

ROBBINSVILLE TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING
ROBBINSVILLE TOWNSHIP, MERCER COUNTY, NJ
THURSDAY, MAY 5, 2011 7:30 P.M
MINUTES

Present: Chairman Kreig, Mr. Caputo, Mr. Shennard, Mr. Kirkpatrick (arrived at 7:38 p.m.),
Mr. Patel

Absent: Mr. Gibeault, Mr. Siekerka, Ms. Rogers

Also Present: Mr. Herbert, Esq., Board Attorney; Mr. McGough, Township Engineer; Ms.
Post, Board Secretary

Roll Call: Mr. Kreig called the meeting to order and the Pledge of Allegiance was read.

Post, Board Secretary

Roll call for the above Board members was called and the Flag Salute took place.

Chairman Kreig read the following sunshine statement: "Adequate notice of this meeting has been provided as required under Chapter 231 P.L. 1975 specifying the time and place with such notice being sent to the *Times of Trenton*, *Trentonian* and the *Messenger Press* and posted on the Municipal Building Public Notice Meeting Bulletin Board."

CORRESPONDENCE

Chairman Kreig asked Ms. Post if there was any correspondence. Ms. Post said there was no new correspondence, but the Board did have a new Board member, Michael Caputo, who she welcomed to the Board. The Board welcomed Mr. Caputo.

PUBLIC COMMENT

Chairman Kreig opened the meeting to the public for matters not relating to the application this evening. No one from the public came forward to comment. Therefore, the public portion was closed.

Chairman Kreig asked for a motion to adopt the resolution. A motion was made by Mr. Shennard and seconded by Mr. Patel. Eligible to vote who is present: Mr. Shennard, Mr. Patel and Chairman Kreig.

ROLL CALL:

AYES: Shennard, Patel, Kreig

NAYS: None

ABSTAINS: None

There being three (3) affirmative votes, the resolution was adopted with the modification mentioned by Mr. Herbert.

**Application ZB10-04-02 – Rita and Frank Pintimalli
Block 8, Lots 3 and 4; 42 Robbinsville-Edinburg Road
Zoning: R1.5 (Cluster)**

Request for Amendments to Previously Approved Resolution ZB2010-07 – Public Hearing

The applicants are requesting to make three amendments to previously approved Resolution ZB2010-07, which granted approval of a final major subdivision for the creation of nine new residential lots and a mixed-use lot for the existing “Country Gardens” farm market.

Chairman Kreig asked Mr. Herbert if the Board had jurisdiction.

Mr. Herbert responded that he had reviewed the notice of publication produced by the applicants' attorney Donald Driscoll and found that the Board has jurisdiction.

they are asking that construction vehicles enter and exit off the roadway known as Anderson Lane to Kyle Lane that goes into the roadway area where the new houses are to be developed.

Mr. Coates asked Mr. Pintimalli what his relationship was to this development. Mr. Pintimalli testified that it is his father's property and he is building the houses. Mr. Coates asked Mr. Pintimalli if he has experience with this property because the construction has begun. Mr. Pintimalli answered yes. Mr. Coates asked what has been done to date to the property. Mr. Pintimalli responded that three houses are currently under way. Two of the houses have foundations and one house is already framed and probably ready to get a CO in 1½ - 2 months. The roadway is done except for the final black top. The improvements are done. Mr. Coates asked what was the reason for the request to route construction vehicles through the public roadway. Mr. Pintimalli answered that it is very difficult to try and build any houses especially on the opposite side of the road without using the current road structure to go to the job site. To go through Country Gardens, it is a long path that is dirt and mud. To obtain access to where the houses are located is very difficult.

Mr. Coates asked Mr. Pintimalli what kind of trucks he would be using. Mr. Pintimalli said it would be subcontractors using pickup trucks and trucks delivering lumber and concrete. Mr. Coates asked what would be the better way to get into the site. Mr. Pintimalli said the better way to get into the site would be off Anderson Lane. He is keeping dirt off Anderson Lane and there hasn't been any problem with dirt and mud on the street at this point. He tries to clean up at least twice a week.

Mr. Pintimalli presented the Preliminary and Final Major Subdivision Map.

Mr. Herbert reviewed the resolution of approval for the subdivision. On page 6, number 18r, it says "All construction vehicles will enter and exit the site through Country Gardens and not through the nearby development". If the Board backtracks to Condition A on pages 5 and 6, it says "The basin will be fully fenced". Those are the two issues.

Chairman Kreig asked Mr. Coates if he wanted to go through both issues first, and then have the Board ask questions or do it one by one? His preference would be to have Mr. Coates put on the testimony as to both requests, and then have the Board ask questions.

Mr. Herbert mentioned that a new Board member is present tonight and for everyone to just remember this application was in front of the Board as a subdivision approval for the construction of nine new residential lots back on May 25, 2010. The reason it was before the Board was because Country Gardens is a use that is not allowed in that zone. The applicant needed a use variance for it to continue and the housing is allowed because it's a residential zone. It's in front of this Board because it's a subdivision with a non conforming use and these were the conditions placed as part of the subdivision approval.

Mr. Kirkpatrick recalled that the non conformance was actually approved by the Council and not through the Zoning Board. Mr. Herbert said that is correct and also under the Right-to-Farm Act as well.

Mr. Herbert asked the date of the subdivision plan. Mr. Coates said it was dated March 24, 2005. Mr. Herbert said the subdivision plan would be entered into evidence as A-1. Mr. Herbert saw another sheet and asked Mr. Coates if there was something else he was going to show the Board. Mr. Coates said no and that it was just for the purpose of illustration to show the roadways he is referencing. He pointed out the location of the berm.

Mr. Pintimalli indicated Anderson Lane and the existing development; the newly constructed Kyle Lane; and Country Gardens. The infrastructure built is the detention basin, storm drain system, sewer lines and roadway curbing. They entered through Country Gardens to build the infrastructure. There is also a landscape berm built, which was a requirement. He noted that on the plan it is circled and there is a note on the berm. He pointed out where the three houses were being constructed, Lots 2, 4 and 8. The problem is access to these houses with lumber delivery and everything else. It is very difficult to get there especially if it rains because of the mud. The trucks will be sinking and it just causes a major problem for the construction.

Mr. McGough met with Mr. Pintimalli out in the field. Mr. Pintimalli told him that certain companies like the utility company would refuse to go through there to the site because the trucks could get stuck.

Mr. Coates said that Public Service would not even do the work until the roadway was paved because they have to use the paved roadway to get to the site.

Chairman Kreig said that in the interest of expediting this he would rather hear the application with respect to the fencing at the same time whether through Joe or Frank Pintimalli.

Mr. Coates asked Mr. Pintimalli to point out the area of the detention basin on Exhibit A-1. Mr. Pintimalli indicated on the plan the whole basin area at the end of the cul-de-sac. Mr. Coates said that Mr. Pintimalli is asking not to build a fence as required by the previous resolution. Mr. Pintimalli stated that right now it is proposed to be a split rail fence with the wire mesh surrounding the whole basin area. Appearance wise the basin looks very nice now and to have a fence along the whole basin would not look good. There have not been any complaints about the fence not being installed from the neighbors.

Mr. Shennard asked about the purpose of the fence. Mr. Pintimalli answered that the engineer had put it on the plan. He thinks he is correct that it is not mandatory to have the fence around the basin. It is just something that he had put on the initial subdivision plan. They felt that it would be better not to have to look at the fence around the basin.

Mr. Kirkpatrick said that it was a condition of approval so it means that it was added to your plans. Mr. Herbert said that is correct.

Mr. Coates understood that it was not a required fence. Mr. Herbert said it was a requirement of the original professional reports. There was testimony that it was wanted at that time. Mr. Coates said that it is not required by statute or regulation.

Mr. Kirkpatrick stated that a Board member asked why the fence was put there and Mr. Pintimalli testified that it was just something on the drawing. Since it was listed as a condition of approval, there was obviously a reason why. He can tell you what he remembers, but he wanted to hear what Mr. Pintimalli has to say.

Mr. Shennard recalled the reason for the fence was for child safety (to keep the children from entering the basin). In winter time, the basin holds water and it would keep children from falling through the ice. Looking at the request that says the basin won't be retaining much water as far as depth, how much water will the basin retain? Mr. Pintimalli thinks that it will be a couple of feet. Mr. Shennard asked if it was designed as a wet or dry basin. Mr. Kirkpatrick said it is supposed to be a wet basin, which is why the Board requested the fence. He remembered having this discussion numerous times with new developments. When the new regulations from DEP came up as retention basins as opposed to dry basins, which past developments had, the fence was requested for the purpose of deterring a child from going into the basin.

Mr. Coates understood from speaking with the engineers that the fence has been required.

Mr. Patel asked what the hardship is. Mr. Coates responded that the fence is unsightly, and it was felt that it was not needed, which is why it is before the Board. It is part of the resolution, but at this stage it is not necessary.

Chairman Kreig said to Mr. Coates that his client wishes to confer with him.

Mr. Herbert stated that for purposes of the record he believes there is some type of negotiation occurring.

Chairman Kreig asked Mr. Coates if he would like a five minute recess to confer with his client. Mr. Coates said he would like to do that.

(Recess at 8:00 p.m. and reconvened at 8:05 p.m.)

Mr. Coates stated that after consulting with his client, they are withdrawing their request about the fence. Their request now comes down to allowing the construction vehicles to enter through the public roadway.

Chairman Kreig asked Mr. McGough if he had any comments or concerns he wished to share with the Board. Mr. McGough answered that it was his understanding from talking to the applicant in the field that it would be impossible to construct this under these conditions because PSE&G and others would not travel unless they were on a road. He can not speak to the intent of the Board at the time, but he thinks that it was more so for the infrastructure in the beginning and all that is constructed. Therefore, engineering would not have a problem with the Board looking favorably upon request number one.

Chairman Kreig stated that he had some questions for Joseph Pintimalli just to clarify a couple of things. He thought that Mr. Pintimalli had said that it was his understanding that the existing approval would prohibit the applicant from using any portion of Kyle Lane

during the construction, and that all the construction vehicles and personnel would have to stay off Kyle Lane. Is that an accurate statement? Mr. Pintimalli said yes.

Chairman Krieg said that it was inconsistent with his understanding as to what was done, which was essentially to preclude the applicant from using Anderson Lane. The notion at the time was to prevent the roadway of Anderson Lane from being used for construction vehicles, which would result in dirt and debris. He wanted to clarify that it is his understanding that Kyle Lane itself can be used in connection with the construction. Mr. Pintimalli said yes, that coming off Anderson Lane to get to Kyle Lane was the issue.

Chairman Kreig stated with that clarification, he would like to open the meeting to the public. A motion was made by Mr. Shennard and seconded by Mr. Caputo to open the meeting to the public. All in favor. Chairman Kreig stated that the meeting is now open to the public. If there is any member of the public who wishes to come forward at this time and testify either for or against this application, now is your opportunity.

Steven Kopec, 50 Robbinsville-Edinburg Road, Block 8, Lot 53, stepped forward to address the Board. Mr. Kopec asked if there are any variances. Mr. Herbert stated that there are no variances before the Board. The only issue is the entry way. Mr. Kopec said that the certified letter stated there may be some variances. Mr. Herbert answered that is a "catch all" language that lawyers use in case they miss something. Mr. Kopec is representing his father and he just wanted to know if there were any variances as far as this property. Mr. Herbert answered there was a use variance and some minor bulk variances that were granted by the Board about a 1½ years ago. Mr. Kopec asked what a bulk variance is. Mr. Herbert cited for example that you can't have a house less than 20 feet off a road and here you have 19 feet off the road. Mr. Kopec asked if a bulk variance included how far a house is off the property line. Mr. Herbert said yes. Mr. Kopec asked what the bulk variance is for one lot. Mr. Herbert reiterated that there is nothing before the Board regarding bulk variances tonight. Mr. Kopec understood that whatever is on the plan is the plan right now. The house itself is 70 feet off the road. Mr. Herbert said this is not a house project before the Board. The only matter before the Board is whether they access the entrance way through the subdivision or through the front of Country Gardens for construction.

Since Chairman Kreig did not see anyone else from the public coming forward, he asked for a motion to close the public session. A motion was made by Mr. Shennard and seconded by Mr. Caputo to close the public session. All in favor.

Chairman Kreig asked for Board comments, concerns or questions.

Mr. Kirkpatrick asked to see the exhibit. He asked if the fill was delivered and complete. Mr. Pintimalli answered that all the dirt is on the site. Mr. Kirkpatrick asked about the gravel and if anything else is required for grading. Mr. Pintimalli said nothing is required for grading, but solely for individual houses. All the infrastructure for the worksite is completed and the berm is in place. All that is left for the subdivision is the landscaping.

Mr. Shennard asked if he stockpiled soil on the property somewhere for the houses. Mr. Pintimalli said that every lot has soil piled for grading at the end.

Mr. Kirkpatrick asked if the real reason Mr. Pintimalli can't use the trucks anymore to go through the back is because the berm was built. He assumed that they are driving into the farm with heavy vehicles with trees and things like that. Mr. Pintimalli said that it is mostly in this area which is stone and gravel and black top. Mr. Kirkpatrick asked if the stone and gravel could be extended to get the trucks back there. Mr. Pintimalli assumed that yes he could get it back there, but right now the stone and gravel stops about here (pointed to plan). This berm has already been constructed and within a couple of weeks they will be ready to start planting the trees on it. It is very difficult to get from point A to point B.

Mr. Kirkpatrick asked if all those homes were noticed. Mr. Pintimalli said yes.

Mr. Patel asked normally how long this project will last. Mr. Pintimalli thinks it will be complete in 1½ years. It really depends upon on how the houses will sell. They have four houses underway and there are four houses left.

Mr. Shennard asked Mr. Herbert if it would be out of the ordinary to ask that a performance

to be pulled out. The counter to that is that a construction road can be built if you knock out a 12 foot wide breach in the berm. Gravel, stone or rocks could be put down and then the vehicles could drive across the stone to Kyle Lane until the last house is built, and then basically you pick up the road. His recollection of the Board's original approval was that they were seeking to avoid the concerns of the neighbors' complaints about both noise and dirt along Anderson Lane. Because the traffic has not started yet on Anderson Lane because the approval has not been given, no one is complaining because the problem has not occurred yet. One would expect neighbors to turn out after they were awakened on Saturday morning with the truck traffic or if there were mud and dirt on Anderson Lane. To the applicant's credit, Mr. Pintimalli has proffered a responsibility of policing Anderson Lane either through a street sweeper or some other mechanism to try to keep the roadway clean and free of mud and dirt. With respect to the vehicles, there are pros and cons that this Board needs to consider. As to the fence, Mr. Kirkpatrick said correctly that in by gone days, when there were dry basins, there was no value or need for a fence because for the most part you were looking at a detention basin that was just a depressed grassy field. Now that the basin contains water, there is more of a risk with a child falling into the basin. A split rail fence by itself in his opinion is no deterrence to anyone especially a small child.

Mr. Pintimalli said another subdivision that he did had a split rail fence with wire mesh.

Chairman Kreig noted that number 2 and 3 requests have been withdrawn. The only question to the Board is the construction vehicles coming in and out of Anderson Lane.

Mr. Patel asked the number of houses. Chairman Kreig answered nine house. Mr. Patel said that for foundation that is nine times the trucks will come in. Mr. Pintimalli stated it is only five more houses since three already exist (There is an existing home on the Country Garden lot). Mr. Patel reflected that heavy duty trucks will not come in that often, but small trucks come in every day.

Mr. Kirkpatrick said when he looked at this and heard the original testimony there were a number of residents from Anderson Lane, who had concerns with construction happening behind their homes. Those residents did not expect to have houses built because of the condition of the property. When it was approved, a lot of conditions were imposed to try to protect the public interests because of this change. If you thought you had a problem putting the trucks through the back, then you should have put down a roadway and should not have put the berm up. That was the condition of your approval. If you look back on other approvals, the applications are different. This application stood on its own because of its position and that is what was voted on. With that being said, if everyone was noticed that they are going to have truck traffic on Anderson Lane and no one chose to show up or not to speak in public that says something. When they initially were going to do this a year ago, there were a number of people from the public to speak about their concerns.

Mr. Shennard agreed. It was part of their condition and they acknowledged they were not going to do that. There were a lot of public members present at that time who expressed their concern. The public has been noticed and are aware what the request is. The infrastructure is built. He thinks that it is a reasonable request from the applicant. He asked that the Board consider since they are talking about a different entrance for the

development using the roadway, that signage be placed saying no construction vehicles beyond this point at Kyle or Anderson Lanes. He does not see a particular problem since there are no members from the public saying no. No one seems interested at this point.

Mr. Patel agreed with Mr. Shennard.

Mr. Caputo said that if the public did not show up after being noticed, then it should not be an issue. He asked if the bond is still on the table or if that is a separate issue.

Mr. Herbert stated that whoever makes the motion to approve, can place conditions as part of that motion. If you choose to make a motion to approve, you can include a performance bond for cleaning and maintenance of the road as well as for the signage referenced earlier.

Mr. Shennard said as far as the performance bond, he will leave that to the professionals. Mr. Herbert said that it would be calculated by the professionals. Mr. Shennard asked if the performance bond is required or is this more of a policing by our Township to make sure that it is done. What would be the proper procedure for putting something in there? He does not want to place more burden on the applicant. Mr. Herbert stated it would be a performance bond calculated by Mr. McGough and his office. It would be up to his office to keep an eye on things. If a sink hole occurred in the road, Mr. McGough would calculate the repair of that and subtract it from the performance bond. Mr. Kirkpatrick said the bond would be posted for some value and this way if the builder left and the condition of the road was not maintained, then they could draw down from that bond.

Mr. McGough stated that a performance bond is calculated on a certain percentage of the total construction cost estimate for the development. This is entirely different. He would need to come up with some methodology of calculating a cost for any potential repairs required on the road. He would not be in a position to come up with that number right here. His opinion is that it is not necessary.

Chairman Kreig offered his comments. In general he feels that the applicant should be granted the relief that he is seeking. Bringing the construction vehicles in through Country Gardens' entrance and the field is an unnecessary hassle and burden to the applicant. If we have a period of very wet weather, there is an issue of vehicles sinking into the ground. Building a construction road and picking it back up is an unnecessary expense, which he would not want to see the applicant have to incur. On the flip side, he thinks that they have to take into consideration the fact that because the applicant has not been using Anderson Lane, he doesn't think there is any member of the public who would show up because no one complains about something that has not happened yet. As part of this, if the Board is inclined to approve the application, he thinks there should be some mechanism to rethink this if and when the Township starts receiving complaints from the homeowners as to dirt, debris and noise on Anderson Lane. He thinks they can rely on the applicant and his construction manager to use their best efforts to keep Anderson Lane clean. He doesn't know if they should specify a street sweeper three times a week or whatever. His own sense is that a condition of approval be that the applicant use reasonable efforts to keep the street clean and do their best to keep the subcontractors from bringing diesel trucks at 5:30 a.m. on a Saturday morning. As far as the performance bond, he agrees with Mr.

McGough. The applicant is a local business. He thinks he could knock on Mr. Pintimalli's door if there was a problem that they were unable to resolve directly. He would recommend against requiring the applicant to post the performance bond. In his view, he would be inclined to grant the request of the applicant to allow the construction vehicles to use Anderson Lane on the conditions of (A) the applicant use reasonable efforts to keep Anderson Lane clean and keep the volume of noise down, and (B) the applicant agree to make or pay for any needed repairs should Anderson Lane be damaged during the course of the construction of the homes.

Mr. Kirkpatrick asked Chairman Kreig if he is recommending that the Board make a statement in the resolution that Mr. Pintimalli be responsible for any repairs or damage to Anderson Lane without the performance bond thus allowing not to pay the bank to hold on to a bond and not to create anymore undue hardship on a small builder. Chairman Kreig said that is correct. Mr. Kirkpatrick added they could even condition by saying the last house can not get a CO if the road is damaged. Chairman Kreig sees no purpose in requiring Mr. Pintimalli to go to a bank to get a bond and using Mr. McGough's time to try to figure out the appropriate amount for something that has not been damaged yet. The Pintimallis are our neighbors and he thinks that they will do the right thing should any damage occur on Anderson Lane. With that said, he asked for a motion for the applicant's number one request that the applicant be granted relief to allow construction vehicles to enter and exit off the road way know as Anderson Lane to Kyle Lane.

A motion was made by Mr. Kirkpatrick to approve the changes, specifically to eliminate the need for construction vehicles to have to go through Country Gardens and allowing the Pintimallis to take their construction vehicles through part of Anderson Lane to Kyle Lane with the condition that the last home built on the property will not be issued a CO until there is an evaluation of the roadway leading to that property and the conditions are relatively the same as when construction had began. Mr. Pintimalli is to take full responsibility to clean and repair Anderson Lane. Chairman Kreig added that Mr. Pintimalli will use reasonable effort to keep Anderson Lane free of dirt and debris as well as to keep the noise down, especially early in the morning with respect to the construction vehicles. Mr. Kirkpatrick accepted that change and added the condition to his motion. Chairman Kreig had one more condition to add. The applicant would have to return to the Board should the Township start receiving complaints from homeowners about noise, dirt and debris on Anderson Lane. Mr. Kirkpatrick said he would not accept that condition. Mr. Shennard asked Mr. Kirkpatrick to include in his motion the appropriate temporary signage until the completion of the construction of the houses at the intersection of Kyle and Anderson Lanes on the southeast side to not allow construction vehicles past the entrance of Kyle Lane in order to try to deter right hand movements coming from Kyle Lane or to make sure the trucks know where to turn so the trucks are not continuing down Anderson Lane and having to turn around in that cul-de-sac. Mr. Shennard seconded Mr. Kirkpatrick's motion.

ROLL CALL:

AYES: Kirkpatrick, Patel, Caputo, Shennard, Kreig

NAYS: None

ABSTAINS: None

There being five (5) affirmative votes, the application was approved.

The Board congratulated the applicant on his approval.

Discussion of Revising Agenda Format

Chairman Kreig had prepared a draft revised agenda format for the Board. The revised agenda format deals with certain thoughts that various members of the Board had proffered in the past. One was to include on the Board's agenda a legend at the bottom of the actual agenda sheet with some comments relative to issues that have come before the Board. Another proposal was to post a notice at the entrance to this room notifying the public of certain requests of the Board. The last thought was a notice to the public that would be read at appropriate occasions when the Board was meeting. The draft notice to the public is broken into two parts: the tape recorded portion and the public speaker portion. His thought being that in some cases they wanted to announce the tape recording portion and in other cases the public speaking portion, for example, on an application such as this, there is no point in reading a notice about public speakers because only one individual turned out tonight. He was not sure of the right approach as to whether they put some verbage at the bottom of their agenda or they post a notice on the door, or whether the Chairman reads something on appropriate occasions at the start of each meeting, or leave it the way it is currently. He asked for Board comments.

Mr. Shennard thinks it is a good idea to have it. Obviously if it is needed, it will be for our larger applications. He thinks that it is a good idea that they take it to their discretion or the Chairman's discretion at the time of the meeting with the application in front of them and looking at the number of public and going from there to see whether it is needed to be read at the beginning of the meeting. As far as posting it outside, no one is going to pay attention or see it. They do have the option of putting it on the table. If they put this into their procedure as a Board and adopt it as a procedure, the Chairman or Vice-Chairman will have the power to read it at the beginning of the meeting if they feel the meeting would need it. Most of our applications are minor so it is not really needed. For larger applications, they should have some standard to be able to fall back on and have in writing.

Mr. Kirkpatrick agreed with Mr. Shennard. The language is great and it is a good notice. For hearings like Seven Plus One type of meetings, they should make copies to have on the table with the agenda and it should be read. It should be left to the discretion of the Chairman or Vice-Chairman. The Board knows before they get to a meeting which ones are

Mr. Caputo asked if it was a written policy of the Board to limit the public's statements to five minutes or is this the first time they are saying that it will be five minutes. Mr. Herbert said this is new although a number of Boards have it as a policy. What they are doing tonight is making it a policy for meetings where the room is full of members of the public. Mr. Caputo heard that they don't have to read this statement at every meeting unless it is one of those full houses. Mr. Herbert said it is part of the policy. You can create a whole separate Board policy if you want, but right now it comes under that general umbrella.

Chairman Kreig's view is five minutes is arbitrary. It could be seven or ten minutes. There is no magic number to it. His thinking is that it gives them a starting point and the way this is worded is if somebody wants more time, his view would be to grant them a reasonable amount of time. If they asked for ten minutes, he would be inclined to grant it. If they

amount of time. If they asked for ten minutes, he would be inclined to grant it. If they asked for an hour, he would say no. In some cases people use it as a podium.

Mr. Herbert mentioned that the five minutes came from a Morris County case. There they were able to take it down to 2½ minutes. The court found that you can do 2½ minutes, but really liked 5 minutes because it is appropriate. In that case, there were 19 separate hearings. What was going on was the public was showing up and reading the phone book into the record. The court said that it was not only unfair to the applicant, but to the rest of the public that people are monopolizing the time.

Mr. Caputo understood that. He did not know whether the Board needed to distinguish the policy from the actual reading of the notice saying they had a policy.

Mr. Kirkpatrick suggested that as part of their meeting practice procedure that they are adopting the five minute limit at the discretion of the Chairman and members of the Board. That is the limit, but it is a bit flexible at the Chairman's discretion.

Chairman Kreig thinks that they should adopt the draft notice to the public as presented. He will provide a final copy to Ms. Post for distributing for appropriate cases when they have an application that faces a packed house. An evening such as this one, there would be no purpose to read or distribute the notice. He asked Mr. Herbert if they needed a formal motion.

Mr. Herbert said that a quick voice vote of all in favor would suffice.

With no further business to discuss, Chairman Kreig asked for a motion to adjourn. A motion was made by Mr. Shennard and seconded by Mr. Caputo to adjourn the meeting. All in favor. Meeting adjourned at 8:45 p.m.

Respectfully submitted,

Elide M. Post

Elide M. Post

Zoning Board Secretary

Adopted: August 10, 2011