

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, John Mania, Nelson Russell, Jim Staszak, Steve Bedell, Howie Weiss (7:53 p.m.)

**Members Excused:** Dan Nelsen, Mayor David Scapicchio, Scott Van Ness, John Ferrante

**Professionals Attending:** Chuck McGroarty, Planning Consultant, Eugene Buczynski, P.E., Tiena Cofoni, Esq., John Miller, Esq., Catherine Natafalusy, Planning Administrator

**Professionals Excused:** Edward Buzak, Esq.

---

**APPROVAL OF MINUTES**

**July 14, 2011 Public Meeting**

Motion: John Mania  
Second: Steve Bedell

**Roll Call:**

Joe Fleischner - yes  
John Mania - yes  
Nelson Russell - yes  
Jim Staszak - yes  
Steve Bedell - yes

**August 11, 2011 Public Meeting**

Motion: John Mania  
Second: Nelson Russell

**Roll Call:**

Joe Fleischner - yes  
John Mania - yes  
Nelson Russell -yes  
Jim Staszak - yes

---

**COMMITTEE REPORTS**

MR. STASZAK: Committee reports the Mayor is excused. Council Mr. Mania?

MR. MANIA: Yes Tuesday night we passed a resolution awarding a contract and ground lease of the Combe Fill North Landfill property for the installation of a solar photo-photaic system to Syncarfa LLC. That's it.

MR. STASZAK: Thank you. Environmental Committee?

MR. RUSSELL: I missed the meeting last night so I have no report.

MR. STASZAK: Okay Ordinance Committee has no report at this time. Street naming is Howie he's not here. Open Space did we appoint somebody to Open Space Catherine?

MRS. NATAFALUSY: Not yet.

MR. STASZAK: Not yet okay.

---

**EXTENSION REQUESTS**

**APPLICATION #PB10-07 – ROBERT & FAITH DONNELLY**

MR. STASZAK: Okay we'll move onto extension requests. The first one is Faith & Robert Donnelly extension of variance approvals for Block 7000, Lot 80 – 79 River Road.

MRS. NATAFALUSY: I don't think they're here. I sent them a letter inviting them to the meeting if we can hold off and see if they show up.

MR. STASZAK: Okay we'll put the back and if they show up then we'll come back to it.

MRS. NATAFALUSY: Okay.

**APPLICATION #PB 10-29 (AMENDED) – MORRIS HABITAT FOR HUMANITY**

MR. STASZAK: Okay the next one is PB 10-29 (Amended) Morris Habitat for Humanity it's an extension of time to perfect a minor subdivision, waiver of provisions of Section 400-75 I the Tree Replacement for Block 1300, Lot 44, 24 Lozier Road. Good evening.

MR. ZELENTY: Good evening Paul Zelenty with Gramm, Curtin in Morristown for the applicant Morris Habitat for Humanity. On April 14, 2011 this Board granted minor subdivision approval with respect to this property Block 1300, Lot 44 and a portion of Lot 43. One of the conditions of the approval was perfection of the subdivision within 190 days, another was Highlands Council approval. Because the plans were modified from a duplex to a single-family we've had issues with Highlands we're continuing our discussions and negotiations we expect that to be completed but we're about to run out of the 190 day time period and therefore we're requesting a 190 days extension of the time to perfect although it's our sincere hope and expectation that we'll wrap things up with Highlands shortly and get the perfection issue resolved.

MR. STASZAK: You're also asking for the extension of the waiver for the tree ordinance?

MR. ZELENTY: There wasn't a waiver granted it's just a clarification on that and if you want to deal with those separately or I can give you the second one.

MR. STASZAK: Give us the second one.

MR. ZELENTY: That's fine. At the time we were here earlier this year the application again involved the duplex initially. That was not approved. But in the context of that application there was the submission called for the removal of 30 trees and the ordinance requirements of one to one replacement, we were only able to put two replacement trees on the property due to the site restrictions. And the Board recognized that, the conclusion at the time was to put our professionals in contact with the Board's professionals and figure out some shrubs to make up for the difference. Since that the plans have been reworked we now have a conforming lot we don't need site plan approval. So we've gone ahead and we're preparing plans, the plans have been submitted to the Board earlier this week which called for only 18 trees to be removed with 2 replacements. Subsequent to that we've actually gotten the number down to 14 so 14 trees will go there'll be two replaced with a net loss of 12. In that context we're looking for a waiver if the Board wants us to talk about some additional shrubbery we're happy to do that as well it's up to the Board.

MR. STASZAK: Were you able to talk to our professionals concerning that?

MR. ZELENTY: I spoke to the attorney but Fred I don't know if you had a chance to speak to Gene.

MR. STEWART: We've been in discussion about the plans that we've been submitting back and forth.

MR. BUCZYNSKI: But not about the trees though.

MR. STEWART: Not about the trees as of yet.

MR. BUCZYNSKI: Right.

MR. STEWART: We're still working out with Highlands so I think we're at the end of the road with Highlands but now we can move forward with the trees, and the shrubs I should say.

MR. STASZAK: So you're close with Highlands is what you're telling us?

MR. STEWART: Yes we're getting close with Highlands.

MR. ZELENTY: And I'm sorry Alfred Stewart the applicant's engineer.

MRS. NATAFALUSY: Mr. Chairman I spoke to Chuck about it because I had spoken to Ed about it and we talked about putting it on the agenda because Ed said that the Board would still have jurisdiction since the extension request for the perfection would be on tonight and Ed suggested that you know maybe they come here tonight to discuss the waiver request and I spoke to Chuck about it yesterday so he would be prepared.

MR. MCGROARTY: And what I would say to that Mr. Chairman, members of the Board is that Mr. Stewart, if he would just clarify that they cannot or that there apparently is insufficient room on the lot and I've seen the lot from the street I haven't walked the property. But they're removing 14 they've gotten it down from their original number. The one thing I would say is this is, in my opinion, this is different than the typical application because it is an affordable housing site. And two points to be made there, one is Morris Habitat for Humanity has requested money from the Township through the Housing Trust Fund which is an appropriate request and it's being considered, the dollar amounts will be worked out to help fund this affordable unit. And it would seem a little peculiar then for the town to be giving them money through the Trust Fund and then taking it away. But let me point out also just for the Board's consideration in the third round rules that, some of which are under review now by the Supreme Court as you know, but there is a section which talks about affordable sites and to eliminate unnecessary costs generating requirements. And among the number of things which are listed in the third round rules which is 5:97-10.2 one of the items listed is tree replacement. So I think if the Board is inclined to do so there's a basis for it in the regulatory framework for affordable unit. And then again just on the common sense basis again the town will be most likely giving money to this project and it would seem a little silly to be turning around and asking for money in return. Assuming they can't fit more than two trees, I don't know why they can't fit more than two but perhaps they can address that.

MR. ZELENTY: If I can allow Fred to . . . Fred can you address the limitations of the site.

MS. COFONI: Why don't we swear you in?

(ALFRED STEWART SWORN IN FOR THE RECORD)

MS. COFONI: If you could just state your full name spelling your last name and giving your business address for the record please.

MR. STEWART: Sure Alfred Stewart (S-T-E-W-A-R-T) business address is 148 East Main Street, Rockaway, New Jersey.

MS. COFONI: Thank you.

MR. STASZAK: Okay.

MR. ZELENTY: In anticipation of Fred's testimony as part of the process we acquired or are under contract to acquire a portion of Lot 43 which I think slightly goes a little bit further than doubling the size of the lot. The Highlands restrictions have limits of disturbance that essentially where we're at is totally restrict the ability to do anything on that property including plantings.

MR. STASZAK: So Highlands tells you you can't plant trees, okay I won't say anymore.

MR. STEWART: If I may these are two plans here. This one was recently submitted probably about a month ago I believe for a grading plan to be approved for a single-family home. And this was our subdivided area; this is our new lot I'll say. On the right hand side is our newer plan which based on Highlands discussions is what we came back to. As you can see the outline yellow area is our limit of disturbance previous and this is our new limit of disturbance and this is why we were able to get down to 14 trees. We actually just placed a small wall back along here to make up some grade that we previously were grading off to swale around the house. Now we have a small wall here and a small swale right in front of that wall to re-grade around the home to direct stormwater runoff.

MR. BUCZYNSKI: Basically no backyard.

MR. STEWART: Basically no backyard and that's because of Highlands issues that we have to address.

MR. MCGROARTY: If I may though I'm curious I mean you're allowed up to an acre of disturbance are you not? In a quarter acre impervious when you're all said and done.

MR. STEWART: That's correct but it's somewhat more complex than that with the Highlands because now there's two lots involved . . .

MR. MCGROARTY: And they count the existing.

MR. STEWART: They count the existing lot and it's really a lot of detail it's just a . . .

MR. ZELENTY: They're looking at the . . . there's a home on the balance of 43?

MR. MCGROARTY: No I know I didn't think they counted the other lot for disturbed area they count it towards impervious but I wasn't aware they count it towards . . .

MR. ZELENTY: Yeah the negotiations . . . a long story made very short is they were trying to restrict . . . apply the one acre disturbance and .25 impervious to both lots. We think we have them to the point where they will give us that on each of the two lots but that essentially limits us to what we can do in the backyard. Now Gene if I may to the Township Engineer's point as to no backyard, there's no backyard from a development standpoint.

MR. BUCZYNSKI: Right.

MR. ZELENTY: The property owners are allowed to walk in the backyard.

MR. BUCZYNSKI: Right understood.

MR. STASZAK: That's your new tree plan to the right?

MR. STEWART: This to the right is a new plan the latest plan and we believe that's what we're going to go with with Highlands, that's going to be approved by Highlands that's where we're at right now. These pink highlights are the trees that we're actually saving from this plan which is four more additional trees. They're a little bit closer to the house than I would prefer to see I mean this one back here is only about 13, 14 feet away. But that's basically what we have to deal with now.

MR. STASZAK: Can we just mark that so we know what's what?

MRS. NATAFALUSY: Yeah.

MR. ZELENTY: And what are the restrictions in the Lot 44 that's coming from the township as to plantings? What are the restrictions?

MS. COFONI: Can we mark that . . . we'll mark the one on the . . . because they're two separate right?

MR. STEWART: They're two separate plans I just folded it in half so you can see.

MS. COFONI: Okay can we mark the one of the left A-1 and if you could just give me the title and the date on that.

MR. STEWART: Okay that's a grading plan for 24 Lozier Road revised 8/9/11.

MS. COFONI: Okay and then the one on the right?

MR. STEWART: A-2?

MS. COFONI: Yes and is that grading plan as well?

MR. STEWART: Yes.

MS. COFONI: And what's the date on that one?

MR. STEWART: Revised to 10/19/11.

MS. COFONI: Thank you.

MR. STEWART: Sure.

MR. MCGROARTY: Mr. Chairman can I just ask Mr. Stewart are the dots on both plans trees that would be removed?

MR. STEWART: These were previously to be removed; now they're saved.

MR. MCGROARTY: So they're not new plantings they're just plant trees that . . . where would your new planted trees go? In front?

MR. STEWART: There's one here and one back in here.

MR. MCGROARTY: Okay.

MR. ZELENTY: So the picture of the reduction from 18 to 14 as to what's coming out would still have to come out.

MR. BUCZYNSKI: Could you put anymore in the front?

MR. STEWART: Well that's what I was just going to get into. Here's our driveway in this area here we do have two trees being removed in that location, to the northeast of that there's a clump of trees that we're saving. Going towards the southwest another clump of trees that we're saving in this area here but then we have our utility services coming in for the sewer, then we also have our dry wells being placed in this corner here. So as you can see I mean we really only have this area of disturbance as far as trees go. It's so limited being because of all the lines going to the house for dry wells, for the sewer, the driveway I mean there's actually only a small path in here probably about 15 feet wide between the driveway and the sewer. And that's it that's the only planting area we could actually have on this entire site after we're done with the construction. As you can see towards the rear there's the back of our house literally 10 feet off of the back of the house is our limit of disturbance line so we can't really do any plantings in there either. The remainder of the parcel, which is really the parcel that we purchased the lot next door, is just going to be Highlands restricted. Just so the Board knows we shifted over our limit of disturbance off of this southwesterly boundary line more towards the dwelling too.

MR. ZELENTY: Fred is the back lot that we're purchasing are there trees on that?

MR. STEWART: That's fully wooded yes.

MR. ZELENTY: Okay.

MR. STEWART: Trees and there's basically a stone row a pile of rocks basically winding up through here.

MR. MCGROARTY: If I may I did talk to someone at the DEP about this. It's the DEP more than Highlands, not that I'm here to defend Highlands but the DEP is really the ones that you guys have to deal with am I correct on that?

MR. STEWART: That's correct it's personnel within the DEP.

MR. STASZAK: Mr. Fleischner.

MR. FLEISCHNER: Here's my question, should this get approved the homeowner moves in they don't like those two trees or the new trees you put in, and I got to go back and refresh my . . . Habitat for Humanity still owns the house, or can the homeowner then go out with their chainsaw and cut the trees down if they want to?

MR. ZELENTY: The house will be deeded to the homeowner but there is a deed restriction.

MR. FLEISCHNER: Which prevents them from cutting down trees?

MR. ZELENTY: Well there's deed restrictions on all sorts of things. I can't speak directly to whether or not the trees are prohibited we can certainly if the Board makes it a condition, I'd prefer not to get into that in a deed restriction but I have no problem imposing that on the property owner.

MR. FLEISCHNER: Oh I agree I don't think it belongs in a deed restriction. But if they want to cut it down then technically if it's not a deed restriction it's too close to the house . . . .

MR. ZELENTY: Habitat wants to be a good neighbor so if the township says Habitat make sure those trees stay we'll make sure the trees stay.

MR. FLEISCHNER: And I understand that but I'm going to put on a different hat and say I'm the homeowner and I just bought this house why should we pay you know . . . I just don't see any sense of making you plant a tree if the lot is so crowded as it is and I know the lot behind there because I've been up there it's fully wooded, do I need another tree. Why make them put in a tree if the homeowner may say I don't really need this tree. So I'm just saying you know it saves a few bucks all around. It's just my thought, I'm thinking out loud.

MR. ZELENTY: On behalf of the applicant we would be thrilled to eliminate the requirement of adding two trees on that lot.

MR. STASZAK: I don't know if we want to do that.

MR. FLEISCHNER: Well I'm not saying . . . but I'm just . . .

MR. STASZAK: We're waiving what 12 trees it is now?

MR. ZELENTY: Correct.

MR. STASZAK: Let's get some sort of a replacement.

MR. FLEISCHNER: Yeah but we also waived a homeowner that could have moved into that neighborhood and had a nice house.

MR. STASZAK: Right so we're waiving 12 trees. Anyone else from the Board?

MR. ZELENTY: I have nothing further other than to respond to any questions of the Board.

MR. STASZAK: Anyone from the public, I open it up to the public anyone from the public have a question of this witness? Seeing none we'll close it. Counsellor?

MR. ZELENTY: Thank you so I would just conclude before hopefully the Board will consider taking a vote on this again it's a request for an extension of 190 day extension which is permitted under the statute of period to perfect. And a waiver of either all plantings or the replacing the net 12.

MR. STASZAK: Okay Tiena can we do this one at a time or can we put it together?

MS. COFONI: No, no I would put it together.

MR. STASZAK: Okay. I look for a motion?

MR. MANIA: So moved Mr. Chairman.

MR. BEDELL: I'll second.

MR. MCGROARTY: Well are you waiving all or just the 12 or what is it that you're doing?

MR. MANIA: Just the 12.

MR. STASZAK: You're good with the 12 too Steve?

MR. BEDELL: Yeah I'm good with that.

MR. STASZAK: Okay any comments at this time from the Board members? Roll call Catherine.

MRS. NATAFALUSY: Joe Fleischner - yes  
John Mania - yes  
Nelson Russell - yes  
Jim Staszak - yes

Steve Bedell - yes

MR. ZELENTY: Thank you.

---

**DEVELOPMENT MATTERS**

**APPLICATION #PB 11-21 – GOLD MINE PARTNERS LLC**

MR. STASZAK: Next matter PB 11-21 Gold Mine Partners LLC Block 4500, Lot 3, 174 Gold Mine Road. It's an amended preliminary and final site plan with waivers. Good evening.

MR. KRON: Good evening Mr. Chairman, members of the Board for the record Larry Kron Nusbaum, Stein, Goldstein, Bronstein & Kron. This is the application of Gold Mine Partners. The property is Lot 3, Block 4500 it consists of 19.37 acres and it's within the commercial/light industrial zone district. It's located on the southerly side of Gold Mine Road. It's just immediately east of the transfer station. It formerly was a stone quarry. This Board in March of 2008 granted a site plan for two buildings that were going to be used for retail, office and warehouse space and was subject to the Highlands. The Highlands, we went to the Highlands and the Highlands apparently and the DEP did not recognize that a stone quarry was impervious. So we had to go back and amend the plans because of that to get something that the Highlands would accept. And what we now have is we've reduced the size of the number from two to one, we have one 13,108 square foot office building that's solely going to be used by Mr. Skoda whose current operation is right across the street. And it conforms with all of your regulations and again it's an amendment for reducing that and the reason that we're doing it is because of the Highlands. We spent almost five years going back and forth with the Highlands in order to get what we have now and we had to walk on the property probably half a dozen times to convince them that stone is quarry and is impervious. But be that as it may the first witness I'd like to call is Mr. Skoda who is one of the partners and the owner of the project that will be on site.

MR. STASZAK: If we could just take a moment Mr. Weiss has arrived and I turn it over to him.

MR. WEISS: Okay give me one second thank you.

MR. RUSSELL: There's a conflict here the one says, description of operation says 147 Gold Mine Road and our agenda says 174 Gold Mine Road. Which is the proper address?

MR. SKODA: 174 is the Highlands property, I'm currently at 147 Gold Mine.

MR. RUSSELL: Okay thank you.

MR. WEISS: All right I'm ready for you now.

MR. KRON: Okay can we have Mr. Skoda sworn in?

MS. COFONI: Sure.

(MARK M. SKODA SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your business address for the record please.

MR. SKODA: Mark M. Skoda (S-K-O-D-A) business address is 147 Gold Mine Road here in Flanders in Mt. Olive.

MR. WEISS: Okay and Mr. Skoda you're the owner of the property?

MR. SKODA: Yes.

MR. WEISS: Okay perfect that's what I thought I heard as I sat down.

MR. KRON: Mr. Skoda you're one of the partners of Gold Mine Partners?

MR. SKODA: Correct.

MR. KRON: And you also have your own business which is . . .

MR. SKODA: Skoda Contracting.

MR. KRON: Okay and currently where does that business operate?

MR. SKODA: 147 Gold Mine Road which is just 100 yards down the street on the opposite side, across from Lowe's shopping center.

MR. KRON: It's your intention with this application to move your whole operation across the street is that correct?

MR. SKODA: Correct.

MR. KRON: Can you tell the Board what your current operation consists of?

MR. SKODA: We are utility contractors. We work exclusively for Elizabethtown Gas and our operation now is in about a 4,000 or 5,000 square foot building and we're very cramped. We have five people in the office, two mechanics and our yard is just packed with our supplies, plastic and steel pipe and our trucks and equipment. So we just want to duplicate, pretty much double the size of our steel building in this case across the street and we've been back and forth as Larry said with Highlands it seems for a lifetime in trying to develop this. It went from our 19 acres down to just a couple and the rest is in you conservation easements. And everybody knows where it is next to the quarry. It's not exactly a scenic spot in town if you know what I mean, next to the transfer station.

MR. KRON: So the proposal is for approximately a 13,000 square foot office/warehouse structure is that correct?

MR. SKODA: Correct.

MR. KRON: Can you tell the Board how you intend to use that structure?

MR. SKODA: As I said before just for ourselves for our office staff which is an engineer, three ladies in the office. You know our personnel don't really work out of the site it's more for our mechanics and our storage of equipment. We work in the field one or two guys may come in and jump in one truck and go to a job site but it's pretty much office/warehouse if you will or office repair facility.

MR. KRON: And what do you actually do on site?

MR. SKODA: Just process paperwork, repair equipment and store our equipment.

MR. KRON: And where would you be doing the repair on the new site?

MR. SKODA: Everything is done. We only have two bays now I think this building is designed for six so everything is done obviously inside. Repairs just consist of maintenance really, anything major any kind of engine overhaul we just send everything out or you know or bring whole crate engines or transmissions whatever I have in. That's about it we don't have anything hazardous inside motor oil is about as dirty as we get.

MR. KRON: So there's no hazardous material that you use?

MR. SKODA: Not at all.

MR. KRON: Okay and so you're basically moving your location across the street and enlarging it a little bit.

MR. SKODA: Right and we have indoor storage of our various pipe fittings for the gas industry whether they're plastic or steel we do everything for Elizabethtown Gas we have inventory of all of the gas meters, anything that if you have gas in your house from Elizabethtown chances are we probably put it in.

MR. KRON: How long have you been on the site across the street?

MR. SKODA: About 15 years I think.

MR. KRON: Okay and other than yourself nobody else is going to be utilizing that building.

MR. SKODA: No, no we had originally, you know it seems like a lifetime ago, we were going to develop an industrial park then the whole Highlands thing came and I was kind of flabbergasted that they drew the line there considering you know what was there is not surrounded by development. All of a sudden they kind of picked on me for this site but anyway, so that the whole you know taking one building and using and renting another that's all gone it's just for ourselves. We're just really overcrowded we're doubled up in offices now we only have four offices.

MR. KRON: I have no further questions of Mr. Skoda.

MR. WEISS: John?

MR. MANIA: If you received an approval what would you do with the existing site? Lease it out, rent it out?

MR. SKODA: That's a good question John a lot of people have approached me because of exactly what I'm going through it's impossible no one wants to see you know a truck or a backhoe anywhere parked it seems like anywhere in New Jersey. We drive trucks down to Linden and back every day we rent a little tiny yard down there so we may just rent it out, we may actually need it because we are so crowded now we only have you know 3 acres here we may have to even leave stuff over there. But our site over there is just an eyesore because it's so packed in. So this, with you know, with trees and the planning that we've done I think it will be a lot nicer. I mean a lot of people have approached me just to knock it down and put up an office there you know its right next to the shopping center on the corner so it's a pretty valuable corner. And it's out of the Highlands I think the line was right down the center of the road.

MR. MANIA: And you would do oil changes on the site? You presently do that now don't you?

MR. SKODA: Yeah we do that now I mean everything is you know is recycled I mean the most hazardous thing we have in our shop now is probably a battery you know on the floor or something. We don't handle concrete . . . . .

MR. MANIA: Anti-freeze you have in 55 gallon drums?

MR. SKODA: Yeah that's all contained we have you know everything in . . . wheel lubes and we have . . . everything has got spillage . . . I mean we took the oil tanks out and we're not even going to replace them it's too much I can't take it anymore so we'll just go with a gas station (inaudible) it's easier.

MR. WEISS: Joe?

MR. FLEISCHNER: I'd just like to say it's unfortunate that you had to come back here tonight because I remember when we approved this in the past and we went through all of this and its mind boggling.

MR. SKODA: It's beyond belief it's so frustrating and they came out to me the last time we walked the site we went out there and I asked them about a contingency plan and I said I waive the flag I'm done this is it I can't take it anymore. You know I said what are we really doing here, I just want to build a building on my own property I don't want to put up a nuclear power plant.

MR. KRON: We went up there with people from the Highlands and the DEP and they determined it was 70 percent impervious coverage, we marked it out we sent it and the Highlands recommended this and they recommended that the DEP approve it. The DEP initially disregarded it they said no it's not impervious coverage. Even though they had a representative there that indicated on the record.

MR. SKODA: One agency is working against the other it's killing New Jersey. But you guys all know I'm preaching to the choir here it's beyond belief.

MR. BEDELL: So this property you already own this property this is like . . .

MR. SKODA: I've owned this property for years if you know the amount of money I turned down to sell this when they built the shopping center, when they said it was in the Highlands I said it had to be a mistake why would they put it . . . it's an abandoned quarry. I have pictures from 10 years ago that whole cliff in the back we had to fill that in because kids were riding bikes. And now they say I can't fence it but I have . . . they lit a truck on fire last year over there, they ride dirt bikes and I can't do anything about it I can't fence I can't do anything. If someone gets hurt it's going to come back on me.

MR. WEISS: Does anybody else have any questions? Chuck go ahead.

MR. MCGROARTY: Yeah Mr. Skoda on this, and you touched on it but just so we can clarify it, the gravel area that your proposing behind the building you mentioned you have pipe, plastic and metal piping or steel pipe rather?

MR. SKODA: Yes.

MR. MCGROARTY: At your existing site? Is that what you would store out here?

MR. SKODA: Pretty much we get it delivered and then we take it to a job.

MR. MCGROARTY: Well I think it's important that you tell the Board what, to the extent you can, what you will have out there so that it's clear and then in the future there's no misunderstandings or disagreements. Are you going to have vehicles stored in the back too?

MR. SKODA: We have vehicles on the gravel area or on the paved area but I don't know whether . . . I don't have it in front of me . . . we, do you know we come in at night, park there and in the morning they leave. If we have a job of you know 5,000 feet of pipe we'll have it there and we take it as we need it to bring to a jobsite. It's all on skids it has to be . . . we can't just dump it around because it's all tested, x-rayed, and everything else and well it's a long story but . . .

MR. MCGROARTY: Okay so generally pipes, the vehicles that would be part of the business. Anything else that you can . . .

MR. BUCZYNSKI: Gas meters right?

MR. SKODA: That's pretty much inside that's all you know on pallets. A lot of the stuff is palletized it comes shrink wrapped that's usually inside because it's all painted and they don't like it scratched up or anything.

MR. MCGROARTY: Repairs?

MR. SKODA: That's all inside you can't do anything outside.

MR. STASZAK: So the piping that you have on-site is you're basically just a temporary storage?

MR. SKODA: Oh yeah it constantly changes depending on you know we have, coils of yellow pipe if you've seen that anywhere and that comes and goes thousands of feet of that a year.

MR. MCGROARTY: Mr. Chairman just a couple of others and some of this perhaps is for Mr. Glasson or it's your property so perhaps you would want to answer it I don't know. I don't know if you saw the report.

MR. KRON: I think Mr. Glasson is going to deal with the rest of the items on the report.

MR. MCGROARTY: Okay.

MR. KRON: We'll have Mr. Skoda here if we go through it with Glasson and he doesn't have the answer we'll pull Mr. Skoda back.

MR. MCGROARTY: Right okay. Just bear with me one second then. All right fine thank you.

MR. KRON: Thanks.

MR. WEISS: So you'll review your report Chuck after we go through it with Jim?

MR. MCGROARTY: Right. Mr. Skoda though just before you go you did say then you don't keep any hazardous materials?

MR. SKODA: No not at all.

MR. MCGROARTY: And if it's included the Fire Marshall will review it anyway. Okay thank you.

MR. WEISS: Any other questions for Mr. Skoda? Anybody from the public have any questions for Mr. Skoda based on the testimony that he delivered? Seeing none we'll close it to the public. Thank you very much.

MR. KRON: Mr. Glasson? Okay I know the Board has heard Mr. Glasson many, many times so I request that he be qualified as an expert an engineer.

MR. WEISS: Not until he gets sworn in we won't.

(JAMES GLASSON SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your name and giving your business address for the record.

MR. GLASSON: James Glasson (G-L-A-S-S-O-N) company Civil Engineering Inc. 1 Cove Street, Budd Lake, New Jersey.

MS. COFONI: Thank you.

MR. WEISS: And I think we will agree with you Larry that we'll accept Jim as an expert engineer.

MR. KRON: Okay Mr. Glasson you've been the engineer in charge on this project?

MR. GLASSON: Yes I have.

MR. KRON: Do you want to give the Board an overview of the project?

MR. GLASSON: Yeah this is just a version of my sheet 3 of 14 that you have in your plans. I'll just give you a quick summation of where we stand and what happened.

MS. COFONI: Mr. Glasson if you could just mark that A-1 for me?

MR. GLASSON: Yes.

MS. COFONI: And if you could tell me . . . I'm sorry you said it was sheet what?

MR. GLASSON: It's a modified version of sheet 3 of 14.

MR. WEISS: Its existing conditions would you call that?

MR. GLASSON: Existing conditions and environmental plan.

MS. COFONI: And what is the date?

MR. GLASSON: It is 10/14/11.

MS. COFONI: Thank you.

MR. GLASSON: It's basically the same view that you see on your existing conditions it just has some more notes on it. As Larry said this property is located directly behind the Lowe's retail you can see the outline of Lowe's right here. This is a piece of property that exists directly behind it, to the east side is an office/warehouse, to the west side is actually the utility authority transfer station. The property is rather large 19.37 acres it has 720 feet of frontage on Gold Mine and has an average depth of 1184 it's in your C-LI zone which requires a minimum lot size of 5 acres so it far exceeds that. It requires a minimum lot width of 250, it has a minimum lot width of 738. It requires a minimum lot depth of 250 and its average depth is 1184. If we were to put a principal structure on the property we would have to

maintain 100 foot fronts, 50 foot sides and 50 foot rears. I've outlined on here the existing tree line that is on the property there's minimal amount of trees associated with the property most of it's overgrowth around a pond area, a man-made pond that exists in this area and then there's some growth along the westerly property line. The majority of the property, other than about 2 acres of woods, the majority of about 17 acres are wiped out. It looks like the moon, quite frankly I call it the moon. The DEP actually called it the moon when they were out there. We received your approval from you back in 2008 for 17,258 square feet and that was for two buildings. We had a building that was going to be for a Nations Rental Company located somewhere in this area, then we had a smaller building over here that was going to be for Mr. Skoda. At that time we had our preliminary and final site plan approval and we went of course to the Highlands for our exemption. And just to give you a little overview of what took place there, first we were turned down for our exemption the 125 percent exemption for coverage because they said what we have on our property does not count as a structure. There is no actual structure on the property therefore there is no place for us to fit in; we don't fit in the box, no go. We then went to the Highlands Council down in Chester after gyrations going around in circles with them they actually named us a redevelopment area and that was not an easy task to get done and we were only the second property in the State at that point that was named a Highlands Redevelopment Area. We felt we were celebrities they had press there. After the meeting the funny part about it was the Counsel for the Highlands Tom Bordon came up to us and sat with us and said well this is great that your redevelopment but you know that nothing has gotten through redevelopment yet it takes about 2 years, why don't you have an exemption. We said we applied for an exemption and they turned us down and he said that's wrong you should have been entitled to an exemption. So we talked when we found out the application fee for redevelopment was about \$54,000 you would have had to pay we said we're going to try for the exemption again. We applied again for the exemption with the support of the Highlands Council who backed it 150 percent and said this is absolutely entitled to an exemption and again we were turned down for an exemption. Again they sent us the same letter we were thinking that this is a no-brainer they sent us the same letter and said no exemption. We actually met up with a woman by the name of Tina Layre in the Office of Mediation which unfortunately like last week I think she left the Office of Mediation and moved on which is very sad because she seems to be the only person associated with the Highlands that gets anything done. We went down there we met with her we went through what our reasoning was we had three or four site visits they came out they looked at it and as Larry said they agreed with us then they disagreed with us. Finally the area that you see here marked, it's kind of a highlighted area here, its 3.28 acres that is the only area that they would acknowledge that actually had coverage because it's actually the stone area of the property. So even though the Highlands Council agreed completely that we should redevelopment this property the DEP basically forced us into this footprint of 3.28 acres. So that's what we're here for now, what we had before was outside of that area we had encroached into this other area and now we basically gave that thought up. So now I'd like to just show you what is my site layout plan it is my sheet 4 of 14 it's a colorized version that you guys have in your plans and this basically is a blow up of just that 3.28 acres because that is all we can touch. The remainder of this property, of the 19.37 is going to be put in a conservation easement. The reason you see these little marks on it is because what we have to do to that area is we have to grade it, we have to seed it, we have to mulch it the remaining area of the property, knock down the piles there's old top soil piles, there's piles of everything rock and then we're just going to plant it with a meadow mix and that's it that area remains forever in a conservation easement. They did give us permission to grade it off and clean it up.

MR. WEISS: Jim can you mark that one A-2 with today's date? And just for Tiena apparently you said that was a site layout plan . . .

MR. GLASSON: Yeah that's my sheet 4 of 14.

MR. WEISS: Dated.

MR. GLASSON: That's dated 6/8/11 last revised 7/29/11 probably the same exact dates you have in front of you on your sheet. Getting to our actual layout you can see here there's a darkened area in the middle that's the proposed building. Our building is within your C-LI zoning, setbacks it's the actual footprint is 13,108 square feet and that includes the overhangs and facades. The actual gross floor area of the building is actually only 11,953 there's a couple of fake facades along the front if you see on the architectural plans they give it a nice appearance from Gold Mine Road. There's some archways but those are really not entrances to the building if you look at the architectural the main entrance to the building is on this westerly side. Those are only basically a fake look so that it has some peaks and does not look like a steel building. The building itself has 2,971 square feet of office space and that's located on this westerly side with the main entrance. That's about 50 foot wide by 60 foot deep that office space. And then beyond that is a warehouse so that's 8,982 and that has six garage bay doors off of the rear of the building, the two of those again together 11,953. There is a mezzanine

associated with the area over the office space that's entered only by a stairwell out of the warehouse area for storage of fittings and what not over the office space in that mezzanine. To get to this entranceway which is the main entrance to the building on this westerly side there's a 25 foot wide ingress/egress off of Gold Mine Road it's approximately centered on the property although it's not centered on our 3.2 acre piece we're allowed to use it's more to the westerly side. And that entrance is basically designed so that we have sufficient sight distance on Gold Mine Road and we've shown sight triangles and we've also shown curbed radius' onto Gold Mine so that we can maneuver with flat beds or tractor trailers because that is what Mr. Skoda maneuvers machines with and brings machines on and off the site with. We have proposed some improvement to Gold Mine only because Gold Mine right now if you look at it there's Belgian block curbing at the Municipal Utility Authority which is further to our west and then there's Belgian block curbing that begins at the office/warehouse after us to our east. We're going to complete that and complete basically the improvements to Gold Mine Road by us connecting those two areas we would put in drainage and curbing along that area and it would really complete Gold Mine Road so that it's all uniform. Right now this is just completely open and this is just an edge of pavement along Gold Mine along our frontage. You enter this 25 foot wide aisle-way to our parking area based on the 4.5 per thousand for office and the 1 for 5,000 for warehouse we need 17 spaces. Mr. Skoda testified that he has about 5 employees he doesn't even need 17 but we have 25 spaces shown including one handicap. Mr. Buczynski had recommended in his report that one of his items was that we make another handicap spot which we have no problem doing we'll take the other spot that's opposite our handicap aisle and make that a handicap spot. We have more than enough spaces and those spaces are located along the westerly side and the southerly side of the building. From there we enter into a gravel area, that gravel area is expansive its 23,000 square feet it's 150 foot wide in this area by about 115 feet deep. That would be the storage area that Mr. Skoda is discussing for his trucks, for his equipment, for any piping. Mr. McGroarty brought up in his report about possibly fencing this area. I talked to Mr. Skoda today and we are going to propose on a revised plan to you a fence that would separate the paved parking from the gravel, run down and basically close off this gravel area with a 6 foot high chain link privacy fence. Just so his stuff would be protected and then we would eliminate any potential for any appearance. I would move these trees elsewhere so that they're not inside the fence we would move these landscaped areas that I'm showing on the outside right now. With regard to our loading space we are asking for a waiver for . . . this use would require 3 loading space. One for our office, one for our warehouse, and I believe one for our storage and our mezzanine. We are asking for a complete waiver of the designated loading space only because he's loading and unloading his own trucks back in this gravel area. There would be no real need to have a designated spot he doesn't have a designated area that he's going to put his material at any one time but there is plenty of maneuverability for any type of tractor trailer getting in here. You can see these curb radius' that we put on the entranceway here all can accommodate, and I believe I showed that with a turning template inside the plans that it can accommodate a WB50 truck if anything had to get in here. But we are asking for a waiver for the loading spaces only because he basically loads and unloads his own materials. Utilities we have a proposed on-lot septic system it's a dashed line shown I the front yard here. We did testing in March of 2010 we have an application in right now to the town minor details, modifications to it but we would have that approval I would think within a week of having our approval here. They are waiting for the Board to meet. We have an existing well that is on-site right now we're trying to find the records of it, the well I don't know we're really are having a hard time finding the records to be quite honest with you. But there is an existing well head on the site if we can find the records and we can test the well we're going to use it otherwise we're going to drill a new well. That would be off to the back what I'll call the southeast corner of this gravel parking area. The area you see on the east side here that's this oval that's not colored green that is our proposed infiltration basin. Our infiltration basin is designed within our storm drainage system so we take our runoff from our entire roof area, all our gravel parking, our paved parking areas and transfer it by pipings or by piping as well as an overlay and swale to this infiltration basin. The infiltration basin is designed per the 100 year storm to completely infiltrate that runoff and have no outlet other than just an overflow. Specific conditions have to exist in order to have an infiltration basin you have to have certain type of soil we do have it here it was tested and it worked. We had the same type of design with our previous application the basin was more centered but the same type of design. This is just a smaller version it's 26,755 cubic feet it's only about 2-1/2 feet deep, 3 feet deep so it's a shallow basin it's not intended to hold water its intended to infiltrate water it has a sandy bottom. So that's intended to handle the whole 100 year storm including our entire roof area. We have underground electric, telephone, cable T.V. if he desires to have that. We would have . . . we have a proposed dumpster location shown right now and I know Mr. McGroarty commented that we would possibly move that into our gravel area and Mr. Skoda had discussed that with me today and he would have no problem probably moving it towards the back of the gravel area in here. He can control, he contracts a private hauler anyway so he would be able to control that because this would be a gated area we would have a gate that would cross the end of this pavement area right here. Our lighting plan, we have a lighting plan that shows I believe it shows three pole mounted and nine building mounted lights. Mr. McGroarty did comment that our lighting height was in excess of the

ordinance; I believe the ordinance allows 18 and we have 20. I did check it today I don't need any more lights I just need to adjust my heights on them so I can make those work. I was in error on my height calculation. We also have landscaping that you see here, although we're probably going to change that around as I said earlier when we introduced that fence between the gravel area and the paved area and around this building so we're going to move those around. Mr. Buczynski had asked in his report that we run some street trees across our frontage on Gold Mine Road, we have no problem doing that we'll put five or six street trees in that area to decorate our frontage a little better. Our signage that we have proposed we have a freestanding sign that's located, on my plan it says 19.8 it will say 20 on my revised plan because that is the ordinance 20 feet so I will adjust that to be 20. But it's a 4 by 8 two-sided sign it only sits 3 feet off the ground it's just intended for view in both directions it's not intended to be a high sign it's just something it's a low decorative sign. It's very similar to the sign that's next door with the office/warehouse that's there now next door. Mr. Skoda will also have a building mounted sign although we don't know the exact details other than to tell you it's going to be 50 square feet he'll get a zoning permit when it comes time to put that up because he doesn't know what that's going to look like at this point. It would be on the westerly side at the main entrance of the building. Other than we have application right now before the Morris County Soil Conservation District. We've done all revisions that they've asked for we are before them for approval this month. As soon as the meeting is done we will have our approval and have to submit for our RFA which is our stormwater management, State stormwater management compliance with the basin. We did apply last time for the Morris County Planning Board although if you want us to apply again we will they issued us previously when we were in with this application a letter of exemption basically. We're not on a County road; we don't have any effect on any County facilities so I could give you that back again or . . . .

MR. BUCZYNSKI: I don't think that we need that we just need to get the Soil Conservation.

MR. GLASSON: Right. And like I said earlier we were before the Health Department for our approval there, we're before the Board tonight. Other than . . . . I will add about our coverages, I would consider the site to have about 64 percent coverage. The DEP section of the Highlands was willing to acknowledge about 13 percent coverage because they acknowledge this area that you're seeing right here. They acknowledge that all of this area was gravel and with what you see here we're down to about 6 percent coverage because basically we're going to take the remainder of the site now and make sure that it's covered. So our overall coverage is credibly reduced, this zone allows 60 percent and we're proposing 6 so it's quite a reduction. That's really it.

MR. KRON: I think Jim has really covered most of your . . . .

MR. BUCZYNSKI: I'm sorry just Mr. Chair one thing.

MR. WEISS: Go ahead.

MR. BUCZYNSKI: I was going to say, Jim's testimony pretty much addressed most of the comments. The only item in my report, I'm not sure if you forgot it on purpose or what, was the item actually it's on page 2 of my report August 26 regarding stormwater management system. It's been designed basically to meet DEP requirements I was recommending a stormceptor be installed since there's a lot of parking area going into that basin and I recommend it be installed on-site to improve water quality. Is that a problem?

MR. GLASSON: The stormceptors they're these filter units and they're \$40,000 to \$50,000 per unit.

MR. BUCZYNSKI: They're not \$40,000 to \$50,000.

MR. GLASSON: Oh they're more than that \$50,000 plus. There's only one company that's approved right now there's other companies that have the . . . .

MR. BUCZYNSKI: I know of one company yeah.

MR. GLASSON: Yeah and boy I just put one up in a car dealership up in Newton it was \$52,000 so I mean they're expensive but you know I mean they're designed with filters that are so big that you have to have a tow truck to pull the filters out of the . . . you know I mean they're serious filters.

MR. BUCZYNSKI: I think it should be done.

MR. GLASSON: Okay not a problem.

MR. BUCZYNSKI: And the only other item on that too is to address the Operations and Maintenance Manual accordingly.

MR. GLASSON: Okay yes.

MR. BUCZYNSKI: It will lessen the maintenance on the basin. I'm just concerned eventually the basin is not going to work.

MR. GLASSON: The maintenance on this is you have to rake this stuff every couple of years, I mean that's the biggest thing and the storm filter does help you with that. I mean that's the thing that takes out all of the little sediment going into it.

MR. WEISS: Chuck I think you had a comment?

MR. MCGROARTY: Just two things. The fencing, the chain link fence now is that going to . . . did you indicate you would put that around the entire gravel area?

MR. GLASSON: Yeah I would go between, I'll just point it out to you here, I would like to talk to Mr. Skoda today about coming off of this corner here splitting this and then from here going out all the way to this side area here and then back to the building. So you have the entire gravel area is fenced with a gate here.

MR. MCGROARTY: Okay what Mr. Glasson maybe just show . . . Jim just show the Board again if you don't mind?

MR. GLASSON: We're going to come off this portion of the building between the gravel and the pavement and then split the gravel and pavement here, when we got to this corner we would go out to the actual line surround this area here and run back to the building here. So that would take this whole area that's in the gravel area and put it inside a fenced area.

MR. MCGROARTY: The thought I had on that though is that . . . the comment I had was to enclose the gravel area because that would then pretty much define what would be gravel in the future. Now if you're going to extend it out to the grass area behind . . .

MR. GLASSON: Well we actually have a large swale going through here, that would really define what's going to be gravel. Because there's no way this gravel can expand because there's a swale a definitive swale if you look at the grading plan that has to go down here and transfer all of this water. If you turn to that grading sheet it's probably sheet 5 or 6 of the plan.

MR. MCGROARTY: No I don't need to check it I mean your explaining. That's up to the Board I mean I don't think it's a big problem but the other question I wanted to ask you on the fencing you mentioned privacy. Chain link is typically not the best option but this is an industrial area, were you talking about putting privacy slats in there as well?

MR. SKODA: I really wanted to plant trees there I just like them it's a conservation easement behind I think I have some Pines in there now and I have access to a . . .

MR. GLASSON: So you just want a regular chain link with Pines.

MR. SKODA: With trees exactly.

MR. MCGROARTY: I mean because there is some language in the ordinance about buffer requirements and the like so that would satisfy I believe. The other . . . oh Jim I don't know if you saw the comment about the loading dock. I mean you have six and it looked to me like, and I realize Mr. Skoda's testimony is he's going to control the site it makes sense as long as he owns the building, but it would appear as if those trucks are in that first the westerly loading bays they're going to block the access to the gravel area.

MR. GLASSON: Well you have 25 feet to the corner of that island I made that aisle extra wide that's 35 feet across that aisle not 25 feet. So I made that . . . I brought 25 feet into the front of the building but then I made that aisle 35 feet so that I could if any truck was parked in that first bay there's 25 feet to the tip of that curb return plus there's a 35 foot aisle across there. So I don't think I block it I mean I think I'd be out of . . . I think he'd have plenty of room to maneuver. And the door itself is not,

the first door doesn't start, I marked the doors on this you don't have them on yours; the first door doesn't start for about 15 feet from where that island is.

MR. MCGROARTY: Yeah no I agree I marked it too based on the architectural plan and your truck would be about 50 feet in depth right with the cab? I mean that's what you show on your plan.

MR. SKODA: We only have two trailers of that length most of our stuff is small pickup trucks and stuff.

MR. GLASSON: He wouldn't anticipate . . . that's not the stuff he'd be working on you know to bring in that door.

MR. MCGROARTY: I mean the concern just is that in the event that a fire truck or an ambulance needed to get back there they can get back there without a lot of difficulty.

MR. GLASSON: Well that would be gated though so I mean during . . . you're going to close that off so is that going to be a problem? I mean we're going to have a rolling gate as part of that . . .

MR. MCGROARTY: I would think if a fire truck or an ambulance needed to get there it's probably you know hopefully that would never happen but it would be during business hours most likely.

MR. GLASSON: Okay yeah I just wanted to make sure that's not a problem because we would intend to put up a gate there.

MR. MCGROARTY: I mean the Fire Marshall again will look at these plans and if he had any concerns I'm sure he'll bring them up. All right thank you.

MR. FLEISCHNER: I want to go back to this filter. How long have these filters been around Gene?

MR. BUCZYNSKI: Oh God 10 years?

MR. GLASSON: Yeah 2004 was like the . . . .

MR. BUCZYNSKI: 7 years?

MR. FLEISCHNER: My question is why didn't we hear about this filter 2 years . . . .

MR. BUCZYNSKI: Well we've done it before we have it at CVS which was just approved that's having a stormceptor before it goes into the lake.

MR. FLEISCHNER: Right and that was right before the lake.

MR. BUCZYNSKI: Yeah but no matter where it was going to be its still would have been required. We haven't had a lot of applications lately that had basins.

MR. GLASSON: A lot of times you need to put them in to meet the 80 percent . . . it's an 80 percent TSS your supposed to meet this 80 percent. Supposedly an infiltration basin meets the . . . a lot of time you have to put these in what you call a train. Add up a storm filter with an overland swale to get to your 80 percent TSS. Supposedly an infiltration basin meets 80 percent TSS although I don't know . . . .

MR. BUCZYNSKI: I think it does originally I don't know if it does after a while that's my concern.

MR. GLASSON: Right, right. On the books an infiltration basin meets that criteria whether that . . . they haven't been around long enough I mean quite frankly you probably don't have too many in town right now right? Infiltration I mean most of your basins are detention basins or retention basins.

MR. BUCZYNSKI: And a lot of the detention basins we have grease traps before they go into the detention basin. So we used to take some protection before for water quality.

MR. FLEISCHNER: So moving forward any applicant that wants to put up any type of similar type building we're going to require this . . .

MR. BUCZYNSKI: Well not the building it's depending on the type of detention they use.

MR. FLEISCHNER: Right.

MR. BUCZYNSKI: Or infiltration they use that would be considered.

MR. FLEISCHNER: I don't know I just still question whether it's really needed but that's my personal opinion. I know you're the engineer but it's still my personal opinion.

MR. BUCZYNSKI: It's also in the Best Practices Manual at DEP too they recommend it.

MR. FLEISCHNER: Yeah and at one time they said smoking wouldn't kill you either so I mean that was best practices.

MR. WEISS: Tiena.

MS. COFONI: I just wanted to clarify the plantings that you are planning on in response to Chuck's report. I thought you said street trees.

MR. GLASSON: I'm doing street trees for Gene's report.

MS. COFONI: Oh okay.

MR. GLASSON: Gene wanted street trees about 5, 6 street trees across our front that I'm going to do on Gold Mine we don't have any trees there now. But what I was talking about in response to Mr. Skoda's comments was he will put up a chain link fence and I will do some kind of Pines or something around . . . I'm going to completely change the landscaping around the fenced area now to something different to provide a larger buffer between that and the fence. I'm no longer going to have, right now I have specimen trees running around this outside I'm not going to have that anymore. I'm going to take those out and I'm going to put some specimen trees across here, some street trees and then we're going to put a fence around here with probably . . . something to provide buffers. I'll get it to Chuck and let him take a look at it.

MS. COFONI: Okay.

MR. WEISS: John?

MR. MANIA: Jim what kind of lighting in the gravel area where the equipment is parked for security purposes, what kind of lighting are you going to have in there?

MR. GLASSON: Really it's just building mounted lights in that area and they're only security, you know after 10:30 at night I believe it is it goes to security lights. So I mean it's not overhead lighting other than there's building mounted security lights other than the lights that are mounted at 18 feet they're off at 10:30 at night. So that's the reason why he'd like to fence it too.

MR. MCGROARTY: Those lights will be directed downward too.

MR. GLASSON: Yes.

MR. MCGROARTY: Your detail shows that.

MR. GLASSON: Yes.

MR. MANIA: Another question, your hours I see are 8:00 to 4:30? Is there any times when you have emergency calls that you have to go out in the middle of the night or something?

MR. SKODA: We're called out a few times a year if there's a gas leak, explosion somewhere like that most of the time you know we have equipment parked all over the State so we'll pick up the nearest place and go it's not you know . . .

MR. MANIA: Right just for the record I wanted it.

MR. SKODA: Okay.

MR. WEISS: Jim did you have anything else?

MR. GLASSON: That's it that's all I have.

MR. WEISS: So I guess before we wrap up I know we've been bouncing back and forth between both reports I happen to have Chuck's report open so Chuck was there anything on your report that needs to be discussed further?

MR. MCGROARTY: No Mr. Chairman they addressed everything.

MR. WEISS: Okay and then the same question at you Gene?

MR. BUCZYNSKI: He's addressed everything.

MR. WEISS: Okay so I just have one question. We talked about a request for a loading space waiver, guys do you think there's a problem if in fact the day comes that the building gets sold that now this won't have a clearly marked loading space?

MR. BUCZYNSKI: I guess my comment is if it's sold and somebody has to come in with a site plan for that new building we can decide the need for a loading space at that point.

MR. MCGROARTY: And they have six loading bays or docks.

MR. WEISS: Just wanted to make sure we're not putting ourselves in a problem for next time.

MR. MCGROARTY: I think it would work because they have an area behind the building where deliveries can take place. It's not going to be . . .

MR. WEISS: So the fact that they're not designated doesn't bother anybody.

MR. BUCZYNSKI: No.

MR. MCGROARTY: Well it certainly won't interfere with the public right-of-way put it that way.

MR. WEISS: And that's what we want to make sure. Anybody else? What I'll do is I'll open it to the public if anybody has any questions for Mr. Glasson based on the testimony given tonight. Seeing none we'll close it. Jim thanks very much.

MR. KRON: The application conforms to our Highlands exemption; it conforms to all of the zoning requirements of Mt. Olive except for the one design waiver which we've just indicated for the loading space. It's actually a reduction from two to one buildings from the previous approval that you gave us and it's a reduction in size from the previous approvals so we'd request the Board grant it.

MR. WEISS: Okay. Does anybody have any comments? Gene?

MR. BUCZYNSKI: No just as far as some conditions besides what Tiena is probably taking down. We've had some questions lately so what we'd like to do is put into the developer's agreement condition that they have to submit a cost estimate for improvements, they'll have to enter into a developer's agreement and a preconstruction meeting. So it's in the resolution and we don't have problems later on.

MS. COFONI: Enter into a developer's agreement, preconstruction meeting prior to any disturbance on the site?

MR. BUCZYNSKI: Right. And submission of estimate of cost of improvements.

MS. COFONI: Cost estimate for improvements must be submitted and that's for the developer's agreement right?

MR. BUCZYNSKI: Yes.

MR. WEISS: Is that okay Larry?

MR. KRON: Yes.

MR. BUCZYNSKI: That's standard it's just we've had some problems, not with this applicant but just other developer's they never knew they were supposed to get an agreement even though it's in the ordinance so I just want it stated clear in the resolution.

MR. WEISS: Okay anything else? Chuck?

MR. MCGROARTY: Nothing thank you.

MR. WEISS: Okay so before I open it back up to the Planning Board perhaps I know Tiena did make a bunch of notes let's say that if this application was to be voted upon it would have to contain the following conditions.

MS. COFONI: Okay no storage of hazardous materials, subject to Fire Marshall approval, the additional landscaping that Mr. Glasson mentioned specifically the Pine trees around the fenced area the specifics to be approved by Chuck in the future, the five street trees, the cost estimates for improvements to be submitted, the developer's agreement is required, preconstruction meeting, no repair work on the equipment to take place outside of the building.

MR. BUCZYNSKI: Did you mention the fence? I know you mentioned the landscaping but also the new fence too.

MS. COFONI: The existence of the fence yes I'll have that, also the revision to the plans with regard to the height of the light poles.

MR. GLASSON: Sign location.

MS. COFONI: I'm sorry say that again?

MR. GLASSON: The freestanding sign location to be revised to 20 feet. Chuck pointed out in his report.

MS. COFONI: Okay.

MRS. NATAFALUSY: And you'll get a zoning permit for that prior to.

MR. GLASSON: For the building (inaudible).

MS. COFONI: Yes I see it okay. Yes and I have the zoning permit required that was the next thing a zoning permit for each sign is required, the relocation of the trash enclosure to within the gravel area, the stormceptor system for the infiltration basin, and approvals from Morris County Soil Conservation District, exemption from Highlands Council and Mt. Olive Health Department approval for the on-site well and for the septic system.

MR. GLASSON: You should have the Highlands.

MS. COFONI: Yes we actually just got it you're right.

MR. MCGROARTY: I would add one more if I may?

MS. COFONI: Sure.

MR. MCGROARTY: On the lighting plan and I think Jim testified to this the lighting plan indicates that between 10:30 p.m. and 7:00 a.m. site lighting would not be on except for minimum lighting for security purposes. Those hours are still acceptable?

MR. WEISS: Nelson go ahead.

MR. RUSSELL: Now the restriction of all repairs have to be done within the building, does that mean he can't change a tire outside?

MS. COFONI: I don't know if changing a tire is considered repair.

MR. MANIA: I don't know if changing a tire would apply to an . . . . I mean we're talking about oil changes, greasing and I think that's what we're eluding to inside am I correct?

MR. MCGROARTY: That was what I was thinking about Mr. Mania I mean the thought was that if something were to . . . . if they changed a tire outside I don't know if the zoning police would descend upon them but . . . .

MR. MANIA: That would be like getting a flat tire in the road and say you can't change it on the road you've got to bring it to a garage.

MR. MCGROARTY: No but I mean I think the intent was that if there's equipment that's serviced you know and all that sort of stuff that that would be inside the building and that's what Mr. Skoda says he would do.

MS. COFONI: Yes.

MR. MCGROARTY: So that whatever materials are involved are not dropping down onto the gravel area they're contained in the building.

MR. WEISS: Steve?

MR. BEDELL: No.

MR. WEISS: And then Jim I just have one thing you had said I don't know if you're estimating that the sign was going to be 4 by 8, 3 feet off the ground I guess the sign is essentially conforming to Code.

MR. GLASSON: Yes.

MR. WEISS: Whether it's 4 by 8 or 5 by 7 or . . .

MR. GLASSON: Right it does conform it's just the two sides it's going to be like a "V" sign.

MR. WEISS: Well yeah I figured that's what it was but you said 4 by 8- 3 feet off the ground I don't want to hold that to you if that's not what you meant.

MR. GLASSON: That's it that is it.

MR. MCGROARTY: Well it will be a total height of 10 feet though will it not on your plan?

MR. GLASSON: Whatever my plan has . . .

MR. MCGROARTY: Yeah 10 feet which is conforming right.

MR. GLASSON: Yeah right.

MR. MCGROARTY: So 3 feet clearance from grade.

MR. GLASSON: Yeah right, right.

MR. WEISS: I just wanted to make sure okay.

MR. MCGROARTY: It would be a pretty small sign 3 feet off the ground.

MR. SKODA: We used to have a number sign now we don't even have our name on the building.

MR. MCGROARTY: It will be a 3 foot clearance from grade 7 foot high sign.

MR. WEISS: No you're right I couldn't read my notes it does say 3 feet something off the ground. Any other conditions Tiena?

MS. COFONI: That's all I have.

MR. WEISS: That being said anybody on the Planning Board like to make a motion?

MR. FLEISCHNER: I move that we approve PB 11-21 Gold Mine Partners will all of the appropriate things that Tiena said.

MR. MANIA: I'll second it.

MR. WEISS: Second by John. Any conversation? Before we do I do want to open it to the public for any comments, conversations, anything about this application. Seeing none motion made and seconded Catherine roll call.

MRS. NATAFALUSY: Joe Fleischner - yes  
John Mania - yes  
Nelson Russell - yes  
Jim Staszak - yes  
Steve Bedell - yes  
Howie Weiss - yes

MR. WEISS: Mr. Skoda good luck to you hopefully you can get this going now.

MR. SKODA: Thanks.

MR. KRON: Thank you very much.

---

**APPLICATION #PB 11-20 – S&S REAL ESTATE INC.**

MR. MANIA: Mr. Chairman before we go into the next application I think we need to announce the S&S Realty has been moved to December 15<sup>th</sup>.

MR. WEISS: That's a good point I wasn't sure that wasn't done thank you I have it here. If there's anybody here for that application S&S Realty that will not be heard tonight that's moved until December 15<sup>th</sup>.

(RESCHEDULED TO DECEMBER 15, 2011 PUBLIC MEETING)

---

**APPLICATION #PB 11-28 – AMELIA GOLD**

MRS. NATAFALUSY: Mr. Chairman there's a problem with the Gold application. There's not going to be enough members to vote on it we won't have a quorum.

MR. WEISS: Why is that?

MRS. NATAFALUSY: Because Mr. Bedell has to step down and you're stepping down.

MR. BEDELL: I'm a neighbor I live in the backyard.

MRS. NATAFALUSY: And if Howie is stepping down which means we only have four people.

MR. WEISS: I won't step down. Well I certainly don't live next to the applicant.

MS. COFONI: Okay.

MR. WEISS: Do we need to go into a conference on this? Catherine would you suggest?

MRS. NATAFALUSY: It's up to Tiena.

MR. WEISS: Let's do it.

MS. COFONI: Okay that's fine let's take a five minute break.

MR. WEISS: Yes we'll take a five minute break and if we can . . . do you want to break or do you want to have a conference on it?

MRS. NATAFALUSY: Executive session?

MR. WEISS: Yeah executive session I'm sorry.

MS. COFONI: Oh okay.

MR. WEISS: I would like to.

MS. COFONI: Okay then if you would like to.

MR. WEISS: I guess we make a motion to move this into executive session.

MR. MANIA: So moved Mr. Chairman.

MR. RUSSELL: Second.

MS. COFONI: And this is for attorney/client advice regarding this application. Okay and this application being the Amelia Gold application.

MR. WEISS: Yeah it's application 11-28 Amelia Gold – 54 Kevin Drive.

MR. FLEISCHNER: So we ask that everyone has to leave the room.

MR. MANIA: Oh no we can go into the conference room leave the people here.

? Easier for you guys to stay.

MR. WEISS: Okay it will be quick. Well it should be about a five minute conference you don't have to go far.

(EXECUTIVE SESSION HELD AT 8:43 P.M.)

MR. WEISS: We are going to go back on open public record Tiena right?

MS. COFONI: Yes.

MR. WEISS: And we are going to proceed with the application this evening with a quorum of members Steve Bedell is going to step down as he lives 200 feet and that is the only member that's going to step down. So with that being said let's proceed. Mr. Selvaggi the application and the floor is yours.

MR. SELVAGGI: Yes thank you very much. First of all I'd like to thank on behalf of the applicant this being expedited. This is a very unusual circumstance Ms. Gold owns Lot 18 in Block 7101 when the house was purchased she had owned it with her husband and unfortunately subsequently been divorced. But back in, and we can distribute these and we'll mark it I'm just putting this in context this can be A-1. Shortly after occupying the property it was discovered . . . .

MR. WEISS: You know Mike before you get rolling I think also for the record I never really introduced the application on the record so let me just do that. PB 11-28 Amelia Gold for a minor subdivision with variance at 54 Kevin Drive, Block 7101, Lots 14 & 18 just in case you were unsure of what we're talking about.

MR. SELVAGGI: So what was discovered shortly after that was the property had a nonconforming septic system because the septic was noticed back in 1997 to not be or lie entirely on the Gold's property. Yet the house itself received a Certificate of Occupancy and it was sold by the developer. So as far as I can tell from the records that was kind of the first indication that you know we may have a problem here. Then what happened was the former Business Administrator Lou Corea five days after that letter came out had circulated an internal, or excuse me Frank Wilpert circulated a memo which again showed that the septic field has encroached on the rear property and that's the property currently owned by the Palumbo's which we've also noted in this application. And he sent out this interoffice memorandum we'll mark it A-2 . . . .

MS. COFONI: Just for the record Mr. Selvaggi A-1 is the March 21, 1997 memorandum from Mr. Corea to Mr. Wilpert, Mr. Wolski and Mr. Dolan.

MR. SELVAGGI: Yes. So this then is a March 26, 1997 memo from Frank Wilpert to Lou Corea which again describes what Frank's opinion was on it and what needed to be done. Interestingly enough you know nothing official happens to it and then in 1999 there was a lot line, there was an application for minor subdivision approval and a variance for an accessory structure setback. And this was to . . . this was also for 54 Kevin Drive and it was Lot 18 again Ms. Gold's lot and there was a lot line adjustment for along Lot 13. And that was to accommodate it was an outbuilding, it was a shed and this resolution noted that there was an issue with the septic system. Yet there was no corresponding requirement and I'll have this A-3 and I'm referencing page three of the resolution paragraph eleven and I'll circulate those. And again the problem was there and there was no obligation imposed on Mr. Gold at that time he was the applicant to take any action with respect to it. From 1999 to where we are today Ms. Gold who is seated behind me was divorced she was getting ready to sell the house over the summer and again unbeknownst to her even though she owned it, probably similar to my wife she wasn't paying close attention to this stuff not that it makes it right. Her buyer notifies her that the survey shows the septic field on the back property the Palumbo's property which is Lot 14. And the title company and bank say we're not going to finance this and we're not giving you marketable title because of this issue. Now what would happen was prior, or about the same time that was received Frank Wilpert . . . Ms. Gold applied for a septic certificate as is required and Frank, whether refreshed his recollection or went back in, he writes this letter and basically says that a portion of your septic system is located on Lot 14 and I can't issue the certificate. And this is A-4 and this is a September 26 letter A-4.

MR. WEISS: September 26, 2011?

MR. SELVAGGI: Of 2011 yes.

MR. WEISS: Also go back A-3 is technically its resolution 99-15.

MR. SELVAGGI: Yes. Now what had also happened was an attorney who is Darren Lewis who is Ms. Gold's, he works with Mr. Shaw?

MS. GOLD: No he's a friend of mine.

MR. SELVAGGI: Fine okay excuse me I'm sorry. Who is representing Ms. Gold in connection with the transaction contacted the Township attorney Mr. Dorsey trying to kind of figure out what had happened here and Mr. Dorsey then issues a memo of September 13, 2011 and impertinent part Mr. Dorsey writes from my standpoint the same liability now arises that Lou Corea was attempting to eliminate back in 1997. The record seems clear there was a mistake on the part of the Township and the Township now attempts to re-pursue the matter, and he goes on, and that's A-5. Now I'm not bringing all of this up from a legal standpoint to you know blame anybody that's not our purpose. Ms. Gold in a crummy housing market just wants to sell her house okay I'm doing it only because she actually you know we were hoping to try to close this by the end of the month, she's got to get this problem rectified. And what happened was Ms. Gold then speaks to Joseph and Susan Palumbo who owned the adjacent, the rear lot and they are gracious enough to give up a portion of their property and it's reflected on I know the survey we had submitted and I believe you all have this I don't know if this needs to be marked Tiena?

MS. COFONI: Yeah let's mark that.

MR. SELVAGGI: You want to mark it okay we can mark this A-6 and the Palumbo's say look you can take a corner of our Lot 14 and that will put the septic field 10 feet off of the property line. And oh by the way something I didn't raise it also came up in the survey is the wood deck in the back of the property Ms. Gold's property when the house was built and the deck was put on was actually too close to the rear property line. You know it was a different time in 1997 that's when my partner Mr. Kobert was making a lot more money I guess. So this lot line adjustment that we've applied for will also address that it will take care of this other nonconforming condition. Now the Palumbo's, and I have it Tiena I don't know if you necessarily need to see it, we have a copy their mortgage company has already agreed and has executed a release of this triangular piece that hopefully can be conveyed to the Gold's so the mortgage won't affect that piece of property. Now we bring this up because . . .

MS. COFONI: Excuse me Mr. Selvaggi so needless to say the Palumbo's consent to this application.

MR. SELVAGGI: They consent yeah they signed the owners authorization and they've gotten this so we're here and I'm trying to put this in context partly to move it along, secondly unfortunately in

doing this lot line adjustment the Palumbo's lot, and they're aware of it, which was a conforming lot at one acre goes to like .98 acres.

MR. MANIA: Nonconforming.

MR. SELVAGGI: It makes it nonconforming. Now they're aware of it but it does do that. Now the trade off is you rectify a situation whereby the septic field lies entirely on Ms. Gold's property which I think is important. It also does eliminate that encroachment on the wood deck and you know it's a circumstance that's been kicking around for 14 years and that's not to say anybody did anything wrong as I pointed out earlier. But it's you know Ms. Gold is in a tough spot here earlier I had actually forwarded a deed to perfect minor subdivision just to keep trying to move this thing along because financially it's going to hurt if she loses that buyer. You know so I think the totality of the circumstances in my opinion warrant these two . . . certainly warrant the lot line adjustment or the minor subdivision deed and although there's a resulting nonconforming lot on the Palumbo's you do remedy two nonconforming conditions that currently exist on Lot 18 which Ms. Gold owns. So that's kind of where we are.

MR. WEISS: A quick review obviously the Palumbo's are aware of the problem that causes and the Palumbo's mortgage company is okay with that.

MR. SELVAGGI: Yes and I have if you want to mark just so you guys . . .

MR. WEISS: No.

MR. SELVAGGI: Okay.

MR. WEISS: I purposely don't want that it's got nothing to do with this application. But just to make sure that everyone is aware of what we're doing although it's a minor side affect of what we're fixing it's still out there. And as long as the Palumbo's . . . you're telling us the Palumbo's are aware of it and the mortgage company is aware of it and I think that we can kind of put that in the back of our head and know that by us fixing these other problems we're not causing a major problem with something else.

MR. SELVAGGI: That's exactly right. We're not . . .

MR. MANIA: The Palumbo's are being so gracious as to do this.

MR. SELVAGGI: I have to tell you considering that this problem came to light about 30 days ago the progress we've made and the Palumbo's . . . Ms. Gold you've dealt with neighbors and neighborhood situations it's you know the stars have kind of aligned to a certain degree on this thing.

MR. WEISS: Let's do this let's turn to was it Chuck?

MR. MCGROARTY: Gene.

MR. WEISS: Gene let's go over some technical issues if you have any and we can maybe keep this rolling right away.

MR. BUCZYNSKI: There's you know we mentioned (inaudible) Michael discussed the variances required and just a minor change on the plans just to be clear just show the proposed acreage for each lot on the minor subdivision.

MR. SELVAGGI: Oh okay.

MR. BUCZYNSKI: And then provide metes and bounds descriptions which you already have and I reviewed them and they're acceptable. I had no other technical issues.

MR. FLEISCHNER: There is one other issue that really should be address by the Tax Assessor.

MR. WEISS: Go ahead Joe.

MR. FLEISCHNER: Since the Palumbo's are losing a small portion of their property an assessment is based on dwelling and land they're assessment should be reduced slightly and it should be somewhat of a swap. That's how property is assessed land . . .

MR. MANIA: They would have to appeal to the Assessor.

MS. COFONI: Well the Tax Assessor will get a copy of the deeds that are ultimately filed and he or she will take care of that in the normal course.

MR. FLEISCHNER: Well whether they take care of it or not obviously when this thing was approved somebody didn't take care of what they should have taken care of because they didn't read the property and the septic system got in the wrong place. So my question, it's not a question I'm making a statement, a lot of shoulda, coulda, woulda's but we need to make sure that the Palumbo's aren't paying for land that they don't own anymore.

MS. COFONI: That's not within the per view of the Board it's kind of out there and the information is now known.

MR. FLEISCHNER: But I'm just saying that needs to be on the record and that should be addressed.

MR. WEISS: And the Tax Assessor will get a copy of the deeds as Tiena explained and that's really all we're going to do is to pass on the appropriate paperwork.

MR. FLEISCHNER: That's fine.

MR. WEISS: Okay any other issues that we see? We're good on this end? Mike I've got to mention you have nothing else?

MR. SELVAGGI: No I don't have anything else we did have to notice for this because of the variances so . . .

MR. WEISS: Right. Is there anybody from the public that has any questions or comments? Any concerns? Seeing none.

MR. MANIA: Mr. Chairman?

MR. WEISS: Go ahead John.

MR. MANIA: I move for approval of PB 11-28 Amelia Gold.

MR. RUSSELL: I second it.

MR. WEISS: Nelson thank you. Any conversations? Catherine roll call please.

MRS. NATAFALUSY: Any conditions or anything?

MS. COFONI: I actually have a couple from Gene's letter.

MRS. NATAFALUSY: Joe Fleischner - yes  
John Mania - yes  
Nelson Russell - yes  
Jim Staszak - yes  
Howie Weiss - yes

MR. SELVAGGI: If I can one other thing and I hate to be a pig but I know you know and it's not you guys, your fault I mean we're trying to move this along I understand I had proposed a minor subdivision deed I know Tiena's position on it and she has to wait for the resolution. Your next meeting is when the 10<sup>th</sup>?

MRS. NATAFALUSY: November 10<sup>th</sup>.

MR. SELVAGGI: I know its unorthodoxed and I'm putting pressure on you but could you do it . . . if you had the resolution and circulated electronically and had an approval and an authorization for the Chairman to sign that and the subdivision deed?

MS. COFONI: You mean prior to November 10<sup>th</sup>?

MR. SELVAGGI: Yeah.

MS. COFONI: We have to do it at a meeting.

MR. SELVAGGI: Well what you can do is you can notice for a meeting, I don't know . . . .

MS. COFONI: How would they join an electronic email how would the public . . .

MR. SELVAGGI: Well no you would do it by phone.

MS. COFONI: Oh by phone oh I see what you're saying.

MR. SELVAGGI: You circulate the resolution by email and then convene a meeting. Obviously you'd have to give notice there'd be a cost associated with that the applicant, it can come out of the escrow for that and then you can do it. Again I understand it's a-typical.

MR. MANIA: Mike a letter from the Chairman stating that this was approved would not be sufficient?

MR. SELVAGGI: You know what it is Mr. Mania what happens is the title company needs to see the recorded deed that's where the problem is. This will certainly help I think keep the buyer in the game because the buyer can . . . sees an end game. But the buyer's commitment expires, I got all of these things that's going on and then you know with the new bank regulations they'd have to reapply, do another appraisal it's you know. So that was my only, you know I'm trying to think of something here.

MS. COFONI: I was made aware of the time crunch and what I suggested to Mr. Selvaggi, although not as quick as he proposes is that I would certainly be willing to review the deed once this was approved, assuming it was going to be approved I would certainly review the deed ahead of time and then he can certainly record it November 11<sup>th</sup>. I mean you would be approving it November 10<sup>th</sup> it would be recorded November 11<sup>th</sup> but that's the best I can see unless the Board wants to hold a special meeting. To be honest next week is the week of the 26<sup>th</sup> I mean I would need at least a week to be able to prepare the resolution.

MR. SELVAGGI: Yeah I'm not saying yeah you have it on Monday and if you were doing this there would have to be a notice given as well I mean so . . . .

MRS. NATAFALUSY: You mean hold a special meeting of the Board just to come in to adopt this resolution?

MR. SELVAGGI: Yeah.

MRS. NATAFALUSY: That would be kind of hard; I could barely get six members tonight you know I think . . .

MS. COFONI: That's up to the Board.

MR. SELVAGGI: Yeah it's up to the Board I mean I'm . . . .

MR. MANIA: We certainly don't want to let her lose the chance of the buyer there I mean we should try to do something.

MRS. NATAFALUSY: I mean the perspective owner would know that this was approved tonight and it will be adopted on November 10<sup>th</sup>?

MR. SELVAGGI: Yeah you know it's not really even the . . . the owner is going to be cool with it it's the banks, mortgage company and all the other stuff that's where the problem was.

MR. WEISS: What am I not seeing if we were to just ask if we can come in for five minutes and have a quick meeting.

MR. MANIA: I'm willing to come.

MR. SELVAGGI: But you have to give notice you've got to pick a date.

MRS. NATAFALUSY: I have to put a notice in the paper that we're going to have a special meeting on a certain date, I have to make sure that the municipal, this room is available you know it's up to the Board.

MR. MANIA: Mr. Chairman I would certainly agree to be here at a special meeting.

MR. WEISS: I don't think any of us for the five minutes it would take it's not a problem I want to make sure logistically we're not creating a tremendous hardship. I mean obviously you'd have to notice.

MRS. NATAFALUSY: I'd have to put a notice in the newspaper, post it in the municipal that we're holding a special meeting.

MR. WEISS: Michael addressed the cost of that so that's not an issue.

MRS. NATAFALUSY: Right. I'd have to find out when this room is available and find out from Tiena when we would get that.

MS. COFONI: This commitment expires on October 31<sup>st</sup>?

MR. SELVAGGI: 30<sup>th</sup>. Well yeah it's odd yes so it would actually go to the 31<sup>st</sup>.

MS. COFONI: Okay so you would actually need this resolution to be adopted by the 27<sup>th</sup> so that you can go and record it, you can record the deed on the 28<sup>th</sup>?

MR. SELVAGGI: Is that a Saturday?

MS. COFONI: The 28<sup>th</sup> is a Friday.

MR. SELVAGGI: Friday yeah.

MR. WEISS: You wouldn't need Chuck or Gene to be here correct?

MS. COFONI: No I mean it's up to you but . . .

MR. WEISS: No.

MR. SELVAGGI: And I've also . . . I mean because I've worked both sides of the table too I mean I've also in stuff like this had people call in I mean if it's an inconvenience to people you know if . . . and I don't know what your position is on that. I tend to be a little more you know accommodating.

MS. COFONI: Yeah I think if they're willing to come in you know before work or whatever time is best for them that's probably . . . especially for something like this that's going to take five minutes.

MR. WEISS: Does it have to be in the evening?

MS. COFONI: No it could be any time.

MRS. NATAFALUSY: Who's available I mean people work.

MR. MANIA: I'm available during the day.

MR. FLEISCHNER: I'm available during the day.

MR. WEISS: Maybe 9:00 in the morning might be the best time to do it.

MS. COFONI: You certainly can do that if you want.

MR. MANIA: There's three of us available during the day.

MR. STASZAK: I'm not.

MR. WEISS: I am. Nelson are you?

MR. RUSSELL: Yeah I'm available.

MR. WEISS: So there's four of us that can be available at 9:00 in the morning.

MR. SELVAGGI: Yeah but see you're going to need a quorum right to convene the meeting.

MS. COFONI: Yes because you have to actually . . . we don't need a quorum to vote on the resolution.

MR. SELVAGGI: What you could do is if there was another Board member that was available he could fill out the quorum and then be all eligible members.

MR. FLEISCHNER: Excuse me I thought Tiena said to vote on the resolution we don't need a quorum.

MS. COFONI: But to even conduct a meeting you need it.

MR. FLEISCHNER: Oh okay.

MR. BEDELL: I could be here I don't know if I would even count because . . .

MS. COFONI: Oh yes you would.

MR. BEDELL: I work right down the street yeah my office.

MS. COFONI: So if you could attend then that would be enough to convene a meeting.

MR. WEISS: And we're talking the 27<sup>th</sup> of October. I guess the date doesn't matter.

MR. SELVAGGI: Well it matters to Tiena.

MS. COFONI: Well it will matter to give me a little more time to prepare it.

MRS. NATAFALUSY: What's the 27<sup>th</sup> Thursday?

MS. COFONI: A week from today.

MR. FLEISCHNER: Or Friday whichever is . . .

MR. SELVAGGI: If you did it Friday morning I could run with it then.

MR. MANIA: Because he's got to record the deed Friday.

MR. SELVAGGI: First thing in the morning yeah if you guys were you know prepared to do that . . .

MR. MANIA: I could be here at 6:00 a.m. Friday morning anybody else?

MRS. NATAFALUSY: Well you have fun.

MS. COFONI: As long as Howie is here he can sign the resolution then he's okay, and the deed actually you'd need to sign as well.

MR. WEISS: If we made the meeting at 9:15?

MS. COFONI: What day are you talking about?

MR. WEISS: The 27<sup>th</sup> or no you're talking about the 28<sup>th</sup>?

MS. COFONI: It could be the 28<sup>th</sup> in the morning as well if you wanted it to be.

MRS. NATAFALUSY: Tiena will you be here?

MS. COFONI: I can be if you want me to be.

MRS. NATAFALUSY: If I put the notice in tomorrow it would probably be in Monday or Tuesday's paper we have to give 48 hours notice.

MS. COFONI: So maybe Friday morning would be a little better.

MR. WEISS: So Friday the 28<sup>th</sup> at 9:00 a.m.

MRS. NATAFALUSY: 9:00 a.m. on Friday the 28<sup>th</sup>?

MR. MANIA: Okay.

MS. COFONI: I will distribute the resolution as soon as I have it done.

MRS. NATAFALUSY: I will confirm with the Clerk's office in the morning that this room is available.

MS. COFONI: Okay and would the Board like me to attend? I certainly can I have . . . I'm available.

MR. MANIA: Is it necessary?

MRS. NATAFALUSY: Yes I think so.

MS. COFONI: Yeah I think . . .

MR. WEISS: Okay so that's yes let's say yes.

MR. MANIA: That's a yes then.

MR. WEISS: And then everyone but Jim will be here and that's what we need. And I do appreciate it I know Catherine this is out of the ordinary it's a little extra work I think this is maybe righting the wrong that was once here.

MR. SELVAGGI: You know what it's absolutely amazing, can you imagine in today's day and age I mean any of you professionals or . . . I just . . . it's amazing but anyway I really, really appreciate it guys. I mean it's . . .

MS. GOLD: Can I just thank all of you very much, all of you thank you very much.

MR. WEISS: And good luck with the sale.

?: Thank you as well I am the buyer.

MR. SELVAGGI: The new resident, the new voter coming.

?: I grew up in town so I'm just trying to move back in town.

MR. MANIA: And your name?

MR. BAUS: Jeff Baus.

MR. FLEISCHNER: What year did you graduate Mt. Olive High?

MR. BAUS: 1998.

MRS. NATAFALUSY: Jeff I didn't even recognize you.

MR. WEISS: Thank you Michael we'll speak to you soon.

MR. SELVAGGI: Thank you guys I appreciate it.

MR. WEISS: We have forged new ground; we have done something we've never done before Friday morning Planning Board meeting. That being said let us move on.

---

**APPLICATION #PB 10-23 – RICHARD & LYDIA BRUNO**

MR. WEISS: Let's move on to our next application which is PB 10-23 Richard and Lydia Bruno Block 1201, Lot 2.02 at 89 Crease Road. Good evening.

MR. CLAPS: Good evening my name is Roy Claps of Pennella & Claps, Dover, New Jersey attorney for Mr. & Mrs. Bruno. This is a bulk variance for an undersized lot it exists it has a dwelling on it which will be demolished and replaced with a new dwelling. The lot is in a 4 acre zone area it consists of 3.6 plus acres so it's about 90 percent conforming, 10 percent undersized. I'd like to call Mr. Cunningham our engineer.

MR. WEISS: Mr. Claps how many witnesses are you going to have?

MR. CLAPS: Just the engineer hopefully.

MR. WEISS: No planner?

MR. CLAPS: No.

MR. WEISS: Will there be any testimony for the variance? Who is going to testify to the variance?

MR. CLAPS: Well it's a bulk variance so the engineer.

MR. WEISS: The engineer.

(ROBERT M. CUNNINGHAM SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name, spelling your last name and giving your business address for the record please.

MR. CUNNINGHAM: My name is Robert M. Cunningham (C-U-N-N-I-N-G-H-A-M) my business address is 213 Newton Schwartzwood Road, Newton, New Jersey 07860.

MR. CLAPS: Mr. Cunningham could you tell us the extent of your post-high school education?

MR. CUNNINGHAM: Yes I can. I obtained a Bachelor of Science Degree from New Jersey Institute of Technology in 1979, immediately after that I took one graduate level course in Construction & Contract Law and many continuing education courses since then.

MR. CLAPS: What license do you hold?

MR. CUNNINGHAM: I hold a license as a professional engineer in the State of New Jersey.

MR. CLAPS: And have you worked in that capacity since your licensing?

MR. CUNNINGHAM: Yes I have. I've been licensed since 1986.

MR. CLAPS: And have you appeared before numerous Planning Boards and Boards of Adjustment throughout the State?

MR. CUNNINGHAM: Yes I have.

MR. CLAPS: No further questions.

MR. WEISS: Mr. Cunningham have you appeared before the Mt. Olive Planning Board?

MR. CUNNINGHAM: It's been a long time but I have. Actually the last time I was here was for a conceptual proposal for a subdivision for Mr. Skoda's property that you just again approved this evening. I was working on that particular piece of property when I was employed for a short time by Couvrette Associates in Rockaway, New Jersey.

MR. WEISS: Does anybody have any questions for Mr. Cunningham? We'll accept Mr. Cunningham as an expert engineer. Welcome.

MR. CUNNINGHAM: Thank you.

MR. CLAPS: Mr. Cunningham you've been the engineer on this particular set of plans is that correct?

MR. CUNNINGHAM: That is correct.

MR. CLAPS: And you are in receipt of letters from Mr. Buczynski dated September 19, 2011 and Mr. McGroarty dated October 14, 2011 regarding the application?

MR. CUNNINGHAM: Yes I am.

MR. CLAPS: And I'd like to ask you to go through the letter and offer your comments and responses to the issues raised.

MR. WEISS: I take it you're going to go through Mr. Buczynski's report first?

MR. CLAPS: Yeah that's the earlier one.

MR. WEISS: We have two reports.

MR. BUCZYNSKI: We'll go through the one dated September 19<sup>th</sup>.

MR. CUNNINGHAM: Yeah September 19 is the one I have here.

MR. WEISS: Well no my question was, were you going to go through Gene's report first and then the planner's report.

MR. CUNNINGHAM: Yes.

MR. WEISS: Okay so we're looking at the September 19 report from Mr. Buczynski.

MR. CLAPS: Okay the first issue, and it appears also in the report of Mr. McGroarty it has to do with the issue of tree removal and replacement. Your report indicated 38 trees to be removed and as many as 136 I believe to be replaced but that needs to be corrected is that correct?

MR. CUNNINGHAM: Yeah I think what happened is Mr. Claps and I both, both of us actually made this error when we just read through the one section of the tree ordinance a little too quickly. And we didn't really realize that this type of property the single-family residential property was exempt from the more restrictive replacement schedule. So consequently I spent a little more extra time than I needed to on developing this. But anyway I now understand that the tree replacement requirement is just on a one to one basis.

MR. CLAPS: So you've indicated based upon Mr. Borbas' inventory a total of 38 trees to be removed?

MR. CUNNINGHAM: Yes the plans that I originally submitted didn't actually show the trees to be removed. The majority of the trees on Mr. Borbas' tree inventory map except for a few near the perimeter of the allowed disturbance area would all be removed. It would be a total of 38 trees within the area to be developed for the new home. And we went through an exercise in the office to see what a reasonable amount of trees that could be replaced on the site was and I actually if you're interested in seeing the basis of that I brought four copies of a map that we have that showed what I thought would be the maximum number of trees you could put back on the site without them being too cramped. I tried to keep a spacing of about 30 feet between shade trees. I come up with about 32 trees that could be replaced on the new home site and also at the site where the old dwelling that's now in disrepair or after that would be demolished it would also be some tree replacements that could be done there. Between the two sites I come up with about 32 trees.

MR. CLAPS: We didn't ask a question regarding the condition of the existing home or dwelling unit it's not occupied is that correct?

MR. CUNNINGHAM: It has not been occupied in quite some time and I can actually speak to that personally because I worked on the development of a new home for Mr. & Mrs. Tarn just up the street from there.

MR. CLAPS: And the condition is somewhat dilapidated.

MR. CUNNINGHAM: Yes it is.

MR. CLAPS: Unsafe?

MR. CUNNINGHAM: I would say so.

MR. CLAPS: And getting back to the tree replacement optimally or conceivably you can place 32 replacement trees on the site but that's not an optimal . . .

MR. CUNNINGHAM: No actually I don't believe it is an optimal plan because a lot of times when I do site plan applications I do planting plans and it's not always the best thing to just cram as many trees as you can on the site. I think for the new home site it would probably have 6 or 7 really less trees than what you, you know could put on there. But I don't think that realistically within the allowed area of disturbance that we're going to be able to plant 38 shade trees.

MR. CLAPS: And this property has received approval for areas of disturbance both for removal of the existing dwelling and creation of the new dwelling is that correct?

MR. CUNNINGHAM: That's correct.

MR. CLAPS: And those areas are much restricted from the total 3-1/2 acres plus that exists.

MR. CUNNINGHAM: Yes the area of disturbance for the new home, I don't remember the number exactly but it's somewhere just a little above 24,000 square feet. That was something that when this property was the subject of the application for the Highlands exemption they did come back to us and asked us to make our disturbance area smaller. And again I know you discussed this earlier in the evening with another application but there really isn't much of a developed backyard in this application because of what they asked us to do with that.

MR. CLAPS: And the remainder of the property is wooded or unwooded?

MR. CUNNINGHAM: It's wooded.

MR. WEISS: So what's the final number how many trees are you going to plant?

MR. CUNNINGHAM: Well what the applicant had asked me to do originally was to prepare a report to the Board and in request of or in support of their request to just bank the trees by a financial contribution to the tree bank. And then you know when the landscape plan would be developed for the home when it's built there would obviously be some trees planted but they didn't want to be held to anything particular and they were willing to bank the total amount that would be required.

MR. WEISS: Which is 38.

MR. CUNNINGHAM: Which is 38.

MR. WEISS: Okay so I think if that's what you're testifying to then we accept that as your testimony.

MR. CLAPS: Yeah we'll live with whatever you decide but . . .

MR. WEISS: I'm not suggesting we accept it I'm just saying the question was how many. . . you're removing 38 and you're wishing to bank the 38.

MR. CLAPS: That's the optimal but we would plant as many as you desire up to 32.

MS. COFONI: Okay so when you say you're going to bank so you're going to contribute money towards the tree bank but you're not going to then later take money out to put in trees.

- MR. CLAPS: No.
- MS. COFONI: Okay I guess I misunderstood. Okay.
- MR. BUCZYNSKI: I'm confused. Are they going to try and install 32 trees then?
- MS. COFONI: No.
- MR. CLAPS: No if you require us to do it we will but we would prefer not to.
- MR. BUCZYNSKI: Okay it's \$250.00 a tree.
- MRS. NATAFALUSY: To bank.
- MR. FLEISCHNER: That's \$9,500.00.
- MS. COFONI: All right so you're going to remove 38, you're putting in 32 so you'll be banking 6.
- MR. CLAPS: 6. The issue raised in paragraph four of Mr. Buczynski's letter regarding the dry wells, that has been supplied to the Board by supplemental plan?
- MR. BUZYNSKI: I can address that because you know you sent me a letter on it. He provided soil logs for the septic system which is fine and he asked and we've done this in the past, they asked if they could defer the soil pits for the dry wells to have them done prior to any construction on the site. The information on the soil logs and the septic system seem very positive that he should be able to get satisfactory percs for the dry wells so I don't have a problem to make that as a condition as long as the Board doesn't have a problem.
- MR. WEISS: I don't see any problem from the Planning Board.
- MR. CLAPS: Getting to paragraph 5 you have as we stated provided both the Planning Board and the Health Department.
- MR. BUCZYNSKI: That's fine.
- MR. CLAPS: Six has to do with the wells to be permitted and installed at a site acceptable to the Board of Health. Is that correct?
- MR. CUNNINGHAM: That's correct yes.
- MR. CLAPS: Seven has to do with the fact that the lot is technically undersized although it is the largest lot in the area is that correct?
- MR. CUNNINGHAM: It's my understanding that this is probably about the largest buildable lot in the area. There's a larger piece that the township owns but that's pretty much totally environmentally constrained. And the piece up the hill on the same side of the road that the Tarn's developed several years ago is probably about the same size as this. But all of the other lots are smaller.
- MR. CLAPS: And the house can be constructed without any other variances necessary even with the limitation of disturbance?
- MR. CUNNINGHAM: Yes it can.
- MR. CLAPS: Paragraph eight refers to the fact that this is on Crease Road and the property extends to the center of the road. The applicant is willing to exceed to a dedication of 25 feet as requested.
- MR. BUCZYNSKI: The only thing with that is the plan to be revised to show that and then also submit the deeds for approval.
- MR. CUNNINGHAM: Actually that would have to come from Mr. Borbas will submit that, the surveyor because technically I can't do that particular map.

- MR. BUCZYNSKI: Um, um.
- MS. COFONI: So the existing lot consists of 3.6501 acres, that's going to reduce that correct Gene?
- MR. BUCZYNSKI: Correct.
- MR. CLAPS: It's a dedication it's not a grant of ownership we're not going to deed it . . . we're going to do a deed of dedication correct?
- MS. COFONI: Oh for the municipalities that I represent usually it's a deed of dedication as a transfer of title. It's a transfer of title it's not an easement.
- MR. CLAPS: I don't think that's what Mr. Buczynski said.
- MR. BUCZYNSKI: Well that's what it is though.
- MS. COFONI: Yeah. I mean I'm not . . . I couldn't speak to Mt. Olive in particular but I know the municipalities that we represent . . .
- MR. BUCZYNSKI: They dedicate it but it's a deed of dedication.
- MS. COFONI: Yes.
- MR. CUNNINGHAM: It's not a conveyance of fee, fee title it's a deed of dedication.
- MS. COFONI: It is a conveyance of fee title.
- MR. BUCZYNSKI: Right.
- MS. COFONI: Yes.
- MR. BUCZYNSKI: The lot is reduced by that amount.
- MR. CLAPS: The road is there already so I don't have a problem and if that affects the amount of variance because the lot becomes undersized further we don't want to be criticized.
- MS. COFONI: Right yeah I think that's something the Board would take into consideration I just wanted to be clear that ultimately the number of 3.6501 acres would actually be reduced given the fact that you're going to be dedicating the roadway.
- MR. CLAPS: Correct.
- MS. COFONI: Okay.
- MR. WEISS: We can calculate that in the final document?
- MR. BUCZYNSKI: Yeah they'll have it.
- MR. CLAPS: And obviously we'd need a new driveway permit once the location of the house is determined.
- MR. CUNNINGHAM: Well actually the plan actually shows the driveway location.
- MR. BUCZYNSKI: You just have to get a formal permit from the town.
- MR. CLAPS: Okay. Going to Mr. McGroarty's letter . . .
- MR. MCGROARTY: If I may just before we do that actually they're not, the applicant would not be penalized for . . . I mean so the variance is not increased under Section 400-84B in the ordinance. So when that dedication occurs and they do lose additional acreage or square footage or whatever it's going to be it doesn't affect the . . . it's not rendered even more nonconforming.
- MS. COFONI: I'm sorry I missed the beginning of what you said I was writing something.

MR. MCGROARTY: The ordinance recognizes in certain circumstances like this if road dedication is offered and accepted it does not penalize the applicant. His property in this case is not rendered more nonconforming. It's recognized it's an existing substandard lot but it's not . . . it is not rendered more nonconforming than it already is.

MS. COFONI: Because of the right-of-way dedication.

MR. MCGROARTY: Correct.

MS. COFONI: Okay.

MR. MCGROARTY: 400-84B I believe is the section. I mean it's somewhat academic maybe but it's not really . . . just for the record.

MR. CLAPS: The letter goes on to describe the submissions and on the second page paragraph F talks about the tree removal issues that we just discussed with reference to the other report. Is that correct?

MR. CUNNINGHAM: Yes that's correct.

MR. CLAPS: Paragraph two there will be a need to get a further permit from the State with respect to buffering, is that correct?

MR. CUNNINGHAM: Yeah there's a small stream off the property but that portions of which still may be within 300 feet of the portion of this lot to be developed and there may technically be the requirement of a riparian buffer approval of work to be done within a 300 foot riparian buffer from the New Jersey DEP. The only way to actually determine that is for the surveyor to go back with permission of the township, enter their lands and actually plot the . . . about another 150 to 200 feet of the stream into the drawing so that we can then determine if the 300 foot riparian limit has an effect on our approved disturbance area. And the applicant was, at this point understands that that has to be done and they expressed to me that . . . they asked me if I thought it was reasonable to ask the Board to act on the variance with that being a condition of the approval because without the approval from the Board there really is no need for them to go get that permit and incur that expense. So I've always looked at that as that is something that they're willing to do as a condition of approval of this variance.

MR. MCGROARTY: My own personal observation on that is I think that makes perfect sense just as long as it's noted and . . .

MR. CLAPS: It would be a condition, no question.

MR. BUCZYNSKI: You're not sure really if you're within 300 feet.

MR. CUNNINGHAM: Well the part that by just laying a scale on the plan, the part of the stream that is shown is borderline to be 300 feet off of the . . . just one very small portion of the disturbance area. So we really need to see where the rest of that stream is for the next couple 100 feet of its length.

MR. CLAPS: Okay paragraph three of the letter has to do with the recommendation that the building be demolished, the existing dwelling be demolished before a permit is issued for construction of the new dwelling. The applicant requests that that be amended somewhat to provide that the demolition be completed before a C.O. issues. The applicant has owned this property since 2006 with the idea that they were going to build a retirement residence. Because of health issues that have developed it may not be possible and of course economic issues as well. So they may be having to sell this property in which case I anticipate that any buyer would want to have a building permit as a pre-requisite for closing and if the buyer is to demolish the existing residence and build the new residence no one is going to demolish, spend money for a demolition until they own the property and no one is going to buy the property without an assurance that they can get a building permit. So I would ask that the Board consider requiring that before a C.O. issues for the new dwelling that the demolition be completed and approved.

MR. WEISS: Chuck?

MR. MCGROARTY: I was just going to ask though why . . . it may not be something . . . I don't know how much of an issue it would be for me personally I would just . . . but I would want to ask if a

buyer, why would a buyer have any doubt that he or she would get a building permit if it's been approved and you get your other . . . .

MR. CLAPS: Well Mr. Bruno bought the property thinking it was a 2 acre zone and that a building permit wouldn't be a problem until he went a year later to get a building permit and discovered that he was in a rezone for a 4 acre area.

MR. MCGROARTY: Well that's different though.

MR. CLAPS: Yeah.

MR. MCGROARTY: Then Highlands came along and changed it still. But here the reason why I'll suggest that is quirky things happen. I mean they may get a building permit to build a second house and then not pursue the CO and then there's two dwellings out there which neither of which may ever be occupied and it's perhaps not a big deal but it just seemed that if this Board approved it they would have assurance that they could go ahead and . . . . Mr. Bruno then would have the assurance that he's entitled to build you know a dwelling on this property subject to outside approval.

MR. WEISS: Chuck am I wrong? To follow up what you said an approval by this Board is an assurance that he could build.

MR. MCGROARTY: I would assume it is I don't see why it would not be. I mean if this Board grants it and we're not going to change the zoning again but you know now with Highlands it is what it is but once the approval is granted they certainly can come back and ask for an extension on the variance. It's up to the Board I mean it's probably not going to be a big deal but it just seems to be better to get rid of the existing dwelling before they build a new one that's all.

MS. COFONI: I actually feel strongly that it needs to be demolished before the building permit for the second for exactly the reason that Chuck mentioned. And that is that you could end up with two structures on that lot and that presents all sorts of zoning problems that are then difficult from the township's perspective to . . . .

MR. CLAPS: I didn't mean to be a pig.

MR. WEISS: It doesn't sound like we're going to move from that position so I don't think we need to discuss it any further.

MR. CLAPS: And paragraph four has to do with the verification that the lot is as the applicant says in the application and as the deed reads it's 2.02 even though there is no 2.01 that's just a housekeeping issue.

MR. MCGROARTY: So four and five are just minor changes on the plat you'll just fix those am I right?

MR. CUNNINGHAM: I thought my title block had 2.02 but maybe . . .

MR. CLAPS: The tree planting has it wrong I believe.

MR. CUNNINGHAM: Oh on the tree inventory okay.

MR. MCGROARTY: Frankly I found it confusing myself but because of the prior history and the Assessor prefers to keep it at 2.02 so . . . .

MR. CLAPS: That's the only one I think that has it incorrect.

MR. MCGROARTY: And just those other minor corrections if they can be done.

MR. CLAPS: I have no more questions for the engineer if the Board has any specific questions.

MR. WEISS: Chuck you're satisfied with your report?

MR. MCGROARTY: Yes thank you.

MR. WEISS: I know that Gene you already are?

MR. BUCZYNSKI: Yes.

MR. WEISS: Anybody on the Planning Board have any questions for Mr. Cunningham? I'll open it to the public and there's nobody here. I have no further questions and I think that you're probably done with the application?

MR. CLAPS: Yes.

MR. WEISS: So it's going to come back to my first question. You're requesting a bulk variance for insufficient lot coverage and I'm just a little concerned from my perspective that we heard no testimony as to the condition of the property. Anything that would testify to the variance it's odd that . . . I understand that there's a plan in front of us and we've had an opportunity to review it but we didn't hear anything about existing conditions. I'm not sure if the Planning Board needs to hear it I just think its odd and I actually had a conversation with Catherine. Chuck I'm sorry go ahead.

MR. MCGROARTY: Mr. Chairman I didn't mean to interrupt you I know that sometimes the Board is looking for a specific planning testimony, well you ought to in all cases in some cases we have it in different forms. But I noted in the report for what it's worth this is a preexisting lot that the only possibility that the applicant would have to acquire the additional acreage to make it conforming would be to look at the properties contiguous to it one of which as I indicated is developed with a single-family dwelling. The rest of it to the north and east are owned by the township and they are also encumbered with freshwater wetlands. But because they are owned by the township they are most likely now on the ROSSI so they wouldn't be available for purchase anyway. So essentially they have what would appear to be a . . . it's obviously a pre-existing nonconforming lot but it would appear they have no opportunity to increase the acreage.

MR. WEISS: Chuck isn't that their obligation to provide that testimony? I understand I read it in your report but isn't it . . . I think it's time . . . and I certainly don't want to take time from your application but I think it's time the Planning Board kind of demand the proper testimony on variances. We've gotten a little lax.

MR. MCGROARTY: The prior application we didn't press them either but that's . . . .

MR. WEISS: No I understand I just think that there was no testimony given to the variance.

MR. CLAPS: Well I can offer Mr. Bruno to testify that the existing house has been ordered to be demolished.

MR. WEISS: This is a C-1 variance?

MR. MCGROARTY: I think it's a C-1 I think it's a legally existing lot so I think under the C-1 criteria it would qualify.

MR. WEISS: So educate me real briefly and so the applicant doesn't have to show any kind of proof about benefits outweighing disadvantages or . . . .

MR. MCGROARTY: No I mean any variance Mr. Chairman including the one we saw earlier this evening really ought to address the positive criteria which is either the C-1 or C-2 when it's not a use variance and also should address the negative criteria which means that they would address . . . .

MR. WEISS: Right the detriment to the public good.

MR. MCGROARTY: Well to the zone plan and to the zoning ordinance and that yes that it would not have a substantial detriment to the zone plan and zoning ordinance.

MR. WEISS: Is there any comments from the Planning Board on that issue?

MR. MANIA: When I was Chairman I mean the applicant would have to testify that there was no adjoining property that he could buy in order for him to make it conforming. I mean that was always a given.

MR. WEISS: Is that the end of it though John do you think? I don't think that's where it has to end that's my concern is that the testimony doesn't end there because that's obvious.

MR. MANIA: Right.

MR. WEISS: There's just no other testimony about the variance.

MR. MANIA: I'm not disagreeing with you.

MR. WEISS: And we've gotten as a Planning Board we've moved away from that and certainly no disrespect to this applicant . . .

MR. CLAPS: Well I think, I don't mean to interrupt.

MR. WEISS: Sure go ahead.

MR. CLAPS: But the fact that this is an existing property with an existing single-family house on it that is proposed to be demolished it exists in view of the neighborhood scheme shows that all of the lots are smaller. The neighboring lots on the street are all quite a bit smaller this is the largest lot and it was upgraded in the zoning to 4 acres I believe it was previously 2 acre zoning. So you're replacing a dilapidated house with a new construction.

MR. WEISS: I understand I know this isn't entirely your issue but maybe while we're talking about it, is there any way the Planning Board can demand planning testimony from a planner for applications similar to this? And maybe this conversation needs to be had after we're done with this applicant but . . .

MS. COFONI: I would recommend that we have that discussion afterward.

MR. WEISS: Okay it was a concern of mine and something I've noticed I certainly won't hold prejudice to this applicant. But I'm concerned at the lack of planning testimony for variance requested if you come in front of this Board including this application. I understand there's an improvement and that's a positive I just, I think we have to do a better job. I have nothing else. Does anybody have any comments?

MR. RUSSELL: Chuck as a planner has brought the particular issues on the record.

MR. STASZAK: But is it our job to make their case?

MR. WEISS: Nelson I agree . . . I agree with both of you. Chuck has done that a couple of times and I've noticed that we find Chuck testifying, essentially testifying and that's not the way this should work. Again this is a conversation not for this application but I think maybe we'll have a quick discussion matter. I agree with both of you and it's certainly heeding my concern let's not prejudice this applicant because it's something we need to do better as a Planning Board. So we've heard the testimony, Chuck has in essence testified to the variance on your behalf I think we're just going to have to accept the testimony that we've heard whether we like the way it was delivered or not. Is that fair?

MS. COFONI: I think that's fair.

MR. WEISS: So that being said I suppose we've opened it to the public, close it to the public. We have some conditions?

MS. COFONI: Would you like me to read them?

MR. WEISS: I think if you could read them you can summarize with us what we're looking at.

MS. COFONI: I have a condition for submission of soil logs for the dry wells prior to any disturbance of the property. I have a condition for subdivision of revised plans showing the dedication of the right-of-way; submit the right-of-way deed for approval by the Township Engineer and Township Attorney. The condition for the modification of the tree removal and replacement plan, a condition I guess to determine whether or not a flood hazard area control approval? Is that what it's called Chuck?

MR. MCGROARTY: Well they'll be subject to that.

MR. BUCZYNSKI: Flood hazard area riparian buffer requirement.

MS. COFONI: Riparian buffer requirement got it.

MR. MCGROARTY: DEP not us.

MS. COFONI: DEP right yeah. Subject to a condition that requires a demolition of the existing dwelling and structures prior to the issuance of a building permit for the new dwelling. Subject to a condition that requires revised plans to address the two items number four and number five in Mr. McGroarty's report. And . . .

MR. BUCZYNSKI: You mentioned about the fact that they're going to install 32 trees and bank 6?

MS. COFONI: I do have that yes. That they'll be installing 32 trees and banking 6 and a driveway permit must be obtained.

MRS. NATAFALUSY: A zoning permit prior to building permits for construction of the house.

MS. COFONI: Zoning permit prior to obtaining construction permits.

MRS. NATAFALUSY: And I also believe there is a requirement in the ordinance now to post inspection fees for the township for single-family homes? Inspection fees for construction of single-family homes as a result of approval of minor subdivision, variance or issuance of a zoning permit. The minimum inspection fee shall be \$250.00.

MS. COFONI: Okay post inspection fees. What is that section of the ordinance? I'm sorry.

MRS. NATAFALUSY: 400-18.

MS. COFONI: Thank you.

MRS. NATAFALUSY: And affordable housing obligation. We've done it in the past.

MS. COFONI: Okay well . . .

MR. MCGROARTY: Or if applicable kind of thing.

MS. COFONI: If applicable.

MR. CLAPS: Thank you.

MR. WEISS: Mr. Claps those are acceptable?

MR. CLAPS: Yes I believe so.

MR. WEISS: Were there any others Tiena?

MS. COFONI: Not that I have.

MRS. NATAFALUSY: Escrow fee has to be . . . escrow account has to be replenished.

MR. WEISS: Escrow account has to be replenished. Does that complete our exhaustive list of . . .

MRS. NATAFALUSY: I hope so.

MS. COFONI: Let me ask Catherine . . . never mind I'll ask you afterward.

MR. WEISS: That being said those conditions noted do I hear a motion?

MR. MANIA: Mr. Chairman I move for approval of PB 10-23 with the conditions set forth by our esteemed attorney.

MR. RUSSELL: Second.

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

MRS. NATAFALUSY: Joe Fleischner - yes  
 John Mania - yes  
 Nelson Russell - yes  
 Jim Staszak - yes  
 Steve Bedell - yes  
 Howie Weiss - yes

MR. WEISS: Thank you gentlemen.

MR. CLAPS: Thank you very much.

**DISCUSSION MATTER**

MR. WEISS: Gentlemen before we go let's continue that conversation that we just had and maybe we'll turn to . . . I'm not sure who to turn to but I actually made a note of this that we've been fairly lax we've been seeing . . . actually my criticism was really more directed to the former, to the previous attorney who seems to be in front of us often and is not bringing, not really doing very much for testifying on these variances. And I kind of noticed it and I thought that we should do a better job demanding it and is there anything we can do?

MS. COFONI: Well I think there are a couple of things you can do. First is you can make the applicant aware of it and give them the option of presenting the testimony if they have the person there carrying the hearing. If they refuse then you could deny the variance for a lack of testimony. The important thing is although I always say that each application stands on its own merit, a policy like that should be across the board. Which is why I suggested we do it at the end of this meeting because then you go forward and do it for everyone equally. Now that being said I think that you typically deal with for example "c" variance applications where you've got homeowners coming in, we don't require them to get planners to come in here and testify. So to say that we require planning testimony, yes but I don't think anyone intends to have these homeowners come in who are looking for "c" variances for setbacks for decks to hire planners. So there has to be some kind of reasonableness associated with that kind of a requirement. Chuck do you agree?

MR. MCGROARTY: I do entirely and I was going to add if I may since the opportunity, we should have a moment just to talk about it, my suggestion is and I absolutely agree with Tiena that it ought to be consistent at least when someone is coming in as a corporate entity or represented by an attorney. And Howie you had mentioned there was you know prior applicants on three occasions actually where the attitude is what's the problem sort of thing and then we sort of put out some information so that at least there is something on the record. I have two other observations for what they're worth and it's not for me to tell the Board what to do. But since I know everyone here in Mt. Olive long enough I think I can speak a little bit more candidly than perhaps I would do in some other places. I would avoid frankly when an applicant comes forward and has a variance I would avoid encouraging the applicant to embellish the variance by doing more. It is the applicant's job to come to you and say, and that's happened on one or two occasions, but if the applicant says I would like relief to do the following even though your instinct may say well why not go a little bit beyond that and ask for a little bit more I really don't think you should do that. Because really you're the ones that have to vote on the variance and if you're suggesting that they transgress the ordinance even further it may put you in an awkward position. Now I understand that in real life its common sense that some of these things that are being suggested make perfect sense but you might want to just sort of you know check that impulse when it happens.

MR. WEISS: Would the exception be that homeowner that has no idea what's going on?

MR. MCGROARTY: That's . . . and I was going to ask about . . . the homeowner is a different story yes. But I'm saying if a homeowner comes in and says for hypothetical I want to do a two-car garage and I'm making this up because I don't remember an applicant like this, I would suggest no one say to him well why not a three-car garage.

MS. COFONI: Right that's what he means. He doesn't mean that you help them out with the testimony he means don't encourage them to have a more severe variance than they're coming in for. Correct?

MR. MCGROARTY: Thank you. And the other thing I would say, and this dates back to and my friends from the Zoning Board remember, Michael Carroll the attorney there was you know he's a very gifted man in what he would do and he'd be the first to tell us all that he is. But he would guide applicants through the process. But I think it's a better idea to avoid asking a homeowner if there are other decks, sheds, nonconforming structures or enlargements like theirs in the neighborhood. First of all most homeowners have no clue what a nonconforming structure is. No disrespect to them but why would they know that. But I mean I think perhaps a different way to ask it Michael used to ask it that way and I know I sort of followed through on some of the occasions. I think he was sort of like trying to put words in their mouth in the right way to sort of get something on the record.

MR. WEISS: But Chuck let me interrupt that's exactly you know when I as the Chairman I kind of take the lead on the homeowner who is scared beyond relief and I kind of remember those days when Michael would do that and I thought that was the appropriate way to do it because we do want something on the record.

MR. MCGROARTY: Right but I disagree with Michael and you know I always have and I'm not going to argue.

MR. WEISS: But isn't it important even for the homeowner to have something on the record that states why they want this relief?

MS. COFONI: I think Chuck is suggesting that he just wants it done in a different way.

MR. MCGROARTY: Well I mean I can turn around and say well just because there are five nonconforming sheds in the neighborhood doesn't mean you should add a sixth. I mean there really is no basis; you know the whole idea of variances is not to perpetuate nonconforming circumstances. Now what I think perhaps a different way, not necessarily better is just to maybe ask the homeowner to describe the properties that are around his or her property. Or maybe to ask would that deck, shed, pool whatever it may be, garage be so out of character with your immediate neighbors. And then Mr. & Mrs. Jones can say well no because right next door they've got a deck that comes right up to my hedges or whatever the case may be. Not a big deal but as long as we have the moment . . .

MR. STASZAK: So would you ask that the deck that you're planning would that negatively impact your area? Is that something that would be more acceptable?

MR. MCGROARTY: Yeah I mean I can't imagine anyone ever saying yes to that but sure.

MS. COFONI: But how would it impact, or would it.

MR. STASZAK: Or how would it impact, it wouldn't so . . .

MR. MCGROARTY: But I think the way to do it is you know is what you're doing going to be so out of character with the neighborhood. We had one many years ago, some of you guys might remember from the Zoning Board, a guy in Budd Lake I forgot which street, was building a garage because he repaired fire trucks or restored fire trucks. Now that was a big building in an R-4 zone and I think he probably had less than the 10,000 square feet and that took some doing because that was something that would really be different from everything else around him. Most of the time we're not going to see that, it will be the stuff that you do see, and I don't think Howie what your saying is wrong I would just maybe ask it a different way. Just to say you know how will it look or affect your immediate neighbors. I mean is it going to be something that would blend in or is going to really stand out. And if there's no, and you always do Howie you always ask you know if there are neighbors here or any residents here. I'm certain that if the person living next door didn't like it he or she would be here to scream about it.

MR. FLEISCHNER: If I may I think the key that Chuck said is your immediate neighbors. Because neighborhoods are neighborhoods and you could have a block and a half away somebody has a deck that's on top of their roof and they said oh yeah that's what I want to do. But that's not the immediate neighbors.

MR. MCGROARTY: I mean I . . . it's not a big deal I just want to (inaudible).

MR. WEISS: Okay but I don't think really overall that's not our biggest issue in front of the Planning Board it's not the homeowners and all of the advice is well taken. We have these corporations that are represented by attorneys we do expect more out of them.

MR. MCGROARTY: Right.

MS. COFONI: Now what about a homeowner who happens to for whatever reason hire an attorney for a “c” variance why would they be treated any differently than the homeowner without an attorney.

MR. WEISS: Because we’re looking at it as a homeowner just as a homeowner. Maybe the attorney is . . . .

MR. STASZAK: I hate to say it but the attorney should know better.

MS. COFONI: That’s true but you’ve still got the homeowner paying the bill.

MR. WEISS: So maybe I think we’re looking at a homeowner regardless if he’s represented or not versus . . .

MS. COFONI: And certainly the type of application. A minor subdivision with variances versus someone who happens to have an attorney because they have a friend who is an attorney or a brother who is an attorney who is doing a deck.

MR. MCGROARTY: One variance many years ago I did for someone over in Hopatcong where he knocked the house down and built a new house he needed variances because he was short property and so on and he had an attorney but I was there to give variance testimony. But you know a lot of times if we see the people that come in to just enlarge their pool or something or their deck I mean we don’t expect them to hire experts unless you know there’s some critical issues, maybe they need engineering on one occasion or another. But typically they’re not going to come in with an attorney and all the rest of . . . .

MR. WEISS: Well maybe the best direction is to take it case by case and maybe I can start these meetings by asking the attorney who he plans to bring. And perhaps if it’s something, and of course we’re all doing our homework, we can look at the documents and decide if we think a planner is necessary.

MR. MCGROARTY: Well any time someone is coming in and they’re asking for variance relief like even the one that we heard . . . one of ones we heard tonight where it rendered it substandard not a big deal in the scheme of things perhaps but there was no testimony. There was nothing.

MS. COFONI: Who would you have recommended to provide the testimony? Because in that case that’s a “c” variance application . . . .

MR. MCGROARTY: Well Tiena you and John tell me if I’m wrong but attorneys really shouldn’t be giving testimony.

MS. COFONI: Well that’s exactly right. So then you’re left with a homeowner who in a case of a pool we would probably accept some testimony from.

MR. MCGROARTY: Right.

MS. COFONI: And my point is just that just because someone happens to hire an attorney I don’t think they should be held to a different standard than someone who came in without an attorney. It’s more the type of application I think.

MR. MCGROARTY: Right.

MRS. NATAFALUSY: Talking about the minor subdivision that created a substandard . . . .

MS. COFONI: Oh yes, yes.

MRS. NATAFALUSY: And I think that’s what he was referring to.

MS. COFONI: And that’s a minor subdivision application which is different than a “c” variance application.

MRS. NATAFALUSY: Right.

MR. MCGROARTY: Yeah but you're right you've all had plenty of experience with this, you have a feel for what . . . if someone is coming forward . . . and if they're going to have to give testimony on variances, especially you ask them if it's a C-1 or C-2 and they're looking at you like you know well I don't really know what that means. And outside of this meeting or at a Planning Board hearing it's a good thing people don't walk around talking about C-1 or C-2 variances but when they're here they ought to know what it is.

MR. WEISS: Well you know it's the way we ended last week's meeting with; I don't remember the name the gentleman was a homeowner with his attorney.

MR. MCGROARTY: Yeah Old Hickory he was the builder right.

MR. WEISS: That was terrible looking back.

MR. FLEISCHNER: You have to remember Howie part of the problem is we're a Land Use Board now and because you combined the two. Years ago it was a lot simpler, two years ago or whenever that . . . because you did have a Board of Adjustment and you had a Planning Board. And the Planning Board usually in most cases really dealt with developers coming in. Now we see homeowners coming in so it's almost like even though it's one Board it's almost like we need to wear two different hats.

MRS. NATAFALUSY: But it's not different applications than were heard.

MR. FLEISCHNER: Right.

MRS. NATAFALUSY: The Planning Board always heard minor subdivisions and people if they needed variance brought planners in.

MR. FLEISCHNER: Right.

MS. COFONI: I think what Joe is saying is that's almost a dividing line. It's kind of like if they were a Board of Adjustment "c" variance application where it's just the homeowner coming in for a pool that's where you don't expect the . . . the minor subdivision with variances that would normally come before the Planning Board you would expect it. And that may be a good guide to kind of think in your head.

MR. WEISS: So let's do that let's proceed and we'll get off this conversation. I think as we approach the next minor subdivision or anything larger than that we'll discuss it before they get started.

MR. FLEISCHNER: But I think what Howie is saying is something that maybe when people contact town hall to go on the . . . you know the agenda . . .

MR. MCGROARTY: I even have a thought how I could help there.

MR. FLEISCHNER: Maybe there's a way you know . . . because Howie is right in that we need to be consistent.

MR. MCGROARTY: Well what I . . . to the extent that I . . . I mean Gene is doing his you know the way obviously the way we work it everything engineering and the like Gene will do. If I'm looking at it and if there's any variances and if I think that even if it's a homeowner that's putting let's say a built-in pool in the backyard and expanding and doing whatever and it's going to now be 80 percent coverage in the back, I would perhaps suggest that that homeowner have planning testimony. Because that could, on the negative criteria, and the negative criteria is not does the pool look good or bad. It is does it have a substantial detriment to the zone plan and the zoning ordinances like all of us know it's that two prong test and you need to look at the impact also to the immediate neighborhood. So you know maybe I can suggest when I'm doing reports, I know Catherine will do some of those reports, but if I'm doing them I may suggest in there I would recommend to the Board you get planning testimony.

MS. COFONI: And you'll put that in your report you're saying?

MR. MCGROARTY: Yes.

MR. WEISS: That might be the best way to handle it.

MS. COFONI: Well that gives them advance notice.

MR. STASZAK: That puts the applicant on notice too.

MR. MCGROARTY: Right.

MR. BEDELL: You know with the application for Gold you know I had heard about it prior to from my neighbor but you know it had me thinking you know I guess that issue goes back years and years ago and she is looking to sell her house, now she had to hire an attorney, she had to get a new survey, she had to pay for this, that and the other and I said to myself if I were the homeowner I would go nuts. Because apparently the Township made the error . . . .

MRS. NATAFALUSY: No.

MR. MCGROARTY: No there's a lot of history here.

MS. COFONI: I disagree as well.

MR. BEDELL: Well okay well that's why maybe I'm wrong that's why I ask.

MR. MCGROARTY: Steve you're not wrong because the information you have in front of you would certainly lead you to believe that. I was here when they got the lot line adjustment for the other lot. Bob Gold was still living there and I can tell you, the same situation the other property owner was moving, desperate situation had to sell the shed was encroaching you know that application is done and we probably shouldn't talk about it but he did not . . . . let me say it was less than cooperative trying to get it resolved even then and then it was only to solve on one property. And then I mean I wasn't here, (inaudible) was here when that septic was first put in but someone probably should have been more careful. But the opportunity to fix it in 1999 was there the homeowner didn't . . .

MR. BEDELL: No my question though was, was the septic . . . my understanding well at least what I was told is that you know they were told the property line was here when in fact it really was closer in and that the town kind of marked the property wrong. Or was the septic put in the wrong spot.

MR. MCGROARTY: No the town doesn't mark property that's the surveyor.

MR. BUCZYNSKI: The town doesn't mark the property lines.

MRS. NATAFALUSY: That's the surveyor.

MR. BEDELL: Okay.

MR. MCGROARTY: But I'm saying whatever happened when the house was built which was probably 20 some years ago. When I was here in 1999 there was a less than cooperative approach with that property owner Mr. Gold.

MR. BEDELL: Okay.

MS. COFONI: Well and its fixed one lot and the Board . . . .

MR. MCGROARTY: He had the opportunity to fix both and chose not to.

MR. BEDELL: Okay because my question was is . . . .

MS. COFONI: And the Board doesn't have jurisdiction over a lot that's not before it. So you couldn't have done anything about Lot 14 if Lot 14 doesn't come before you.

MR. MCGROARTY: Absolutely correct. Even though we persuaded him to deal with it he chose not to.

MS. COFONI: Correct.

MR. MCGROARTY: And I was here.

MR. BEDELL: Okay so the lot lines were right the way they are something happened with the way the septic was placed.

MR. BUCZYNSKI: When they laid out the septic system they laid it out wrong.

MR. MCGROARTY: That's correct.

MR. BEDELL: Okay all right okay and that's on the builder's side of it if you will.

MR. BUCZYNSKI: The town Health Department the inspector goes out there. Unless they really have the boundaries already shown he had no idea if it's on the property or not on the property.

MR. BEDELL: Yeah.

MR. BUCZYNSKI: Until they do a survey afterwards.

MR. WEISS: All right so let's proceed that way Chuck if you feel that they need planning testimony and I will ask the attorney who they plan on bringing and if we can discuss it before they get started. And obviously we're not here to make it difficult for homeowners. But we will ask the questions differently Chuck that's good advice.

MR. MCGROARTY: Okay.

MR. WEISS: On that I'll need a motion to adjourn.

MR. MANIA: So moved.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 10:00 P.M.)

Transcribed by:  
Lauren Perkins, Secretary  
Planning Department