

MINUTES
PLANNING BOARD
BOROUGH OF NEW PROVIDENCE
TUESDAY, FEBRUARY 7, 2012

A. CALL TO ORDER 8:00 p.m.

B. PUBLIC NOTICE: This is a Public Meeting of the Planning Board of the Borough of New Providence, County of Union, State of New Jersey. Adequate notice of this meeting has been given in accordance with Public Law 1975, Chapter 231, in that an Annual Notice or Revision was made in conformance with Section 13 of the Act.

C. ROLL CALL: Present: Chairman Lesnewich, Armand Galluccio, Nadine Geoffroy, Dan Henn, Mayor Hern, Gary Kapner, John Keane, Robert Sartorius and Philip Treventi. Also present: Craig Hermann, substitute Borough Engineer, Keith Lynch, Director Planning & Development; Jeff Janota, Borough Planner; William Robertson, Planning Board Attorney; and, Margaret Koontz, Secretary.

D. PLEDGE OF ALLEGIANCE

E. REVIEW OF ORDINANCES

The Board reviewed the spreadsheet of ordinances. Council reviewed the fence ordinance in 2007. There were issues with corner lots and the Council decided not to take action. The Board discussed reopening the discussion. Mr. Lynch stated that this is a closed issue: Homeowners can apply for a variance for a fence where required. The spreadsheet will be updated to reflect that this issue is closed. Council has the draft ordinance for retail alcohol consumption prepared by the Planning Board subcommittee. Mayor Hern stated that he thought the retail consumption ordinance was proceeding on parallel paths with a zoning ordinance from the Planning Board and the other a police power ordinance that would mirror the zoning ordinance requirements. Mayor Hern stated that Council has the other ordinance and there is some question before Council as to what is going on with the zoning ordinance. Mr. Janota responded that he is not familiar with any other ordinance. Mr. Janota has revised the ordinance since it was submitted to Council and stated that the retail consumption ordinance before Council is not a zoning ordinance. Mr. Janota does not believe a zoning ordinance is necessary and the enforcement part of the ordinance comes from Council. Mr. Galluccio said that the Division of Alcoholic Beverage Control has to approve the ordinance before Council can proceed. The Board will look at the parking tables to see if they need to be adjusted.

A list of open issues will be discussed at the next meeting.

F. PUBLIC HEARINGS

Vijaya Venkatesh, Block 283, Lot 11, R-1 Zone, 25 Oakwood Drive – minor subdivision approval – raze existing single family house and subdivide lot into three separate single family parcels.

Glenn Pantel of Drinker Biddle & Reath, attorney for the applicant, recapped the testimony at the prior hearing for a minor subdivision with three lots requiring variances for lot widths and steep slope disturbances. Mr. Pantel stated that the applicant listened to the Board and public at the last hearing and has revised the subdivision plans for two lots that comply with all ordinances with a *de minimus* lot width variance for 5 inches for one lot. Mr. Pantel summarized the two lots. Lots 11.01 are now 26,562 square feet and 31,093 square feet, respectively, versus the minimum required 18,000 square feet. The lot width at right of way for both lots is more than the required 75 feet. Each lot will have its own driveway eliminating the easement for the shared driveway originally proposed for three lots.

The applicant re-noticed the application. Mr. Robertson reviewed the proof of service and it is satisfactory.

Catherine Mueller, Page Engineering Consultants, P.C., was sworn in. Ms. Mueller presented her credentials as a professional engineer and was accepted as an expert in engineering. Ms. Mueller reviewed the revised subdivision plan dated January 16, 2012. Drawing No. 1 shows the existing house, driveway and detached garage. Drawing No. 2 shows the property with two rectangular lots with the long axis running north and south. Lot 11.01 is the lot on the west and lot 11.02 is the lot on the east. The lots meet the requirements for front-yard setbacks, rear-yard setbacks and side-yard setbacks with wider side-yard setbacks on the exterior portion of the lots to keep them farther from the neighbors on the east and west. One variance is required for minimum lot width at setback for lot 11.02 which is .44 shy of the required 120 feet.

Ms. Mueller continued her testimony describing the Environmental Constraints/Removal Plan shown on Drawing No. 3. The shaded areas on the drawing show the steep slopes. The two houses are located toward the center of the property where the existing house sits which is a previously disturbed area. Keeping the houses on previously disturbed property was one of the goals of the plan. Lot 11.01 will use the existing driveway which will be regraded to meet the 15% maximum grade requirement. The driveway will be repaved. A new driveway with retaining walls to minimize the disturbance and protect the trees to the right and left of driveway will be created for lot 11.02. The maximum height of the retaining walls will probably be three feet. No steep slope variances are required.

Drawing No. 4, Conceptual Lot Development Plan, shows the proposed homes situated at the top of the lots. The plan has been re-engineered to address drainage issues. The driveways will drain to an existing storm sewer on Oakwood Drive. The roof leaders on the homes will drain to underground dry wells. The existing house discharges to the east and the driveway to the north. The roof leaders for lot 11.02 will discharge to a dry well that will be relocated to the front of the house. There will be a similar layout for lot 11.01. Ms. Mueller testified that there will be less runoff to the north and east than there is now.

Ms. Mueller responded to questions from the Board. The driveways are not curved. Ms. Mueller is not concerned about the stability of the driveway. The 2:1 slope by the driveway of lot 11.02 limits the disturbance and protects the trees. Ms. Mueller stated that there is no need to increase the catch basin on Oakwood Drive. The dry wells for the roof leaders should reduce the flow to the catch basin. The property has no other catch basins. Ms. Mueller added that the existing circular driveway will be removed in the back and planted with grass which will help the drainage. Lot 11.01 will discharge to grade with additional conduit output protection. Lot 11.02 will drain to Oakwood Drive. There is no intention to discharge the overflows to the north or east. Ms. Mueller testified that the dry wells as proposed will only have overflow during a 100-year storm.

Ms. Mueller responded to questions from the Board about the retaining walls and grade of the driveways. The retaining walls along the driveway save 9 feet of grading on either side. The applicant will cut into the slopes so the walls will be above the driveway which is at the maximum grade of 15% and meets code. The driveway will be flat at the bottom along Oakwood Drive with 20 feet from the curb line to the edge of the pavement. It will also be flat at the top by the house where there is a bump out so a vehicle can turn around and drive down to Oakwood Drive. The retaining wall is 25 feet back from Oakwood Drive. Lot 11.02 has a courtyard so there is room to turn around and drive down to Oakwood Drive. The distance from the driveway of lot 11.02 to the island on Oakwood Drive is 85 feet and over 200 feet to the intersection of Oakwood and Mountain Avenue. Ms. Mueller testified that a driver can clearly see out onto Oakwood Drive and can also see the intersection of Oakwood Drive and Mountain Avenue from the bottom of the driveway.

Drawing No. 5 shows the Erosion & Sediment Control Plan. Ms. Mueller testified that the applicant will put wood chips around the trees to the drip line to provide a buffer for the root systems. The chips will be 6 inches to a foot deep. There may be some disturbance closer to the trees. Ms. Mueller testified that if 50% of the area around a tree is not disturbed the tree is okay. She added that the applicant could bring in more chips for these trees where feasible. She will add this as a note to the plans.

The Board discussed its concerns about the construction traffic at the site as noted in the Borough Engineer's professional report (# 22). Ms. Mueller stated that the plan will be submitted to the Police Department for review as requested by the Borough Engineer. Page Engineering Consultants submitted a letter dated February 2, 2012, saying that it will comply

with the engineer's request to coordinate with the Police Department on construction traffic entering and exiting the site. The Board discussed possible locations for storing construction equipment and parking for construction workers. The applicant will discuss the parking issue with the Police Department.

The Board had no further questions of the witness. The meeting was opened to the public to question the witness.

Jinping Shi, 37 Oakwood Drive, asked if the plan is binding to future developers or if the builder could change the plans. Ms. Mueller replied that the builder has to comply with the zoning requirements and is limited to how much it can disturb because of the steep slopes. However, the builder could request variances. Mr. Shi asked if a builder could dig or blast to get a deep basement and, if so, what will happen to the dirt. Ms. Mueller stated that any excess dirt will be removed from the site. Mr. Shi asked if the subdivision plan as shown is irrelevant to the actual building on the site. Ms. Mueller responded that when the "real" houses are proposed, there will be a grading review of the plans to determine compliance with the ordinances. The developer is constrained by steep slope requirements and the side-yard setbacks that are not changeable. Chairman Lesnewich added that the design of the house can change but the developer must use the existing driveway and the new driveway; the plateau/steep slopes on the property limit the locations of the houses; and, the size of the houses have to be in compliance with Floor Area Ratio (FAR) requirements. Mr. Pantel stated that the site is highly constrained because of the steep slopes and drainage.

Kathy Weijer, 34 Walnut Street, stated that the constraints can't be measured until after building starts adding that the tree protection is no guarantee that the trees will survive and there's no way of saying the drainage will work until after the fact. Ms. Mueller replied that the dry wells will collect more water than what is collected today and will be a clear improvement. Chairman Lesnewich stated that any problems such as additional water on her lot will have to be rectified. Ms. Weijer said that she's not as concerned about the roof water as she is about the springs underneath. Ms. Mueller stated that there will be less water. Chairman Lesnewich added that the applicant can't bring in fill since the height of the homes is measured from the existing grade. Ms. Weijer expressed concern that Mr. Hipolit, who prepared the report and is familiar with the previous subdivision plan in 2004, was not present. Mr. Hermann stated that he prepared the initial review of the application and is familiar with it. He and Mr. Hippolit reviewed the revised plan and it's much different from the 2004 application. Mr. Lynch said the applicant in 2004 tried to salvage the existing house and add another one and there was an issue with the location of the driveway: This is a completely different application.

Bill Weijer, 34 Walnut Street, asked where the retaining walls will be built and if blasting will be required. Ms. Mueller responded that the retaining walls will be on both sides of the driveway of lot 11.02 to protect the steep slopes and the trees. The applicant did three soil tests and the back hoe got down eight feet. The back hoe was able to break up the rock. Mr.

Weijer commented that once the ground is disturbed there will be more water and that it's a known fact that the area is all rock. He added that it's hard to believe that the back hoe got down eight feet.

Paul Ferrigno, 45 Oakwood Drive, stated that Mr. Page's testimony at the last hearing said the property does not have steep slopes and that Ms. Mueller just testified about the 15% grade on the driveways and the need for the retaining walls to manage the grade and asked if the property has steep slopes or not. Ms. Mueller replied that the gray area is the steep slope categories of 15% or more. The property has flat areas in the front and on the top. The slopes are around the edge of the property and they are 15% or greater. The need for the retaining walls along the driveway is to provide access to the flat areas at the top of the property. The rest of the property remains as is. Ms. Mueller answered Mr. Ferrigno's question about the grade of the driveway stating that grade is the maximum permitted. The existing driveway is steeper and has some steep slopes. It is being regraded to meet the ordinance. Chairman Lesnewich added that there were no grading requirements when the existing house was built.

Christa Miller, 11 Oakwood Drive, stated that her concerns have been addressed but asked who will oversee the construction if there are problems. She does not believe the catch basin on Oakwood will suffice with two more houses. Ms. Mueller responded that it is not an acceptable design to discharge the dry well to the east and that it has to discharge to the open drive. Ms. Mueller replied that there will be less water traversing over the land because of the dry wells for the roof leaders so there will less water going into the storm sewer than now. Ms. Miller asked about blasting. Ms. Mueller stated that in two of the three soil tests, the back hoe went down eight feet and that the existing home has a basement. The back hoe used was a small machine and the rock was ripped. Ms. Miller said that the basement in the house is only 4.5 feet and all of the other homes had to blast. In addition, the church didn't move forward with its project for a parking garage because it couldn't afford to blast. Mr. Lynch said that the need for blasting depends on the type of rock and that the rock in New Providence generally breaks into layers. The developer could run into big boulders and opt to build around them rather than blast. Ms. Miller asked if someone will oversee the tree protection given that other construction on Oakwood Drive has destroyed the trees. She also asked why the Board should agree to this when the owner didn't maintain the property and who decides what happens with the restricting deed. Chairman Lesnewich responded that the Planning Board is only looking at the subdivision plan with a five-inch variance for one of the lots. Mr. Pantel responded that he believes Jim Weber is handling the restrictive deed. Chairman Lesnewich recommended a condition to require that the sump pumps and footing drains of the houses be connected to the dry wells.

Beverly Sharpe, 32 Oakwood Drive, asked if the Planning Board looks at the soil testing since there is an oil tank in the house or if DEP tests the soil; who oversees the blasting if it is necessary; and, who she should call if she sees the bull dozers knocking down trees since so many trees have been removed on the other building sites on Oakwood Drive. Chairman

Lesnewich responded that all the trees that are staying on the site will be fenced. In addition, the developer has to submit plans to the Building Department for review and must conform to the ordinances and zoning. The Building and Engineering Departments also oversee the construction. Mr. Henn added that the builder is bound by the conditions in the resolution. Mr. Janota suggested that the applicant be required to mark all trees to be saved. Mr. Pantel said the applicant would agree to this request. Mr. Lynch stated that the soil must be tested if the oil tank is leaking. Ms. Sharpe asked if the public could see the Borough Engineer's and Planner's reports. Copies were circulated to the audience.

Adam Olszowy, 26 Walnut Street, asked how many trees will be removed. Ms. Mueller responded that the applicant has not yet compiled a full list of trees on the site. The trees in the construction area will be removed. The trees to be removed will be cleared and stumped or the stump will be removed. Mr. Olszowy asked about drainage during the construction, how far below grade the houses will be and what the FAR for the houses will be. Ms. Mueller replied that silt fence will be constructed to stabilize the soil. The driveway will also be removed and planted with grass so the ground will be more permeable. Ms. Mueller added that the ceiling height and architecture of the homes will determine how far below grade the homes will be but estimated eight feet plus footings and slab. Ms. Mueller stated that the FAR requirement is .225. The total living space is approximately 6,000 square feet for lot 11.01 and 7,000 square feet for lot 11.02.

Mr. Shi asked what happens if there is flooding and there is no electricity and the sump pumps stop working. Ms. Mueller replied that all the utilities will be underground so the houses shouldn't lose service and that homes with sump pumps usually have a back-up system. The dry wells work by gravity and not by sump.

Mr. Robertson asked about the location of the church and the other homes that required blasting that Ms. Miller referenced. Mr. Lynch said the church is a half mile away and wanted to put in a two-story underground parking lot. The church did minimal testing and thought the excavation could be done cheaply. The contractor for the house on the other side of Oakwood hit bedrock. The contractor got to the elevation for the footings but the architect changed the design so it's a lot lower elevation. Mr. Robertson asked about the tree clearing on the other lots. Mr. Lynch replied that these were knock-down/re-builds and there are no restrictions on the tree removals. If a tree is in the way or if it will be hazardous to the home, it can be removed. Mr. Lynch added that a contractor may come back when construction starts for a permit to remove a tree if it is dead. The condition of the tree is confirmed by a tree expert.

Ms. Geoffroy asked if the buildings and site are inspected during construction. Mr. Lynch responded that there's a process for inspections and the engineer monitors the site during construction.

There were no further questions from the public for Ms. Mueller.

Michael Tobia, community planning consultant, was sworn in and accepted as an expert witness in professional planning. Mr. Tobia testified that the revised plan for two lots is a compliant subdivision plan for the R-2 zone. Lot 11.01 is 47% larger than the minimum lot requirement and lot 11.02 is 72% larger. The lots meet setback requirements and the side yard setbacks are wider on the outside of the lots bordering Mr. Shi and Ms. Miller. Coverage and FAR requirements will be met. Mr. Lynch can deny permits for the houses if they don't conform, and the developer can then request a variance. Both lots exceed the minimum lot width at right of way with lot 11.01 at 136.50 feet and lot 11.02 at 103.28 feet. Lot 11.01 meets the lot width at setback. Lot 11.02 is five inches or 4/10ths of 1% shy of the lot width at setback. The layout has no steep slope disturbances.

Mr. Tobia testified that he must provide positive and negative proofs for the variance for the lot width at setback for lot 11.02. Mr. Tobia referenced Exhibit A-1, a colored drawing of the neighborhood, showing the non-conforming lots in the neighborhood. The lots to the right and left of the property are non-conforming lots under 120 feet wide at setback. Mr. Tobia stated that the applicant can't buy the space needed to conform from its neighbors because they don't have it. There are lots on the other side of Oakwood Drive with lot widths of less than 100 feet. Mr. Tobia believes that lot 11.02 fits in the neighborhood given the other non-conforming lots. The lot is 140 feet wide where the steep slopes are providing "protection" for the neighbors and meets the intent for a variance from the ordinance. Mr. Tobia continued that a variance for five inches cannot be considered a substantial detriment to zoning and that it is a "microscopic" detriment. Tree protection as a condition in the resolution is appropriate to protect the public. The storm water management system improves the run-off which is good for the neighborhood. The existing house is big with a large driveway. Development on mostly previously disturbed property is smart land planning as is leaving the driveway where the existing one is. Mr. Tobia concluded stating the variance is easily justified.

The Board questioned the witness. Mr. Henn asked if it isn't a substantial impairment that the matter of five inches can create two homes. Mr. Tobia responded that the issue is whether the variance is an impairment: The ordinance already allows the building of homes on 18,000 square foot lots. Two homes easily fit on the property and the ordinance permits this. Mr. Pantel added that five inches is imperceptible and will not have a visible impact: The question is whether the five inches has a substantial detrimental impact to the zoning ordinance. Mayor Henn stated that the lots will still appear wider and larger than the surrounding lots. Chairman Lesnewich believes that it is a benefit that one lot gets larger and the other gets smaller but asked if this were a detriment. Mr. Tobia responded that the plan is a nice layout and gets rid of having one house behind the other as originally proposed. The benefit of the layout is that lot 11.02 has an easterly side yard that's open and the opposite is true for lot 11.01 where the westerly side is open. The plan is designed to honor the slopes, trees and side yards on the sides of the property facing Mr. Shi and Mrs. Miller.

Chairman Lesnewich is concerned about compliance with what is shown on the plan and how to address this. Mr. Tobia responded that lot 11.02 has a rear-yard setback of 50 feet and it is unlikely that the house would be moved back. It is more likely to be moved forward to get a bigger back yard. He suggested that maintaining the 50-foot setback could be a condition of the resolution. The grading also limits the movement east. Mr. Tobia does not see a builder applying for variance. Mr. Lynch recommended that a condition for the 50-foot setback be measured to the principal dwelling so a deck could be added.

Ms. Geoffroy asked about the traffic from the intersection at Mountain Avenue. Mr. Tobia referred to Exhibit A-1. The new houses will have curb cuts for the driveways but all the houses in the neighborhood have these. The site triangles and site lines are clear. The location of the driveways comply with the ordinances and are greater than required. Ms. Geoffroy asked about the safety of the driveway for lot 11.02 since cars coming off Mountain Avenue tend to accelerate. Ms. Mueller responded that there is some grading to the left but site line goes 250 feet to the intersection (Drawing No. 6 of the site plan) to the left and 250 feet to the right. There is an adequate site triangle.

Mr. Robertson asked if it would be appropriate to create a conservation easement at the back of the lots to preserve the trees after the subdivision. Mr. Pantel believes the tree removal ordinance covers the preservation of the trees adding that a conservation easement cuts both ways and can compromise the owner's property rights. He believes a conservation easement would be a little too restrictive. In addition, he believes most owners would keep the trees.

The Board asked about the square footage of the houses in the neighborhood. Mr. Tobia did not do an analysis. The Board pointed out that the FAR requirement on the plans is incorrect and that FAR decreases as the lot size increases. The FAR for a 26,000 square-foot lot is .189 not .225. The Board did a calculation of the FAR. The house on lot 11.01 can be 5,020 square feet including the garage and 5,161 square feet for lot 11.02 also including the garage representing 4,000 square feet of living space if the houses have two-car garages. The applicant will correct the FAR on the site plan. Mr. Robertson asked if there is a limit to the size of the homes that is appropriate. Mr. Tobia said there is a rational nexus but he does not think a nexus can be made here. He does not advise capping the size for a house.

The Board had no further questions of the witness. The meeting was opened to the public for questions of Mr. Tobia.

Ms. Weijer asked if the back yard will be half the size of what it is now and if the Board has to accept the subdivision because it is possible. Mr. Tobia responded that there is a substantial difference between one house and two houses. The Borough has zoning ordinances and the requirements change zone by zone. The requirements listed in the first column of the zoning table on the subdivision plan are appropriate for this zone. The fact that the existing house is bigger than the newer houses is not a substantial detriment to what the zone permits for rear-yard setback. Mr. Tobia added that the Board has to focus only on

the variance and decide if the variance request represents a substantial detriment or deviation to the zoning ordinance. Ms. Weijer stated that two substantial homes will have a major impact on her because her house will be much closer to the new houses than to the existing house. Mr. Pantel responded that the Board does not have the discretion to deny what's better for the town: It cannot deny the subdivision if it complies and the ordinance permits two houses to be built subject to the approval of the variance. Mr. Pantel submits that the variance does not represent a substantial detriment to the zoning ordinance.

Ms. Weijer asked about the safety of the site. The applicant responded that it will comply with item #22 in the Borough Engineer's report dated February 2, 2012, and will submit the plans to the Police Department for review and address any comments from the Police Department. The applicant agreed to work with the Police Department to provide safe access and egress during the construction phase.

Beverly Sharpe, 32 Oakwood Drive, asked if the Board is making two decisions: One for the subdivision and one for the variance. Mr. Pantel responded that there is one vote on the subdivision with conditional restrictions for the variance. Ms. Sharpe asked about the suitability of the proposed lots as mentioned on page 3 of the Borough Planner's report (Section V.B) about the rock formations, etc. She is not concerned about the five-inch variance but the whole site. Mr. Janota responded that the testimony of the applicant's engineer and planner indicate that there are no limitations to the development of the site. Mr. Janota added that the developer may encounter conditions as Mr. Lynch stated earlier that could require blasting. Mr. Lynch stated that blasting is often a financial decision: The developer can get a blasting permit but no blasting permits have been issued in New Providence in the last 12 years. Mr. Hermann has no concerns with blasting because it is covered by state requirements. He also added that it may be too costly to blast. Mr. Lynch stated that contractors often go into surrounding homes and photograph before blasting or pounding to record conditions for comparison purposes. Ms. Sharpe stated that this application is colored by what has happened with the new homes down the street. She stated that the existing house on the site is hazardous but she wants the Borough to protect the neighborhood. Mayor Hern responded that Ms. Sharpe should contact the Borough if she sees anything that concerns her. Mr. Janota added that the county's Soil Conservation District is also a resource if she has concerns.

Patty Aprill, 103 Oakwood Drive, lives next to the new house on Oakwood and has had many issues with the drainage and trees and stated that it took over a week for the Borough to respond to her. She added that there is already a traffic problem and a safety issue with the children in the area. The subdivision is a material change. Chairman Lesnewich responded that the applicant will work with the Police Department during the construction phase.

There were no further questions from the public for Mr. Tobia.

Ms Geoffroy asked about the soil testing. Ms. Mueller said three soil testing sites were dug last week with two in the front and one in the back. The site in the front to the right of the lot is shallow; the site in the front to the left is deeper; and, the site in the back was able to break rock. The sites were filled with water today to see how long it takes for the water to percolate. The sites have 36 hours to drain. When Ms. Mueller checked the sites today at 6 p.m. the water had decreased by 6 inches, 24 inches and 16 inches at the test sites.

The meeting was opened to comments from the public.

Louis Conlin, 53 Oakwood Drive, stated that the applicant is taking a one-acre lot and splitting it into two lots with bigger homes than are on neighboring properties. These proposed lots will have bigger homes on smaller properties than others in the neighborhood. He asked why the applicant doesn't keep one lot with one house. Mr. Conlin does not believe that 5,000 square-foot buildings on less than an acre are reasonable and that the applicant didn't compare the size of the proposed houses with what's in the neighborhood. Mr. Conlin said that if he were on the Board, he would say that proposed homes deviate from the neighborhood. Mr. Conlin commented that he could buy up the lots around him and put in several houses and asked where the development stops. Chairman Lesnewich responded that Mr. Conlin would only be able to put up houses that meet the zoning requirements.

Kathy Weijer, 34 Walnut Street, stated that the character of the neighborhood is the issue. She will look up the hill at two houses instead of one. The usable property has a smaller footprint. She added that two houses weren't built in 1925 because they couldn't be built. There will be water with the new houses.

Paul Ferrigno, 45 Oakwood Drive, stated that the current house is an eyesore but he wants something that is in keeping with the neighborhood. He believes the applicant's strategy of presenting three lots and then coming back for two is disingenuous. He believes that it was applicant's intent to present three lots first so the neighbors would be happy when it came back with two lots. Mr. Ferrigno is against the subdivision and the variance.

Jinping Shi, 37 Oakwood Drive, stated that the owner never maintained the property and now wants to subdivide it to get more money. His house is 40 yards away from the existing house and now his house will be closer. Mr. Shi paid a premium to have this side yard and now this is being taken away from him which he considers stealing.

Mike Verbaro, 44 Walnut Street, bought his house in 1998. He wants the Planning Board to consider ways to protect the neighborhood in terms of trees and drainage. He paid a premium for a deep lot and he doesn't want to lose this. He would like the Planning Board to maintain this.

There were no further comments from the public.

The Planning Board discussed the application. The Board discussed the steps required for protecting the trees including identification of those to be removed and those that will remain in advance of any construction, installation of the silt fence and coordinating traffic at the site. The Board also discussed the ingress and egress of construction equipment and parking for construction workers during construction. Mr. Henn is not sure if parking is restricted at the mouth of Oakwood Drive but parking is not restricted on Oakwood. Parking restrictions are enforced by the Police Department. Chairman Lesnewich suggested restricting parking in front of the property during construction. Mr. Henn does not want workers to park on the island on Oakwood and would like to restrict parking on Oakwood. Chairman Lesnewich suggested requiring that the driveway be removed and grass planted before construction begins to stabilize the site and prevent run off. Mr. Sartorius asked if removing the garage would provide enough parking for the workers.

Mayor Hern would like a condition in the resolution for the house to be razed within three months of approval and for the lot to be cleaned up. Mr. Pantel agreed to apply for a demolition permit within 90 days of approval of the resolution and to complete the demolition within 30 days of issuance of the permit. Mr. Pantel said that the soil will be stabilized concurrently with the application for the demolition permit.

Ms. Mueller said there will be a stock pile of top soil but not mounds of soil. The excess soil will be removed from the site. Ms. Mueller added that there is space to park in the back of the property. Part of the circular drive in the back could be maintained as a stabilized area for parking while the foundations are being dug. The Board discussed that there will be more workers on the site after the foundations are dug. Ms. Mueller discussed phasing the construction to accommodate parking needs.

Mr. Robertson summarized the conditions for the resolution. Mr. Treventi moved the approval of the minor subdivision with the variance for lot width at setback subject to the following conditions:

- The plan will be revised to show the relocation of the dry wells to the front of lot 11.02, the front, the conduit outlet protector and the correct FAR requirement.
- The applicant will provide a tree protection plan showing those trees that are to be removed and those that will stay and will fence the trees and provide a root buffer of wood chips for trafficked areas before construction begins.
- The applicant will comply with technical comments of the Borough Engineer's letter of February 2, 2012, as addressed in Page Engineering Consultants' letter of February 6, 2012.
- The applicant will submit the plans to the Police Department for review to address the Borough Engineer's concern about the driveway entrance locations as related

to site distance issues with the Oakwood Drive and Mountain Avenue intersection, and the applicant will address the issue of construction traffic entering and exiting the two lots as per the Borough Engineer's letter of February 2, 2012.

- The footer drains and sump pumps will be connected to the dry wells.
- The narrower side-yard setbacks will be on the interiors of the properties.
- Blasting, if any, will comply with state requirements.
- The rear-yard setback for lot 11.02 will be 50 feet to the principal structure.
- The applicant will apply for a demolition permit within 90 days of approval of the resolution and will complete the demolition within 30 days of receipt of the demolition permit.

Mr. Keane seconded the motion. Voting in favor: Mr. Galluccio, Mr. Henn, Mayor Hern, Mr. Keane, Mr. Sartorius, Mr. Treventi and Chairman Lesnewich.

G. OTHER BUSINESS

No other business.

H. MISCELLANEOUS

No miscellaneous business.

I. EXECUTIVE SESSION

No Executive Session.

J. MINUTES

Approval of the minutes of January 17, 2012, will be carried to February 14, 2012.

K. ADJOURNMENT

Mayor Hern moved and Mr. Henn seconded the motion to adjourn. The meeting was adjourned at 11.40 p.m.

Respectfully submitted,
Margaret Koontz

Planning Board Secretary