

1st: Vignola
 2nd: Lavan
 Approved: 10/20/16

Minutes of October 6, 2016

The Regular Meeting of the Hazlet Township **Land Use Board** scheduled for October 6, 2016 was called to order at 7:30 PM with a Salute to the Flag followed by a Moment of Silent Prayer and a Reading of the Letter of Compliance.

ROLL CALL:

Present: Mr. Lavan, Mr. Vignola, Mr. Grossman, Mr. Glackin, Deputy Mayor Kiley

Absent: Mayor Aagre, Mr. Byrne, Mr. Mann, Mr. Tyler, Mr. Solomeno, Mr. Sanfilippo, Mr. Moore, Mr. Rooke

Professionals: Mr. Vella, Esq., Mr. Otto- CME, Mrs. Keegan

Motion: To approve the minutes of regular meeting September 15, 2016

Offered By: Grossman **Seconded By:** Vignola

<u>ROLL CALL</u>	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	_____	_____	<u>X</u>
Mr. Lavan	<u>X</u>	_____	_____
Mr. Tyler	_____	_____	_____
Mr. Solomeno	_____	_____	_____
Mr. Vignola	<u>X</u>	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	_____	_____	<u>X</u>
Mayor Aagre	_____	_____	_____
Alt #1 Mr. Mann	_____	_____	_____
Alt #2 Mr. Moore	_____	_____	_____
Alt #3 Mr. Grossman	<u>X</u>	_____	_____
Alt #4 Mr. Sanfilippo	_____	_____	_____

Memorialization Case #16-09L: Interstate Outdoor Advertising, 3206 Route 35; Block 217, Lots 6,7,8,9,9.01,10,11,12,13; BH zone. Applicant was granted a use variance on 8/4/16 to install a two-sided, free standing 11 ft. x 36 ft. Electronic Digital Billboard.

Offered By: Grossman **Seconded By:** Lavan

ROLL CALL

	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	_____	_____	_____
Mr. Lavan	X	_____	_____
Mr. Tyler	_____	_____	_____
Mr. Solomeno	_____	_____	_____
Mr. Vignola	X	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	_____	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr.Mann	_____	_____	_____
Alt #2 Mr. Moore	_____	_____	_____
Alt #3 Mr. Grossman	X	_____	_____
Alt #4 Mr. Sanfilippo	_____	_____	_____

Memorialization Case #16-11L: Wells, 13 Molly Pitcher Drive; Block 194.01, Lot 56, R-100 zone. Applicant received approval to construct a 16' x 13'4" two story side addition with a 25 ft. combined side yard setback where 35 ft. is required.

Offered By: Vignola **Seconded By:** Glackin

ROLL CALL

	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	X	_____	_____
Mr. Lavan	X	_____	_____
Mr. Tyler	_____	_____	_____
Mr. Solomeno	_____	_____	_____
Mr. Vignola	X	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	_____	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr.Mann	_____	_____	_____
Alt #2 Mr. Moore	_____	_____	_____
Alt #3 Mr. Grossman	X	_____	_____
Alt #4 Mr. Sanfilippo	_____	_____	_____

Memorialization Case #16-10L: Evergreen Builders, 130 Sixth Street; Block 13, Lots 20 & 21, R-70 zone. Applicant received approval to construct a single family dwelling with front covered porch and rear deck on undersized lot with variances for a 5,000 sq. ft. lot; 50 ft. lot width and 50 ft. lot frontage.

Offered By: Grossman Seconded By: Lavan

<u>ROLL CALL</u>	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	<u> X </u>	_____	_____
Mr. Lavan	<u> X </u>	_____	_____
Mr. Tyler	_____	_____	_____
Mr. Solomeno	_____	_____	_____
Mr. Vignola	<u> X </u>	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	_____	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr.Mann	_____	_____	_____
Alt #2 Mr. Moore	_____	_____	_____
Alt #3 Mr. Grossman	<u> X </u>	_____	_____
Alt #4 Mr. Sanfilippo	_____	_____	_____

Memorialization Case # 16-12L: Naples, 40 Fleetwood Drive; Block 192.02, Lot 7, R-70 zone. Applicant received approval to construct a 6' x 20' front covered porch with a 20.7 ft. front yard setback where 25 ft. is required.

Offered By: Vignola Seconded By: Grossman

<u>ROLL CALL</u>	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	<u> X </u>	_____	_____
Mr. Lavan	<u> X </u>	_____	_____
Mr. Tyler	_____	_____	_____
Mr. Solomeno	_____	_____	_____
Mr. Vignola	<u> X </u>	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	_____	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr.Mann	_____	_____	_____
Alt #2 Mr. Moore	_____	_____	_____
Alt #3 Mr. Grossman	<u> X </u>	_____	_____
Alt #4 Mr. Sanfilippo	_____	_____	_____

Memorialization Case #16-01L: Saker Shop Rites, Inc., 3120 State Highway 35, Block 233, Lot 1, BH zone. Applicant received approval to make parking lot improvements consisting of: widening driveway and sidewalks, adding curbs and relocating several curb islands, handicap and regular parking spaces as well as adding handicap crosswalks. Applicant received a waiver from site plan requirements.

Offered By: Vignola Seconded By: Glackin

<u>ROLL CALL</u>	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	<u>X</u>	_____	_____
Mr. Lavan	<u>X</u>	_____	_____
Mr. Tyler	_____	_____	_____
Mr. Solomeno	_____	_____	_____
Mr. Vignola	<u>X</u>	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	_____	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr. Mann	_____	_____	_____
Alt #2 Mr. Moore	_____	_____	_____
Alt #3 Mr. Grossman	<u>X</u>	_____	_____
Alt #4 Mr. Sanfilippo	_____	_____	_____

Carry Over Case #15-10L: Chick-fil-A, 2821 Route 35, Block 192; Lot 4; BH zone. Applicant is seeking Use Variance, Preliminary & Final Major Subdivision and Site Plan Approval with several bulk variances and design & submission waivers for a proposed Chick-fil-A restaurant.

Attorney Vella announced this case will not be heard tonight and will be carried to November 3, 2016 at 7:30 pm with renoticing.

New Case #16-13L: Kilyk-13 Dartmouth Drive, Block 183.01; Lot 3.02, R-70 zone. Applicant is seeking a variance to construct a two story 18'x35' addition. Requesting a 38' setback from top of stream bank where 100' is required.

Attorney Vella swearing in Jason Kilyk and Catherine Kilyk.

Mr. Vella: Confirmed the board's jurisdiction. Marked Exhibit A-1 as Plan of survey dated 5/5/2001, A-2 as site plan dated 8/15/2016, A-3 as architectural plans dated 8/24/2016 and CME report dated 9/21/2016 as LUB-1. Asked Mr. Kilyk to explain what he would like to do and the reasons for it.

Mr. Kilyk: Explained that he and Catherine were married over the summer and each have three kids so would like to build an addition for more space. He stated that two of his neighbors had added on without variances and they are approximately the same distance from the creek that his house is. He would like to add a garage with additional bedrooms above it.

Mr. Vella: Explained that there is a stream encroachment ordinance that the applicant is requesting deviation from. The setback is 100' and the applicant is requesting a 38' setback from Flat Creek. The existing house setback is 56'. He requested the engineer explain the ordinance and whether there is a DEP issue.

Mr. Otto: Explained that the applicant did not provide a report from a professional engineer but the plans show a stream encroachment line. He doesn't believe they would need a DEP permit for the addition.

Mr. Vella: Explained that the addition would be outside the DEP jurisdiction where they would require a buffer but needs a bulk variance from Hazlet for the setback.

Mr. Otto: Stated that the addition would not encroach as much as the existing house.

Mrs. Keegan: Stated that the existing home setback is 19' and the addition on the right side will be 38'.

Mr. Otto: Explained that there are two existing non-conformities; the lot depth of 66' where 70' is required and the rear yard setback of 19' where 25' is required. The rear setback for the addition would be conforming.

Mr. Vella: Asked if Mr. Otto required anything from the DEP regarding this application.

Mr. Otto: Indicated he did not.

Mr. Vella: Asked whether the addition will be consistent with the architectural design of the existing home.

Mr. Kilyk: Indicated yes it would follow the same front lines and side arches.

Mr. Otto: Stated that the house is in a flood zone.

Mr. Kilyk: Agreed and stated that they had flood insurance.

Mr. Otto: Explained that the applicant will have to submit a Substantial Improvement Determination to the building department. If the cost of the addition is 50% or greater of the current improvement cost of the house, then the entire house has to meet the current base flood code. The requirement would be at least 1' above base flood elevation which appears to be 24' or 25'. He recommends obtaining a flood elevation certificate from a surveyor.

Mr. Vella: Explained this means that if the cost of the addition is 50% or more of the house, then the entire house may have to be raised. He advised getting the flood elevation certificate and meeting with the builder to see if plans need to be modified.

Mr. Otto: Stated that the survey that was submitted was from 2001 and there appear to be other improvements on the property including a shed that may be over the stream encroachment line.

Mr. Kilyk: Stated the shed was an 8x8 plastic shed that was erected in 2003 and he was told then that it did not require a permit. He agreed it may be over the line. He will move it if required.

Mrs. Keegan: Explained that accessory structures do not have to meet the 100' stream setback. She stated that the market value of the home was \$387,400.

Mr. Vella: Explained that value of the addition would need to be less than \$190,000 to avoid any flood elevation issues.

Mr. Kilyk: Indicated that it was less than that.

Attorney Vella asked for public comments. No one spoke.

Mr. Vella: Explained the conditions are to comply with the requests in CME's report and to supply a flood elevation certificate showing it is not in DEP stream encroachment.

Offered By: Glackin

Seconded By: Vignola

<u>ROLL CALL</u>	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	<u> X </u>	_____	_____
Mr. Lavan	<u> X </u>	_____	_____
Mr. Tyler	_____	_____	_____
Mr. Solomeno	_____	_____	_____
Mr. Vignola	<u> X </u>	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	<u> X </u>	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr.Mann	_____	_____	_____
Alt #2 Mr. Moore	_____	_____	_____
Alt #3 Mr. Grossman	<u> X </u>	_____	_____
Alt #4 Mr. Sanfilippo	_____	_____	_____

New case # 16-07L: Oakview Development Corp/Rolling Hill Estates- Middle Road, Block 194.04; Lot 24; R-100 zone. Applicant is seeking preliminary and final major

subdivision approval to subdivide an existing 3.94 acre lot into 8 single family residential lots and one storm water management lot. No variances sought, several design and submission waivers requested. Site is approximately 100 ft. from intersection of Middle Road and Seminole Drive, access will be provided via a newly created street.

Mr. Vella: Confirmed the board's jurisdiction and marked exhibit A-1 as subdivision plans dated 10/31/15, exhibit A-2 as application and reports, CME's report of 7/20/2016 as LUB-1 and CME's report of 10/5/2016 as LUB-2. He invited Mr. Fred Niemann, attorney for applicant to begin.

Attorney Vella swearing in Robert T. Kee, Kee Engineering.

Mr. Niemann: Confirmed that Mr. Kee had been working on the project from the beginning and had met with CME. Asked Mr. Kee if the applicant would agree to virtually all of the items raised in CME's reports.

Mr. Kee: Indicated that they would agree with only a few items they would like to discuss further. He referred to the waiver for providing trees along the length of the roadway. They cannot be provided on the stem of the roadway because it is too narrow to provide both sidewalks and trees.

Mr. Otto: Explained that the requirements are for street trees and sidewalks on both sides. He suggested putting sidewalks on the easterly side so they would connect with the existing sidewalk on Middle Road.

Mr. Kee: Agreed that they could do that and have a crosswalk to connect the sidewalk from the cul-de-sac to the easterly sidewalk. He indicated the pavement on the roadway would be 30' wide with 10' strips on each side. Sidewalks would be 4' wide.

Mr. Glackin: Questioned whether any adjacent property was available in order to provide the space needed.

Mr. Niemann: Indicated there is no buildable lot, the roadway is exactly 50'. The applicant did approach the neighbor at 440 Middle Road but was not successful. They did not approach the owner of the adjacent lot on the other side.

Mrs. Keegan: Expressed her opinion that the sidewalks are more important than the shade trees because over time, the trees lift the sidewalks and then are removed.

Mrs. Kiley: Agreed that she would rather have sidewalks than trees.

Mr. Glackin: Questioned buffering with trees along the easterly side where a subdivision had been approved and which side they would put the sidewalks.

Mr. Kee: Indicated the applicant would put them wherever the township preferred.

Mrs. Keegan: Stated there would be a bus stop so sidewalks would be needed. There are no sidewalks in front of the three adjacent lots on Middle Road so the sidewalks would need to be on the east side to connect with the existing Middle Road sidewalks.

Mr. Kee: Agreed they could put sidewalks on the east side and buffering trees along the west side (Lot 23).

Mr. Vella: Explained there were no variances requested with this application but asked for an explanation why the waivers are needed.

Mr. Otto: Explained that the initial application had called for clear cutting of the site. He met with the applicant and they resubmitted a proposed landscape plan that calls for a 20' buffer from the cul-de-sac north, a tree save area along the mobile home park, 20' and 30' buffers along the westerly property line and a 30' tree save area on the southerly property line. The applicant agreed to walk the site with town engineer and fill in any gaps necessary to provide the full buffer.

Mr. Niemann: Agreed but didn't want homeowners to be prohibited from cutting down trees after they purchase the property. He asked to keep the buffers within the setback areas.

Mr. Kee: Requested that the setback along the southerly property line be reduced to 25' instead of 30'.

Mr. Vella: Explained that meant there would not be a conservation easement along that area and that the homeowners could remove trees if they desired.

Mr. Otto: Indicated that he had recommended a conservation easement and for it to be deed restricted that you could not cut those trees down.

Mr. Vella: Explained that imposing a conservation easement would restrict the homeowners from being able to fully use their property for buffering of other residential properties. There is not a need to buffer a residential use from another residential use and puts an unneeded burden on our residents. He recommended restricting the removal of the trees in those areas during construction only and then letting the property owner's choose what they want to do.

Mr. Otto: Requested more tree plantings to buffer the houses that back up to the basin.

Mr. Kee: Agreed.

Mr. Glackin: Questioned where there was access to the basin and whether the maintenance would be by a homeowner's association.

Mr. Kee: Explained there was an access easement between two of the properties.

Mr. Vella: Explained that the DEP does not permit basins to be owned by individual lot owners so it has to be owned by an association.

Mrs. Keegan: Asked about the buffered screening along the mobile home park.

Mr. Otto: Explained there would be a 30' buffer south of the cul-de-sac and 20' north of the cul-de-sac.

Mr. Kee: Stated they had proposed a 6' board on board fence along the perimeter of the mobile home park as well.

Mr. Niemann: Stated that they would choose something more aesthetic and long lasting than a board on board fence, probably chain link or vinyl.

Mr. Glackin: Questioned who would be responsible for the fence maintenance.

Mr. Niemann: Indicated that it would be the individual property owner's responsibility.

Mr. Vella: Asked whether the board had a preference as to what type of fence.

Mr. Lavan: Suggested vinyl fencing.

Mr. Vella: Asked Mr. Otto if there were any other waivers that he had objections to.

Mr. Otto: Stated that he had no objections to the submission waivers and they had agreed on the landscaping and sidewalks.

Mr. Vella: Asked the applicant to discuss what type of fencing would be around the basin.

Mr. Kee: Explained it was a dry basin with a 4' chain link fence around it.

Mr. Otto: Stated it should be the non-climbable type of chain link and that the 4' exceeds the requirements.

Mr. Vella: Explained that there are no bulk or use variances associated with the application.

Mrs. Keegan: Since trees are being removed in the basin, she questioned whether the applicant was going to walk the site with the engineer to fill in any gaps there.

Mr. Otto: Stated that the plantings should come out of the basin and do perimeter planting to buffer the houses from the basin.

Mr. Glackin: Questioned what was going on between lots 21 & 22 and the basin. The tree line on the landscape plan seems to stop after lot 23.

Mrs. Keegan: Asked if it would be possible to continue the tree line.

Mr. Kee: Indicated that the property owner of lot 23 had requested the trees as they are the closest to the development. He indicated it would be possible to continue the tree line.

Mr. Lavan asked for public comments.

Attorney Vella swearing in Ruth Alvarez-Chin, 434 Middle Road.

Mrs. Chin: Explained that the subject property was once an egg farm owned by Mr. Smith. Her home was built in 1908 and has logs under her foundation. In the 1960's, the property was deeded to Hazlet township for use as a youth or senior center. When she purchased her home, she was told that the adjacent property could not be built on for residential use. Around 2003, the property was sold by the township to Mr. Conti for \$750,000. She states she was not notified as an adjacent property owner.

Mr. Vella: Stated it was a public sale that would have been published and a public auction held.

Mrs. Chin: Stated there had been a listing for a neighboring property in 2016 that stated it was adjacent to township owned land. She stated that the township and the developers will benefit financially but that her property will be devalued. She is concerned that the construction will shake her house and cause damage. When the development was built across the street, she had cracks in her chimney. She wants to protect her interests.

Mr. Vella: Marked Mrs. Chin's handout as exhibit O-1. Asked Mrs. Keegan what hours construction is permitted in Hazlet.

Mrs. Keegan: Stated it is permitted 7am-6pm Monday-Friday, weekends 9am-5pm.

Mr. Vella: Clarified that the applicant had agreed to extend the tree line behind her house.

Mrs. Chin: Questioned the design waivers and whether the road had been approved or needed county approval.

Mr. Vella: Stated that the area had been designated a road in the past but had been vacated and that they will need Monmouth County planning board approval to access Middle Road.

Mr. Niemann: Stated he would have Mr. Devino meet with Mrs. Alvarez-Chin to address the issues with her property and to be respectful of her during construction.

Attorney Vella swearing in Niles Stewart, 583 Beers Street, representing his mother Thelma Stewart, 440 Middle Road.

Mr. Stewart: Concerned that the proposed road will border their driveway and reduce the space they have. They have a tenant who parks there.

Mrs. Keegan: Explained that a driveway must be a minimum of 3' from property line.

Mr. Glackin: Questioned whether there was anything the applicant can do to help him maintain his driveway and that the proposed sidewalks will go over the existing driveway.

Mr. Vella: Explained that the issue should be addressed by the county because they are the ones who own it. They will decide if the road can be built there. The applicant is not encroaching on the Stewart's property.

Mr. Stewart: Stated that he believed there was a 250' requirement between roads and there would not be enough distance between Seminole Drive and the proposed road.

Mr. Vella: Explained that the board fought Seminole Drive when the subdivision was built. No one at the county seemed to care. The property would be a peninsula between two roads.

Attorney Vella swearing in Madhu Mudukula, 8 Seminole Drive.

Mr. Mudukula: He is concerned that there was not enough of a buffer and that there might be drainage issues. He asked for clarification of the proposed tree easement.

Mr. Vella: Explained that for the lots on the south side of the property, the applicant has agreed not to disturb any of the trees in the 25' setback area during construction.

Mr. Mudukula: Stated it was a temporary situation and once the homeowners moved in, they could remove the trees.

Mr. Vella: Stated that was correct, the homeowners will have the right to remove or maintain those trees.

Mr. Mudukula: Concerned that the drainage from the proposed development was draining down towards Seminole Drive.

Mr. Vella: Stated that Seminole Drive was actually higher.

Mr. Mudukula: Questioned what type of drainage is in place to keep water away from his house.

Mr. Kee: Illustrated the proposed drainage patterns of the property showing it drains from south to north and will not change what is existing. There is no runoff from this development going to any other properties.

Mr. Lavan closed the public portion.

Mr. Glackin: Asked for a review of variances and waivers asked for.

Mr. Vella: Clarified that there are no variances requested. The application is an as of right with design waivers. The conditions are: to connect the sidewalk on the east side of proposed road to sidewalk on Middle Road, add trees and landscaping on west side subject to approval by board engineer, add crosswalk and curb depressions as required, applicant will not disturb any trees within rear setbacks on west and south properties during construction, will add additional plantings as required and will stake out the houses and tree save areas after road is constructed, applicant will walk the site with engineer to identify specimen trees that can be saved, will modify plans to show vinyl fence along lot line near mobile home park, will comply with tree ordinance, will modify basin plan to show non-climbable chain link, will add plantings around basin subject to board engineer's review, applicant shall continue tree line behind lot 23 to lots 21 & 22 and applicant will comply with the technical comments contained in CME report of 10/5/16.

Mrs. Keegan: Questioned whether the agreement by the applicant to meet with Mrs. Alvarez-Chin needed to be in the conditions.

Mr. Vella: Stated it did not need to be in the resolution. He asked that a motion to approve would be subject to conditions outlined.

Offered By: Vignola

Seconded By: Lavan

ROLL CALL

Mr. Byrne

YES

NO

AB

Mr. Glackin	<u> X </u>	<u> </u>	<u> </u>
Mr. Lavan	<u> X </u>	<u> </u>	<u> </u>
Mr. Tyler	<u> </u>	<u> </u>	<u> </u>
Mr. Solomeno	<u> </u>	<u> </u>	<u> </u>
Mr. Vignola	<u> X </u>	<u> </u>	<u> </u>
Mr. Rooke	<u> </u>	<u> </u>	<u> </u>
Deputy Mayor Kiley	<u> X </u>	<u> </u>	<u> </u>
Mayor Aagre	<u> </u>	<u> </u>	<u> </u>
Alt #1 Mr. Mann	<u> </u>	<u> </u>	<u> </u>
Alt #2 Mr. Moore	<u> </u>	<u> </u>	<u> </u>
Alt #3 Mr. Grossman	<u> X </u>	<u> </u>	<u> </u>
Alt #4 Mr. Sanfilippo	<u> </u>	<u> </u>	<u> </u>

Citizen Hearing:

Offered By: Vignola

Seconded By: Kiley

No one spoke.

Motion to Adjourn:

Offered By: Vignola

Seconded By: Kiley

VOICE VOTE: Yes

Next Meeting: October 20, 2016
Respectfully submitted: Laura McPeek