

HIGHLAND PARK PLANNING BOARD
Highland Park Borough Hall-Council Chambers
221 So. 5th Ave.
Highland Park, NJ 08904
MEETING DATE – May 22, 2018 7:30 P.M.

Call to Order

The May 22, 2018 regular meeting of the Highland Park Planning Board was called to order in accordance with the rules for the Open Public Meetings Act by Chairperson Kim Hammond at 7:36 pm; Ms. Hammond indicated the location of the fire exits.

Roll Call:

Present	Kim Hammond, Scott Brescher, Rebecca Hand, Padraic Millet, Judi Shade Monk, Susan Welkovits
Absent	Alan Kluger, Paul Lanaris, Stephen Nolan, Allan Williams, Bruce Koch, Engineer
Agency Professionals	Malay Patel, Engineer, Jim Constantine, Planner and Roger Thomas, Esq.

Ms. Hammond indicated that it had been brought to her attention a portion of the public present tonight was for a matter not on the agenda and indicated to everyone that the Board Attorney will speak to that matter to hopefully answer some questions. She welcomed everyone to stay for the public session at the end of the meeting if they wished to speak about the Buckwoods matter.

Roger Thomas, Esq., said that the Borough has been involved in litigation at that site for a considerable period of time, the issue has been primarily with regard to the issuance of permits for removal of trees and going concurrently with that has been an affordable housing litigation that this Borough and many other municipalities are involved with as a result of a decision by the NJ Supreme Court on March 10, 2000, in which the Courts indicated that the Council on Affordable Housing was not doing its job in terms of administering affordable housing in the State of New Jersey. Therefore they were removing from that agency the responsibility to administer and transferring it to the Courts. They invited municipalities of which this community participated to file declaratory judgement actions so each community in the State could then be better able to determine what their affordable housing obligation this community along with in excess of 350 communities in the State of New Jersey and as a result there were ongoing discussions concerning affordable housing obligation. The Buckwoods project became involved in the affordable housing litigation, the attorneys for the entity indicated that they were willing and able to provide affordable housing. The Borough has taken issue with that and have been made a party to that litigation. As a result of a number of appearances there have been discussions concerning the fate of Buckwoods. There has been an order of the court that states that the parties are going to have to work out their differences with regard to the issuance of a permit with regard to the removal of trees. This is necessary because it has been alleged that there is pollution on that site from many years ago and potentially from many sources and that was the fundamental issue that was involved in the issuance of a permit during the litigation. The Borough was able to state that but once it became embroiled into affordable housing the court made it very clear that the delay of the matter was no longer going to be tolerated and ordered that the parties work out their differences. As a result of that directive there were negotiations between the owner of the property as well as the Borough and an order was entered indicating that there would be an opportunity to provide for the removal of some trees to determine the extent of the pollution of that site. Those in the neighborhood or area have been made aware because it was his understanding that permit has been implemented over the last 4-6 months. The trees have been removed and there has been some investigation that has been done to determine the extent of pollution, which activity has

been on going, it has been reported back that there is in fact pollution on that site and that the initial permit that was issued was limited. Unfortunately the results of that investigation show that there is pollution and it was impossible to determine the extent of that pollution because the way the trees were removed it is clear that there is pollution beyond that limited area, and the owner of the property has petitioned to extend that permit so that there can be a clear understanding of what the extent of the pollution is and in that sense it is a continuation of what the Judge ordered the Borough and the developer to do which is to determine the extent of pollution on that site. He indicated that it was his understanding that is where we are at this point and time. He indicated that it is his understanding that there has not been any additional excavation but he could be wrong, the fact is there is going to be additional activity on the Buckwoods site pursuant to Court Order; pursuant to the additional activity that is required pursuant to the original permit. The Buckwoods matter at this time is not within the jurisdiction of the Planning Board, which is why this matter is not on the agenda and cannot be on the agenda of the Planning Board. There is nothing that the Planning Board can do in regard to the issuance of permits; it has no power under the municipal landuse law to be issuing permits. He said that he was hopeful that the information was helpful to better understand what it is that the Board can and cannot do. It is his understanding that there will be an opportunity if there are additional comments or questions at the end of the meeting if you wish, but to please understand that the Board is not in any position to take any action.

Mr. Hammond noted that Jeffrey Perlman was newly appointed to the Board and welcomed Mr. Perlman.

Mr. Perlman said that in his capacity as a past redevelopment agency commissioner he had the opportunity to hear and take action on the redeveloper agreement for ANT Realty, and asked if the Board and the Counsel felt that his recusal was warranted. Mr. Thomas said that he tends to be conservative as it relates to the issue of conflict and thinks it is better to recuse so there is no issue concerning his prior involvement with the application and this application.

Mr. Perlman recused himself for the ANT Realty application.

Hearing of new cases.

ANT Realty LLC
139 Raritan Avenue
Block 173, Lots 36 & 37

P2018-01
Preliminary & Final Major Site Plan

John Wiley, Esq., on behalf of the applicant ANT Realty LLC, this is an application for property known as 139 Raritan Avenue, he introduced the principal of ANT Realty, LLC, as well as the Planner/Engineer and Architect. The property is presently occupied by a one story structure and the intention is to put a second story on the existing structure and expand it the rear and expand westward so that we there would be a two story building and would house up to three potential uses, would have five apartments one would be located in the rear of the first floor in order to permit handicap access.

Anton Popov, ANT Realty was sworn and testified, owner of 139 Raritan Avenue, has owned the property for sometime, and as part of the application has presented before the Redevelopment Agency

as well as the Rehab Screening Committee. There are no specific tenants for the building and therefore to some extent may have to suggest that certain changes in layout maybe triggered depending on what the actual uses are. Mr. Thomas noted that those types of things might require amendments to any approval, such as outside seating and/or parking requirements.

Mr. Wiley suggested to the Board assuming that it is something that triggers some of the parking concerns, we work well with the municipality and if the Planning Board is willing to delegate their Planner to resolve some of the layout and design issues based on the tenants that may be another way to handle, such as subject to the Planner and/or Engineer approval with respect to certain issues. Mr. Thomas said that could be done here, and could be helpful to the Board and in your presentation by your Planner or Engineer how you are proposing that outdoor seating to better approve or delegate.

Mr. Wiley said that that this may always effect some of the shade trees and their location depending again on the tenant and the final layout.

Mr. Popov said that there is designated space for solid waste in the rear of the building and will be municipal waste. There has been agreement to provide an affordable unit in the rear of the first floor pursuant to Ordinance there will be a two-bedroom unit provided.

Charles J. Witzak, III, Planner, 200 Corporate Circle, Toms River, NJ, sworn and affirmed. He described the existing conditions, presented an aerial photograph from the NJDEP Block 173, Lots 36 & 37, marked exhibit A1. The character of the neighborhood on the opposite side of the street heading south to the east and west are commercial facilities with some residential lots with an apartment complex. He presented a compellation sheet exhibit A2 – color rendering similar to the plan as provided with additions. The zoning from the site is CBD, Central Business District, the current 3163 square foot lot and the new lot area combined will be 6983 square feet where 5,000 is required, the lot proposed two combined is 52.56' wide where 50' is required, the depth of the lot is 116' where 100' is required. Rear setback of the building is 10.37' where 20' is required and that requires a variance. The building will be two stories, where two is maximum, the impervious coverage 92.11 where 90 is the max allowed, which will require a variance. It has been agreed that there will be offsite parking within 1,000 feet of the facility, and the applicant is working with other establishments to accomplish that requirement. There will be concrete walkways, on the west side there will be a handicap ramp and will ensure that the handicap features are in accordance with the laws. There is a central sidewalk area that is concrete and on both sides there will be pavers, to the rear there will be a separate refuge area that will be enclosed with vinyl fencing and right behind that will be a small retaining wall appropriating ½' to 1' tall and on top of that will be a 6' vinyl fence to block the view of the proposed facility to the neighbors in the rear. There will be round planters in the front of the building as landscape features that are incorporated into the pedestrian walk area. The internal and mechanicals are still being designed and will be coordinated with the Borough Engineer. He said that the stormwater once would continue to drain in a northerly direction towards the back. There will be a slight increase once the project is complete 0.7 csf, in perspective about 35 gallons with a really hard rain storm and will not have a negative impact on the surrounding lands. Lighting will be provided around the building; 5" diameter wall mounts about 8' high and will be casting into the residential area. There will be 4 trees and 42 shrubs proposed for the project, some of the species proposing is red maple, flowering dogwood, and various shrubs. The shrubs will be contained within the circular planters.

Mr. Witzak said with regard to variances, there is a rear setback 10.37' where 20' is required and part of the reason is the existing building which is set at that level and there is really nothing we can do about that while maintaining the building shell and felt it was important to align these feature to ensure efficiency within the internal functions of the building. He explained that the building could have been pushed forward with a zero setback but would have created an awkward building and take away from flow of the pedestrian walkway and pavers. They are over in impervious coverage by 2.11%, which is 146 sq. ft. on this particular lot. He said that he believed that benefits outweigh the deviations.

Mr. Witzak indicated that there was only 10' between the building and the actual fencing, there is a need for circulation around the building for fire safety, use of the building and provided a 6' fence in order to screen ourselves from the neighbors and that was the only area available. He said that there was also a stairway to get down to the basement in the rear. There is a memo dated April 12, 2018 from CME Associates some of which #5, 6, 7, 8 and 9 have been incorporated into the plans but with respect to the other elements, the client will comply with those.

Mr. Patel asked that the letter dated April 12, 2018 be a part of a condition for approval. He said that they would have to review the handicap access ramp that was modified, and as long the applicants Engineer is willing to work with CME and come to agreement on the design.

Ms. Hammond open the meeting to the public who may have questions for this testimony.

Judy Eng asked what kind of trees are going in the back. Mr. Witzak indicated that there is no room to put additional trees and that is the reason for the white vinyl fence. Ms. Eng suggested shortening the addition part of the building to make room for more landscaping or trees.

Ms. Hammond said that the rear yard setback if conforming would be 20'.

Judy Eng said that the prior Planning Board had allowed the previous tenants to do stuff back there and create a no man's land where the previous tenants promised to clean it and in all those years, they only showed up once and left it a junk hole after that.

Ms. Atschinow asked where the garbage was going to be retained. Mr. Witzak said that there would be series of cans in the rear - residential wheeled out nothing commercial within a separator and a plastic fencing around retaining 1.5' with fence slightly behind that. The retaining wall will be low and create a flat surface and the can will sit on top of that and there will be a regular 6' vinyl fence, the bottom of the fence starts at the bottom of the wall.

Ms. Atschinow questioned the water runoff. She said currently there is a lot of water runoff from the building in the back, there is a tremendous amount of moisture in the land and it goes into their land as well. She said that it was very soggy and was wondering how that was going to be handled. She said that there was a tube that hangs off the top of the building pouring out on to the area that is going to be grassy and going to absorb the rain but does not seem to be from what she sees. Mr. Witzak

said that could be due to the current grading on the lot, currently the property drains in a northerly direction. He said that there would be some minimal changes.

Ms. Hammond said that she understood his testimony is that the amount of impervious coverage was changing but was not substantial enough to make you have to alter that but if the existing system isn't adequate can we be assured that it is going to be graded away.

Ms. Monk asked if it was possible that the way that the architecture is going to respond to this is by creating a controlled and built condition adjacent to what is currently a paved spaced that you will have more control of how run off occurs and that guttering and redirection is possible on the building and then into system in a different way to improve this condition. Mr. Witzak said no, the building on the eastside, which is very close and locked together which forces everything to drain into the backyard area, there was no opportunity to change any drainage and bring more to the front.

Ms. Monk said in the way you deal with the roof conditions in the new construction it is possible to redirect water that is currently falling on an asphalt surface. She said a roof condition and guttering could redirect the location of the water. Mr. Witzak said they could offer to put in some stone drywall.

Mr. Witzak said that the goal of any storm drain design is to replicate the current pattern, so everything will run from the building to the sidewalk area and drain north, that was the pattern as before, and we will be maintain that pattern. He did not believe that the building was currently hooked into the Borough's current stormwater system. There is a stormwater system on Raritan but was not sure on what side.

Ms. Atschinow said that more than twenty trees were cut down and she is now even more worried about soggy conditions in the back.

Ravinder Goomer owner of the property to the east of this current property, he said as he understands this they are increasing impervious surface which means more water runoff, so currently where actual car park is the runoff goes where. Mr. Witzak said it was running west. Mr. Goomer asked where the new runoff was going. Mr. Witzak said that it would go in the same direction and the pattern will be the same. Mr. Goomer said that his point is that they are increasing stormwater but not actually having a methodology that allows that excess rainwater to go somewhere else. It is basically running to the back or the side and increasing the impervious surface. Mr. Goomer said the bins are going to be at the back, and the lot is roughly 8,000 sq. ft., five apartments, three units could have 29 people and asked how many bins will be in the back. Mr. Witzak said that there would be nine bins. Mr. Goomer asked if he had a 10' setback. Mr. Witzak said the building is set back 10.3 feet. Mr. Goomer said twenty-nine occupants on the ground with five units of approximately ten bedrooms and indicated that nine bins would not be enough in his opinion. Mr. Goomer said that when he stands on his side of the property the setback does not look like 10' looks more like 4' and asked if there space past the fence. Mr. Witzak said he was correct. Mr. Goomer asked how that was 10'. Mr. Witzak said from the back of the building to the property line is 10'. Ms. Hammond said that the new fence line is deeper.

Mr. Goomer asked how many trees and shrubs were going in the front. Mr. Witzak said there be four trees and forty-two shrubs.

Ms. Goomer, part owner of the property on the east side of the property in discussion. It was mentioned there is going to be one apartment at the rear for handicap access and understands that this property is in the town's affordable housing plan, however only one affordable unit, it was also mentioned that it was for handicap access where is the parking going to be for that unit. She asked what the square footage of the existing building. Mr. Witzak said it was 1,987 sq. ft. Ms. Goomer asked what the square footage of the new building. Mr. Witzak said that the footprint would be 2,267 sq. ft. Ms. Goomer asked what the total square footage would be. Mr. Witzak said it would be approximately 4000 sq. ft. Ms. Goomer said it was mentioned by the Board Attorney that the use variance if they were proposing to have a restaurant that would require parking. Ms. Hammond clarified that there were different formulas to use for how much parking is required.

Ms. Atschinow asked how many feet the current retaining wall was from his property. Ms. Hand indicated that the chain-link is about 4' from the property line and then there is a wood board fence. Ms. Atschinow said that she was going to see a loss of 6' all the way across.

Alan Zimble, Architect, Freehold, NJ, sworn and affirmed. Presented a rendering of the proposed building exhibit A3, some of the materials being used are veneer along the front and along the corners on both sides; hardy board plank is being used as siding. He said that they were expanding over the existing first floor; the design is a result of working with the Borough Planner. He said that there would be store fronts, windows along the east and west side with some gooseneck lighting for the signage. They are anticipating there to be two storefronts with two separate commercial tenants. Referencing drawing A1 floor plans: currently is a one story masonry structure which will be redeveloped with commercial in the front and a commercial unit in the back, the new section will be 2200 sq. ft. with a commercial use to the west, with a potential of 3 commercial units depending on the tenants that is interested. As mentioned, there will be an apartment unit in the back that will be outfitted for handicap use, a two bedroom apartment approximately 1,000 sq. ft., 4 apartments on the second floor, 3 two bedrooms and a one bedroom all ranging from 900-1,000 sq. ft. The rear elevation shows hardy board, on the west side there would a ramp coming up to the entry into the back of the building, on the east side would be brick, and hardy board. A portion of the second floor on the east side is set back because of the property line in proximity to the windows. The windows will be egress style as required by code to provide a certain amount of light, air and ventilation, there will be six windows in the back.

Mr. Millet asked for clarification on the handicap designation and asked if the designation would be affordable housing with handicap accommodations. Mr. Wiley indicated that was correct and that the affordable unit would be completely ADA compliant. Mr. Millet said that there would be five apartments with one designated as affordable which is 20% that exceeds the norm for affordable housing for any development.

Mr. Thomas asked Mr. Zimble how much distance there was between the building, the windows, and the building to the east. Mr. Popov said that it was approximately 6'.

Ms. Hand asked where the new fence top is going to hit along the backside of the building in relation to the windows in the rear of building.

Ms. Hammond said they were under the impression based on testimony the elevation of the retaining wall and the rear neighbor was saying that it was going to be about much higher and it sounds like it is a 1.5' on the Popov side and the other side is a much stronger drop off and then a 6' fence on top of that retaining wall.

Ms. Monk said that there was not enough context provided in the grading plan to know what adjacent conditions are occurring on adjacent properties.

Mr. Thomas said he would like the Engineer to give an indication as to what he has measured the directional in property is, if at all. Mr. Witczak said he had not personally measure the differential and it did not show up on the survey.

Ms. Monk asked what the new retaining wall is made of and does it go all the way down the property line and are they replacing the whole retaining wall as it drops down 4'. Mr. Witczak said that it would be a keystone wall, split face block wall, with a rustic look from top to bottom and we cannot replace the whole retaining wall because some is on the neighbor's property.

Ms. Monk said the section that continues 10' into the adjacent properties and grading indications that continue into the adjacent properties would be helpful to understand impact on the neighboring properties. Ms. Hammond said that would be very helpful especially in light of the variance request. Mr. Witczak said that they would need to obtain permission from the property owners to gain access to that area.

Mr. Thomas said it was clear that when dealing with the last series "questions" there was a lot of testimony, and recommended that anyone coming up will be sworn in so they can ask their questions and give testimony at the same time.

Ms. Hammond open the floor to the public.

Ravinder Goomer, sworn and testified, asked how many parking spots were required per square footage by law.

Mr. Wiley said that they have agreed in their redevelopment plan to provide five off-street parking spaces through a lease.

Anton Popov said he appeared before the Redevelopment Agency and at that time, he made agreement to provide five off-site parking spaces for the residential units. He said that he had discussions with adjoining property owners about renting possible space from them but nothing has been finalized until Board approval was achieved.

Mr. Wiley said they agreed as a condition of approval that we would provide a written lease for five parking spaces within a 1,000' prior to CO issues.

Mr. Goomer asked if there were any windows on the east side of the building. Mr. Zimblar said that there would be seven windows, based on square footage and the proximity to other structures. Mr. Goomer said that he has no windows on that side of the building.

Ms. Hand asked Mr. Goomer, for clarification, if his building was a residential building. Mr. Goomer said his building was not a residential building. Ms. Hand said there is a difference between proposed residential units in this application which requires windows for bedrooms and commercial properties.

Mr. Zimblar pointed out the existing windows and the new windows and they are set back 5-6' as required by the building code to allow us to put the windows there.

Mr. Goomer asked if there was a ramp in the back of the building. Mr. Zimblar said no. Mr. Goomer asked if there were steps in the back to go upstairs and asked if those steps were going to take away from the back area. Mr. Zimblar indicated the steps in the back go to the basement and are 3' wide. Mr. Goomer said that there is a 10' set back and you are taking 3' away and then you will have 7' and the wall, which will take another foot so you will have 6' roughly between the steps and the retaining wall, with nine bins located at the back that line up with those steps. Ms. Hammond said that the plan shows if you are at the back of the property, from the mid-point at the back of the property over there would be nine bins lined up.

Mr. Goomer said that the practicality of moving bins backwards and forwards when it is garbage day is going to be a mess. Mr. Popov said that there would be a walkway on both sides of the building. Mr. Goomer asked if there were going to be bins on the east side of the building. Mr. Popov said no there would not be bins on the east side of the building.

Ms. Goomer said that her biggest concern is parking, although it may look beautiful and there is always room for improvement in every town but not for a detrimental effect. Parking is her biggest concern. She asked how many possible occupants may there be in the apartments. Mr. Zimblar said there nine bedrooms. How many employees are in the plans for the three commercial properties? Ms. Hammond said that there was no testimony to that because they are not able to talk about what those tenants might be.

Ms. Goomer said that they did go into town hall and review the renderings and plans that were already submitted, and there are various numbers mentioned, twenty-nine occupants in the retail units is a possibility. She said that she also heard something about five parking spaces were required not on site could be within 1,000' and she is concerned with the disabled apartment that is being provided in the back and may not be occupied by a disabled person but if it is where are they going to put the parking. The disabled occupant may have to park their car 1,000' away and somehow in the inclement weather make their way to the apartment and does not seem feasible. She said she pulled up the ordinances for Highland Park and it indicates in the central business district zone article g, off street parking and loading for permitted business and services establishment, one parking space each 300 sq. ft. gross floor area of the establishment. She understands that the applicant should be able prove that the granting of the various will not have a negative impact or substantial detriment to public good and on the master plan and zoning ordinance or that the benefits outweigh the negative

impacts. Parking spaces if they are provided on the site on any business enhances productivity of that business rather than the citizens trying to find parking before they can use the businesses. Highland Park is a beautiful town, improvements necessary everywhere but thinks this will have a detrimental impact. If the applicant is granted what he asked for it will more than burden the parking on the streets, therefore have an impact on adjoining businesses one being her business to the east. They have parking for their commercial business and she can foresee they will need to police that even more because they will have people parking from this proposed building into their car park. She feels if this is granted it will open the door for future applicants to be granted similar conditions and would hate to see that. This is a unique town and improvements should be made and are always necessary but not with a negative impact on the citizens.

Mr. Goomer said that currently when the international market was functioning he always had customers in his car park and he asked them to move because it was detrimental to his tenants who complained, so now if this 8,000 sq. ft. is going to go up with no parking, arrangements being made a 1,000' away you lose convenience. If you are there and you have children are you going to park 1,000' away and these five arrangements how long are they going to last, is it forever or once Mr. Popov sells the building what happens. He asked who was going to police this arrangement, he said he did not want to police his own car park but that is what is going to happen and it will be detrimental to him, his tenants, to the Township because all of the side streets are going to have cars parked there. He said that he had customers from B. Beamsderfer Gallery, which is next to him parking in his lot thankfully he is an extremely nice gentleman, he spoke with him and we worked it out. He asked what was going to happen here where there is no parking at all. He said he has nothing against redevelopment, it is very important for towns but you have to be pragmatic, practical and balance and this is not balance in his opinion. Parking is a necessity and if you do not take that white elephant and sort this problem, we will end up with everybody wanting to build and there is enough empty properties that he can see, if the precedent is not set now if we do not take up the parking issue. For himself, who has parking spots for his tenants feels this is an extremely important issue for his tenants and their business'.

Ms. Goomer said that she just wanted to clarify that they have two businesses with nine car parking spaces, so for a three commercials.

_____ asked about the requirement with regards to when you can have windows and when you cannot and the property line and requested frosted windows be placed in the back. Mr. Zimblar indicated that he did not have the code but there was a requirement that within a certain distance from the property line you cannot have windows and when you start to step back you are allowed larger square footage from an open area and based upon the size of the wall but believes it to be 6' from property line. The further away from the property and larger percent of wall the larger the windows can be, and this complies with the 6' requirement.

Judy Eng said that her concerns are with the trees that were cut down, she knows that the town is really big on the trees and environment, and she spoke to Anton about the trees and coverage now, she was more than 50% shade in the back and he cut down 20 trees and now there is no shade for the dogs, they get cooked back there. She said what she knows about Highland Park and the Shade Tree Committee and how environmental they are that there is not requirement to put something back, and does not know how that can happen. She said it seems it is cut it down and ask for forgiveness and

that is what it ended up being and she is disappointed because it was shaded on her end and she seen what he needed to do but is surprised nothing is being asked to be put back. Ms. Hammond said that there are two ways in which someone is taking out a tree has to give back either they replant which as stated there will not be room in the back of his property so the alternative is putting monies into a tree fund so a tree can be planted somewhere else. She said that the windows look right down onto her property because it is really close where maybe it would not be as close if he had the normal 20' away and she is concern later on is you have 10' and maybe decides he wants a restaurant there and there is now a giant container always open garbage goes in and container stays open every day. She wants development in the town too, wants people to come to Highland Park, Anton is a nice person but thinks it has to fair and reasonable because it is very disingenuous to say to someone go park a football field away. It is pushing something around to make something happen. She does not think one container per apartment is enough and it is a long drag to the front of the building. She said that garbage pick-up in Highland Park was an issue as well, they do not pick up garbage often enough and under Main Street they pick up more and it is not fair to rest of us who pay the same taxes. She is afraid now that it is even closer the restaurant is discharging into the rear and is now 10' from the property and that is reality and just because she knows Anton may not be there and he may sell the business. She said she wants to make sure that these things do not happen. Ms. Hammond said that there would be further discussion about garbage and out of this process, we do not know what he is going to be required or not required to do but there are things that are required are a part of a resolution that are enforceable and those things do follow with the property.

Ms. Hammond asked Ms. Eng if her testimony was if the addition was setback, the 10' into his property to make 20' that is a better condition. Ms. Eng said she thinks it would be better because the garbage cans should be along there and not along the back and it shortens the distance at how far it has to go up front and if people could be a little more considerate about it because out of sight, out of mind.

Jim Constantine asked the Architect to speak of the mechanical systems and where they are how they are screened.

Mr. Zimblar said that they were locating the units on the center of the roof, they could provide a screening around the units but by locating them in the center of the building, they would not be visible from the street. The roof would be used for utilities only and would be accessed through a hatch.

Mr. Goomer asked if there was a basement. Mr. Zimblar said that the current building has a small basement and in the new structure, there will be a small basement adjacent to the existing basement maybe 20% of the total footprint.

Mr. Goomer asked if the mechanicals were being stored in the basement. Mr. Zimblar indicated that they are being stored on the roof. Mr. Goomer said that there are eight units and asked how many mechanical units. Mr. Zimblar said that each apartment would have its own unit. He said each of the five apartments would have their own individual unit in the apartment.

There being no one further, Ms. Hammond closed public comment.

Ms. Hammond said that it appears there are some outstanding issues that have been raised, such as where the garbage is being kept.

Mr. Thomas said that he would like to hear from Mr. Constantine with regard to the issue of parking because it is a combination of the redevelopment as well as the present application. He noted that in the report submitted there is a comment with regard to parking but it is not listed as variance.

Mr. Constantine said that when he first started as Borough Planner two years ago this application has been sitting with the Redevelopment Agency for some time, so there was a history that came with it and some news issues. He said that the guidance is the goals of the redevelopment plan, mentioned a few and focusing on human interactions, and safe pedestrian circulation and that relates to parking, it also encourages redevelopment. On parking, it talks about coordinating parking, identify and better utilize parking resources, create pedestrian alley connections and shared parking lots where possible. There is a huge emphasis in the redevelopment plan on encouraging shared parking. Creating and extending rear parking lots where possible, minimize traffic flow across the Raritan Avenue sidewalks, eliminating driveways and having no more than one per block because that effects pedestrian safety. While he understands that people want to park as close as possible to businesses' and in the Redevelopment Plan it talks about doing this by way of on-street parking, parallel parking or these coordinated shared off-street parking lots. It also talks about parking not be constructed between buildings and Raritan Avenue or otherwise fronting on Raritan Avenue, so you can't provide parking on the site without violating the Redevelopment Plan both the driveways and not sure it would fit without fronting on Raritan. The primary access for parking points to parking lots and facilities shall be from streets other than Raritan Avenue. It does not want access, does not want curb cuts across sidewalks along Raritan, and shall no instance exceed one per block. It does suggest a formula for shared parking, there is a proposal to utilize off-site parking within a 1,000', and the Borough unfortunately is a little behind in trying to get a parking study finished but thinks it is coming soon, it is believed by finding the parking preferably at some point the church lot on North 2nd is a place that might accommodate that and certainly there has been a provision right sizing the number of apartment parking spaces at one space per apartment by what the Redevelopment Agency and the Council amended in the Redevelopment Plan. The real focus in a downtown to achieve these goals is not providing the parking on site, it is promoting shared parking and trying to focus on where employee's might go and recommended to the Board to not worry about the business use but to think about the employees because this philosophy is used in other downtowns if the public that is coming to a retail store, office or a service business use are parking in the public resources, the on street parking and perhaps any public lots that are available that is where customers and patrons park. Employees often cannibalize those spaces and make them unavailable for customers or cannibalize spaces in private lots nearby, and suggested exploring something which would add to the resident parking for the employees on the site that would give us to match it with the tenancy of the site so it might be one use with a greater number another use that is less but it can be controlled and hopeful that the solution within 1,000' for the residences will probably will be the same lot that provide a solution for employees. This would give the best balance and control until the Borough gets a more managed parking situation in the near future.

Mr. Thomas asked Mr. Constantine how close the Borough was in regards to that managed plan. Councilwoman Welkovits said they were hoping sometime in the fall.

Mr. Constantine said that one of Highland Park's challenges and the reason there has not been a lot of redevelopment is that there is no parking infrastructure solution that helps with sites that are too small and don't have the access from the side street to provide both parking and a new building.

Mr. Thomas asked if it would be reasonable for this Board to consider that if they act favorably, that there would be a requirement that is part of the concerns raised by the members of the public for parking, that once the parking plan is established that there be a condition to impose as indicated that the employees would utilize the off-site parking facilities as opposed to something that is cannibalize the closer spots that might very well impact the gentlemen to the east. Mr. Constantine said that Mr. Thomas was correct.

Mr. Wiley clarified that the employees cannot use on street parking, which is for the patrons, then there is a zoning permit process, and that asks for the number of employees based on that. The Zoning Officer could request that proof be provided of off-street parking for the employees.

Ms. Hammond asked about enforcement. Mr. Constantine said that this is where the Borough needs a more formal management process, which other downtowns deal with. This is not a cut and dry situation almost every downtown that is managing parking issues does their own unique custom variation that works on the parking resources, the culture of the community, how they are dealing with it, relationships with the business management district, etc.

Ms. Hammond said that the requirement would be that five parking spaces takes care of the residential units and an employee requirement for the retail and beyond that it would be treated like any other retail space on the main street that doesn't have any on-site parking. If the use of the commercial space changes, a zoning permit is required and the zoning officer would regulate based on use.

Mr. Thomas said that has to be a submission as part of the Resolution to indicate that there is an on-going relationship that the business has with the remote parking.

Ms. Monk said that during the construction process it is important to note where contractors might park.

Mr. Millet asked how the Board makes a decision on a need for redevelopment and a project design for our future goals with the impact that it will have in the immediate. Mr. Thomas said that the answer received was that this parking plan is not 2 years down the road; it is 3 months down the road. He said that Mr. Millet's point is very valid, if that plan does not come into existence in 3 months and the Board put it in their conditions this applicant will have a problem, with or without the plan, he will still have to provide the parking. He said that he agreed with Mr. Constantine that there needs to be a provision regarding the employees and resident parking.

Ms. Welkovits said that she did not see a parking plan in such a short time but for the information to start coming forward; she can see it within 3-6 months. She said that when they spoke to Mr. Popov in the Redevelopment Agency the onerous was upon him to find those individual spots for the

residents. Ms. Hammond said that the burden in the end would be on Mr. Popov to produce those spaces prior to the issuance of a CO.

Ms. Hammond asked about the water runoff and what was represented in terms of the 2% increase in impervious coverage and what that impact might look like and whether they have reasonably mitigated dealing with the runoff so they certainly do not cause a problem for their neighbors. Mr. Patel said based on how the plan grades currently, their engineer explained pretty clearly that the site is at a high point towards the front of the buildings and currently everything drains to the back of the site. What they are proposing to do is nothing different than what is currently happening right now. As far as mitigation there really is not any space on the site and they are not adding any additional impervious to the back of the site, the impervious is the pavers on the front of the site but that portion is going to be discharging to Raritan Avenue and is not going to be adding anything to the rear of the property.

Mr. Thomas said based upon the grading put more of the runoff towards Raritan Avenue and/or include some other device such as dry wells to eliminate some of the water that may be ponding some place off site. He asked if there could be some drywells along the westerly side with some leaders directing the runoff from the roof into those wells so it is not all concentrate towards the back. Mr. Patel said that grading towards Raritan Avenue is feasible because of the drop off, the grade change is significant enough where they wouldn't be able to push anything towards Raritan Avenue, as far as a dry well a discussion with their Engineer can take place to try to find a space along the back of the property to capture any additional stormwater runoff. Drywells on the westerly side are possible and would be some help but once they fill up they will still be going into the exact same spot they are currently going.

Mr. Millet said that this lot is the size of your average home lot and the impervious coverage of the change, most of the new building will be flowing towards Raritan (northwest), and yes, the water coming off the back will head toward the neighbor in the back.

Mr. Constantine said that he reviewed the Redevelopment Plan and this is the first application under the Redevelopment Plan for the Board, it does speak to this issue and suggests that a stormwater management plan that decreases the rate and quantity of stormwater runoff from predevelopment level be implemented. He suggested that something needed to be done beyond what is being done, whether drywell, rain garden or something to deal with that. Mr. Patel suggested working with the Engineer about installing a drywell in the rear of the property that reduces where that captures the additional impervious coverage that is being added by the pavers along the front of the property and that way any improvements that are made the discharge towards the rear of the property will be a net decrease compared to what is there right now.

Ms. Hammond said that it appears that the property line cuts through the paving and planter on the front sidewalk. Mr. Popov said that was just a suggestion to improve the front of the buildings. Mr. Wiley said it is more for illustration and will be within the property line unless there is an agreement with the neighbor.

Ms. Hammond said that she was concerned with the garbage and the amount of space to house the garbage. Mr. Popov said it would be picked up by the municipality and he believes it would be two

times per week. The tenants are responsible for bringing pails to the front of the building. He said that for the tenants on the second floor there would be five designated garbage cans.

Mr. Thomas asked Mr. Popov if he had developed property in the past. Mr. Popov said not a commercial property. Mr. Thomas said that it was mentioned about seating space and alluded to a restaurant and asked if garbage pails would be sufficient for that type of establishment because he has seen nothing less than a dumpster for a restaurant. Mr. Wiley said that they would not be able to use a restaurant because there is not enough space.

Mr. Wiley said in terms of practical uses and we need a dumpster it is not going to work and that will restrict the types of tenants we have. Mr. Thomas agreed and indicated that Mr. Constantine's comments about seating to enhance the streetscape does not necessarily mean it has to be a restaurant. He indicated that his concern based on what he has heard he does not see a restaurant ever being at this location but does not preclude the possibility of having some streetscape that would have public seating or some mechanism.

Mr. Millet asked what the requirement were in landuse law pertaining to garbage. Mr. Thomas said that there was nothing in the landuse law that deals with garbage, the issue is with regard to what the Borough Ordinance says in relation to that and how is it modified in relation to the Redevelopment Plan. The Ordinance indicates with a commercial development any disposal area 99% of the time is going to be enclosed with some type of fencing with dumpster but this is not that situation. Nine garbage cans seems commercial in nature even though there are five apartments. It would seem that you would want to have the garbage cans of a type that are not going to be metal, plastic so they are not banging around, it may be nice to have them in the basement not sure if that is feasible in terms of having the ability to elevators, etc. There has to be some clear mechanism that they somehow enclosed per the Ordinance.

Mr. Constantine said that the essential component of any building can be a nuisance to surrounding neighbors and visually unattractive, these guidelines require the building services be properly screened and located, trash loading services shall not be along the street frontage, shall be screened from view from public street, open areas, residential areas and pedestrian corridors. Trash storage shall be constructed to accommodate trash receptacles of the type and size permitted in the business improvement district. All trash service loading shall incorporate controls to minimize noise and odor.

Mr. Thomas said that it appears to be a 2' wall and 6' fence so theatrically there is a screening to the north and the building to the south you could accommodate that as screening without more, because it is not clearly visible from the street or the neighbors.

Mr. Millet said that he had no problem with his own experience with the large rolling bin, having a family of four they have never filled it and is picked up once a week.

Mr. Constantine suggested looking into an integrated solution and in regards to the grading, the wall, and what we don't know, the integration of landscaping which will be more effective to some degree for the neighbors and if they have no objection to have the applicant make some of the those improvements on their property as an effective means to come up with something which ends up

improving their property livability and property value, solving the solution better than if we move things back and planted trees with a fence in front of them which may not be as effective. He said that we might have cooperative property owners that may be willing to allow us to resolve it.

Ms. Hammond said that Mr. Popov could work with the rear home resident to do planting on their side of the fence and keep his fence where it is, garbage will stay at its current location and they get the shade and visual block. Mr. Constantine also suggested planting climbing vines to screen the fencing above their retaining wall and below his retaining wall to soften the fence, fence could be a green wall. Mr. Popov said he agreed and indicated that he spoke to the neighbor and indicated that he would do whatever was necessary to make the property much nicer and agreed to plant on his neighbor's property.

Mr. Thomas said that the Board could make this another on-going condition of approval, if the Board wishes to approve, and delegate the responsibility.

Ms. Hammond said that there was mention of ADA parking and asked that the professionals speak to that concern. Mr. Wiley said that the tenant would be required to go to the municipality to give them a handicap space on the street. Ms. Welkovits indicated that there was a limit on how many could be in a certain area.

Mr. Constantine said that the Redevelopment Plan does call for some accommodation for secured sheltered bicycle parking. Everyone agreed to place in the basement.

Mr. Constantine said that there was one other minor issue regarding the use of hardy board. The Redevelopment Plan section 15 under materials – facades of buildings facing Raritan Avenue and side streets, and site structures shall be constructed of or faced with high quality, natural brick, stone, cast stone or wood. Variety in building material is encouraged. Strict compliance with these requirements will not be required where, in the discretion of the Planning Board, other facade materials are appropriate. Ms. Hammond said that they would state that the front is brick and hardy board on the sides. The applicant indicated that they would work with Mr. Constantine on this issue.

Mr. Millet said that this project will approximately triple the amount of ratable space for the Borough and that is something that is big for the vast majority of the residents, there will be an impact and this is a huge improvement for the downtown and the town. The greater good that will allow for the variances.

Ms. Welkovits said that the stormwater was not discussed prior to the meeting tonight and was happy that was discussed because it was important, and sure they will look at not only wells but any impervious surfaces that can be improved on the site, glad that the residential buffering is being looked at closer, that Mr. Constantine brought up the bicycle parking and of course the parking in general, the five spots one for each apartment already but glad they are addressing the employee parking and looks forward to parking study to accommodate customer parking in the future.

It was MOVED by MILLET and seconded by HAND to approve the application as presented with following conditions: addition of the water runoff wells, employee parking is going to be managed along with the residential units no CO will be issued until satisfied, approve hardy board as a façade

treatment and that the applicant is going to work out with rear neighbor a tree/planting plan, along the front façade there would be discussion with the applicant in terms of public space, landscape, and coordination with the neighbor so that there could be a public space in relation to this site as well as the site to the east up to the corner and if there is no coordination then the landscaping and the public space would be on this property, which could include the moving of the handicap ramp, including the comments made by CME and Jim Constantine's report.

ROLL CALL: Ayes- Brescher, Hand, Millet, Monk, Welkovits, Hammond
Nays – None
Absent: - Kluger, Lanaris, Nolan, Williams

There being six (6) ayes and no nays, the motion passed.

Ms. Hammond thanked the public for attending and hopes that they recognize that the Board does hear what they have to say and the Board will incorporate what they can into a reasonable plan, being excited by a new project and also doing right by the neighbors and the town as a whole. She thanked everyone for coming out and giving his or her insights.

Public comment on any item not on the agenda.

Ms. Hammond opened the floor to the public.

Marsha Goldberg thanked the Board for the history of the tree removal permit and the story of Buckwoods and she understands that this is not a Planning Board issue but because of your historical knowledge, she is hoping a few questions can be answered. She made everyone aware that about half of the 179 trees that have yet to be removed and are marked are designated for removal are on steep slopes, every close to homes on South 5th Avenue, and on South 7th. She has looked at the map that the Borough offers and she has taken pictures of trees that have X's marked on them that didn't until recently. Has the property owner assured the Borough that he will take appropriate measures to protect the private property that certainly be effected by removing large trees from a steep slope close to houses, a slope that receives a huge amount of water every time it rains, that has a storm drain coming right out of the slope right next to some of those trees that are designated. She said that her property ends right at the slope and the trees are growing out of that slope that he wants to remove. In the introduction it was said that after the limited activity, the 70 trees that have already been removed, was completed that results showed that one there was pollution and two it was impossible to determine the extent of that pollution and asked who came to those conclusions because her husband who is a geologist and he has never heard of measuring pollution from slope when all of the material that is pushed down that slope will end up in the ravine.

Mr. Thomas said that he was not a judge and that Ms. Goldberg at this point probably knew more than he did. He said that she has listened to geologist testify on other applications throughout his career, the information that he has is that the investigation that was done showed that there is pollution in the site and it indicated that the pollution extended behind the area of disturbance of those 70 trees which is why there is a need to excavate further. He said that he cannot say there is some geologic reason as to why there is or is not pollution. The information that had been obtained was obtained by the developer, and assumes Township Officials such as the Engineer reviewed it but not for certain, and there is an LSRP for the site. He said in reference to the first question on whether the

“developer” gave assurances, everyone gives assurances the important thing that needs to be understood is if there is damage to your property as a result of a third party you have the right in Court to make sure that whatever damage there may be is going to be repaired and corrected. They are going to be doing their work in a manner that he is sure will be monitored by the Borough’s Construction Department. He said if the removal of trees causes damage then there will be damage, he cannot tell if the removal of trees will cause damage because there is an order to determine the extent of pollution on that site.

Ms. Goldberg said that anyone with any knowledge of geology or site clean up, she has talked to a lot of people in the last few days, one does not need to removal all of the trees in one specific area leaving trees in other areas to make that determination; especially if you are going to cut down the trees as he has done with the first batch and leave the trunks and roots, he might as well go between the trees while they are still growing no need to cut them down in order to do that. Mr. Thomas said that he was not qualified to answer.

Ms. Goldberg said that she was very frustrated that the Borough has not seemed to ask these questions until after. Ms. Hammond said that the Board does not know that the Borough has or has not asked those questions and that is all that the Board can speak to. Ms. Hammond said that Mr. Thomas is the Board Attorney and we were made aware that people were coming he did speak to the Attorney’s that are dealing with this, but he is only representing how much we do know we are not really the right people.

Ms. Goldberg said just to be clear, this kind of permission can be given by the Borough and the question is how do we address the resulting property damage does not have to answered. A property owner can remove trees in such a way that is almost certain to damage other people’s property and does not have to build a retaining wall or do any other kind of preemptive preparedness and everyone in the Borough is just supposed to suffer the consequences.

Ms. Welkovits as a Council Member they have received many e-mails from people about this and thanked everyone for bringing that to our attention. She said that she does not know that it was realized it how close to your property line and how on the slope the trees were. She said Marsha Goldberg graciously toured her yesterday. She said just in the past two days they have taken a lot action through our professionals and attorneys and we are still discussing this, they are reaching out and to try to protect what we can. Unfortunately this is an odd situation, this is through the courts so the original permit was a part of that and therefore

Angelique Haugerud thanked the Chair for the opportunity to ask a couple questions and thanked Mr. Thomas for his report in the beginning of the meeting. Given the very significant public opposition to the removal of 179 additional trees with a logic for removal that we do not understand and would like explained to us, given what herself and her neighbors have learned from their consultations with civil engineers, environmental experts, and other specialists we ask in the interest of Borough residents and the environment, can the appropriate government body insure that for now there is no tree removal until there has been a public meeting at which the Borough Engineer, and Lawyer at a minimum can answer questions from the public in the interest of transparent governments. There are number questions for the Engineer and others about the rational for issuing the permit and about why the permit was issued without advanced notification of the community. This action is undertaken

removal of all the trees, would have a profound impact on the adjacent properties on the environment, on water quality, there are serious drainage issues known from civil engineers, on Borough aesthetics and a profound effect on public confidence in government officials.

Lee Fan said that he totally understands the property owner of Buckwoods, if he puts himself in his shoes he can understand why he wants to remove those trees, huge trees that stabilize slope and once removed it is irreversible. The next step is to build the streets, build the property, which is a good tactic kind of sneaky one but again just to be fair everyone has the right to do something to benefit his own gain but it needs to consider his neighbors interest in this as well. He said that he is not against this just wants to make sure that his house, he was dumb enough to buy the house before, he laid over 5,000 blocks a retaining wall, 100' and that is what he did to protect to his house and obviously it does not endanger his neighbors' homes and it is stabilized. He did not want anything to happen so he spent over \$70,000 on a retaining wall. Yes you can use all the sneaky tactics or whatever but again there could be better way and have some preemptive measures. He said just to be fair to everyone in the town not to be sneaky good lawyers I guess.

Harold Sackrowitz, 617 South 5th, Highland Park asked if the court order say that 179 trees should come down. Mr. Thomas said that to the best of his knowledge the answer would know, the court order indicates that there is to be investigation of the pollution that is on that site so therefore his understanding is that the Borough did as part of the negotiation that was entered into as required by the Judge was to end up providing for the minimum number of trees or swath of area which including a certain number of trees to be investigated first and that is what was done initially. That was done and they found that there was pollution and that portion extended beyond that area, now they are seeking as part of the court order to determine the extent to which that pollution exists beyond that. There has never been or could there have been any determination at the court level as to how many trees should be removed because there was no ability to know that.

Mr. Sackrowitz said he could see that they have to go further if there was pollution but they started out with 72 trees and now suddenly add another 179 trees and can't understand why it can't be done more incrementally. The trees that they cut down were down at the bottom where it made the most sense to say there was pollution and we have to check further and then go clear up to the top of the hill all at once does not make sense, even if it was another 72 trees maybe within 30' of the original pollution doesn't understand why such a huge number all of a sudden. He asked if the court had anything do with which trees go next and how far or was it the Borough. Mr. Thomas not that he was aware, and he does not think the Borough ended up saying they would pick out 179 trees. He was not involved in that discussion he is sure that is not the discussion that took place. He said that he was sure about the fact that the "developer" wanted to remove the entire site to determine what was going on and as a result there was negotiation with the Borough taking the much more conservative side and if that turns out that was 170 trees his guess is that is about 3x less then what the "developer" wanted in the first place. He said that he does not know that as fact but that would be his guess based upon some of the discussions he has had in other aspects of this litigation with this "developer". Mr. Sackrowitz suggested taking another look at that and seeing if it can be done more incrementally.

Mr. Millet said that it seemed like the lever that the "developer" is using is based on a court ruling ad asked if there would be further court hearings. He said that we might not have that information but

thought that would be the place to apply public pressure as well if there are court proceedings that we could relay to the people in the future.

Mr. Thomas said that this is a public forum, it is a court case and if the public ended up having information that could be presented to the Judge either independently or through the Borough that talks about the terms causing reputable damage that may have an impact but you need that kind of information, it is not simply saying that you are concerned. You have to have some information that a Judge can rely upon that is objective and verifiable. If that information was made available that could be presented to the Judge. He indicated that was his off-handed opinion at the time.

Harriet Adelson, 427 South 5th Avenue, Highland Park asked how they could know what is going on, how they make their concerns heard. She appreciated that everyone is listening but it is clear that this is not the Board's area of expertise. How do we contact the Borough and who do we speak to and how do you address the pollution that is already there, is that already effecting our properties. Before this situation gets worse, they want to be on the record saying that they are extremely concerned. Thank you very much but please tell us what they do next. Mr. Thomas said that if you have information other than a concern, that you have some documentation that could be presented to a Judge or the community whereby it could be presented that indicates that there is irreparable damage that can be harmed, that could be occurring to your property or abutting properties will that information in his opinion persuade a Judge to do things in more incrementally it might have some sway.

Steven Adelson, 427 South 5th Avenue said that it was mentioned that we could go to court to stop the changes they are making there, why is Highland Park protecting our rights. Mr. Thomas said that he believes that it is as a part of the negotiations which is why the initial permit that was issued was on a much more limited bases then had been requested by the "developer", it is not as if Highland Park is saying to the "developer" just do what you wish, he reminded everyone that Highland Park has spent a considerable amount of resources and effort over the last several years to prevent those permits to ever have been issued. As a result of the litigations that have occurred and in conjunction with the affordable housing, the town continues to represent the interest of the community in general as well as your interest as neighbors of this property so that the initial investigation was much more limited then what the "developer" is seeking.

Mr. Adelson asked when, who and how is the remediation of the pollution going to be done. Mr. Thomas said that is the subject of an on-going litigation, which is a separate litigation that brought by JSM, that decision has not yet been made.

Ms. Hammond asked if any kind of environmental issue that needs to be cleaned up is still monitored by the State and other people get involved. Mr. Thomas said that is all true but who is responsible is not clear at this point in time but whomever is going to be responsible will be required to do it in accordance with the regulations that are set forth by the NJDEP.

Mr. Adelson asked when the next meeting where the developer is going to be with court, who will give them permission for whatever it is. Mr. Thomas indicated that he did not have that information. Mr. Adelson asked whom he could call to find. Mr. Thomas suggested the administrator or the clerk might have that information.

Marsha Goldberg said that she wanted to enter a letter that her husband wrote to the Council Members and the Mayor detailing the situation from their point of view in more detail than she was able to state. She said that it was already provided to the Council. She said that she appreciated the point that was made earlier that we could bring our detail, documents, and concerns, however the tree removal is a done deal and we were only notified one week ago by regular mail and many residents never even noticed that letter that came from the Borough. Mr. Thomas said based on what he understands permits of this nature are generally, the fact that notice was given at all, the Borough has done that over and above what is required. Ms. Goldberg said that she has been living in that house for 18 years, this has been going on, and we have had so many reassurances and feel betrayed by this slipping this through and the way the letter was phrased it did not adequately convey what was approved.

Letter as provided by Marsha Goldberg and Yair Rosenthal
"Borough Council Members Borough of Highland Park 221 S 5th Avenue
Highland Park, NJ 08904
Dear Highland Park Borough Council Members,
May 20, 2018

As owners of property adjacent to the Buck Woods (451 South Fifth Ave.), we are very alarmed about the next steps scheduled to be taken. From the map, and the marked trees we've since observed, we see that a majority, if not all, the trees just behind our house are slated for removal. We feel that in granting the permit for the tree removal, not enough consideration was given to the likely damage that will occur to the neighboring properties as outlined below.

The trees in this area are rooted in a very steep slope, just at the border of our property and approximately 20' from the house. The removal of very large trees so close to the house, to carry out the environmental testing as requested by the land owner, will require substantial digging in order to remove the roots, which will destabilize the slopes. In an area that receives runoff from a major storm drain, this will certainly cause erosion problems and consequently damage our home. In fact, this has been happening since one of the large trees fell during Hurricane Sandy, which caused major erosion of the slope under the storm drainage pipe and a 10' retreat of the slope and exposure of the basal rock unit (see attached photo of the storm drain area where a tree fell in 2012).

The borough granted a permit to remove trees for the purpose of environmental testing. As a professor of geology and geochem is try, I can hardly see any justification for testing the soil on a sloped area. In fact, the correct way to do that is to drill the wells downslope at the base of the slope. In addition, the permit was granted without consulting owners of adjacent property and without notifying owners in time to respond appropriately. The damage to the slope and potentially the neighboring houses seems not to have been considered from an engineering point of view. Incremental testing would be more appropriate. The permit requires "replacement" of removed trees. This is impossible, given the size, age, and root systems of existing trees and the damage to the slope that will be done while removing the trees and their deep root systems.

We request a reevaluation of the situation. If removing trees is still deemed necessary for environmental testing, it seems reasonable do it incrementally to minimize the environmental damage to the ravine and surrounding properties. If the removal of so many trees on the slopes is necessary, the property owner must be required to build a retaining wall. Otherwise, our home is certain to be in jeopardy.

Given the immediacy of the issue, we respectfully ask the town to reconsider the permit and wait until we can meet with the borough engineer and the property owner engineer to discuss the removal of each of the trees, as some are more critical to the slope stability than others. Hopefully, we can find a compromise that will allow the testing without causing irreversible damage to other properties and the whole ravine ecosystem.

However, if soil erosion, or any other consequence caused by the tree cutting done by the developer causes any damage to our property, we will take full legal action against that developer and also the Borough for giving the developer the right to remove the trees without a proper environmental impact study.

We look forward to your response. Photographs of the area are included. Dr. Yair Rosenthal Distinguished Professor, Departments of Geology and Marine & Coastal Sciences Rutgers University Marsha Goldberg”

No one further appearing, Ms. Hammond closed the public discussion.

Ms. Hammond said as mentioned by Mr. Thomas unfortunately the Board has no bearing or jurisdiction in this matter, there are a lot of us to sympathize with you and unfortunately, a lot of it is out of the town’s control.

Ms. Hammond said that due to the late hour, the remaining items on the agenda would be carried to the next meeting.

Approval of minutes of previous meetings.

February 27, 2018 Regular/Executive Session

Memorialization of Resolutions.

Correspondence and reports.

Zoning/Building Officer report – Scott Brescher
Rehabilitation Screening Committee report – Kim Hammond/Judi Monk
Mt. Laurel status update/Fair Share Housing Obligation report - Jim/Padraic Millet
Master Plan Prep report – Steve Nolan
Sustainable NJ – Judi Monk

Action on any other business and work session.

Adjournment

There was a motion to adjourn from Mr. Millet with a second from Mr. Williams and at 11:17 pm the meeting was adjourned.

Respectfully submitted,


Jennifer Santiago, Board Clerk