

In compliance with the Open Public Meetings Act of the State of New Jersey adequate notice of this meeting has been mailed to The Daily Record and posted at the municipal building.

**ROLL CALL:**

**Members Present:** Joe Fleischner, Judy Johnson, John Mania, Dan Nelsen, Nelson Russell, Brian Schaechter, Scott Van Ness, Howie Weiss (7:30)

**Members Excused:** Steve Bedell, David Koptyra, Michael Koroski

**Professionals Attending:** Chuck McGroarty, Planning Consultant, Eugene Buczynski, P.E., Edward Buzak, Catherine Natafalusy, Planning Administrator

**Professional Excused:** Tiena Cofoni, Esq.

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**APPROVAL OF MINUTES**

**June 20, 2013 Public Meeting**

Motion: John Mania  
Second: Nelson Russell

**Roll Call:**

Joe Fleischner - yes  
Judy Johnson - yes  
John Mania - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
Brian Schaechter - yes  
Scott Van Ness - yes

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**APPROVAL OF RESOLUTIONS**

**Res. #PB 13-24 – Hoa & Betty Phung – Block 3106, Lot 16**

Motion: Brian Schaechter  
Second: John Mania

**Roll Call:**

Joe Fleischner - yes  
Judy Johnson - yes  
John Mania - yes  
Nelson Russell - yes  
Brian Schaechter - yes  
Scott Van Ness - yes

**Res. #PB 13-25 – CWM Properties – Block 3300, Lot 19**

Motion: John Mania  
Second: Nelson Russell

**Roll Call:**

Joe Fleischner - yes  
Judy Johnson - yes  
John Mania - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
Brian Schaechter - yes  
Scott Van Ness - yes

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**COMMITTEE REPORTS**

MR. FLEISCHNER: Committee reports, Mayor's report Judy?

MS. JOHNSON: I do have one.

MR. FLEISCHNER: Okay.

MS. JOHNSON: The Mayor said Siemens is moving forward with construction as per approval. He is in negotiations with a new company seeking to bring their national headquarters to the ITC. He had discussions with Reza Hashemi regarding bringing back the Boathouse as a restaurant, and there's approval from Highlands of a redevelopment zone along a portion of Route 46.

MR. FLEISCHNER: With the redevelopment along Route 46 I know that Chuck must have had a lot to do with that so I would say thank you I hope dealing with Highlands.

MR. MCGROARTY: We can tell you, if I may.

MR. FLEISCHNER: If you would please.

MR. MCGROARTY: I mentioned that we had applied for a grant and at the last Highlands meeting we were awarded the grant. So the grant will allow us to study not only the, we're going to create a Highlands Redevelopment Area from Johnson down to just before Wild Geese. So those properties including municipal property will reach \$57,000 to study that, \$22,000 out of the water conservation to study water quality along the highway and the lake and the outlet, and another \$6,000 for habitat litigation. So a while back talked to Scott about some of the traffic concerns and issues and hopefully this will lay the ground work later on more in Gene's court of course but to move ahead and maybe working with DOT and maybe doing some other things as well. So we're trying to at least plant the seed to do a number of different things. We're putting the budget together now for the grant and once that's in order we'll get started.

MR. FLEISCHNER: Any idea what kind of time frame it is?

MR. MCGROARTY: Completion?

MR. FLEISCHNER: Yeah for the entire project to be completed that study?

MR. MCGROARTY: Well you know less than a year, certainly less than a year. I mean we want to have as many open meetings as we can, we're going to bring in some other people to you you want to open it up and obviously you the Board are going to be leading that. So I know you don't know much about it yet but we didn't want to get too far ahead of ourselves now that we got an awards grant and as I said our next step right now the (inaudible) part is to get the budge to Highlands which I'm working on now and once that's in order we can then get started.

MR. FLEISCHNER: Great I think that's fantastic, thank you Chuck.

MR. MCGROARTY: Okay.

MR. FLEISCHNER: Mr. Mania Council report please?

MR. MANIA: Yes Tuesday night's Council meeting we had quite a few residents come out from Carson Road looking for the Council's to consider speed bumps. No vote was taken and it's being considered, actually our Police Chief is recommending that we consider the speed bumps on Carson Road.

MR. FLEISCHNER: Thank you. Nelson environmental commission?

MR. RUSSELL: The environmental commission we discussed the 184 acre auction on Route 46 on Hackettstown hill joining Stephens State Park it's the (inaudible) Lane property. (Inaudible).

MS. NATAFALUSY: What did you say?

MR. MCGROARTY: Did someone buy it?

MR. FLEISCHNER: Yes there's a sign that says under contract.

MR. BUCZYNSKI: Who bought it do you know?

MR. FLEISCHNER: We don't know we thought maybe you would know.

MR. BUZAK: It's unknown as this time.

MR. RUSSELL: We discussed the dome at Center Court, we discussed the solar collector at Sand Shore and Tinc Road School and the municipal building, we discussed the River Road bridge construction regarding a potential historic structure dedication, we discussed the ordinance which eliminates approval of a Planning Board Environmental Commission to plant trees and in order to spend \$250.00 for garden supplies for the community garden.

MR. FLEISCHNER: Let the minutes note that the Chairman has arrived and he now gets the gavel.

MR. WEISS: Thank you Mr. Fleischner.

MR. FLEISCHNER: I do have a question though of Gene if I may. Gene?

MR. BUCZYNSKI: Yes.

MR. FLEISCHNER: I noticed that on the stone bridge that says it's going to be repaired going down the hill?

MR. BUCZYNSKI: Yeah to River Road you mean?

MR. FLEISCHNER: Yeah on River Road. The plastic abutments or something had been removed, has the bridge been repaired?

MR. BUCZYNSKI: They mortared the rocks together, the stone together. It's a County bridge they did the repair.

MR. FLEISCHNER: So there won't be any further repair?

MR. BUCZYNSKI: Oh no there's going to be a new bridge going up at some point.

MR. FLEISCHNER: Right well my understanding was that they would do a bridge and you know what Nelson, the environmental commission raised the issue why not build another bridge alongside so then you'd have two bridges one going and one coming.

MR. BUCZYNSKI: But that's not the case they'll be removing and replacing that bridge with a new structure.

MR. FLEISCHNER: Even though that's the oldest bridge in Mount Olive.

MR. BUCZYNSKI: Yes.

MR. FLEISCHNER: Okay just asking that's all. Howie we're up to ordinance committee.

MR. WEISS: Thank you Joe. Joe ordinance committee.

MR. FLEISCHNER: We're going to have a couple of those things under I guess the discussion matter so I'll pass.

MR. WEISS: Okay. I have nothing from street naming committee. Dave? Is Dave here?

MS. NATAFALUSY: No Dave is not here tonight.

MR. WEISS: So we have no open space report. Anything Catherine that you're aware of?

MS. NATAFALUSY: No.

MR. WEISS: Do you know of anything Nelson of an open space committee report? Okay.

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**DISCUSSION MATTERS**

**ORDINANCE 24-2013 – HIGHLANDS PRESERVATION AREA EXEMPTION STANDARDS**

**ORDINANCE 25-2013 – ACCESSORY APARTMENTS**

MR. WEISS: Let's move onto discussion matters. The discussion matters this evening is Ordinance 24-2013 Highlands Preservation Area Exemption Standards. Chuck are you going to handle them both at the same time?

MR. MCGROARTY: Sure if you'd like Mr. Chairman.

MR. WEISS: And then I'll introduce the other one Ordinance 25-2013 Accessory Apartments. Okay Chuck I'll turn it over to you.

MR. MCGROARTY: All right well both ordinances as you know they're referred to you they've been introduced by the Council for first reading and you are to look at them and see if they are inconsistent with the Master Plan. The first is the ordinance 24-2013 is a model ordinance, based on a model ordinance provided by the Highlands Council it's what's known as an exemption ordinance. It allows the municipality to have authorization to issue seven of the exemptions, there are 17 total in the Act. So really that's what it does and it absolutely is consistent with the Highlands Master Plan that was adopted here in Mount Olive Township which is again a model that was provided by the Highlands Council to be modified to some extent. So there's no question that it's consistent and I can go into detail if you have any questions about what this will do. But the purpose in adopting it it's a voluntary process we're not compelled to do it but it will assist the people in the township if they qualify for one of these seven exemptions they can come to the town and whether it's Catherine or Scott or some of the more involved ones may actually go to Gene then they can get their exemption here and then proceed to get whatever permits, etc. they need here rather than going through the DEP process or the Highland process. So the other one is what's known as Accessory Apartment Ordinance it's actually Affordable Accessory Apartment Ordinance and that ordinance is consistent with the rules and regulations and the guidelines proposed and set forth by the Council on Affordable Housing. What it will do is allow for specific accessory apartments in the 3 and the 5 acres zone, RR-AA and the RR-A zone. There's a total of 16 such apartments that would be permitted at this foreseeable future and there's reasons why that's capped and so on. Any homeowner wishing to go through this process would have to agree to deed restrict the unit for a low or moderate income household for a period of ten years. That property owner also would be compensated through the town's Housing Trust Fund. And the town gets benefit for COAH credit for those units should they ever (inaudible). But what this ordinance does is it implements recommendation actually from the latest Reexamination Report and so to that extent it is consistent with the objectives that (inaudible) in that Reexamination Report and also in the town's Housing Element & Fair Share Plan.

MR. WEISS: Chuck is there any action item that we need to take?

MR. MCGROARTY: I will defer to Mr. Buzak on that, how you proceed on that.

MR. BUZAK: I think we need a motion of the Board. If you want to do them together or we do them separately however you desire that the Board finds that the ordinances are not inconsistent with the Master Plan and has no recommendations to the Council with regard to the substance of the ordinances.

MR. WEISS: Okay does anybody on the Planning Board have any commentary? Any comments for that? I don't see anybody having any comments so let me propose a motion to follow up what Mr. Buzak said that the two ordinances are not . . .

MR. RUSSELL: So moved.

MS. NATAFALUSY: Can we do both together?

MR. WEISS: Yeah we'll do them both together make sure they're consistent with each other.

MR. BUZAK: Yes.

MR. WEISS: On both of them Nelson?

MR. RUSSELL: Yes.

MR. WEISS: Second?

MR. MANIA: Second on both of them.

MR. WEISS: Any conversation? Okay Catherine roll call.

MS. NATAFALUSY: Joe Fleischner - yes  
Judy Johnson - yes  
John Mania - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
Brian Schaechter - yes  
Scott Van Ness - yes  
Howie Weiss - yes

MR. WEISS: Chuck thanks for that report.

MR. MCGROARTY: You're welcome Mr. Chairman.

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**APPLICATION #PB 13-21 – FLANDERS ROAD PARTNERS LLC**

MR. WEISS: Now That Being Said That's Our Only Discussion Matter This Evening Which Brings Us To Our Developmental Matter For Tonight PB 13-21 Flanders Road Partners LLC here for preliminary and final site plan with variance at 184 Flanders-Netcong Road Block 4400, Lot 3. Mr. Selvaggi welcome back and if you don't won't mind let me summarize and then you can confirm if I'm being accurate.

MR. SELVAGGI: Okay.

MR. WEISS: This is our third hearing. The first one was August 8<sup>th</sup> we went through a few different experts starting with the applicant Mr. Costello, Mr. Glasson spoke, we brought in a traffic engineer and we brought him through exhibit A-6 on September 12<sup>th</sup>. We continued with our application starting with our acoustical engineer who brought up exhibit A-7, we had conversation from the public following up that testimony. We brought up your planner, introduced a few more exhibits A-8, A-9 and A-10 we got into some conversation most of it planning testimony and I believe leaving off with A-10 that's the last exhibit. And we are going to take your lead as to where we go from here.

MR. SELVAGGI: Okay. Thank you Mr. Chairman, what we're going to do is I want to back track just also briefly. I think there's some confusion and perhaps I'll take the blame for that is the existing facility, historically you as a community have always called this the tennis club, the tennis facility and while you know tennis is still a part of it I think perhaps we kind of glossed over it because it's really evolved into something more than that only because tennis is not nearly as popular as it once was. So I'd like to have Kevin Costello who had testified before you just kind of perhaps provide sufficient detail. And again I'll take the blame for it because I think we kind of glossed over it as to the type of activities that are and could go on here. And I think you'll see how it's important in a little bit. Mr. Costello you consider yourself to be under oath?

MR. COSTELLO: Yes.

MR. WEISS: Mr. Selvaggi why are we doing this? This wasn't talked about already?

MR. SELVAGGI: Yeah I mean I think it's important and it ties into our planning testimony which I think is . . . you'll see in a moment and this will be very brief it's not our purpose. But again some of the comments from the public, some of the comments that we've heard is that you know this is a tennis club and it's a little something more than that. And it's important when we try to tie everything in for our planning variances. So Kevin you had testified, I know there's tennis you know in this facility but in this particular facility as well as your others are you exclusively tennis? I mean is that you know your primary purpose at these facilities.

MR. COSTELLO: This facility you know its largest use by square footage is definitely tennis, you know there's six indoor courts. Besides that there's two fitness levels one in the basement level and one

in the entrance level. Upstairs we have regular cardio machines, weightlifting, and agility training that kind of stuff. Downstairs is just an open fitness area.

MR. SELVAGGI: And what might be some of the things that you would find there as you do in some of your other facilities?

MR. COSTELLO: We currently run yoga and yoga boot camp, we're going to start to be offering personal training, we have cross fit classes coming up. This specific facility hasn't . . . you know we're kind of in the business of fitness in general not you know tennis specifically. So I don't know which one of these will work into the programming of this club but at our other clubs we've had . . . you know thrown up a portable basketball hoop if that's you know something that we think there's a market for and there's money to be made in having people come and play basketball. We've even dedicated one court in a six court facility we have done in Marlboro just to . . . I mean it's almost like an indoor/outdoor carpet material for whatever it might be soccer or whatever. The exterior of this club has existing tether ball courts, sand volley ball courts, the two pools, hitting walls you know the outdoor tennis courts so it was a lot of different things going on depending on the time of year and you know what the depend is.

MR. SELVAGGI: Okay and again it's not your company's sole purpose is to create I guess what was formerly an exclusively a tennis facility at this place.

MR. COSTELLO: No, no I mean and we own a number of clubs, some clubs we have are just a dome that has no tennis you know and we have some clubs that have a real mix of uses you know so it's tailored to every site is a little bit different. But it's never exclusively one thing or the other.

MR. SELVAGGI: Okay. That's all I have for Mr. Costello because I just wanted to establish that so that people just didn't have this mindset that this was you know Forest Hills. And Mr. Costello is certainly available for any questions.

MR. WEISS: Does anybody on the Planning Board have any questions? Let me open it to the public, does anybody from the public have any questions for the testimony that Mr. Costello just gave? Seeing none continue.

MR. SELVAGGI: Thank you Kevin. Now what we'd like to do, we should have picked up on this last month, there has been concerns expressed about buffering and landscaping. The applicant, and through Jim Glasson our engineer also in communications with some of your Board professionals has submitted in advance of last meeting a revised landscaping plan which I think is important not only for you to consider for the variance relief but I think as members of the public. What we'd like to do is we have a colorized rendering of that so that we've taken up on the recommendations from your Board professionals and have added that and I think it's important that you perhaps have a greater awareness of what that is. So Mr. Glasson who had also testified before, Jim do you consider yourself to continue to be under oath?

MR. GLASSON: Yes I do.

MR. SELVAGGI: All right Jim what are we looking at on the easel right now?

MR. GLASSON: Okay this is actually a modified version of probably the plan you have in front of you . . .

MR. WEISS: Jim I'm going to interrupt you real quick because we really need to mark this.

MR. SELVAGGI: Yeah.

MR. WEISS: We'll mark this one A-11.

MR. GLASSON: It's dated today 10/10/13.

MR. WEISS: And we're going to call this Michael Modified Landscape Plan? Jim?

MR. GLASSON: Yes.

MR. SELVAGGI: Okay perfect.

MS. NATAFALUSY: What was the date please?

MR. SELVAGGI: 10/10/13.

MR. GLASSON: And I'll go through it there's only a slight change from what you have in front of you. It was based upon the meeting that was had the other day.

MR. SELVAGGI: Just for the record Jim before them was dated, what was the date of that plan?

MR. GLASSON: 9/26/13. That should be your last revision date on your landscaping plan. If I can just briefly go through this and I can kind of just color this up a little bit so you can see it. There are six trees that are marked with "X"'s and there's a pink dot and those are the trees to be removed. That increased by one since the last plan that was before the town only because there is a tree that sits here adjacent to Flanders-Road that was dead. So we actually, since that meeting went out and actually measured every canopy of the trees so the canopies that you see of the existing trees are truly the actual canopies that are out there. But this plan varies in the amount of trees and the size of the trees. When we were before the Board last time we were required based upon those six trees to have 24 replacement trees and we had 39 replacement trees on that plan. This plan that you see before you or the plan that you have in front of you has 61 replacement trees and this plan that I have shows an additional six that are marked in blue here based upon a meeting that was had the other day to basically beef up something at the entranceway. The basic premise was the trees that we had on there were 7 to 8 foot and now we're going to a minimum of 10 foot high trees and the trees will all be a mixture of Leyland Cypress and Arborvitae. The orange dots on here represent Arborvitae, the yellow and the blue represent Leyland Cypress which is the predominant number. We have actually of the Leland we have 52 and of the Arborvitae we now have 15. The major difference in our buffering is over on Flanders Road where in between each of these existing trees we previously had two trees proposed 7 to 8 feet. Now in the first area between two of the trees we are replacing it with seven trees 10 foot high, the second one 7 and the third largest opening from the owners who would view this from Vacarro Road we've now put 15 trees. They're staggered in double rows 15 foot on center so it should provide almost a hedgerow along that whole side. We've also beefed up all of these trees to a 10 foot height and we've added a lot more trees at the entranceway. We've moved our sign too, on your plan that you have before you we've taken the sign from the right side of the entrance road and moved it to the left side of the entrance road. It is now visible from the intersection of Drakesdale Road when you pull down on Netcong-Flanders Road and it doesn't interfere with our buffering in the entranceway. And the sign has also been revised in its placement and size I believe Mr. McGroarty had commented on the height of the sign it's now 8 foot maximum a 4 by 8 sign and we had given you a detail of that on the revised detail sheet you have it in front of you. That is the main difference we had beefed up the tree amount by 28 trees and we beefed up the heights of the trees to 10 foot high.

MR. SELVAGGI: What's the benefit of the Leyland Cypress? Why did we go with that?

MR. GLASSON: Leyland Cypress grow typically up to 3 to 4 feet a year and they go to a height of 50 to 100 feet. The green giant Arborvitae grow to about 3 feet a year and they get up to 50 to 60 feet. So we predominantly beefed up this area because there's no berms in this area, in this area we do have berms that we can create but in this area over here we cannot create berms so we beefed those up with more Leyland Cypress than anything.

MR. SELVAGGI: What's the existing trees that are out there, what's the approximate height of those out there now?

MR. GLASSON: They're about 40 to 50 feet but they are leaved trees so that was the concern of the neighbors that when those leaves go down then what are we going to see.

MR. SELVAGGI: And the Leyland Cypress?

MR. GLASSON: All of the trees that we're proposing are going to be green all year. Leyland Cypress is a conifer type trees that's going to be green as is the Green Giant. That's the major difference in our landscaping that we proposed and I have some revised cross sections if I can go through . . .

MR. SELVAGGI: Yeah lets.

MR. GLASSON: I had presented a cross section sheet to the Board at the last meeting and Mr. (inaudible) had prepared a cross section view that you should have in your package. It's a two sheet set my plan being the first plan sheet 1 of 1 by my office and it is the revision on the one before you is dated

again 9/26 and it says add landscaping revised freestanding sign location. And that should be in your package.

MR. SELVAGGI: These were submitted on 9/26 I think?

MR. GLASSON: Yeah 9/26. It should say the cover sheet should say Grading & Utility with Cross Section Location that's sheet 1, and sheet 2 should be the section.

MR. WEISS: I have sheet 1.

MR. NELSEN: Does that say sight line study?

MR. GLASSON: Sight line study, yes. It has a last revision of 9/27/13 in the upper right hand corner.

MR. WEISS: Okay we're going to mark this one A-12.

MR. SELVAGGI: Okay.

MR. WEISS: So we don't need to mark it.

MR. GLASSON: You have it it's not a new . . .

MR. NELSEN: Catherine I have one if you want it.

MR. BUZAK: Mr. Chairman why don't we mark this A-12.

MR. WEISS: That's an excellent idea Mr. Chairman.

MR. SELVAGGI: The Line of Sight drawing?

MR. WEISS: A-12 was Cross Section Line of Sight? Jim what is it called?

MR. GLASSON: There's two sheets together, my sheet which is a cross section locations and this sheet with the cross sections. Do you want me to mark it A12 and A-13?

MR. WEISS: If we're going to refer to both of them let's do that A-12 and A-13. So Jim just one more time because I'm slow today tell me about A-12.

MR. GLASSON: A-12 is the location plan that shows where the sections are taken. It shows sections A through F it is prepared by my office and it says grading and utility plan with cross section location. The only difference between this and the previous grading and utility cross section plan that was before you last month is we've now turned on the landscaping out here. So the revision note reads revised add landscaping and also we've revised the freestanding sign location so you can see it on this sheet. But this is really to refer to to see where these sections are taken to talk about the sections. Let's go to section A first. Section A looking up at my cross section location plan is the third house in on Vacarro Road these represent the dwellings on Vacarro Road and it falls 504 feet away from the closest point of the dome. So if you look up here we depict a home on Vacarro Road and we show 504 feet and then we depict the dome here. Now this dome is shown with a floor elevation of 1182 and a peak elevation of 1228 for a 46 foot high dome. And then we show the line of sight and we've shown two different lines of sight that we've shown an actual mature planted growth after whatever it is, mature trees 50 to 60 foot tall or 50 to 100 foot tall but that's not what the line of sight is based on. We have the line of sight showing a 6 foot person standing at the home at Section A looking across towards the dome, when these trees are planted at a 10 foot height the first line of sight shows that there's still is going to be visible 30 feet 4 inches of the dome. So basically when those trees are planted it's going to hide about 16 feet of the dome from that homeowner and that takes into account all of the trees between that homeowner and Flanders Road are down, all of the leaves are down as well as the leaves are down as well as the leaves being down on any of those trees that are out there right now that are the 40 foot tall trees that are on the property. So assuming that those trees are down because that was I guess some of the concern of the neighbors that the time this dome is going to be up those trees are not going to have leaves. So trees that we're showing are the conifers the 10 foot tall trees, it shows that first section 30 foot would be visible at the planting. It assumes a 2.25 foot growth rate per year which is I would say somewhat conservative Mr. Byrne used that . . . these trees that I just went on line and looked they are 3 to 4 feet a year but using 2.25 feet a year in five years it cuts that view of the

dome down to 11 feet. So five years from the planted time that dome, the view of the decreases by 19 feet. Of course there's full planted height that shows the dome is not visible but I won't comment on how long that would be. Section B which is the second house 429 feet away from the dome same parameters 6 foot tall person standing in their yard looking towards the dome they would see 30 feet of the dome when these trees are planted. And five years later they would have about 12 foot of dome remaining assuming that 2.25 foot growth height. And moving down the closer house or the closest house on Vacarro 400 feet away has a view of 37 feet they're the closest one and then after five years it goes to 18 feet. Moving around in a circle now we go over to Netcong-Flanders Road Section D this is the closest house to the dome area. It's 232 feet away it's almost directly diagonal to the front left corner of the dome and it looks towards the entranceway of the building and across to the dome. That has a height when the trees are planted at 10 feet of 34 feet and after five years it becomes 17 feet. The next section is the neighbor to that Section E, the difference with Section E is Section E actually has the closest distance to the planted area. And if I was to take a tree and move it further away of course my line of sight is going to be like that but if I put the tree here my line of sight goes right up and over the trees. So Section E actually in five years you won't even see the dome because the berm is closer to them, that's the closest proximity to any planting. So in five years they actually will not see the dome because of the planting across from them is closer to their home than anybody else. So at the initial planting they would be at 33 feet and after five years it's actually about 5 feet over the dome again because of that planting being closer to their home. And Section F the third home down, and that's 467 feet away from again the front of the dome and that has an initial line of sight of 34 feet and after five years that decreases to 17 feet. Just to give you an idea of the growth rate and what would happen I think we're being conservative at 2.25 feet but that's being conservative I mean that just gives you an idea of what this provides and that is the year round buffer.

MR. BUCZYNSKI: Jim just a question, on line of sight for D, did you add some trees because there's no trees on that line of sight.

MR. GLASSON: Yes that's the area that we have added, we added six trees on the plan in that line of sight on Section E. That's the area that on our new plan I can show you on our new landscaping plan those are the blue trees and they actually fall in that spot for that line of sight. That's these right here. The line of sight from D is through that corner.

MR. BUCZYNSKI: Okay.

MR. MCGROARTY: Mr. Chairman?

MR. WEISS: Go ahead Chuck.

MR. MCGROARTY: Jim on that, just explain that again with your new landscaping that you've added to this, you call them the blue trees I can't tell from here but just show us again where they are.

MR. GLASSON: Let me just show you . . .

MR. WEISS: You're referring to A-11 now right Jim?

MR. GLASSON: I'm referring to A-11. There's a cluster of three here and there's here, what the problem was for right here there was a line right through the center that you could see . . .

MR. MCGROARTY: Are you talking about the entrance off of Flanders-Netcong?

MR. GLASSON: Yes we're talking about the entrance off of Flanders-Netcong we did more planting to the left of the entrance that would be the view of the dome. There's no berm to hide that spot because that area is where the drainage runs through so that area is actually low whereas you have a berm to the right and a berm to the left of that but that is actually an area that does not have a berm.

MR. MCGROARTY: That one tree that you are removing in that area is because of the grading?

MR. GLASSON: Yes.

MR. MCGROARTY: It can't be saved?

MR. GLASSON: No. We're cutting that grade to get the water into . . . there's a headwall there we can't make the grade there there's just nothing I can do to make the grade work. And bear in mind

that tree is also a tree that will not have the leaves at the same time this thing is out. So we've planted a cluster of three behind it.

MR. NELSEN: Jim on this drawing that I'm looking at here is there a different driveway? Is the driveway going to the left as opposed to straight in?

MR. GLASSON: No, no you're probably looking at the contours. That's the contours of the grading swale, that's a swale that's . . . there's a swale that runs behind the new tennis court area, behind the soccer field and is swaled down to the pipe crossings right now that exist along these two driveway locations. And that swale has to be maintained so we can pass the water to there. We have a dry wall system in the swale there but we still want to have a positive pitch when the water goes in there.

MR. WEISS: Jim I have a question for you. But Brian you can go first.

MR. SCHAECHTER: Okay Jim in the summertime D, E and F will they have an added benefit because of all of the increased plantings of not being able to see the tennis courts the outdoor courts and pool?

MR. GLASSON: Yes they will have . . . absolutely they'll have a . . . absolutely they'll have a . . . because what's going to happen now is they have a berm across the street from them now looking at the pool. When the dome is down they won't have that height close to them. The distance is the thing that will push that away because they're not going to look at the berm closer to . . .

MR. SCHAECHTER: So they'll have an additional buffer.

MR. GLASSON: They probably will still see the tennis court center because that's a large building. But they probably won't see the pool at all; it will help them for sound too from the pool.

MR. SCHAECHTER: Right.

MR. WEISS: Anybody else on the Planning Board? Okay Jim my question is obviously your taking these line of sights at the 6 foot mark.

MR. GLASSON: No 10 foot, oh a 6 foot person yes a 6 foot person.

MR. WEISS: Was there any reason why it's at a 6 foot mark and not a 10 foot or maybe something from (inaudible).

MR. GLASSON: I took an eye height if you're standing in your yard I mean it's typically a person standing.

MR. WEISS: Yeah you know I'm kind of preempting a series of questions that I know is going to be asked. What about from a second story if somebody is (inaudible).

MR. GLASSON: From a second story you'll see over it I mean eventually that tree is going to come up there but absolutely from the second story of your house you're going to look out your going to see over that. But your still going to cut off that portion of the tree, your still going to only see your going to be looking down at it but your still going to see over the trees so it's not going to change how much you're going to see you're still going to see the same amount. The tree is still going to be below that area. The dome from Vacarro Road is lower than those houses. You can see, I'll give you an example, house A or Section A the elevation at A is about 1198 the bottom of the dome is 1182. So that's 16 feet lower, the dome is 16 feet lower in elevation than the house from Section A and it goes down. The house from Section B is about 1196 and it goes down and the house from C is about 1196 so the dome sits much lower than those so a portion of the dome will be cut off just from the fact that it sits that way.

MR. WEISS: Anybody else on the Planning Board? Jim do you have anything else? So let me open it to the public if anybody from the public has any questions for Mr. Glasson based on the testimony that he just delivered? Jim I'll need you to maybe break that down. Mam if you would come to the podium you'll state your name; spell your last name for the record and your address.

MS. SMILLIE: My name is Glenda Smillie and I live on Flanders-Netcong Road and we were wondering if it's not taxable and it gives out a lot of light at night what's in it for Mount Olive besides traffic and every time you go out Flanders-Netcong Road you're going to hit traffic?

MR. SELVAGGI: I'm not sure what you mean by it's not taxable. I mean this is a for profit enterprise and it will be paying property taxes. So with respect to that and we did offer testimony as to traffic and a lot of these other concerns. But on the revenue side even though your decision is not necessarily to be driven by tax ratables, it will be paying a tax ratable.

MR. WEISS: I think that the only thing I can add to that Ms. Smillie, this Board does not address profitability of tax income on any given property. This is a Land Use Board we deal with Land Use issues not income or taxes. So I think Mr. Selvaggi answered the question. Does anybody else have a question?

MS. BURY: My name is Maryann Bury (B-U-R-Y) and I live at 191 Flanders-Netcong Road across from the facility. Can you tell me how far apart you'll be planting these trees? Especially the Leyland Cypress.

MR. GLASSON: 15 feet.

MS. BURY: And what is the growth rate that you expect in the width of those trees?

MR. GLASSON: 15 feet is the planted . . . that's what they recommend for a 10 foot height because they grow together so quick. They grow at a rate of up to 4 feet a year in height and they grow in width I believe of about 2-1/2 feet. So they're going to be together very quickly they're very fast growing tree.

MS. BURY: And on the Arborvitae the deer love them so I was wondering if you might replace Arborvitae with Leyland Cypress.

MR. GLASSON: I tried to minimize I put 15 of the Arborvitae in and the remainder of them were the Leyland but . . .

?: Green Giant is not one . . . there's Green Giant Arborvitae all along Flanders-Netcong Road it's the one variety that . . .

MS. NATAFALUSY: He's going to have to come to the microphone.

MR. COSTELLO: We chose that one specifically. I have a degree in landscape architecture, we chose that one specifically because it is deer resistant it's one of the only Arbs that is. There is like some of the biggest Green Giant Arborvitaes I've ever seen on Flanders-Netcong Road actually right . . . you can see them from the club that are just giants. So we don't think the deer will be a problem there.

MR. SELVAGGI: Kevin in the event that they were and they ate them to the ground would you agree going forward that you would replace anything that we propose you would replace if it died.

MR. COSTELLO: Sure absolutely yeah we'd replace any trees that you know whether it's deer or death from drought or whatever. We also irrigate all of our irrigations that helps it grow A) faster and just has a higher success rate for any of our landscaping.

MS. BURY: You may have been looking at my property, my husband has planted Leyland Cypress and don't know about he may have planted the Green Giant but when you said Arborvitae I immediately thought of deer.

MR. COSTELLO: Yeah some are like candy to them.

MS. BURY: Thank you.

MR. WEISS: Thank you Ms. Bury. Anybody else from the public?

MR. BERNERO: Frank Bernero 6 Triumph Court, Flanders.

MR. WEISS: We need you to spell your last name for the record please.

MR. BERNERO: Sure it's (B-E-R-N-E-R-O).

MR. WEISS: And your address?

MR. BERNERO: 6 Triumph Court in Flanders. The intention is building that buffer of those trees so that when that dome is up the best you can do is hide it from sight. And this is a seasonal structure that will . . . you said it's down?

MR. WEISS: No, no, no the question is to Mr. Glasson.

MR. BERNERO: Yeah so in the off season what happens to that structure?

MR. GLASSON: It is packed up and put in the lobby area (inaudible) located right here. The structure is packed up in entirety put in this lobby and locked down.

MR. BERNERO: And then what's remaining there as far as a base?

MR. GLASSON: A field.

MR. BERNERO: A field with again looking at the intention obviously behind the large structure well then what's left behind. Is there anything to hide when this structure goes away?

MR. SELVAGGI: There would be a turf field much like Turkey Brook.

MR. BERNERO: Okay. And is the buffer also there, this structure is it self-supporting as far as it doesn't need any additional . . . it's a bubble or is it a . . .

MR. SELVAGGI: It's a bubble filled with air that's what keeps it . . .

MR. BERNERO: And what's generating the air?

MR. SELVAGGI: There's compressors that will . . .

MR. BERNERO: And where are those compressors located?

MR. SELVAGGI: They're located to the rear.

MR. WEISS: Okay I'm going to interrupt. When I ended the meeting last time and I know you weren't here I made it very clear, we're not going backwards. We have been here for hours and we've discussed it and Mr. Bernero this stuff is on the record. We cannot be here all night.

MR. BERNERO: I'm just thinking from the sound standpoint.

MR. WEISS: It was addressed, the question for Mr. Glasson is landscaping.

MR. BERNERO: Well the question is the intention of the landscaping.

MR. WEISS: Okay but I don't want to interrupt but I'm not going to sit here tonight and address the public on any issue that we've already discussed.

MR. BERNERO: I understand I appreciate it thanks.

MR. WEISS: Anybody else from the public have any questions for Mr. Glasson based on the testimony he delivered this evening? Ms. Bury from the podium please?

MS. BURY: Sorry but I couldn't see where the new placement for the sign was I looked there and I just couldn't see.

MR. SELVAGGI: We're looking at A-11.

MR. GLASSON: Yes.

(DISCUSSION TAKING PLACE – BUT NOT BY MICROPHONE)

MS. BURY: Will it be facing my picture window?

MR. GLASSON: It will be at a right angle to the road.

MS. BURY: Perpendicular.

MR. GLASSON: Perpendicular.

MR. WEISS: Thank you Ms. Bury does anybody else have a question for Mr. Glasson? Seeing none I'll close it to the public. Mr. Selvaggi?

MR. SELVAGGI: Yes and what we'd like to do now is just kind of finish and conclude with our planning testimony. Some of it is to incorporate the information that we got tonight the additional landscaping as well as a better understanding hopefully of what the facility is all about. We are looking for bulk variance relief under the "c" standards Kathryn Gregory who had testified at the last meeting will kind of wrap this up and put in a pretty little bow correct?

MS. GREGORY: Yes.

MR. SELVAGGI: All right the pressure is on so . . . . And you consider yourself to be under oath still?

MS. GREGORY: Yes.

MR. SELVAGGI: Okay. You've heard some of the additional testimony, Kathryn what's your opinion on the entitlement to the relief we're seeking not only with the dome but the outside courts and the other uses that are involved in this proposal.

MS. GREGORY: Well with regard to the existing principal structure there has been testimony tonight that it is actually a multi-sport recreational facility and athletic facility. So I think that speaks to what the purpose of the zone is and we do feel that the other uses that are on the site are accessory uses. We keep talking about the soccer field, the soccer field and we have the dome but soccer is not going to be the only sport that will be played within the dome there will be Lacrosse, there will be field hockey, it will be open to other sports. So it's not just soccer and just as well the principal structure is not just tennis anymore. And I think that that was what the intent of the zone was and so with regard to the field and the dome being an accessory structure again we go back to that 15 foot limitation. I discussed this a lot last time but with regard to that I think the issue is that domes were obviously not contemplated at that time. Had they been contemplated perhaps the ordinance would have been written differently. With that said I still believe that we meet the positive criteria under the purview of a C-2 variance. The variance must be rooted in the purposes of zoning. I still believe that after all of my testimony if you recall from the last meeting we promote Purpose A which talks about promotion of the public health. We've talked (inaudible) about how the facility really does advocate for active recreation and that's obviously a public benefit. We also promote Purpose C which talks about providing adequate light, air and open space. The placement of the dome meets all of the setback requirements and doesn't impact anyone's adequate light, air and open space. I also believe that we promote Purpose I which is promotion of desirable visual environment and I'll go to the landscaping. Obviously we've taken a look and we provided quite a bit more landscaping than what was originally proposed two meetings ago to help sort of mitigate any visual impacts that is associated with the structure. So with that said I'll go to the negative criteria and in terms of no substantial detriment to the public good really the impacts that I think everyone was really concerned about was noise and also the height of the structure. And I'm going to bring you to the attention actually of your planners report. On page four of your planners report dated July 30, 2013 he discussed under section 6 mitigation measures. In the even the Board finds the applicant's planning testimony does satisfactorily address the positive and negative criteria I recommend the following measures to mitigate the visual impact of the dome. The first of which is to increase the height of the proposed berms along Flanders Road and Flanders-Netcong Road and significantly intensify the landscaped buffer. We have done that, we have addressed that. Number two, require measures to control light emission from the dome structure e.g. opaque fabric. We've also talked at length also about the dome structure and how it will be of an opaque fabric. And then third would be consider a lower height for the structure and it was testified to in the last meeting that we did reduce the dome height from 52 feet to 46 feet. So I don't believe there's any substantial detriment to the public good and I don't believe there's any substantial impairment to the intent and purpose of your zoning ordinance. Like I said before I don't think that dome structures were considered at the time the ordinance was written however, I believe that we meet the intent of what the zone is intending to provide. So I'm open for any questions . . . I'm sorry.

MR. SELVAGGI: Let me just follow up just one thing because one of the things the zone does talk about and it contemplates is permitted uses everything kind of being incorporated in one structure or in

a structure. What's your opinion though regarding you know the tennis courts which will be some of those will be outside? I mean is that permitted? Is it not permitted? And if it is permitted you know under what section of the ordinance do you believe it would be allowed?

MS. GREGORY: It would be a permitted accessory use. Other uses customarily associated with the above uses provided that such accessory uses are subordinate to the principal use to not change the character of the principal use and serve only the principal use.

MR. SELVAGGI: So the outdoor courts in your opinion are just kind of a supplement to what's going on and what many in the community refer to as the tennis center.

MS. GREGORY: Correct.

MR. SELVAGGI: Okay. And then also you know taking it if we're going to be very conservative you have the camps or the summer clinics would that be a use that's also . . . because it's not entirely indoors, would that also be a use accessory?

MS. GREGORY: Yes that would also be an accessory use to the uses that are on the property.

MR. SELVAGGI: Okay and the use of the field during the summer when the dome is down as part and parcel of the clinic and kids running around in a pool and everything else, do you believe that that's even though the dome is not there is an accessory function or use related to this facility?

MS. GREGORY: Yes I think it will be an accessory function because as I understand it the camps that occur or the clinics that occur there, there is going to be some active recreation for the children that isn't associated with the pool and if its summer kids want to be outside. So there's going to be some . . . I'm not going to call it organized sports in terms of you know having small children play soccer on a huge field but they're probably going to be little areas where the kids are going to end up playing some type of sports and/or other types of activities.

MR. SELVAGGI: On the turf field.

MS. GREGORY: Yes on the turf field because obviously when you take a look at our site plan that's the largest area that's available that's outdoor space for the outdoor camps and clinics.

MR. SELVAGGI: Actually once the dome is down doesn't this just kind of become an open space area?

MS. GREGORY: Yes it becomes an open space area the difference is is that we are proposing turf.

MR. SELVAGGI: Yeah you just don't have to cut the grass.

MS. GREGORY: Correct.

MR. SELVAGGI: That's all I have for Ms. Gregory.

MR. WEISS: Does anybody on the Planning Board have any questions for Ms. Gregory? Dan?

MR. NELSEN: Kathryn I heard you mention and some of the suggestions of our planner Chuck about how he had said that perhaps you would include berms and larger trees. I didn't hear Jim's testimony referring to the berms so did I just miss it?

MR. GLASSON: Yeah the last meeting we had revised it to show berms along . . . as I stated I cannot put berms along Flanders Road but I have berms now located along Flanders-Netcong Road.

MR. NELSEN: Right I recall that but nothing on Flanders Road?

MR. GLASSON: You can't do it with the grade, I can't get those big trees up there and get the grade back down because I'm going downhill to the tennis court and I'm going downhill to the dome I can't make it work, I can't get up that high.

MR. NELSEN: Okay thank you.

MR. WEISS: Anybody else on the Planning Board? Chuck did you have anything?

MR. MCGROARTY: No, no thank you Mr. Chairman.

MR. WEISS: All right at this point let me open it to the public again if anybody from the public has any questions for Ms. Gregory based on the testimony that she just delivered this evening feel free to come to the podium

MS. BURY: Maryann Bury. I was just wondering if the ordinance called for no building higher than 15 feet, they were talking about a building right? No building?

MR. SELVAGGI: Well no accessory building.

MS. BURY: No accessory building higher than 15 feet, why do you think a dome would have been acceptable to the Board when that . . . that it wouldn't have been 15 feet if they knew about domes?

MS. GREGORY: You have to rephrase your question because I thought I testified to that. I mean it relates a little bit more to use variances but there is case law that talks about if something wasn't contemplated in the zoning ordinance that goes to part of the negative criteria.

MS. BURY: Okay.

MR. WEISS: Thank you Ms. Bury anybody else from the public? Seeing none I'll close it to the public. Thank you Ms. Gregory. Michael?

MR. SELVAGGI: With respect to the site plan issues the bulk variance issues we're concluded I mean if there's any follow up questions obviously our team is here but we are otherwise done. I assume there may be comments coming from the public.

MR. WEISS: Yeah if you're done thank you Mr. Selvaggi. Here's what we're going to proceed from here. We do have an objector and I've spoken to Ms. Bury who has a presentation that she would like to make. At this point the floor will be open to anybody from the public to ask a question, to make a comment I promised everyone that there would be time at the end of the hearing to simply make a comment and let us know how you feel, tell us what's on your mind you can direct the question if you have one to one of the experts, one of the applicants or you can simply make a comment. But I will start this session with Ms. Bury who has a presentation. Chuck?

MR. MCGROARTY: Mr. Chairman if I may just so I don't lose it could I just ask Mr. Glasson a technical question? Or clarification.

MR. WEISS: Oh yeah.

MR. MCGROARTY: Your sign detail, which is on your . . . for everyone's benefit it's on sheet 7 of 9 the revised one you gave us. It's that two page handout you gave us.

MR. GLASSON: Yes.

MR. MCGROARTY: Just a couple of question so I understand, the right side of the sign I guess this is sort of a conceptual design.

MR. GLASSON: Totally conceptual I don't know what the lettering is going to be all I'm doing this for is to show you the size of the sign is going to be 4 by 8 with a maximum height of 8 feet. I don't know what they're going to put on the sign.

MR. MCGROARTY: Okay so the box that you had on the left side is just . . .

MR. GLASSON: All of the lettering could stretch; it will probably stretch across the whole thing.

MR. MCGROARTY: Another question lighting.

MR. GLASSON: The sign?

MR. MCGROARTY: Yes. Internal or external?

MR. GLASSON: Do you anticipate lighting that sign? Is it a light box or what are you doing?

MR. COSTELLO: I haven't even looked at the sign ordinance we plan to be compliant. Whatever it is I haven't thought about it to be honest.

MR. MCGROARTY: Let me just throw this out then I don't know myself. I don't think there's any prohibition against internal illumination in this zone but if the Board winds up approving the application really the sign shouldn't be illuminated overnight.

MR. COSTELLO: That's fine we'd agree to that absolutely.

MS. NATAFALUSY: Mr. Chairman we have to put it on the record that Mr. Mania listened to the tapes of the last meetings and he signed a certification so that he can vote.

MR. WEISS: Okay so Catherine just reminded us that Mr. Mania, he did listen to the tapes of the previous meetings.

MR. MANIA: Yes I have.

MR. WEISS: Thank you for doing that I know they were lengthy. Everyone else is okay?

MS. NATAFALUSY: Yes everyone else is good.

MR. WEISS: Okay Ms. Bury at this point if you would come up to the front table when you're ready and we're going to swear you in so if you'd take the direction from Mr. Buzak.

(MARYANN BURY SWORN IN FOR THE RECORD)

MR. BUZAK: Can you please again state your name and address for the record.

MS. BURY: Maryann Bury (B-U-R-Y) 191 Flanders-Netcong Road.

MR. BUZAK: Thank you.

MR. WEISS: Ms. Bury a couple of things just for the record. We have a microphone over there to pick you up and I have a microphone on the table. If you need to go back and forth that will pick up your voice or this will pick up your voice but not in between. Now also for the record you're not testifying as an expert you have no expertise in planning, zoning, engineering, real estate . . . .

MS. BURY: No just research I am a research librarian and have conducted research for major corporations for 30 years and that's why I gravitate toward this kind of thing.

MR. WEISS: Perfect because I'm totally un-expecting of what's under those papers so I don't know what you're going to tell us I just want to make sure that you're not testifying as a professional of any . . . .

MS. BURY: No.

MR. WEISS: So your opinion is what we want to hear.

MS. BURY: Yes.

MR. WEISS: Perfect.

MS. BURY: And I've collected and it's partly my opinion and partly what I've collected that I would like to show you.

MR. WEISS: And we're here to hear your opinion.

MS. BURY: Okay. Now after I'm finished I do have copies to pass out to the Board and to show them.

MR. BUZAK: Ms. Bury why don't we mark whatever document you're going to put up there as . . . start using the "O" designation so we'll mark the first one as O-1. Whatever the first . . .

MS. BURY: Well there's a whole bunch of pictures I just didn't want you to see these.

MR. WEISS: Okay here's what we'll do on the very top you'll mark that entire board O-1 and you'll mark it with today's date of 10/10/13. And so for the record whatever pictures are under there will be part of O-1 as a collection. I'm saying there's about one, two, three, four, five, six pictures?

MS. BURY: Five.

MR. WEISS: Okay a series of five pictures that represent O-1.

MS. BURY: All right this is covered because first I want you to see Flanders and where we live. I'm here because I live in Flanders I've lived here for almost 30 years and I love living here. I told you my background and I'm really going to focus only on one part, I'm not going to talk about (inaudible) I don't know anything about that or traffic. But the part that is near and dear to me is the visual and I would like to present some additional information for the Board to consider regarding what this dome is going to look like, how big it's going to be. And how in other places they have made accommodations so that very, very little of the dome is seen, not in five or ten years from now but now like when the dome is up. There is however one comment that came up during the last meeting and it was the effect on property values and I don't think that the person was properly answered. They were kind of put off so I would just like to give you a quote from Mortgage News Daily, of all the factors that affect property values a bad location can have the most adverse affect according to Mortgage New Daily. Location involved aesthetic appeal as well as the activities that take place within the property's vicinity. Zoning regulations can determine how land can be used within a particular area such as residential versus business versus commercial. A neighborhood flanked by a factory on one side and a shopping mall on the other may see lower property values than the exact same group of houses situated in a solely residential district. Now we're not talking about a giant shopping area here being put up, and I don't know how much property value will decrease but based on this professional document here our property values will go down. I cannot tell you by how much.

MR. WEISS: Before you object we made it very clear that Ms. Bury is not an expert in real estate and these are her opinions.

MR. SELVAGGI: Okay.

MR. WEISS: Which is why I asked those questions, it is simply her opinion and I think the Planning Board understands that Ms. Bury is not representing herself as a professional expert in any of these fields.

MR. SELVAGGI: Mr. Weiss I have a right to represent my client without being harassed by the public. I'm doing my job, I know some people may not appreciate that because lawyers were always the bad guys but in the course of doing my job I would hope that I would have the respect from the public that I've given them.

MR. WILLIAMS: (SHOUTING OUT FROM THE AUDIENCE)

MR. WEISS: Mr. Selvaggi I'll handle it from here. If there's any more outbursts from the public I will have you removed from the meeting Mr. Williams so let's move on. Sorry about that Mr. Selvaggi.

MS. BURY: Sorry I never would have said that if I thought this was going to happen.

MR. SELVAGGI: Oh no, no your fine, your fine I mean I'm only building a record I mean that's all.

MS. BURY: Okay this variance calls for the addition of a temporary structure and many individuals believe this might be acceptable because it is not permanent. As a librarian I'm sorry I've consulted a dictionary and the definition of temporary referring to that which is not lasting or permanent. Temporary implies an arrangement established with no thought about continuance but with the idea of being changed soon (inaudible) temporary structure. The structure we're talking about here in my opinion is recurring there is a thought of continuance, nine months up and three months down. Up, down year after year over and over again so I don't consider this a temporary structure based on the definition in the dictionary online or whatever it is that (inaudible) here. So I'm requesting

that the Board adhere to the Master Plan they established just a few years ago. I believe that the plan was written this way to prevent exactly what's taking place now. Fifteen foot was meant to . . . for the construction of a storage facility or similar buildings and not to expand the existing athletic complex because it is so surrounded by a residential neighborhood that was there before the facility. People should have a choice of living where they want to, I think the matter would be entirely different if the facility were already up, running and then we moved in and then said we didn't like it. I don't think we would have a leg to stand on. But I think we do now I think we do have something to say about it. I'll distribute the individual pictures at the end so you can look closer at them and also the applicant. Right here we have a beautiful neighborhood Vacarro Road, Flanders-Netcong Road, Flanders Road and the Tennis & Swim Complex nestled in the Kittatinny Mountains its picture perfect. And if the application goes through that's going to change it's not going to be picture perfect anymore. I was going to use a term I don't know if I should use it or not because I don't want to start a riot, maybe I won't but there are other locations, now I'm sure that the applicant may have other locations with domes but I couldn't find them on Google, on the Google map. Because Google is several . . . I don't know a year or so behind and so these are the only ones I have. I didn't just pick these because they are in my opinion not the best but I picked them because they were the ones with the domes. Now you do have others with fixed structures on them but I only chose the ones with the dome. These pictures will show the Chatham area, now you said that in Chatham the residents really like your facility and I'll bet they do because if I lived there I would too. Because while you have a residential facility with a storage facility here, on the other side of Passaic Avenue you have a water treatment plant, a wastewater treatment plant. On the other side you have a construction company and this thing just goes on and on and it's pretty messy, from Google anyway. I don't know if you can see everything from the road but from above you do see it and back here you have a reservoir. So you're in an industrial area aren't you? It looks to me, I'm not an expert, that this side of Passaic Avenue with the construction company and the wastewater facility is industrial while this side of Passaic Avenue is residential unless you know different I guess that's what I thought. This is the same, Passaic Avenue just to . . . this was a smaller view, this is a larger view and you can see how large the dome is when you look at the little cars. I don't think there was anything except maybe what you did today to give that visual line of what we would see to explain to us how high this dome is. So when I looked at these cars here right next to the dome I really got a feeling for large structure. In Montclair you have a different situation not an industrial area but a town and it looks like it takes up half a city block. I don't know if there's something in between here a road but it looks like it's half a city block across from a train station. There's no residential area. In Gillette it appears to me in this very, very rural area that maybe this person here had a farm and either sold or leased the property. There is not that much around. Certainly you don't have beautiful area like you have here. So the bottom line for me is Chatham next to industrial facilities, yes across from a residential area but in an industrial area as well. Montclair, business district, Gillette nobody is there this is different. I did visit kind of by accident in Wall Township a facility called Good Sports I almost missed it I was driving on Route 138 and it caught my eye I saw this large piece of white building. Here you have Route 138 it's four lanes, here you have trees it seems that Wall Township didn't even want people driving by to see the facility.

MR. WEISS: Ms. Bury would you mark that as O-2.

MS. BURY: And the date?

MR. WEISS: And today's date please.

MS. BURY: There are two entrances or an entrance and an exit I was there and I took some pictures but then decided just to stay with this one. I spoke to the partner/general manager person there and there were many things he told me off the record, I can't share with you because he does not want to get involved in any kind of disagreement within a town. But what I can tell you is that they were not allowed to put up their dome which is three quarters of the size of the proposed dome for here until the people in this community down here had the proper buffer so that they could not see the facility. And I went and I stood there and I just saw . . . somebody had an umbrella up in a backyard that's all I could see I could barely see the house. And this one I went online today searching . . . O-3?

MR. WEISS: That will be marked O-3 and can you tell us what O-3 is?

MS. BURY: Avon Oaks Country Club in Avon, Ohio. Now what I'm presenting here is not a statistical (inaudible) I'm almost ashamed I didn't do . . . you know there's a lot of work if you want to compare all of these places. I just focused on what the applicant owned and what I saw first-hand myself and then I saw an article online about the people here complaining about the proposed dome that the Country Club wanted to put up. They wanted to cover the tennis courts so I called them and I said I saw online that you had an application before your Board in August, how did that go did it go

through? Yes it went through. I said how are the people handling that? Well not well, but I found out that there is a 75 foot buffer filled with fir trees 50 to 60 feet high and this is only going to be 35 feet high. I said I would have no complaints (inaudible). So people do care about residents and what residents see and really don't want residents to have to wait 20 years not to see something. Now there is one thing I'd like to close with, hypothetically what bothered me about all of this, from all of these pictures was this, Chatham had two domes that means there could be more than one dome on site. Hypothetically if the applicant purchased the property adjacent which is for sale and decided to expand the parking lot they could run the swim club and everything else concurrently. There would be enough parking so put a dome over the pool why not? They already have one so we'll put another one. With a potential increase in traffic with everything going on God forbid could Flanders-Netcong Road be looked again as being opened? Hopefully not and these are things I think that need to be considered by the Board looking forward. Not just saying okay this item now at this time. I think this variance is the beginning of a slippery slope which has our neighborhood very distressed to put it mildly. We request that the recently completed Master Plan be upheld to keep Mount Olive the beautiful town that it is.

MR. WEISS: Thank you Ms. Bury. Anybody on the Planning Board have anything for Ms. Bury?

MS. BURY: Oh do you want to see the pictures?

MR. WEISS: No, no Catherine do you need them?

MS. NATAFALUSY: I need them.

MR. FLEISCHNER: Could I just ask a question?

MR. WEISS: Sure Mr. Fleischner has a question for you Ms. Bury.

MR. FLEISCHNER: Ms. Bury I appreciate your presentation but I do have a question with the Chatham and the Montclair sites because these are all aerial photos.

MS. BURY: Yeah.

MR. FLEISCHNER: Right and you know what we see from satellites above gives one impression.

MS. BURY: Right.

MR. FLEISCHNER: Did you at any time travel down to Chatham or Montclair and take any photographs from the street level?

MS. BURY: No I did not. I did take photographs from the street level of the Wall Township one but I didn't bring them I didn't want to have too much.

MR. FLEISCHNER: Okay, all right thank you.

MR. BUZAK: Just a follow up if I might Mr. Fleischner.

MR. FLEISCHNER: Yeah please.

MR. BUZAK: I recognize you don't have the photographs with you but could you tell the Board what you observed as best you could recollect from your visit to the Wall facility from street level or wherever you were can you just describe that visit?

MS. BURY: Right we drove in and turned left into a large parking lot and when you looked out to the street or Route 138 you couldn't see it. And when you turned and looked at the dome it was huge, really huge. I had my husband stand there, he's 6 foot, and I stood back and I took a picture. I am sorry I did not bring that one in. But as I said I didn't want to spend too much time and cluster . . . you know have you say why doesn't she sit down already so I didn't bring that. Then I walked around to the side and on the side, all trees I walked around to the back and I stood there, there's quite a distance maybe 150 feet and I saw trees and I could only see the little bit of an umbrella from a house. And as I said I went in I talked to the gentleman and he said that they had to make sure that the residents could not see the structure. Before it was put up they had to guarantee that.

MR. BUZAK: Is the parking lot on the Route 138 side?

MS. BURY: Yes. So it was kind of in the middle had a parking lot and Route 138 here then you had an expanse of open land, trees just like on 138 trees and then the homes.

MR. FLEISCHNER: Howie if I may?

MR. WEISS: Joe please.

MR. FLEISCHNER: If I may and I don't know and our attorney can correct me if I'm doing something that I shouldn't be doing. But I did ride through the Chatham neighborhood there my stepdaughter at one time up until a year and a half ago lived in a residential area of actually there were like townhomes but they were really are apartment complex a block and a half from that dome in Montclair. It is a residential . . . you go one more block there's a traffic light, you make a left and actually they're building more apartments there that are probably built by now we don't go there but I did drive through Montclair and Chatham to see what this did look like.

MS. BURY: I'm sorry could they see; could your daughter see the dome in Montclair?

MR. FLEISCHNER: No she did not see it. And in Chatham I rode through the neighborhood and I stopped a couple of people and 100 percent honest and one gentleman I don't know he was walking the dog and he said "what dome". So I don't know, you can, depending on where if you're on the opposite side of the street obviously you see the dome it's there. But within the neighborhood in reality because if you notice or you were there it's the back of the units that actually face towards the dome, and on the ground level the way they were constructed and there's . . . you don't see it but once you get in the neighborhood you're really, it's just the way it was designed. Now you know I can only speak for myself driving through the neighborhood but I did try to speak with people and I actually only spoke to two people because it was during the day it was a work week and they did not voice any concern they had. That doesn't mean other people within the neighborhood had a concern. I can't say that I only . . . by the two people I spoke to. But I did go because I did want to see what it looked like and I have friends that live in Chatham so I made a lunch out of it.

MR. WEISS: Did you have a problem getting up for work?

MR. FLEISCHNER: No, no actually the person actually worked for me at one time and now she's a stay at home mom with three kids so she was happy to have company.

MR. WEISS: Okay thank you anything else? Okay seeing none I'll continue to open it to the public if anybody from the public has any comments or questions based on any part of the application process now is the perfect time. Come up to the podium state your name, address.

MR. BERNERO: Its Frank Bernero 6 Triumph Court, Flanders. Just a comment part of it this what I see you know the Board not individuals present but the Board have looked at this same argument for a multi-sport complex in the same location, same facility, same area years back and the same issues that were concerns back then are the same issues today. With the quality of life, the people who are up against this property and then the neighboring residents in the area that will have to affect traffic conditions, the typical traffic conditions, sound conditions it's a business in a residential area. And the concerns that this should not go forth for the same reasons that were represented last time. Again we're looking at the impact of people in town who would have to live with this when from other areas there's other places for this, the place for this dome in front of these people's homes in front of their properties and the impact of those things just kind of it shouldn't be passed and move on from there.

MR. WEISS: Okay thank you Mr. Bernero. Anybody else from the public? Stan?

MR. BOROWSKI: Stanley Borowski (B-O-R-O-W-S-K-I) 57 Woodbine Avenue. I have empathy with some of the neighbors that are going to be next to the facility but when I heard about it I said gee you know people are saying it's too small, you know it's too big I say it's too small. This is for our kids our kids need this space to play I think the property values will go up, people with children would love to have a facility where the kids can go across the street and play and swim and play tennis. I think this is a great ratable I play tennis so I've met with Andy I've played at Center Court in Chatham they're fantastic owners. They are a great business partner they do the job right they're a quality organization. There are some concerns about the bubble and I noticed, I don't remember the lady's name but she was saying she was driving by once she almost missed it. But a bubble if you think about it above the trees just blends with the sky. You really don't notice it with the clouds in the sky. You just go right by it they've got great trees to buffer it. Noise concerns, I note some people raise some noise concerns I've

played in tennis bubbles with the blowers and believe me as a tennis player we don't like noise. That's why the umpire says be quiet please; we would not be playing in tennis bubbles if there was too much noise. I also believe the property values would go up, parents with kids love it when my kids were young I'd love to have this facility. I fought for Turkey Brook Park to get built. Once Turkey Brook Park got built the property values went up. People with kids or even dogs now with the dog park loves to have some facility close to them. So as a resident I would really recommend the Board approve Center Court's application they're building a quality facility, it is a great ratable, Center Court is a quality organization it will be a great facility for our kids. And listening to some of the testimony they are addressing the resident's concerns. Thank you.

MR. WEISS: Thank you Stan. Anybody else from the public? Mr. Williams?

MR. WILLIAMS: I would like to read a prepared statement. Stacy Williams 5 Vaccaro Road Flanders, NJ. I would like to thank Center Court and their development company for making changes to their original plan presented to the Board at the last few meetings. I appreciate their efforts to lower the overall height of the dome structure and to add additional berms and plantings to conceal as much of the structure for residents living adjacent to Flanders Road and specifically Vaccaro Road residents. I would also like to thank Center Court for their willingness to perform additional tests such as a balloon study an acoustical analysis of the fans used to inflate the dome. This shows a willingness to work with the local community in a fair and transparent manner. Given this statement I still oppose the granting of the height variance and ultimate construction of this structure at the Center Court property for both personal and public reasons. Personally I'm not opposed to commerce I feel that if an individual or an organization is willing to risk spending capital on such a project they deserve the right do so in an environment created to help a new business grow. However it is my opinion that there are alternatives to this applicant such as a permanent structure or construction at a different location such as the expansion area of Turkey Brook Park or the new open space park down the road where the Blue Atlas Nursery used to operate. These sites would place the facility in areas built for sport recreation and I feel would give the applicant a better chance at success while being sensitive to the local residents in the community at large. If this dome is built it would dominate the landscape in this area. A structure so massive it will define this part of the township for years to come. People will say look for the white dome or I live by the soccer dome. From Labor Day and Memorial Day I and my family and neighbors will not be able to escape its presence. I will be able to see it from most any vantage point within my home. I will not get a break from darkness as the dome will be lit until approximately 9:00 or 10:00 at night. Despite the best intentions of the applicant regarding fan inflation noise I don't know what it will sound like at 4:00 a.m. in the morning when the area is dead silent or how much noise will be emitted from the dome as people play inside. I may never be able to sleep with my windows open ever again. When I moved into Flanders 12 years ago I liked the country feel of being on top of this mountain and the quiet scenic views that are provided. Much of this country feel is already gone due to the increased housing development from the Toll Brothers construction in Morris Hunt and the Morris Chase communities. Allowing this structure to be built will certainly finish this off for me and for many of my neighbors. As the applicant's planner stated at the last meeting you can get used to anything citing examples of telephone poles and other utility necessities. This structure is not a necessity I doubt I and my neighbors who live so close will ever get used to it. If this dome is built the value of my home and my neighbor's home will most certainly decrease. I cannot imagine being able to find a buyer that will pay above the appraised value of my home given its proximity to this structure. People may like and find value in such facilities but nobody wants to live next to them. I will still be expected to pay my taxes on a property were this drag on its value is not taken into consideration by the Mt. Olive Tax Assessor's office. From a public perspective this dome presents a potential negative drain on municipal tax revenues due to the recreational zoning status of this property it is unclear to me and to my neighbors how this dome structure will be taxed. If my suspicions are true and the AR zoning status combined with a part time non-permanent structure will either have no or at least a discounted tax ratable. With property taxes so high in this township why should the municipality provide a for profit organization such an advantageous tax shelter. Providing a recreational structure for the children in my opinion is not sufficient justification. This would be asking this company not to pay their fare share for consumption of valuable municipal services such as road wear and tear and police. The residential taxpaying customer would essentially be filling the gap in revenue. The township does not know what this company will have to do to be profitable, a dome of this size is expected to cost at least \$500,000 just for the basic construction. Total investment in this property will most likely be more. At the last Zoning Board meetings the company presented a picture of the facility used for instructional purposes with little or no impact on the local community. No interior seating prevented the ability to host tournaments and other events with large audiences. Should this financial model fail we have no guarantee they will not come back to the township citing a business downturn hardship and seek approval for modification of their operating plan to include such things as tournaments, corporate events and even concerts. The township then has set a precedent on approving such things and would

most likely need to show the business, their business, their willingness to help and keep Mount Olive business friendly. I'm not saying this will happen but it's a scenario that could come to pass. Voting no on this variance keeps this nightmare from ever happening. In summary I would like to thank the Board members for their careful consideration of this issue, I ask the members of this Board to consider my statement in their decision and would like to ask the Board not to approve this height variance tonight. Thank you.

MR. WEISS: Thank you Mr. Williams. Anybody have any questions? Seeing none from the Board does . . .

MR. VAN NESS: I just have a couple.

MR. WEISS: Oh sorry Scott I didn't see you.

MR. VAN NESS: I want to follow up just on a couple of his questions and let the applicant respond a little. Lighting from the dome at night will be light . . . if I recall the testimony that it's a solid fabric dome, it's a solid dome and there will be no light emitted other than from the skylight on the roof?

MR. COSTELLO: Correct.

MR. VAN NESS: That skylight is flat correct?

MR. COSTELLO: Yes.

MR. VAN NESS: Or relatively flat specially at the top peak of the dome?

MR. COSTELLO: Right.

MR. VAN NESS: And no light will be emitted to the sides of the dome at all is that correct?

MR. COSTELLO: No.

MR. VAN NESS: And the dates of the dome use, why does it have to be Memorial Day to Labor Day only? Why not longer periods of time such as May 1 to October 31 or mid April to mid October? Why does it have to be just set . . . I mean the weather is gorgeous before, the weather is gorgeous after why does it have to be . . .

MR. COSTELLO: You're saying why isn't it more time up?

MR. VAN NESS: Why is it down, more time down?

MR. COSTELLO: I guess I would say that you know that gives us some flexibility. You have you know very wet springs; sometimes you have an early winter depending on year to year you know that kind of covers us for any of those variable scenarios. You're right there's sometimes where it's gorgeous you know right through Labor Day and around that time but this kind of covers us depending on you know everything kind of . . . some years are worse than others I guess is the answer.

MR. VAN NESS: Yeah but your simply covering a period there doesn't seem to be . . . you're offering a flexible use project but you're not using it to the maximum building and its use as weather would allow in this area. So to say that you're going to have the dome up nine months as opposed to six months could be a difference of people you know how the people might feel about this.

MR. COSTELLO: It's partially like a revenue thing about how much money the dome brings in but I can't tell if you're asking whether it should be up longer?

MR. VAN NESS: Well that's the question, that's part of the answer is that it's a revenue issue. That answers the question thank you. So the dome as the testimony in the past was its developed to the point where there's no seating inside is that correct?

MR. COSTELLO: Yes.

MR. VAN NESS: What would have to be done to put seating or bleachers for spectators inside this dome as planned as built.

MR. COSTELLO: I guess if we're talking hypothetical's either the field would have to be much smaller so in order to accommodate you know something on the side or the dome would have to be bigger. Obviously you would have to reapprove and a lot of things would have to happen to make it bigger so I guess it would just be the field would just be the field would have to be so much smaller in order to accommodate that.

MR. VAN NESS: If you made this field smaller would it reduce its size from an official size field to an unofficial field?

MR. COSTELLO: Yes, yeah it would be deficient for training you couldn't train cross (inaudible) field anymore which means we couldn't have multiple training sessions at a time which is necessary for our business.

MR. VAN NESS: So is it fair to say that if you put bleachers or seating in this dome that you would reduce the ability for it to be used for official sanctioned . . .

MR. COSTELLO: Yeah I mean our business model is a training model, there's not a lot of money in hosting a game, you know there's just less people on the field.

MR. WEISS: Anything else? John?

MR. MANIA: Just a comment to address noise. The township does have a noise ordinance and if the decibels are exceeding the noise ordinance they could be fined. So noise cannot be an issue.

MR. WEISS: Okay anybody else from the public have any comments? Please.

MS. BERNERO: Carol Bernero (B-E-R-N-E-R-O) 6 Triumph Court. I do want to apologize we were not aware of this so we did miss the first two meetings and I'm sorry that we are behind in questions. Maybe afterwards someone can tell me where we can find the notes, the minutes so we could catch up. Just my opinion I want to thank Ms. Bury I do like that comment about the temporary variance continuing year after year after year that I guess the definition would be temporary for just a temporary situation, that doesn't sound like what this is. And the comment for the kids, unless I've missed something Turkey Brook that was for the kids that's for the residents, this to me is a business so I don't really understand how this equates to something in our community for the kids. Unless you would take that dome and put it in Turkey Brook so we could use our community facility nine months a year with a dome. I don't see the correlation here, I think if you want something for the kids we put a dome up in our community, this is a business in my opinion. Thank you.

MR. WEISS: To answer your first question Ms. Bernero you can go to the Planning office . . .

MS. BERNERO: The Planning office? I apologize that we are behind.

MR. WEISS: No that's fine, if you want to listen we have the meetings that have been recorded, they're not transcribed yet right?

MS. NATAFALUSY: They're not transcribed but you can get a copy of the CD and go home and listen.

MS. BERNERO: Okay that's great because I don't know what the hours of operation are . .

MS. NATAFALUSY: 8:30 to 4:30.

MS. BERNERO: I'm sorry I meant I don't want to get into questions that were already answered.

MR. WEISS: There's quite lengthy testimony delivered and there's tapes that you can listen to if you want to wait I would say a few months the minutes will be transcribed you can read them. They can be available as early as tomorrow you could listen to the tapes you can stop in at Catherine's office and get copies of the tapes she'll explain that process to you.

MS. BERNERO: Okay I appreciate that. And then Mr. Mania just on that last comment that you said about the fine for the noise. So a corporation that's making a lot of money can pay a fine, how does that stop if it is an ongoing problem? So you get fined, so you pay a fine and then the neighbors are still put out so I understand that's the best you can do . . .

MR. MANIA: We have ordinances that you have to abide by the ordinances of the township. It's as simple as that.

MS. BERNERO: Right so if that were to become repeat offenders and they just had the money to keep paying and saying oh well you know its noise. Just things to consider about the residents.

MR. MANIA: I'm sure they would want to be a good neighbor and not exceed the noise.

MS. BERNERO: I hope so. I do hope that there's another place in the community that we could put this that would be nice. Thank you.

MR. WEISS: Anybody else from the public? Sir.

MR. ORDONEZ: Good evening John Ordonez (O-R-D-O-N-E-Z) 68 Drakesdale Road, Flanders.

MR. WEISS: John I need you to speak up and state your last name for the record please.

MR. ORDONEZ: Ordonez (O-R-D-O-N-E-Z) 68 Drakesdale Road, Flanders, NJ. I'd just like you guys to consider the quality of life of our neighborhood. I took care in where I purchased my home and I'm not here to take away from the property rights or anything from the applicant. I understand their position and I have no ill feelings towards any of them or their business. From what I've seen from what they're running so far it's not that bad. But the issue that I would have and I'm really concerned is the height of the dome and how it will impact me and my quality of life. And like I said before I picked my house with care even though I'm on Drakesdale with the traffic there I actually been working a lot on my backyard so I'm putting up trees and what have you and I just think it would be detrimental to the whole neighborhood if we have a big structure that huge permanently or non-permanently however you want to look at it in that location. Thank you very much.

MR. WEISS: Anybody else from the public have any comments? Sir.

MR. OLSZOWY: Hi my name is John Olszowy 9 Vaccaro Road (O-L-S-Z-O-W-Y) I'm a licensed real estate agent and I can attest that with this dome up it will detract from the house values in the area. And why not build a brick and mortar building 15 feet . . . .

MR. BUZAK: Sir.

MR. OLSZOWY: Yes.

MR. BUZAK: You are providing testimony what I'd like to do is swear you in so if you can just step up to the table here and raise your right hand place your left hand on the Bible.

(JOHN OLSZOWY SWORN IN FOR THE RECORD)

MR. BUZAK: Can you begin your comments from the outset if you would?

MR. OLSZOWY: Oh all right I have my license if anyone would like to see it, that while this dome is up it will be up during the prime selling and buying season March, April and May and it will detract from the neighborhood values.

MR. SELVAGGI: I'm going to object only because he's a licensed real estate broker he does not have the expertise to provide appraisal testimony which is what he's doing. So he can certainly comment as a member of the public but to suggest that his opinion as to the effect of this on property values is entitled to an expert opinion is legally wrong.

MR. BUZAK: I thought his testimony was that it will affect the ability to sell.

MR. OLSZOWY: Right sell or buy.

MR. BUZAK: As opposed to increasing or decreasing property values. Is that correct sir?

MR. OLSZOWY: Right yes. That's the point I'm trying to make. And why not build a brick and mortar building that's 15 foot?

MR. WEISS: I don't think they have to answer that question.

MR. BUZAK: That's a rhetorical question. We're at the comment period now sir so you may not have meant it that way but that's the way we'll take it.

MR. OLSZOWY: That's all.

MR. WEISS: Okay thank you. Brian?

MR. SCHAECHTER: The water tower that's in Carlton and the one that's in the Bennington area those are permanent structures how do they affect the buying season of the homes?

MR. OLSZOWY: I haven't heard anybody say anything about that. But if I brought a client across the street from the dome I would have a hard time trying to get someone to spend \$300,000 or \$400,000 on a home.

MR. SCHAECHTER: If you brought a client across the street from one of the water towers would you have a problem having them spend \$300,000 or \$400,000?

MR. OLSZOWY: I might people are fickle. I guess not so much the water tower but the dome is a bigger presence than the water tower is.

MR. SELVAGGI: Can I just ask a question? Have you ever sold any property near a facility like this?

MR. OLSZOWY: No.

MR. WEISS: Thank you. Anybody else from the public? Ms. Bury.

MS. BURY: Maryann Bury, the water towers are blue and they blend in with the sky and sometimes I forget they're there. Could there be any discussion about a color for the dome as opposed to white if you go ahead with it? Can that be answered by anybody?

MR. WEISS: The applicant has not testified that it's going to be any color but gray?

MR. COSTELLO: Gray.

MR. WEISS: Gray so that . . .

MR. COSTELLO: We try to match the winter sky color as much as possible you know . . .

MR. WEISS: But that was the testimony that was provided at the time so gray is the answer to your question.

MS. BURY: Oh okay green would be better.

MR. COSTELLO: Those domes are all white.

MR. WEISS: Thank you anybody else from the public have any comments for the applicant? Once we close it to the public we are going to be done with this hearing. We'll summarize whatever we need to on the Planning Board and we'll take a vote. So I'll ask again is there anything else from the public? Seeing none I'm going to close it to the public. Mr. Selvaggi you wrapped up your testimony I take it?

MR. SELVAGGI: Yes, yes.

MR. WEISS: So at this point what we need to do as a Planning Board is let's make sure we have some proper housekeeping. We have three different hearings spanning many months going back to August. I see that Mr. Buzak has pages and pages of notes and I think what I'm going to ask him to do is simply summarize any condition that we noted, any special comments that he made, anything that we might want to consider as we look to entertain a motion. So if I can Mr. Buzak . . .

MR. BUZAK: Thank you Mr. Chairman. Mr. Chairman this applicant for the Board's edification is an application for preliminary and final site plan approval and for a variance, a height

variance for the construction of the dome facility. The dome itself is an accessory use on this site so we're not talking about the dome and whether that dome is permitted. The dome is permitted the question is the height. There's a limitation on the height for accessory structures, that limitation is 15 feet this dome was originally proposed to be 52 feet it's not been reduced to 46 feet in height but obviously still exceeds the 15 foot limitation. So that's the variance issue and the testimony has been provided by the applicant's expert as to why the applicant contends that they are entitled to obtain that height variance for the purposes of this accessory structure. It's up to you to evaluate that you have your own planner's reports that also comments on it and the Board has got to determine whether the applicant has met the burden of proof to justify the granting of the variance. And I won't go through the testimony or anything like that. The conditions that I noted during the course of the application, these are the ones that I have, there may be others as we go along depending upon how the Board reacts. The first was that after the facility is constructed if the Board approves it obviously that there will be adequate acoustical test to determine that they conform and the facility conforms to the noise requirements as was mentioned. We had some earlier conditions about trees, Evergreen trees on Vaccaro Road or from that view and on the Flanders Road side I believe that they've probably been accommodated by the revised plans so unless there is other things that we would want the applicant to do I think that condition that we had discussed earlier in the hearings has probably been satisfied. I believe the same thing holds to the concerns the Board had about the installation of the berm and plantings around the perimeter of the structure in accordance with the planner's, our planner's memorandum that was submitted. Today there were a couple of items that were mentioned that I think we ought to include as conditions beyond the standard conditions that we have. And that is that the applicant will replace any trees that die or are destroyed or damaged and do not continue to grow and further that lighting on the . . . that the sign will be conforming with the ordinance requirements there's lighting permitted on the sign it will be turned off at night. The testimony was that the facility will be open from 6:00 a.m. to 10:00 p.m. seven days a week so I would assume that sign would be off by let's say 11:00 p.m. at night. Just give me one minute Mr. Chairman and see if there's anything else that I just want to mention and I'll be happy to respond to any comments. As I said there's a number of other conditions that are housekeeping ones. For example the applicant will have to obtain from the Health Officer the appropriate permits for the construction of the well and the 1,000 gallon concrete septic system which they had discussed. One other thing Mr. Chairman that I wanted to clarify and Mr. Selvaggi's experts provided some testimony on this at the outset of tonight's hearing and that is the use of this field the turf field when the dome is taken down during that four month period. There was testimony early on that the field would not be utilized as I recall anyway, and I think that that testimony was tied to the fact that there was concern as to whether the ordinance itself which contemplates indoor facilities would allow for that field to be utilized those four or five months whatever it may be when the dome is down. The Board's professionals have considered that issue and we are I believe and I'll leave it to Chuck and Gene if they disagree with this, but I believe that we came to the conclusion that those facilities the outdoor tennis courts that are proposed there are some there they're going to shift them, move them and this soccer field, turf field can be utilized as accessory uses during the course of the other time when the dome is not up. And I believe that to do otherwise would really be very difficult to enforce to not have people who are using the swim club or people who are at the tennis courts to not be able to go out there and they see an open field and you can't throw a football around or you can't do this and there was testimony as well that there would be summer programs that you know would combine the pool, the tennis, I'm sure again running around on the grass and I just want everyone to be aware at least on the Board and to the extent the public is here that those are in our view anyway permitted accessory uses of that facility. So with that Mr. Chairman I'll give it back to you and I don't know if Chuck wants to add something or Gene perhaps we can do that first.

MR. WEISS: Sure good idea. Chuck?

MR. MCGROARTY: I would only add to Mr. Buzak's first one about the sound controls that the specific details which were quite technical and you know I don't profess to understand it all but it was presented by their acoustical expert Exhibit A-7 the report that we had at the meeting on September 12 those very specific recommendations if this is approved be included. And then the appropriate Code people will make sure it's done. So it's more than just enforcing the town ordinances whatever those would . . . his recommendations to.

MR. WEISS: Just to be sure I understand Chuck you want us to take the report which was A-7 and the date that that was presented to make that the standards.

MR. MCGROARTY: Yes Mr. Chairman because in the report we got that night as you recall we were just hearing it for the first time but there were in the summary Section 6 there were specific recommendations acoustical silencers and some other stuff and throughout the report and the

testimony as well indicated that those were the recommendations by that expert for this facility for the outdoor or for the external machinery for the generators, etc.

MR. WEISS: That's a good idea thank you Chuck.

MR. BUCZYNSKI: I think there was testimony back that there were tests for the (inaudible) to those levels.

MR. WEISS: Okay thank you so we're good there?

MR. BUZAK: Yes.

MR. WEISS: All right so that being said and the conditions being listed by Mr. Buzak . . .

MR. MCGROARTY: Oh I'm sorry.

MR. WEISS: Go ahead Chuck.

MR. MCGROARTY: It's been agreed to in testimony or acknowledged in testimony but again if the Board is to approve this that there will be lighting on the turf field when the dome is down. Or any other outside facility for that matter on this site.

MR. WEISS: And there's none proposed now.

MR. MCGROARTY: None proposed but just because it's not proposed . . . other than the conventional parking lot with the security lighting.

MR. SELVAGGI: The recreational facilities won't be lit, the outdoor courts and the turf field.

MR. MCGROARTY: That's correct. Nothing beyond the typical what's on the plan already.

MR. WEISS: So we make that a condition the applicant has no problem with us saying the field will not be lit when the dome is down?

MR. SELVAGGI: No.

MR. WEISS: Okay so we've addressed a bunch. Joe?

MR. FLEISCHNER: Mr. Chairman is there going to be any discussion among the Board members before there is a motion on the floor?

MR. WEISS: Well you know I could do it one of two ways and I'll certainly take an opinion. We need to get a motion, second it usually in an application like this that's gone for a long time I like to have every one of us if you know before you vote if you have something you would like to discuss.

MR. FLEISCHNER: No, no that's fine.

MR. WEISS: I think there should be some discussion, some comments if you have none of course you have none but I think if you have something to say I think it will give you the floor and as you cast your vote you can explain how and why. I would be interesting to know how we feel. So that being said I will entertain a motion based on the commentary that was made by our attorney and our professionals. Those would be incorporated into a motion. Mr. Mania I see you are ready to make a motion.

MR. MANIA: I'm ready to make a motion. Mr. Chairman I move for approval of PB 13-21 Flanders Road Partners LLC preliminary and final site plan with variance and with the conditions set forth by our esteemed attorney.

MR. WEISS: Thank you Mr. Mania.

MR. FLEISCHNER: And I'll second it.

MR. WEISS: Second by Mr. Fleischner.

MR. BUZAK: Are you seconding the esteemed part as well?

MR. FLEISCHNER: As well.

MR. WEISS: That being said we have a motion, we have a second. Catherine I will ask for a roll call and at that point we'll take comments.

MS. NATAFALUSY: Joe Fleischner -

MR. FLEISCHNER: Obviously since I seconded it you know where my vote will go and I understand what the folks in the neighborhood feel, I've lived in Mount Olive for over 39 years I started out living on a cul-de-sac it's no longer a cul-de-sac. There was no traffic light at Wolfe Road and Smithtown Road the town had completely different texture. I belonged to the old Solar Sun Club when the trees weren't that high back in the mid 1970's and I also remember when there was no Tinc Road School and we had houses around it and Tinc Road School was built. Unfortunately, myself included, I have lamented many times why the town continues to grow I believe Mr. Mania you're more than my 39 years.

MR. MANIA: 43.

MR. FLEISCHNER: 43 and I'll be 40 and we've both seen this town change drastically and each neighborhood has been affected dually by all of the changes. Do we want to say this is progress or it's not progress? Nature of the world we live in I have grandchildren they run for soccer in central Jersey, they play in domes and I just marvel at it. But the reality is times change and things are different. I'm not an expert on appraisals on property values I don't think anyone on this Board actually is that's up to the Tax Assessor markets go up, markets go down. I think that the use of this facility as an all inclusive with tennis, I've done my research on this organization as well and spoken with people who have utilized them and they have told me what you have heard from the gentlemen that they've always been first class. Even allowing their facilities to be used by . . . when the weather is bad by the high school teams to practice in their facility and I believe at no charge. And I'm like, "wow that's you know pretty impressive to be a good neighbor for our school people." And with that said I have to vote yes.

MR. WEISS: Thank you Joe.

MS. NATAFALUSY: Judy Johnson -

MS. JOHNSON: While I can appreciate everything that Joe said and I think it's good to move this town forward in my own mind I'm just not satisfied I'm voting no.

MS. NATAFALUSY: John Mania -

MR. MANIA: Of course like Joe says I've been here many years I can remember when the Village Green was a farm and my kids used to sleigh ride there. I sat on this Planning Board for many years and I can remember the Foreign Trade Zone what was scheduled to go there was an amusement park. Palisades was coming to Mount Olive that would have been a disaster. I fought the amusement park, got it on a ballot the residents turned it down and we have a nice ratable with the Foreign Trade Zone. So progress has to continue and that's why I'm voting yes.

MS. NATAFALUSY: Dan Nelsen -

MR. NELSEN: I understand how difficult it is for the people who live across the street from this it's quite a change from what they're used to. I think the applicant has made . . . has taken great measures to remediate any problems that might stem from this. I'm going to vote yes on it.

MS. NATAFALUSY: Nelson Russell -

MR. RUSSELL: I look to the Jersey Building Codes on the computer here for some guidance and there are a couple of things, Section 3103 addresses temporary structures. The provisions of this section shall apply to structures erected for a period of less than 180 days, tents and other membrane structures erected for a period of less than 180 days shall comply with the International Fire Code, temporary structures tents, tension membrane structures and canopy's meeting the criteria shall not require a permit (inaudible). I found it interesting if you went through 180 days you wouldn't even need a permit. And height, the maximum height membrane structures shall not exceed one story nor shall such structures exceed the height limitations in feet set forth in table 5.03. Exception, non-

combustible membrane structures serving as roofs only. So that seems kind of to negate the accessory structure height limit and accordingly I'm voting yes.

MS. NATAFALUSY: Brian Schaechter -

MR. SCHAECHTER: You know change sometimes is not good in the beginning but in the end when you look at it in retrospect it's a positive thing. I think that the applicant has done a pretty good job at mitigating every single one of the issues that have been brought up and should be commended for that. With that I'm voting yes.

MS. NATAFALUSY: Scott Van Ness -

MR. VAN NESS: I have my reservations about the project I've asked the questions that I feel need to be answered and I think the applicant has answered my questions and has done the necessary things to help mitigate any problems that were site issues that the residents may have. My bigger concern wasn't the height of the project but was the use of the project and that project had ever been allowed to install seating and bleachers and such would have simply made this that hockey rink that was permitted many years back. And if that was the case or if it is the case in the future that there is a proposal to make that building such a thing that would allow the use to be excessive to bring in crowds and buses and spectators and so on you would certainly not get an approval from me. However, based on this plan and knowing that they would have to come back to the Board for any kind of change in their use I will vote yes.

MS. NATAFALUSY: Howie Weiss

MR. WEISS: You know as the Chairman as Joe and John can attest I have to take a totally different position. I try as the Chairman to keep emotion out of it we handle so many applications that affect people's quality way of life. We've heard recently the Siemens application that just effected 200 plus families perhaps it went on for hours and hours and the reality is that Land Use is a very cut and dry business and I think most of it is dry. It's not easy to digest quite frankly some of it just doesn't make sense to me. I've been here for a long time and keeping emotion out of it we have to address the real issue, there's only one issue in this application from a Land Use perspective and that's the height variance. And that required the most important testimony in this application to be planning and Ms. Gregory I think you did a phenomenal job I know it was contentious at time but we needed to hear testimony to the planning negative criteria/positive criteria still confuses most everybody. As long as I sit next to Mr. Buzak I promise I will not be one that's confused by it. But in the end the question was does the intent of this project conform to the zoning. And you have to understand that development is a bi-product of zoning so perhaps, and I now would like to say this, but perhaps when this Planning Board addressed the Master Plan and rezoned this land for recreation use that was probably the time for the public to come and speak about how us changing the zone would affect the quality of the life. Because now unlike the ice rink from many years ago, now you have a conforming use and that the Planning Board through the Master Plan has already said that this piece of property is recreational use. So all of those arguments have no place from a Land Use perspective and what we're left with is a variance of height and it was that variance request . . . and I know our planner didn't necessarily agree and I don't like going against our planner but I think in this case the intent of the zone was . . . the integrity was protected. And that's what we're here to do and because of that one issue which was the height I have to support this application and I'm going to vote yes. And that being said Catherine it looks like it's a seven to one, this application passes.

MR. SELVAGGI: Thank you very much.

MR. WEISS: That's the end of this application Mr. Selvaggi. Thank you members of the public thank you for coming out. We have no further business on the agenda Catherine?

MS. NATAFALUSY: No we're done.

MR. WEISS: Chuck, Gene?

MR. BUZAK: I have one thing and I know you all want to go but I want to take one minute to tell you about the Supreme Court's decision on COAH. The Supreme Court invalidated the growth share standards that COAH had adopted which was a build as you grow philosophy whereby as you grew residentially or you grew commercially you would have to provide a portion of the development in residential developments for affordable housing. The Court directed COAH to adopt regulations that would conform to their earlier methodology which was not a build as you grow but was an assigned

number. There were projections made and municipalities were given a specific number of affordable units that they had to produce within a time period. That's probably the bad news, the good news is that while doing that the Supreme Court acknowledged that there are other ways in which you can accommodate an affordable housing obligation and did not discount growth share as such. They just felt that growth share was not consistent with the Fair Housing Act but if the legislature wanted to change that they gave very strong signals that the legislature could. That's important because you may recall the legislature had considered adopting a growth share model and ultimately they were unable to come to an agreement between the Governor's office and the legislature. But there was always a concern as to even if they did come to an agreement whether that would be acceptable to the courts. The Supreme Court seemed to indicate that it would be and I think that's good news because it gives municipalities a hope that things can change. It's a legislature and the Governor get together over the next five months. Right now we're at limbo as we were before the only difference is this limbo is finite. Five months from September 26 the new regulation should be adopted and we all should know where we're going or if legislation is adopted that changes it we'll know that as well. So early next year I suspect we're going to have some activity in that regard because the plans that have been submitted even if the legislature changes the law and adopts a growth share formula it's likely going to be different from what COAH did so therefore these plans are all going to have to be redone. So you'll be facing that next year but the good news is the decision has been made and we're going forward.

MR. FLEISCHNER: Howie before you call for adjournment there was another issue that Chuck made. A comment, a good comment the Appellate Court ruled that you cannot limit houses of worship on main and feeder roads and sent it back to an existing court. If you could just clarify that I'm confused.

MR. MCGROARTY: It was actually a Federal Court it was a (inaudible) case in Bridgewater it's a long case but the short version of it is, and we're in a public forum, my firm was brought in to work on the . . . not me personally but to defend an ordinance that had been prepared, not by us. Quite frankly and I'll say this publicly, the ordinance was poorly drafted poorly thought out and it was immediately struck down. So that's why when we're doing their reexam report now we talk and we are very careful and Ed Buzak is . . . He can talk far more knowledgably about this I believe you were involved in that case here in Morris County right?

MR. BUZAK: Yes.

MR. MCGROARTY: I forgot the name of it.

MR. BUZAK: Christ Church.

MR. MCGROARTY: So we have an expert here our attorney . . .

MR. BUZAK: Let's not go that far.

MR. MCGROARTY: Well if there's an expert at all Ed has the experience. But I think going forward, and that's why we've been doing this for the Reexam report we want to be careful that we treat houses of worship similar to other kinds of uses and we try to read and understand the case law and be guided by Ed so that we don't fall into that same trap. What they did in Bridgewater was to invite a disaster and frankly they already lost the (inaudible) lawsuit once before with a Hindu Temple. So you know you try and learn from experience.

MR. FLEISCHNER: Yeah I only raised it because we had spoken about it in the ordinance committee about where houses of worship would be allowed to occur.

MR. MCGROARTY: And what standards apply.

MR. FLEISCHNER: And what standard applies and then when I saw that . . .

MR. MCGROARTY: No that's a good point that's a good example of what not to do. And if anyone ever . . . if you want to read the case we can make it available. So the court said go to the Planning Board and the ordinance is out and rehear it.

MR. FLEISCHNER: Thank you.

MR. MCGROARTY: And I can say all of that because we didn't do it.

MR. WEISS: Just for the record next week I won't be here I'll be traveling for business. Joe your on I suppose?

MR. FLEISCHNER: Yes.

MR. WEISS: And there's a change to the schedule, does that change . . .

MS. NATAFALUSY: Ed we're going to have a conference call with Mr. Selvaggi I believe on Tuesday morning and we'll make the decision then?

MR. BUZAK: Yes.

MR. WEISS: Is that the only application on?

MS. NATAFALUSY: I have a variance application that night but I'm not going to bring the Board in just for one variance, if that is not on then both of them will just be carried, postponed to November.

MR. WEISS: So because of the situation that's at hand we'll know early next week if there's a meeting. Scott I think you had something to add to the meeting?

MR. VAN NESS: Motion for adjournment.

MR. WEISS: But before we do that shouldn't we open it to the public to see if the public has anything to say? Seeing nobody from the public Scott has made a motion can we second it?

MR. SCHAECHTER: I'll second.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 9:20 P.M.)

Transcribed by:  
Lauren Perkins, Secretary  
Planning Department