

**Borough of Watchung
Planning Board Meeting
March 20th, 2007
Minutes**

Chairman Speeney called the meeting to order at 7:34p.m. and stated that notice of this meeting had been posted at Borough Hall, filed with the Borough Clerk and given in the way of notice to the Courier News, Echoes Sentinel, the Reporter and Star Ledger in conformance with the N.J.S.A. 10:4-6 et seq.

Present at the call of the roll were: Speeney, Boyd, Havas, Haveson, Page, Addario, Pennett, Schaefer, and Spratford. The Mayor arrived at 7:40p.m. Also present were Board Attorney Robert Rusignola, and Board Planner Peter Tolischus.

Chairman Speeney indicated that there was a quorum to conduct business. A motion was made to waive the reading of and approve the minutes of February 20th, 2007 by Mr. Havas, seconded by Mr. Addario, and approved on voice vote. Mr. Haveson abstained.

Chairman Speeney indicated to the Board that PB06-12 Pinnacle at Watchung, LLC asked for a continuance, and asked the Board to make a motion to accept the request for continuance of this application until the next meeting of April 17th, 2007 with no further notification necessary. That motion was made by Mr. Haveson, seconded by Mr. Addario and approved on voice vote. Chairman Speeney asked the Board to go out of order on the agenda and begin with PB06-13 Majestic Homes. Mr. Traynor, Attorney for the objector for K&R Valley LLC asked that K&R Valley be heard first, but the Board decided on Majestic Homes to begin, agreeing by voice vote.

Havas read: PB06-13 Majestic Homes IV, LLC
561 Valley Road Block 70.02 Lot 2
Minor Subdivision and variance(s)

Mr. Rusignola recused himself from this application once again, and Mr. Daniel Bernstein sat in as Board Attorney. Joseph Paparo, Attorney for the Applicant was present. Chairman Speeney said that at this point in the application, they would open to the public for comments. He said there would be a 3-minute limit for each speaker. Mr. Mark Hochheiser of 560 Valley Road came to the microphone. He said that the Applicant has purchased this property for speculation in his opinion, and will never live there. Mr. Hochheiser said that the applicant has said that the variance is a hardship, which might be a legal term, but that it is not anything but a substantial benefit to the Applicant himself. Mr. Hochheiser said it is a self-imposed hardship. He said that the Applicant has made assertions that they are doing the Borough a favor by saving a historic home, but refused to have any deed restrictions imposed as part of approval. Mr. Hochheiser said that in his opinion, there was no reason to grant any lot size deficiencies.

Sondra Fechtner of 72 Cardinal Drive came to the microphone. Mrs. Fechtner said that

one of the reasons she moved here was because of the large square footage on the lots. She said that 60,000 sq. ft. is the minimum, not the maximum. She discussed Mountain Blvd. in Warren, and how commercial development is creeping down that road, but noted that Watchung has not allowed that for a reason, and the reason is to keep the character of the town as it is.

Jack McWade, of 638 Valley Road came to the microphone. Mr. McWade said that this was always a rural area, and if we start bending the rules, it would not be fair for the people who came in here for that reason.

Lynda Goldschein of 70 Sherwood Drive came to the microphone. She said she noticed on Valley Road last week a 2.8-acre lot went up for sale with a house on it. She said that if they grant this request, she's sure that the lot for sale will want to do the same thing. She said it would create a domino effect, and agrees with the other neighbors and their views.

Bob Wolent, of 112 Wetumpka Lane came to the microphone. He says that he strongly agrees with and supports the other residents who made comments. He says it's time for development to be slowed down.

Christine Botts, of 40 Sherwood Drive came to the microphone. She was in agreement with the other residents, and asked the Board not to grant this subdivision.

Joan DeFluri of 40 Price Drive came to the microphone. She says she has 3.3 acres, and that they were approached by the Applicant to sell them a portion of their land.

Lawrence Botts of 40 Sherwood Drive came to the microphone. He talked about property in the Westfield/Scotch Plains area and small lots that were created. He urged the Board to keep the larger zoning in this area.

Mr. Sam Poon of 15 Elsinore Drive came to the microphone. He said he agrees with his neighbors. He said there are a number of people who wanted to be there but could not make it who strongly object to this application.

Chairman Speeney asked the Planning Board to vote on closing the public portion of this application. Mr. Addario made the motion to close the public portion, seconded by Mr. Haveson and approved on voice vote.

Mr. Paparo, Attorney for the Applicant came to the microphone and made his closing argument, stating that the Board should not lose sight of what they are here for by focusing on small details. He said that the lot is deficient by 3,100 square feet. He said that each case stands on its own merits and is not bound by precedent. He said a lot that is 56,000 square feet, is in keeping with the general makeup of the area. He stated that the Objector's Planner said that they should maintain the status quo, and he said he has never heard that before. Mr. Paparo said that there is only one variance associated with the new home, for the setback from the accessory structure. He said the new lot requires two

variances. The first is a variance for lot area with a deficiency of 3100 square feet, and the application also requires a variance for a lot width deficiency. He said there would be no new curb cuts on Valley Road. Mr. Paparo said that one new home would not impact the makeup of Valley Road. He said that if the mindset of the Board were not to approve anything that needs a variance, there would be no need for a Board. Mr. Paparo thanked the Board.

Chairman Speeney opened to the Board for discussion. Mr. Alan Haveson brought up the issue of drainage problems on the property from the site committee visit. He asked if that was the responsibility of the current property owner. Mr. Bernstein asked if that was something that occurred recently or an ongoing problem. Mr. Haveson said it looked like it had deteriorated over time. Mr. Bernstein said that unless a homeowner creates a problem, it is difficult if they don't have an application or unless they have done something new to create the problem.

Mr. Boyd offered some insight on the sheet flow from the site visit. He said there is a pipe that opens up onto Valley Road on the westerly side of the lot. He said that the pipe seems to originate at a blue stone drain that catches water that seems to run along a trench parallel to Valley Road. Mr. Boyd said it seems to him that the previous owner of the property must have implemented this. He said the water flow does not seem to be excessive.

Chairman Speeney said that he disagrees with Mr. Paparo vehemently over the statement that if the Planning Board chooses not to grant a variance, there is no need for a Board. He said it is the zone plan that implements the Master Plan. Each time they have reexamined the Master Plan, they have said that the development regulations reaffirms the long standing importance of the Borough's goal to maintain the existing established residential land use pattern. Mr. Speeney said that any new development should be consistent with the density of the current zoning. Chairman Speeney said that he did not believe that there was any testimony from the Applicant that would sway him to deviate from the 2005 Master Plan reexamination report. He stated that he could not support this application based on the fact that it does fly in the face of the reexamination comments by this Planning Board over a period of 13 years.

Mr. Addario said that the detriments outweigh whatever good they could do for this area in his opinion. He said he was against this application.

Mr. Alan Page said that the detriments exceed the benefits and he is in agreement with the Mayor on this application. He said that as a rule, they do not grant variances on lot size. Mr. Page said that the Board tends not to ignore slope considerations. He said he believes the town should know that they would not deviate on minimum lot size.

Mr. Alan Haveson said he agreed with many of the comments of the Board members. He agreed with the Attorney regarding the fact that 5% deficiency is not a lot, but that somewhere, you have to take a stand and say you won't do something. He said that he

too, feels very strongly about lot size meeting requirements. He said he is uncomfortable with what the Applicant will do with the property.

Chairman Speeney commented about precedent, and the fact that it is not legally binding, but in reality, Attorneys and Planners and Engineers are always using it to argue an application. He said that if the Board bent on this issue often enough, then they would have the responsibility to review the zone plan.

Chairman Speeney asked if there was a Board member who wanted to make a motion to affirm this application as presented. Hearing none, Chairman Speeney asked if there was a motion to deny the application. Mr. Boyd said he sees no betterment to the town to approve this. Mr. Havas made a motion to deny, seconded by Mr. Haveson. On roll call, the vote was Speeney-yes, Boyd-yes, Havas-yes, Haveson-yes, Page-yes, Addario-yes, Pennett-yes, Schaefer-yes, and Ellis-yes. The motion was carried and the application was denied. Mr. Paparo thanked the Board and the members of the public for their time.

There was some discussion about which application would be heard next, and Mr. Murray who represented both applicants strongly urged the Board to hear K&R Valley next. The Chair agreed.

Havas called: PB06-05 K&R Valley, LLC
113 Valley Drive Block 65.02 Lot 14
Preliminary Major Subdivision & Variance(s)

Joseph Murray, Attorney for the Applicant was present. Mr. Murray said that information that Mr. Page had gathered was provided to the Board and asked Mr. Kevin Page, Engineer for the Applicant to come up and present these documents. Mr. Page was already sworn in and presented 5 maps from Somerset County and 4 resolutions all-pertaining to other subdivisions from the Borough of Watchung records. One resolution was obtained from George Canellis an Attorney from the Burnheade development. The maps and resolutions were entered as exhibits AR-1, AR-2, AR-3, AR-4 and AR-5. Mr. Rusignola said that the Board accepted these as true and accurate records. Mr. Murray said the Attorney for the objector; Mr. Rich Traynor has also received copies of these documents. The first exhibit is AR-1, Carrar Estates, surveyor Lee Titus dated May 19th, 1972-Map #1495, and resolution R72-9. Block 4 Lot 1 at the corner of Glen Eagles Drive and Carrar Drive. He said the lot width on Glen Eagles is clearly less than 150 feet, but that the resolution reads that the proposed resulting lots comply with the Borough Ordinance both as to size and dimension. Mr. Murray asked Mr. Page what the requirements were in 1972. Mr. Page said that as far as he knew, they have not changed from 150 ft.

Exhibit AR-2 with resolution R75-25 Winter Lane. This map was prepared in August of 1975. Lot 11 fronts on Scott Drive, which has a lot width of less than 150 feet, about 115-120 feet.

The third exhibit AR-3 resolution R78-16 Devonshire Estates. The resolution presented referred to property owned by John and Edith Rolland. The map was numbered 1828.

There is a lot in this subdivision that has frontage on Nottingham, Canterbury and Devonshire. Its frontage on Nottingham is clearly less than 150 feet. It scaled approximately 65 feet. Item number two in the resolution said all seven lots comply with the Borough Ordinances as to size and dimensions except lot number 7, which was not the subject lot, showing frontage on a private easement.

The fourth exhibit of AR-4, which was for Pond View at Watchung and resolution R85-12, says all lots meet the area requirements. The two lots fronting on the cul-de-sac have insufficient street frontage. The Applicant proposed to put an 80-foot wide setback respectively so as to provide the 150-foot width at the setback line for said lots. Lot #12 does not meet the frontage requirement on both sides. Lot 12 has Lot width on Kristy Lane and Jared Court. Mr. Page said that on Jared Court, lot 12 clearly does not have sufficient coverage of lot width.

The fifth exhibit AR-5 was from Burnheade resolution from the Board of Adjustment BA88-22. Mr. Page said that the lots at Burnheade were granted approval to consist of 40,000 square feet, instead of 60,000 square feet. All the other dimensions were the same Block 44.01 Lot 10 had 50 feet of frontage on Valley Road. The home on the corner of Knightsbridge and Gallowae Lot 12 has frontage on Gallowae, but approximately 130 feet on Knightsbridge.

*Mr. Herits arrived at 8:45p.m.

Mr. Page talked about the RML zone where the lot area is 40,000 square feet, but the lot frontage is still 150 feet. Mr. Page said that the Zoning Officer was in error when he made his opinion. In the absence of clarity, he said that the Board has to look back and say, "What did we always do before?"

Mr. Havas asked Mr. Page if he had found any examples of application decisions that were opposite to these. Mr. Page said no. Mr. Speeney brought up a point about Burnheade that in the list of requirements, there is no column for the maximum amount of impervious coverage. Mr. Speeney said the point was that Mr. Page had just said that all other bulk requirements were the same, but that was not the case.

Mr. Traynor came to the microphone to question Mr. Page. Mr. Traynor referred to the map that was attached to resolution R72-9 (Exhibit AR-1) and asked if Glen Eagles continued or ended at Carrar Drive. Mr. Herits said that Carrar is a stop street and Glen Eagles continues on, making the lot a corner lot. Mr. Traynor asked Mr. Page if in his opinion, a Board approves a development application, but inadvertently misses a waiver that should have been applied for, should it have bearing on whether a similar variance would be required in a future case. Mr. Murray objected. Mr. Rusignola said that was a legal question. Mr. Traynor asked Mr. Page what the most recent approval was it that he mentioned in his letter of the 5 he provided. Mr. Page said 1988 was the most recent. Mr. Traynor asked if the Master Plan has been amended or revised since 1988. Mr. Page said he is sure the Master Plan has been updated since 1988 but he didn't think the bulk standards of the Borough had been updated for the R-R zone since 1988 to his

knowledge. Mr. Traynor asked Mr. Page if the character of the town has changed in the last 30 years. Mr. Page said yes. Mr. Traynor had no further questions.

Mr. Murray asked Mr. Page about the question he was asked by Mr. Traynor with regards to the waiver with respect to the design standard relating to steep slope. Mr. Page said yes. Mr. Murray asked if he undertake an application of the steep slope standards in the design features of the ordinance to determine the density of the subject site. Mr. Page said yes. Mr. Murray asked Mr. Page if as a result of that determination, did he reach a conclusion as to the density. Mr. Page said yes. Mr. Page said if you follow the formula in section 118-8 C1, you have a density of 1.96 lots. Mr. Page said that the provision in the ordinance that says that you reduce the amount of impervious coverage based on the steepness of the lot. The flatter the lot, the more impervious coverage you are allowed to have, the steeper it is, the less impervious coverage you can have. Mr. Page referred to sheet five of six, which was the soil erosion sediment control plan. Mr. Page said the detention basin is placed in the flatter areas of the site, and the homes are also placed in the 0-10 % areas of slope. Mr. Page said that is standard engineering practice. Mr. Murray said they are seeking a waiver from the deficiency between 1.96 and 2.0 lots. He asked Mr. Page if he knew what that square footage was. Mr. Page said approximately 1600-1700 square feet out of over 3 acres. Mr. Murray asked Mr. Page if his design reasonably promotes the general purposes and intent of that steep slope provision. Mr. Page said it does, because he believes it promotes the purposes of that section of the ordinance. Mr. Murray had no further questions for Mr. Page.

Chairman Speeney asked Board members if they had questions for Mr. Page. Alan Haveson asked if when Mr. Page went through the resolutions on the corner lots, were there any corner lots comparable in terms of size and dimension to what was proposed here. Mr. Page said that all lot widths along Valley Drive are approximately 140 feet. Mr. Page said he didn't think that any of the examples he had given the Board were even that close. He said he thought the closest one was 130 feet. All others were substantially less. Mr. Rusignola said if you had a conforming subdivision application you could build in the steep slope itself, but that fundamentally, that doesn't work for the developer due to being cost prohibitive as opposed to building on flat land. Mr. Page said that was part of it, and that these are uphill lots. If they were downhill lots where someone wanted a view, the cost might be secondary, but that he thought it was bad planning.

Carol Spratford said all the example corner lots were part of large subdivisions that were done at one time; and that smallest subdivision was six lots. She asked if there was a chance that because you are working with many lots at once, a town would be more likely to be lenient due to the fact that all other requirements are met on a large parcel. Mr. Page said that was hard to know.

Chairman Speeney asked Mr. Page if on page 2 of 6 there is a zoning compliance table, and that minimum lot width shown for proposed lot 14.01 as 150 feet. Proposed lot 14.02 would have 140 feet. Mr. Speeney asked Mr. Page to describe how he measured lot width of 140 feet for proposed lot 14.02. Mr. Page said 237.22 feet is the lot width along its frontage on the new road. It is a corner lot so it has two lot width dimensions. The 237.22-foot lot width measurement is taken at the front setback line projected out to

the Valley Drive right of way. Mr. Page went on to explain more about the second measurement, but his words are indiscernible.

Chairman Speeney asked how Mr. Page got the frontage lot 14.01. Mr. Page said that he ran a line parallel with the cul-de-sac radius, and that is 150 feet. Mr. Page said that was how they started by running an arc 150 feet and that set the side line and then he went from there back. They discussed the one-foot strip for the purpose of giving proposed 14.01 what is now a side yard for the neighbor on lot 13, into a front yard for lot 13. Chairman Speeney voiced a concern that the adjacent lot would be made into a corner lot. Mr. Rusignola said that the one-foot strip would eliminate the corner lot status for lot 13. Mr. Murray interjected that they have previously said that they do not really want to put in that one-foot strip, but had done it because of concern of Board members. Mr. Murray said that if they remove the one foot strip, and cut off their lot line for lot 14.01 where Kevin Page had indicated it previously and had the cul-de-sac right of way just go to lot 13, that does not as a matter of law impose upon lot 13 a corner lot status under the MLUL or the Borough ordinance. Chairman Speeney said he did not remember testimony to that effect. Mr. Murray said there is a memo in the file, which states that position. Mr. Murray said that it does create a lot that fronts upon that cul-de-sac, but it does not impose upon that lot a pre-existing non-conforming status as a corner lot. Mr. Rusignola said that this was irrelevant because they have put the one-foot strip in. Mr. Murray agreed. Chairman Speeney said he was not sure that the corner lot status for lot 13 was negated. He asked Mr. Rusignola to advise. Mr. Rusignola said that he thought there was enough of a precedence to say that the corner lot status was negated with the one-foot strip. Mr. Rusignola said there is another argument that Mr. Traynor has regarding whether or not the ordinance allows that one-foot strip. Mr. Rusignola said that the case law says in his opinion that the creation of the corner lot is not prohibited by MLUL and does not put on that lot the status of a non-conforming lot. Mr. Rusignola said he agrees with Mr. Murray in his position. Mr. Rusignola said that he is inclined to agree that whether or not there is a one-foot strip there based on his reading of law that it is not creating a corner lot status with prohibitions against lot 13. Mr. Traynor said there is no case law at all with respect to whether that creates a corner lot and whether it becomes a non-conforming lot, whether or not it requires a variance. Mr. Rusignola said there is a new case right now on appeal with regard to this issue. There has been no decision yet on that case. Mr. Traynor said that in the Cox Book, there is a blurb that states that you can make an argument that it is not a self-created hardship, therefore the owner of that lot which has now become a corner lot through no doing of their own, could go and ask for a variance and be entitled to it. Chairman Speeney said that he did not appreciate taking an existing row of lots, fully developed, and then cutting a street in creating for someone else a potential hardship that they are now a corner lot. Speeney said that the one-foot strip creates a one-foot wide corner lot, and imposes on lot 13 some detriment that does not exist now. Mr. Murray said that if the Board wanted him to remove the one-foot strip that he would certainly do that. Chairman Speeney said that he cannot accept it, and that you still wind up with a corner lot. Mr. Murray said that what Chairman Speeney is saying is completely contrary to the case law. Mr. Addario said that Chairman Speeney should take a poll of opinions of other members of the Board. Mr. Addario said he felt that they should have been given flag lots. Chairman Speeney

said that this town is going in a direction where flag lots are going to be limited. A discussion ensued between Chairman Speeney and Mr. Addario, and Mr. Rusignola brought the topic back to what was before the Board.

Mrs. Virginia Olive, of Lot 13 came to the microphone. She asked for a description of disturbance of vegetation, and also wanted to know the square footage of the cul-de-sac. Mr. Page referred to the soil erosion and tree removal sheet (5 of 6). He said a total removal of 137 trees was proposed. 94 trees would be replaced. Mr. Page said the approximate square footage of the right of way, not the pavement, was approximately 16,000 square feet.

Mr. Murray called his next witness, David Zimmerman, who testified previously and who was still under oath. Mr. Murray asked Mr. Zimmerman if he takes into account in his analysis the prior conduct of a Board in its interpretation of an ordinance. Mr. Zimmerman said that yes, he does. He said it is not uncommon for Attorneys and Engineers to rely upon historical interpretations of a Board over the years. Mr. Zimmerman said that in this case, it confirms his interpretations of how a corner lot is dealt with in terms of lot width. Mr. Murray asked with respect for Mr. Page's testimony concerning a request for a waiver from the density requirements at a 1.96 v. 2.0, if he had any planning concepts with respect to the exception or waiver that is being requested. Mr. Zimmerman said this ordinance is under the title Storm Water Steep Slope and Erosion Control Ordinance. The purposes under the terms of that ordinance are directly related to those factors and others that Mr. Page indicated; vegetation, erosion, storm water runoff and things of that nature. Mr. Zimmerman went on to say that he would consider what is before the Board qualifying for a diminimus exception from what is required. Mr. Zimmerman said that the design of the subdivision does respect the spirit and intent of that section of the ordinance. Mr. Zimmerman said that the chief factor is that you rely heavily upon your Master Plan. He referred to the reexamination of 2005 that said that any new development of remaining vacant residential tracts or redevelopment should be at a density consistent with the current zone. Mr. Zimmerman said that the density in this case is conforming.

Mr. Rusignola talked to Mr. Zimmerman referencing the five applications that Mr. Page introduced, which said that they each conformed to all the zone requirements. Mr. Zimmerman agreed. Mr. Rusignola said that in each of the applications that Mr. Page cited, the resolutions did not mention the words corner lots. Mr. Zimmerman agreed. Mr. Rusignola asked if in Mr. Zimmerman's opinion, 5 resolutions out of approximately 200 was a representation of the Board's opinion. Mr. Zimmerman said that he did not know if it was fair to compare 200 resolutions to five that dealt with corner lots. Mr. Rusignola said he thought that was exactly the point, that it wasn't really a representative number regardless if it was 200 or something less than that. Mr. Rusignola said if there was just one resolution that said that yes, this was a corner lot and the requirements were either met or not met, would that change Mr. Zimmerman's opinion. Mr. Zimmerman said he would have to take a look at that, but that it would not change his opinion as far as his interpretation of how the zoning applies to corner lots. Mr. Rusignola said that this evening there was a question posed to Mr. Zimmerman by Mr. Murray asking if Mr.

Zimmerman took into consideration the track record of a Board, and that Mr. Zimmerman said yes, and based that upon the information that was posed by Mr. Page. Mr. Rusignola asked if anyone gave him one resolution that made a corner lot designation and the Board made a finding to the contrary, would that alter Mr. Zimmerman's opinion as to whether this Board is in conformity with its past practice. Mr. Zimmerman said that was a difficult question to answer. Mr. Zimmerman said if the Board had decided both ways, that one to the contrary might be considered an anomaly. Mr. Murray asked Mr. Zimmerman if it was necessary that those resolutions which stated that the ordinance standards as to all dimensions were met, include the existence of lots that meet the definition of a corner lot. Mr. Zimmerman said yes. Mr. Zimmerman said that if the Board were to decide that the Applicant's interpretation is not correct, then they are asking for a variance for lot width for 140 feet v. what is required for 150 feet. He said that if they were in that position it would be his testimony that they are asking for a minor deviation from the ordinance. He said that they come within 93.3% of the required lot width. To deviate from 150 feet to 140 feet, in his opinion, is not a major deviation. Mr. Zimmerman said that given the fact that we have a very odd shaped lot, the basis for granting that variance is hardship. Mr. Zimmerman said this lot is in the shape of a tie. He said that the shape of the lot under the heading of C1 hardship that creates the lot width variance that the Applicant is requesting. Mr. Zimmerman said that every lot around this lot has a unique shape. Mr. Murray asked Mr. Zimmerman if he had any comments on the C2 approach. Mr. Zimmerman said the C2 approach says that the benefits must outweigh the detriments. Mr. Zimmerman said that when all arguments are done, at the end of the day you must ask if this will be a nice lot for a person to live in. At this point, Mr. Traynor interjected that this was the same testimony that Mr. Zimmerman testified to months ago, and that Mr. Traynor's client's planner was not present. Mr. Murray interjected that the Applicant would not agree to any extension of this case. Mr. Traynor said that by doing that, the Applicant was not allowing for due process. Mr. Traynor said that there was absolutely new testimony at this meeting, and that he had no knowledge of. Mr. Murray said he would discuss an extension through the end of this month, but would not agree to any extension that went beyond March, because the Borough would have a new ordinance in place by the time we come back. Chairman Speeney said if the Applicant fails to allow this hearing to go through its proper process, and Mr. Murray interrupted that he would withdraw any testimony comments on the C1 and C2 right now. Mr. Traynor objected to this, because it was already on the record. Mr. Rusignola said to Mr. Traynor that it was duplicative to what Mr. Zimmerman has said before. Chairman Speeney asked Mr. Zimmerman if this hardship a self-imposed hardship. Mr. Zimmerman said that all hardships are self-imposed. Mr. Rusignola asked Mr. Murray if he had more witnesses. Mr. Murray said that he had no more witnesses. He said however, that the Applicant did not create the dimensions of this lot. That he said would cause the hardship. Chairman Speeney asked if this lot was usable for a single family home. Mr. Murray said yes, and that it was also usable for two houses that they propose. Chairman Speeney asked if it was only because of hardship. Mr. Murray said no, because of this interpretation of the ordinance, which makes it conform. Chairman Speeney said that was Mr. Murray's opinion. Mr. Murray said it was his opinion backed up by the evidence. Mr. Traynor said he had some questions, and also wanted to log a complaint. Mr. Traynor said that Mr. Murray said it was two conforming

lots, and that was why they were entitled to a C1 variance. He said either you have a variance, or you don't. Mr. Murray said that in the event that the Board does not accept the interpretation that the Applicant thinks should be accepted, we have a shortfall of 10 feet on the lot width. Then the variance would be before you. Mr. Traynor said that he objected to the fact that there has been significant new testimony this evening both from Mr. Page, not only as to the information that we are provided, but as well as additional testimony as to the steep slope ordinance. Mr. Traynor said he was under the impression that this was going to be basically closing arguments, and once receiving Mr. Murray's letter some additional information, he would like the opportunity to bring back his planner for any kind of rebuttal testimony. Mr. Murray said that Mr. Traynor received from the Applicant at the same time the Board did, the history of the zoning through these resolutions. Mr. Traynor said he was not objecting to that. Mr. Murray said that Mr. Traynor's planner could have been at this meeting to confront and respond to that factual pattern which was given to the Board. Mr. Traynor noted that this application has been going on for over a year, and that the Applicant has continued it a number of times, and that it is disingenuous at this point for Mr. Murray not to extend this so that he could bring back a witness. Mr. Murray said that at no prior time was the Applicant faced with a zoning change that is immanent. Chairman Speeney said that at this point Mr. Traynor's complaint is lodged, but the Chair didn't think that the Board would act on it. Mr. Traynor asked Mr. Zimmerman if this lot as it was, could be developed with one single family home. Mr. Zimmerman said that yes, it could. Mr. Traynor said that he thinks everyone agrees, that none of these resolutions explicitly talked about how you interpret the lot width on corner lots. Mr. Traynor asked Mr. Zimmerman if he thought it was possible that the zoning officer just didn't catch it, and it was never dealt with, and that was why it was not talked about in the resolutions. Mr. Zimmerman said that he thought that was highly speculative and that would indirectly say that there was some incompetence at someone's level, and that he didn't think that was appropriate. Mr. Traynor asked Mr. Zimmerman if in his opinion, the lot width language is crystal clear. Mr. Zimmerman said no. Mr. Traynor asked Mr. Zimmerman if it would have been unusual for the Board for at some point to have interpreted this issue and for that interpretation to be in a resolution. Mr. Zimmerman agreed that the Board has interpreted that issue exactly the way the Applicant has interpreted it based on past actions with these subdivisions. Mr. Traynor suggested we assume that in 1975 there was a resolution that the Board put forth saying there was an issue raised as to how to measure lot width on corner lots. After due consideration in this scenario, the Board decided it only had to meet it on one lot. Mr. Murray interjected that this was hypothetical, and Chairman Speeney said to grant Mr. Traynor some leeway. Mr. Traynor asked if a prior interpretation of a Board was, binding on this current Board. Mr. Zimmerman said that the answer, he thought was both legal and planning based. He said from a planning perspective, he thought it very well might be. Mr. Zimmerman said that he thought historical interpretation is to be given great weight.

Chairman Speeney asked Mr. Zimmerman if he thought that the past practices and decisions of this Board or any Planning Board in essence are precedential. Mr. Zimmerman said that yes, he thinks they are. Mr. Rusignola said there is no precedent from a legal standpoint. He said from a planning standpoint it makes sense to say yes,

they should follow the same thinking that they have done in past, but from a legal standpoint, there is something to be considered but it is not binding. Mr. Zimmerman agreed. Mr. Haveson made the comment that he didn't think that if a previous Board made a decision, that this Board is bound by that decision made then. Mr. Murray agreed that the Board needed to look at the facts in each case and not act arbitrarily. Mr. Murray said if a Board does not follow the past history, then they should give the Applicant a reason in the resolution as to why. Otherwise, he said, it is arbitrary.

At this point, Chairman Speeney went off the record to speak to the Borough Planner. Mr. Murray said he didn't know if that was appropriate. Mr. Rusignola said that it was discussion between colleagues. Mr. Rusignola said that it was appropriate for the Chairman to discuss matters with a Board professional.

The Chair said to Mr. Murray that there was a situation with the Board's prior planner Mr. Mark Healy from Heyer, Gruel and Associates who left the firm and went into private practice. The Board has another planner Mr. Tolischus who is supporting this Board from a Planning perspective. Mr. Tolischus doesn't really have preparation for this particular application to make any comment to this Board and give guidance. Therefore, said Chairman Speeney, he would like to carry this application. Mr. Murray said he refused to give an extension. Chairman Speeney said if Mr. Murray refuses the extension, the Chair would not have sufficient information to make a proper decision. Mr. Murray said that the Board would have to make a decision. Chairman Speeney said he could in fact make a decision, but he wouldn't have sufficient information. Mr. Murray said that he didn't believe that the change in personnel of a planner who previously testified on the Board's behalf over the past year and was unavailable, and the switch at the last minute is going to be a justification to force our client to give an extension. Chairman Speeney said that yes, the switch was at the last minute and quite frankly, he didn't think that the Board would have any additional testimony from planners, even reiteration. The Chair said that Mr. Murray opened that up, not the Board. Mr. Murray said that he opened that up because they were still on their case and are faced with a clock changing the ordinance within the next month. Chairman Speeney said that he was personally of the opinion that he would like consultation with the professional planner. He said Mr. Murray is saying that he will not give the Board the time. Mr. Murray interjected that he cannot. Mr. Murray said that nobody on the Board or from the municipal government can tell me that they are not going to put that redrafted ordinance up for first reading tomorrow possibly or next week. Chairman Speeney said that yes that could happen. Mr. Murray said that that ordinance, if adopted, changes the definition of a corner lot. He said it kills this application. Chairman Speeney said that he has made his appeal and is strongly asking for an extension until next month. Mr. Murray said he couldn't give that extension. Chairman Speeney said that leaves him void of additional planner consulting. Mr. Murray said to the Chair that it leaves the Board of what they think might be substantial additional information, which your prior planner didn't provide. Mr. Murray said that there was no proffer of proof that this planner would give additional information. Chairman Speeney said that he needed to know that. Mr. Murray said that if he concedes to the request for an extension, the Applicant is very much hurt and he could not do that. Chairman Speeney said that as long as Mr. Murray knows the

Chair's position, the Chair understands Mr. Murray's position. Mr. Murray asked the Chair if this was his personal opinion, or that of the Board. Chairman Speeney said it was his position as a Planning Board member. Mr. Murray asked the Chair if he wanted to take a poll of the Board to see if they don't need any further consultation. Chairman Speeney said that maybe they don't, but that he does. He said that wasn't the issue. He said the issue was that he did. Mr. Murray said he didn't know whether or not the Chair had the singular authority. Mr. Murray said that he and the Chair were in a unique position with respect to something that he had not encountered in the past and he didn't know whether the Chair had either. Mr. Rusignola said both positions were well stated and he thought they should move now through the hearing and see whether or not there are members of the public who want to be heard as we would with the end of any hearing. Chairman Speeney asked Board members if they had any questions at this point either for Mr. Page or Zimmerman. Mr. Havas asked what the topic was that the Board was going to have Mr. Tolischus comment on. Chairman Speeney said that he was going to ask him to review the testimony of Mr. Zimmerman and make appropriate comment. Mr. Havas asked if there was a reason that he cannot comment on the testimony given this evening. Chairman Speeney said he is not really prepared to be here for this application.

Chairman Speeney at this point opened the floor to the public for comments. Mrs. Virginia Olive of Lot 13 on Valley Drive said she has lived in Watchung since 1978 and has also lived on Woodledge Road where she had to deal with the Burnhead issues and is very familiar with what went on there. She said she knows that it doesn't conform to how the Board looks at things now because it was a different kind of subdivision. She said she wanted to state for the record that as the owner of lot 13, she objects greatly to becoming a corner lot. Mrs. Olive said she does not want that to happen. Mrs. Olive said that when she moved to this property in 1992 she never envisioned that it would ever become a corner lot, let alone with a cul-de-sac. Having two houses put there, for her, is very objectionable. Mrs. Olive said that for the record, she objects to the way she was visited by the realtor in trying to get her to sell land so that this subdivision could go through more smoothly. She said it was almost at a level of harassment. She said that she doesn't like the way she is spoken of as totally insignificant, that she is not to be considered. She said a waiver is needed because it is 1600 sq. feet that is missing. She said that it is not two full lots, and hopes that the Board will take that into consideration when you review all of the testimony. She thanked the Board.

Mr. Rusignola said to Mr. Murray, so that there was clarity on the record, would Mr. Murray state clearly what the application is as it is now submitted. Mr. Rusignola asked if the application as it stands now, is with or without the one-foot strip. Mr. Murray said that the application is as submitted in the drawings with the one-foot strip. The Applicant has agreed that if this Board is considering approving this, it can condition the approval upon removing that strip. Mr. Rusignola thanked Mr. Murray.

Mr. Traynor came to the microphone. Mr. Traynor said he had a closing statement. Mr. Traynor said that this application started a year and a half ago in September of 2005, the evening that the Applicant presented a flag lot application for this particular property.

Essentially, the Applicant's argument was that the Board should approve the variances that they needed for that flag lot, because the alternative presumably conforming lot was a vastly inferior lot. Mr. Page identified all the problems with the so-called conforming cul-de-sac plan. Now, a year and a half later, the Applicant is asking you to approve the very same admittedly inferior plan. Mr. Traynor said he thought there was some discussion earlier this evening that they changed the plan because they were receiving negative feedback from the Board, because they didn't like the flag lot. Mr. Traynor said his recollection was that they admitted at the time they would have no basis for those variances they were seeking if the cul-de-sac exhibit wasn't fully non-conforming. Mr. Traynor said that he presented evidence that evening that there was a possibility that there was a variance needed, and then that application was withdrawn. The Applicant came back several months later with this application, and Mr. Traynor said he assumes that the purpose was that the Applicant wanted to prove that it certainly was fully conforming, and then perhaps they would go back and make their original argument with respect to the flag lot. He said he wanted to be clear that this Applicant is not entitled to one or the other. Mr. Traynor said that his argument is that the Applicant is not entitled to the flag lot because there were a number of variances that they couldn't satisfy. Also, he said they are not entitled to this application either because it also requires at least one variance, and at least two waivers, which they have not provided sufficient and adequate proofs to support. They just basically stated that this entire case hinges on this Board finding that no variances or design waivers are required. Mr. Traynor said that for most of this case they have been talking about the corner lot issue, and whether lot width has to apply to both sides of the corner lot. As far as design waivers, there is the steep slope density limitation as well as the spite or reserve strip. The Applicant has stated that it should be granted because they almost meet the standard. They have provided no hardship argument. They have identified no benefits that would result from granting the design waivers. The Applicant is asking the Board to overlook this non-conformity simply because they almost meet the standard. He then read the standard for a design waiver from the MLUL. With respect to whether the Applicant needs a variance for the lot width along Valley Drive, he said he thinks all agree that the ordinance is less than perfectly drafted. Mr. Traynor said that both his planner Peter Steck and the town's own Zoning Officer, and the Board's own Planner all agree that the Applicant must meet the 150 foot width requirement along both the cul-de-sac street and Valley Drive. Mr. Traynor said that even the Applicant's own engineer freely admits that there are two front yards here, and thus two front yard setbacks. The ordinance clearly states, Mr. Traynor said, that lot width is measured along front yard setbacks. The Applicant responds by saying you must approve this application because of decisions made by this board over 17 years ago. Mr. Traynor said that even if the 1970's or 1980's Board had clearly analyzed this corner lot issue and found those resolutions that an Applicant does not in fact have to meet the lot width requirement on both fronts, there is no law that says you are bound to that interpretation. He said that none of the resolutions presented clearly talked about this issue. He said it is not unusual for Boards and Planners to miss variances and waivers. Mr. Traynor said that the Master Plan recognizes change over the years. The 2005 reexamination report, reaffirms the importance of the goal of preserving the Borough's existing established residential land use pattern. Mr. Traynor said there are no cul-de-sacs in this town that serve only two lots. He said this plan is not consistent

with the established land use pattern. Mr. Traynor said that he wanted this Board to keep in mind that the Applicant never addressed another statutory interpretive principle that was essentially the lynch pin of Mr. Traynor's case that Mr. Steck dealt with in a large portion of his testimony. Mr. Traynor said that case law says that an ordinance must be read sensibly. Interpretations that lead to absurd or unreasonable results are to be avoided. Mr. Steck demonstrated that if you do not apply the minimum lot width to both fronts of a corner lot, you could legally create a long, skinny conforming lot with effectively no building area. Mr. Traynor said that he thought it was safe to say that interpreting a land use provision that would result in the creation of an un-buildable lot falls under the category of illogical and absurd. Mr. Traynor said that if the Board finds that a variance is needed for the minimum lot width along Valley Drive on lot 14.02, there are no legitimate reasons for granting this variance. None of the purposes of zoning will be advanced by this plan and there are no benefits to squeezing in an extra lot on this property. It is clearly inconsistent with the established character of the neighborhood. Mr. Traynor said that on behalf of his client, he respectfully urged the Board to find that a variance is needed for lot 14.02, and to find that the Applicant has failed to satisfy its burden with respect to both the variance and waiver request.

Chair called Mr. Murray. Mr. Murray said that the representations provided by Mr. Traynor that Mr. Page at any time said that this subdivision is a bad plan is not true. Mr. Murray said what is of concern to him, is something Chairman Speeney did in the last application and is doing in this case as well which is attempting to apply standards to this application which were explicitly rejected by the New Jersey Supreme Court in the case entitled Pizzo Mantin Group v. the Township of Randolph. Mr. Murray said that Chairman Speeney recited previously that he has been dealing with the zoning regulations for years and years and we don't do this. We look to the very items that were raised by the Planning Board in this Pizzo Mantin case that applied specific reasons, none of which were based upon language in the ordinance. Mr. Murray said he has not heard a peep from any other Board members. The court in the Pizzo Mantin case reversed the decisions of the Planning Board, which in turn had looked to the purposes of zoning. Unless those specific purposes are set forth in the standards, for what we are looking for Mr. Murray said, you couldn't assume that they apply and make a decision based upon those. Mr. Murray said that they have presented to the Board a proposed division of this property, which is not premised upon some ambiguous ordinance. Mr. Murray said that this Board is over looking that position that we look to the front yard of the house. Mr. Murray said that in this situation we urge the existence of this history. The history, Mr. Murray said, is not something you can change unless you have a sound basis to do so. Otherwise Mr. Murray said it is arbitrary, unreasonable, and capricious. Mr. Murray said that the density is not affected. He said that the creation of a corner lot on lot 13 is consistent with applicable law. The owner of a corner lot cannot stand up and say to a neighbor that they cannot develop their property if they are going to do something inadvertent to mine, because the law says he can. The inadvertency allegedly existing by Mr. Traynor as to what the Board did on the 5 prior cases...we had no evidence that it was inadvertent. We have factual evidence, Mr. Murray said, that these lots are corner lots. Mr. Murray cited another case, the Pullen case, which obligates a board to take a look at the case as a whole, and not to pinpoint the whole decision one particular variance

or two particular variances. Mr. Murray said that if the Board says that the whole picture is contrary to good planning, then the Board steps into the error that the Court treated in the Pizzo Mantin case. Mr. Murray thanked the Board for hanging in for all the extra time, and said that the Applicant would like a decision tonight.

Chairman Speeney entertained a motion to close the public portion of this application. Mr. Boyd made that motion, seconded by Mr. Havas, and approved it unanimously on voice vote.

Chairman Speeney said that for the record, there is a request for a variance if the Board needs it. There is also a request for two waivers. Chairman Speeney said he would like to have those articulated so that the Board can understand what it is dealing with. He asked Mr. Herits for help on this. Mr. Herits needed to refresh his memory. Mr. Murray offered to explain the variances. He offered the following: Variances sought assuming the interpretation of the lot frontage and width is such that the Applicant must meet those standards on both frontages. He said they are seeking a variance from lot width and frontage, which is 140 feet as compared to the requisite 150 feet. That is for lot 14.02 for this bulk variance. Mr. Murray said they are seeking a waiver from the steep slope design standards that result in the application of those standards of a limitation upon the density or number of lots that can be created of 1.96 to 2.0. Mr. Murray said he did not think there is any variance or waiver required with regard to that one-foot strip, but he said he didn't know of any standard in the ordinance that imposes that. Mr. Rusignola said there is a provision in the ordinance that says no subdivision showing reserve strips controlling access to streets shall be appropriate. Chairman Speeney said he needed to know whether or not it was one waiver or two. Mr. Murray said that that waiver was never requested. He said it is now put to him to see whether or not a waiver is necessary with regard to that. He said that the Applicant has volunteered to remove that strip. Mr. Murray said if a waiver were necessary for that, they would remove the strip. Mr. Murray submitted that a waiver is not necessary for the one-foot strip because it is not impairing the access of the owner of lot 13 to the main street in front of it. Mr. Traynor said that his client reminded him of another waiver that they discussed at a prior meeting, which was that the lot line should be radial to the street. He said the line on the property has a curve. Mr. Murray said that there is nothing in the ordinance that says that the line must be radial for its entire depth. Mr. Murray said no waiver is sought for that. Mr. Rusignola said that was an engineering determination that doesn't sound like a waiver. Tom Herits, Borough Engineer said it does not need a waiver. Mr. Rusignola said that the reserve strip does prohibit access to the cul-de-sac but not the main street. He said that with this particular strip, there is a need for a waiver. Mr. Murray said that the Applicant would, as a condition of that waiver, grant access to the cul-de-sac to lot 13.

Chairman Speeney asked Board members if there were any questions about the variances or the waivers. A question was raised about the curb cut from lot 13 and Mr. Rusignola said that there would be a blanket easement put in if approved. Mrs. Spratford asked why lot 13 would need access to the cul-de-sac at all. Chairman Speeney he had no idea, but it was something that the Applicant offered. Mr. Boyd wanted to know how the curb cut would be utilized. He said it was almost useless if you didn't have some sort of

impervious surface to drive along. Mr. Rusignola said that there doesn't have to be a curb cut to start, and the width would be something that was determined by the Engineer. He said the point was that whether or not lot 13 decides to avail themselves of it or not, it is available. Mr. Rusignola said that by granting a blanket easement, they are mitigating that aspect of the spite strip. Mr. Addario said that he did not see how they could deny this application. He said he did not really like the street, but that is neither here nor there. Chairman Speeney said that in his opinion this application represents infill, and that a variance for frontage, lot width is variances that are contrary to the ordinance and the standards. Chairman Speeney said that they have not changed the zoning standards when the Master Plan was updated in 1994. The steep slope waiver is another issue that puts these lots, at least one of them, short by at least 1700 square feet. The waiver for the one-foot strip is really a jury-rigged strip to prevent the issue making lot 13 a corner lot. Chairman Speeney said that he asked all the planners who testified if they would do the one-foot strip, and none of them said it was a good idea. Chairman Speeney said that because of the shortfalls of area and frontage and steep slope design resulting in a shortfall of 1700 square feet, he would not support this application based on this Board's reexamination of the Master Plan in 1999 and in 2005 where it was said that we reaffirmed the fundamental goal of the Borough was to maintain the character of the neighborhood. Chairman Speeney said that in doing so, we actually maintain the ordinances in this Borough that we have worked so hard to keep. He said that his other issue around getting some additional planning information at this point is a mute issue. Chairman Speeney said he worries about the corner lot configuration. Chairman Speeney said that he still falls back on being consistent, and this being infill and the granting of the variance for frontage and width and steep slope ordinance is something he won't support. Mr. Haveson commented that although there are a number of things in this application that he personally doesn't like, that is not part of the decision. He said he was mostly concerned about the steep slope issue, more than anything else. Based on the Applicant's request for a waiver from the steep slope he would have to vote to deny for that particular reason. Mrs. Schafer said that she had to agree with Mr. Haveson that her main concern was the steep slope as well. She said that she knows there are a lot of drainage issues in that neighborhood and there are residents who have issues. She said that steep slopes and building roads on top of it, and creating impervious coverage will create additional runoff that possibly can be controlled, but you still have a steep slope situation. Mr. Alan Page said that he did not agree with the configuration, and does not like the plan; but it is a tough piece of land to work with, and he said he asks himself on what basis he can deny this. Mr. Page said it meets the bulk standard of 60,000 square feet. It has been engineered with drainage pit, which they didn't have to have but they did do it because of the driveway that was put in. Mr. Page said that the Applicant has satisfied a lot of concerns such as the one-foot strip, which is to the benefit of lot 13. Mr. Page said that he couldn't see a basis to deny this application. Mr. Page said that on the front yard issue, the Board routinely grants a variance on front yard, when there is a cul-de-sac situation in front of this Board.

Chairman Speeney said that sensing that the discussion is completed, based on how the Board normally operates, the Board would be asked if there is an affirmative motion to approve. In this case, since the Applicant has asked for a decision tonight, any conditions

in a resolution of approval would have to be articulated clearly. The Chair asked for a motion in the affirmative for PB06-05 with the variances and waivers that we have articulated so far and any other conditions that might have arisen out of this particular discourse. Mr. Havas made that motion, seconded by Mr. Haveson.

Chairman Speeney asked for discussion and there were no new comments from the Board. The Chair said he wouldn't be voting in favor of this. He urged the Board to think of the Master Plan reexamination and its immediate past history in terms of how we looked at infill. Chairman Speeney asked for a roll call vote.

**Speeney [No] Boyd [No] Havas [Yes] Haveson [No] Page [Yes] Addario [Yes]
Pennett [No] Schaefer [No] Spratford [] Ellis [No] Pote []**

Chairman Speeney asked for the Clerk to call off the number of votes. The Clerk called 3 in favor of, 6 against. Chairman Speeney thanked the Board for staying with this.

Havas called: PB06-14 Sisto Realty Co.
95 Stanie Brae Drive, Block 11.02 Lots 9 & 10
Minor Subdivision & Variance(s)

Joseph Murray Attorney for the Applicant was present. Chairman Speeney said that last meeting the Board asked that the Applicant maintain basically a straight line from the southerly back border up to the garage and then flair out slightly. Chairman Speeney said that there was a number that the Board had given the Applicant. Mr. Murray said that the number was related to the location elevation 508. He said that the Board had actually said between 508 and 512 to the left of 508. That would come down in a straight line to the garage, and then continue straight down.

Mr. Rusignola swore in Mr. Peter Tolischus, planner for the Board. Mr. Tolischus said he has reviewed the plans and visited the site. Mr. Tolischus said that independently by visiting the site and reviewing the plans, he came to the same conclusion that he would like to see the existing lot 10 to have a larger frontage, and to have a proper setting for a home, and to equalize the frontage between the two. He came to the conclusion, which was slightly different starting from the southern side and the eastern most side of the garage, and from the side yard, he ran the line at the same angle as the garage presented so that we maintain that side yard, but going toward the front Mr. Tolischus had no objection if they do go over to 508. He said the Applicant has agreed with him. Chairman Speeney asked then if what the Applicant is currently proposing is OK. Mr. Tolischus said that yes, it is OK. He said it makes a nicer equal frontage between the two lots. Mr. Murray said that still leaves the Applicant with the existing side yard setback of 9.9 feet. He said it is a pre-existing condition. Chairman Speeney said that he didn't think there was any issue with that variance. Mr. Murray said that they were in agreement with the plan being redrawn to show this. He said that the Board could vote now, and Chairman Speeney said he was going to ask the Board to do just that. The ownership of lands to the south of this is within the family of the Applicant. Chairman Speeney opened up questions to the Board. Mr. Boyd said there was an issue as to how

the land would be divided between the two lots toward the south end. Chairman Speeney said they are not changing that line. Mr. Rusignola asked about the notice issue from the last time this application was heard, in order to get the proper 200-foot list for notice. The list last time did not include one of the adjacent lands that Mr. Rusignola said he thought was owned by a corporate entity. He asked if the Board had received a revised list. Mr. Murray said no. Mr. Murray said that if the Sisto family in any degree owns that adjoining land, that the Applicant will get a waiver. Mr. Rusignola stated that in his notes, it clearly states that the Applicant must provide a corrected 200-foot list. Mr. Murray said that they would provide the Clerk with the consent from those property owners waiving their right to notice and waiving their right to participate in the public hearing.

Chairman Speeney asked for all in favor of the Attorney drafting an affirmative resolution for the Board to consider next month. The Board voted to direct the Board Attorney to draft a resolution in the affirmative for PB06-14 and the Application was continued until the meeting of April 17th, 2007 with no further notice necessary.

Chairman Speeney asked for a motion to approve the vouchers. Mr. Ellis made that motion, seconded by Mrs. Schafer. There was no discussion, and the vouchers were approved on roll call vote.

Chairman Speeney asked for a motion to adjourn and that motion was made and agreed to by the entire Board at 11:33p.m.

Respectfully Submitted,

Carolyn Taylor
Planning Board Clerk