

**SUSSEX COUNTY PLANNING BOARD**

**MINUTES**

**April 2, 2012**

The meeting was called to order by Chairwoman Phoebus at 4:00 p.m. The meeting is held in compliance with the Open Public Meetings Act, NJSA 10:4-2 of 1975, as amended. Present were:

**MEMBERS PRESENT:**

Gail Phoebus, Chairwoman  
Andy Borisuk, Vice Chairman  
Michael Cecchini  
Michael Francis  
Walter Cramp, County Engineer  
Joseph Maikisch, 1<sup>st</sup> Alternate  
Daniel Conkling, 2<sup>nd</sup> Alternate  
Rich Vohden, Freeholder Member  
John Risko, Engineering Alternate

**MEMBERS EXCUSED:**

Dr. John Ford  
Kirk Perry

**STAFF PRESENT:**

Eric Snyder, Planning Director  
Alice Brees, Principal Planner  
Neal Leitner, Senior Planner  
Bill Koppenaar, Chief Engineer  
Antoinette Wasiewicz, Recording Secretary

**ALSO PRESENT:**

Anwar Qarmout  
George Gloede, Jr., P.E., P.P.  
Robert Wesp, P.L.S.  
Debra Hornak

## **MINUTES**

The following changes shall be made to the Minutes of March 5, 2012: Under "Also Present" correct titles for John Risko and Bill Koppenaar to read John Risko, Assistant County Engineer and Bill Koppenaar, Chief Engineer. On Page 3, B, Paragraph 4, change Exhibit "B" to "A-3."

A motion was made by Michael Francis to approve the minutes of March 5, 2012 as corrected. The motion was seconded by Joseph Maikisch and carried unanimously.

## **SITE PLAN/SUBDIVISION REVIEW COMMITTEE REPORTS**

A motion was made by Michael Francis to approve the Development Review Committee Reports for March 5, 2012 and March 19, 2012 as presented. The motion was seconded by Joseph Maikisch and carried unanimously.

## **APPEALS AND WAIVER REQUESTS**

### A. QARMOUT AMENDED SUBDIVISION, FILE SCPB 39/11, ROUTE 641 (DREW ROAD), VERNON TWP. (CARRIED FROM MARCH MEETING):

Dennis McConnell, County Counsel began by saying a waiver has been filed and that all the Planning Board members have the County Land Development Standards. The first section the Board must consider is the waiver procedure. He read the "Waiver Procedure" section, Page 27 of 269 of the Sussex County Land Development Standards:

"Waivers are a means by which a Planning Board, for specific reasons, may reduce or eliminate a requirement. The process of a waiver begins when an applicant requests a waiver in a letter to the County Division of Planning, stating reasons for the request and providing supporting diagrams or information to support obtaining a waiver from a County standard."

He continued with the fourth paragraph.

"The Board shall consider all waiver requests including all reports and recommendations from Board professionals. Matters deemed relevant by the Board (e.g., character of adjacent land use, proposed land use, actual and statutory speed limits, road geometry, location within or without a center identified in the Sussex County Strategic Growth Plan as amended, and the degree to which the standard is to be waived) shall constitute the basis for action on a waiver request. The Board shall make its determination, setting forth its findings and conclusions by resolution."

Mr. McConnell said, "In this particular application we have two waivers. One is from reverse frontage/ reverse access and the other is from sight distance. In our standards we have several sections dealing with reverse access/reverse frontage. The first is on page 12 of our standards and says, 'Reverse Access - Access to the rear lot where the structure faces on a County road'. The next definition under it says, 'When

access is provided via a local street or access road for lots fronting along a county route. No access for these lots is permitted directly into the county route. It is not uncommon for buildings located on these lots to front the county route'. Permitted Access Points, in subsection b, All proposed lots of a subdivision shall provide indirect access through use of marginal or reverse frontage roads."

Mr. McConnell said, "Those are the areas of our standards which have to be overcome in the first instance for reverse frontage. And that's when you rely on statements by the professionals provided by the applicant and those of the County. Then you get down into the next one, on page 58 of 269, it talks about reverse access and what you have to evaluate. 'Reverse Access: For a major subdivision with frontage on a County road, the following is required:

- a. The access shall be on the reverse side of the County Road, utilizing an internal street or alley, thereby having no direct access to the County road. Where access is available from more than one road or street, the access to any proposed development shall be from the road or street with the lower classification."

"Now here's the Waiver Consideration Criteria. This is what you've got to utilize to make the determination why the waiver should be granted. 'Where a subdivision involves lands with frontage on a County Route, which due to its size, slope or other peculiar or unusual circumstances makes the provision of a marginal road or reverse access impractical or unnecessary and environmental constraints'."

"Those are your two criteria there. You have to make that decision first about reverse frontage before you get into the waiver for sight distance. But sight distance actually is somewhat related to the reverse frontage because if you realize that the sight distance that you're being authorized for waivers is so far out of whack, you wouldn't even consider it. You can obviously look at the sight distance issue."

"When it comes to sight distance waiver, there is another section of our code. That's on page 53 of 269. 'Sight Distance Waiver evaluation and denial criteria; Sight Distance Waivers will generally be evaluated using the following:

- i. Does the requested location optimize the available sight distance available along the property frontage?
- ii. Is access possible from a lower classification roadway?
- iii. Can the proposed access meet minimum AASHTO Sight Distance for the legally posted speed?
- iv. Can the location provide AASHTO minimum Stopping Sight Distance for the project design speed?
- v. Are there more than one accesses proposed per existing land parcel or existing lot?
- vi. Does the proposal include sight distance improvements for adjacent existing substandard access points?
- vii. Does the proposal eliminate existing substandard access points?

- viii. Does the proposal incorporate on or off tract improvements that will facilitate conformance with the legally posted speed?

“Those are the criteria for determining sight distance. You have a lot of work in front of you. Does anybody have any questions about all of those definitions?” “Does anybody need any clarifications? Does anybody want a copy of any of that?” (No one asked any questions.) “At this time we’ve begun this hearing and we have comments from both the applicant and the Engineering staff. I suspect we should go back to the applicant again and let him respond. Just as a follow-up, if the Board decides to grant waivers, it has to be conditioned on this application going back to Vernon Township, because this major subdivision was approved by them. So any action that you would take that would approve it, has to be subject to Vernon Township taking its position and then after that it would come back to the Board for finalization. The subdivision would have to be amended and filed on record. That’s the process if it were approved. If it’s not approved it doesn’t go to Vernon. For the record, does the applicant have any questions about what I just said?” Mr. Qarmout said he did not. Mr. McConnell reminded Mr. Qarmout that he was still under oath.

Anwar Qarmout said he is the owner of 18 Drew Road. He was here last month and the item was carried over to research the historic records of the property. He said from his records and conversation with Alice Brees and Vernon Township, no other owner requested a waiver.

Mr. McConnell said the records were checked and there has never been a waiver request for this property in the past. He also has the Resolution from the Township of Vernon. Andy Borisuk clarified that the property was on Drew Mountain Road.

Mr. Qarmout asked for a clarification of the Exhibits that were submitted last month. He asked whether there were three or four Exhibits. Alice Brees said the first was a photograph of the house. Mr. Qarmout asked if the Chain of Title Deed was included in the Exhibits. Ms. Brees said the Board received a copy of the document but that it was not recorded as an Exhibit. Mr. Qarmout requested that it be listed now. Ms. Brees said the photograph of the house was listed as Exhibit A-1; the Fire Prevention Bureau’s letter was Exhibit A-2; and Exhibit A-3 were nine photographs that were taken by George Gloede.

Mr. Qarmout said after leaving the meeting in March, he was able to speak to the Mayor of Vernon, who authorized a report by the Vernon Township Engineer. Mr. Qarmout requested that the report be entered in as evidence. Eric Snyder said the report was a letter on Harold T. Pellow & Associates letterhead dated March 12, 2012 to Mr. Victor Marotta from Cory L. Stoner, Vernon Township Engineer. He marked the letter as Exhibit A-4 with today’s date, April 2, 2012.

Mr. Qarmout pointed out paragraph four on the second page of the letter and said paragraph five agrees with the Fire Official. The Board members read the letter. Gail Phoebus confirmed that this house was an investment property. Mr. Qarmout said, “Not necessarily.” Ms. Phoebus quoted the letter, “... more attractive to potential

purchasers.” and said that would indicate this is an investment property. Mr. Qarmout said that was irrelevant.

Mr. Qarmout pointed out paragraph nine, which says that even with the difficulties of Drew Road, the driveway appears to have better sight distance than most driveways along Drew Road and said it makes good planning sense for the driveway to be located on Drew Road. Mr. Qarmout said in a letter from Sussex County dated April 7, 1988 regarding the subdivision of Settlers Road, paragraph one talks specifically about sight distance. It was because it was inadequate sight distance and a steep slope along the County Road. He requested that this letter be entered as Exhibit A-5. Eric Snyder said this is a letter from the County Engineer’s office dated April 7, 1988 regarding Subdivision 198-FMS-80-88-IIb. Mr. Qarmout said the steep slope of Drew Road causes the loss of sight for oncoming vehicles for two seconds. He said the driveway directly across the street from him needs to use a mirror to see oncoming traffic. Mr. Snyder was handed a photograph of the property across the street which was taken on March 28, 2012. It was marked as Exhibit A-6. A member asked Mr. Qarmout how old the house in the photograph was. Mr. Qarmout said he did not know. Gail Phoebus said she did visit the site and agreed that there were many driveways that are potentially dangerous. She questioned why the County would put in another driveway to access the County Road.

Mr. Qarmout said there are limited sight distance signs all over Vernon. He handed Eric Snyder photographs of some of the signs. Eric noted that these photographs were taken on Route 517. They were marked as Exhibit A-7. Mr. Qarmout said there is limited sight distance for over a mile on Route 517. He pointed out the map hanging in the Freeholder Meeting room and said there wasn’t a straight road on the map. Mr. Cecchini said the map was created in 1860 when horse and buggies were on the road.

Mr. Qarmout said he made a video from a tripod with a digital camera. They videotaped ten minutes of the road. George Gloede set up the tripod which was set back 10 feet from the white line. Mr. Snyder entered as Exhibit A-8 a photograph of tripod with a camera on top looking down a road with a tape measure which indicates a height of camera to be set at roughly 44”. Michael Francis confirmed that the tripod was set up on the existing property. He said in order to put a driveway in from the front, it would have to be cut for the first 25-30’ down to a 2% grade from the road, which would drop the tripod about 2’. Mr. Gloede said it would drop about 1 ½’. Mr. Conkling said, in that case, the video is not completely representative of the conditions. Mr. Qarmout said he was willing to retake the video unless the Board was willing to visit the site. Gail Phoebus and Andy Borisuk said they already visited the site. Gail Phoebus said she sat in front of his property and even with loss of sight for two seconds, the cars are hidden coming up the hill. She agrees that there are other driveways that access to the County Road and the house that uses the mirror has a difficult time, but two wrongs do not make a right.

Mr. Qarmout quoted sight distance figures from various points. Mr. McConnell pointed out that these figures should be part of the Engineer’s testimony. Mr. Qarmout said the conditions are worse coming out of Settlers Road. He asked permission to show two videos he and Mr. Gloede recorded. One shows down the hill

and the other going up the hill and turning into Settlers Road. Mr. Borisuk agreed that coming out of Settlers Road is bad.

Mr. Qarmout produced photos of vandalism in the house. He said having this house occupied would prevent the hangout. Gail Phoebus asked if he thought all these problems were because of a driveway. Mr. Qarmout said, "Yes." Ms. Phoebus said she disagreed. She saw the house, it's been there 18 years and it isn't because of the driveway. The house isn't constructed properly and believes there were permits that were never issued for the house. She said if he wants to rebuild the house, he should go before the Vernon Planning Board. The Sussex County Planning Board will determine if they will grant him a waiver to put the driveway to access the County Road. Walter Cramp said the waivers are for reverse frontage and sight distance.

Daniel Conkling said the Board heard all of this testimony about sight distance and driveways last month and that this seems to be a rehashing. He asked Mr. McConnell to clarify that the question was the historical reason why the driveway was never approved in 1988. Mr. McConnell said a search of the County records indicated that in 1988 with the subdivision, no one ever applied for waivers with the County Planning Board. They complied with the County Standards and agreed to go along with reverse frontage. The Vernon Twp. Planning Board echoed that in their Resolution. There was no waiver because at that time, the applicant complied with the County Standards. If they had requested a waiver at that time, this question would be moot; because if it was denied, it was denied. No waiver was ever applied for, so it is appropriate for this to be considered by this Board. Mr. Conkling asked why the Township Engineer would give a potential resident a report on the driveway, unless he was hired by the applicant. It seems strange that the Township Engineer would do that. Mr. McConnell said he believes the Township paid for that but he was not 100% sure. He also said it was strange but the County Engineers will comment on that letter at a later time.

Mr. Francis said in the memorialization from April 7, 1988 by the County Planning Board, in paragraph one they note the inadequate sight distance and steep slopes. He assumes that led to the reverse frontage. Mr. McConnell said that is correct. There was some discussion on the steep slope conditions of the property.

Andy Borisuk said he visited the site and that the sight distances at the proposed driveway are not any worse than Settlers Road. He questioned why the Board would force anyone to use Settlers Road and go around the back of the houses. Michael Francis said the other houses are not empty. Rich Vohden pointed out that without a Certificate of Occupancy, it's hard to sell a house anyplace, even if it was in a prime location on a flat lot. Mr. Qarmout said a Certificate of Occupancy is a formality. The house doesn't have to be finished but the Fire Official has to come in and see that there are smoke detectors and a fire extinguisher. A member asked if the house was not completed because of the driveway. Mr. Qarmout said it was. Mr. Vohden questioned if the original builder started the house and then decided that the driveway was a problem so he didn't finish the house. Mr. Qarmout said he didn't have the particular reason but he has the list of owners who walked away for various reasons. Mr. Vohden confirmed that the house is not completed on the inside. He said this will

not affect his decision at all, but he does not believe the sale of the house didn't happen because of the driveway. When questioned how many owners were involved in this house, Mr. Snyder said he has a chain of title report dated March 5, 2012 which is on Title Source Inc. letterhead but is not signed. He marked it as Exhibit A-11.

Walter Cramp quoted the Hippocratic Oath, "First, do no harm." He said we have a County road system which originally had horse and buggies, prior to that was Indian foot trails in many cases. A lot of Sussex County roads don't meet current Federal or State safety standards because they evolved over time. They're often confronted throughout the County with a lot of substandard roads and conditions. Much like the physician, part of their objective is to do no harm. If they work on a roadway or bridge, they try to make it better, not worse. They don't even try to maintain the existing condition, they always try to make it better to reduce the public threat or the public hazard. If there are existing conditions at Settlers Road, they are referred to as pre-existing conditions. If there are homes that exist on Drew Mountain Road which don't have proper sight distance, that is a pre-existing condition. They go back decades or even more. If there are people who already have a substandard driveway, they can't be evicted because they have a substandard driveway. But to grant a new one, creating another potential safety hazard for them is where the issue comes in. Reverse frontage is a safety issue from an engineering and design point of view. He recognizes fully that there are a lot of substandard pre-existing conditions---but they are pre-existing conditions. They don't design new substandard conditions. Granting this waiver would be creating a new substandard condition. As for Mr. Pellow's agency's letter, Mr. Cramp said he has real difficulty with his idea that, "Overall it makes good planning sense to bring a driveway to Drew Mountain Road." when this violates reverse frontage safety practices.

Eric Snyder said, as the County Planning Director, he agrees with Mr. Cramp's position and is a little surprised at Mr. Stoner's conclusion. It would strike him as very difficult to justify a driveway in that particular location, certainly in light of Mr. Qarmout's testimony, that there is a situation across the street where they need a mirror to safely leave their driveway. Given the fact that it is currently coming off Settlers Road, that seems to make a lot of sense. When it was pointed out that there are a number of those mirrors throughout the County, Mr. Snyder said there's no reason to put up another one.

Mr. Vohden said in his ten years on this Board, he voted to approve a lot of waivers. Most of them were because of a hardship due to environmental constraints or because it was an existing lot with no other access. This is a much more difficult decision because there is access to the property and it does meet County standards. Gail Phoebus said she found it interesting that Mayor Marotta authorized the Township Engineer to write the report because he's not the Planning Board. Mr. Qarmout said he felt the Mayor did it for the benefit of the neighbors. He said the driveway is what is keeping this house from being completed. Mr. Cecchini said the Board's approval or disapproval is not going to change the fact that the house still has access and it can be finished. Mr. Francis said salability is not criteria for variances. Ms. Phoebus said the house wasn't finished because it was never constructed very well and it has some issues.

Gail Phoebus polled the Board members to see if they wished to watch the two videos Mr. Qarmout recorded. There was some discussion regarding the fact that the camera was positioned about 18" too high. Walter Cramp reminded the Board that the primary issue before them is reverse frontage. Secondly, he said they should rely on the Engineers who actually took the measurements in the field with Mr. Qarmout's surveyor.

Mr. Gloede talked about the difficulty in turning left from Drew Mountain Road onto Settlers Notch Road. He said the video will show that. The video was entered as Exhibit A-12. Mr. Snyder requested a copy of the video. The video was played for the Board members. The video was shot to show the sight distance from the driveway toward the dip in the road. A second video showed Mr. Gloede's car approaching and turning left onto Settlers Road. Mr. Cecchini commented that if Mr. Gloede had pulled forward more, he would have been further up on the crest of the hill, thereby giving him more view of cars coming up the hill.

Mr. Wesp was sworn by Eric Snyder. Robert Wesp said has been a licensed land surveyor since 1991. He said there was a difference in sight distance between the County measurement to the right as you leave the proposed driveway and what he measured in the field. The County had 336' and he measured 368'. He said he put 370' in his report. He said he verified that when he went out to do the sight distance for Settlers Road. Coming out of Settlers Road, he measured 390'. He said there is an evergreen tree that blocks the view but even without it, the grade of the County road does not allow a driver to see beyond that point.

When asked if he would abandon the driveway easement on his property if he were granted the waiver for reverse frontage, Mr. Qarmout said, "Yes." The location of the proposed driveway, the existing well and the proposed septic system were pointed out on a map. The Board was surprised to hear the house does not yet have a septic system. Mr. Qarmout said there was a permit for the septic system but it expired. He was told it would be less costly to obtain a new permit than to pay for renewals through the years.

After confirming that Mr. Qarmout's testimony was complete, Chairwoman Phoebus asked for testimony from the County Engineer's office.

John Risko was sworn by Eric Snyder. Mr. Risko said he is the Engineering Division Director and the Assistant County Engineer for Sussex County. He is licensed as a professional engineer, land surveyor and professional planner in the State of New Jersey. Bill Koppenaal was also sworn by Eric Snyder. Mr. Koppenaal said he also with the Sussex County Division of Engineering in the capacity of Chief Engineer. He is a licensed engineer in the State of New Jersey.

Mr. Koppenaal said a lot of information was covered so far in this meeting, and he would hit some of the highlights. He began with the letter from the Vernon Township Engineer. One of the things included in that letter is bullet number eight. It says, "In order for the Township Land Use Board to approve the amendment, the applicant will need to provide adequate information that a safe driveway can be provided. This

includes plans to illustrate that a driveway can be constructed per Sussex County Standards and that proper sight distances can be provided.” Mr. Koppenaal said that while the Engineer reviewed some of this information, he was not privy to all of the Engineering data that we have on this. There were some questions about camera height and sight distance and how it’s actually measured. He said he personally was not out there on the site to verify this, but John Risko and Neal Leitner were there. Generally speaking, in a situation like this, the driveway has to be re-graded prior to actually measuring an accurate sight distance. They’ve found if an instrument is set up so that it is 3 1/2” above the white side line of the road, it will be very close to what it will be as a finished proposed grade on the driveway. That is the height that they generally use when measuring sight distances.

There were discussions on the sight distances that were measured. Mr. Koppenaal said the County was there to observe the sight distances but the documents that are in our files for some reason do not reflect the measurements that were testified to today by the applicant’s surveyor, specifically when looking to the right or south or downhill from the proposed driveway. There was some representation that the surveyors and engineers for the applicant understood them to be approximately 368’. The County’s records indicate that the measurement they observed at the field meeting was 336’. He can’t explain the discrepancy. Normally the way the process operates is the County Engineer observes the Engineers and the Land Surveyors in the field taking the measurements. Neal Leitner records the information that he sees on the survey instruments when they’ve acquired the maximum sight distance.

Mr. Koppenaal said there has been a lot of discussion about other substandard driveways that exist along this road. The County has numerous horizontal and vertical deficiencies within its road system and there are an abundance of driveways that have pre-existed the site planning process. Most of those substandard driveways that they are confronted with don’t have alternate access that can be used as a mitigating factor. Andy Borisuk asked if a driveway can slope from the white line level and how far does it have to be level. Mr. Koppenaal said it won’t slope from the white line up. Generally, the road grade is normally on a down gradient from the centerline of the road toward the edge of the road. The white line will sit in two to four feet from the actual edge of the pavement. Generally to maintain the gutter lines along the road, they will use that as a vertical point of curvature to actually start the driveway. So the driveway will either go up or down from that shoulder elevation. Mr. Borisuk asked if there was a slope to that driveway, would that improve the sight distance. Mr. Koppenaal said normally because of where the sight distances are measured and the fact that the design standards are looking for the first 25’ of the driveway to hold about a 2% grade, that is normally pretty close to a reverse of the white line from the shoulder and then you go from the shoulder, 2% up. He said you’re generally really close, within a couple of inches. Mr. Borisuk asked how far that 2% grade extends. Mr. Koppenaal said he believes they shoot for 25’. Mr. Borisuk asked if that is part of the County Standard. Mr. Koppenaal said, “Yes.”

Mr. Koppenaal said he would presume for a lot of the substandard driveways, the ones with the mirrors, those locations are probably optimizing the available sight distance along the frontage of the lot and don’t have the ability to access a lower class road or

an access easement. The County would have no choice and would have to grant access to property owners who have no other means of access. He confirmed that with Dennis McConnell. Mr. McConnell said that depends on the real conditions of the property. It has to do with environment, it has to do with slopes and if it is impossible and extremely dangerous, the County would not permit it.

Mr. Koppenaar said there was also discussion about traffic along this road. Drew Road (Route 641) is just under 1 ¼ miles long from Route 517 to Route 565. The traffic counts, as observed by his office, range from 4,000 vehicles a day to 4,800 vehicles a day. In this particular area, you find that the peak hour, with the highest hourly Average Daily Traffic (ADT), is around 370 vehicles in an hour. The intersection of Settlers Road is approximately 850' from the intersection with Route 565. Mr. Koppenaar said they collect accident data as it becomes available to them. They have accident data on this particular road, between the periods of 2003 and 2009. There were 60 motor vehicle accidents reported to the Engineering office that do not involve animals. It becomes extremely difficult to make sense out of the information because it is subject to the Police Officer's written notations in an accident report. They note road conditions and some indicator as to who may be at fault. It does not necessarily say if someone was entering or exiting a driveway. It will say "failed to yield the right of way."

Mr. Koppenaar said County staff put together a table to summarize the criteria that Mr. McConnell mentioned earlier on in the meeting. "Table A" was provided to the Planning Board on March 29. The County evaluated this against the sight distances that were recorded by the County Planning Division and sight distances at Settlers Road that the Engineering office observed about a week ago. Eric Snyder entered this document at PB-1. Mr. Koppenaar said to simplify this, to evaluate the sight distance criteria: do we meet posted speed or 85<sup>th</sup> percentile design speeds? Do we meet the AASHTO minimum stopping sight distances? When looking at this, neither of these two locations comply with the desirable intersection sight distance criteria. But based on their observations in the field, the intersection of Settlers Road is actually slightly better than the proposed driveway regarding sight distance. There was some reference made during the applicant's testimony as you approach Settlers Road, you're going over the crest of a hill. Within the Land Development Standards, there actually is a section that tries to deal with this. It is not something that is well defined inside of AASHTO. Generally AASHTO looks at stopping sight distance and may look at intersection turning sight distances. They don't ever consider the fact that somebody is going to be approaching an intersection on the crest of a hill where they're going to have to make a decision whether somebody is coming in the other direction and they actually have to slow down or stop to make their turn. There is no set standard for that type of sight distance. There is criteria worked into the Land Development Standards to provide some reasonable expectation of safety.

Mr. Koppenaar said there are a couple of tables that go through the evaluation criteria for both reverse frontage and for the consideration of a sight distance waiver. Basically, they believe that none of the evaluation criteria for reverse frontage were really met because there is a serviceable access as it exists today. It was incorporated in with the original subdivision of this particular property. There is already one house

built off of this access easement. This is potentially the second house that would be serviced off of the pre-existing access easement. It didn't seem like it was really an unreasonable situation. Mr. Conkling commented the second house already exists, the driveway exists and the lot already exists. Mr. Koppenaal said that is correct, it is not occupied but it is existing.

There is a "Yes/No" Checklist where they tried to clarify the waiver criteria for the sight distance. The only one that is met is that the proposed driveway appears to optimize the available frontage along the property. Mr. Koppenaal explained that if this particular lot had no other means of access and they came in for a sight distance waiver, the County would want to know if it was the optimal location along the frontage. They believe that is the case here. It does not meet the other six criteria. Dennis McConnell asked John Risko to discuss this letter.

John Risko said this is a letter from March 22, 2012. Eric Snyder entered it as Exhibit PB-2. Mr. Risko said the people that the County is concerned about aren't at this meeting. They are the ultimate users of the house, whomever that might be, and the traveling public. When looking at reverse access, there are two standards that are supposed to be met. "It shall be on the reverse side of the County Road utilizing an internal street or alley, thereby having no direct access to the County Road. Where access is available from more than one road or street, the access to any proposed development from the road or street shall be with a lower classification." Requirement A, for internal access, is already in place as it was pointed out by Mr. Conkling. The second condition is access from the street with the lower classification. We're giving access through a local street rather than through a major rural collector. What is in place is proper and in line with the County standards. This site has no environmental constraints and there is nothing peculiar, which Mr. Qarmout pointed out himself regarding topography here, because that is what a lot of Vernon looks like already. It has already been proven that it can be done because it is in place and it has been used. We have not met the criteria that is required in considering a waiver. The conditions have not been met for a waiver from reverse frontage.

Mr. Risko pointed out that Mr. Qarmout submitted a letter from the former County Engineer in 1988 to the Sussex County Planning Board as one of the exhibits (A-5.) He said this is a County Engineer's report much like what is seen at the Development Review Committee. This is from former County Engineer, Eric Grove. He read, "A note shall be added to the submission that access to Lots 5 and 6, along Drew Road shall be from the driveway easement on Setters Road. Due to inadequate sight distances and steep slopes along the County road, no driveway permits will be issued by the County of Sussex." Mr. Risko said not only was it because of reverse frontage, but that was the opinion of the County Engineer, with which he concurs, that it was an unsafe condition that further warranted this to take place. Mr. Risko asked if there were any questions. None were raised.

Mr. Risko said regarding cars disappearing from sight and then coming up again, that is the definition by AASHTO, who is recognized internationally as the people who set these standards for highway and traffic safety. AASHTO also says that visibility is measured "eyeball to eyeball" between vehicles when you have measured sight

distance. The fact that you can see somebody's roof cannot be considered because the roof cannot see back. Mr. Risko said you have to go by the standards that were written, you can't make them up as you go along. The AASHTO standards are based on sound engineering. He said he even checked the latest 2004 Standards and they were the same. Whether there is 336' or 368', it doesn't make a lot of difference. Based on the facts, and not on opinion, he feels there is no worse condition at Settlers Road. The issue of the left turn in is always an issue at intersections but as Ms. Phoebus pointed out, two wrongs don't make a right. We don't want to create another substandard condition. If funding becomes available, the County will have the opportunity to improve that intersection at Settlers Road. To make the investment to improve one single driveway would not be a warranted use of tax payers' money. Gail Phoebus asked if a car goes out of sight in that particular dip, is the sight distance measured from where the car comes back into sight? Mr. Risko said, "Yes, and that is by AASHTO's definition." Andy Borisuk felt that was a little bit excessive. You don't have to see eyeball to eyeball. You can see the roof of the car and that will warn you that a car is coming. But if that is the standard, then that's what they have to go by. Mr. Cecchini said the roof of the car is not going to warn the car coming up the road that there is someone that wants to exit the driveway. He said if someone is starting to pull out, the person coming up the road where his car disappears into the dip is not going to see that car pulling out.

Bill Koppenaal said what we're talking about is waiving the left turn sight distance standard down to the minimum stopping sight distance. This is more a safety factor for the vehicle traveling down the through road, in this case County Route 641, to be able to stop if the car trying to exit the driveway fails to see him. It provides him a reasonable amount of time to react and slow the vehicle to avoid a collision. Mr. Borisuk pointed out that condition exists when pulling out of Settlers Road to the left. Mr. Koppenaal said to keep in mind that Settlers Road to the left is providing marginally more sight distance than the proposed driveway would. He said it is not the same roadway geometry because the approach gradients are different for all four legs of these two intersections.

Dennis McConnell asked if the applicant had any questions for County Staff. Mr. Qarmout said he did not have any questions for the County and said they did their job. However, they did not take into consideration the 18 years that this house has been unfinished, and the fact that the house is in Vernon. He does not feel you can apply the standards to all properties. Mr. Risko said the standard of 336' or 368' would only come if there were no other way to get there. The Standard that you have to go by is the left turning sight distance according to AASHTO which is about 550', which they have problems with at Settlers Road. However, they have to live with Settlers Road and there may be a chance to improve that, but they don't want to make a second problem. The photograph of the mirror that Mr. Qarmout submitted is another piece of evidence in the County's favor because that says there are problems seeing. If the people across the street have that problem, the people on the opposite side of the street do also. Mr. Gloede said that was not true, the people using the mirror have vegetative issues to deal with also. Mr. Cecchini agreed with Mr. Risko in that the County has jurisdiction over Drew Mountain Road and in the future may have an opportunity to improve the Settlers Road intersection for the entire neighborhood.

Mr. Cramp said there are a number of substandard conditions that exist which are often pre-existing and the County works with towns, like Vernon, who have identified substandard conditions at intersections. He said there is a project at Maple Grange Road in Vernon to improve the intersection using grant money. There are four or five intersections currently under consideration by Vernon. The top priority is Maple Grange Road and it is scheduled for construction this year. When the County gets funds, it does make improvements in cooperation and conjunction with the town, but it does not create new substandard conditions.

Chairwoman Phoebus opened the meeting to the public. No questions or comments were raised. The meeting was closed to the public. She then asked if there were any comments from the Board. Mr. Francis said he wanted a clarification on the basic criteria upon which the Board grants waivers. He said he is looking at a document from 1988 where the Sussex County Engineer and Planning Board recognized the problem. He also is looking at a current aerial photograph of the property to see what has changed to cause this hardship for the Board to consider the waiver. It appears that the reverse frontage issue was put in place because of the inadequate sight distances and the County Engineer recommended no driveway there. He said he does not believe salability of a piece of property is adequate criteria to grant waivers. He said they can talk about sight distances all night long, but they are what they are. If it doesn't meet the sight distance criteria and there is an alternate way to access that property, which there is, he does not see the reason to make a change. Mr. Cecchini agreed. He said their planning classes taught them that they cannot base a decision on the monetary loss or gain of any application. There was no other discussion.

**MOTION:**

A motion was made by Michael Cecchini that the Planning Board deny this application based on all of the information that has been brought forth before the Board. The motion was seconded by Walter Cramp. A roll-call vote was taken, results were as follows: Gail Phoebus-Yes; Andrew Borisuk-No; Michael Cecchini-Yes; Michael Francis-Yes; Joseph Maikisch-Yes; Daniel Conkling-Yes; Walter Cramp-Yes; Richard Vohden-Abstained in the event there might be an appeal. The motion to deny carried.

**DIRECTOR'S REPORT**

Eric Snyder said a vote was scheduled for April 25<sup>th</sup> by the State Planning Commission for adopting the Draft Final State Strategic Plan and would have some hearings in accordance with the State Planning Act. It is anticipated that this Plan will be adopted on April 25<sup>th</sup> with amendments. This was fast tracked and has the Governor's backing so we may see some coordination between State Agencies.

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

None

**OPEN TO PUBLIC**

None

**ADJOURNMENT**

All business having been completed, a motion to adjourn the meeting was made by Michael Francis. The motion was seconded by Michael Cecchini and carried unanimously. The meeting adjourned at 6:00 p.m.