

BOROUGH OF RIVER EDGE  
LAND USE BOARD  
MEETING MINUTES  
COUNCIL CHAMBERS  
February 19, 2020

MEMBERS PRESENT: Chairman, James Arakelian  
Vice Chairman, Dick Mehrman  
Lou Grasso  
Ryan Gibbons  
Michael Krey  
Eileen Boland  
Chris Caslin  
Alphonse Bartelloni  
Dario Chinigo  
Gary Esposito  
Marina Stinley, Attorney  
Absent: Mayor Elect Thomas Papaleo

ALSO PRESENT: Thomas Behrens, Planner

Meeting called order at 7:35 p.m.

Pledge of Allegiance.

Roll call please:

Chairman, James Arakelian - here  
Vice Chairman, Dick Mehrman - here  
Lou Grasso - here  
Ryan Gibbons - here  
Michael Krey ó here  
Eileen Boland - here  
Chris Caslin- here

Alphonse Bartelloni - here

Dario Chinigo ó here

Gary Esposito - here

2<sup>nd</sup> alternate Gary Esposito was sworn in by Marina Stinley the Board Attorney.

Chairman Arakelian ó Speaks of the Resolution appointing Cleary, Giaccobe, Alferi & Jacobs, LLC as the Borough of River Edge's Land Use attorneys. This was already approved by the Mayor & Council, they were approved by the Board at the beginning of the year this is just approving the Resolution. Motion to vote on the Resolution ó Mr. Mehrman, 2<sup>nd</sup> Ms. Boland. Roll call ó Chairman Arakelian ó yes, Ms. Boland ó yes, Mr. Bartelloni -yes, Mr. Mehrman - yes, Mr. Grasso ó yes, Mr. Krey, yes- Mr. Caslin- yes, Councilman Chinigo ó yes, Mr. Gibbons ó yes and Mr. Esposito ó yes. Resolution approved appointing Cleary, Giaccobe, Alferi & Jacobs, LLC as the Borough of River Edge's Land Use attorneys.

Motion to approve ó Mr. Krey; 2<sup>nd</sup> Mr. Caslin - Minutes approved.

Board approving professionals:

- Robert Costa ó Borough Engineer; Motion to approve - Roll call ó Chairman Arakelian ó yes, Ms. Boland ó yes, Mr. Bartelloni -yes, Mr. Mehrman - yes, Mr. Grasso ó yes, Mr. Krey, yes- Mr. Caslin- yes, Councilman Chinigo ó yes, Mr. Gibbons ó yes and Mr. Esposito ó yes. Resolution approved appointing ó Approved.

- Thomas Behrens ó Borough Planner; Motion to approve ó Roll call- Chairman Arakelian ó yes, Ms. Boland ó yes, Mr. Bartelloni -yes, Mr. Mehrman - yes, Mr. Grasso ó yes, Mr. Krey, yes; Mr. Caslin- yes, Councilman Chinigo ó yes, Mr. Gibbons ó yes and Mr. Esposito ó yes. Resolution approved appointing ó Approved.

**Completeness Review** - Jersey Mike's ó Christopher Rigassio and Phillip Nesbet

1047 Main Street (1025-1071 Main Street), Block 1404, Lot 3.01

Food Handler's License, Site Plan approval & parking review. Attorney Tim Coristan made mention that the signage issue had been resolved between Mr. Chewcaskie and Mr. Behrens. There is no parking variance needed, no sign variance, just license approval. Mr. Behrens ó informs the Board that this is a fully conforming application. Ms. Stinley, Esq. informs the Board that it has jurisdiction to hear the application. Motion to take to regular meeting ó (inaudible) 2<sup>nd</sup> (inaudible). Roll call - Chairman Arakelian ó yes, Ms. Boland ó yes, Mr. Bartelloni -yes, Mr. Mehrman - yes, Mr. Grasso ó yes, Mr. Krey, yes; Mr. Caslin- abstained, Councilman Chinigo ó yes, Mr. Gibbons ó yes and Mr. Esposito ó yes. - Completeness review complete.

**Completeness Review** - 297 Wales ó N.J. Property, LLC (Completeness Review)

Block 303, Lot 3 ó 2 lot sub-division on a 100' x 150' lot, lot width variance required. Frank Ferraro, Esq. Appearing for the applicant. This particular area is a (R1 zone) required 75' width, the 2 new lots would have 50' lot width but due to the depth of the lots they would be conforming as to minimum lot area.

Mr. Behrens ó Application is complete from our standpoint in terms of the application materials.

Ms. Stinley ó Informs the Board they have jurisdiction to hear this application. Completeness review complete. Motion to send to regular meeting ó Mr. Bartelloni, 2<sup>nd</sup> ó Mr. Mehrman. Roll call Chairman Arakelian ó yes, Ms. Boland ó yes, Mr. Bartelloni -yes, Mr. Mehrman - yes, Mr. Grasso ó yes, Mr. Krey, yes; Mr. Caslin- yes, Councilman Chinigo ó yes, Mr. Gibbons ó abstained and Mr. Esposito ó yes.

### **New Business:**

Jersey Mike's application for food handler's license. Mr. Caslin has recused himself. Applicant is within the maximum restaurant usage permitted, so there is no variance there, the sign has been deemed compliant.

Mr. Rigassio is sworn in. This is their 17<sup>th</sup> location in New Jersey. Jersey Mike's serves submarine sandwiches. Aware that employees need to get the appropriate training and licenses from the county. They do this for all their stores. Mr. Behrens informs again that it is a fully conforming application questions applicant as to commercial vehicles on the premises. Applicant responds ó no. Mr. Behrens advises that there is no issue as to parking restaurant use is regulated by square footage and not seats as it normally would be. Mr. Behrens inquires as to seats in restaurant. Mr. Rigassio ó less than 20.

Chairman Arakelian asks the Board if they have any questions. Mr. Mehrman ó What portion of food is take out as opposed to eating in? Mr. Rigassio ó on average 35% takeout 75% consumed on premise. Limited cooking is done on premise. They have hoods. Filters are changed every quarter. Applicant agreed to change filters more often should the Borough receive complaints of odors from residents.

Mr. Behrens recommends that the Board approve the application. Mr. Mehrman makes a motion that the Board accepts the application for food handlers license as presented, 2<sup>nd</sup> Mr. Bartelloni. Roll call Chairman Arakelian ó yes, Ms. Boland ó yes, Mr. Bartelloni -yes, Mr. Mehrman - yes, Mr. Grasso ó yes, Mr. Krey, yes; Councilman Chinigo ó yes, Mr. Gibbons ó yes and Mr. Esposito ó yes. Application approved.

### **New Business:**

297 Wales ó N.J. Property, LLC

Frank Ferraro, Esq. applicant is looking for a minor subdivision in an R1 zone. Applicant wants to sub-divide the property into two separate 7,500 square foot lots.

Engineer - Chris Lantelme (Lantelme Kurens & Associates, P.C.) is sworn in. Last revision on plans was January 2, 2020. Expert is describing present condition of the site which is a 1 ½ story dwelling. Existing lot is 15,000 square feet, 100 feet wide 150 feet deep. Proposed improvements of two single family dwellings. One variance applicant is asking for is lot width but the bulk requirements are conforming. Four trees possibly being removed. Engineer presented an Exhibit which is a design of what the project will look like. Chairman Arakelian points out that the exhibit picture doesn't hold a metal to what they are proposing because its 12 feet wider. Chairman Arakelian is questioning the design. He does not feel they can fit a two car garage and the rest of the house on a 50 foot lot. He wants the engineer to correct his testimony to state that they will not fit a two car garage on the property. Engineer states its the builders intention to build within the building envelope. Mr. Behrens asks the engineer what is the biggest house you can build on either of these lots. The engineer states the footprint would be 1,875- Mr. Behrens states a 3,700 square foot house. 32 foot wide house. Engineer agrees. They discuss the stream near the house. It is not an issue its far enough from the house not to cause any issues. Seepage pits will be installed.

Chairman Arakelian of goes to the dais. Ms. Boland had a concern about the list that was given to the applicant by the town for noticing. It appears that one of the closest lots to the project is not on the list that was given to the applicant. Attorney Stinely advises that the tax collector provided the list. She does not take issue with the sub-division.

Mr. Grasso of Points out the fact that the applicant is looking for substantial variance. He expresses that the zoning ordinances were formed with the minimum width requirements per lot of the town with good reason and he didn't think it was a slight adjustment or was it being done to be cohesive with the neighborhood.

Mr. Coristan counters saying there are 16 homes off of Wales between 5<sup>th</sup> and 7<sup>th</sup> that are 50 feet wide. He states that this might not be an appropriate variance for every location put its particularly suited in this location because the vast majority of the homes along Wales are already 50 foot wide lots.

Mr. Krey points out there are more lots in the area that are wider than 50 foot then are 50 foot. So he feels it is not accurate to say that its in the nature of that neighborhood because in that immediate neighborhood there are very few lots that are 50 foot most of them are conforming as far as the width goes. He would like to hear some thoughts as to the fact of taking a conforming lot and splitting it into one or more non-conforming lots is specifically prohibited in the Borough's code makes him curious as to characterizing it as a minor variance and justifying it. There are 50 foot lots here those as the Planner noted in his notes of those 50 foot lots existed at that time the code was put into effect, so they understood that there were neighborhoods that had 50 foot lots and River Edge still created a code that stated you could not sub-divide a conforming lot to a non-conforming lot, its not a minor variance.

Mr. Coristan of Explains that there is a certain density that is contemplated by the ordinance. River Edge has an R1 zone that requires 7,500 square feet so for every 7,500 square feet of lot area you would assume there would be one dwelling there. This lot has 15,000 square feet

which is exactly the square footage density wise that the ordinance was contemplated. The only difference in this particular neighborhood they have a lot of lot depth and not as much lot width ó you have 150 foot lot depth in a zone that only requires 100, so that is a significant difference in what the ordinance would require. So density wise the ordinance would say there should be two homes on a 15,000 square foot lot in this particular zone.

Mr. Coristan feels that granting the variance allowing the two 50 foot lots the applicant is actually furthering the goals of the Master Plan to maintain the character and viability of established residential neighborhoods.

Councilman Chinigo ó is questioning the density issue stating Mr. Coristan keeps saying that the application meets the ordinances density expectation but it meets the ordinances maximum density expectation. Mr. Coristan states that there isn't maximum and minimum he states there's just a square footage. Councilman Chinigo disagrees saying there is a maximum and minimum and that is the reason they are here today because they are asking for a variance. It makes a difference. They are asking for a 33 1/3 percent reduction, a sizable reduction. Attorney Stinley states that the ordinance defines this particular variance request as a minor sub-division because its dividing one lot into two, not two or or more which would be a major sub-division.

Motion to open to the public to this witness ó Mr. Mehrman, so made - 2<sup>nd</sup> Mr. Caslin.

John A. Felice from the public speaks. He believes the sub-division would be a detriment to the community. He believes his neighbors feel the same way. He wants the Board to keep to the ordinances that have been put in place. He would like the Board to take his recommendation to reject the application that is before them. Speaks further on the impact of construction i.e. noise, run-off etc. He again reiterates his request of the Board to reject the application.

The Planner is sworn in ó David Karlbeck. The planner reviewed the application materials including the subdivision plat. He reviewed the zoning ordinance, the Master Plan, re-examination report of 2009, he visited the site and surrounding areas and he prepared a planning exhibit which showed the lot sizes and lot configurations of all the lots within five hundred feet of the subject property. He hands out his tax map exhibit to the Board. Lots with 50 feet in lot width have been shaded in yellow. He states that within 500 feet there are 75 lots that have lot widths of 50 feet ó which represents 62% of all the lots he is pulling together within the subject area. He states that the majority of the lots have widths of 50 feet. He states the lots North of Wales the lots that are 50 feet wide do not have 150 lot depths so they don't achieve the 75 square foot lot area their deficient in both lot area and lot width. The proposed two lots while they may be deficient in terms of lot width he believes they match the prevailing lot width in the neighborhood and they achieve the minimum lot areas. He continues to compare lots stating the majority of the lots are 50 feet in lot width that's the prevailing lot width in the neighborhood not 75 feet.

Mr. Karlbeck also speaks to the variances i.e C1 Variance (hardship must be shown; C2 variance benefits versus burdens. He states the applicant must show that the variance relates to a specific piece of property that is what distinguishes this property from the other properties in the zone and the other distinguishing feature here is, is that it is twice as big. Then the applicant must show that it advances the purposes a municipal land use law and that it satisfies both prongs of the negative criteria ó that is no substantial impairment of the zone plan and zoning ordinance and no substantial detriment to the public good. He sites Kaufman vs. Warren Township and speaks on that for some time and the C2 variance. He continues to read from his prepared statement ó the reminds the Board member of of the test of this application - õsubstantialö. That the detriment must be substantial. Mr. Karlbeck does not see a substantial detriment. He does not believe there is any impairment to the zoning ordinance. He believes the proposal is consistent and compatible with the 7,500 square foot minimum lot area and the implied density for the zone ó 5.8 dwelling units per acre, the proposal is for 5. 8 dwelling units per acre. He states that the lots are well proportioned and they can accommodate homes of reasonable sizes all within the allowable building envelope. He states that the vast majority of lots in this R1 zone are non-conforming with respect to lot width and the diminished lot width does not cause damage to the integrity of the zone.

Mr. Behrens questions having two houses versus one house would not create any additional impacts in terms of the number of bedrooms or vehicle traffic. For instance instead of having one four bedroom you can have two four bedroom houses. Questions zoning criteria. The applicant has met some of the zoning requirements and some have not been met. He states that there is a maximum density that has been established and they are able to build a home on the property as it exists today. They are able to build a home on a 7,500 square foot lot provided you have a lot width of 75 feet. The applicant does not have it ó they are asking for a variance. There are issues as to more cars and more traffic with this application.

Chairman Arakelian challenges the Planner - if you have two houses on the property will you have an increase in the amount of cars on the property. He requests that the Planner answer the questions directly instead of going back at the Planner telling him he doesn't understand the question.

Mr. Behrens points out that the Borough did create relief for non-conforming lots recognizing that much of the town does have 50 foot and 60 foot width lots so zoning has been altered to reflect that. Mr. Behrens questions the plans as being in character with the rest of the neighborhood. Mr. Behrens also questions the setbacks as being incorrect.

The Planner makes a reference to Levittown and Chairman Arakelian request an explanation as to what that means. The Planner states that they don't anticipate that they are going to have smaller homes built on these lots. They're not going to be 2,000 square foot homes similar to other homes in the neighborhood. Chairman Arakelian asks if Levittown has small homes that all look the same. Mr. Karlbeck responds yes. That they are not going to go with a cookie cutter approach where every home mimics the home next to it and the home behind it.

Chairman Arakelian questions the Mr. Karlbeck's reasoning as to why the application should be approved. Chairman Arakelian asks the Planner if his testimony is telling the Board that anyone that comes before the Board with a 100 foot lot, that has 150 square foot in the back to equal that 7,500 foot floor area ratio that the Board should give them automatic approval because that is what the Planner says that is what they should do. He questions the fact that the five or six lots that he counts should subdivide and the Board should grant them approval to do so as the Planner seems to suggest. Planner counters that he feels the Board should consider allowing a subdivision to lots that are equal to the minimum lot area in the zone. Mr. Behrens wants to know how that impacts light air and open space which is the purpose of the municipal land use law having shrinking down a minimum lot width of 75 feet to 50 feet you now have instead of one house within that perimeter you now have two houses in that same space. Is that not an impact to light air and open space? For the neighbors. 75 foot ordinance has been in place since 1973 or 1975 but recently the Borough recognized that there was a nonconforming lot situation so as early as 1986 with subsequent amendments the Borough gave relief to undersized lots recognizing that they could not keep the same side yard set backs. He addresses recurring themes that come up before the Board, i.e. over building, overcrowding, additional bedrooms and burdens to the school system.

Chairman Arakelian opens comments from the Board.

Councilman Chinigo questions environmental issues, i.e trees, etc., impact on the school system.

Attorney Stinley instructs the Board and Planner that since this is a sub-division application the Board can only consider, the lot, the width, the area, the neighborhood. Although the applicant presented possibilities of what is going to be on the lot, the Board cannot consider that at this time.

Ms. Boland has no comments at this time.

Mr. Grasso has Comments on the Planner referring to the Kaufman case wherein this application varies substantially from that because if a 100 feet was required and they only had 83 it would be deficient by 17% where this is deficient by 30% so its substantially different. Attorney argues is it a substantial detriment - - that's the test, not whether there's measurable impact whether its a substantial one.

Mr. Esposito has Nothing at the moment.

Mr. Bartelloni asks Planner what he sees as the public benefits of two houses versus one. What is the public benefit. Planner has conformity, new housing stock, upgrading the neighborhood, speaking of rehabilitating older homes by introducing new housing stock into a community. Mr. Bartelloni asked if they conducted study as to how many other properties in River Edge might be of a similar size 100 x 150. Response has no. Their continuing argument is the unique characteristics to this area of Wales Avenue so it actually lends itself to subdividing these lots and having homes that are more in harmony with the existing 50 foot lot rather than conceivably having a 5,000-6,000 square foot house on the property which would be

completely out of character. Mr. Bartelloni points out that a number of the lots are similarly sized and if the owners of those properties could come before the Board and use that as precedent and say to the Board that we did it already looking at parcels, 1,2,22,6,7,19,24, 5, 1 they're all similarly situated and if all of those property came before us and said I want to subdivide my property they would be a similar precedent of we granted this.

Attorney Coristan- counters all applications are different and that their plan is a better fit this neighborhood. Chairman Arakelian ó So we are talking about setting a precedent for quite a few homes as Mr. Bartelloni pointed out ó what would be the environmental impact on the Borough if River Edge if every 50 x 150 lot came into the Board and said we want to split it and put two houses. Where would we put the water then? What would be the water retention impact? Attorney Stinley ó reminds the Planner to only answer in his capacity as a professional Planner, the testimony can't be as to environmental expertise because you are only qualified as a Planner. Chairman Arakelian continues regarding the water impact on the Borough and the fact that it needs to be addressed, if their engineer can't answer the question then most likely they will need to get an environmental expert to figure this out.

Mr. Bartelloni finishes up again with the environmental impact of applications such as this. The impact on the schools, Police Department, Fire Department, garbage collection, he believes that two homes will have a definite impact on those municipal services environmental impact inherent in that. He believes the cons substantially outweigh the pros at this point. Planner responds that he believes he has already stated all the pros and cons and does not want to repeat himself. He speaks of another subdivision around the corner that was done that had to deal with all the cons listed in this application and that application was granted. Mr. Behrens pointed out that it was a bigger lot and that its not an apples to apples comparison. Mr. Behrens points out that the applicant keeps pointing out whether or not there is a substantial detriment. He clarifies the test ó the test is whether or not the public benefits substantially outweigh the detriments. We've identified a number of impacts and its up to the Board whether or not they are negative impacts or not. The negative criteria part of the test does talk about the variance could be granted without substantial detriments to the public good and that they won't substantially impair the intent purpose of the Master Plan and zoning ordinance. The zoning ordinance has the 5 foot requirement and the Master Plan talks about preservation of neighborhood character and so forth.

Mr. Krey ó Speaks as to substantially more lot coverage and applying his formula to all the lots that can be subdivided in the Borough obviously there would be a tremendous issue with water. He requested concrete information regarding the argument that because this is in this neighborhood its somehow going to improve the neighborhood by making smaller lot sizes and smaller houses and that's a good enough argument to do it, but he wants to hear the argument that we would be able to make to the other six or seven lots in this neighborhood when they come before us and say we want to do the same thing. He acknowledges that the applicant states that they are all different but they are not different, they're the same lot size in the same neighborhood.

Attorney Coristan reiterates the same percentage in lot coverage so there's not going to be an increase in lot coverage as a result of subdividing 7,500 square foot lot. He addresses as to how if the Board denies any other applications who come with the exact same property sizes from the map that you showed us. Again, the attorney contends that all the lots are different and that some neighborhoods where there is a lot that are the same but there are some areas where it is not as prevalent. This happens to be in their opinion an area where the 50 foot lot is extremely prevalent and that is why they think in this particular case the Board can grant the variance. He points out that notices went to all the property owners and there was only one objector.

Chairman Arakelian repeats what was said by applicants ó this house is being developed one way or another. He again says I will tell you exactly what you said - we are going to subdivide this house and we are going to build something bigger, one way or another its going to be developed. (Chairman Arakelian and counsel going back and forth with one another). Mr. Arakelian points out that if they are denied that they can still build a house so therefore there is no detriment to the owner. The applicant states that obviously there is a detriment because they want to build two homes.

Attorney Stinley states that the applicant is trying to get this variance based upon a cost benefit analysis of whether this subdivision is going to be beneficial to the neighborhood and whether its going to uphold the MLUL the land use statute and the Master Plan of the town. We have to just consider the zoning ordinance, the lot width, depth area and the surrounding area with respect to the subdivision not necessarily what is going to be on the lot.

Mr. Krey continues to go back and forth with the Planner regarding implied density as being one perimeter, there is also the frontage, the impact, light space etc. all of these things are built into the code, lot widths, lot depths, setbacks all of that, so its not an incorrect lot width its a lot width that conforms with the minimum requirements in this case exceeds them a little bit and your position is that we take that lot that conforms with best interest of the Borough at heart and by effectively ignoring them and going back to what existed before those requirements were put into place that's going to be better for the Borough.

Mr. Karbeck clarifies what he said ó I am asking the Board to accept two lots that meet the implied density for the zone they meet the minimum width required lot area but they fail to meet the lot width requirement. Mr. Karlbeck feels as a planner that the fact that it meets the lot area requirements should prevail and if we can adjust the lot width by way of variance without causing harm to the neighborhood. What they are asking is that the Board look at this application and determine whether the subdivided lot would be out of character with the rest of the neighborhood or if it would actually fit in with most of the homes.

Mr. Mehrman clarifies that the map was drawn up in roughly the 1940's or to meet the 1940's housing stock needs, even Mr. Karlbeck agrees with that. 1940 needs were one thing and today's needs have vastly changed, have vastly increased so the applicant's argument that 50 foot ó Mr. Mehrman makes reference to a sheet that shows one-half yellow on 50 foot lots which goes back to 1940 criteria it doesn't necessarily meet today's family need criteria. He

thinks that the applicant variance from the 75 required to a 50 is extremely excessive in his opinion and he doesn't see how the Board can allow them to shoehorn another dwelling into this property. He believes the applicants variance is too excessive.

Chairman Arakelian ó He also feels that the 50 foot frontage is excessive. He had a problem with the 62.5 but it was granted. He knows that if he were to vote affirmative to a 50 foot lot in the town that he lives in he would be smacking the face of the people who changed the ordinance only 15-20 years ago to a 75 foot frontage and at the same time they limited the height of the houses to stop the over development of some of these properties.

Mr. Behrens states this application goes back to the test ó for the granting of a C2 variance the Board has to find that the public benefits granted substantially outweigh any potential detriments as well as the negative criteria the applicant must demonstrate that the granting of relief to be demonstrated without substantial detriment to the public good and that the granting is not substantially contrary to the intent of the Master Plan and zoning ordinance. That's the test and that is what the Board has to think about when evaluating this application.

Motion was made to open to the public. Mr. Felice speaks again and reiterates what he had said previously regarding this application. Motion made to close to the public.

Mr. Coristan goes back to the Kaufman case they cited at the beginning of the meeting. Speaks on that for a while. He believes that a C2 variance should be granted based on their presentation to the Board. Legally he believes the applicant has met the burden for a C2 variance. Mr. Bartelloni's reading from the text of the Kaufman case.

A small recess is taken. 9:45 p.m. Meeting has reconvened. Roll call is taken. Mr. Mehrman makes a motion. In the application of 297 Wales Avenue - N.J. Properties,LLC, the applicant seeks relief for minimum lot width from the R1 zone from a minimum requirement of 75 feet to 50 feet. Mr. Mehrman makes a motion that they approve the variance request. 2<sup>Nd</sup> ó Mr. Krey (this is just to take a vote) Roll call ó Chairman Arakelian ó no; Ms. Boland, no; Mr. Bartelloni, no; Mr. Mehrman, no; Mr. Grasso, no; Mr. Krey, no; Mr. Caslin, no; Councilman Chinigo, no; Mr. Esposito, no. The application was denied.

Next ó the Master Plan ó The Plan that has been presented to the Board by Mr. Behrens is in final form and has been approved by the Mayor and Council. The Board is looking through the final Master Plan that Mr. Behrens has presented to each member of the Board. What he has presented is the 2020 housing element and fair share plan (inaudible) land use plan element something the Board has to do to have a Zoning Ordinance. Mr. Behrens goes over the Mount Laurel doctrine with the Board explaining how and why municipalities in New Jersey have affordable housing obligations giving them a history and time line of same. Discusses vacant land adjustment whereby a town can access its development potential, analyze vacant land environmental constraints to try to reduce that number and the Borough did at the time it went from 1.4 units and was reduced down to 92 units recognizing that the Borough was and still is for the most part a fully developed community.

To the Plan itself ó the using element fair share plan is divided into three sections. First you have the housing element, which basically is an overview of the Borough's development and then there is the fair share obligation ó what the Borough's actual affordable housing numbers are and then the Fair Share plan in order to address that in accordance with the prevailing requirements. Mr. Behrens continue to explain the three sections. The Board will review the overlay ordinance and moving forward once the Board adopts all they have to adopt there will be a compliance hearing then the court will grant a judgment of compliance meaning the Borough will have its immunity extended to the end of the third round, doesn't have to worry about exclusionary lawsuits and again the reason for participating in all of this is to maintain the Borough's zoning controls to the extent that it can. Mr. Behrens advises the Board adopt the Master Plan.

Chairman Arakelian requests a motion to accept the Fair Housing Element and Fair Share Plan as written. So moved ó Mr. Bartelloni ó second ó Mr. Mehrman - Roll Call ó Chairman Arakelian ó yes; Ms. Boland ó yes; Mr. Bartelloni ó yes; Mr. Mehrman ó yes; Mr. Krey- yes; Mr. Grasso ó yes; Mr. Caslin ó yes; Councilman Chinigo ó yes; Mr Gibbons ó yes and Mr. Esposito- yes. Meeting adjourned.