

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

April 3, 2008

REGULAR MEETING

The Regular meeting of the Township of West Milford Planning Board was called to order at 7:30 p.m. by Chairman Andrew Gargano, with a reading of the Legal Notice, followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bettina Bieri, Richard McFadden, Douglas Ott, Chris Rosica (arrived 7:41), Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Michael Siesta, Dennis Kirwan, Chairman Andrew Gargano, Planning Director William Drew, Board Attorney Thomas Germinario, John Hansen, Consulting Engineer, GIS Specialist Rob Sparkes.

Absent: Steven Castronova.

Chairman Gargano asked Michael Siesta to sit on the Board for Mr. Castronova.

PUBLIC PORTION

James Warden, High Crest Drive, addressed the Board about traffic issues and the Walgreen's site, commented on letters submitted to the newspapers by Planning Board members, and expressed support for the Living Word Alliance Church.

Joseph Elcavage, Dunham Road, Hewitt, began to address the Board regarding the Living Word Alliance Church and was advised by the Chairman that any discussion about an application before the Board would not be entertained by the Board.

With no one else present wishing to address the Board, the Public Portion was closed by unanimous consent on a **motion** by Douglas Ott and a **second** by Chris Rosica.

MISCELLANEOUS

Living Word Alliance Church

The following is a verbatim transcription of the testimony given by the Living Word Alliance Church. The applicant's attorney, Steven Honig, Esq. was present to address the Board.

Chairman Andrew Gargano: The Applicant is present?

Steven Honig, Esq.: Yes, sir. We are; many of us.

William Drew, Planning Director: Mr. Chairman, perhaps if I gave a brief history as to why the church is back before the Board, so as to set everything in context. When the Board heard the site plan application waiver request last summer, they approved it subject to certain understandings based upon testimony given. A letter was provided from me (Planning Director) to the applicant outlining those understandings of the Board and if they were to be exceeded or changed for any reason the applicant was expected to come back before the Board and address the activities of the church's use of the property and whether it needed to have further consideration from the Board. As the Board may note, it was sent to you in your last month's packet. There was a report from a police officer who did the traffic count at one of the Sunday services, and it was found that a number of cars that were at the service exceeded the limit that was testified to by the applicant at a previous Board meeting. So, based upon that occurrence, I forwarded a letter to Mr. Honig, the attorney for the church, and requested that he reappear at a future Board meeting to discuss the matter with the Board. With all of that being said, the applicant is here tonight to address the matter.

Thomas Germinario, Esq., Board Attorney: I just would like to add that another condition that was attached to site plan waiver was that there was to be only one Sunday

service and that applicant, I think, acknowledges that they are currently conducting two Sunday services. So, we have that and also the number of cars that are inconsistent with the site plan waiver.

Chairman: Okay, Mr. Honig?

Steven Honig, Esq.: Yes, thank you, Mr. Chairman. Thanks, Mayor. My name is Steven Honig. I am an attorney. I was here before this Board back in July when we put before the Board our hope. The Board was very kind. They heard us, they allowed us to have a waiver of site plan, we gave testimony with reference to the use of the church, with reference to the history of the church, and for those of you who were not here then, what I did was, I made copies of a letter that we received from the prior congregation as to their use of the church. I'd like to give you a copy of it. What it indicated is that, yes, it has been a church, or it has been a religious facility, I think. It was Jewish; this is a Christian facility, but they're all God's children. And, I just wanted to give a copy of that to you. The....

Germinario: This is the letter dated December 10, 2007 from Michael S. Grossman that you're referring to Counsel?

Honig: Yes, it is.

Germinario: That letter indicates, by the way, that the facility was used for religious services on important Jewish holidays, Yom Kippur, Rosh Hashanah, Shavuot, Sukkoth, Passover. It doesn't indicate that it was used for weekly Sabbath services.

Honig: Well, the testimony was that it was used as a weekly meeting place. It has been used as a weekly meeting place since 1950.

Germinario: What do you mean by a meeting place?

Honig: They conducted services, they conducted meetings, they conducted schooling, they conducted the facility as if it were a religious facility and held regular and continuing services there. I have here tonight, who is not part of our church, who volunteered to come down and give texture with reference to that. I gave you that letter for two reasons: 1. There is an allegation, at least I've seen fliers that were circulated, that indicated that this was never a church, and that somehow I was slick enough to shoehorn before the waiver of site plan that this is a church, and that it never has been. Well, I gave you that for that reason. I have, here, if you need to hear that testimony directly, a neighbor who is not part of our church. We didn't ask him to be here, he wanted to be here to give you the background and the history.

Germinario: Well, we can't actually determine that issue. I think I've explained this to you already. If there is an issue of fact, as to what the pre-existing use was and whether that pre-existing use was grandfathered or is a pre-existing non-conforming use, that issue has to be determined by the Zoning Board of Adjustment, not by this Board.

Honig: Well, if that is an issue, then, hopefully we won't have to pursue it in a more formal application. Then, let me address why we are here tonight. We're here tonight because you're original waiver of site plan absolutely indicated that it was to be limited to 45 cars in the parking lot, and that we were to have one service, one weekly religious service from 10 to 12. That was based upon 1. The parking lot and the site plan that was given, which indicated those spaces; it was also based upon what we, then, thought was going to be the attendance. What happened, and I have a copy of that police report, and I have a number of them, I don't know if you've seen it. What happened is that it was an opening, pre-service that was the first time that the sanctuary was used by the church as a general service, and too many people came. There were, parked in the parking lot, the 45 cars that were permitted. What is around the building are twelve additional spaces. 57 cars came, parked there. We knew when that was over, that that was a mistake. Thank God, at least, the Police Department, in writing it up, indicated that there were no traffic safety issues, that there were no problems in terms of the use. After all, there weren't cars that were parked up and down the road, which, if I understand you correctly, you may or may not be taking testimony from neighbors on, but that was one, one bad thing that happened. We're sorry. We really are sorry. Cause we're a church, and most, I think, the majority of these people here are your residents. These are not people from out of town; these are your residents. We're a church. We want to be good neighbors. We think we're good neighbors, at least the neighbors that are here tonight tell us that we're good neighbors, better

neighbors than perhaps people in the past. But, it's not for comparing and contrast. It's what are we doing, how are we affecting your traffic, how are we affecting your town, how are we servicing the community. We're servicing the community, clearly, because we're a church, and a lot of the people here in that church live in this town. But more than that, what we did, and perhaps we should have come here before you and, I can't speak for how and why that didn't happen, but what we did when that happened, is we saw to it that it would never happen again. I do have somebody, I don't know if that's going to be relevant here, who will testify that we went to services, each service, because we broke it down, had anywhere from 29 to 38 cars. If the Board is kind enough to allow us to please continue without having to go through a longer and extensive application, which, hopefully, I can prevail at... What our proposal is to have, we have an officer, an officer directs traffic and has directed traffic ever since we opened. In fact, that officer was directing traffic when this report was issued. It's our intention, if you permit us to do so, to not only have that officer certify weekly, or however you feel is necessary, but to have a church member there with him counting the cars, should, God forbid, more than 45 cars show up for a service, they're going to get sent away. So, our solution, and the only thing that perhaps should have happened, and I'm sorry that it didn't, is that we went to two services; we've monitored those two services. Clearly, you've never gotten another report, other than this initial one at that initial service, from your Police Department. And those cars are less than, less than, the number of cars that we are able to park in the parking lot. That would be our proposal in terms of monitoring the traffic safety. And I'm here to have whatever questions that you've got to ask of us, answered. I have people from the congregation, and as I say I have a neighbor who volunteered to be here to talk to you about his experience with us as a neighbor, and his experience with prior occupants of this religious facility as prior neighbors.

Germinario: Am I correct, then, in saying that the, your client cannot fulfill both conditions of having only one Sunday service and limiting the cars to 45?

Honig: We could, if you require that we did, and then I guess we would have no issue with the town. However, what we're saying is, what we have done, as well as every other church and facility in town has done, is we have gone, just because of this issue, to two services. Two services are lighter use. They'll start at 9:30, probably end at 12:30. So what have we done, have we increased it an hour perhaps in terms of the use? Perhaps. But we've decreased the number of cars, and we're certainly, never, because its our plan, to have you either approve or not approve tonight, to not only have the officer, which is there every week, monitor it, but have a church member. And we'd be happy to submit to your town a count of each service, each car. If ever there are more than the 45 that are permitted in the lot, forget the spaces around the building, should that ever occur, those people will be sent away.

Germinario: Well, what we're dealing with here is a site plan waiver that was subject to a number of conditions, two of which your client hasn't met.

Honig: Those, yes, and I can explain those. There's two permits that are still open...

Germinario: Well, no, I was referring, there may be others that haven't been met, but the two that we're focusing on tonight are the passenger cars and the number of services. That being the case, the Board would have to re-open your site plan waiver and consider whether it wants to grant, can grant another site plan waiver, based on conditions that you're now suggesting.

Honig: Yes sir.

Germinario: Is that the way you wish to proceed?

Honig: Yes sir. I would very much like to proceed that way, because if I can avoid having to go into an expensive and long re-application, only to re-present the facts to the Board, who, at that time, found to be satisfactory, I would really like to do it that way.

Germinario: Alright, that being the case, the first issue that the Board needs to deal with in assessing whether we can grant a site plan waiver, a new site plan waiver, is the status of the non-conforming use. And again, as I said earlier, if there is even a colorable factual issue as to the status of the non-conforming use, then this whole matter will have to go to the Board of Adjustment. You have represented that the facility has been used continuously as a house of worship. However, I think that there are various aspects of the history of the facility that may

call that into question. Ah, I believe, Councilman Weisbecker, you have some personal knowledge of the history of this facility?

Councilman Weisbecker: Yes, I do. The facility that you're talking about, and first of all, let me make this quite clear, there is nobody that is saying that they do not want a church. What they want to do, the people that I've spoke to, want, is to make sure that this is done properly. But first of all, I'm going to just...the second thing is, is the church's history is, basically, it was a gas station. It was a gas station back in the mid fifties, and in the mid fifties, about 54 or 55, it was purchased, that gas station was purchased by a group of Jewish men. They, therefore, created a club, not a religious temple or a church or anything else of that nature. They created a club. I know that, that club participated in moved for quite some time. I participated in many events that went on in there, such as a magic show, a dinner, playing cards. But there were not any, there were not any religious ceremonies that took place in that particular facility. At all. Then, I guess most of the people that were members started to die off, new membership was hard to come by. The temple, the synagogue in Greenwood Lake Village burned down, and the people that were still in control of the Jewish Community Center/Club, offered to that facility, the synagogue that burned down, to that group, so that they would have a place to worship, if they needed a place to worship. And in fourteen, fifteen years of being there and watching this facility, I saw it used three times, for any religious ceremonies. I also stored my boat inside the room where you have your, I guess, meeting area, or religious area. My boat was stored inside that building; my boat was also stored across the street in the parking lot, as well as a great many other individuals who lived in Upper Greenwood Lake, storing boats. All winter long, starting in early fall, through the winter, into the spring. The boats were then moved out mid-spring to be used by people, I guess for their fun, and then it was back in again. The facility also, when the facility was given to the group in Greenwood Lake Village, who had lost their synagogue, it was given to them for a dollar. And it, the thought was, the individuals from that facility would have a place to also, once their synagogue was re-built, because that was what they were going to do, that they would also have a place that they could come up and use as their clubhouse. Well, they sold it to you. I don't know what they told you, but there weren't religious ceremonies there. It was a boat storage facility. It was used for card games and such. And that was the history of this facility. So, and I have...

Chair: Excuse me....

Weisbecker: That's the knowledge that I have of the facility. Here Tom.

Germinario: Just so everyone understands, its not the purpose, my purpose in asking Councilman Weisbecker to recount his knowledge of the history is not to accept or reject his account or your account, its to point out the fact that we do have a dispute of fact as to the non-conforming status of this property. And that if we have a dispute of fact, its not one that we can determine here. Jurisdictionally, that dispute would have to be taken up at the Zoning Board of Adjustment. They would have to determine what the prior use was, they would have to take testimony, compile a record, establish what the historic use of this property was, what the extent of the religious worship component of that use was, and what expansion, or not, there may be on that use, that non-conforming use in the current use of the property. Those are all issues that we have no jurisdiction over. I just don't think it's a good investment of our time, and your time, to have us go through tonight, take a lot of testimony, hear a lot of statements back and forth when we're on the point where we obviously cannot make a determination, and we'll be wasting our time in doing so. I'll hear you, Counsel, but I'm inclined right...

Honig: I surprised, I must say. You asked if, one, we appear in July before the Planning Board. We give testimony, we give this letter from Mr. Grossman, and you approve it. You give us a C.O., and we open up and start a church. All of whom these people attended. One person, who happens to be sitting here, says, ahah! wait a minute, they were never a church, and, ipso facto, that means that this letter from Grossman, the testimony from the neighbor, who, absolutely, I just asked him if that's the truth, will tell you it isn't. That, therefore, requires that we'll have to go through the entire thing when we already have presented evidence, you have hard evidence...

Germinario: But we can't determine, as long as there's a legitimate question of fact, Mr. Honig, we cannot make that factual determination.

Honig: You did.

Germinario: It was not made; I don't think that there was a determination made of the status of the non-conforming use in the original Board proceedings.

Honig: But that's why asked for a waiver of a site plan, because we came before the Board, presented the history. After all, are you saying, Mr. Weisbecker that the Jewish Community Center never got approval from this town to operate, they were there illegally too?

Weisbecker: no, they were a club.

Honig: They were a club. So, when he says High Holy Day services, and when he says B'Nai Torah South acquired ownership of the premises from the Jewish Community Center of Upper Greenwood Lake, that that was simply a continuation of a club...

Weisbecker: Yes, sir.

Honig: And the club held high holy days services?

Weisbecker: No, sir.

Honig: And the club had 200 members, and 175 ...

Germinario: Mr. Honig. I'm not going to have you cross examine a Board member, especially given the fact that we have no competence to make this determination. The mere fact that the issue has been raised has put it in question requires the Zoning board of Adjustment to determine what the extent... and actually, this is for the benefit of your client. What we need here is a factual determination of what the extent of the prior non-conforming use was, and that will help you establish that there has not been an expansion of that use. That is the proper venue for you to take that up. Now, what the previous Board did, or did not do in granting the site plan waiver is, at this point, moot, because we began by saying that we were going to re-open that issue, and we did re-open it. And once we re-open it, we have to look at the threshold question of our jurisdiction. Before our Board can do anything, before any Board can do anything, it must first consider whether it has the jurisdiction to act in that capacity. We've heard from Mr. Weisbecker, we could elicit statements back and forth from countervailing views on this all night, but at the end of the night, the question of jurisdiction is still the same. We have no ability to make the factual determination. And I'm sorry for the time and effort that has gone into this, but I think, at the end of the day, having a full hearing on this with the Board of Adjustment, allowing them to determine exactly what the scope of the religious use of the property is, and the boundaries under which your client may continue that grandfathered use, I think that's to your benefit. And I might add, that if it turns out that this is an expansion of or an intensification of the non-conforming use, then the Zoning Board of Adjustment also has the jurisdiction to give you relief.

Honig: Yes, I know sir. Thank you. You're right. I was kind of hoping that we were going to avoid that. I thought, and I stand corrected because you are telling me what the decision and the capacity of the Board is, I thought that the other thing that we were here tonight to talk about was how we would address that one problem of 57 cars going forward, so that we could continue being a good neighbor and not violate the tenor and the clear wording of the waiver of site plan. Do you want to take further testimony on that, or, I don't know where to go from here.

Germinario: Well, if we're not, in we're not in the position to have the... We've already sort of dispensed with the original site plan waiver and acknowledged that we're looking to change it. Now, the Board has no ability to change it if we don't have jurisdiction over the matter. I don't want to keep chasing our tail on this, I mean, its all well and good to say that we can control the number of cars in the parking lot, but I think we're not talking about controlling the parking lot and limiting it to one Sunday service a week. I wouldn't want to do that. I don't think your parishioners would be well served by that. I think you have a need here to conduct the two services in order to accommodate all of the worshipers or followers of this church. And I wouldn't want to place this Board in the position of saying, okay, you're going to have to turn away your flock every Sunday. That's not fair and that's not right.

Honig: That's what I was getting scared about. Okay. I mean, if that's not where we are, then I have to accept, 'cause you, sir, are the voice of reason, and you are the one who are giving

them the legal parameters. I have to accept what you're saying and you are saying to us, continue to do what you're doing, be a good neighbor, don't abuse the parking, and please come back before a more formal application for a variance based upon history before our Zoning Board who has the power to give you...

Germinario: I would suggest this course of action. Again, you're the attorney for your client and this only comes as suggestion. You have the ultimate decision making here, but I would say that you ought to apply to the Zoning Board of Adjustment for a certification of the existing non-conforming use before you purchased the property. They have jurisdiction to do that under section 68 of the M.L.U.L. And, in the alternative, in the event that the Zoning Board of Adjustment determines that your not entirely grandfathered, you can, at the same time, in the alternative, ask for a "D" variance to continue your

Honig: If that's going to require a survey, we, of course, supply to you site plans and make an application, is that correct?

Germinario: Well, I think the initial application for certification of the non-conforming use, you don't have to submit a site plan for that. For the "D" variance, I don't necessarily know that you have to accompany that with a site plan either. I think you might just may need to give some details of your use of the property, the buildings, how they're being used, and so on. That's going to be up to the Zoning Board of Adjustment, and they're attorney to determine exactly what they need to make that determination. But, I think the advantage there is, beyond that fact that we just don't have jurisdiction and can't do it anyway, the advantage there is if the Zoning Board of Adjustment sees, or believes or finds, rather, that you're exceeding the use, the non-conforming use that was there before you came in, they do have the authority to grant you relief and allow you to continue at the level that you're now conducting it. And, I would suggest unless you see a problem in doing this that you make that application to the Board of Adjustment within, lets say, 30 days of today. Do you think you need more time than that, Counsel?

Honig: Yes. Yeah, I have 45 days per....

Germinario: Is that alright with the Board.

Chair: That's fine. Consensus? Everybody is okay with that?

Board: (All agreed).

Mayor: So long it does not jeopardize them in any way because there's supposedly a potential breach of the agreement. will that jeopardize them more by keeping it open longer?

Germinario: Well, I think that what we want to... maybe that's a good suggestion, yes, we might want to state that, in the interim, they'll contain what they're doing now, continue the measures the of containing the number of cars on the site.

Honig: Absolutely. I mean that's a given, ladies and gentlemen, that, I came here with that as a given.

Germinario: Are there any Board members that have any questions or issues about what we've just outlined?

Geoffrey Syme: I just have a quick comment. I read the December 10, 2007 letter that was in our packet already, and I would just like to point out there is no mention of services in that letter. It does say that people went to the building, and it says that they went on Jewish holidays, but there's nothing that says that there were services.

Germinario: Well, again, even if the letter categorically stated that there were religious services there, we have a question of fact here. There are countervailing interpretations of what went on in the history of this building. And, so, it really doesn't matter, that it's not up to the Board to decide one way or the other that one version of the history or another is the correct one. That has to be done by the Zoning Board of Adjustment.

Honig: That's exactly the dilemma that we have here, and I now understand. The minute that there's even a scintilla of evidence that something is different, you guys, sorry, you ladies and

gentlemen, lose jurisdiction and then we are referred, absolutely, by law, its your interpretation to apply before the Zoning Board.

Germinario: That's correct.

Syme: And I think that this letter just bolsters that, that's there more of a... it conflicts with what the prior testimony had been of the church members and seems to go along with Councilman Weisbecker's...

Germinario: Well, let's not dive into that issue any further less we step on the toes of another Board that has the authority to do what we don't. So, I would suggest that...

Honig: In any event, I just want to reiterate, we're good neighbors, I mean we are townspeople, we don't want to create a traffic hazard, we think we're doing a better job than what has been done before.

Chair: So, we're all clear on this. So far as, you're going to make application to the Zoning Board, within 45 days of tomorrow?

Honig: Absolutely, yes sir.

Chair: Okay.

Honig: Yes sir. We don't have a choice. And even if I had a choice I would have to make that choice.

Chair: Okay. Mr. Drew, do you have any comments on this?

Drew: No not at this juncture.

Chris Rosica: I have a question for Mr. Drew.

Chair: Yes, Mr. Rosica?

Rosica: Ah, Mr. Drew, the Department of Health, in terms of septic, and well and all that, what do they say on the matter?

Drew: They're approval was a prior approval sign off to the issuance of a certificate of occupancy for the church before they took occupancy, so they were satisfied that the subject site was suitable for the re-occupancy of the building.

Rosica: That would include two services as opposed to one, or is it just another Health Department... would they have to reexamine that?

Drew: Well, it will have to be re-examined again.

Chair: Well, now, for the purposes of those that came and wanted to speak before this Board in regard to this matter, we're not taking any discussion on it?

Germinario: Well, I would open it to the public with the proviso that the public understands that this Board is not going to get into the issue of the prior history of this property and whether or not it was used as a house of worship. If you have comments that go to any other aspect of the Board's determination tonight, we can here those.

Chair: Does anyone want to make a comment? Is that okay to take comments...?

Germinario: Yes...

Michael Siesta: Before we do that, do we have to memorialize our action or that we gave them 45 days? Do we have to memorialize that somehow?

Germinario: I think it what we'll do is issue a letter similar to the one Mr. Drew issued in regard to the initial site plan waiver indicating the Board's determination of its lack of jurisdiction and its referral of this matter over to the Zoning Board of Adjustment with the conditions that we recited earlier. And that, I think, is sufficient. Just so we have something on record.

Honig: Yes, sir. I don't want to be back before you as a miscreant, with some other, well wait a minute, they're having more than one service and there's 53 cars there. I don't want that to happen. And neither does my congregation.

Chair: Does anyone want to address this Board in regard to this matter, after all that has been said here? No? Okay. then I guess, do you have anything else, Mr. Honig, or would you...

Honig: I have so much, but I am not going to... and ...

Chair: Pertinent to what we were discussing.

Honig: ...and hope that the Zoning Board will agree with what the Planning Board had done previously and allow this church of community members to continue.

Germinario: Thank you.

Chair: Thank you.

Mayor: Can I just, for the record, clarify that their one condition was that they could continue with the two services, but under the 45 cars per service?

Germinario: That's correct.

Mayor: Okay. Thank you.

Chair: Okay. Alright, moving on.

PLANNING DIRECTOR'S REPORT

The following is a Transcription of the Report to the Board from William Drew, Board Planner:

There have been several articles published in the local paper, lately, concerning Planning Board matters. One article in particular provided comment on a specific application that had come before the Planning Board. There are incorrect and inaccurate statements in that article that must be corrected for the record. Among other things, the article talks about a two-step process and how that process was not followed. With regard to Valley Ridge Gardens, which is a cluster town house development on Union Valley Road, step one of that process took place in 1997 when the Planning Board granted a preliminary approval. As part of that process, the applicant filed an application for wastewater management plan amendment directly to NJ DEP to have the sewer service area amended to tie into the Old Milford Estates sewerage treatment plant. That's an activity that is done completely separate from, and apart from any Planning Board activity, so the Planning Board had no involvement in that. And that sewer service area amendment was approved by the DEP. There was no work permitted under step one, as this application was a site plan and not a subdivision. When step two of the process took place, which was back in 2005, or somewhere in that neighborhood, there were no major changes to the original preliminary application except for the reduction of the eight units because of an increase in the wetland buffer area established by the DEP. So there was no reason to back to step one in that instance. Nothing else had changed except eight units were plucked from the plan. The sewer service area of the wastewater management plan was changed by DEP at the applicant's request in 1998. The preliminary plan submitted and approved in 1997 showed this and the Board required it as a condition of approval, that they must receive this approval from DEP if this was, in fact, taking place. So there were no blunders by the Board or the Planning staff with regard to this application.

[With regard to] Greene Valley major subdivision, now this is a subdivision, the preliminary subdivision was approved by the Planning Board. The municipal land use law permits work after preliminary approval. What this does is it eliminates the necessity for the applicant to post bonds to cover those improvements; they have a right to install them instead. All work that was performed on this property was performed in conformance with approved construction plans. All site clearing that was one on the property was conducted in conformance with the approved preliminary plans. The municipal land use law does not require developer agreements; in fact, it only mentions them in connection with planned developments, which is not this major subdivision. No developer agreement was posted with this application. The "Cox" book, in fact, talks about the need of when offsite improvements

are necessary or at a planned development application, and then a developer's agreement may be appropriate. There were no offsite improvements associated with the Greene Valley application. So there were no bonds posted, a bond will be needed, and is necessary for maintenance of the improvements after those improvements are accepted by the Township at the time of final subdivision. Lot disturbance was first done in order to conduct the well pumping tests to address the concern about water availability and ground water. The other site work that was done on the individual properties was determined that they could, in fact, support individual septic systems so that the 17 lots that were proposed in the preliminary subdivision could actually be developed and subdivided as part of the final subdivision plan.

Lastly, the Eagles Ridge application was mentioned. There was no lawsuit filed by Eagles Ridge with regard to having to readjust the road alignment of Cahill Cross Road. The preliminary subdivision plan proposed the relocation or the adjustment to the Cahill Cross Road to provide for the 50 foot well head clearance required by DEP for the production that was drilled and was to be used for the Eagles Ridge project. But, the Cahill Cross Road was built in 1996, and it was based upon and alignment to a plan that approved in 1987. The Bald Eagle Manor development constructed that roadway as part of a developer's agreement with the Township Council to improve the access and to provide two means of access to Bald Eagle Manor. Eagles Ridge was not filed until 1999, two or three years after that road was approved, so the infraction with regard to well protection was not known at the time that Bald Eagle constructed Cahill Cross Road.

I just wanted to point that out because those are the facts of the matter with regard to those three applications, and I felt it was important for the record to be set straight. Thank you Mr. Chairman.

APPROVAL OF INVOICES – BOARD PROFESSIONALS

Invoice from Glenn Kienz, Esq. for Federal Express expenses.

Invoices from Thomas Germinario, Esq. for services rendered for February 2008.

Invoices from Paul Ferriero, P.E. for services rendered from January 2008 through February 2008.

Invoices from Michael Hakim, Landscape Architect for services rendered in February 2008.

Following a brief discussion about the invoices, **motion** by Councilman Douglas Ott with a **second** by Chris Rosica to approve the invoices submitted for the Board professionals.

Roll Call: Yes - Mayor Bettina Bieri, Richard McFadden, Douglas Ott, Chris Rosica,
 Clinton Smith, Geoffrey Syme, Chairman Andrew Gargano.
 Present: Councilman Weisbecker
 No - Michael Siesta.

ADJOURNMENT

With no further business to come before the Board, **motion** by Councilman Philip Weisbecker, with a **second** by Richard McFadden to adjourn the April 3, 2008 Regular meeting of the Planning Board at 8:39 p.m. On a Voice Vote, all were in favor of adjourning.

Approved:

Respectfully submitted by

Tonya E. Cubby, Secretary