

September 30, 2011

Re: DRAFT minutes of July 21, 2011 Allendale Planning Board meeting

The following pages are the minutes of the July 21, 2011 Allendale Planning Board meeting. As of this date, these minutes have not yet been approved by the Planning Board.

This document was emailed to me by the Allendale Borough Clerk as a result of my September 22, 2011 Open Public Records Act (OPRA) request. As it has not been approved by the Planning Board, it is marked as DRAFT.

The NJ Open Public Meetings Act (OPMA) requires that public bodies (e.g., Planning Board, Mayor & Council, BOE, Library, et al) make available minutes of public meetings *PROMPTLY*.

PROMPTLY has not been defined by OPMA. You can judge whether nine or more weeks is considered PROMPT.

There is no NJ law that requires the minutes of public meetings be approved before being made available to the public. Public bodies may make minutes available to the public as soon as they have been drafted.

I encourage our public bodies to make their public meeting minutes available as soon as possible – when drafted.

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Draft - not yet approved by the
Planning Board

July 21, 2011

A regular meeting of the Allendale Planning Board was held in the Municipal Building on July 21, 2011. The meeting was called to order at 8:07 p.m. by Chairman Quinn, who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following members answered roll call: Mr. Quinn, Mr. Sirico, Mr. Sasso, Ms. Sheehan, Ms. McSwiggan, Mr. Fliegel, Mr. Zambrotta and Mayor Barra. Mr. Strauch and Mr. Walters were absent.

Continuation of Calvary Lutheran Church application

Bruce Whitaker was present as attorney for applicant. He provided copies to Board members of the outline of Richard Preiss's testimony from the July 18th meeting as requested by the Board Chairman (marked Exhibit A-23). Revised plans dated June 24, 2011 prepared by Conklin Associates were marked Exhibit A-22.

Mr. Whitaker said there was a question about Mr. Glaser's testimony but he is out of the country, however he did provide the Board with a copy of the transcript of his testimony. At the last meeting one of the requests pertained to the parking situation at the site and an analysis of the church's needs. For that purpose the Vice President of the Church Council is present to provide testimony with regard to those matters. Mr. Latincsics is also present this evening to review the plan revised June 24th as well as Mr. Yakimik's report that he received this afternoon.

Mr. Whitaker called his first witness. Kathy Petersen, 182 Church St., Ramsey, New Jersey was sworn. She stated she has been a member of the church for over 40 years. She is currently the Vice President of the Church Council and has served on the Council for 11 years. She is also on the Caring Committee and the Alter Guild. She has served on the Christian Education Committee, Worship and Music Committee and Nursery School Board. She has taught Sunday school and is a communion assistant. She considers herself as an active member of the church. She is familiar with the business and financial aspects of the church, membership roles, and attendance and she is also familiar with the application submitted to the Board. She was in attendance at the last Board meeting on July 18.

Ms. Petersen said she is familiar with a document called Evangelical Lutheran Church of America Congregation Trend Report which contains the average worship attendance from 1990 to 2010 and the baptized membership from 1990 to 2010. These records are kept with the Church Council and it is part of their business report to the congregation each year. (marked Exhibit A-24). Ms. Petersen said through 2008 the numbers average in the 400's. In 2009 that number goes down to 163. In February of 2009 the Subcommittee of the Council went through the membership rolls which church's typically do every 10 years and removed the names of people who had died. She said the bulk of the people had moved away or had not been active for a long time. In 2010 the actual number was 167. The chart indicates that in 2009 the average attendance was 72 and in 2010 the average attendance was 65. The attendance in the early part of 2011 is about 65. She further stated that there is only one church service on Sunday.

Mr. Whitaker asked how many employees are present on Sunday as part of the church service. Ms. Petersen said there are two – the Pastor and the choir director/organist. She said the seating in the church consists of pews which can seat 175-200 people comfortably but in her experience she has never seen that number of people in the church. She added that she has not seen that number of people present on festival days such as Easter and Christmas. With regard to wedding ceremonies and funerals, she said the only one she can report on is her wedding when there were 140-150 people present and the church was pretty full but it was still comfortable. Mr. Whitaker asked how many wedding and funeral services occur in any given year. Ms. Peterson said it is her recollection that there were no weddings last year. The year before there were two and they probably average one a year. There was one funeral last year and two the year before. She said in her experience as a church member the parking arrangements as they exist now adequately accommodate the church's needs and it is not anticipated that this condition will substantially change in the future.

Mr. Whitaker asked if any complaints with regard to parking problems at the site have been received from other organizations that use the church facilities. Ms. Peterson replied that there have been no complaints.

Mr. Whitaker asked what is the church's policy as it pertains to the land which it owns that is unoccupied. Ms. Peterson said the proposal is to sell the properties according to the engineer's design and that money would be put into a type of trust fund so that they could use the interest to help subsidize their budget for the year. Mr. Whitaker asked if the church is currently solvent. Ms. Peterson said it is solvent. Their on-hand cash has been depleted to the point that they could sustain the operating budget for probably no more than one or two months. Their reserves have been depleted and that is why they are looking towards the property as an asset that could provide a cushion to provide them the ability to stay in Allendale as a functioning unit. She added that their goal is to stay in Allendale. They have been here for 50 plus years and it is part of their name which is Calvary Lutheran Church of Allendale.

Mr. Whitaker asked if there is any need from the church's perspective for the use of the property which is the subject of the residential subdivision application that is before the Board. Ms. Peterson replied that there is not. Mr. Whitaker asked if she is familiar with the vacant land at the church and has she been involved with the care or maintenance of that land in the past. Ms. Peterson said they had a clean-up between 4-8 years ago when they went in and did a major overhaul and pulled out a lot of foliage debris. There were a lot of bottles, cans, swing sets and rusty bicycles and they did a major cleaning.

Mr. Whitaker asked if the maintenance of the proposed drainage system would be the responsibility of the church if this application is approved by the Board. Ms. Peterson replied that it would be the responsibility of the church as part of its financial plan.

Mr. Whitaker said he had no further questions for this witness.

Mr. Quinn asked if there were any questions from Board members.

Mr. Zambrotta asked how many parking spaces in the parking lot. Ms. Peterson said there are 73 spaces. Mr. Zambrotta said he assumes not everybody drives a car so how many passengers per car. Ms. Peterson said probably 2 to 5. Mr. Zambrotta said that would be 20-30 cars per service.

Mr. Whitaker said the ordinance says they basically need one parking space for every three seats and with the pews that would be every three attendees. He added that he recognizes that some people may walk and it has been their position that perhaps more parking is necessary for the community events than for the church events. The church's position is that in the past 50 years the 73 spaces are adequate for their needs and it has also been adequate for the community needs. Mr. Whitaker said with 73 parking spaces and 2 employees there could be as many as 216 people in the church and still meet the ordinance requirements. If all of the members come that are baptized they could still bring friends and still not meet the requirement for the church activity. The church's approach is that they believe that what they have now is sufficient for not only their needs but community needs. The question was asked by the Board if they could reduce parking and make the other lots more conforming by squeezing the church property to less than its size now. Mr. Whitaker said there is obviously the ability to do that but they hesitate to do so because some of the community events require more parking than the church needs. Their approach is that the acreage they are proposing, 2.16 with the 73 parking spaces is appropriate. In summary, the parking would be appropriate to keep and to permit instead the reduction in that one side yard on the culdesac. Ms. Peterson said for the last five years they have had four deficit budgets.

Mr. Zambrotta said there was discussion about ongoing maintenance agreements in perpetuity and he believes Mr. Whitaker said at the last meeting that the intention would be that the money would be held in trust for that purpose. Mr. Whitaker said that is correct. Mr. Zambrotta asked if the expected funds would be enough for that maintenance in perpetuity. Mr. Whitaker said the concept of the maintenance was all put into line items and looked at before the church put this in motion to go forward. He recognizes that there is an ongoing drainage problem and that there are pipes that not only need to be replaced but would need to be maintained and the church's approach is that with the type of anticipated revenue that would be generated from a land closing there would be sufficient money to be put into perpetuity for that maintenance. If the church came to a point that they no longer could function and that property was sold to another church the requirement in perpetuity in a deed would put the next property owner on notice that they would have to do the same. Mr. Quinn asked if the funds would be segregated and put aside for that purpose only. Mr. Whitaker said they would.

Ms. Sheehan asked if the church has a Plan B where they would merge with another church. Ms. Peterson said they would have to sell the property as it is and relocate. She has not heard of any other possibility.

A Board member asked if the church has been approached by another church to merge with them. Ms. Peterson said she has not heard of that. Mr. Whitaker said that sometimes churches relocate but they do not buy. There are a number of churches that rent the sanctuaries of other churches. Ms. Peterson was asked if the church has ever rented to another church to have cash flow. Ms. Peterson said at one point they rented to a small congregation from Fort Lee that was in the building process. They also have some income from the Acorn Group but none of these

can be relied on for a long period of time. Mr. Whitaker said it has been his experience with other churches that they all truly look for another location and not a rental. Ms. Petersen said with the declining membership she believes it would be very difficult to maintain the congregation in a move like that.

Mayor Barra asked if there was ever a discussion about having one lot instead of three. Ms. Petersen said she believes in a private conversation at a Council meeting it was concluded that this would not generate enough income. Mayor Barra asked who she had those discussions with. Ms. Peterson said she believes it was Mr. Glaser and members from the Long Term Financial Planning Committee.

The meeting was opened to the public for comments.

Stiles Thomas said some of the members of the public are having trouble hearing the testimony. He asked that the Board members speak a little louder.

Mr. Snieckus of Burgis Associates asked what are the other uses within the structure. Ms. Peterson said presently they are only using one room as a Sunday School room. The Sunday school has declined from 82-100 down to 34 on the roster with 15 attending. Other rooms include the Pastor's office and the Fellowship Hall which is used for informal gatherings and coffee hours. Acorn uses some of the building during the summer and over the weekends.

Mr. Snieckus asked if applicant will provide square footages of the space in order to analyze the potential use of the building. Mr. Whitaker said applicant will provide the information.

Mr. Latincics said he submitted new plans dated June 24, 2011 on July 1 and there were a series of revisions. He has addressed the reports of Borough officials and resubmitted plans dated July 15, 2011. Referring to his transmittal letter of July 1 to the Planning Board regarding the major revisions to the plans, he said he tweaked the lot lines so they make more sense. That triggered detailed calculations on all of the lot sizes which he has provided. He contacted the Borough for an appropriate name for the street. There were three names on the list and Couch Court was chosen. In the planner's report there was a request for a hedge between the shade trees along proposed lot 17.03 and that has been shown. Other items include technical engineering items.

Mr. Latincics said he received a report from Hatch Mott MacDonald dated July 18, 2011 and has made modifications to the plan pertaining to water and sewer aspects of the project. He has also reviewed Mr. Yakimik's report dated July 21, 2011. Mr. Latincics said it is his understanding that there will ultimately be a subdivision application and if approved a single family home should be subject to a plot plan and typically that is the time the landscaping is shown. All of the landscaping along the roadways and the landscaping suggested pertaining to the basin has been shown on the plan. With regard to the type of curbing the recommendation is for flush curbing with grass berms to direct drainage along the perimeters and that is acceptable to the applicant.

Mr. Whitaker said the applicant has proposed a split rail type fence for the buffer along the church use and the Borough Planner has recommended that it be 6 ft. He said the applicant will amend the application to seek a variance for that fence. Mr. Latincics said that the solid fencing

might give it a very boxy look and his recommendation would be that a wire mesh fence be considered. They can provide the number and spacing of the Cyprus proposed and follow the recommendations of the planner pertaining to the buffer on lot 17.03.

Mr. Latincsics said there are no sidewalks the entire length of Ivers Rd. If they were to be provided the only practical location is the grass median between Ivers Rd. and the church. Recognizing that there are no sidewalks anywhere else on Ivers Rd. he does not think it makes sense. His suggestion is to plant shade trees in the island along the frontage of the church consistent with the street shade trees along Ivers Rd. as opposed to a concrete sidewalk that is not really connecting to anything. Mr. Whitaker asked if it is correct to say that there are no sidewalks beyond the applicant's property and even further beyond the property. Mr. Latincsics agreed and added that the topography gets more challenging as you get closer to Franklin Tpk. He therefore believes the introduction of shade trees would be more appropriate.

Mayor Barra said he thought the intent of the sidewalk was to take care of the homes on Couch Court going toward Crescent. He said the Borough is putting in sidewalks on Crescent and that is going to be part of the circulation plan with the idea that children will be able to walk down Crescent. Reading Mr. Yakimik's letter, he thought the sidewalk was intended for the three homes to simply hook up to that circulation pattern. Mr. Yakimik said that was not his original intent but it is a good idea. His intent was that every time he observed the site he noticed that there seemed to be a moderate amount of pedestrian traffic on Ivers Rd. which is a connector between Ivers Rd. and Franklin Tpk., both of which have sidewalks on both sides of the street. His intent was to try to make it safer for the pedestrian traffic occurring on Ivers Rd. Granted that putting sidewalks in front of the property in question would have a sidewalk leading to nowhere but there are other things that we can do. We could install the sidewalk and stripe a shoulder on one or both sides of Ivers Rd. One of the defenses of the applicant is that there is sidewalk at no other location between Ivers and Franklin Tpk. but if we don't start somewhere we are never going to have a sidewalk between W. Crescent and Franklin Tpk. He thought that perhaps we could install sidewalk in front of this property in question which represents a substantial piece of land and stripe a shoulder so that a pedestrian is provided additional protection. The point with regard to providing access to the development from W. Crescent is in some respects a stronger argument to at least provide a sidewalk from the culdesac to West Crescent. Mr. Whitaker said if that is something that the Board feels is necessary the applicant consents.

Mr. Yakimik said he received a revised storm water management report and plans on July 15. He tried to provide review and comments for the hearing this evening; however, he cannot provide a full comprehensive report on the latest revisions by the applicant which now involves a created wetlands which requires a tight review to make sure it performs correctly.

Mr. Latincsics said the site is well suited for the constructed wetland and they have chosen the planted wetland. There is presently a lawn wetland area and they are simply relocating and refining it. Mr. Quinn said this is a detention basin with plants in it and it is going to stay wet for a period of time and perhaps the entire period of time. Mr. Yakimik said that is correct.

Mayor Barra said he was a little concerned about the statement in Mr. Yakimik's letter that since the success rate for CSW's is a concern, the N. J. DEP requires a 5 year monitoring period for most CSW's and the applicant is normally required to determine, design and implement a solution which can be costly. He asked what they would have to do. Mr. Yakimik said the challenge is for the plants to thrive and operate in a regulated wetlands for 12 months of the year. Historically his experts have found throughout the state that they are difficult to maintain. Mayor Barra asked what is the costly alternative. Mr. Yakimik said it would be constantly having to change and replace plants and sand being clogged. Mayor Barra asked if he could provide an estimate as to what that cost would be and would a trust fund be established. He asked what is a reasonable amount of money that should be set aside if it does fail. Mr. Whitaker said it would be bonded with a performance guarantee. Mayor Barra said he would like to have some figures. Mr. Yakimik said he can come back to the Board on the initial cost of what has been designed and a sense for what can go wrong and what would be the cost for repair.

Mr. Zambrotta asked what is meant by fail. Mr. Latincsics said a typical problem is insufficient water but we don't have that problem here. He said if the plantings failed they would have to be replaced. If they are not replaced the TSS level would not be achieved. He said there is a maintenance responsibility with any of the options. Mr. Yakimik said there is a concern about projects that put the maintenance responsibility on the Borough and that makes the manufactured wetlands desirable from that standpoint, but what his experts are telling him is that this type of option requires a lot more TLC than other options that control water quality. He said if this application is approved his recommendation would be that there be a 5 year bonding period.

Mayor Barra asked if his water quality people can recommend companies that maintain these types of storm water systems. Mr. Yakimik said there are firms that do that.

Mr. Fliegel said he has a question about the filtration devices in manholes. Why would they become the responsibility of the town if the maintenance cost is being segmented through a trust fund to pay for upkeep. Mr. Yakimik said typically these devices are installed within what will eventually become the Borough's right of way. They will be under Couch Court and if years go by people forget who is responsible and after a while people just assume that the responsibility falls upon the Borough absent any documents that people can find. Mr. Fliegel said the key difference is the placement of the CSW within the property confines of the church as opposed to a public right of way. Mr. Yakimik said from a maintenance standpoint and long term, being separated out of a public right of way would probably indicate that the Borough is not responsible for this facility because it is outside of the right of way.

Mr. Zambrotta said there is a lot of effort attached to this and he would like to know why we are doing it. Mr. Latincsics said it benefits downstream water courses. It is a water quality measure which is a very big factor in the State of New Jersey.

Ms. McSwiggan asked if Mr. Latincsics is familiar with any other developments in the County or in the surrounding area where this has been in place and has it functioned properly. Do we have a track record as to whether it is effective and reliable. Mr. Yakimik said he does not have information to answer the question but he can find out and provide a list of locations where this does occur within the county.

Mr. Zambrotta asked if there is any degradation in the winter with regard to the effectiveness of this design. Potentially the water in the bottom could become frozen and the plants would not work effectively. Mr. Latincsics said when you are excavating into the ground as is the case with this basin that is not a concern. It is a concern with an elevated basin. Mr. Snieckus said plants become dormant in the winter so basically they are still alive. With new plantings sometimes when ice forms it can pull the plant material out of the ground. He said there is a maintenance plan that has to be followed for the initial few years for the subsequent success of the plants coming back. It is necessary to encourage the plants you want and remove the ones you do not want. He added that they are trying to do something similar to the Celery Farm which acts like a natural sponge. Ms. McSwiggan asked if the plantings will affect the discharge rate if they get overgrown. Mr. Latincsics said in the 1 year storm it will slow down the discharge. In a major storm, 10-25 years, the plantings will be inundated.

Mr. Yakimik went through items in his letter to the Board dated July 21. Under completeness review his first question is whether a Variance Order by the Zoning Officer is necessary for this application. Mr. Dunn said it is not a requirement.

Mr. Yakimik said he has reviewed the metes and bounds description of the property and has reviewed them for accuracy. He is withholding any comment on them until there is a final subdivision application. He did verify the lot areas and the lot closures of the latest plans and he found them to be accurate. The applicant has asked for a waiver from providing existing wells and septic systems within 100 ft. of the site. He asked for an explanation why and wonders if the applicant has exhausted all means to find out this information. It is his understanding that the Allendale Water and Sewer Dept. might have this information on record. Mr. Latincsics said he will check his notes but he believes they checked with the Health Dept. and were told that there were no records. He added that the concern for adjacent wells and septic systems is typically of concern when one is proposing wells and septic systems. They are not proposing any wells or septic systems. Mr. Yakimik asked what if a bad septic system is encountered during construction. Mr. Latincsics said if that occurred they would contact the Health Dept. and they would remove it. Mr. Yakimik asked how it would be removed. Mr. Latincsics said they would get into the ground with an excavator if it is concrete. If it has been on the site for 50-60 years chances are it is an old stone system and they would remove it and restore the property. Mr. Yakimik requested that the plans state that information as a condition. Mr. Latincsics agreed to that condition. Mr. Dunn asked if that is a waiver that the Board is expected to grant. Mr. Yakimik said based on the response by the applicant's engineer he will provide provisions on the plan to deal with abandoned septic systems. Mr. Whitaker said the language would be "if any wells or septic systems that have been abandoned are found on the property during the course of construction they will be removed in accordance with applicable standards". Mr. Yakimik said they would ask for Item 8 if the application does advance to final plans. With regard to Item 10, Mr. Yakimik said he believes the applicant's attorney clarified it but there was a request by applicant's engineer not to show all landscaping associated with the development and to show landscaping elements as part of the individual plot plans. He feels it is appropriate that the plans should show all landscaping that would be required as per site plan review, i.e. shade trees, buffers, any mitigation to tree removal, or anything that basically affects the decision of the Planning Board based on components of the site plan review. Mr. Latincsics said sheet 3 of 4

shows the shade trees along the street and roadway. Mr. Yakimik asked if it is his understanding that the plans currently submitted address all of the site plan review components for the Board to render its decision. Mr. Latincsics replied affirmatively.

Mr. Yakimik said Item V refers to layout and grading items for the Board to consider. He said RSIS standards do not require curbing for this type of development and Chapter 231 of the Borough Code with regard to storm water management does not promote the use of curbs to direct runoff from streets directly into inlets and basins. This portion of the Code promotes natural cleansing and percolation of street runoff along the edge of the pavement into vegetation areas wherever possible. If there is a flooding problem or problem with regard to drainage this section of the Borough Code does allow use of traditional curbing.

Mr. Yakimik said Section 147-16A(3) of the Code requires a major subdivision to install curbs and gutters. They are not required for existing houses or existing developments. He said the installation of curbing flush to the road or at full height in his opinion prolongs the integrity of the edge of the pavement over time. The proposed development is graded so that full height curbing is not necessary or needed to prevent adverse drainage impact to the private properties. In other words, the houses are graded so that runoff from the individual properties flows into the culdesac and into the street and there are no improvements such as dwellings that are lower than the street that can be damaged from flood waters that could occur. Taking all of those items into consideration the final analysis is that either concrete or granite block curbing with a grass berm would be his recommendation for this development. Mayor Barra asked if he is talking about concrete such as on Dale Avenue. Mr. Yakimik said yes and he knows there have been problems with Dale. He would be willing to amend his recommendation and say curbs are not necessary and to just go with the grass berm up against the edge of the road. He added that it is known that edges of pavement do degrade and that a concrete curb flush with the road keeps the edges of the asphalt from cracking and sloughing off. Since the Code speaks about the requirement of having curbs or gutters for major subdivisions, that leads to the recommendation that we should have the flush curb along the edge of the roadway. Mr. Quinn asked the meaning of a flush curb. Mr. Yakimik said it means that it is at the same elevation as the asphalt.

Mr. Whitaker asked what is a grass berm. Mr. Yakimik said it is simply grass top soil that comes to the edge of the curb and road and acts as a low point to channel the water. One part of the channel is grass and the other part would be the flush curb. Mr. Quinn asked if it will work over time. Mr. Yakimik said it does. Mayor Barra asked if it is more advantageous to have the flush curb so the water percolates into the lawns and less into the waterways. Mr. Yakimik said yes, every little bit helps. To allay some of the fears of Board members, he said the grass berms that were installed on Elm St. survived the massive rainfall that we had on July 8. Mr. Yakimik said the Code under section 231 which the Borough was required to adopt by DEP no longer promotes the use of curbing. He said the flooding problem is coming from off site. It is not necessarily associated with the road itself. The amount of runoff from the road is miniscule in comparison to any damage caused by curbing. The curbing will not solve flooding problems. The flooding problems will be solved by the detention basin. Mr. Quinn asked if Mr. Yakimik's recommendation is a flush curb and he replied that it is.

Mrs. McSwiggan asked what was done at the Nadler Court development. Mr. Yakimik said Nadler Court predated Section 231 of the Code which does not promote the use of curbing. There is Belgium block curb on Nadler Court at full height and not flush. He believes Ivers Rd. also has Belgium block curb at full height. He added that the applicant has proposed full height Belgium block curb to match the Ivers Rd. streetscape.

Mr. Whitaker said the applicant testified earlier that they are willing to modify their plans if that is what the Board wants. Mr. Yakimik said for the record he has no major objection to what the applicant has proposed. He said the water quality is going to be immensely satisfied by the created wetlands rather than it flowing along a grass berm so that is why it is inconsequential from a water quality standpoint whether it has full high curbs or a grass berm. He added that he has observed that the streets in town that do not have curbing tend to crack more prematurely along the edges of the pavement.

Mr. Yakimik said the master plan re-examination report with regard to landscape buffers indicates that such buffers should be used adjacent to a residential use. The buffers that are being proposed for the most part are on the residential lot. He asked if the applicant is willing to place as much of that buffer on the church property as possible so as not to burden the residential property, lot 2.02 with providing the buffer. Mayor Barra asked if we have the right to tell the property owner of lot 2.02 that he can't remove the buffer. Mr. Whitaker said it could be a restrictive covenant easement in the deed. Mr. Dunn said that it has to be a condition of approval. Mr. Whitaker added that a deed would be created for each of the subdivided lots and those provisions would be included in the deed as a restrictive covenant.

With regard to the split rail vs. the solid fence, Mr. Yakimik said he believes that has been clarified and applicant is only looking for a solid fence along the rear and side lines of lot 2.02. He does not know if it is to be 6 ft. or 4 ft. Mr. Snieckus said since a 6 ft. fence would require a variance, he believes a 4 ft. fence would help screen any headlight glare and it will act as an initial barrier until the plantings begin to grow.

Mr. Yakimik said on the plans applicant shows two encroachments by adjacent property owners of physical features. One is a driveway associated with lot 4, Block 910. There is a note on the plans that a portion of the driveway is to be removed. There is a fence at the northeast corner of the property and it is also indicated on the site plan that it is to be removed but that fence services the lot to the northeast. He said his question is what legal responsibility does the Board have if this plan is approved with regard to these removals to make it binding that these encroachments must be removed. Mr. Dunn said the Board is not going to get involved in any private issue but that does not mean the board is not interested in that issue. Mr. Whitaker said the fence belongs to the adjoining property owner and that is something they will have to take up with that property owner. Mr. Dunn said the Board is not going to get involved and there will have to be a private solution.

Mr. Yakimik said if this plan is approved there is no danger of it being shown as evidence to support the removal of those items. Mr. Dunn said the Board cannot do anything that will affect a private property owner's rights. We cannot do that without adjudicating something with that property owner. It is not evidential of anything having been done to impose some burden on an

adjacent property owner. He added, "We are approving that as a removal item because you put it that way on the plan. You have to be able to do it if we approve the plan." Mr. Whitaker suggested taking those items off the plan and showing them as an encroachment. He said applicant will take "portion of the fence to be removed" and "portion of driveway to be removed" off the plan and reserve their rights privately to have that rectified.

Mr. Yakimik asked what was decided with regard to the sidewalks along Ivers Rd. Mr. Quinn asked for his professional opinion on that issue. Mr. Yakimik said his opinion is that the applicant should provide sidewalk fronting the property in question and since it is unsafe to lead a pedestrian to the end of a sidewalk, his thought would be to request the applicant to construct the sidewalk and also as an offsite improvement install white shoulder stripe along the full length of Ivers Rd. from Franklin Tpk. to W. Crescent Ave. Mr. Quinn asked him to explain what he means. Mr. Yakimik said he wants to address the condition of pedestrians walking on Ivers Rd. and as a possible solution have the applicant if feasible construct a sidewalk along the frontage of the property in question. From a design standpoint you are not supposed to construct a sidewalk and have it abruptly end because you are leading a pedestrian to a potential dangerous condition. He said that in the State of New Jersey a shoulder is loosely considered as a sidewalk so he would propose that the applicant construct the sidewalk and also paint a white stripe to create a shoulder for a pedestrian who gets to this point and then can safely go into the road and walk the distance to Franklin Tpk. or from Franklin Tpk. to W. Crescent. The Board asked how wide is the area between the stripe and the curb. Mr. Yakimik said it would have to be at least 4 ft. and you would have to account for the traveled way which would be 12-13 ft so you would need about 32 ft. The width of Ivers Rd. is probably 30 ft. so it is a suggestion that the applicant should look into.

Mr. Whitaker said if the Board determines that sidewalks are required on the applicant's site that is a condition that the Board can impose but the Municipal Land use Law is clear unless the offsite improvement is something that is promulgated by the development it is not something that can be imposed by the Borough as a condition of approval. He said in this situation the applicant is not going to get involved in an offsite improvement that has nothing to do with their development and the concept of painting stripes on a roadway without having a proper sidewalk has an element of liability attached to it if someone should get injured. He said he is not sure he is going to allow his client to get involved in that sort of situation, but if the Board wants sidewalks on applicant's property as a condition they would comply.

Mayor Barra said he would be in favor of the sidewalk. The Borough is going to have a circulation plan and is allocating funds in their budget for sidewalks. They are doing all of West Crescent and are hopefully going to do Brookside. They can paint the street if that is the appropriate thing to do.

Mr. Yakimik said he brought up the issue on Monday with regard to the existing parking area. He believes Mr. Whitaker indicated that they could possibly reduce the parking area to reconfigure the lots and that some sort of parking analysis will be provided. Mr. Whitaker said the applicant's approach is that the 73 spaces has been sufficient for their use for the last 50 years. As far as the church itself is concerned the 73 spaces is more than is necessary but the spaces are used for other community activities. In reviewing this with his client the concept is to

leave what is there alone. If they reduce the parking some of the uses that are there now that are non church related will no longer take place and that is not what the church wants to see because they are community oriented.

Mr. Yakimik asked if there will be any further parking studies presented. Mr. Whitaker said he will submit a letter in confirmation of the testimony presented. If the Board were to say they would like to see the parking reduced in order to create more space for the residential lots then it may be necessary to say that some of the other community uses can no longer use their parking facilities; however, that is not what his clients want to do.

Mr. Yakimik said he would like to bring to the Board's attention that Lot 2.02 has some wetland transition areas in the rear yard and there may be restricted access to the homeowner due to the wetland transition zones which are not shown on the applicant's plan at this time. Based on his experience he has seen lots within the Borough where DEP has required them to put up physical fences to keep the homeowner from going into the buffer areas associated with the wetlands. Mr. Whitaker said buffer plantings can be put in the transition area and it would also address the Board's comments on preservation of that buffer zone.

Mr. Latincsics said the green shaded area would be deed restricted against development by the DEP. If this project is approved then applicant would proceed with a DEP application. Mr. Yakimik said besides the green area will the transition area be included as well. Mr. Latincsics said that is correct. The future owner will not be able to encroach into the transition areas. Mr. Quinn commented that the whole back corner of the property is going to be unusable by the property owner. Mr. Whitaker said there would be a restriction in the deed.

Mr. Yakimik said there has already been a limited discussion on the constructed storm water wetlands. He will have additional comments with regard to that as soon as possible. He added that he has not received any further ground water elevation readings beyond the readings of May 12. Mr. Latincsics said they have continued to monitor that ground water. As of July 18 the ground water levels were anywhere from 2'8" to 4'8" below grade. Mr. Yakimik requested that this information be forwarded to him.

Mr. Yakimik said he still remains concerned about the relatively high ground water elevations at the site. Mr. Latincsics said the high ground water elevations are actually a benefit if the constructed wetland is the preferred water quality measure. Mr. Yakimik said his concern with the high ground water is the two structures that are around the perimeter of the site and to a lesser extent the new proposed homes.

Mr. Yakimik said the Board should note that the site plans have been revised to indicate that the maintenance responsibility for a drainage pipe and inlet within the easement between lots 2.03 and 2.04 will reside with the Borough. Mr. Yakimik said from a practical standpoint it makes sense for the Borough to be responsible for that line since it is far off line from the detention basin, but the Board may not be comfortable with that. Mayor Barra asked if Mr. Cauwenberghs has seen this information. Mr. Yakimik said he has seen the plan with the inlet on it. Mayor Barra asked if he was told he is going to have the responsibility to take care of that pipe that runs between two properties and when this property is all landscaped how is the DPW going to get

back to that catch basin way in back of that property. Mr. Yakimik suggested that he will go back to the drawing board with the applicant's engineer and try to find a better solution. Mayor Barra said he does not believe it is right to put this responsibility on our DPW. Mr. Yakimik asked if it would be possible to create a swale that will drain toward Couch Court and get rid of that pipe. Mr. Latinsics said a swale might be difficult but an alternative may be a seepage pit. Mr. Yakimik added that it could be the responsibility of the property owners to maintain it.

Mr. Yakimik said the Board should consider if the proposed removal of approximately 123 trees as a result of this development is in compliance with Section 244-16 of the code which prohibits the clear cutting of trees. He said the applicant has responded that the development is planned with some trees remaining as opposed to a clear cut. Mr. Quinn said it has always been the position of the Board that developments will leave as many trees as possible that do not get in the way of construction. Mr. Yakimik said it seems that 123 trees is a large number; however, they are all within the footprint of the proposed development and there are no trees that are unnecessarily removed. Those trees occur within the footprints of the houses, front lawns, the detention basin, etc.

Mr. Snieckus said he would take a look at the latest color coded plan and there may be a handful of trees where he might recommend a slight movement of the contour lines such as on lot 17.02. He was going to offer a memorandum with regard to that. Mr. Whitaker said he has no objection to that.

Mr. Yakimik said the applicant has indicated he will provide a memorandum with regard to parking and traffic and he recommends that applicant follow the recommendations of Hatch Mott MacDonald in their July 18 report. He added that he does not believe the plans show any maintenance details and notes for the controlled wetlands and it is important that they be provided. In addition, the site plan should show proposed street illumination for the development. He added that it probably only needs one light at the end of the culdesac. He said the Board should see some information with regard to existing site illumination for the church parking lot which is to remain and outside site lighting to see if there will be any adverse effects to the new residential development and if any of that needs to be shielded or if it is adequate and safe. They would like to see some information on existing site illumination for the church site.

Mr. Yakimik said the applicant has submitted a construction cost estimate for bonding purposes which he believes is a little premature. That information is reserved for final site plan approval. Therefore, his office has not as yet reviewed that information.

Mr. Yakimik asked if approval has been received from the Bergen County Soil Conservation District. Mr. Latinsics said it is still pending. Mr. Yakimik said the application has Bergen County preliminary approval and needs to go to the N.J. Dept. of Environmental Protection for land regulation and sanitary sewer extension activities. Mr. Whitaker said they have received approval from the Bergen County Planning Board with the conditions of signing a developer's agreement and other performance requirements and that has already been done.

In conclusion, Mr. Yakimik said storm water management still remains a concern and when he receives follow up comments from the experts in his office he will forward them immediately to the applicant and the Board for further discussion on that issue.

Mr. Quinn asked if there were any questions from the Board.

Ms. McSwiggan said going back to the detention basin, there was discussion about a one year storm. Mr. Latincsics said the design standard for water quality purposes is the one year storm or 4.25 inches falling in 2 hours. Ms. McSwiggan asked what was the storm two weeks ago. Mr. Latincsics said that was much more. The detention basin is oversized for the project site. It is oversized because it is addressing offsite upslope areas and it is reducing the rate of runoff to downstream properties. Ms. McSwiggan asked how would this have handled that storm two weeks ago. Mr. Latincsics said that storm was very intense in a very short period of time. The basin would have probably filled up to two-thirds of its volume. Mayor Barra asked if Mr. Yakimik agreed with that information. Mr. Yakimik said he does agree and it sounds reasonable from what he heard about the characteristics of the storm. It might have been a little bit more but it certainly would not fill up 100% or overflow or fail.

Mr. Fliegel said applicant indicated the plans tonight depict some minor changes in the lot lines. He asked if those changes would change any variances that are being sought. Mr. Latincsics said there are three variances that are listed on the plan and they are still necessary.

Mr. Whitaker said at this point the applicant is seeking a waiver as it pertains to sidewalks; however, if the Board would prefer to have sidewalks, the applicant would agree. With regard to curbs, they are not required but applicant would agree to install them if the Board wanted them. Applicant is proposing an 8 inch water main when only 6 inches is required.

Mayor Barra asked how the storm of July 8 would affect ground water. Mr. Yakimik said at this time of the year it is not as much of a concern as if it had occurred in March or April when typically the ground water is very high. At this time of the year the ground water acts more as a sponge and absorbs more water. If it had occurred in April it could be much more devastating because of the high ground water. He added that he is still not comfortable with the ground water and has questions for his experts and he still does not have his full set of recommendations.

Mayor Barra asked what would happen if this type of storm occurred on April 8. Mr. Yakimik said ground water is quite an unpredictable item absent any detailed information. It is much more unpredictable than surface water and he has asked the applicant on a couple of occasions to supplement their ground water and soils report from Johnson Soils. He has not received that information so he has to make recommendations based on this lack of information. He added that they are erring on the side of conservancy when they make their recommendations.

Mr. Whitaker asked Mr. Latincsics if he has more information from Johnson Soils. Mr. Latincsics said he does. The July 15 revised report basically tweaks the May 18 report. He said there are two ways they can go according to the Code. They can encourage ground water which is the big picture goal or if it is determined that there is a concern in that area they can restrict ground water recharge if the concern of the Board is adversely elevating ground water. They are

creating a constructed wetlands and the question is do they seal the bottom of this wetland with a liner or do they encourage infiltration. Those are options if the Board is concerned about additional water getting into the ground. If the determination is to encourage ground water recharge they can make the porous wall pipe a perforated pipe with crushed stone. They could have drywall seepage pits on the residential lots. Mr. Yakimik asked what his recommendation would be based on the information before us. Mr. Latincsics said he would encourage infiltration. Mr. Yakimik asked if he feels that would not negatively impact the ground water elevation and associated structures, basements, etc. within close proximity to the site. Mr. Latincsics said if the question is could it raise the ground water by 100th of a foot the answer would have to be yes. Mr. Yakimik asked if he feels that the way this project has been designed would not negatively affect ground water and if anything would raise it an inconsequential amount. Mr. Latincsics said that is correct.

Mr. Quinn asked if Mr. Yakimik agrees with that conclusion. Mr. Yakimik said with lack of inadequate information of ground water he does not know at this point. He added that he is going to err on the side of conservancy because of the unknown.

Mr. Latincsics said he believes infiltration is a good goal and if they err on the conservative side there will be limited infiltration. Mayor Barra said he believes Mr. Latincsics said that if people did not have their own proper drainage on their property there might be an adverse impact. Mr. Latincsics said if there is inadequate drainage facilities or poorly maintained drainage facilities there might be an adverse impact. Mr. Barra asked if there would be negative impact on surrounding homes as they exist today. Mr. Yakimik said he understands the caveat that applicant is not going to be responsible if the homeowners in the area around the site are doing irresponsible things causing the ground water to rise such as poor gutters, poor leaders, poor topography characteristics and things that are going to cause ground water problems that are not the responsibility of that site.

Mr. Fliegel asked if this site has unusually high ground water. Mr. Latincsics said it definitely has high ground water. Mr. Fliegel asked if it is because the water does not percolate down to the aquifer. Mr. Latincsics said it is a combination of things. It is a natural collection area for the current topography further exacerbated by the soil that has been placed on the site and poor drainage. Mr. Fliegel asked, "By developing the property and taking the clay away it is now going to percolate better and the ground water will not be 2 ft. or will it always be 2 ft.?" Mr. Yakimik said that is the \$64,000 question.

Mr. Fliegel asked how he can conclude one way or another that the infiltration is better or worse without the readings. Mr. Latincsics said they have been monitoring the ground water levels and they are high. It has been slowly dropping and will probably continue to drop until September and October and in the late winter will start going up again. He said the project has been designed under both scenarios – the high condition and a low ground water condition.

Mr. Latincsics said they have two options. Underneath the basin they could backfill with a porous sand surface under the wetland liner and seek to encourage infiltration which will work under low ground water conditions in August through October. They have the other option of putting in a liner and cutting off the infiltration so there is no infiltration whatsoever.

A Board member said you are assuming there will be water in the bottom with either option. He asked if the outlet valve could be lowered to drain it dry or can it be throttled up or down. Mr. Latincics said that is not an option. He said the very first question at this hearing was what are we doing with regard to aquifer recharge. The question is do we line this basin underneath the basin with a porous material so that during the period of low ground water it would encourage infiltration or do we line it with an impervious liner to seal it or close it so it flows out into the municipal storm sewer system.

Mr. Fliegel asked how deep is the impervious liner. Mr. Latincics said it could be 3-4 ft. down. Mr. Latincics said there will be water sitting on top of the liner. He added that what they would do is line the bottom of the detention basin and maintain standing water and wetlands plants and water quality surfaces above the level of the one year storm. They would install grates that drain down into the subsoil. He said this can be worked out but they need direction on which way to go. If it is conservative then they would seek to limit infiltration. If the answer is to encourage aquifer recharge then they would go to infiltration but they need direction.

Mr. Yakimik said he would like to get information from his experts. He just received the controlled wetlands proposal last Friday and would like to give them more time. Mr. Whitaker said he expects Mr. Yakimik will have the opportunity to provide that information at the next hearing and we still have to hear from the public. He expects that between now and the September meeting that the engineers can supply the information that is required. Mr. Quinn said there will be no meetings in August and suggested that both meetings in September be used for this hearing if necessary.

On a motion by Mayor Barra, seconded by Mr. Zambrotta, the meeting adjourned at 11:10 p.m.

Respectfully submitted,

Barbara Knapp