you don’t want to give away the farm. He said he would do more research and try to get some kind of visuals.

Mr. Roshto felt that, if you are on a steep slope and you are looking at the back of the house, it will look a lot higher than 35’.

Mr. Lemanowicz thought there were a lot of ways to get at this. He said he would ask Mrs. Wolfe for the annual reports and use those applications as examples.

Mr. Connor asked Mr. Lemanowicz to address the issues and get back to the Board prior to the next Board meeting.

In order to allow time for research and the preparation of examples, Mr. Lemanowicz requested that his time frame be extended to the meeting *after* the next meeting (which was acceptable to the Board).

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**DISCUSSION**  
**EVALUATION PROCESS**

Mr. Connor said that, at a previous meeting, the Board had discussed briefly the evaluation process with Board of Adjustment Chairman Tom Behr. He said that he had had a discussion with Dr. Behr who had sent a letter addressing the Board of Adjustment process. He said that he was generally in agreement that we need to move forward. He noted that a goal of the Board of Adjustment was to come out with a final draft of their proposal by today, but if it’s not available, it will be soon. He said that he would like to appoint a subcommittee to deal with the evaluation process for the Planning Board with the understanding that we would get all of the material that is relevant that the Board of Adjustment is doing as input - not as anything more than that, and then the Planning Board would develop its own schedule and procedure for evaluation. Before making any appointments, he asked if

there were any discussions on this item. Hearing none, he said that he would like to appoint Mr. Arentowicz and Mr. Butterworth to the subcommittee and said that he will act as a member to the subcommittee and will, perhaps, appoint a third member. He said that he had to check with Dr. Rae to see if he is willing to work on this committee. He said that his intention would be to appoint Dr. Rae and (Mr. Connor's) time on the subcommittee would be more as a monitor and not an active participant. With that in mind, he asked if there was any disagreement to the appointments. There being no comments, he asked for a vote of approval from the Board.

Mr. Aroneo moved to accept the appointments as presented which was seconded by Mr. Roshto. All members present were in favor.

Mr. Connor said that an initial meeting will be scheduled as soon as possible.

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**DISCUSSION**  
**NEW BUSINESS**

Mr. Roshto said he had spoken with the Township Clerk about the minutes for the Township Committee and he said he was commenting on how impressed he was with quality and accuracy of those minutes. He said that she had mentioned to him that the person who was transcribing those minutes for us is someone we hired and pay \$100.00 per meeting (set of minutes). He said that joking said to her that the one thing that bothered him about the minutes is that perhaps they are *too* detailed. He said that her response was that the person who is preparing them usually works with Planning & Zoning Boards and typically with Planning & Zoning Boards they are going to be more detailed minutes. He said that that got him thinking and he said that he knew that our Planning & Zoning Administrator is quite busy and he said that he was always looking at ways to take some of that work off her and so he sent an e-mail to Mrs. Wolfe and the Board Chairs and asked what they thought of perhaps spending the \$100 per meeting and at least try this out to see if we can get some quality minutes (probably not to the quality that Mrs. Wolfe does, but close perhaps) and, if that is possible, take some of the work load off of her. He said that Mr. Connor and Dr. Behr had replied back and said they felt it was a good idea. He said that he wanted to bring it up with this Planning Board and, if it thinks it is a good idea tonight, we can move forward on it and, if not, we could have a discussion at a later date.

Mr. Connor said that he had one brief comment and said that there are always budgetary considerations but, given the amount and the fact that we are not over-expended, we could probably manage it in our current budget clearly next year when we put out our budget we could incorporate an amount of money into the new budget. He asked for comments and said that he felt that it is an excellent idea and is something that the Board has talked about in the past in somehow getting Mrs. Wolfe *not* to have to prepare all of the minutes. He said that, not that they are not important, but she other responsibilities and if you look at the minutes, he did not know how long it takes but he knew that it has got to take quite a while to prepare them.

Mr. Arentowicz asked what the turnaround was for the Township Committee meeting minutes.

Mr. Roshto replied that she is very responsive and they get them back within 1-2 weeks. He said that she prepares them by listening to the audio recording.

Mr. Connor said he would like shorter minutes although he realized some of the discussions need to be documented. He said that there may be some other items that don't need to be as well documented which is something that we can look at.

Mr. Roshto asked Mrs. Wolfe if this was something she would like to try.

Mrs. Wolfe replied, "Absolutely!", and said that it would certainly help her.

Mr. Roshto made a motion that Mrs. Wolfe be asked to reach out to the same individual that the Township Committee uses for transcribing minutes and, if the fee is within the \$100 amount we discussed, we allow the transcription of minutes. Mr. Connor added "if it's not, come back to the Board and we will consider the financial implications of it". Mr. Smargiassi seconded the motion. All members present were in favor.

There being no further business, the meeting adjourned at 10:55 pm.

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DAWN V. WOLFE  
Planning & Zoning Administrator