

**Borough of Ho-Ho-Kus
Bergen County, New Jersey
Planning Board Minutes
August 7, 2014
Special Meeting**

Meeting Called to Order at: 7:35PM

Open Public Meetings Statement: Read into the record by the Board Secretary.

Roll Call: Messrs. Berardo, Corriston (absent), Pierson (absent), Reade, Cirulli, Newman (absent), Iannelli (absent), Councilman Rorty, Chairman Hanlon, Mayor Randall (absent)

Also in Attendance: Mr. Gary Cucchiara, Board Attorney; Mr. David Hals, Borough/ Board Engineer; Mr. Ed Snieckus, Borough Planner; Ms. JoAnn Carroll, Board Secretary.

New Business:

Ms. Erika Menanteaux, 31 Sheridan Avenue, Block 1007, Lot 3: applicant seeks approval to open a beauty service business.

Chairman Hanlon: asked the applicant to come forward.

Ms. Menanteaux: stated she would like to open a luxury/by appointment only beauty business; falls under the umbrella of skin care.

Chairman Hanlon: stated this type of business meets the guidelines of the Borough; asked if the applicant's business would be located on the second floor.

Ms. Menanteaux: stated yes.

Chairman Hanlon: asked the number of employees.

Ms. Menanteaux: stated besides herself, possibly one more.

Chairman Hanlon: stated there is parking available.

Ms. Menanteaux: stated there were two spots.

Chairman Hanlon: stated a letter from the landlord was received.

Mr. Berardo: asked the applicant regarding signage.

Ms. Menanteaux: stated signage would be added in accordance with what the side of the building is.

Chairman Hanlon: stated that is a standard sign; placard type.

Councilman Rorty: asked how many customers could be accommodated at one time.

Ms. Menanteaux: stated one at a time.

Chairman Hanlon: stated this application would be voted on at next week's meeting; the applicant does not have to be present next week; welcomed the applicant to the Borough and wished her good luck.

Chairman Hanlon: spoke regarding Ho-Ho-Kus United Corporation/Tae Kwon Do business located at 1 Sheridan Avenue; they are installing a sign which is pre-set for the structure; have yet to contact Mr. Berardo.

Mr. Berardo: stated the applicant has yet to submit his signage plans; an application was sent to the applicant by the Board Secretary.

Chairman Hanlon: asked the Board Secretary to reach out to the applicant regarding his sign application.

Ongoing Business:

Hollows at Ho-Ho-Kus, Chamberlain Developers, W. Saddle River Road/Van Dyke Drive, Block 802, Lots 1, 2, 3, 4 and 10: major subdivision application; the applicant proposes to construct and market single family dwelling units on each of the properties; major soil movement application.

Chairman Hanlon: gave specific instructions regarding procedure; a motion will be made and a vote taken; following month the Board will present the resolution; the Board will review and vote on the resolution; this becomes the Board's official legal record of the hearing; the Zoning Board of Adjustment was meeting this same evening in the Ambulance Room.

Mr. Robert Inglima: introduced himself and stated the names of his clients (please see below); the last meeting was held on July 31, 2014; Mr. Dabbagh gave his testimony at the last meeting and was here again this same evening to continue his testimony.

Clifford and Silvia Bone, 49 Brandywine Road, Block 802, Lot 7

Mark and Neyda Dabbagh, 55 Brandywine Road, Block 802, Lot 8
Anthony and Laurie DiGiacomo, 65 Brandywine Road, Block 802, Lot 9
John and Mary Hayes, 35 Brandywine Road, Block 802, Lot 6
Matthew and Allison Westfall, 789 W. Saddle River Road, Block 809, Lot 4
Russell and Emmy Lou Borgman, 752 W. Saddle River Road, Block 805, Lot 21
Edward and Randi DeBruyn, 801 W. Saddle River Road, Block 809, Lot 3
Paul and Robyn Erickson, 815 W. Saddle River Road, Block 809, Lot 2
Kenneth and Leah Malley, 764 W. Saddle River Road, Block 805, Lot 22

Mr. Inglima and Mr. Dabbagh: a number of exhibits were marked at the last meeting that Mr. Dabbagh had prepared; survey marked at O28; footprints of structures marked as O29; with respect to O29, there were questions that were asked in regards to how the information in O29 was obtained; where there any changes that were needed to be made in order to conform the information to surveys or other data that Mr. Dabbagh obtained; the exhibit was reviewed by Mr. Dabbagh between July 31st and this evening to verify its validity; no changes would be made to O29 to reflect the approximate footprints of the homes that are shown on the lots that abut the south side of the site; Mr. Dabbagh prepared an exhibit that shows the proposed changes in the topography of the applicant's site in relation to the property to the south; cross section map; **Exhibit O30** marked 8/7/14; shown to Mr. Whitaker; placed on easel; a copy of O29 which has a cross section line superimposed on it; described line A to A with arrows to the west; (copies of O30 on 8.5 x 11 inch sheets distributed to the Board); the line indicates the location of the cross section; person standing and looking towards the two houses; existing house and the first proposed house; cross section in the topography and shows the elevations of the houses; the exhibit was prepared for the purpose of assisting the Board in understanding a further exhibit describing topography; Mr. Dabbagh was asked to present the exhibit he made that shows topographic conditions; **Exhibit O31**.

Mr. Whitaker: placed on objection on the record; in regards to topographic issues, the position would be for this to be accurately done it should be done by a licensed engineer and it is understood that Mr. Dabbagh is an architect but not an engineer; objection to exhibit.

Mr. Inglima: stated this exhibit has been prepared by Mr. Dabbagh in the same manner that any person who can understand a scale drawing and read and transpose information from a scaled drawing would be competent to prepare the exhibit; the exhibit itself indicates a scale in the lower right hand corner of 1/8 inch equals 1 ft.; using the scale, anyone could determine if the information was accurate; the witness has not described it yet; an incomplete record upon which the objection is based; no rule or law that indicates that this witness or any other person is not empowered to produce exhibits supplement the record of the case

that indicates conditions that are shown on the applicant's own plans; the sole purpose for Mr. Dabbagh's appearance; respectfully offer that until a fuller basis and description of the exhibit is presented, the witness should be permitted to describe it.

Chairman Hanlon: stated Mr. Dabbagh is not an engineer.

Mr. Inglima: stated there is no rule that Mr. Dabbagh needs to be an engineer to provide information to the Board based on what the applicant's own plans show; respectfully requested an opportunity to examine the witness with respect to this issue.

Chairman Hanlon: stated absolutely.

Mr. Inglima and Mr. Dabbagh: distributed to the Board copies of O31; 8.5 x 11 inch drawings made of O31; accurate in all respects; not an engineering drawing; showed house at 55 Brandywine Road; the roof is the highest point at 24 ft. above grade; measured by Mr. Dabbagh; open porch; 2 story level on the left side; on the right side is one story; cathedral ceiling; 20 ft. high; backyard is 103; taking from the drawing of the proposed development; the 103 elevation is an approximate grade based on information available from the applicant's plans and Mr. Dabbagh's own observations; 80% of yard is flat from the south side; a little steep to the north; elevation of his property is accurate at the location where the AA cross section line is indicated on O30; continued testimony in regards to the area behind his house; the property line is the vertical line shown; after that is the proposed trench; 5 ft. wide trench; top elevation of 102; taken from sheet 4; right after there is a retaining wall which is 3 ft. high at a top elevation of 105; this is taken from sheet 4; setback around 5 ft.; another 3 ft. high retaining wall; top elevation is 109; taken from sheet 5; right after that the land/fill area starts to slope up to an elevation of 110-112; footprint of the proposed house with an elevation of a first floor elevation of 114; 11 ft. higher than his backyard; used vertical/horizontal scale 1/8 equals 1 ft.; no skewing; location of building footprint taken from sheets 4 and 5; depiction of a conceptual building footprint; footprint and an envelope; what the code would allow if it was built.

Mr. Whitaker: objected.

Mr. Inglima: withdrew the answer.

Mr. Cucchiara: stated the witness should avoid speculation.

Mr. Inglima and Mr. Dabbagh: conceptual building footprint shown on the plan; finished first floor elevation is shown on the plan on sheet 5;

undertook architectural analysis to determine where the building walls would extend to a peaked roof; knew they could go as high as 35 ft.; peaked roof shown with a 2 story building below it; based on part on Borough ordinances; conceptual building outline indicated on O31; doesn't know how tall a building will be on the property; building outline based on what could be built; applicant could build a shorter building or seek variance relief and build a higher building; Mr. Dabbagh stated the applicant indicated a 2 story high building.

Mr. Whitaker: objected; purely speculative; the applicant hasn't even stated there would be a peaked roof; no architectural drawings presented by the applicant in any manner whatsoever; the stipulation by the applicant is any building constructed would be conforming; recognize the maximum height is 2.5 stories/35 ft.; nothing to indicate what the height of the building would be.

Mr. Inglima: asked if it was Mr. Dabbagh's intention in preparing and submitting this exhibit to permit the Board to have an impression of the relationship between the applicant's site and his existing property.

Mr. Dabbagh: stated yes that was his intention.

Mr. Inglima: asked if it was also Mr. Dabbagh's intention to depict what he felt could be built on the applicant's site based on the plans that are on file with the Board.

Mr. Dabbagh: stated yes.

Mr. Inglima and Mr. Dabbagh: Mr. Dabbagh did not show any trees that would be removed on the particular section he is referring to; trees not the purpose of the exhibit; does not know where the applicant will place trees on their site; the exhibit is merely to present the existing structure on Mr. Dabbagh's property, the proposed retaining walls and changes in contours on the applicant's property and the possible location of a conceptual home on the applicant's site; concerns with respect to the retaining wall design, changes in the topography on the applicant's site directly abutting Mr. Dabbagh's property.

Mr. Whitaker: continuous objection; purely speculative; no owner of the property; purely conjecture.

Mr. Cucchiara: stated Mr. Dabbagh is entitled to his opinions; Mr. Whitaker will have his cross examination.

Mr. Inglima and Mr. Dabbagh: discussed the stone wall section; single wall with a maximum height of 3 ft; no composition of wall stated; Mr.

Palus stated it would be a rubble stone wall; concerned about the visual appearance of this wall; water issue; the filling needs to be compacted; water will not drain; water will run from the top of the area and go over wall; Mr. Dabbagh has attended every meeting; has heard all of Mr. Emerson's testimony and agrees with him; concerns regarding altering the topography behind his property; wanted to assist the Board in visualizing a stone trench and retaining walls within 10 ft. of the common boundary line; prepared another exhibit; provided photograph that the rendering was based upon and the rendering itself; stood on his property next to the DiGiacomo's property; looking NW; **Exhibit O32** marked; photograph on 8.5 by 11 inch paper; copy given to Mr. Whitaker for his review; foreground on left side of photograph is Mr. Dabbagh's house; family members shown in photograph; area to the right of the house in the photograph is the area behind the house; persons in picture stand at 51 inches and 46 inches; standing in front of the porch very close to the property line; trees shown; terrain changes at common boundary with Bone property to the west; goes up 4-5 ft; relatively flat between where picture was taken and persons where standing; farther west from the persons shown the terrain starts to go up; another exhibit which shows the location of the photograph and what it shows based on a plan view; **Exhibit O33**; showed on map; O29 used as a base; blue rectangles depict conceptual buildings; nothing there at the present time; view includes applicant's site; trees shown on Mr. Dabbagh's property that he believes will not survive; **Exhibit O34**; shows same view but with the proposed improvements on it; placed on easel; shows artistic expression showing two walls; trench and the proposed houses on a higher elevation; 11 ft. higher than his property; same physical details shown on O33 and O34; prepared to explain the height; **Exhibit O35: photo of proposed backyard view of 55 Brandywine Road with notations.**

Mr. Whitaker: objected; until Mr. Dabbagh, as a foundation and basis, must take the plan and go back to the applicant's exhibit and show where he has located this and where he has found it on the plan; show distances of the wall; shows a wall in the first photograph running beyond the first lot; wants Mr. Dabbagh to show where he sees those walls on the exhibits; no foundation; second objection; Mr. Dabbagh has used the words, for relevancy, "artistic impression/expression"; both are irrelevant for the subdivision application.

Mr. Inglima: asked Mr. Dabbagh if he prepared his exhibit because the applicant did not provide this type of information.

Mr. Whitaker: stated the applicant is not required to provide this type of information.

Mr. Inglima: stated he did not ask Mr. Dabbagh if it was required, but the reason he prepared it.

Mr. Dabbagh: stated that was the reason he did it. (no further explanation given.)

Mr. Inglima and Mr. Dabbagh: referred to sheet 5 of 11 of Exhibit A2; pointed to proposed lot 5; indicated the walls that are depicted in Mr. Dabbagh's exhibits O33 and O34; pointed to a structure indicated on the plan which is the second delineated area going west from the WSRR right of way and south of the common boundary of the applicant's site and the residences on Brandywine Road; Mr. Dabbagh's lot shown; issues with how Mr. Dabbagh's house was depicted on the applicant's plans; areas of the applicant's site located to the west of Mr. Dabbagh's property that are included in the viewshed depicted on O33 and O34; pointed to the approximate westerly terminus of the lower retaining wall that is shown on sheet 5 of 11 on A2; abuts Mr. Dabbagh's property; showed where trench ended; corresponded to the information on the applicant's plans as determined as the westerly terminus of the stone trench and the lower retaining wall; westerly termini are before the westerly property line is reached; property is almost where the upper wall ends; used AutoCad; photo simulation of proposed conditions on his property and the applicant's property, abutting property line, it includes all of the details that are shown on the applicant's plan as far as the dimensions and elevations and length of walls and separation distance between structures; Mr. Dabbagh is satisfied that all of the details on the applicant's plans obtained from sheets 4 and 5, were included in the program for the rendering of the photo simulation; verified that the photo contains an accurate depiction, to scale, with a perspective from the point of view of the photographer of the various structures that are depicted on the applicant's site and the common boundary line; indicates same vertical and horizontal scale of being on a reducing scale as the distance extends from the point of view of the photographer of the particular structural elements; indicated a building/house at the top of the upper wall which is purely speculative impression of a view of a house that could be constructed on the applicant's property; met with Mr. Frasco regarding other homes he had constructed and where; common manner of construction and architecture in the area; based on the drawings of sheets 4 and 5, locations of the structures were located and shown; O34 shows the locations of the three structures; relationship between the three houses shown on sheet 3; verified the portion of the proposed houses on lots 5, 4 and 3 that fall within the "cone" are accurately represented on O34; building footprints plugged into the program; can't construct the walls and houses without removing the trees; the plans indicate a lot of trees to be removed; intention of O34 was not to show the design of the homes; doesn't care what the houses

look like; they will be built 11 ft. higher than his property; concerned about drainage system; possible failure of system; rendering shows part of the Costanza property which has a natural catch basin; worried about where water will go; flooding and privacy issues; poor design; no need for a cul-de-sac; not against developing the property; in agreement with the testimony from the last meeting in regards to flooding observations made by Mr. DiGiacomo and Mr. Solinsky; Mr. Dabbagh observed ponding in front of his home during a recent rainstorm; took pictures and made a video; Mr. Dabbagh described O36-O39; copies provided to Mr. Whitaker; all photos taken on 8/1/14 at 2:06PM; car shown driving through flood in front of home; car stuck because of water.

Please Note: a 15 minute recess was taken at this time of the meeting: 9:00PM

Meeting called to order at 9:15PM

Roll Call: Messrs. Berardo, Corriston (absent), Pierson (absent), Reade, Cirulli, Newman (absent), Iannelli (absent), Councilman Rorty, Chairman Hanlon, Mayor Randall (absent)

Chairman Hanlon: discussed meeting dates; September meeting dates are the 4th, 11th and the 18th; the 11th and the 18th are regular meetings of the Board; the 4th would be a special meeting of the Board; the Board would not normally meeting on September 11th, but after a discussion, it was decided to hold a meeting on this date; instructed the Board Secretary to handle the notices.

Mr. Inglima and Mr. Dabbagh: Mr. Inglima hoped to have Mr. Horan testify at the very beginning of the meeting; had other commitments this evening; not sure how long it would be to complete Mr. Dabbagh's testimony and to have his cross examination; asked if it was possible to have Mr. Horan appear before the Board for a few moments at this time of the meeting to supplement his testimony from last Thursday.

Chairman Hanlon: asked if Mr. Dabbagh's presentation would cover Mr. Horan's issues.

Mr. Inglima: stated Mr. Dabbagh cannot speak to what has happened at Mr. Horan's house; that was an issue for the Board at the last meeting; Mr. Horan had described in detail what had occurred on prior occasions; Mr. Horan has a direct impact from what happened last Friday; supplementing his testimony to respond to some questions asked by the Board and Mr. Whitaker.

Mr. Whitaker: objected; the concept in all witnesses testifying, they testify on one occasion and then we move on; candidly states because there are time elements involved; if we are going to give the ability of members of the public to come back and testify a second and third time, at that point it is counterproductive and it is not proper procedure.

Mr. Inglima: noted for the record; he doesn't object to Mr. Whitaker bringing back any of his witnesses.

Mr. Whitaker: stated that is called "rebuttal."

Mr. Inglima: stated Mr. Horan's testimony would be supplementation due to an event that occurred last Friday that is directly on point with the subject matter of Mr. Horan's prior testimony; only 5 minutes; asks the Board's indulgence.

Mr. Whitaker: stated he wanted the Board to be aware of his concerns.

Chairman Hanlon: stated Mr. Horan is still under oath.

Mr. Inglima and Mr. Horan: flood event which occurred last Friday which Mr. Dabbagh described this evening; this event also occurred by his home at 956 Washington Avenue; carpet will have to be pulled out again; has photographs; constant problem; same flood damage occurred on 8/1/14 which has occurred in the past; photographs show conditions at Mr. Horan's property during the storm; photographs show accurately the conditions that were experienced outside of Mr. Horan's property on 8/1/14; **Exhibit O40, A-D: 4 photos of submitted by Mr. Horan of flooding at his home located on Washington Avenue; taken on 8/1/14;** the basement had a solid inch of water; the garage would have been at 9 inches, possibly a foot; water mark left on the outside of the garage doors; Mr. Inglima asked how high the water was around the apron of the garage entry.

Mr. Whitaker: objected; speculative; first question is did Mr. Horan measure it.

Mr. Horan: stated he cleaned it up; did not use a tape measure; a lot of "muck" on the garage door; measurement of 9 inches to a foot.

Mr. Inglima: stated he had no further questions.

Mr. Whitaker: asked if Mr. Horan had taken any measurement of time from the first photograph to the last photograph.

Mr. Horan: stated no.

Mr. Whitaker: asked if Mr. Horan had taken any photographs or witness how long it was until the water that he took the photographs of subsided and dissipated.

Mr. Horan: stated no.

Mr. Whitaker: asked if Mr. Horan was present when the water dissipated.

Mr. Horan: stated yes.

Mr. Whitaker: asked how long it took from the photographs that Mr. Horan took until he witnessed the water dissipate.

Mr. Horan: stated he couldn't give an accurate answer.

Mr. Whitaker: stated Mr. Horan gave an estimate of the height of the water at the garage door and asked Mr. Horan to give an estimate of how long it took for the water to dissipate.

Mr. Horan: stated approximately 12 hours.

Mr. Whitaker: asked how long Mr. Horan was at the property.

Mr. Horan: stated he was in and out the whole time; quite a long period of time.

Mr. Whitaker: stated he did not have any further questions.

Mr. Reade: asked if Mr. Horan's driveway fronts on Hollywood Avenue.

Mr. Horan: stated yes.

Chairman Hanlon: asked what time Mr. Horan arrived at 956 Washington Avenue during the storm.

Mr. Horan: stated he couldn't remember.

Chairman Hanlon: asked what time did Mr. Horan leave.

Mr. Horan: stated late at night; 10PM.

Chairman Hanlon: asked if the water was there the whole time.

Mr. Horan: stated yes.

Ms. Karen Horan, 9 Deerhill Drive: asked where the water came from that came into the house; the photos showed by Mr. Dabbagh showed puddling directly in front of his house; asked if that was the genesis of the water that came into 956 Washington Avenue.

Mr. Horan: stated from the street; yes it is.

Mr. Whitaker: objected unless there is a basis for the question.

Mr. Cucchiara: stated Ms. Horan needed to lay a foundation.

Ms. Horan: asked if the driveway at 956 Washington Avenue appear to be level with the other properties in the area.

Mr. Horan: stated the driveway appears to be slightly lower than the street.

Ms. Horan: asked if the water fills evenly or is it flowing from a higher position when it is raining heavily.

Mr. Whitaker: objected; to form of the question.

Mr. Horan: stated his property is the lowest point of a large catchment area; lake forms in front of his house; driveway is slightly lower than the street, the water washes into the driveway and into the house.

Ms. Horan: asked if the water in the house is water than fell on the property.

Mr. Whitaker: objected; no foundation or basis.

Mr. Cucchiara: directed Ms. Horan to ask Mr. Horan direct questions; the questions that are being asked are leading.

No further questions from the public.

Mr. Dabbagh recalled.

Mr. Inglima and Mr. Dabbagh: described how the video Mr. Dabbagh took was prepared; **Exhibit O41: CD containing video of storm which occurred on 8/1/14; video taken by Mr. Dabbagh;** walked around neighborhood; streets depicted are Brandywine, Sleepy Hollows and Valley Forge Way; no interruption in video; 7 minutes long; video taken slightly after 2PM; worst flooding he had seen; went over towards WSRR where there were a lot of cars; all the water was coming from Hollywood Avenue; ponding occurred; most of the water coming from the west side

was going into the Costanza property; no water coming into Brandywine from the north; not a lot of wind with the rain; did not see obstructions in the catch basins at the time the video was taken; worst conditions in the past 6 months; water did not recede right away; receded a little bit then it started to rain again; concerned with flooding in the area; character of neighborhood; proposed additional street will prevent the water from going into the natural catch basin; there will be more run off; water coming between the Reilly property and the Solinsky property; water flowed across; concerned with the retaining wall system and the higher top elevation behind his property as observed in the video; feels the soil will be compacted and the water will run off from the area; trench will be overwhelmed; concerned about the maintenance of the trench; system proposed goes nowhere; proposed trench is 30 ft. from his building foundation; concerned about the impact on subsurface conditions, possible flooding below grade that would result from the location of the proposed stone trench; spoke to residents regarding the situation.

Mr. Whitaker: objected; hearsay.

Mr. Inglima: instructed Mr. Dabbagh to testify to his first hand knowledge.

Mr. Inglima and Mr. Dabbagh: Mr. Dabbagh stated he is not against the development of the property; the applicant has the right to develop the property; should consider the surrounding area; drainage issues; urged the Board to reject in its current design; discussed the Master Plan.

Mr. Whitaker: objected; no foundation or basis.

Mr. Cucchiara: stated Mr. Dabbagh was summarizing his testimony; not helpful to the Board; Mr. Dabbagh needs to indicate what part of the Master Plan he is referring to; indicated page no. etc.

Mr. Inglima and Mr. Dabbagh: discussed injury to trees; privacy concerns.

Mr. Whitaker: asked Mr. Dabbagh to confirm that he had purchased his home five years ago.

Mr. Dabbagh: stated he purchased his home in early 2010.

Mr. Whitaker: asked if Mr. Dabbagh had been living in his home ever since he purchased it.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked if Mr. Dabbagh had added any additions to the home; remodeled to create a larger home than purchased.

Mr. Dabbagh: stated no.

Mr. Whitaker: asked if the home had gutters.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked if the home had leaders and, if yes, how many.

Mr. Dabbagh: stated yes; 5.

Mr. Whitaker: asked if it was correct that the entire roof had a gutter and leader system.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked where the leaders drain out to.

Mr. Dabbagh: stated he had drywells; last year there was a problem with them; the roof was changed; contractor looked at his drywells because they were backing up; the contractor stated the house was built in 1940 and it is clay and they are all broken; at this time they drain into the grass.

Mr. Whitaker: asked if any of them drain out towards the front of the home.

Mr. Dabbagh: stated one does.

Mr. Whitaker: asked if it was Mr. Dabbagh's testimony that he changed his roof.

Mr. Dabbagh: stated he changed the asphalt/material.

Mr. Whitaker: asked if Mr. Dabbagh changed the shingles on the roof.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked if Mr. Dabbagh obtained a permit for this work.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked if Mr. Dabbagh changed the gutter and leader system at that time.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked if it was correct to say that Mr. Dabbagh once had leaders into drywells and the leaders were removed from the drywells so that the water dissipates out on the surface of the land on his property.

Mr. Dabbagh: stated on the grass, yes.

Mr. Whitaker: asked, if on that basis, Mr. Dabbagh did not replace the drywells that were there.

Mr. Dabbagh: stated no the drywells were not replaced.

Mr. Whitaker: asked if Mr. Dabbagh obtained permits from the town as it obtains to the removal of the leaders from the drywells that were there.

Mr. Dabbagh: stated no.

Mr. Whitaker: asked if Mr. Dabbagh obtained a permit to have the leaders taken out of the drywells and have the roof water allowed to be dissipated onto the land itself.

Mr. Dabbagh: stated a permit was obtained for the roof.

Mr. Whitaker: stated he was not referring to the roof; Mr. Whitaker was asking about the ability and permission to remove the leaders from the drywells that existed; was a permit obtained.

Mr. Dabbagh: stated they were overflowing and on the grass.

Mr. Whitaker: stated he did not ask if they were overflowing; Mr. Whitaker is asking if Mr. Dabbagh removed the leaders from the drywell.

Mr. Dabbagh: stated an elbow was added.

Mr. Whitaker: stated an elbow was added; the leaders from the drywells were eliminated and let the water dissipate on the lawn.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked if a permit was received from the Borough when this was done.

Mr. Dabbagh: stated he did not do it himself; a contractor did the work.

Mr. Whitaker: asked if a permit was obtained.

Mr. Dabbagh: stated he doesn't know if the contractor obtained a permit.

Mr. Whitaker: stated Mr. Dabbagh spoke regarding the size and character of the neighborhood/area/ and lots being proposed by the applicant; asked if this caused concern to Mr. Dabbagh.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked the size and area of Mr. Dabbagh's lot.

Mr. Dabbagh: stated 10,000 square ft.

Mr. Whitaker: asked if Mr. Dabbagh looked and compared his lot to the lots the applicant is proposing.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked if Mr. Dabbagh would say that in general most of the lots that the applicant is proposing exceeds the area of the lot that Mr. Dabbagh has.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked, as far as the "character" of the neighborhood, Mr. Dabbagh's lot would be smaller than the proposed lots along the rear of his property.

Mr. Dabbagh: stated his house was built in 1940.

Mr. Whitaker: asked for the witness to answer the questions asked.

Mr. Cucchiara: instructed Mr. Dabbagh to answer the questions that were being asked of him.

Mr. Whitaker: referred to O35; asked if Mr. Dabbagh had created many different photo simulations in his career as an architect.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked, in connection with the photo simulations, if Mr. Dabbagh had the ability to add landscaping.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked if that was done in this particular instance.

Mr. Dabbagh: stated yes.

Mr. Whitaker: asked if any landscaping was added between the houses, the walls and his property.

Mr. Dabbagh: stated he did; showed grass in between the two walls; did not add trees between the houses; did not want to block the view.

Mr. Whitaker: stated Mr. Dabbagh purposely did not show any trees of any magnitude, character, between his property and the two or three houses shown on the applicant's property.

Mr. Inglima: stated during direct, Mr. Dabbagh testified that he did not put trees between the houses and the walls on the exhibit; Mr. Dabbagh is answering the questions.

Mr. Cucchiara: stated that is understood but this is cross examination; Mr. Whitaker is entitled to ask the questions.

Mr. Whitaker: asked if it was correct that Mr. Dabbagh did not put any trees between his property on the photo simulation and the houses depicted on the applicant's property.

Mr. Dabbagh: stated they were put on the left only; did not know where the applicant would put trees; wanted to show the walls only.

Mr. Whitaker: asked if it was correct that Mr. Dabbagh showed some trees to the left above family members shown; they were not continued along the top wall from that point to the right hand side.

Mr. Dabbagh: stated exactly.

Mr. Whitaker: asked in regards to the walls themselves; from the perspective of O35; that wall looks like it extends down past the second house on the applicant's property.

Mr. Dabbagh: stated this is a perspective; he does not agree with Mr. Whitaker.

Mr. Whitaker: asked Mr. Dabbagh believed the wall went down that far.

Mr. Dabbagh: stated no.

Mr. Whitaker: asked if it was correct to say that the walls depicted on the applicant's plans indicate that the wall does not extend beyond Mr. Dabbagh's property.

Mr. Dabbagh: stated the top wall runs to where his property line is.

Mr. Whitaker: asked if it went beyond his property line.

Mr. Dabbagh: stated no, not beyond.

Mr. Whitaker: asked about the lower wall.

Mr. Dabbagh: stated it stops shorter; his land starts to go up.

Mr. Whitaker: referred to the photographs presented this evening; asked if Mr. Dabbagh had read or had any information as to how unusual that storm was.

Mr. Dabbagh: stated no.

Mr. Whitaker: referred to the photographs Mr. Dabbagh took while walking around the neighborhood; asked if Mr. Dabbagh considered the applicant's property part of this neighborhood.

Mr. Dabbagh: stated yes.

Mr. Whitaker: stated Mr. Dabbagh had stated that he was concerned about the character of the neighborhood based upon what the applicant is proposing.

Mr. Dabbagh: stated that was right.

Mr. Whitaker: asked if Mr. Dabbagh had taken any photographs of the roadways around the applicant's property during the storm or the applicant's property itself.

Mr. Dabbagh: stated no.

Mr. Whitaker: asked if Mr. Dabbagh had taken any photographs later on showing a time sequence as to when the water dissipated.

Mr. Dabbagh: stated no.

Mr. Whitaker: stated, in connection with the August 1, 2014 storm, did Mr. Dabbagh experience any water in his basement.

Mr. Dabbagh: stated no.

Mr. Whitaker: asked if Mr. Dabbagh had sump pumps in his basement.

Mr. Dabbagh: stated no.

Mr. Whitaker: asked if it was correct that Mr. Dabbagh had testified that he was not against the development of the property.

Mr. Dabbagh: stated he is not against the development of the property.

Mr. Whitaker: asked if Mr. Dabbagh understood that the lots, as far as lot area is concerned, are basically lots that are similar to Mr. Dabbagh's lot and other lots in the neighborhood as far as area is concerned.

Mr. Dabbagh: stated some are larger, some are not; some are double lots; some more than 1 acre.

Mr. Whitaker: stated on Mr. Dabbagh's roadway, his lot is the smallest or similar in size.

Mr. Dabbagh: stated his lot is the smallest.

Mr. Whitaker: stated in connection with Mr. Dabbagh's concerns with this application, asked if it was correct that Mr. Dabbagh's major concern is the construction of the walls on the applicant's property to the rear of Mr. Dabbagh's property and the construction of the gravel drainage area in front of the wall.

Mr. Dabbagh: stated that is one of his concerns.

Mr. Whitaker: asked if the walls were eliminated, would that eliminate Mr. Dabbagh's major concern.

Mr. Dabbagh: stated no; he does not want a cul-de-sac built.

Mr. Whitaker: asked why he wanted to see the cul-de-sac removed from the plans.

Mr. Dabbagh: stated because there will be more run off; the system is already taxed; believes the cul-de-sac will add to the problem.

Mr. Whitaker: asked what that belief is based on.

Mr. Dabbagh: stated he has not done any independent investigation; agrees with Mr. Emerson's testimony.

Mr. Reade: stated Mr. Dabbagh indicated he was not adverse to the development; his main concern seems to be the wall and the elevation; again, Mr. Dabbagh not adverse to the development; asked if Mr. Dabbagh would like to see something more consistent with the natural setting and no increase in elevation.

Mr. Dabbagh: stated he believes there is a way to solve the problem without altering the topography; design should not be forced.

Mr. Cirulli: stated Mr. Dabbagh had indicated his property was about 10,000 sq. ft.; asked if Mr. Dabbagh's property is the smallest that exists along Brandywine.

Mr. Dabbagh: stated he believes so.

Mr. Cirulli: asked if Mr. Dabbagh felt his property is the most flooded when situations like this arise.

Mr. Dabbagh: stated he believes his property and the DiGiacomo property will be the most affected.

Mr. Cirulli: asked if Mr. Dabbagh felt the cul-de-sac would add to the flooding.

Mr. Dabbagh: stated yes.

Chairman Hanlon: spoke regarding water coming from the north; Mr. Dabbagh had answered there was not much water coming from the north when asked about it by Mr. Inglima.

Mr. Dabbagh: stated he did not understand what Mr. Inglima meant by direction; asked Mr. Inglima to refer to the board.

Mr. Inglima: referred to the north; water from any point on WSRR lying between Hollywood Avenue and Brandywine Road; any water collected in that area then going into Brandywine.

Mr. Whitaker: stated the question had been asked and answered.

Chairman Hanlon: stated Mr. Inglima had defined "north", but further stated Mr. Dabbagh can give his answer.

Mr. Dabbagh: stated he observed water coming down on WSRR; the majority of it was going into the property.

Chairman Hanlon: referred to the depression behind Mr. Dabbagh's home where he said there was no water; asked how large the puddle was behind his home.

Mr. Dabbagh: stated there was not much water to speak of behind his home.

No questions from the public.

Ms. Leah Malley, 764 WSRR: sworn in by court reporter.

Mr. Inglima and Ms. Malley: showed location of her property; Block 805, Lot 22; lived at location for 14 years; has been to most of the prior hearings; heard Mr. Steck's testimony; heard Mr. Dabbagh's testimony this evening; agrees with the concerns expressed; described her house; 11,000 sq. ft; moved to area because of character of neighborhood; improvements made to house; 2007 renovation; described layout; more bedrooms added; family room area; 2 car garage built; maintained level of sensitivity; leaders to seepage pit; Belgian curbing on driveway; better view on east side; houses in area designed at the same time; lives south of the intersection of Brandywine and WSRR; higher elevation than intersection; fair amount of traffic; cut-through traffic; not as safe an area as she would have liked; Mr. Inglima asked Ms. Malley if the location and characteristics of the area require drivers to be careful entering the area.

Mr. Whitaker: objected to the form of the question; character of neighborhood is not a criteria for a subdivision.

Mr. Inglima and Ms. Malley: discussed "cut-through" traffic; gave different scenarios; during a previous storm cars were backed up past her house; experiences diverted traffic on WSRR about once a month; cars tend to accelerate south bound; municipality stationed speed monitoring equipment and displayed signs in the area; water runs down the hill in a northerly direction in front of her home and down to the corner of Brandywine; curves at Lot 23; stones on west side of WSRR to help slow the water down have eroded; did observe relatively no water streaming past the Costanza property; stream past driveway during 8/1/14 storm; no water moving north; ponding on Brandywine, Van Dyke and Sleepy Hollow; concerned about traffic/pedestrian safety; out of character with the town; people have the right to develop their properties; front yards should be on Hollywood; not concerned about flooding; cited Master Plan.

Mr. Whitaker: stated Ms. Malley had testified about her concern of the site from an architectural standpoint; asked what she had to compare the architectural standpoint with.

Ms. Malley: stated she is concerned what the homes will look like.

Mr. Whitaker: asked if Ms. Malley had looked at architectural plans to base an opinion on.

Ms. Malley: stated no.

Mr. Whitaker: stated Ms. Malley testified that she is not too pleased with the traffic situation on WSRR.

Ms. Malley: stated that was true.

Mr. Whitaker: stated, in that regard, it is the speed of cars and the number of cars.

Ms. Malley: stated yes.

Mr. Whitaker: asked if Ms. Malley had experienced any problems in entering and exiting her property.

Ms. Malley: stated yes.

Mr. Whitaker: asked if she backed out onto the roadway.

Ms. Malley: stated yes.

Mr. Whitaker: asked if she could turn around on her property to exit forward.

Ms. Malley: stated no.

Mr. Whitaker: asked how often Ms. Malley leaves her house and comes back during a day.

Ms. Malley: stated six at least.

Mr. Whitaker: stated six at the minimum; ten at the maximum; asked how many times she finds it a problem to exit/enter her property.

Ms. Malley: stated she has to be cautious.

Mr. Whitaker: asked if Ms. Malley experiences a problem when she tries to back out onto WSRR.

Ms. Malley: stated she has to be cautious.

Mr. Whitaker: recognizing Ms. Malley is cautious; asked if it still creates a problem.

Ms. Malley: stated it is not an ideal driveway situation.

Mr. Whitaker: asked if Ms. Malley's driveway slopes down towards WSRR or does it slope towards her house.

Ms. Malley: stated towards the road.

Mr. Whitaker: asked if Ms. Malley had to receive variance approval for the construction on her house.

Ms. Malley: stated yes.

Mr. Whitaker: asked what type.

Ms. Malley: stated she needed to obtain variances for lot coverage and side yard setback.

Mr. Whitaker: stated Ms. Malley earlier testified that she felt it wasn't appropriate for variance relief; asked how many variances Ms. Malley sought when she did the addition to her home.

Ms. Malley: stated two; lot coverage and setback.

Mr. Whitaker: asked what the magnitude of the setback was.

Ms. Malley: stated it was a couple of inches.

Mr. Whitaker: asked what the magnitude of the improved lot coverage.

Ms. Malley: stated 23.4%; 20% permitted at the time.

Mr. Berardo: asked if there was flooding on Ms. Malley's property or near her home.

Ms. Malley: stated she does not have flooding on her property; witnessed water going by her property down WSRR in a north direction; she has a retaining wall in the front.

Mr. Berardo: asked regarding the Belgian block that Ms. Malley had installed.

Ms. Malley: stated it was installed on the outer edge of the driveway to keep the runoff from hitting the property below her.

Mr. Berardo: asked if Ms. Malley's driveway pitches towards WSRR.

Ms. Malley: stated yes; slight pitch.

Mr. Berardo: asked if her main concern was traffic.

Ms. Malley: stated she has many concerns.

Chairman Hanlon: asked if Ms. Malley drove out of her driveway during the day of storm around 2PM.

Ms. Malley: stated she didn't drive out.

No questions from the public.

Mr. Inglima and Ms. Malley: discussed the variances sought by Ms. Malley; she appeared before the Zoning Board and established a hardship; Ms. Malley started to speak regarding possible variances sought by the applicant.

Mr. Whitaker: objected; no variances are being sought by the applicant.

Mr. Cucchiara: stated the answer was not responsive to the question; Ms. Malley's was being asked about her hardship and then she started to testify about the applicant's hardship and that was not the question.

Mr. Whitaker: asked if one of the concerns of Ms. Malley was the amount of fill coming to the site.

Ms. Malley: stated yes.

Mr. Whitaker: asked if she was aware of any fill coming to the site.

Ms. Malley: stated she read the soil movement application; not concerned about where the fill is coming from.

Chairman Hanlon: stated the meeting would continue next week at 7:30PM at the same location.

Mr. Inglima: stated he had two more witnesses; should take approximately 40 minutes for direct and cross.

Chairman Hanlon: stated after the 40 minutes taken by Mr. Inglima at the next meeting, the balance of next week's meeting would be for public comments and the guidelines will be discussed at that time; asked if Mr. Whitaker could stipulate the extension of time for next week's meeting.

Mr. Whitaker: stated yes.

Chairman Hanlon: stated there were ladies that would like to make presentations before the Board under the public comment section; they have conflicts with the Board meeting dates; instructed them that, depending where the Board is in regards to the meeting, they would be permitted to make their presentations; ladies will be back in September.

Ms. Victoria Petrock: identified herself; is within the 200' list; will be available in September to attend meeting and make a presentation to the Board.

Motion to Adjourn: Berardo, Councilman Rorty
All Board Members present approve Motion to Adjourn.

Meeting adjourned at 11:00PM

Respectfully submitted by:
JoAnn Carroll
Planning Board Secretary
December 3, 2014