

**Stanhope Land Use Board  
August 14, 2023  
Regular Meeting  
Minutes**

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STANHOPE  
BOROUGH

CALL MEETING TO ORDER:

Chairwoman Maio called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

Chairwoman Maio 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 Regular Meeting was forwarded to the New Jersey Herald and Daily Record on January 10, 2023, was placed on the municipal bulletin board and on the official website of the Borough of Stanhope.

In the event the Board has not addressed all the items on its agenda by 10:00 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.

At this time, please turn off all cell phones.

ROLL CALL:

Najib Iftikhar – absent	John Rogalo – absent
Glenn Kurtz – present	William Thornton - present
Christine Lipinski - present	Edward Schwartz - present
Thomas Pershouse – absent	Paula Zeliff-Murphy - present
	Rosemarie Maio – present

Others Present: Tim Profeta for Board Attorney Glenn Gavan, Board Engineer Eric Keller and Board Secretary Ellen Horak

MINUTES

**July 10, 2023 Regular Meeting** – On motion by Mr. Kurtz, seconded by Mr. Schwartz, the Minutes of the July 10, 2023 meeting were approved on majority voice vote. Mr. Thornton abstained.

CORRESPONDENCE

07-21-23 New Jersey Planning Officials – New Jersey Planner (May/June)  
07-28-23 Glenn Gavan – Resolution of Memorialization re: Metro Storage, LLC Site Plan Amendment  
08-01-23 Angelica Sabatini, CFO – 2024 Budget Request  
08-09-23 Eric Keller, P.E. – Technical Review #1 re: Lynch Minor Subdivision, Blk 11103, Lot 24.05

On motion by Mr. Thornton seconded by Mr. Kurtz and carried by unanimous voice vote, the Correspondence List was accepted and placed on file.

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:

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

NEW HEARING:

**23-04, Patrick Lynch**

Block 11103, Lot 24.05, Minor Subdivision Application

Deemed Complete: 07/10/23

45 days: 08/24/23

Patrick Lynch, 6 Summit Street, Stanhope, NJ was sworn in. Mr. Lynch explained he is looking to subdivide his property to construction another single-family home. He has lived at his residence for six years. Mr. Lynch stated he has Adam Kandil of Daetel Engineering representing him.

Adam Kandil, 115 Route 46, Suite D28, Mountain Lakes, New Jersey was sworn in. Mr. Kandil stated he is testifying as a professional civil engineer. He has testified across the State of New Jersey, mostly working in Morris County, Somerset County and Hunterdon County, but he has worked in Stanhope under Jeff Careaga of Careaga Engineering. Mr. Kandil stated he has testified in multiple municipalities in the State of New Jersey. Mr. Kandil was qualified as a professional engineer. Mr. Kandil displayed a large page showing an aerial map of the site and the tax map. The property fronts Brooklyn Road. The property is currently 3.242 acres and the applicant would like to subdivide the lot to create 2 lots. The current lot will be 1.523 acres and the new lot they would be creating would be 1.72 acres. Although the property fronts on Brooklyn Road, there are steep slopes and there is a driveway easement that gives access to the current property. They are looking to utilize the same access. The Zoning Analysis displayed on the plans shows all zoning requirements will be met on the site for both lots. Mr. Kandil stated that both the existing home and the proposed home will work based on the architectural drawings submitted. Mr. Kandil noted that the property is fully surrounded by residential uses.

Mr. Keller noted the plans displayed are dated 4/04/23 and he asked if they are the same as the plans the Board received when the application was submitted. Mr. Kandil responded in the affirmative. Mr. Kandil showed the existing site with access coming off Summit Street with an easement that was granted in 1996. Shown on page C-02 is the "Existing Conditions. There is no access coming from Brooklyn Road. The plan also shows the proposed tree clearing. They will be removing 16 trees. The plan showed 23 trees, but they are looking to downsize that based on the comments of the Board Engineer. Mr. Kandil stated they had an anticipated conceptual plan given to the surveyor which is the reason there was a limited survey of the tree survey, which was questioned in the Board's Engineer's review report.

Mr. Thornton asked if the 16 trees being removed are closest to Brooklyn Road. Mr. Kandil responded they are the farthest from Brooklyn Road and are in the rear of the property. The backyard of the existing home is where they propose the new pad for the new home. It would be closer to Musconetcong Avenue. Mr. Kandil addressed the Board Engineer's comment letter dated August 9, 2023 in which he noted a deed restriction imposed to prevent disturbance below contour 940 to minimize impact to Musconetcong Avenue. Mr. Kandil stated there were 2 to 3 trees to be cleared beyond that, but after seeing Mr. Keller's comments, they are downsizing the development in order to comply with his comments.

Mr. Kandil stated the driveway easement goes through Lot 24 and feeds the current home. They are suggesting branching off that access drive for the proposed home. They are trying to flatten as much

as they can along the access drive and they will meet the grade and stormwater patterns. They will need a retaining wall. The proposed plan shows a 14% grade. They redesigned it to maintain it to 12%. They will have more of a level landing to the garage to the home.

Mr. Kandil displayed the "Grading Plan" shown on page C-04. They are tying into the existing grade. The trench will be removed. They will comply with the Board Engineer's comment to grade away from the home and provide a perimeter infiltration, drywell and a scour hole for the point of discharge. They will be able to retain the water of a 100-year storm. It is designed to DEP standards to collect a 100-year storm in its entirety into the drywells. Mr. Keller noted that rainfall amounts are increasing which is why the DEP changed the stormwater regulations. Mr. Keller noted that since this is a minor subdivision, it does not need to meet the standards of a major development, but it still needs stormwater management. Mr. Kandil stated the stormwater is being fully collected from the roof. Mr. Kandil stated that, after discussions with Mr. Keller, they redesigned and will bring the drywell into the driveway to pick up the run-off. The water will be fully collected in the driveway. Mr. Kandil stated they will design for a 25-year storm or 100-year storm, whichever the Board Engineer requires. They will add adequate drywells to pick up additional run-off as required by the Board Engineer. Mr. Keller noted a prior Resolution from the original subdivision where there was concern about run-off down to Musconetcong Avenue. Given the topography of the site and the length of the driveway, the driveway needs to be addressed in terms of the stormwater. There needs to be a series of drywells or infiltration centers to hold back the water and create sheet flow. It is a balance between the current design on open grates. Mr. Keller noted he does not like open grates in lawn and wooded areas. Mr. Keller suggested that they use scour holes.

Ms. Zelif-Murphy asked if the existing house will be affected by run-off. Mr. Lynch responded that it is his house and all run-off is being collected in infiltration trenches that he has on his property.

Mr. Kandil noted this property has a utility easement for both water and sewer and that area is where they intend to pick up water and sewer. Mr. Kandil noted that after discussions with Mr. Keller, they decided to downsize the footprint of the new proposed home so now the new footprint is smaller. He has an exhibit he will present showing the new design.

Chairwoman Maio asked if the property abuts three or four properties on Musconetcong Avenue. Mr. Kandil responded it abuts three properties and a small portion of the fourth. Chairwoman Maio asked how far in from Route 183 is the properties. Mr. Lynch responded they do not abut the first house on Musconetcong Avenue; it is much further down Musconetcong Avenue. Mr. Keller noted that the original subdivision went from Route 183 to Hill Road. They created Summit Street. As part of the subdivision they dedicated about 150 feet of Summit Street to the Borough and the rest became an access easement. Mr. Kandil presented a copy of the Driveway Maintenance Agreement. The easement goes through Lot 24. Where they are tapping in is entirely on Lot 24.05. It would be a shared driveway between the existing Lot 24.05 and the new lot created.

Mr. Thornton asked if the homes on Musconetcong Avenue are the same homes that were affected by the Hill Road development. Mr. Keller responded they are not; this property is closer to Route 183.

Chairwoman Maio expressed her concern for the homes on Musconetcong Avenue as the homes closer to Route 183 all get water. There is significant water damage in the basement of at least five houses on the left. Mr. Keller directed the Board to the tax map displayed by Mr. Kandil. Looking at the tax map, the property is at least seven homes back from the homes affected by the Hill Road development.

Mr. Keller stated one of his concerns that he expressed to Mr. Kandil, was the access easement made between Lot 24 and Lot 24.05. Mr. Keller directed the Board and Board Attorney to page 3 which is after the description of the property, it states "This Agreement is made expressly for the benefit and burden of, and shall be binding on, the heirs, personal representatives, successors in interest, and assigns of the undersigned parties. This Agreement shall be perpetual, and at all times shall be construed as a covenant running with the land, and no part of the fee of the soil upon which the 25' Driveway and Utility Easement above described is located shall pass or be vested in another party." Mr. Keller is concerned that they are now creating another lot, which is another person. Mr. Kandil said they way they understand it was that the easement granted can never be sold to someone else to take away the right of that road feeding the current site. Item 1 in the easement states it should be granted to any of the successors, heirs, assigns, invitees and guests, an easement for reasonable ingress and egress on and across the portion of the 25' Driveway and Utility Easement area that lies within the boundaries of the property of the granting party. Mr. Keller and Mr. Kandil said they are not making a legal statement and they asked the Board Attorney his advice. Mr. Profeta stated it is reasonable vested with the lot and meaning the lot can never be taken away. Whether it can be extended to another house on the property, in his opinion, is not an issue. It is more to the point that it is for this property in perpetuity.

Mr. Keller said he had a long discussion with Mr. Kandil and suggested he present an exhibit that shows how they are going to scale back the development which will address some of the comments in his review letter. Mr. Kandil presented a drawing being the proposed Site Subdivision Plan and Steep Slopes shown on Sheet E-01, dated with revisions of 8/10/23 which was marked Exhibit A-1. Mr. Kandil stated to the left is the revised subdivision plan which shows the access drive, the land and building and on the right side it shows the critical slopes and steep slopes and the updated zoning requirements. The revised subdivision plan shows the smaller footprint. The dimensions are now 54' long x 26' deep. The previous plan was 66' long and 26' deep. The height to the peak of the roof was 27-feet plus or minus. They have calculations on the plan showing the average grade and the average grade gives another 5-feet, making it 32-feet. Mr. Keller noted 35-feet is permitted. Mr. Kandil noted that on the zoning, it is relatively the same, but the footprint is smaller. They pulled everything up and there is no disturbance beyond 940. There is about a 10' level area for recreational use before it falls off. The first plan showed 22 trees to be removed and the revised plan shows 16 trees to be removed and they are replanting 16 trees. They are doing a one for one tree replacement. The plan shows the tree line and the scour hole. The applicant is agreeable to adding another drywell. Mr. Kandil noted the comment in Mr. Keller's review letter that the chart was not complete on the steep slopes plan and that with the new home there will be disturbance in excess of the percentage allowable under the ordinance. Mr. Kandil stated there was one area where it was not being met but the ordinance permits that the access be exempt from that. In discussions with Mr. Keller, they agreed to treat it as the landing and the access coming up from that point will be designated as the access. The plan shows the critical slope percentages, the site area, disturbance factor, allowable disturbance and the amount of disturbance. Mr. Kandil stated he also put another column for the access area to be deducted and a column showing the proposed disturbance. Mr. Kandil stated they will be in compliance. Exhibit A-1 also shows the types of trees to be planted. Mr. Kandil asked if there are specific trees the Board would like planted, the applicant is open to the Board's recommendation. Mr. Keller stated the trees are to be native trees. Mr. Kandil responded they will be oak and maple trees. Mr. Keller stated oak and maple trees are acceptable trees to be planted.

Mr. Kandil presented a drawing being the proposed Grading, Drainage and Utility Plan shown on Sheet E-02, dated last revised 8/10/23 which was marked Exhibit A-2. Mr. Kandil stated that after

speaking with the Board Engineer, they made the footprint smaller and cleared trees to give a 10-foot area in the back for a usable area. The trees on this plan will remain. Mr. Kandil noted they met the existing grade at the access drive. The slope is less than 12% and they tried to maintain the retaining wall under 4-feet. The plan shows the average grade of the building which is at 32-feet. The plan shows the existing water and sewer and the proposed tie in. They have limited the disturbance other than the two connection points. The drywell proposed will be 7-feet deep in response to Mr. Keller's comment; however, if they hit rock they will reconfigure the system. Prior to this, the applicant will have subsurface testing done. Mr. Kandil said, with respect to stormwater, they are fully accommodating run-off from a 100-year storm. They will add another drywell if needed. Mr. Kandil stated they added the drywell detail to the plans as per the Board Engineer's comment. Mr. Kandil stated they will comply with all the Borough requirements. Mr. Kandil submitted an itemized written response to Mr. Keller's review letter dated August 9, 2023.

Chairwoman Maio asked what the residents on Musconetcong Avenue will see. Mr. Kandil responded they will only see a wooded area with trees. Chairwoman Maio again expressed a strong concern regarding the affect of run-off on the homes on Musconetcong Avenue.

Mr. Schwartz asked the elevation on the back of the houses at Musconetcong Avenue. Mr. Kandil responded at Lot 9 which is the last house closer to Hill Road would be 915' and to Lot 12, which is farther to the left it would be 906'. Mr. Kandil noted this is a large grade change, but there are large trees that will block site of the house.

Mr. Kandil presented an Architectural Plan consisting of 2 sheets prepared by Greater Living Architecture, P.C. and dated 6/20 which was marked Exhibit A-3. Mr. Keller noted the plans are dated 6/20 and asked if they design is still available. Mr. Lynch responded in the affirmative. Ms. Maio questioned what the color of the house will be. Mr. Lynch responded the color of the house will be an earth tone color.

Mr. Keller went through his review report dated August 9, 2023, noting the following with respect to each comment:

- #1, #2 and #3- have been discussed to his satisfaction;
- #4 - has been discussed and he is satisfied with the reason why;
- #5 - is minuscule, he just wanted clarification. They must provide an updated survey;
- #6 - the Board Secretary spoke to the Tax Assessor and the new lot numbers, upon approval, will be 24.07 and 24.08;
- #7 - is minuscule and discussion is not needed.
- #8 - is administrative. While it has frontage on Brooklyn Road, as stated in the prior Resolution, any approval must state that this property will not have access to the public street on which it fronts, it will have access through the access easement out Summit Street to Route 183;
- #9 - revised plan is shown on Sheet E-02. Mr. Kandil will update the numbers. Mr. Keller asked Mr. Kandil to draw a box around it. Mr. Keller will review the revised submittal;
- #10 - Mr. Keller questioned if the surveyor located every tree within the disturbance area that was 4' or 4" above grade. Mr. Kandil responded in the affirmative, adding they do not anticipate doing any work in that area;
- #11 - Mr. Keller noted Mr. Kandil testified about the difference in the number of trees between 16 and 22 trees;
- #12 - the trees proposed through testimony are acceptable;
- #13 - is not applicable so will be removed from the plans;

- #14 - a condition of any approval should be that the existing driveway will now cross the new lot so they will need an easement for them to cross the new lot to get to the access easement already existing;
- #15 - a condition of any approval should be the right of the Lynch's to continue to use the water and sewer and that they cannot be cut off from it since it will be on someone else's property. Mr. Keller noted it should be made clear that the maintenance of the water and sewer lines on these properties is the responsibility of the two property owners and that the Borough has nothing to do with it;
- #16 - Mr. Keller questioned if there are any records on what type of pipes they are and they must make sure they are adequate for water flow to the two houses. Mr. Keller noted this is not the Borough's problem if the pipes are not adequate, it is the property owners' responsibility. Mr. Lynch stated there is a well pump in his home to get the water to the house. Mr. Keller noted the new house will need to have whatever water pumping facility is required to have adequate water pressure at their responsibility, not the Borough's;
- #17 - was addressed by the applicant;
- #18 - Mr. Keller will review the grading when Mr. Kandil submits a revised plan;
- #19 - the revised plan on Sheet E-02 clarified his comment;
- #20 - this was discussed between Mr. Keller and Mr. Kandil – they have a walkout basement and a 10' slope. Mr. Keller is satisfied with the revisions;
- #21 - Mr. Keller noted Mr. Kandil testified they made the driveway slope a little flatter and it matches the Lynch's grade;
- #22 - Mr. Keller stated the stormwater management must be reviewed to minimize the impact on the homes below. Mr. Keller noted this is a minor subdivision and the Board does not get involved in plot plans which goes to the construction official. Mr. Keller asked that any approval include a condition that they provide a Plot Plan in the process of the construction official issuing a building permit. Mr. Kandil agreed to the condition;
- #23 and #24 – deal with stormwater management, which he will review all revisions;
- #25 - has been addressed and he will review;
- #26 and #27 - Mr. Keller stated Mr. Kandil is correct. They took out the steep slopes and with the deduction of the steep slope is not part of the calculation;
- #28 - The applicant will provide stormwater management for the driveway. Mr. Keller will review when the plans are re-submitted with the condensed design which will require additional seepage pits or detention basins to address the run-off;
- #29 and #30 – Mr. Keller noted the applicant submitted a new house footprint so those comments are no longer applicable.
- #31 - Mr. Keller included this in his response under #22 above.

Mr. Keller noted Mr. Kandil testified they will remove the trench drain which he agrees should be removed. Mr. Keller stated Mr. Kandil has addressed the comments in his review memorandum dated August 9, 2023 except they need to do a review and analysis of the stormwater.

Mr. Keller directed Mr. Kandil to Exhibit A-1 and stated it is noted the driveway is 15' wide, but looking at Exhibit A-2, it appears it narrows as it gets closer to the Lynch's existing driveway because of the retaining wall. Mr. Kandil responded that is correct. Mr. Keller asked if it needs to be 15' wide and he asked if they could make it 12' wide instead. Mr. Lynch responded he does not see making the change as an issue. Mr. Kandil stated it is 15' wide and narrows to 13.5' wide. Mr. Lynch's driveway, where it meets, is 12' wide and as it comes to the landing, it is 14' wide. Mr. Keller said he would prefer the driveway be 12' wide. The applicant agreed to the change.

Mr. Keller questioned the front elevation of the house shown on Exhibit A-3 as it shows a front door and he does not see a walkway. Mr. Kandil responded it is a covered porch. Mr. Keller asked how you get out the front door to the driveway. Mr. Kandil responded that the primary access would be through the garage, but he can incorporate a walkway. He would anticipate stairs to the driveway and a walkway to the front door.

Mr. Schwartz noted Exhibit A-3 shows on the right a window and he asked if there is going to be a sliding door. Mr. Kandil responded on the right side they are not doing anything, but in the rear would be a walkout basement, which the revised plan will show. Mr. Keller suggested having a small window, to which Mr. Kandil agreed. Mr. Keller asked if the deck will have stairs going down to the ground. Mr. Lynch responded they have not decided on that yet, but it is possible to have stairs.

Mr. Schwartz asked if they will test for radon. Mr. Lynch responded in the affirmative.

Mr. Schwartz noted no one from the public is present for this hearing. The Board Secretary informed him that notice is not required for a minor subdivision application.

Chairwoman Maio opened the meeting to the public for any questions or comments on this application. Seeing no one from the public wishing to speak, Chairwoman Maio closed the public portion of the hearing.

On motion by Mr. Schwartz, seconded by Ms. Zeliff-Murphy and carried by the following unanimous roll call vote, the Board approved the minor subdivision application of Patrick Lynch for Block 11103, Lot 24.05 with the following conditions: respond to the comments in Mr. Keller's review memorandum dated August 9, 2023; the submittal of a Plot Plan and Grading Plan for what they want to build; the 940 contour is staked in the field and there is no disturbance beyond the staked line; the house is to have commercial 6" gutters with leaf guards so the water gets into the drywells; the color of the house will be an earth tone color; an easement description and deed are to be prepared for the Lynch's driveway access from the new lot to the easement across Lot 24; there is to be descriptions and deeds for the Lynch's to continue to use the water and sewer that cross the new lot; applicant is to confirm with the Borough's Tax Assessor which lot is designated as which; maintenance of the water and sewer is to be include in the deed of easement; there will be deeds prepared for each of the new lots and the deed for the new lot is to state that there is no access to Brooklyn Road and that there is no disturbance of lands lower than elevation 940.

AFFIRMATIVE: Mr. Kurtz, Ms. Lipinski, Mr. Schwartz, Mr. Thornton, Ms. Zeliff-Murphy,  
Chairwoman Maio

OPPOSED: None

ABSTENSIONS: None

#### RESOLUTION OF MEMORIALIZATION

#### **23-02, Metro Storage LLC**

Block 11701, Lot 21, Site Plan Amendment

Approval Granted: 07/10/23

Chairwoman Maio noted the Board just received revisions from the Board Engineer to the Resolution of Memorialization and she carried action on the Resolution to the next meeting to give the Secretary the opportunity to incorporate Mr. Keller's revisions prior to the Board's review.

BILLS:

	<b>Bowman Consulting Group Ltd.</b>	
06/07/23	Re: Bajwa Singh.– 256 Route 206	\$603.75
	<b>Miscellaneous</b>	
07/28/23	Local Media Group (NJ Herald) re: notice of public hearing - Demattheis Development, LLC – Redevelopment	\$ 54.60
08/09/23	Linda Chirip – Secretarial Services re: July 10 <sup>th</sup> Meeting	\$110.00

On motion by Mr. Kurtz, seconded by Ms. Lipinski, the aforesaid bills were approved on the following unanimous roll call vote.

AFFIRMATIVE: Mr. Kurtz, Ms. Lipinski, Mr. Schwartz, Mr. Thornton, Ms. Zelif-Murphy, Chairwoman Maio

OPPOSED: None

ABSTENSIONS: None

NEW BUSINESS:

2024 Budget Request – Chairwoman Maio carried discussion on the 2024 Budget to the September meeting.

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:

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

DISCUSSION:

Mr. Schwartz expressed his surprise that notice is not required on a minor subdivision, noting the impact the recent application will have on other resident properties and he asked if that is the Borough's law or State law. Chairwoman Maio responded it is the Municipal Land Use Law. The Board discussed their concern that members of the public were not made aware of the recent subdivision and questioned if they can require applicants to provide notice. Mr. Profeta stated the Board cannot supersede State law.

ADJOURNMENT:

On motion by Mr. Thornton, seconded by Ms. Zelif-Murphy, it was the consensus of the Board to adjourn the meeting at 8:47 P.M.

Respectfully submitted,

  
Ellen Horak, Board Secretary