

**TOWN OF SOUTHEAST
PLANNING BOARD MINUTES
July 25, 2016**

Present: Chairman Tom LaPerch; Boardmembers Paul Jonke, Michael Hecht, David Rush, Eric Cyprus; Dan Armstrong; Acting Town Planner Peter Feroe; Town Engineer Tom Fenton; Town Special Counsel Joe DePaolo; Secretary Victoria Desidero. Absent and Excused: Boardmember Phil Wissel; Town Attorney Willis Stephens; Town Planner Ashley Ley

PUBLIC HEARINGS:

1. **SANTUCCI, 5 Shady Lane** – This was a Public Hearing to review a request from the Town of Southeast Building Inspector to determine if a Special Permit for Excavations and Grading is required for work done on a residential property. Attorney Michael Liguori of Hogan & Rossi, Engineer Ron Gainer, and Owners Dennis and Kimberly Santucci appeared before the Board. Chairman LaPerch said Boardmember Wissel is not here tonight as he recused himself from this matter and we only have the one item on the agenda so I gave him the night off, right Victoria (Desidero)? Secretary Desidero said that's correct. The motion to open the Public Hearing was introduced by Chairman LaPerch, seconded by Boardmember Cyprus and passed all in favor.

Chairman LaPerch: Let me set up some ground rules. We have a couple extra people here on behalf of the Town. I would like to introduce them: Special Counsel Joseph DePaolo and Town Engineer Tom Fenton. How I would like to start this Public Hearing off Mike (Liguori) is to have Joe (DePaolo) kind of frame the issues for the Board and for the Board's purposes I'm totally familiar with it as well as Dan (Armstrong) who is not here at this point but I want everyone on the Board to understand the history and the issues in front of us for this applicant. Joe (DePaolo), would you mind?

Special Counsel DePaolo: Thanks. So the Chairman just asked me to kind of briefly walk the Board through the analysis that has to get done tonight. I'm not really going to comment on factually what's going on out there. Mike (Liguori) I'm sure will tell you what his position is and then Tom (Fenton) will kind of tell you what his analysis is. But, I think the important thing to keep in mind tonight is: it's a pretty limited question that you're answering. You're just trying to determine whether a Special Permit needs to be applied for or not. As to whether the permit should be granted or not, that opens up a whole host of other questions and if you were to determine that the owners of 5 Shady Lane need to apply for a Special Permit, those would all be questions that you could address in a separate Public Hearing at a later time. So really what you're looking at this evening is Chapter 69, Article 2 of the Town Code. I tried to make it as simple as possible. You all have a flowchart in your packet.

Chairman LaPerch: Thank you for that. By the way did you share it with...

Mr. DePaolo: Yes, Mike (Liguori) got a copy earlier today. So I'll just walk you through this. And you have the language of the Code right behind the flowchart so the first question is: Was there any change in the grade by the means listed in the Statute 69.12 and if there wasn't obviously you have a pretty quick decision here. There's going to be no Special Permit required. If there was, the next question is: do any of the exemptions apply? There are six of them that are listed in 69.13. If Mike Liguori thinks any are relevant he will point out to you which ones they are. I would imagine there's probably only one that is relevant here but I will let Mike (Liguori) speak to that. Then, if the exemptions apply, are the conditions that follow also met and the flowchart will just direct you to whether the permit will be required under that circumstance or not but it's really pretty simple and, I should

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have started with this, but the way we ended up here is the Building Inspector, under 69.14 has the ability to refer a project that he deems questionable under this statute to the Planning Board for exactly this determination and that's what happened. (Building Inspector) Mike Levine was out at the property several times. He felt that the Special Permit requirements might have been triggered here, declared the project questionable so to speak, and he referred it to the Board to determine whether the permit needs to be applied for or not. Unless you have any questions I'll sit and...

Chairman LaPerch: OK Joe (DePaolo) let me just make sure everyone...we're all on the same page. Dan Armstrong and I had the opportunity to go out to the site and talk and to see what was going on so Dan and I have actually a little bit more history than the Board being out there. Joe (DePaolo), they are referred to the Zoning Board now just so we don't confuse issues because the Board does pay attention to other actions in the Town. Can you kind of make sure we're...

Mr. DePaolo: Yes, there are some other issues that have arisen on the property regarding the height of a fence and a garbage enclosure that's built at the front of the property. Those issues do touch on some of what a Special Permit application would touch on in terms of whether there was grading done and fill added but at this point for the question you are dealing with tonight I really wouldn't be too concerned with...

Chairman LaPerch: No, I just wanted to make sure...there's action going on but does not pertain to this question.

Mr. DePaolo: Exactly. For the question you need to answer tonight I don't think you really need to be too concerned with what's going on in front of the ZBA (Zoning Board of Appeals) right now.

Chairman LaPerch: Thank you. I'd like...you guys probably haven't met him very often but Tom Fenton is our Town Engineer whom I get the pleasure of meeting every couple weeks. He's done a good job over at the Town. He has a great sense of history with the Town and he's been intimately involved with discussions with his counterpart on this application, Mr. Santucci's engineer. So, Tom (Fenton) can you give us a sense of why a Special Permit is being discussed here?

Town Engineer Tom Fenton: My name is Tom Fenton and I've been serving with Nathan Jacobson Associates as a principal. I'm a principal with the firm and serving the Town of Southeast since 1972 when I first started. As it relates to this specific application, I was asked to look at this when it was referred to the Planning Board from the Building Inspector. What I did was, I had gone to the site two or three times before the recent history. As you can tell from my letter of April 6th, kind of outlines my analysis of the history of it. (Inaudible) on the later end, the early actions, and inspections that were done by the Building Inspector. So what I did was I reviewed the file, the Building Inspector's file, the records on the project, the maps and, based on my observations, I put together a kind of summary of how this thing has gone and offered my opinion. If we go back in the history of this, it started, as I understand it, back in February of 2014. My understanding is that there was a Building Permit issued for a fence and then there was some filling going on on the property. The Building Inspector went out and the first letter in there from the Building Inspector was March 26. It was a Stop Work Order for the placement of fill. As a result of that Stop Work Order this plan was developed to create a landscape berm in the front of the property. This is the property. Can everyone see? Am I in the way here? So, this is the property. The area we're talking about...this is the house. The area we're talking

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about is this front area here. This shaded area represents the berm that we've been talking about. There are other issues on the property, as Attorney DePaolo mentioned there are other issues on the property but we were directed to focus on this area of the site, the filling in here as it relates to this activity. So, this plan was submitted. It's a Site Plan prepared by a professional engineer and it was submitted to the Building Department for determination of if this complies...if this could be done with a Building Permit. And, the way that was determined is, the Building Inspector looked at it. Attorney DePaolo mentioned Chapter 69. The Building Inspector looks at it. He determines if it meets the threshold under Chapter 69 of allowing an exemption for that Chapter and then he decides if it is as a Building Department approval or he recommends it to the Planning Board for a Special Permit for Excavating and Grading. The criteria that he looked at in this case, as I understand it, was the exemptions under Chapter 69.13 and it says *'changes in contour resulting from bona fide landscaping not involving removal, depositing or relocation of more than 100 cubic yards per acre, except topsoil.'* So that was his criteria. So as I understand it, the Building Department looked at this, this cross-section here is a section looking at the berm so this AA is a section looking at the berm. This shows a wall, the neighbor's driveway, an existing grade, the proposed wall, the existing grade on the other side of the wall that matches the grade on the front side, 10 ft. 2 ft. high berm. That's what the plan shows. So the Building Inspector looked at this plan and he said 'OK, it's'...he looked at this and he calculated approximately, by quick calculation I believe, 2 ft. by 10 ft. berm, the amount filled, he said 'that was about 100 cubic yards without topsoil' so he determined that was OK. The other criteria under Chapter 69 is that under those exemptions some of the following conditions and the primary condition in 69.13 (B) he looked at was *'elevations at property lines shall not be changed, and changes in elevations 10 ft. from the property line shall not exceed 2 ft.'* so the Building Inspector looked at this plan and said 'OK, the elevation doesn't change within 10 ft. of the property line, it doesn't change by 2 ft. and it doesn't change at the property line.' So this plan, at that point in time, became what I call the approved plan but it was a plan that was accepted by the Building Inspector as not needing a Special Permit and that's kind of the basis of everything we're talking about. So, if you follow from my letter, I went on to list several different letters that the Building Inspector issued and it all kind of comes back to the same time. Basically what he said 'in order to comply with my approval you need to use this plan.' So that's the basis of everything we're talking about here. The other thing that's kind of worth noting is that, as I understand it, before this plan was submitted, this plan was submitted because they have a received date. This received date is 21 and this one is May 8. As I understand it, this plan was submitted first. Now this plan shows something different. It shows a 3 ft. high wall proposed. It shows the grade at the top of the wall. It shows it rising and then coming back so the Building Inspector looked at this plan and said 'that doesn't meet the exemption criteria under 69.' He said 'you're changing the grade of the property line. This is a 6 ft. high berm.' He looked at the amount of fill here and said it's over 100 cubic yards, you're changing the grade at the property line and the grade changes 10 ft. from the property line. So that kind of establishes sort of what we're looking at here. Approval by the Building Permit requires a Special Permit.

Chairman LaPerch: Tom (Fenton) can I just jump in here for a second? I apologize. These are engineered reports and stamped as a baseline for your review. Is that something I can tell the Board?

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Mr. Fenton: This plan is stamped.

Chairman LaPerch: OK.

Mr. Fenton: I don't have a stamped version of this plan. I have a plan received by the Building Department. It has a preparer but does not have a stamp. This plan has a stamp.

Chairman LaPerch: And Michael Levine looked at both plans and said they're not conforming, that they need to have a Special Permit...

Mr. Fenton: No, this plan was accepted...

Chairman LaPerch: That was accepted.

Mr. Fenton: Not needing a Special Permit.

Chairman LaPerch: And the difference?

Mr. Fenton: This one needed a Special Permit because of the amount of fill and the fill at the property line. Does everyone kind of get a sense of where we are on here?

Chairman LaPerch: I think the visual is going to go a long way to resolving some of the confusion there.

Mr. Fenton: So this is the section, this section right here. Again, this section is looking at that berm, OK? So, this is...unfortunately we're looking the opposite way here but this is the property line, the neighbor's driveway. This was on March 26th so this was after some fill had been placed, I believe, on the other side here but I believe this pretty much represents existing grades. This grade tends to pretty much be consistent with the grade, the contour shown on this plan so if the grade rises slightly from the property line but you can see the base of the tree stump and you can see that the grade is relatively flat so this kind of represents a starting point. To comply with this plan, this would have to come out and stay flat, 2 ft. high berm, 10 ft. and that would have been it. OK? So we can see there is fill here being placed. Here are the two plans together and this is basically I think where we are. These I took on May 5th so this is what it looks like now. Here's the original plan, this is the approved plan...

Chairman LaPerch: Where's that tree that was...

Mr. Fenton: This tree, I think, is probably one of these stumps, probably that one.

Chairman LaPerch: Ballpark, Tom (Fenton), ballpark. I was just curious.

Mr. Fenton: Yeah, right in here. So here's the approved plan and the plan that requires a Special Permit. This is what's there now essentially. So, what I look at is a 3 ft. high wall, a wall behind the wall, the grade behind the wall is at the top of the wall. It rises to a high point and then it goes down.

Chairman LaPerch: So the bottom picture is the back end of the wall that's been filled? Is that correct?

Mr. Fenton: This picture is looking pretty much at this section so this wall here is the new wall. The grade behind the wall is right here. This is the same view basically so you're looking one way and, on this one, you're looking the other way.

Chairman LaPerch: Gotcha, OK.

Mr. Fenton: So to me, this is pretty much consistent with this and I actually think, if we get into it, I actually think there's more fill than this because I think it extends farther beyond but I think that's the gist of it. That's where I come to, is that this right from the beginning needed a Special Permit. This is what's here. I know it's been said that these are not, I think they were called 'artist renderings.' They mean something. They show something. They show existing grade behind the wall before this started. The same as the existing grade on the front side of the wall, the driveway side of the wall. It's a

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representation. This is a different representation. This is the plan that was approved and everyone knew that at that time so, to me, it's pretty clear and it's not to say this can't be done. All I think the Building Inspector was saying was this activity I can approve. This activity based on fill requires that you go to the Planning Board for a Special Permit for Excavating and Grading. So really I think there are two things you have to determine: 1) do you agree with the Building Inspector's assessment that this doesn't require a Special Permit and this does? And then based on that is what's out there consistent with this, which requires a Special Permit or is it consistent with this, which doesn't? So to me, I looked at it and determined that yes this does and this is consistent with that.

Chairman LaPerch: OK. Listen Mike (Liguori)...I just want to be sure that my Board understands what Tom (Fenton) just told them so I am just going to run through...Mr. Jonke, any questions?

Boardmember Jonke: Thank you. Tom (Fenton), that stone wall is on the property line?

Mr. Fenton: This is pretty much on the property line. You can see...here's the stake right here?

Boardmember Jonke: Right.

Mr. Fenton: So that was the property line, it right...(inaudible) driveway.

Boardmember Jonke: And that's the driveway?

Mr. Fenton: Yes. So basically the property line is just this side of the wall, the driveway side of the wall. It's basically right on his property line.

Boardmember Jonke: Got it. Thank you.

Chairman LaPerch: Mr. Hecht?

Boardmember Hecht: No questions.

Chairman LaPerch: OK. I just want to make sure you understand what Tom (Fenton) has been saying before we get into the applicant's position.

Boardmember Hecht: Nope, I'm good.

Chairman LaPerch: Thank you. Dan (Armstrong) yes, you were out...before you arrived, thanks for coming, I told them that you and I had the opportunity to go out and review the property so you have a little bit of knowledge with respect to this. Any questions for Tom (Fenton) before we get the applicant on board?

Boardmember Armstrong: No. All I would say is that it's a beautiful site, it's a beautiful house, the work that was done on the site is the best so I know what the question is here but I just want to say the work is done beautifully and it's a very nice site.

Chairman LaPerch: Thank you, Dan (Armstrong). All right Dave (Rush), any questions for Tom (Fenton) before we move on?

Boardmember Hecht: No, I think he made it pretty clear. The current wall is 3 ft. though right? The one that's there?

Mr. Fenton: I believe it is, yes. I didn't measure it with a tape but it appears to be when I was up there looking at it.

Chairman LaPerch: Lynne (Eckhart)?

Town Councilwoman Lynne Eckhart: It's a Public Hearing right?

Chairman LaPerch: Yes.

Ms. Eckhart: I had nothing but you might want to let people...

Chairman LaPerch: Oh no, we haven't even started yet. We're waiting for the applicant to give his version of...his interpretation.

Ms. Desidero: You're going to let Peter (Feroe)...

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Ms. Desidero: You want to put Peter (Feroe) on the record and then like...

Chairman LaPerch: No, let's do it now. Just make sure we get everything out there before Michael (Liguori) goes in case he has a question. (Town Planner) Ashley (Ley) wrote a memo to the Board and I've asked Peter (Feroe) if he can read it to the Board and for the public record here before Mike (Liguori) gets on. Mike (Liguori) you have a copy correct?

Attorney Michael Liguori: Yes.

Chairman LaPerch: OK, thank you.

Acting Town Planner Peter Feroe: My name is Peter Feroe. I am with the firm AKRF and my colleague, Ashley Ley, is the Town Planner here in the Town of Southeast and I have had the pleasure to fill in for her a couple of times and I'm happy to be back. She wrote a memo to the Board, dated July 21, regarding the matter before the Planning Board and I'll just read it...do you want me to read the whole thing Joe (DePaolo) or just kind of brief...

Mr. DePaolo: Tom (LaPerch) what do you think?

Chairman LaPerch: Read it into the record. Go for it. We have nothing else we want to hear. Go for it.

Mr. Feroe: *'On February 10, 2016, pursuant to the Code of the Town of Southeast, Chapter 69, Section 13, the Town of Southeast Building Inspector referred the subject property for a questionable grading and excavating project to the Planning Board for a determination of whether or not a "Special Permit" is required under Chapter 69, "Excavation and Grading" of the Code of the Town of Southeast (see §69-14).¹ The area of concern was identified as the approximately ten foot wide area of disturbance between the new stone wall adjacent to the eastern property boundary and the new berm. This is because, the Town of Southeast Code §69-13.A(4) exempts "Changes in contour resulting from bona fide landscaping not involving the removal, depositing or relocation of more than 100 cubic yards per acre, except topsoil." provided that the following conditions are met (see §69-13.B):*

- (1) Natural drainage onto or from adjacent property shall not be adversely affected.*
- (2) Elevations at property lines shall not be changed, and changes in elevations 10 feet from the property line shall not exceed two feet.*
- (3) All artificial slopes shall not exceed 30° to the horizontal.*

In observing the excavation and grading activities that had occurred on the property, the Building Inspector questioned whether or not the elevation at and within 10 feet of the property line had been modified to the extent that the project would not meet the criteria for exemption from a Special Permit. As such, the Building Inspector referred the application to the Planning Board for a determination.

Following this referral, representatives from the Planning Board, Town consultants, and Town staff met with the Santuccis and their representatives to determine the best course of action for resolving any outstanding stop work orders, as well as enabling the Santuccis to move forward on other landscaping projects on the property that also involved substantial grading. There was a disagreement between the Santucci's engineer and the Town

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Engineer as to the quantity of fill that was already brought in, and the extent of the grading that had already occurred on the property. As a result of these meetings, it was agreed that the best course of action was for the Santuccis to file an application for a Special Permit for new grading activities in several areas of the property that overlapped with the areas for which the stop work order that was issued. Under this permit, any previous work would be covered under the new and more comprehensive Special Permit. The Planning Board began processing this application and scheduled a public hearing. However, the Santuccis withdrew the application days before the public hearing. The Planning Board is now tasked with making a determination on the original referral from the Building Inspector. Based on the information provided by the Town Engineer, Town Building Inspector, and the site walk conducted on May 5, 2016, there is sufficient evidence to support the Town Engineer's recommendation that the Planning Board require a Special Permit for the work conducted. The materials provided by the property owners and their consultants were duly considered and reviewed in arriving at the conclusion that a Special Permit is required. Therefore, at the July 23, 2016, Planning Board meeting, AKRF recommends that the Planning Board open and close the Public Hearing, and issue a determination as to whether or not Special Permit is required.'

Ms. Desidero: Isn't today July 25th?

Chairman LaPerch: OK. At this point, Mike (Liguori) can you introduce your team and would you like to say a few words?

Mr. Liguori: Sure.

Chairman LaPerch: Thank you.

Mr. Liguori: Michael Liguori, I'm an attorney at Hogan & Rossi. I'm here with Ron Gainer. Ron (Gainer) is the civil engineer and represents Dennis and Kimberly Santucci. This is Dennis Santucci, Kimberly Santucci and Dennis Jr.

Chairman LaPerch: Hi Dennis.

Mr. Liguori: Dennis and Kim (Santucci) own 5 Shady Lane, which is the subject property for which the Board is going to make a determination. A few things I want to go over just at the outset. I know we're having a Public Hearing on the determination. We want to reserve our rights to object to any comments of the public because there is no provision in Chapter 69 for a Public Hearing on the Board making this determination so we would like to have that on the record.

Chairman LaPerch: So noted.

Mr. Liguori: That's our point. I just need to take out a few documents to get ready.

Chairman LaPerch: Go for it. Do you need any help?

Mr. Liguori: No it's...

Chairman LaPerch: Like a doctor bag here. What's going on?

Mr. Liguori: Board-proof, that's what's going on.

Chairman LaPerch: Ron (Gainer), as a matter of public record, you are also the Town Engineer for Patterson correct?

Engineer Ronald Gainer: Correct. In fact I'm the engineer for Patterson for most of the last 25 years. Also Town Engineer for the Town of Phillipstown. I represent other localities as well.

Chairman LaPerch: I just wanted the Board to know the nice resume.

Mr. Gainer: I've been on your side of the fence.

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Chairman LaPerch: There you go.

Mr. Liguori: So, to start, we have really just a few points of contention but they are very significant. To start, this project started in February of 2014 with the issuance of a Building Permit to permit the construction of stone walls around the property. Dennis (Santucci) had begun the construction of the stone walls, which included the construction of the front wall and this... Tom (Fenton) do you mind if I use some of your drawings?

Mr. Fenton: No, go for it.

Mr. Liguori: So this is an approximately five acre piece of property. Again, it's 5 Shady Lane. Milltown Road is over there. There's a right-of-way that bisects 1 Shady Lane. You have 3 Shady Lane here, 5 which is Dennis' (Santucci's) property, and then 7 Shady Lane. This map, which was submitted... I made and submitted early on after the February referral by Mike Levine, we made the submittal to the Planning Board, which included the landscape plan that was prepared and then two additional documents which were a topographical survey that we had prepared by Terry Collins in 2015 and then a 2005 Bergendorff topographic map that was prepared in connection with the construction of the septic system which serves this house. So, this house was constructed in approximately 2005. Dennis (Santucci) commenced the construction of the stone walls on the property and I want to bring that up and where these property lines are because the picture that's depicted as to...

Mr. Fenton: Which one are you looking for Michael?

Mr. Liguori: The one that has the...

Mr. Fenton: I think I know what you're looking for.

Chairman LaPerch: Stand by Tom (Fenton).

Mr. Liguori: Why use mine when yours are so nice? So, what's very important to understand about the construction of these walls and in particular this first 10 ft. of this property is that Jerry Skalaski, who is the owner of the property that's immediately to the east, which is this side and to the south over here. This is his driveway. It's his property all the way up to this point here. So that's a traditional flag lot but it's not an area that Dennis (Santucci) is permitted to construct upon. He can't go on it with his equipment or machinery. It's only for the benefit of Jerry Skalaski. So, this picture is March 26, 2014 in an area where Dennis (Santucci) cannot go, cannot take his equipment and build a stone wall, can't take his equipment and go down Jerry's driveway and build. So this was taken a month after Dennis (Santucci) started construction where he took his machinery, built this wall with the use of a piece of equipment and pushed the dirt back from where it is. This is kind of a microcosm of what that front looks like. When you're dealing with the whole length of the driveway... obviously Tom (Fenton) has some pictures that detailed the length but maybe that's 50-60 ft. but we're talking about 200 ft. of property so we don't feel that that's representative of what that area looked like before construction or immediately after... I'm sorry, before construction commenced. I just want to get to a few pictures to give the Board some additional perspective.

Chairman LaPerch: Mike (Liguori), while you're looking through these, has our consultant seen these?

Mr. Liguori: Excuse me?

Chairman LaPerch: Has our consultant seen these?

Mr. Liguori: No, I just took these today because I wanted to get today's...

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Chairman LaPerch: All right, thank you. I just wanted to make sure. Can you look at them Tom (Fenton)? Can you look at them first?

Mr. Liguori: So, this is a picture that I took today. I'm only showing this for perspective as to the length of the wall and to give the Board an idea as to where this picture starts. OK? For dimension purposes, OK? It will become a little bit more relevant in a minute.

Chairman LaPerch: That's the after.

Mr. Liguori: This is today.

Chairman LaPerch: Yes, that's what I mean. I thought you were giving us the before.

Mr. Liguori: No, we'll get there. We'll get there. So, Dennis (Santucci) starts the construction of his stone walls. He gets in there with a piece of machinery. He stays on his side of the property, takes down some trees, pushes dirt back, starts building the stone wall, brings fill in and, at the time, operating under a section of the Code that says you're allowed to bring in 100 yards of fill per acre of property. So he has five acres of property and believes he can bring in 500 yards of fill. Doesn't bring in 500 yards of fill but brings in too much fill which triggers a back and forth with the Building Department about bringing in too much material and triggering the requirement for a Special Permit. So, what he does is he has the two landscape plans prepared in order to potentially either remedy the violation or essentially remedy the issue of having too much fill on the property and, obviously, the first plan was prepared and that was going to trigger a Special Permit so we didn't move forward with that plan. Has this plan prepared which is what we call the Nichol's plan, the Harry Nichol's plan, and proceeds with that plan. The major issue that we have with the plan is that it's our position, and it has been our position from the start, that these grades that are reflected on the diagram, this existing grade between the berm and the stone wall was never perfectly flat and even and we argued that using the elevation of the tree stumps in that area. So, if you look at where the grade is here for the road and where the tree stump is and you follow that along the property line, you can see that that area was never level and it wasn't intended to be level based on the Nichol's plan. If you have today's submittal from Tom Fenton, there's a picture that's in that submittal and it essentially shows the length of the berm and it shows the tree stumps... I've marked it with lines to go across but those are the existing stumps.

Ms. Desidero: I'm sorry, can I just see which one that is in the packet?

Mr. Liguori: This is Fenton's packet from today that I marked up with...

Ms. Desidero: I appreciate that. I'm just trying to figure out which one... is it the first one or the second?

Mr. Feroe: It's the second picture in the packet from today.

Ms. Desidero: OK, thank you.

Mr. Liguori: So the reason why I'm showing the Board that and where the stumps are is that we've had this significant back and forth with the Building Department about the topography that's on this property and the topography that we used on the Nichols map. So, this rendering would have you believe that existing grade was zero, zero across. You know, zero elevation at the bottom of this wall all the way to the beginning of the berm but existing grade is not zero. The topography that's on the Nichols map is from Bob Bergendorff. Bob Bergendorff designed the septic system in 2005 for the construction of the house.

Mr. Gainer: Excuse me. He didn't design the septic. He provided the topography...

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Mr. Liguori: That's right. Thank you, thank you. Harry Nichols designed the septic system for the house. When Dennis (Santucci) ran into an issue with the fill, went to the Building Department to take a look at the files and sees a map there from Harry Nichols and says 'you know what, I can save some money if I go hire the same engineer because he's got data.' And anybody that's in a situation where you need to go get mapping to provide to your engineer, you go back to the last guy because you know it's going to be a little bit less expensive. So he goes to Harry Nichols and says 'Harry look I have to design a plan that's going to comply with the fact that we have this fill on the property. I need you to prepare a plan for me.' So he does and he prepares this plan and he takes the topography from 2005 and he overlays it on the plan and I'm going to use the topography two ways: one is that the topography goes down in two foot intervals. If I have that right Ron (Gainer)? Commencing about here, down to the bottom of the property and the reason why, even though we don't feel that it's accurate as far as what was actually taken from a survey perspective, it does at least integrate... it indicates that it was never zero and perfectly level all the way across but really, what's more relevant about it is that when... so we're at 2016 now with this. We've been at this since February of 2014. There was a point in January of 2015 where Dennis (Santucci) had basically threw his hands up and said 'you know what? I'm going to go out there and take this thing down as best I can get it back to what I found when I went out there.' So what he did was...we were at a point where we had the um, um... So let's say in December of 2015, this was configured a little different: these trees were actually much closer, OK? And this area was a little bit higher than the stone wall. It isn't today but as far as if you walk down this stone wall there's now a depression that goes down. There are wood chips there. If you pull back the wood chips you're going to come back to a grade that Dennis (Santucci) re-established in January of '05. I'm sorry January of 2015. So what had happened was that between, we were in a Stop Work Order all the way until January '15, Dennis (Santucci) got out there with his machine. He moved the trees back, took out what he considered to be the excess fill to try to return it to the original grade that was there post construction of the stone wall and we went out with Mike (Levine) on the site and it was rejected. Quite frankly it was rejected because it did not look flat and even like was shown on the depiction and that triggered a letter from Mike Levine to say 'hey look you know, I think the only way we're going to solve this thing is if you guys go out and get some new topography and try to show what was out there beforehand and let's compare it to what's out there now and then we can make some determinations.' So Terry Collins goes out 10 years after Bob Bergendorff goes out, takes topographical elevations all along the stone wall, takes the tree stumps, the elevations of the stumps and that's why I pointed out the picture that Fenton had...Tom had prepared. These are the stumps and what we wanted to do is we were left in a position where we were essentially forced to discredit our own engineer to prove the point that this was not zero grade. What was represented on this plan was intended to be existing grade. This berm was intended to go on top of the existing grade and it was not intended to look perfectly straight down that stone wall, 10 ft. across and then up 2 ft. and over. It was intended to maintain the grade that was there, not change it obviously because that would have triggered the Special Permit requirement and that is where we are today. Those stumps are very critical because they show, in our opinion, very clearly that that grade within that 10 foot mark is higher than Dennis' (Santucci's) stone wall and I think that

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picture shows it really well, that it's higher and it's higher in points that are very significant.

Mr. Gainer: Just give me one second. Just so the Board understands there's a series of at least three stumps in place and one existing tree, all of the base of which were shot and are represented in another information that's been filed on the Collin's survey.

Mr. Feroe: When were the... you say the stumps were shown that they are higher than the existing grade, when were the trees felled?

Mr. Liguori: So in 2014 Dennis (Santucci) took those trees down during the construction of the wall.

Mr. Feroe: OK, so it's 2014.

Mr. Liguori: Yeah, just a year prior. And they're significant...

Owner Dennis Santucci: If I can interrupt for one second...

Mr. Gainer: The stumps still exist.

Mr. Liguori: These stumps are still there.

Mr. Feroe: But it was before the grading went in. That's what I was trying to get at.

Chairman LaPerch: OK.

Mr. Santucci: We also have memos from Terry Collins that...

Chairman LaPerch: You don't have to show us. We believe you.

Mr. Santucci: Specifically saying the stumps are critical to this whole thing. They show the original grades and that's what it is.

Chairman LaPerch: OK. Mike (Liguori), I guess I'm a little confused because when Dan (Armstrong) and I were out there you're conceding the fact that the fill exceeded... when we were out there I got the impression that that fill exceeded threshold.

Mr. Liguori: The Building Permit authorized the installation of 140 yards of fill by the math.

Mr. Gainer: Based on that plan.

Mr. Liguori: Based on that plan. So we had a lawful Building Permit to do that...

Chairman LaPerch: Tom (Fenton) come on up please.

Mr. Liguori: With the 140 yards but the only... to your point, the concession that I'm discussing is the fact that... and we've never hid the fact that we brought in fill. That was never a you know...

Chairman LaPerch: Again, correct me if I'm wrong, but I thought that was part of our kind of take away saying that 'yeah we agree there's too much fill here and we're willing to take it out to make this legal.'

Mr. Liguori: We attempted, as a matter of fact, in the history of this in August of 2015, Ron (Gainer) submitted a letter to Michael Levine, which was responded to on September 18, 2015, which would assist us in getting out of this perpetual Stop Work Order situation by allowing us to take off the excess material...

Chairman LaPerch: And put it on the septic field, right? Right, Ron?

Mr. Liguori: Right and put it on the septic but that material was on the house side of the berm. It was not on the side of the berm between the front of the berm and the stone wall.

Chairman LaPerch: OK, I want to dumb this down because I think we're getting too technical here. From my standpoint Michael (Liguori), you did a good job and you have to remember this is new to this... There are two issues that I think we're talking about here. I think that you conceded that there might be excess fill there that you might take off.

Mr. Liguori: We'd like to continue...

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Chairman LaPerch: OK, wait, wait. Let me just finish my thought here because... Tom (Fenton), is their position that the original submission that Bergendorff sent in many, many years ago, which if I understand, once again when we had the meetings Dan (Armstrong), it was not a real submission. They said it was just an artist's rendering is the words that I recall hearing. The connection is, that's their baseline that they want to use from for the three feet?

Mr. Liguori: That's what the Town is holding us to.

Mr. Fenton: Yes.

Chairman LaPerch: OK. I want to drill it down to like the basic difference between the two.

Mr. Liguori: Sure.

Chairman LaPerch: The fill and then who's baseline is real?

Mr. Fenton: Well, I'll say this. Can I offer something?

Chairman LaPerch: Yes, please, go ahead.

Mr. Fenton: I think it's real because it's the baseline that the Building Department's approval was based on. This is what they signed. Everybody knew that going in. OK? Everybody knew that. Everybody knew this needed a Special Permit. Everybody knew that. So, the premise they're asking you to accept, and this is one of Ron's (Gainer's) drawings. Ron (Gainer) was going out and try to calculate... mind if I use this? Ron (Gainer) is going out and trying to calculate...

Mr. Gainer: That's the Bergendorff-Collins survey from (inaudible).

Mr. Fenton: Right. So they did the survey and he has, he assumes the old ground and he assumes the vertical change in grade at the old ground.

Mr. Gainer: Excuse me...

Chairman LaPerch: Wait, wait, wait. Wait Ron (Gainer). I'll give you your time buddy. Let him finish. You have the floor next.

Mr. Fenton: I'm reading from the plan. Assume the old ground that was the section. So he has the various sections and it shows the vertical change in grade. So, this says that, when I look at this, it says that there was a vertical change in grade of 2, 2-1/2, 3 ft. depending on exactly where you are before any of this started. I don't see anything that shows that. I don't see any documents that shows that. And you know when we talk about the stumps, I understand that they went out and shot some stumps but to me I don't think it's really so much an engineering issue or technical issue, what does your eye tell you? Here's the stump. I mean here's the grade before anything happened. If this grade was three feet higher and that...

Mr. Liguori: That's...

Chairman LaPerch: All right Mike (Liguori), you're going to get...

Mr. Fenton: And that was cut, you'd be into the roots of the trees. So it's kind of what does the eye test say?

Chairman LaPerch: And that's your position?

Mr. Fenton: Yes, that's my position.

Chairman LaPerch: OK. I just want to boil it down to basics here. All right, I'm sorry. Thank you.

Mr. Gainer: I just want to correct a few statements that Tom (Fenton) had offered. This entire plan came from Terry Bergendorff Collins. Her office staff developed these cross-sections. They're identifying a change in grade right at the property line. They represent a

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stone wall at the property line but they don't represent it here so the stone wall historically existed at that site. When we talk about construction of a new stone wall, that's reconstruction of something that existed. So when you look at the plans of what was supposed to be pre-existing conditions, that's actually during the onset of construction by Mr. Santucci and he's pulled back the existing stone and he's reduced that grade to the area of those tree stumps that we keep talking about. But all those tree stumps are within 6 or 8 ft. of the property line. They're all very close and that clearly would represent the old ground and that was the reason we shot those grades.

Chairman LaPerch: Michael (Liguori)?

Mr. Liguori: OK. Our...

Boardmember Cyprus: Can I just ask one question?

Chairman LaPerch: Let Mike (Liguori)...Eric (Cyprus) you'll get...

Mr. Liguori: When we refer to this picture, this is after a bulldozer has gone in and pushed that dirt back, OK? So to argue that that's what was there precisely beforehand is just not the case and that's part of our argument.

Chairman LaPerch: OK.

Mr. Fenton: Can I say one thing?

Chairman LaPerch: Yes, one thing and then I want to open it up to the Board.

Mr. Fenton: What I'm saying is that if that was the case, this is the base of the tree... if you had cut three feet and the tree was up here, you'd be into the roots of the tree. You can't cut three feet at the tree and be below the tree.

Chairman LaPerch: OK, thank you. Now, now...listen, listen. Gentleman, we are done for now. Thank you. The Board members need to get some and you can come back. Paul (Jonke)?

Boardmember Jonke: I assume we don't have any pictures of the old stone wall?

Mr. Liguori: We have a 1949 survey that shows the wall on the survey but no, no recent pictures.

Boardmember Jonke: Or the height of the stone wall, the old stone wall?

Mr. Liguori: No.

Boardmember Jonke: Mr. Santucci, do you know roughly what you removed?

Mr. Santucci: When I was digging out the footings, there were a lot of stones coming out. I mean exactly the height, I don't recall.

Chairman LaPerch: Well... Mr. Santucci, can I just interrupt for two seconds and I'll let you get back? Tom (Fenton) is indicating he might have something to say to that?

Mr. Fenton: Yes, I just have... this is the only... going through all the records... I was looking for pictures too that showed something before. This is the only thing I could find. You guys haven't seen this? It was in the record, in the ZBA record. I believe it was provided by the neighbor?

Mr. Liguori: We've seen it but it doesn't...

Chairman LaPerch: It's not representative of your issue?

Mr. Liguori: No, no it's just it doesn't... well there's are a few things. Number one is that it doesn't... first of all it's only a snapshot... I mean we can show the Board that.

Mr. Fenton: Yeah so what it is...I'll just do this...

Chairman LaPerch: Give it to Paul (Jonke) and we will send it down the line.

Mr. Fenton: OK, I just want to explain where it is. So this would be looking at this just so you know where we're looking.

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Chairman LaPerch: Point at that other one, Tom (Fenton). The picture one over there.

Mr. Fenton: Which one?

Chairman LaPerch: Yes, the picture one there that he's taken off.

Mr. Fenton: Oh OK. This would actually be looking this way.

Chairman LaPerch: That's what I want to know.

Mr. Fenton: Right? Yes. So this is the guide. So this would be the old stone wall here...this line right here is where we're talking about.

Chairman LaPerch: And that would be the old stone wall that Paul (Jonke) is asking about?

Mr. Fenton: Right. And it appears to me like the grade is pretty flat right here.

Chairman LaPerch: OK let Paul (Jonke) finish now. Paul (Jonke), any other questions?

Boardmember Jonke: For Joe (DePaolo), the Code, it says 100 yards of fill per acre.

Would they have been approved by the Building Department up to 500 cubic yards of fill? I keep hearing 100 yards but it's a 5 acre site.

Mr. DePaolo: I think that was a different issue. It wasn't necessarily... this is that we were dealing with but it kind of leads me to a question that I think might help the Board for Mike (Liguori). Is your position that the grade has not changed and that's why no Special Permit is required or is your position that yes, the grade has changed but we're exempt under one of the six categories of the statute.

Mr. Liguori: No. Our position is that the plan that was approved... that we built... what you see out there, if you take out the woodchips, right? Once you peel back the woodchips our argument is that that grade is the pre-existing grade.

Mr. DePaolo: OK so you're not even dealing with the first 100 yard exemption...

Mr. Liguori: No, no, no we...

Mr. DePaolo: You're saying the grade has not changed?

Mr. Liguori: Right. We're not here for the 100 yard exemption. That's not the subject of tonight's discussion.

Mr. Santucci: Can I say something? This particular tree right there, this tree and the property line is maybe six feet, the total distance. The stone wall is two foot wide and I'm a good eight inches beyond. From the back of the stone wall to this tree is about 4 feet. If you put your level line... I mean this has going like this. This is not flat like this. It's going down and what we have out there right now is exactly what the grades... pretty... look I got a permit to build stone walls. I had a permit to bring in to make a berm. Is it to the actual inch? Nobody could say that, all right? But it's damn close, all right? Number two, when you look at this cross section that Mr. Nichols graded, this is nothing more than a picture. You'd have to go back to the topos that were on the picture... where's that other map? You'd have to go back to these topos. Even the Bergendorff topo is not flat like that. This is what existed. Terry Bergendorff, she has an affidavit that says 'the tree stumps show existing grade.' I mean is it to the inch? Nobody can say that. The Town can't say that and I can't say that but it's close.

Chairman LaPerch: Thank you Mr. Santucci. Paul (Jonke), are you finished?

Boardmember Jonke: The stone wall, as it's constructed, do you have a CO (Certificate of Occupancy) for it? You don't have a CO for the wall (inaudible)?

Mr. Santucci: No, not yet.

Mr. Liguori: No we can't apply for a Certificate of Completion.

Boardmember Jonke: In your opinion, was the wall built to the plan?

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Mr. Liguori: Yeah there's no issue with the wall.

Boardmember Jonke: The wall... just the wall?.

Mr. Liguori: The wall is fine.

Boardmember Jonke: Yes, I'm done. Thank you.

Chairman LaPerch: Mike (Hecht)?

Boardmember Hecht: No questions.

Chairman LaPerch: Thank you. Eric (Cyprus)?

Boardmember Cyprus: The tree picture. Mr. Gainer, how high would you say the grade is in the tree picture, the change from the neighbor's driveway?

Mr. Gainer: It's at least a few feet. All right? I couldn't be any more accurate than that. Right? From this point down here up to that place there, which was shot to by Mr. Collins...

Chairman LaPerch: Tom (Fenton)?

Mr. Fenton: Yes? What was the question?

Boardmember Cyprus: In that picture, the tree picture, do feel like that's flat like Nichols...

Mr. Fenton: I would say that this rises slightly which is what the topo shows. I actually had a section in there where we actually... I was looking for it. We actually took this section, on one of our cross sections, we actually took a section from the existing topo and it wasn't perfectly flat. It rose but it rose probably a matter of inches. It was a very slight rise. So that's a big difference from building this up three feet and then going up another three feet. I mean that's a very... we're not talking about inches. We're talking about three foot block and three feet on top of that, which is what's here, which the Building Inspector said in 2014 requires a Special Permit. Again, these two plans are very... represent something very different. If it were me and the grade was at the top of the wall, I would have... when I came in for a permit I would have said but why can't I do this because the grade is up here. It's not. They came back with this and said we're going to build this. And it says, these all say existing, so I mean it's pretty clear to me.

Chairman LaPerch: Hold on Mr. Santucci.

Mr. Santucci: That's not what it says. It goes back to the topo. It always goes back to the topo.

Chairman LaPerch: OK, OK. All right. Let's be civilized here. Eric (Cyprus)?

Boardmember Cyprus: Well yeah I guess with the tree...I mean it's either a few feet or a few inches depending on their opinion but...

Unidentifiable Male Voice: When you look at that...:

Boardmember Cyprus: But Tom (Fenton) I see the drawing on the left showing the wall and then another three feet that you just referred to but in the real picture I don't see that, I guess.

Mr. Fenton: This?

Boardmember Cyprus: Yes and that looks even with the stone wall.

Mr. Fenton: No this... I mean you can see... I mean that rises. I think it's pretty clear. I would say it's about 6 ft. I don't know... if appears to be in the picture but this goes up from the wall.

Boardmember Cyprus: Yeah, it looks different in that picture.

Mr. Fenton: Yeah it is a little bit different. It's the perspective. I think I might have one more actually. I can look. Which one? No it doesn't show it either. I think this is the best

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one to see the rise and this is what I was talking about. This was the section... OK so the green... I highlighted in green, the dash line... based on the contours. If you cut a section based on the contours that's what you would have right there so it rises a little bit. Based on the contours it rose a little bit.

Chairman LaPerch: Eric (Cyprus) do you have any other questions?

Boardmember Cyprus: No.

Mr. Santucci: That cross section that Tom (Fenton) just gave you, that's (inaudible).

Chairman LaPerch: You'll get another shot at it if you'd like. Dan (Armstrong)?

Mr. Santucci: That cross section, that line that Mike just gave you, that's more or less what was out there originally.

Chairman LaPerch: OK. Let's just get some questions Dennis (Santucci).

Mr. Santucci: This was about what was out there originally... the top line.

Chairman LaPerch: All right.

Boardmember Armstrong: I don't really have any questions. My only thought is that after the field trip on May 5th...

Multiple people talking.

Chairman LaPerch: OK, wait, wait, wait. One meeting.

Boardmember Armstrong: After the field trip on May 5th, I really thought that we had come up with a solution that would work for the Town and the property owner and it seemed to me that, subject to whatever the technical requirements are, that the property owner could have what they wanted pretty much and its (inaudible) of work that had been done. It was approvable assuming that the Board saw it that way at a meeting. I'm really sorry that we've come to this. We're dealing with some pictures and some plans and some (inaudible) and it's going to be very hard for all of us to make a decision as to how this should go down. But, from my perspective, I think I have to go with the Town consultants and I think Ashley's (Ley's) letter pretty much sums up the way I think it should go.

Chairman LaPerch: Thank you. Mr. Rush?

Boardmember Rush: OK real quick. On the survey you gave, the drawing that Harry Nichols did that was the original approved document...

Mr. Gainer: It was 2005. Terry Collins survey...

Boardmember Rush: When did you have Bergendorff do the site survey for the contours?

Mr. Liguori: In April 2015, Terry Collins.

Boardmember Rush: Right, right Terry Collins. OK. You know I'm listening to Dan and I see you did a beautiful job and I'm with him on that 100 percent. I think all of us are. But is there a way... and I'm going to ask the same simple question, to comply with an approved plan with a mild removal of the materials... you've got that 10 ft. is what's killing us now and, even if it weren't, it's clear to me in the pictures it was filled to 3 ft. You built a three foot wall and it's up to the top, yes?

Mr. Liguori: So the question is whether the woodchips...

Chairman LaPerch: Wait, wait, wait. Answer the question.

Boardmember Rush: You built a three foot wall and it's up to three feet.

Mr. Santucci: No it's not.

Mr. Liguori: No.

Boardmember Rush: No it's not?

Boardmember Cyprus: Let me see that one picture.

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Boardmember Rush: Every picture I have shows the wall at three feet.

Boardmember Cyprus: The one Peter's got.

Mr. Liguori: No. There's two issues David (Rush)...

Boardmember Rush: This is the better picture. This is what we've got.

Mr. Liguori: Dave (Rush), there's two issues.

(Male voice and then multiple people talking)

Chairman LaPerch: Wait, wait. Please. One meeting. One meeting. David (Rush) finish what you have.

Boardmember Rush: OK.

Mr. Liguori: Let me just say if you peel back the woodchips you'd get down to the fill.

Boardmember Rush: That's what I'm saying.

Mr. Liguori: And that's...

Boardmember Rush: Can't we just do that and go home and be happy?

Mr. Liguori: Well no, we're not fighting about the woodchips. We're fighting about the... you can dig your foot down to the fill, we're still fighting about the fill. If it was a matter of shoveling out the woodchips, I think we'd go home and shovel out the woodchips and be done with it. That's not what that's about.

Boardmember Rush: It's a lot of woodchips.

Mr. Liguori: The Town isn't going to be... well look you could put woodchips all over your property and not have an issue. You're not violating a Code because...

Boardmember Rush: Are we saying that we can't remove that material and we're happy?

Mr. Gainer: I think you...

Chairman LaPerch: Wait, wait, wait.

Boardmember Rush: So, Joe... Joe...

Mr. DePaolo: Is there a question directed toward me?

Chairman LaPerch: Yes, please. I want it directed toward you.

Boardmember Rush: If this is removed, this material, just in front. Even if you go down whatever the grade is... you can leave a little bit so it looks the same, but (inaudible)...

Mr. Liguori: Yeah, but that's the essence of the disagreement... is we don't agree on what needs to be removed.

Mr. Fenton: I guess... if somebody wants to... again I'm going to go back to here but approved... fill, approved... fill. If you want to come to some compromise. Somebody has to make a determination of what is relative compliance with that. You know, if you go through all the history of it, the Building Department is always referring to that plan so I don't know what you base... What do you base relative compliance on? That's all I'm saying. I guess you guys can make a determination of that.

Mr. Liguori: And look we had this very issue. We feel we had this issue settled in September 2015 but it got pulled right back in October so... We have an August letter from Ron Gainer that says *'it is understood that a separate Stop Work Order has been issued concerning the placement of fill immediately adjacent to the northerly stone wall performed as part of the landscape berm construction. However, to resolve the matter the property owner previously had this portion of the berm relocated to a point beginning 10 feet behind the property line to comply with the requirements. Therefore, no further action is required on the issue with the exception of some limited raking and mulching.'* So this is what had gone on back in January of 2015 where we argued to the Town that Dennis (Santucci) actually took the ground back to the existing grade.

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Mr. Gainer: In the first ten feet.

Mr. Liguori: In the first ten feet.

Chairman LaPerch: Let me just move things along.

Mr. Liguori: No, no, no. This is a critical moment, OK?

Chairman LaPerch: OK, go ahead. Thank you.

Mr. Liguori: So then in September we get a letter back from the Building Department that says *'you indicate that the fill material in the landscape berm area will be reduced in accordance with the plans approved by the Town. In doing so, the work will brought into compliance with Chapter 69. This is consistent with Condition No. 1.'* And that agreement...

Mr. DePaolo: Wait, wait...

Ms. Desidero: I'm sorry I need the date on that letter.

Mr. DePaolo: Did that ever happen? Where did the fill go?

Chairman LaPerch: Wait one at a time. Please.

Mr. Santucci: Let Mike (Liguori) finish please.

Chairman LaPerch: Wait. One at a time. Joe (DePaolo).

Mr. DePaolo: The fill you're talking about that was removed from the berm, the agreement was that it was supposed to go to the septic area, is that right?

Mr. Liguori: That's right.

Mr. DePaolo: And where did that fill go? Did it go to the septic area?

Mr. Liguori: It went up to where Dennis' (Santucci's) planting beds are.

Mr. DePaolo: So the answer to that question is no. It didn't go where it was supposed to go per the agreement?

Mr. Liguori: My point is, my point is...

Mr. DePaolo: Hold up, I want to make my point.

Mr. Liguori: You made your point. The Board...

Chairman LaPerch: You made your point. Mike (Liguori)?

Mr. Liguori: If I could finish. My point is, is that the material that was going to come off that berm was going to come off the back of the berm, the house side of the berm and go over to the septic system. OK? It wasn't the material in the first 10 feet and that's the point I'm trying to make. Did it go to the septic system? I'm not arguing that it went there. It didn't go there. It went up to plant beds.

Chairman LaPerch: What's the date of that letter?

Mr. Liguori: September 18, 2015.

Male Voice: Can I say something?

Chairman LaPerch: Hang on. Dave (Rush) do you have any other questions?

Boardmember Rush: No.

Chairman LaPerch: OK. Tom (Fenton) can you...

Mr. Fenton: Just kind of an important point: the two letters that Mike (Liguori) read, one of them was from Ron (Gainer) and it said 'we have done this.' The other one was from the Building Inspector and it said 'you indicated you will do this.' The Building Inspector doesn't acknowledge that it's been done. If you read that whole letter it continues to say you're in violation until you bring it in to the approved plan. That's all I wanted to make my point because it's one thing to say...

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Chairman LaPerch: Fair enough. That's a big point. Listen I have one kind of random question here Dennis (Santucci): after our discussions out at the site you filed for a Special Permit, correct?

Mr. Santucci: We did.

Chairman LaPerch: OK. I'm a little confused why and you can give me an answer, why'd you pull it?

Mr. Santucci: I think Mike (Liguori) will answer that.

Mr. Liguori: I'll tell you why because... so we have the meeting... we have the work session, the Thursday morning work session with the Town, OK? So we have that meeting with the Chairman, Mr. Armstrong, the Supervisor, Tom Fenton, Lynne Eckhart, Victoria (Desidero). I don't think I missed anyone.

Chairman LaPerch: No you're not.

Ms. Desidero: Ashley (Ley).

Mr. Liguori: OK. So we have that meeting. We're about 45 minutes into that meeting and we're asked to... we've been asked to leave the room, OK? So we get up. We leave the room. The Town discusses the situation, right? We come back. We then have the site meeting whereby the Chairman tells us 'hey look just submit a Special Permit. We'll approve it the first meeting. You don't have to worry about it.'

Mr. Santucci: A letter...

Mr. Liguori: Just submit a letter and we'll get it approved so we submit a letter and we get a detailed comment letter back from the Town Engineer with more work that needs to be done and we get to the meeting and then we need to have a Public Hearing on the Special Permit application and so we FOIL the tape because we're curious about what went on while we were out of the room. So we listened to the tape and we have the Supervisor saying, ya know, *'We have him on tape. He admitted it. Deny it and let him sue us. He wants to go to court.'* Comments like *'Well they stuck it to the Corbett's.'* *'And, oh by the way, he isn't paying for any of this.'* *'There's a history here.'* *'He's had two years to complete this.'* So we're sitting there and listening to what everyone is talking about while we're out of the room and we're saying 'we're getting it right up the butt.' OK? And that was the feeling and it's undeniable. You'd feel the same way if you listened to seven or eight people that represent the Town talk about you the same way. So we pulled the Special Permit application because we didn't feel like we were going to get a fair shake. Because we felt that no matter what had gone on, that, that, that it would have been... that, that Dennis (Santucci) wouldn't have gotten a fair shake regardless of whether you guys were on the Board or some other people were on the Board, that the fix was in.

Mrs. Santucci: You forgot how they said that Ron (Gainer) was being paid by us to say everything that he said.

Chairman LaPerch: All right. I'm not going there because...

Mr. Liguori: And that's fine.

Chairman LaPerch: That's your response.

Mr. Liguori: That's why we pulled it.

Chairman LaPerch: That's your response. Thank you. Wait, wait. Mr. Santucci, what do you have?

Mr. Santucci: Afterwards basically the Board wanted a full site development plan. That's what came out on the paperwork.

Chairman LaPerch: That's true.

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Mr. Santucci: Supply us with a full site development plan for inches of dirt that was changed.

Chairman LaPerch: But that's typical of any submission we have Mr. Santucci.

Mr. Santucci: (Inaudible). I remember these letters well, all right? This was during the time my daughter was getting married, we're having a wedding in September, and Ron (Gainer) made this whole big letter to the Town in August saying, addressing every issue that the Building Department wanted. This response that came the same weekend of the wedding. I was like 'wow finally we can get started again. Finally we can get working again.' It was a very nice weekend, believe me. But this response goes over every issue. It says 'well you put boulders in the backyard but you know we don't have proof of that so that's dismissed.' You did this but you know so that's dismissed. Ron's (Gainer's) response here says that we took the dirt out in the first 10 feet. The only thing left to do was mulch it and rake it. The Town's response in this first paragraph says 'fine it looks good. Just do the back half. The house side of the berm has to be made a little smaller.' Instead of 10 ft. I think it's about 14 ft. right now. Make that a little smaller. Although I did buy much bigger trees than I was going to buy so the extra 4 ft. is probably better for the trees anyway. So you guys are... Tom (Fenton) is second-guessing. In September the Town...

Ms. Desidero: Mr. Santucci, may I please have the dates...

Mr. Santucci: You can have a look. That's my only copy. I'm sorry.

Ms. Desidero: I'll give it right back. I just want to write the dates down. Thank you.

Mr. Santucci: The Town already had in September said 'you're clear in the first 10 ft.' They allowed me to work three weeks. By the time I got... after the wedding... got rolling again I worked three weeks. hey shut me down and I didn't do anything but mulch that area. That's all I was doing.

Chairman LaPerch: OK, listen, at this point listen, it is a Public Hearing. Thank you. Ron (Gainer) can I go to the public or do you have a comment here?

Ms. Desidero: Mr. Santucci, thank you (handing back the letters).

Mr. Santucci: Thank you.

Mr. Gainer: The Town keeps coming back to the idea that this is what is supposed to be representative today when you go out to the site. Prepared by Harry Nichols, he's a professional engineer. I went to Harry to ask him how that plan was derived because everybody is accepting that as gospel and Harry acknowledges in a letter that a copy did get filed with the Town.

Chairman LaPerch: We have it.

Mr. Gainer: Right and it was never intended to show accurate topographic information. That the only purpose of that plan, in his view and he created it, was to show that the berm would not start until 10 ft. after the...

Chairman LaPerch: I got that letter. I have to be honest with you Ron (Gainer), I was taken aback by the fact that he says it wasn't a real submission. Don't base anything on that submission. That's my opinion.

Mr. Liguori: No, but you can base the distance of the berm.

Mr. Gainer: He was describing...

Chairman LaPerch: Why submit something that's not going to be legit, in my opinion.

Mr. Liguori: Who says it's not legit?

Chairman LaPerch: Well, he says don't base your decision on that. But go ahead (to Mr. Gainer) cuz I have the public here..

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Mr. Gainer: My only point is that the only representation that he indicated by that was to show that the berm did start the first 10 ft. so that no grade is changed in conformance with Chapter 69 and that the berm would be 10 ft. wide and 2 ft. high. That's all he intended by that record.

Chairman LaPerch: Thank you. Let me just go to the public and I'll come back to the Board. At this point, there two public people here, if not more, if you have any comments please stand up and state your name for the record and your question.

Mr. Skalaski: I'll reserve my comments if this is approved. I mean I'm OK with what you did with the whole process.

Chairman LaPerch: And your name?

Mr. Skalaski: Oh Jerry Skalaski.

Chairman LaPerch: Thank you. OK, Paul (Jonke)?

Boardmember Jonke: Sir that's your driveway that we're looking at all these pictures of?

Mr. Skalaski: Yep.

Boardmember Jonke: And you're OK with the project?

Mr. Skalaski: I'm OK with the approvals... the permit process, OK. I'm sure if it's approved there's going to be a site plan and everything else developed.

Boardmember Jonke: My question is either to Joe (DePaolo) or Tom (Fenton), jump in on this. Mike Levine is not here to answer this question but if Harry Nichols had accurately indicated... let's assume that that was not 100 percent flat right off the driveway and if Harry Nichols had properly indicated the topography of those few feet between the driveway and the wall, or the driveway and the berm, would he have approved it?

Mr. DePaolo: You'd have to ask Mike (Levine) that question.

Mr. Fenton: That was the green line I showed on the plan. So what he would have done is he would have looked at whatever line this was and he would have looked at whatever fill was on top of that and he would have made the same calculation. So he based this on 10 ft. So let's say this grade rose 6 inches, let's just say that for example. He would have shown a line 6 inches higher, if he took right off the contours, and he would have shown a berm on top of that and if that berm met the conditions, which if it didn't change the grade within 10 ft. and it was 100 cubic yards of fill, he would have...

Boardmember Jonke: Mr. Santucci's berm only would have started 6 inches higher. It would have been basically the same thing.

Mr. Fenton: Exactly. That's my point.

Boardmember Jonke: So if Harry Nichols, who we all love, had done that to begin with, Michael (Levine) is not here to speak for himself, but it would have been approved?

Mr. Fenton: It would have been the same thing, only just a little higher.

Boardmember Jonke: All right so Harry missed. OK.

Mr. Fenton: Well we don't know what Harry... I mean all Harry did was he did not take the contours and apply it to this but that's what we did on that green line I showed on the plan. We took it off the original contours just to see what the difference would be so that's what I was trying to represent here. To me it's relatively insignificant when you look again. I go back...

Boardmember Jonke: But according to that picture, it looks like it's more than 6 inches.

Mr. Fenton: This from here to here? I don't know.

Chairman LaPerch: All right, listen, listen. I was just...

Mr. Liguori: To that question, we proved that out. Terry Collins proved that out.

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Chairman LaPerch: I'd like to kind of just move this along because I think we have enough information. Joe (DePaolo), this is directed to you: the action in front of the Board is what? If we vote one way it means this, if we vote the other way it means what for the applicant? Can you kind of give us a sense of this?

Mr. DePaolo: The action before the Board is whether you want to direct Mr. Santucci to apply for a Special Permit for the work that was done in the area. So in order for you to make that determination you have to answer the question of whether you accept Tom's (Fenton's) opinion that the grade has been changed in that area or whether you're accepting Ron's (Gainer's) opinion that it hasn't and it's been returned to the pre-existing grade, before any work was done. If you answer the question yes, Mr. Santucci will have some time, I guess, to make an application to the Board if he chooses to do so and if he doesn't we'll figure it out what the next step is. If you say no, a Special Permit is not required and you are effectively accepting Mr. Gainer's opinion as to what the grade is in that area, the process basically stops right here.

Chairman LaPerch: The applicant submitted an application so if that's the case, your opinion on that, can that be revived or is it a new application?

Mr. DePaolo: I think that's in the Board's discretion. I don't see any reason why the prior application couldn't be "re-submitted" without the payment of any additional fees or anything.

Chairman LaPerch: OK. I just want to for the record, Mike (Liguori), during that question that I asked you about why did you... you know, after you filed for the permit. I think in good faith, I think if everyone read the minutes of the meeting and on tape is that I was advocating that Dan (Armstrong) and I go out to the site because we didn't see it, we didn't understand it and maybe there was a middle ground that, as Board members, we could have a fruitful discussion once we got out there and I don't think that was represented in Mike's (Liguori's) portrayal of the time in between when we asked him to leave the room because Dan (Armstrong) and I just said let's get out there and look for ourselves because it looked like it was submitted...

Ms. Desidero: For the record Mr. Chairman, this Board never read those minutes from the staff meeting...

Chairman LaPerch: Oh OK. I just wanted to...

Ms. Desidero: So they're just hearing what Mr. Liguori said that...

Mr. Liguori: I was asked why we withdrew and that's why...

Chairman LaPerch: Yeah but you kind of went to...

Ms. Desidero: I just wanted to make sure he (the Chairman) knew that they didn't read them.

Chairman LaPerch: But I just want to let you know that I think during that time I was advocating we make a site visit. So you're more than welcome to read the minutes of the transcripts but I thought we would be able to resolve this because it was ongoing and we thought there was middle ground and so we're here tonight. So, we have a decision to make. Lynne (Eckhart), do you have a question?

Ms. Eckhart: It's not a question. I just wanted to comment on... I understand Mr. Liguori's interpretation, but the tone of the meeting, as I remember it because I was there and then I did read the transcripts, I felt that the people in the room were trying to problem solve and I can understand how people read things differently without the tone and...

Mr. Liguori: I can play it. I brought it.

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Ms. Eckhart: You have it... right but I felt there was a lot of problem solving going on there.

Chairman LaPerch: So here's once again Joe (DePaolo)...Lynne (Eckhart), any other issue?

Ms. Eckhart: No, thank you.

Chairman LaPerch: OK, so during the Public Hearing of the Special Permit if the Board decides to not vote, is there a Public Hearing again Joe (DePaolo)?

Mr. DePaolo: Yes, well assuming there's an application.

Chairman LaPerch: Right, let's just assume there is.

Mr. DePaolo: Then a Public Hearing would be set so if you know...

Chairman LaPerch: And at the Public Hearing, the submission would be about the stone wall or everything about the property is in play?

Mr. DePaolo: No just the grading.

Chairman LaPerch: Just the grading. OK so it's a narrow subject. Thank you.

Mr. DePaolo: Yes, sir.

Mr. Fenton: Can I just offer two quick points? One is that you recall the Special Permit application did include some other activities so that needs to be determined if they want to go forward with those other activities on the site. The only thing I just want to say is I know it seems onerous to require a full site plan and everything but I think from the Board's standpoint you have to decide, if you're going to wave requirements are you going to have... I mean we got into this situation because we're looking back at it and saying 'was this a real plan' so I think you have to evaluate if you need a real plan because if any more work goes on out there, do we have a baseline to compare it to? So I just want to make those...

Chairman LaPerch: I think that was the original intent of your letter after our site meeting that triggered them saying they didn't want to move forward with it based on the extent of the work that needed to be submitted. That's my opinion.

Mr. Fenton: Right.

Chairman LaPerch: Any other questions from the Board? Paul (Jonke) first.

Boardmember Jonke: No.

Chairman LaPerch: Thank you. Mike (Hecht)?

Boardmember Hecht: I just have a quick question: that picture in the top right there on the second board, just boiling it down to a simple question. If one was to assume that the fill was level with the stone wall, is that OK or are we saying because it's sloping up?

Mr. Fenton: Well, I think then you're dealing with the question of what was the grade at the property line because the wall's 3 ft. high. This plan shows the grade at the property line initially was three feet lower so if you, again, go back to the approved plan it would say you can't fill the grade... behind the wall needs to be the same as the grade in front of the wall. I'm just saying that's what this plan shows and that has to extend for 10 ft. before you have a 2-foot berm, that what this is saying and that's what the Building Inspector based his actions on.

Chairman LaPerch: Let me just kind of circle around back to you. So at the Special Permit, if we go down that road, the vote is, we can legitimize all the work that's been done. In theory is that right Joe (DePaolo)?

Mr. DePaolo: Yeah, we would effectively agree on what the endpoint is, not what's there now. I think that was what kind of the compromise was, you know there's going to be

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additional fill put in and we're going to be in agreement as to what the elevation is going to be of what's placed on top of what's already there. So, that's effectively what would happen.

Mr. Liguori: What's there now is the endpoint. What's there now was the original point and it's the endpoint. As far as I'm concerned this has been sitting for 2-1/2 years, it's mature, the trees are growing, (inaudible) says to do anything else. Just the Board has two decisions: Do you require me to go through a Special Permit and a bunch of rigmarole just to have exactly what's there or was the Special Permit not required because we've proven out many different ways that what's there now is what was there.

Chairman LaPerch: OK.

Boardmember Armstrong: Yes, just a clarification. My intent was that whatever had been done on this site that may not have been 'kosher' shall we say, could be resolved by a plan showing what had been done with the understanding that with the additional work, you wanted to fill on top of the septic tank and some other work you wanted to do...

Mr. Liguori: Regardless we don't need that...

Boardmember Armstrong: Regardless, I think, but I had envisioned that whatever needed to be done, whatever you had in mind, could be incorporated in a revised plan, which would then be subject to the Board's approval and that would resolve it. We could all move on to more productive things and that was the intent I thought we had conveyed. At that meeting on the 5th of May, I spoke directly to the Santucci's and to whoever else was there and it seemed to me that we had come to some kind of understanding and then the plan was submitted and then whatever was said in the tape recorded discussions... If I said anything offensive I apologize. If... whatever the Supervisor said, he's not a voting member of this Planning Board. So, what I'm saying is that, with all due respect. But the point is we were trying to resolve this. There was no real intent to give you a hard time or to make it more difficult. The idea was to resolve it and that was my intent and I think the Chairman had the same intent, I don't speak for him, so I'm sorry that we're here.

Chairman LaPerch: Thank you.

Mr. Liguori: Mr. Armstrong, with all due respect, we're done with construction at this point. We just want to close out the permit and let things set for a while and in a few years maybe we look at things.

Boardmember Armstrong: I thought there was some additional...

Mr. Santucci: Money has gone now to buy extra landscaping. It's finished. It went to lawyers instead.

Boardmember Armstrong: I thought there was some additional work to be done.

Mr. Santucci: No.

Chairman LaPerch: All right. Let's get this wrapped up. Eric (Cyprus) I'm sorry I missed you. Do you have any questions?

Boardmember Cyprus: Yes, thanks. I guess Ron (Gainer) I'll start with you. Assuming that the grade behind the stone wall wasn't changed, does the berm start 10 ft. from the property line?

Mr. Gainer: Yes.

Boardmember Cyprus: Tom (Fenton) I know you don't agree with the grade but do you agree the berm is where it belongs?

Mr. Fenton: I'm not really sure. I mean what's to say... so this rises so if this is the grade then I would say the berm starts here. I mean I'm not sure... right? I mean if you look at it

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now, this rises. If you go out and look at it and stand here you look at this, this rises so I would say that the berm starts from here and goes up.

Boardmember Rush: This picture, I don't know where it came from.

Mr. Liguori: I submitted that.

Boardmember Rush: Whose is this?

Mr. Liguori: Mine from today.

Boardmember Cyprus: Was this what's there today, right now?

Mr. Liguori: Today, that's what's there.

Boardmember Rush: But that's different than what's up there.

Mr. Fenton: Right this shows the grade at the top of the wall.

Boardmember Rush: So I have a question: when did this work happen and have we...

Mr. Liguori: That is the settling of the woodchips and that's part of the argument: that the woodchips are not fill.

Mr. Fenton: But this is the most current picture, right?

Chairman LaPerch: They said this was taken today.

Mr. Liguori: That picture was taken today.

Mr. Fenton: That's from today?

Mr. Liguori: I'm submitting this today.

Boardmember Rush: That's what I'm saying. That shows it was filled up to the top.

Mrs. Santucci: I have a picture of these that's two years old.

Mr. Liguori: Here's today. It's settled (inaudible).

Boardmember Rush: I guess the other thing I can't quite get, wrap my arms around here...

Ms. Desidero: Michael (Liguori) can I have those...

Mr. Santucci: Like I said, we had...

Chairman LaPerch: Wait, wait. Dennis, Dennis (Santucci). He did not finish his statement, please. I did not understand what he was getting at. What's your point?

Boardmember Rush: The stone wall that was built was on the grade that was there, right?

Mr. Santucci: We pulled it back down to original grade and then in September when we had the green light we put some mulch just like Ron's (Gainer's) letter said and that mulch settled and it's going back down to original grade. The mulch just shrinks after a while.

Mr. Gainer: All the infamous tree stumps that we continue to talk about, they all exist within 6 or 8 ft. of the back of the stone wall. The stone wall is two feet wide. All the stumps are at least two feet wide. We represented the berm didn't start until beyond those tree stumps.

Mr. Feroe: And that's the break in between the berm and the stump with the mulch on top and then from the stump after it went into the grass?

Multiple people talking at once.

Boardmember Rush: Are you saying that mulch is not fill?

Mr. Liguori: Yes, right.

Boardmember Rush: That mulch is mulch?

Chairman LaPerch: Tom (Fenton), Tom?

Mr. Fenton: Yes.

Chairman LaPerch: Ask that question again David (Rush).

Boardmember Rush: It's really a glossary term here but mulch, which we are saying woodchips versus fill?

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Mr. DePaolo: On that question I would direct the Board to the language of the statute and I'll read it for you, 69.12 *'No contours of any land in the Town of Southeast shall be altered by the excavation, removal or relocation of earth, loam, topsoil, sand, gravel, clay, stone or minerals or by the depositing of any material, natural or otherwise, except as provided in this article.'*

Boardmember Rush: So otherwise it would be woodchips?

Mr. DePaolo: That's for the Board to determine.

Chairman LaPerch: OK. I'd like to bring this to a vote unless there is any other public question at this point? I think we've heard enough. A lot of back and forth here. Victoria, I just want to make sure everyone understands. If we vote...

Ms. Desidero: First you have to close the Public Hearing.

Chairman LaPerch: Yes I will. What's the timing of... if they have to go through...

Ms. Desidero: OK, my understanding...

Mr. Liguori: Do we have to talk about that?

Chairman LaPerch: Yes, I just want to make sure the facts are known to everyone...

Mr. Liguori: We know. We get it.

Chairman LaPerch: That's fine.

Ms. Desidero: But there was something I did want to say was that my understanding from the meeting was that the applicant had submitted an application, they could alter that application if they wanted but they wouldn't need to pay any additional fees or do anything other than come back for their Special Permit and it would start at the Public Hearing point.

Mr. Liguori: Why does that... it's not relevant...

Chairman LaPerch: I just wanted...Mike (Liguori).

Mr. Liguori: All right.

Ms. Desidero: Is that the question?

Chairman LaPerch: I typically ask what the calendar looks like and things like that. That's all I'm asking.

Ms. Desidero: So, in terms of the calendar, the answer is we would have to set the Public Hearing and it would have to be two meetings out.

Mr. DePaolo: Maybe we should take those questions up after the vote... (inaudible)

Chairman LaPerch: That's fair enough. So we're recommending to vote on this and how you think this should be posed in terms of the motion here from the Chair?

Mr. DePaolo: Someone should make a motion either to require a Special Permit or that one is not required. I think you should make a motion, someone should move to require a Special Permit and see how the vote goes.

Chairman LaPerch: OK. I would like to make the motion to apply for a Special Permit within 60 days of the Town Board vote on this application known as 5 Shady Lane.

Ms. Desidero: Planning Board vote.

Chairman LaPerch: Planning Board vote. Do I have a second?

Mr. Liguori: Time out. I don't think we need to put a time limit on it.

Chairman LaPerch: I've asked Counsel before Mike (Liguori) as I knew you would ask that and he said that it was appropriate. I'm just going based on Town Counsel.

Mr. DePaolo: I mean we have to have an end date here. We can't just leave this open-ended so what's the objection to... Assume that the Board votes to require a Special Permit, how much time would you feel comfortable with if you were going to make an application to get it done?

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Mr. Santucci: It took us two and a half years to get to this point.

Mr. DePaolo: That's not my question. My question is directed to your Counsel.

Mr. Liguori: Yeah and we're not going to apply so just fast forward.

Chairman LaPerch: OK. I'm on record saying, based on my Town Counsel's opinion of that, and you might challenge it and that's fine.

Mr. DePaolo: In that case Tom (LaPerch) you can leave the time limit out.

Chairman LaPerch: OK.

Mr. DePaolo: I mean we have the statement that they're not going to re-file.

Chairman LaPerch: Then I'll restate the motion. I would like to make a motion to require this applicant, Mr. Santucci at 5 Shady Lane, to file for a Special Permit under Chapter 69 of the Town Code of the Town of Southeast. Do I have a second?

Boardmember Armstrong: Second.

Chairman LaPerch: Second by Mr. Armstrong. This is a roll call vote. Mr. Jonke how do you vote?

Boardmember Jonke: No.

Chairman LaPerch: Mr. Hecht?

Boardmember Hecht: No.

Chairman LaPerch: Mr. Cyprus?

Boardmember Cyprus: No.

Chairman LaPerch: OK. Mr. Armstrong?

Boardmember Armstrong: Yes.

Chairman LaPerch: Mr. Wissel? I'm sorry, he is not here and recused himself. Mr. Rush?

Boardmember Rush: Yes.

Chairman LaPerch: And Mr. LaPerch votes yes. So what's our vote here?

Ms. Desidero: 3 to 3.

Chairman LaPerch: All right. Counsel?

Chairman LaPerch: Didn't see this one coming, huh?

Mr. DePaolo: No, unfortunately I did not.

Chairman LaPerch: I have nothing to say. I am looking here (indicating to Mr. DePaolo)

Mr. DePaolo: Well, the motion didn't carry.

Chairman LaPerch: Meaning?

Mr. DePaolo: Well, the majority did not vote so (inaudible)

Chairman LaPerch: This applicant is what then?

Mr. DePaolo: As of the moment he is not required to apply for a Special Permit.

Chairman LaPerch: Fair enough.

Mr. Liguori: Thank you very much.

Chairman LaPerch: Thank you. OK we have other actions to move on here so please let them clear the room.

Mr. Liguori: Thank you for your (inaudible). We appreciate it.

Mr. Gainer: Thank you.

Chairman LaPerch: Yes thank you. Congratulations on your daughter by the way (to the Santuccis)

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REGULAR SESSION:

Chairman LaPerch said we have some Meeting Minutes to approve. Ms. Desidero said if you were not at the June meeting, can you just raise your hand because I don't have the Minutes here for some reason. Boardmember Rush said I was not here. Ms. Desidero said I know and neither was Eric so... she counted and there were four people present. The motion to approve the Meeting Minutes as written from June 20, 2016 was introduced by Chairman LaPerch, seconded by Boardmember Jonke and passed all in favor with Boardmembers Rush and Cyprus abstaining.

The motion to approve the Meeting Minutes as written from July 11, 2016 was introduced by Chairman LaPerch, seconded by Boardmember Jonke and passed all in favor with Boardmembers Armstrong and Cyprus abstaining.

Chairman LaPerch asked for the agenda for August 8 and Ms. Desidero said we have BRAVCOR for a Public Hearing. She said Mr. Rush is not going to be here and the Chairman is recused so if I find out there is a quorum problem, I'll let you know.

Chairman LaPerch said so we have two meetings in August and then one in September and one in October? Ms. Desidero said yes.

Chairman LaPerch thanked Mr. Fenton for coming tonight and for all his assistance.

Chairman LaPerch asked if there was an upcoming Staff Meeting and Ms. Desidero said no, we just had one. Chairman LaPerch said yes, we had Apple Orchards came in for the property on Route 22 and they are going to do a market just for produce at the old florist there instead of a full market. He said we had Mr. Salinger come in with a request for an interpretation of what it would take to create new lot lines for their properties. Ms. Desidero said we had the other gentleman who wanted to talk about tree clearing at 151 Fields Lane. Chairman LaPerch said I want to thank the Board for the give and take tonight and it was well done. He said I appreciate your professionalism.

The motion to close the meeting was introduced by Chairman LaPerch, seconded by Boardmember Rush and passed all in favor.

August 17, 2016/CC/VAD