

**Stanhope Land Use Board  
November 18, 2019  
Regular Meeting  
Minutes**

**RECEIVED**  
**JAN 14 2020**  
**STANHOPE  
BOROUGH**

CALL MEETING TO ORDER:

Chairman Maguire called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

Chairman Maguire invited all those present to stand in a salute to the colors.

STATEMENT:

Adequate notice for this meeting has been provided according to the Open Public Meetings Act, Assembly Bill #1030. Notice for this Reorganization Meeting was forwarded to the New Jersey Herald and Daily Record on January 15, 2019 and was placed on the municipal bulletin board.

In the event the Board has not addressed all the items on its agenda by 11:00 p.m., and it is of the opinion that it cannot complete the agenda in a reasonable period, the Board may exercise its option to continue this meeting at an agreed time and place, within ten (10) days of this meeting.

At this time, please turn off all cell phones.

ROLL CALL:

Nicholas Bielanowski - present	Thomas Romano - absent
James Benson - absent	John Rogalo - present
Raymond Cipollini, Alt #1 - absent	Joseph Torelli - present
Rosemarie Maio - present	Paula Zelif-Murphy - present
Thomas Pershouse - present	John Maguire - present

Others present: Board Attorney Glenn Gavan, for the Board Engineer, Paul Winters and Board Secretary Ellen Horak

MINUTES

**October 21, 2019 Meeting** - Mr. Torelli made the following correction: page 3, 1<sup>st</sup> full paragraph, line 9 reads "This would be a subdivision and they a merge of the two lots" and it should read "This would be a subdivision if they merge the two lots." On motion by Mayor Maio, seconded by Ms. Zelif-Murphy, the Minutes of the October 21, 2019 meeting, as amended, were approved on unanimous voice vote.

CORRESPONDENCE

10-31-19 Virginia Liotta, Esq. - Juntos Holdings LLC, Blk 11205 Lot 4.01 re: carry hearing to Dec. 9<sup>th</sup> Meeting  
11-12-19 Eric Keller - Technical Review #1 re Adam Lusardi, 49 Linden Avenue  
11-18-19 Stanhope Environmental Commission - Lusardi Variance Appl. Blk 11007, Lot 9.05

On motion by Ms. Zelif-Murphy, seconded by Mr. Bielanowski, and carried by unanimous voice vote, the Correspondence List was accepted and placed on file.

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:

Chairman Maguire opened the meeting to the public for non-agenda items. Seeing no one from the public wishing to speak, Chairman Maguire closed the public portion of the meeting.

NEW HEARING:

**19-03, Adam Lusardi**

Block 11007, Lot 9.05, Variance

Deemed Complete: 10/21/19

120 days: 2/18/20

Chairman Maguire, having property within 200 feet of the applicant's property, stepped down from the dais and Ms. Zeliff-Murphy, as Vice-Chair took over the meeting.

Joseph O'Toole, Esq. of the firm O'Toole, Couch & Della Rovere with offices at 14 Ridgedale Avenue, Cedar Knolls, NJ attorney for the applicant came forward. The property is located at 49 Linden Avenue. The application is for a steep slope variance. The proposed house to be built on the lot is a 4-bedroom home and will be situated on a lot that is currently vacant. Mr. O'Toole referenced the applicant as T3 Innovations, Inc. Mr. Gavan noted the application and all documents are in the name of Adam Lusardi. Mr. Lusardi, present, acknowledged the application is in his name, not his company, which is T3 Innovations, Inc. Mr. O'Toole stated the lot is fully compliant with the exception of the steep slope and the home will not have a negative impact on the neighborhood.

James Glasson of Civil Engineering, Inc. with offices at 1 Cove Street, Budd Lake, New Jersey came forward. Mr. Glasson provided his credentials to the Board. He has been a licensed professional engineer for the past 25 years. He has experience in civil engineering throughout the State and has appeared before 50 to 60 board providing expert testimony on similar matters as the one before this Board. The Board accepted Mr. Glasson as an expert in civil engineering. Mr. Glasson distributed to the Board a colorized version of Sheet 2 with minor changes, which was marked Exhibit A-1. The property is in the MR Zone which required a minimum lot size of 14,250'. This lot is 25,005 square feet. Other bulk requirements are 25' front yard, 15' side yard and 25' rear yard. The required frontage is 100' and they have 119'. The maximum lot coverage is 25% and they have 1.14%. Mr. Glasson directed the Board to the left on the plan which shows a larger building envelope. To the left is the slope of the property. They are permitted to disturb a certain amount and are proposing disturbance in excess of the 25% category. On the revised plan, he super imposed the disturbance onto the slope to show where the disturbance falls, which was requested by the Board Engineer. The majority of what they are disturbing in the excess of the 25% falls where they are proposing the structure. If you look at the property, it has natural slope with the neighbor to the left (Lot 9.10). The area in the rear is a wooded area. If they moved the house back further, they would be getting into that wooded area with overgrowth. Mr. Glasson noted the existing terrain and steep slopes may be been created by stockpiling soil in this area during the development of surrounding lots. The presence of large boulders and broken concrete structures on the surface indicate that this vacant lot was previously disturbed. It is not the natural slope of what was in that area. There is construction debris in that area. They are only disturbing about 6% more than 25% or more of slope and it is in an area already disturbed. Public water and sewer are available to the property. The lot is one of the larger lots in the area. Mr. Glasson distributed Photograph A which is a view standing at the road looking up at the property and shows the utility pole, with two arrows that show the gradual slope up Linden Avenue. Photograph B is a view looking into the lot, down the driveway.

There is an encroachment on the driveway by Lot 9.01. The picture has an arrow that points slope that exists in the rear of Lot 9.01 which is the larger slope that runs across this lot. It continuous and runs onto Lot 9 and our contention is, although there is a slight disturbance of slope in excess of 25%, it is in an area that was already disturbed and the rear of the property will stay untouched, which is the wooded area of the property. Photograph A was marked Exhibit A-2 and Photograph B was marked Exhibit A-3. Mr. Glasson noted the house to the right sits lower in elevation and the house to the left sits higher in elevation. The proposed house is 36' wide and 30' deep with a footprint of 1,080 square feet with a single car garage and driveway. They have 8' of pitch across the house which is basically the pitch presently across the property. The height of the structure is 30.4' under the Borough ordinance. The house will be a split level with the garage under. The first floor is approximately 700 square feet of living space and the second floor is 1,152 square feet for a total of 1,847' between both floors. They propose an underground connection to the utility pole for electric and telephone and they propose and an on-lot infiltration system. In response to a comment by the Board Engineer to move the infiltration system so it does not impact the neighbor, they will move it closer to the road. The rest if the items in the Board Engineer's report pertain to details, which they will address. With respect to stormwater, they are providing a 15-year storm infiltrating the entire roof area. Impervious coverage is approximately 8.5% and 25% is permitted. The issue is the slope on the lot. The proposed location of the house is the only place it can be put without impacting a lot of wooded and tree area. As per the Board Engineer's report, they will get a certification from the Sussex County Soil Conservation District. They have a Soil Erosion and Sediment Control Plan that they will revise as per the Board Engineer's report.

Ms. Zeliff-Murphy noted off-street parking since there is no parking on that portion of Linden Avenue and the proposed one-car garage and she asked how many cars the driveway would accommodate. Mr. Glasson responded the driveway goes further than the garage so they could accommodate more than one car. They will make the driveway wider as per the Board Engineer's report. Mr. Glasson stated you can put one car in the garage and 2 side-by-side in the driveway.

Mr. Pershouse commented that the Borough has a history of dealing with steep slopes where a future homeowner removes trees possibly to install a swimming pool and they end up with serious erosion issues. Mr. Pershouse asked if the applicant would consider putting a conservation easement on the back area of the property to prevent the removal of the trees. Mr. Lusardi asked how much of the property they want in the conservation easement, questioning if the entire back of the property. Mr. Pershouse stated they want to ensure keeping some of the trees in the back.

Adam Lusardi, applicant, was sworn in. Mr. Lusardi noted the request for a conservation easement and asked that it be restricted to the area of steep slopes, not the entire area. Mr. Glasson noted the first 80' in the back are predominantly steep slopes and he suggested the conservation easement in that 80' area, which leaves the area behind the house of about 30'-40' not in the conservation easement. Mr. Gavan suggested the Board Engineer and applicant's engineer come up with the exact amount needed for the conservation easement. The applicant agreed to have the engineers determine the amount of property for the conservation easement.

Ms. Zeliff-Murphy asked if the Board Engineer had any comments. Mr. Winters said their major concern was the infiltration and they are satisfied it will be remedied. Most of Mr. Keller's report was details he was requesting.

Ms. Zeliff-Murphy opened the meeting to the public for questions or comments on this application.

Joe Lounsberry was sworn in. Mr. Lounsberry said his concern is the drainage. He has lived at his property for 25 years and never had any issues and he asked if moving the drywell to the front will prevent the drainage onto his property. Mr. Glasson responded in the affirmative. Mr. Lounsberry stated there is a "tree conservatory" on his property so he cannot remove any trees. Mr. Glasson stated the tree conservatory is about 60' and it would continue across. Mr. Glasson noted Mr. Lounsberry has a conservation easement file Map 977 as shown, and it is across the back corner of his property and if they continue the easement across, it would hold those slopes. Mr. Lounsberry questioned soil erosion coming onto his property. Mr. Glasson responded they have to get a soil erosion permit, it has to be inspected by the Soil Conservation District, who do inspections and make sure everything is stabilized. Mr. Lounsberry questioned what if there is an issue in future years. Mr. Gavan stated, from experience, if drainage becomes a problem from construction, there are no easy fixes and there are no guarantees. Mr. Gavan added that every step will be taken to prevent extra run-off into his yard. Mr. Lounsberry stated he is satisfied that they will be moving the infiltration down further.

Karen Fortunato, 51 Linden Avenue was sworn in. Ms. Fortunato stated her house is on the left of the applicant's property and his property line is down her driveway. She lived there for 13 years and owned the home for 9 to 10 years. She purchased the property from the same owner as the property next door and when she purchased the property is when she found out about the encroachment. Mr. Gavan stated the issue is between the two property owners. Mr. O'Toole stated his client will be agreeable to letting the easement remain. Mr. Gavan again stated this issue is between property owners.

Seeing no one further from the public wishing to speak, Ms. Zeliff-Murphy closed the public portion of the meeting.

Mr. Winters stated he wants the applicant to confirm that the rear door will be coming down. There is an elevation difference. Mr. Lusardi stated he would like to construct a deck, which will be conforming so there will be no zoning issue. Mr. Winters asked that it be shown on the plans.

Mr. Lusardi noted a comment about 2 sheds encroaching on his property. He will contact the owners, but he questioned what happens if they do not want to move the sheds. Mr. Gavan responded this is an issue between the property owners, not the Board.

Mayor Maio asked Mr. Glasson to address comment #17 of the Board Engineer's report. Mr. Glasson stated, because there is a garage under the structure, it will appear to be a three-story house. He will take some of the grade and bury the corner, but he cannot bury the whole thing because he cannot bury the entrance. Mr. Pershouse stated the Borough's ordinance prohibits a three-story house. Mr. Glasson questioned how it could be classified a three-story house because they meet the height requirement. Mr. Pershouse said, from a construction standpoint, you could have a three-story house depending on the grade plan. Mr. Gavan stated that anything with a grade plan can be modified by moving dirt. Mr. Gavan added that, when standing by the garage, it will look like it is three-stories. Ms. Zeliff-Murphy asked Mr. Pershouse to clarify a "story." Mr. Pershouse said if more than 50% of the foundation is exposed for more than 6', it becomes a story above grade. Mr. Glasson noted it will not all be exposed. Mr. Glasson stated the garage is 12' wide and 30' deep. It

will be the depth of the house. It will be a one-car garage with storage space. The driveway that will go from the road to the garage is 43'. Mr. Gavan noted you can put a car back-to-back in one space, two next to each other and one behind the one in the garage. Mr. Gavan commented that parking, if the homeowner had company, would be an issue.

Ms. Zelif-Murphy asked for confirmation that the drainage being moved to the front will not be seen. Mr. Glasson responded it will all be underground. Ms. Zelif-Murphy suggested putting a car over the drainage. Mr. Glasson agreed that since the drainage will be under the driveway would keep the driveway space. Mr. Gavan noted this is a permitted use and the issue is the steep slopes.

Mr. Gavan noted correspondence from the Stanhope Environmental Commission in which they state the "Environmental Commission does not see that the disturbance of the slope in question from 10% allowed to the proposed 16% as environmentally harmful. However, we defer to the Borough engineer's final judgement on this matter." Mr. Gavan stated a steep slope variance is the only variance needed.

On motion by Mayor Maio, seconded by Mr. Pershouse, and carried by the following unanimous roll call vote, the Board approved the variance application of Adam Lusardi for a single-family residence, which is a permitted use in the Medium Density Zone and the steep slope variance as indicated with the modifications consistent with the Board Engineer's report and those placed on the record today by the engineer to the plan and to include a tree easement (conservation easement) consistent with the neighbor's line with the purpose to avoid future erosion by removal of the trees that may cause drainage and erosion issues for the neighbors.

AFFIRMATIVE: Mr. Bielanowski, Mayor Maio, Mr. Pershouse, Mr. Rogalo, Mr. Torelli, Ms. Zelif-Murphy  
OPPOSED: None  
ABSTENSIONS: None

Mr. O'Toole asked if his client would be permitted to apply for building permits. Mr. Gavan asked if Mr. Lusardi agreed to waiving reading of the resolution, at his own risk. Mr. Lusardi responded in the affirmative. Mr. Gavan explained it is not uncommon for an applicant, once they get an approval and based on their own sole risk, to waive approval of the resolution and waive the appeal period to allow them to start pulling their building permits. Mr. Gavan said by doing that, if someone was to appeal the approval and the applicant losses, he must remove any work done, i.e. if he starting putting up the house, he would need to take the house down.

On motion by Mr. Torelli, seconded by Mr. Bielanowski, and carried by the following roll call vote, the Board permitted the applicant to move forward with waiving reading of the resolution, at his own risk.

AFFIRMATIVE: Mr. Bielanowski, Mayor Maio, Mr. Rogalo, Mr. Torelli, Ms. Zelif-Murphy  
OPPOSED: None  
ABSTENSIONS: Mr. Pershouse

Chairman Maguire returned to the dais.

BILLS:

**Bowman Consulting Group Ltd.**

11/06/19	Re: Juntos Holdings, LLC	\$1,090.00
11/06/19	Re: Lusardi	\$ 190.00

On motion by Ms. Zelif-Murphy, seconded by Mr. Torelli, the aforesaid bills were approved on the following unanimous roll call vote.

AFFIRMATIVE: Mr. Bielanowski, Mayor Maio, Mr. Pershouse, Mr. Rogalo, Mr. Torelli, Ms. Zelif-Murphy, Chairman Maguire

OPPOSED: None

ABSTENSIONS: None

ADJOURNMENT:

On motion by Mr. Rogalo, seconded by Mr. Torelli, it was the consensus of the Board to adjourn the meeting at 7:43 P.M.

Respectfully submitted,



Ellen Horak, Board Secretary