

recommended the submission waiver. The seventh submission waiver is stormwater and drainage calculations. Detailed updated stormwater management plans were submitted with the original approval. The Airport has a series of three detention basins; some are interlocking. Rain gardens have been installed. The stormwater documents were reviewed and approved by the prior Board Engineers. Mr. Cline recommended the waiver. The eighth submission waiver is providing grading plans at 1"=50'. The grading plans that have been submitted are at a 1"=60' scale. Two thirds of what is shown on the site plan has been constructed. Mr. Cline recommended the waiver be granted. The ninth submission waiver is will serve letters from the utility companies. The building is already serviced so letters are not needed. Mr. Cline recommended the waiver be granted.

The outside agency approvals have expired and a waiver was requested from submitting to Delaware and Raritan Canal Commission (DRCC) which was not granted.

Chairman Conforti opened the meeting to the public. There being no public comment, a motion to close the public hearing was made by Ms. Dyer, which was seconded by Mr. Sarle. This was carried on the following voice call vote: Ayes (5) Nays (0) Abstentions (0)

Mr. Linnus summarized the submission waivers.

A motion to approve the submission waivers was made by Vice Chairman Matthews, which was seconded by Mr. Sarle. This was carried on the following roll call vote:

Ayes: DeRochi, Dyer, Matthews, Sarle and Conforti

Nays: None

V. SOIL HAULING REQUEST

Case PB-09-12KH

Block 28001 Lot 5.01

Import Soil

Applicant: K. Hovnanian at Montgomery, LLC

Richard Schatzman, Esquire represented the applicant. Robert Thomas, Riverfront Recycling and Craig Sullivan, K Hovnanian, were sworn in.

Mr. Thomas is the hauler. The material will come from Kingston Trap Rock Quarry. It is approximately 63,000 cubic yards of material which is roughly 3500 truckloads. Trap Rock issued a letter certifying the soil suitability. If approved by the Board, the applicant will confer with the Township Engineer to see what more detail might be needed for the certification. The route will be Orchard Road to Route 206 to Route 518 to Kingston Rocky Hill Road. No trucks will arrive or leave the site prior to 8:00 a.m. or after 4:00 p.m. The trucks will not be operated on legal holidays or on Sundays. The hauling will take place for several months. It is estimated there will be between 40 and 80 loads a day.

Mr. Sullivan testified that he has videotaped the Township roads involved in the application and they will be submitted to the Township Engineer. Any damage to the municipal roads will be corrected immediately. If dirt is tracked onto the roadways it will be cleaned up immediately. Failure to follow this condition will result in the Township Engineer's requirement for prewashing all excess soil. If required, a tracking pad will be installed. Somerset Union Soil Conservation District has issued approval.

Chairman Conforti opened the meeting to the public. There being no public comment, a motion to close the public hearing was made by Mr. Sarle, which was seconded by Ms. Dyer. This carried on the following voice call vote: Ayes (5) Nays (0) Abstentions (0)

A motion to approve the application with the conditions was made by Mr. Sarle, which was seconded by Ms. Dyer. This carried on the following roll call vote:

Ayes: DeRochi, Dyer, Matthews, Sarle and Conforti

Nays: None

VI. APPLICATIONS

Case PB-03-14 **Applicant: Sharbell Building Company, LLC**
Block 28003 Lots 59, 60, 61, 113, 117, 142, 144, 145, 147 and 156
Amended Preliminary and Final Major Subdivision with Variance
Expiration Date –7/4/14
Affidavit of Notification and Publication Required

Notice was found to be in order. Frank Petrino, Esquire represented the applicant.

Mr. Linnus explained that this would be a case of first impression. The Board granted an age restricted conversion to the project. The application is governed by that statute and the statute states that the height of a development that is converted shall not be increased. The applicant is coming in for a height variance. Mr. Petrino has submitted a memo but Mr. Linnus has not had a full opportunity to review the memo. Mr. Petrino will supply proofs that the statute either does not apply or that there are extenuating circumstances based on the peculiar facts of this particular application that the statute does not apply.

Mr. Petrino explained that the application relates to three different two story models that when placed on specific lots don't meet the height requirement of 32'. There are ten lots in Phase II which because of the topography the units do not meet the height definition. The applicant is not seeking to make the size of the unit larger, increase the number of the bedrooms, or increase the total square footage or FAR of the building. The variance is needed because of the topography of ten particular lots. The application before the Board is to find that the height variance relates to the topography of the ground. The applicant thinks they are clearly within the intent and spirit of the Conversion Act.

Mark Cannuli, Vice President of Development for Sharbell Building Company, 1 Washington Boulevard, was sworn in. The applicant is asking for relief under the C1 variance by reason of exceptional topographic conditions. There are very severe sloping conditions in this specific section of the development. In other sections of the development the grading is less severe. The application really has to do with the way that the definition is applied to these ten specific lots. The purposes of the zoning will be advanced by granting the relief.

Mr. Cannuli referenced the Van Note Harvey overall site plan that was issued to the Board as part of the application (Exhibit A-1). The lots that are shaded are the lots for which the variance relief is being sought. The variance relief is anywhere between 0.33' to 1.7' and is to allow three two story model unit types (M, N and O unit). The actual building height from the finished first floor to the peak of the roof is not increasing). These same unit types can fit on a majority of the thirty-three other lots in Section II. The roof slope has been decreased on these three models so they can be used on the ten lots.

Mr. Cannuli showed the architectural elevation for the O Unit for Lot 137 of Block 28003 prepared by Feinberg and Associates (Exhibit A-2). This was a supplement that was submitted with the application. The unit has a 27' finished garage floor to the roof peak and has a reduced slope of the roof. There are units in Tapestry that are garage-under and the cross sections through the elevation shows houses that are anywhere from 26.5' to 29'. Depending on whether the finished grading is higher or lower than the pre-development grading the building height definition uses as a starting point either a four corner average on any lot to the highest peak of the roof or the pre-development grade of the existing grading plus 1' plus 32'. The strict application of the building height definition and steeper sloping topography on these lots creates an undue hardship to develop the lots with these unit types.

Mr. Cannuli discussed the purposes that are advanced by the proposal. One would be the promotion of a desirable visual environment through creative development techniques and good civic design and arrangements. The variance relief on the subject lots will permit a better variety of housing types. Another would be to encourage planned unit developments which incorporate the best features of design and relate to type, design and layout of residential, commercial, industrial and recreational development to the particular site. The lots are part of an overall planned Hillside development where the layout of the development and the design of the residential units incorporate highly detailed architecture and integrate open spaces in and between the side and rear yards of the units. The benefits of the proposed deviation substantially outweigh any detriment because the variance is requested only for the lots that slope sharply front to back and side to side. The benefit of additional two story units will provide a better variety of housing types in Section II. The variance requested will not result in substantial detriment to the public good because the impacts to the surrounding properties are property mitigated by offering some of the same unit types on the adjacent lots that are consistent with the unit types on

D. Jeffrey Brown was sworn in at the last meeting and remains under oath. Mr. Brown testified that after the last meeting he and Mr. Cline went out to the site to look at the existing conditions of the downstream waterways. There is a substantial problem with the ditches that accept the water coming off the hill side. The ditch is eroded, trees are down in the ditch and the banks are undercut and eroded in some places. The only thing the applicant can do to help alleviate the situation is to make the detention basin larger and hold back more of the flow coming off the subject site. The basin has been nearly doubled in size and there are now two outlets. The water will discharge from either side of the basin. Mr. Cline asked the applicant to review the impact at various discharge points along the streams. Based on this review the outlet structure was modified and the peak flow rates were reduced to equal to or less than the existing flow rates at those particular points. Significant reductions in the flows will be achieved. The applicant exceeds the stormwater regulations of the State and the Township. They have also made minor revisions to divert a little more water from the dwelling on Lot 30.05 into the basin.

Mr. Schatzman discussed the Coppola and Coppola memo dated January 23, 2014. Revisions to the plan include a split rail fence along each side of the pathway in the pedestrian easement at the end of the cul-de-sac will now continue along the entire length of the easement, the width of the basin driveway was added back to the plans and a pull over area was added to the basin driveway.

Mr. Schatzman read Mr. Cline's memo dated April 4, 2014 into the record. Seepage control measures must be implemented. The grading on Lot 30.05 has been addressed. The basin berm as designed complies with the dam safety requirements.

Mr. Cline testified that over the course of review the applicant and Site Plan/Subdivision Committee worked to minimize the impervious and in turn, the required size of the basin. When the neighbors expressed their concerns about off-site drainage the applicant increased the size of the basin. Mr. Cline requested that the swale on Lot 30.05 be revised to more directly feed into the basin. The basin was revised again and was more than double the size. The analysis showed that both swales that exist on the property are not of equal size and can't take the same flow so the pipes were adjusted to tailor the flow rates to the swales on that basis. The applicant has demonstrated that the flows leaving the property as a whole complied with the flows. They provided localized analysis as Mr. Cline requested which Mr. Brown testified to.

Ms. Coppola said there are a number of conditions from her memo if the Board grants approval that should be included.

Chairman Conforti opened the meeting to the public.

Bill Potter, Esquire, 194 Nassau Street, represents a group of objectors who reside on Cherry Brook Road. They are Mr. Daly, Mr. Kosinski and Ms. Jaklik. Mr. Miller from Princeton Hydro will also testify as an expert witness on stormwater, drainage and flood control issues.

Mr. Potter questioned Mr. Cline about who attended the December 19, 2013 site visit, the weather condition at the time of the site visit, whether he has performed an analysis of the soil types for the increase in size of the basin, his understanding of the concerns of the neighbors, the comparison of the basin design, acceptance of the applicant's stormwater numbers, compliance with DEP stormwater regulations, the reliance by the applicant on the nonstructural strategies point system computer spreadsheet, the validity of the stormwater management system if it relied on the nonstructural strategies point system, reliance on the applicant's engineer that the swale can accommodate the discharge and what seepage control measures must be implemented.

Mr. Cline responded that he and the applicant's engineer conducted the site visit, the weather condition was cold with snow on the ground, he spoke to two neighbors about their concerns, he compared the two designs that were before the Board, he reviewed the stormwater numbers but has not performed his own calculations, he has testified that to the best of his knowledge and review they comply with the DEP stormwater regulations, the applicant's engineer had decided to go with two pipes to two outlets and the initial estimation that those pipes would be of equal sized but were changed to different sizes, he did not design the system, the seepage control measures are between using a membrane or clay core within the berm which falls under Dam Safety and the applicant has acknowledged that the berm will be designed so water will not seep through it.

Mr. Katz, who remains under oath, responded to some of the questions Mr. Potter asked Mr. Cline. Mr. Katz testified that Princeton Junction Engineering performed the test borings. The test borings showed mostly high water table soils. There are substantial soil logs throughout the site that were dug down 10'-12'. There are permeability tests in the location of the detention basin. The test borings were not tested against the expected

weight of the detention basin since that is not a typical test that is done for that type of structure. The berm of the basin has to meet the Dam Safety Regulations. NJDEP approval is needed for the detention basin.

Mr. Schatzman asked Mr. Cline if his review of this application was any different than his review of other applications with respect to engineering and stormwater issues. Mr. Cline responded that it was not.

Mr. Potter called Mr. Daly from 43 Cherry Brook Drive. Johnathan Daly was sworn in. Mr. Daly testified that he is concerned about the drainage system. The drainage in the area is fragile. The property is susceptible to flooding already. Mr. Daly showed the Board photos he took on March 30, 2014 of the flooding on his property. The four photos were marked as Exhibit O-1. Two photos show his neighbor's front yard and Cherry Brook Drive, the third shows his mailbox and the fourth shows the end of Mr. Kosinski's driveway. The water is supposed to flow through a small pipe under the road where his mailbox is. Mr. Daly's sump pump in the crawl space is quite active.

Vice Chairman Matthews asked if this water was an overflow from the ditch. Mr. Daly responded that it is.

Vice Chairman Matthews asked if there was a plan to open the ditch more. Mr. Schatzman responded that the ditch is in the intermediate wetlands so it can't be touched. Mr. Potter disagreed and said the applicant could get a permit if necessary to improve the wetlands to prevent flooding on nearby properties.

Chairman Conforti noted that the pictures show the front of the house and the development is in the back of the house.

Mr. Schatzman asked Mr. Daly if he ever had an engineer look at the grading of his lot to improve his situation. Mr. Daly testified that he has not.

Mr. Potter called Mr. Kosinski. Mr. Antony Kosinski, 47 Cherry Brook Drive, was sworn in. Mr. Kosinski said he talked to Mr. Cline about the flooding from the ditch. Mr. Cline had said the culvert was too small but that he did not know what could be done to enlarge it. Mr. Kosinski noted that Lot 34.04 does not drain to the detention basin, it drains onto his property. Mr. Kosinski showed the Board photographs taken sometime during the last week in March which were marked as Exhibit O-2.

Mr. Schatzman asked Mr. Kosinski if he knew that the impervious coverage limit on each of the new lots is 10,000 square feet. Mr. Kosinski wondered if that would include the area of the septic system that will drain to the small ditch on his property.

Vice Chairman Matthews asked if the culvert that is plugged is the Township's responsibility. Mr. Kosinski said he called Public Works but no one came.

Mr. Potter called Anna Jaklik. Ms. Jaklik, 37 Cherry Brook Drive, was sworn in. Ms. Jaklik said her property will be neighboring one of the outlets. The outlet is about 20' away from her property. She showed the Board pictures taken at the end of March which were marked as Exhibit O-3. The pictures are of the swale and of standing water. She is concerned that although the numbers show the rate of discharge is being decreased, at the point of discharge the water will end up on her property. The existing swale is blocked by foliage and fallen trees. She is concerned it will become her burden to worry about the water flowing to the bigger ditch. There is existing erosion and it seems the ditch and swale is not prepared to handle any amount of water flowing down without any problem.

Vice Chairman Matthews asked if the ditch shown in Ms. Jaklik's pictures is the ditch the detention basin discharge will be flowing into. Ms. Jaklik replied that it is.

Mr. Potter called Mr. Miller. John Arthur Miller, Princeton Hydro located at 1108 Old York Road, was sworn in. Mr. Miller gave the Board his qualifications and was accepted as a Water Resources Engineer. Mr. Miller referenced a document marked as Exhibit O-4 which was a description of his area of expertise and background.

Mr. Schatzman asked Mr. Miller how many stormwater management plans he has designed in Montgomery Township. Mr. Miller replied that he has not designed any in Montgomery Township but has in other municipalities.

Mr. Miller reviewed the most recent analysis provided by the applicant's engineer and plans as well as the older report and plans. Mr. Miller testified that he walked the neighbor's properties today and he looked at the

channel along the driveway of 47 Cherry Brook Drive. He observed that the driveway had been overtopped recently. He also observed the culvert that is under Cherry Brook Drive and couldn't see the entrance of the culvert. It appears that the road overtops. He looked at the channel geometry behind Lots 6 through 8 in Block 34004. There are some inconsistencies in the channel geometry. The flow capacity of the channel varies at different locations. He did see some concern in the back of Lot 8, there is a very low bank at that location with a very constricted downstream channel section that is very V-shaped portion of the channel. These are existing conditions and his analysis is whether proposed is going to make these conditions any worse. There is a drainage area map in the latest report that shows some areas of uncontrolled runoff. The analysis was done at certain points of interest which is a very good way of doing it but there are other points of interest such as Mr. Kosinski's house. There are areas that are disturbed or impervious including some roof area on proposed Lots 30.03 and 30.04 that have uncontrolled runoff that goes to Mr. Kosinski back yard. There is an "east uncontrolled area" that flows onto Mr. Kosinski's property and flows along an existing channel. Portions of the channel along Lots 6-8 are unstable and eroding. It would not be intelligent to add more flows to Mr. Kosinski's channel. The RSIS talk about water quality being maintained at each location and these post construction uncontrolled areas that aren't maintained. There is concern about channel stability and also Mr. Kosinski's back yard. The design is very efficient; it has storm sewer, it is sending it to a single basin, it has the two discharge points but that is where the RSIS looks to distributing runoff which could be nonstructural techniques where you are not concentrating runoff. The more recent techniques that are being used include rain gardens that distribute stormwater and get the water to infiltrate at its source. Some of the places of inadequate conveyance are areas where there is insufficient capacity so you are looking at volume and not just rate of runoff. When water comes down the hill it overtops Mr. Kosinski's driveway, floods in that general area and heads to the east.

The applicant made some efforts to disconnect impervious cover, eliminating curbing and not directly connecting the roof leaders to the storm sewer system, but there are still quite a bit of connected impervious cover. The roadway goes right in to inlets and back down into the detention basin. A lot of the nonstructural techniques include rain gardens, using some vegetative channels and drywells that pick up the downspouts. Testing for the drywells has to be done to see if they will function in the soils but they are a good way to distribute the water.

The stormwater management plan has room for improvement. The downstream really needs to be looked at. Realizing there is a pre-existing condition, it is exacerbating the pre-existing condition. The uncontrolled runoff into Mr. Kosinski's back yard is a concern. In this case nonstructural really makes sense because the volume coming down is reduced.

Vice Chairman Matthews asked if the water in the pictures is coming off of this site. He wondered if the detention basin will help the situation instead of hurting it.

Mr. DeRochi said it seems the problem is the culvert. If the culvert was cleaned out and the ditch maintained a lot of the water would go away.

Mr. Brown testified that one of the points he evaluated was the discharge point at Mr. Kosinski's ditch. Although some of Lot 30.04 is flowing uncontrolled to the ditch, with the construction of the road, a lot of the upstream area going to the ditch at the present time will be cut off and will flow into the basin. The drainage area to Mr. Kosinski's ditch is being reduced from about six acres to about two acres. He agrees that the culvert under the road is undersized. He looked at the volumes and the volumes are being decreased by about a third coming off this tract. As many nonstructural methods were incorporated as they could. There are no curbs, there are roadside swales before it goes into the drainage system, the house drains weren't connected to the storm drainage system, they limited impervious coverage, limited clearing on the lots and permeable pavement will be used for the driveways. Rain gardens are a system that is kind of in vogue right now but a rain garden has no volume compared to what a basin would have. A rain garden is typically 30 x 50 and a few inches deep so it would decrease the volume a little bit. Since it holds a small volume of water, most of it is going to overflow the rain garden and run downhill anyway. Testing was performed in the basin location and they had very good permeability rates.

Chairman Conforti asked if the current proposal is ultimately the best proposal. Mr. Brown said he believes the system totally complies and even exceeds the regulations.

David York, 48 Cherry Brook Drive, was sworn in. Mr. York is on the other side of the culvert that goes under the road. The culvert is the only thing that protects his property from being flooded. He is concerned that if the culvert is opened up there will be an erosion problem on his side of the road.

A motion to close the public comment was made by Mr. Sarle, which was seconded by Ms. Dyer. This carried on the following voice call vote: Ayes (5) Nays (0)

Mr. Linnus summarized that the application is for preliminary subdivision approval. The applicant and objectors have presented testimony. If the applicant has complied with the stormwater management regulations of the Township and the State then the Board would have to approve it.

Vice Chairman Matthews asked if the applicant could take care of some of the problems the neighbors have brought forward.

Mr. Schatzman replied that the basin has been made substantially larger to mitigate the problem.

Mr. DeRochi asked if some of the nonstructural techniques could be used to intercept most of the roof and driveway runoff from Lot 30.04. Mr. Schatzman said the applicant has indicated that a drywell can't be used because of the water table but they could do a rain garden.

Mr. Linnus said it would be a motion to approve a preliminary subdivision approval subject to all the conditions set forth in the professional staff reports as agreed to by the applicant and all the other standard conditions including specifically the applicant has agreed to provide an addition to the stormwater management plan to provide a rain garden to assist Lot 30.04.

Ms. Coppola suggested a condition that before the Township signs off on the preliminary the design the dam of the detention basin will be completed subject to DEP approval and the review of the Board Engineer.

Mr. Schatzman agreed to provide the proposal to the objectors.

A motion to approve the application with the conditions was made by Mr. Sarle, which was seconded by Ms. Dyer. This carried on the following roll call vote:

Ayes: DeRochi, Dyer, Matthews, Sarle and Conforti

Nays: None

VII. MINUTES

March 17, 2014 – Regular Meeting

A motion to approve the minutes was made by Ms. Dyer, which was seconded by Mr. DeRochi. This was carried on the following roll call vote:

Ayes: Conforti, Matthews, DeRochi, Dyer and Sarle

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 11:00 p.m.