

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: Dan Nelsen (7:41 p.m.), Joe Fleischner, John Mania, Nelson Russell, Mayor David Scapicchio, Jim Staszak, Steve Bedell, Brad Zwigard, Howie Weiss

Members Excused: Scott Van Ness

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.

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

MR. WEISS: Thank you before we get into our resolutions I just want to make an announcement that if anybody is here for the S&S application that one is not going to be heard tonight and it will be carried until February 9th. No further notice if anybody is here for that it will not be heard.

APPROVAL OF RESOLUTIONS

Resolution #PB 10-29 (Amended) Morris Habitat for Humanity

Motion: Joe Fleischner
 Second: John Mania

Roll Call:

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

Resolution #PB 11-21 – Gold Mine Partners

MR. WEISS: Any conversation?

MS. COFONI: Yes I have something Mr. Chairman paragraph three on page two there is a clarification and I'll read the revised first sentence for you. "The applicant now proposes to construction one 13,108 square foot footprint for an office/warehouse to be utilized as the new location of the construction office and equipment storage consisting of 14,934 square feet." It's basically the footprint is 13,108 square feet but the total size of the building is 14,934 square feet. So that's going to be revised in paragraph three.

MR. WEISS: And therefore I don't have a copy to sign in front of me.

MS. COFONI: That's correct.

MR. WEISS: Okay thank you for that. With that amendment any conversation? I'll entertain a motion.

MR. MANIA: Mr. Chairman I move for the approval of PB 11-21 Gold Mine Partners.

MR. RUSSELL: I'll second it.

MR. WEISS: Mr. Mania and Mr. Russell thank you very much. Catherine roll call.

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

Resolution #PB 10-23 – Richard & Lydia Bruno

Motion: Joe Fleischner
 Second: John Mania

Roll Call:

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

Resolution #PB 10-07 – Robert & Faith Donnelly

Motion: Jim Staszak
 Second: Mayor Scapicchio

Roll Call:

Joe Fleischner - yes
 Nelson Russell - yes
 Mayor Scapicchio - yes
 Jim Staszak - yes
 Howie Weiss - yes

Resolution #PB 11-22 – Michael McCort

Motion: Nelson Russell
 Second: Joe Fleischner

MR. WEISS: Mr. Russell, Mr. Fleischner thank you very much is there conversation? I actually have something I just want to comment on and I've asked Catherine to have a discussion matter scheduled for our reorganization meeting. Gentlemen I think when we look at this resolution this resolution represents everything that's bad about what we do. And I know I voted no for this application and I don't have a vote but I think when you start looking at measurements that come into 5.3 feet and I think we're creating an unenforceable situation. And some of the things that we've agreed to are just . . . we're causing more problems than that and I know for this application perhaps it's too late but I think we need to do a better job thinking about what kind of variances and relief we give in the future because like I said I think this is going to be unenforceable. Any other comments?

MR. FLEISCHNER: Mr. Chairman I think you should clarify that that is your opinion not necessarily that of the Board's. Because you said that was . . . you believe everything that this Board does that's incorrect and I disagree.

MR. WEISS: No, no I was very clear about this application and this resolution. My opinion if that satisfies you is that this creates a problem. And so it's very clear that I'm giving an opinion although I have no vote. Any other conversation? Thank you Mr. Fleischner. Catherine?

MRS. NATAFALUSY: If you look at the resolution it says John Mania can vote but he can't it was John Ferrante who was here at that meeting. So I just want to clear that.

MR. WEISS: Of course and date will be fixed correct?

MS. COFONI: Yes.

MRS. NATAFALUSY: Yes.
 Joe Fleischner - yes
 Nelson Russell - yes
 Mayor Scapicchio - yes
 Jim Staszak - yes

MR. WEISS: For the record Dan Nelsen has arrived.

COMMITTEE REPORTS

MR. WEISS: Okay let's move into committee reports. Mayor?

MAYOR SCAPICCHIO: Nothing to report.

MR. WEISS: Thank you. Mr. Mania Council?

MR. MANIA: Nothing to report Mr. Chairman.

MR. WEISS: Nelson Environmental Commission?

MR. RUSSELL: I missed the meeting last night but Joe was there.

MR. FLEISCHNER: I want to state that by the second meeting of January or the latest the first meeting in February this Board will be presented with a list of trees that we request to be planted and the different species out of the tree fund. I know it's a long time in coming but it will be the second meeting or the first meeting in February.

MR. WEISS: You'll schedule that with Catherine for a discussion matter for the Planning Board?

MR. FLEISCHNER: Yes.

MR. WEISS: Perfect thanks Joe anything else?

MR. FLEISCHNER: No that's it.

MR. WEISS: Jim Ordinance Committee?

MR. STASZAK: Nothing at this time.

MR. WEISS: Nothing from the Street Naming Committee and we have a vacancy on Open Space. Again if anybody is interested in filling that vacancy the position is wide open. No other committee reports anything Chuck, Gene?

MR. BUCZYNSKI: No.

MR. WEISS: Any weekly report, any update for us?

MR. MCGROARTY: Mr. Chairman the only thing I would say to the Board if I'm here next year and I would hope to be here next year, we'll have a conversation earlier in the year I'm already starting to have this discussion with Boards. There's a new State Plan it changed the existing State Plan substantially and significantly and I think in a lot of ways it will help particularly what we've been trying to do here in Mt. Olive for a long time.

MR. WEISS: Is that something you want to add to the reorganization meeting?

MR. MCGROARTY: It might not be bad the initial discussion is probably not going to be more than ten minutes and then to give the Board an idea of what this plan is about and public hearings will start next year.

MR. WEISS: Okay well if you can prepare them for the reorganization meeting next month we'll schedule that.

MR. FLEISCHNER: Mr. Chairman the State Plan for what?

MR. MCGROARTY: Well for New Jersey.

MR. FLEISCHNER: No I understand but what is it, for Planning or

MR. MCGROARTY: Well there is now and there has been since 2001 a document known as the State Development and Redevelopment Plan and this plan is now called the States Strategic Plan blah, blah, blah and it replaces that plan. And there are some significant changes and it affects towns like Mt. Olive in a number of ways which we'll talk about you know in the months ahead.

MR. FLEISCHNER: Okay thank you Chuck.

MR. WEISS: Thanks Chuck. Catherine I know the agenda is very light we'll add that to the agenda Catherine?

MRS. NATAFALUSY: I will add that to the agenda. I've advertised for reorganization already on January 12 at 7:30.

MR. WEISS: January 12 okay thank you Chuck.

MR. MCGROARTY: You're welcome.

MR. WEISS: Okay with no other reports to give let's move into our agenda this evening.

EXTENSION REQUEST

APPLICATION #07-40 ZBA – LOZIER ESTATES

MR. WEISS: The first one is extension request for application 07-40 ZBA Lozier Estates an extension of variance approval on Lozier Road Block 2801, Lots 11 & 14. I believe we have Mr. Roy Solondz. Can you help me with your last name sir?

MR. LEVITT: He took off tonight he sent me up.

MR. WEISS: All right. If you would sir we'll swear you in and the attorney will get some basic information.

(STANLEY LEVITT SWORN IN FOR THE RECORD)

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

MR. LEVITT: My name is Stanley Levitt (L-E-V-I-T-T).

MS. COFONI: Thank you and your address?

MR. LEVITT: Address is 86 McKenzie Lane South, Denville, New Jersey.

MR. WEISS: Thank you Mr. Levitt would you tell us your capacity in this application?

MR. LEVITT: I am one of the principals of the company.

MR. WEISS: Okay and you're here before us this evening because you're requesting an extension request and we have the report in front of us maybe for the record if you'd like to explain to the Planning Board why your requesting such an extension.

MR. LEVITT: Well unfortunately we are in the Highlands and after we got approval from the Board you have to get a Highlands approval and that has gone on and on and on like an old song. You know it just keeps going.

MR. WEISS: I'm surprised to hear this Mr. Levitt no one else has said that.

MR. LEVITT: I mean every time something is wrong with the papers, we submit them and then they finally came up with that we're going to disturb too much ground by a fraction of something so we had to redesign everything. I mean it's just been a nightmare dealing with them. But I think we've got it pretty much . . . they accepted it of course we did everything they said. But we still haven't gotten the final approval.

MR. WEISS: If we were to grant such an extension Mr. Levitt what kind of time frame are you looking for?

MR. LEVITT: A year.

MR. WEISS: A year and this application expires today. Okay so you'd like a one year extension dated through the end of December 2012?

MS. COFONI: Yeah I mean one year December 15, 2012.

MR. WEISS: Yeah okay that's fine.

MR. MANIA: Do you think they'll act by then Stan?

MR. LEVITT: I hope so.

MR. WEISS: So that's an acceptable extension if we were to grant you an extension to December 15, 2012?

MR. LEVITT: Yes.

MR. WEISS: Does anybody on the Planning Board have any questions about . . . you have the report in front of us it seems to be pretty cut and dry it's something we've certainly heard many times before. Gene or Chuck?

MR. BUCZYNSKI: No just standard operational procedures really.

MR. MCGROARTY: No.

MR. WEISS: I agree let's . . . you've been out late enough Mr. Levitt. Seeing no conversations does anybody like to make a motion?

MR. MANIA: Mr. Chairman I make a motion for the extension request of 07-40 ZBA Lozier Estates.

MAYOR SCAPICCHIO: Second.

MR. WEISS: And gentlemen that is for until December 15, 2012. Any conversation? Roll call.

MRS. NATAFALUSY: Dan Nelsen - yes
 Joe Fleischner - yes
 John Mania - yes
 Nelson Russell - yes
 Mayor Scapicchio - yes
 Jim Staszak - yes
 Steve Bedell - yes
 Brad Zwigard - yes
 Howie Weiss - yes

MR. WEISS: Good luck Mr. Levitt.

MR. LEVITT: Thank you very much.

MR. WEISS: My pleasure.

APPLICATION #PB 11-25 – PANERA, LLC

MR. WEISS: The next development matter is PB 11-25 Panera, LLC preliminary and final site plan with variances at 30 International Drive South Block 4100, Lot 9.01. This is a continuation of a hearing that was from November 10. Welcome back gentlemen.

MR. CONCIATORI: Good evening again for the record Paul Conciatori with the law firm of Price, Meese, Shulman & D'Arminio representing the applicant Panera. As the Chairman just indicated we're here hopefully to finish this up for an approval this evening. Just kind of to recap briefly at the last hearing you had heard testimony regarding our application which is essentially to incorporate a drive-thru at the location as well as upgrade the signage package that required a view variances as it relates to parking and signage. And you heard testimony from Tony Disanza the representative from Panera, you heard our planner John McDonough, you heard testimony from Matt Welch who is our traffic consultant. What was clear from that was that the Board made very clear to us that there was a problem with the manner in which the drive-thru operated. Specifically as it relates to the queuing of cars and the direct conflict potentially with the McDonald's drive-thru where they access each other on that ring road. At that time I asked for a continuance for a month so that we can go back and see if we

can come up with something that allowed us to move forward and addressed your concerns and we're here to tell you that we think we have something that really accomplishes both. Revised plans were submitted and the plan that now is before you has done a couple of things. It has redesigned the drive-thru both as to access and access queuing to have the access not through the ring road where the McDonald's is but actually through an interior parking aisle. So in that way it really eliminates that entirely from that ring road.

MR. WEISS: Paul you know what I'd like to . . . I don't want to interrupt but let's just for the record let's just make sure we're on the same page from where we left off.

MR. CONCIATORI: Okay.

MR. WEISS: Talking about exhibits and for Tiena's sake I have left off on A-5 that was the last exhibit?

MRS. NATAFALUSY: Correct.

MR. CONCIATORI: Correct.

MR. WEISS: And you're recollection of the witnesses that were in front of us was exactly what my notes I agree with you 100 percent.

MR. CONCIATORI: Okay.

MR. WEISS: We heard from those experts and I don't see any other disparaging comments from what you had said so as long as we're both on the same page then the next exhibit will be A-6?

MR. CONCIATORI: Correct.

MR. WEISS: I'm ready to go.

MR. CONCIATORI: And what you'll hear is that it accomplished a couple of things. It did eliminate that as it relates to access, the drive-thru itself actually has a capacity to hold 11 cars rather than 8 and in the, again the testimony from the first hearing was that that really based on the operation of over 70 of these they really never see more than 8 cars in there. A) there's enough for 11; and B) if there ever was some sort of unusual circumstance that required further that queuing would be in the interior parking lane and in no way conflicting with that ring road. So that's really what we've done it is . . . we went to the landlord had their approval went through that process and we're a plan that we think works. It required an additional 11 spaces to be eliminated but I think the record is pretty clear and the Board's concerns were clear that we all I think believe there's more than ample parking. So my plan this evening Mr. Cannarella is our professional engineer I would swear him in he hasn't testified previously. To basically just fill in for the record what I've just testified to and then we can see from questions at that point.

MR. WEISS: No problem so let's swear in Mr. Cannarella.

(RICHARD THOMAS CANNARELLA SWORN IN FOR THE RECORD)

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

MR. CANNARELLA: Richard Thomas Cannarella (C-A-N-N-A-R-E-L-L-A).

MS. COFONI: And your business address please?

MR. CANNARELLA: Oh I'm sorry 359 Campus Drive in Somerset, New Jersey.

MR. CONCIATORI: Mr. Cannarella perhaps very briefly you can apprise the Board of your qualifications to provide professional engineering testimony.

MR. CANNARELLA: Yes I have a Bachelor of Science in Civil Engineering from the University of Delaware. I have been practicing in Land Development Planning & Design for the past 20 years in New Jersey and the nine surrounding states. I have my professional engineer's license in New Jersey and in nine surrounding states and along with my professional planner's license in New Jersey.

MR. CONCIATORI: And you've given testimony before Boards before.

MR. CANNARELLA: That's correct.

MR. WEISS: Have you been in front of this Board before Mr. Cannarella?

MR. CANNARELLA: Yes about 7 or 8 years ago.

MR. WEISS: And you prepared these plans that are front of us this evening?

MR. CANNARELLA: Yes.

MR. WEISS: All right does anybody else have any questions for Mr. Cannarella? Gene?

MR. BUCZYNSKI: No.

MR. WEISS: Chuck?

MR. MCGROARTY: None thank you.

MR. WEISS: We will accept Mr. Cannarella.

MR. CONCIATORI: Mr. Cannarella just confirm for the record that you were in fact present at the last meeting, did prepare these plans and are familiar with the plans, the operation and the testimony at that first hearing.

MR. CANNARELLA: Yes.

MR. CONCIATORI: Did you in fact prepare a revised plan relating to the proposed drive-thru?

MR. CANNARELLA: That's correct.

MR. CONCIATORI: Using an exhibit which perhaps you can apprise the Board of the details of this new plan and let's mark that I believe Mr. Chairman A-6?

MR. WEISS: Correct.

MR. CONCIATORI: And Tom can you tell us . . . is there a marking on there so we can identify it?

MR. CANNARELLA: Yeah this is entitled color rendering, it's the color rendering of the landscaping plan that's in the latest revised set that we submitted dated November 28, 2011.

MR. CONCIATORI: Is there a sheet number on it?

MR. CANNARELLA: This is Sheet No. CR-1.

MRS. NATAFALUSY: I'm sorry what was the date?

MR. CANNARELLA: November 28, 2011.

MR. CONCIATORI: Referring to what's been marked now as A-6 can you please summarize for the Board the details of the revised drive-thru configuration.

MR. CANNARELLA: Okay having heard the Board's comments from our last Board's meeting we went back and revised the drive-thru that was on the westerly side of the building that is depicted here in the darker gray with the stacking of 11 cars. If you can remember previously the drive-thru access the ring road right in the vicinity almost across from the McDonald's drive-thru which is right in this vicinity where the island is which is to the north side of the building. We have re-aligned the drive-thru to now have an entrance off of the parking lot drive aisle. So it's entirely off of what is being called ring road and in doing that it increases the stacking up to 11 cars as opposed to previously it was 8. If stacking was to even build up beyond that it would be within that into the drive aisle to just parking area and not impact the ring road or the McDonald's drive-thru. In re-letting out the drive-thru of course we've lost 11 more parking spaces in this general vicinity of the westerly side of the existing building. But however in losing the parking we also decrease the impervious coverage by 3,000 square feet whereas previously

it was like 1,000 square feet. Other than that change it does increase the green space and landscaping that we had previously proposed. That kind of goes hand in hand with the decreasing impervious coverage of course. The signage proposed has not changed, the rest of the site does not change the drainage patterns don't change, the site lighting doesn't change, we're not changing any of the utilities, the stormwater is actually decreased because the impervious coverage is decreasing, handicap accessibility, trash location and pick up and loading none of that changes from existing conditions.

MR. CONCIATORI: Thank you. In terms of review reports there was an engineer's report that had been dated September 16, 2011 that did contain a couple of comments and requests regarding some minor site plan details and they were items 4 and 5 that requested to be included. Can you confirm for the record that we will in fact implement those requested changes.

MR. CANNARELLA: Yes we will comply.

MR. CONCIATORI: Okay. For the Board I am done with that testimony I do have our planner, our traffic engineer and Mr. Disanza again present. We think that along with the prior testimony kind of gives the whole package. We would respond to any questions and certainly to the extent we need to have someone else testify but we think that takes care of it.

MR. WEISS: Paul let me turn it over to Gene to make sure that your report has been satisfactorily addressed.

MR. BUCZYNSKI: Yeah it's the previous report I didn't do a new report but as far as the location I think it's a very good improvement I think it works for everybody right now. I think it addresses most of the concerns the Board had from the last meeting and granted there's less parking spaces but I don't see that problem at that mall they just have to walk a little further if they want to get you know park to get into Panera. So I don't see any problems with it.

MR. WEISS: Perfect.

MR. FLEISCHNER: Mr. Chairman?

MR. WEISS: Joe?

MR. FLEISCHNER: And Gene maybe you could comment, would you see a problem I mean we've eliminated 11 parking spots I would actually like to see three more parking spots eliminated and that in that cut out to the left of the island because as cars pull in if we close off those three spots and just planted some low shrubs I think it would also make for a much safer . . .

MR. BUCZYNSKI: You're saying when you come in on the left hand side those three spaces right?

MR. FLEISCHNER: Right those three spaces.

MR. BUCZYNSKI: Yeah I looked at that I could go either way on that I don't see a problem if the Board wants to eliminate them.

MR. FLEISCHNER: Because my concern . . .

MR. STASZAK: I'm not as concerned about pedestrians in that area.

MR. FLEISCHNER: And my concern is cars backing out not realizing somebody else is trying to go into that lane. So if we just square it off plant some grass and it would be a lot safer.

MAYOR SCAPICCHIO: Joe which three are you talking about?

MR. FLEISCHNER: To the left of the entrance.

MR. BUCZYNSKI: Those there.

MR. WEISS: No, no, no I don't think those are the three.

MR. FLEISCHNER: Those are the three that I'm talking about.

MR. WEISS: Show Mr. Fleischner what you're talking about.

MR. BUCZYNSKI: Yeah those are the three.

MR. FLEISCHNER: Yeah that's what I'm talking about.

MR. STASZAK: Right above it is the one that I was concerned about.

MR. BUCZYNSKI: The three on the ring road?

MR. STASZAK: Yeah that's more of a concern to me backing out on the ring road.

MR. FLEISCHNER: Well that exists today.

MR. STASZAK: The ones above it exist today.

MR. WEISS: That's what Joe said yeah.

MR. STASZAK: These exist today.

MR. CANNARELLA: These exist right here.

MR. STASZAK: No, no, no the ones in front of the store those exist today.

MR. BUCZYNSKI: They exist.

MR. STASZAK: Right.

MR. FLEISCHNER: I'm concerned about the three from where you pull in those are the three that I'm concerned about.

MR. CANNARELLA: Those right there?

MR. FLEISCHNER: Right because whether they back out and certainly that's not a real issue for me, either you back out from those spots or you back out from the spots in front of the store you're still backing out into that road that doesn't change. My concern is cars going into that lane and then you've got a car backing out of there like wait a minute there's a car going in and there's a car coming out.

MR. BUCZYNSKI: You know you have that situation throughout the mall though you really do.

MR. FLEISCHNER: Right I understand that but you're coming off a parking lane and that's my concern. So I would like to see those three spots just made grass. It's up to the Board.

MR. WEISS: I don't think he has a problem with that.

MR. BUCZYNSKI: They can put some landscapes, shrubs around there too.

MR. WEISS: Paul while they're thinking about it though maybe just a little bit of housekeeping. Going back how we identified A-6.

MR. CONCIATORI: Yes.

MR. WEISS: But I believe, and tell me if I'm wrong that A-6 is actually a copy of SP-1 which is sheet 1 of 6? It's a color rendering of sheet 1 of 6? You called it CR-1.

MR. CONCIATORI: No it's a color rendering of sheet SP2 the landscape plan.

MR. WEISS: Okay perfect in fact I think I see I think that's how we should identify it. It's a color rendering of SP2 which is sheet 2 of 6.

MR. CONCIATORI: No we just relabeled it because it's a color rendering.

MR. WEISS: Just so we can have . . . and then you'll put a date on that too. Okay so it technically is it's a new sheet called CR1 which is . . .

MR. CONCIATORI: A color rendering of the sheet you had

MR. WEISS: It's a color rendering, it's the equivalent to sheet 2 of 6.

MR. CONCIATORI: In relation to that certainly we would you know respond to the Board's concerns if there is a request for elimination of those and certainly that's something we can do.

MR. WEISS: Does anybody have a concern with that?

MR. CONCIATORI: Basically if that's what is needed then we can do that.

MS. COFONI: I just want to make sure I understand where we are with the parking. I think 50 spaces are required and 28 spaces are provided and so if we eliminate those three 25 would be provided am I right about that?

MR. CONCIATORI: That's correct.

MS. COFONI: Okay.

MR. NELSEN: Mr. Chairman?

MR. WEISS: Dan?

MR. NELSEN: I'm going to go along with what Jim is saying also backing out into that ring road it looks like it could be problematic also. I agree with what Joe is saying but also the ring road . . .

MAYOR SCAPICCHIO: You know we're talking about eliminating six additional parking spaces we are in a parking lot where people pull in they back out you know they need to pay attention. I'm not sure we should you know start eliminating parking spaces. We're already eliminating 11 additional to accommodate you know the request that we made in terms of the entrance not conflicting with McDonald's.

MR. WEISS: Keeping in mind we went from 50 we're down to 28 already.

MAYOR SCAPICCHIO: And you know where does it end?

MR. NELSEN: There's not too many that back out into that ring road.

MAYOR SCAPICCHIO: But they back out now.

MR. NELSEN: Only three spots.

MR. BUCZYNSKI: No they back up on the other side.

MR. CONCIATORI: All these here are existing right Tom?

MR. CANNARELLA: Yes.

MR. BUCZYNSKI: Yes.

MR. CONCIATORI: So there is a give and take in terms of what you know

MR. CANNARELLA: I just want to clarify that that ring road doesn't encircle the entire . . .

MR. BUCZYNSKI: It's an exterior aisle rather than call it a ring road.

MR. CANNARELLA: Right and that's my mistake for calling it that.

MR. WEISS: It's not a true road it's just a

MR. CANNARELLA: It's still a drive aisle.

MR. NELSEN: Right by the entrance to the McDonald's also and backing out into that it looks like it could be a little chaotic there.

- MR. WEISS: Does anybody else have any comments on that? So let's go back to, is there a consensus on Dan I've heard both you know Dan suggested we eliminate three more and
- MR. NELSEN: Well it was Jim's originally but
- MR. STASZAK: It was just a concern I had.
- MR. NELSEN: I'm going along . . . I'm saying that too.
- MR. WEISS: It sounds to me and Board tell me if I'm wrong that I think we're satisfied with the elimination of three in a situation that's already been eliminated I'm seeing a lot of affirmative head shaking so I'd say we'll stick with the three that we discussed prior.
- MR. CONCIATORI: And we can certainly do that.
- MR. MANIA: The one Joe suggested.
- MR. WEISS: The one that Joe suggested.
- MR. CANNARELLA: Right so just to confirm we would certainly do that request exceed the request to eliminate these three in this location which is just to the left of the drive thru.
- MR. MANIA: And with some plantings right?
- MR. CANNARELLA: Well we'll make that green space.
- MR. STASZAK: Just keep the planting low in the green space.
- MR. WEISS: That would be I guess for the record the northwesterly corner of the site?
- MR. CANNARELLA: That's correct.
- MR. WEISS: Okay. Any other concerns from the Planning Board? Steve go ahead.
- MR. BEDELL: Yeah if someone is parking, I guess in looking here I guess south of the building, if someone is parking there and wants to cross through you know the line of cars well I'm looking on the picture itself.
- MR. WEISS: Steve south is to the right.
- MR. BEDELL: Well I'm just looking at my north, east, west, south but if someone wants to walk through the cars that are lined up for the drive-thru is there like, I don't want to say an aisle but maybe like a little painted area where a car would stop so there can be maybe a little 2 foot painted walk path or something to walk through? Do you know what I'm saying? Because people I'm sure will be crossing through that line at some point to get to the main entrance.
- MR. CONCIATORI: John are you going to take that? Why don't you identify yourself for the record.
- MR. McDONOUGH: John McDonough for the record.
- MR. CONCIATORI: And John you had testified at the last hearing and are remaining sworn.
- MR. McDONOUGH: Yes.
- MR. WEISS: And Mr. McDonough just before you testify I just remind you you're still under oath.
- MR. McDONOUGH: Thank you yes. Mr. Bedell I think what you're talking about is a crosswalk that would interconnect the row of parking spaces that are adjacent to the drive-thru at the entrance to the building?
- MR. BEDELL: Exactly yes.

MR. McDONOUGH: And the answer is in the affirmative yes we'll just simply extend the sidewalk in the form a cross-hatched painted crosswalk.

MR. BEDELL: Okay all right (inaudible) like a car won't stop in that crosswalk it might be open for people just to walk through.

MR. McDONOUGH: It will just extenuate the walkway.

MR. BEDELL: Exactly.

MR. WEISS: Anything else from the Planning Board? At this point then I'll open it up to the public if anybody from the public has any questions based on the testimony and being that we're getting close to the end of this application, if anybody from the public has anything, comments about the application now is your time. Seeing none we'll close it to the public. Chuck I just wanted to make sure you have no open issues on planning?

MR. MCGROARTY: No I had none Mr. Chairman they were addressed.

MR. WEISS: Okay so that being said I don't think we need to bring back up your experts that are here.

MR. CONCIATORI: Thank you.

MR. WEISS: Anybody else from the Planning Board any other concerns? Okay let's review if we were to approve such a motion Tiena has a couple of conditions or comments that she's made.

MS. COFONI: Sure. The first condition will be that the stop should be painted on the pavement in the roadway adjacent to the northwesterly corner of the building just west of the drive-thru entrance which is number four of Gene's report. And number five is the asphalt pavement detail on sheet 3 of 6 should be revised and he has it listed there. The only other one I have is the one extending the sidewalk on the northern side of the building into the parking via a crosswalk, the parking spaces the one that . . .

MR. WEISS: Okay do we need to note the change in the plans as a condition with the elimination of three parking spaces to be replaced by shrubbery?

MS. COFONI: I will add that actually yes. That will be included in the variance because you need a variance for that.

MR. CONCIATORI: Yes and we would request that that so be changed to address that.

MS. COFONI: I don't have anything else unless anyone has anything. Other than standard conditions that we put in resolutions.

MR. WEISS: Okay so that being said if anybody would like to make a motion based on what . . .

MR. RUSSELL: I'll move that PB 11-25 be approved subject to the conditions.

MR. NELSEN: Second.

MR. WEISS: Thank you Nelson who seconded it? Dan? Any conversations or comments? Seeing none . . .

MR. BUCZYNSKI: I just had a comment. The question I always have regarding the need for a Developer's Agreement or preconstruction meeting I think that we should at least put in a need for a preconstruction meeting and a zoning permit. I think we could forgo a developer's agreement at this point. If the Board agrees.

MR. WEISS: Gene we'll certainly take your recommendation there.

MR. BUCZYNSKI: It's all on private property I don't think there's a need for a developer's agreement they just have to post the required inspection fees and go for a zoning permit and a preconstruction meeting. You don't have a problem with that do you?

MR. CONCIATORI: No.

MRS. NATAFALUSY: So they'll submit the cost estimates and you'll

MR. BUCZYNSKI: Right.

MRS. NATAFALUSY: Okay.

MR. WEISS: Okay that being said no other comments Catherine we're ready for a roll call.

MRS. NATAFALUSY: Dan Nelsen - yes
 Joe Fleischner - yes
 Nelson Russell - yes
 Mayor Scapicchio - yes
 Jim Staszak - yes
 Howie Weiss - yes

MR. WEISS: Gentlemen.

MR. CONCIATORI: Thank you very much.

APPLICATION #PB 11-30 – HAYS II ASSOCIATES / JOSEPH HAYS

MR. WEISS: Let us move forward with the agenda this evening with the final development matter PB 11-30 Hays II Associates / Joseph Hays it's a minor subdivision with variances located at 34 Bartley-Long Valley Road Block 6900, Lot 32. Welcome gentlemen.

MR. BLOUNT: Yes good evening Mr. Chairman, members of the Board Mark Blount (B-L-O-U-N-T) appearing on behalf of the applicant. Here with me this evening is John Hansen from Ferriero Engineering our project engineer and Joseph Hays the owner of the property.

MR. WEISS: Mr. Blount did you mention that you were going to have a planner as well?

MR. BLOUNT: No well Mr. Hansen is a professional planner as well as an engineer.

MR. WEISS: Okay. So when we hear from Mr. Hansen it will be both as a planner and an engineer.

MR. BLOUNT: Correct.

MR. WEISS: Okay. If you'd like Mr. Blount you can swear in your witness's maybe we'll do Mr. Hansen first.

MR. BLOUNT: Yeah my plan if acceptable is to present Mr. Hansen and Mr. Hays is here to address any ancillary issues as necessary. I think we can probably get through most of it with Mr. Hansen.

MS. COFONI: Okay.

(JOHN HANSEN SWORN IN FOR THE RECORD)

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

MR. HANSEN: John Hansen (H-A-N-S-E-N) 180 Main Street, Chester, New Jersey.

MS. COFONI: Thank you.

MR. BLOUNT: Mr. Hansen could you provide the Board with the benefit of your professional background?

MR. HANSEN: Sure I have a Bachelor of Science Degree in Civil Engineering from Virginia Tech. I graduated in 1992. Since that time I've been working in New Jersey in Engineering and Planning I'm a licensed engineer in the State I'm also a licensed planner. I've been involved with hundreds of site plans and subdivisions and water and sewer projects. I also represent different Boards and Municipalities in an engineering capacity.

MR. BLOUNT: Unless Mr. Chairman you'd like me to explore Mr. Hansen's experience or qualifications further I'd like to offer him as an expert both in the field of engineering and planning testimony.

MR. WEISS: Does anybody have any questions for Mr. Hansen?

MR. BUCZYNSKI: He's been here several times.

MR. WEISS: Yes I know he has.

MR. MANIA: Mr. Chairman he's been before this Board.

MR. WEISS: And Chuck you don't have a problem as Mr. Hansen has

MR. MCGROARTY: No I've worked with Mr. Hansen in other places he's very qualified.

MR. WEISS: Well we'll accept Mr. Hansen.

MR. HANSEN: Thank you.

MR. BLOUNT: Thank you. Mr. Hansen could you provide the Board with a description of the nature of this application including the present condition of the property?

MR. HANSEN: Sure. The property consists of 1.86 acres it's known as Block 6900, Lot 32 it's developed with two principal structures. One is a three bedroom dwelling and a detached garage which you see on the northeast section of the property. The other principal structure is a service station/general store that exists in the southwesterly part of the project and the property has been developed for many years. Each building, or each principal dwelling is served by an individual well, an individual septic system, separate utilities they also have separate driveways and separate parking areas that extend from Bartley Long Valley Road. The road is a county road under County jurisdiction. The property is in the Highlands Preservation area and it's generally flat no steep areas on the property.

MR. BLOUNT: And if you would if you would describe for the Board what is the proposed project and application here this evening.

MR. HANSEN: Let me mark this because it's a little bit different the exhibit that I have here is a little bit different than what you have in front of you. I'm going to mark this A-1 and this is entitled Minor Subdivision Plan it's the same title that you have except it's revised December 13, 2011. I've also added some color to it the structures are in a light brown and then what we have here is the red line which is a proposed subdivision line shown in the middle in red. And the reason that it's a little bit different the dimensions are slightly different because for the existing structure that's really currently a commercial structure we had open permits to build a new well and a new septic system. Those two things are ongoing and when we drilled the well and then located it we also dealt with the Health Department and the Health Department asked us to provide a 10 foot setback between the well and the proposed property line. When we located it with survey equipment it turned out it was about five and change so we had to slightly move it over. So the numbers that I'll be testifying tonight are a little bit different than the numbers that you have there. What we were able to do is maintain the same lot areas. The proposed lot area for the lot on the left is an acre and the lot on the right is .86 acres. What we're planning to do is very straight forward there's no land disturbance proposed, no new coverages proposed, what we're attempting to do is subdivide the property into two to remove what is now a nonconforming situation with two principal structures on one property. We've designed it so that the lot line is in the most appropriate place we think it provides frontage for both of the properties and provides an adequate area for maintenance on both sides of the property. There are variances requested in order to move forward with this application. The first variance is for lot area one acre is required for Lot 32 we're at 0.86 acres like I said so there's a deviation there. Lot frontage for Lot 32 we're at 94.29 feet, Lot 32.01 we're at 186.33 feet, 200 feet is required for each per the CR-3 zone. Lot width we're at 105.46 for Lot 2 and 175.17 feet for Lot 32.01 again 200 feet is required. Side yard for Lot 32.01 we've designed it as a 10 foot side yard setback, your ordinance requires a 25 foot side yard

requirement. We actually could get the 25 but the 10 foot was designed because if we moved any farther this way we actually encroach on what is an existing driveway that serves that three bedroom dwelling. So this seemed to be adequate and in a location that made sense from the existing features that were on the property.

MR. WEISS: Tiena?

MS. COFONI: Mr. Hansen I'm sorry because I'm assuming that the numbers on the plans are wrong, are different now?

MR. HANSEN: They are.

MS. COFONI: If you could go through the numbers again I just wasn't able to get it all down.

MR. HANSEN: Okay. Lot area for Lot 32 is 0.86 acres, Lot 32.01 is 1 acre which would comply with the zoning.

MS. COFONI: And that seems to be the same as what's on this plan.

MR. HANSEN: That is that's correct. Lot frontage is 94.29 feet for Lot 32.

MS. COFONI: I'm sorry say that again lot frontage is

MR. HANSEN: 94.29.

MS. COFONI: Okay.

MR. HANSEN: And for Lot 32.01 it's 186.33.

MS. COFONI: Thank you.

MR. HANSEN: Lot width is 105.46 for Lot 32, and 175.17 for Lot 32.01.

MR. BLOUNT: So if there's no questions

MR. WEISS: Wait a minute another number Mr. Hansen I think we need is the side.

MR. HANSEN: A side yard setback if 10.0 feet for Lot 32.01.

MS. COFONI: Okay.

MR. BLOUNT: Unless the Board has any questions I'm prepared to give the variance relief testimony for the project.

MR. BUCZYNSKI: I just have one question.

MR. WEISS: Go ahead Gene.

MR. BUCZYNSKI: John was there any existing underground storage tanks or have they been removed?

MR. HANSEN: Not to our knowledge.

MR. BUCZYNSKI: What they've been removed?

MR. HANSEN: We don't know of any underground storage tanks to our knowledge.

MR. BUCZYNSKI: I'm just asking if there is one.

? They were removed over 20 years ago.

MR. BUCZYNSKI: They were, okay.

MR. WEISS: I have one Mr. Hansen. I don't know how people here refer to the road as Bartley Long Valley Road is that the road that runs parallel to the railroad tracks?

MR. HANSEN: Yes.

MR. WEISS: Okay I know where it is.

MR. HANSEN: Okay moving on then as far as the variance relief goes we think there's elements of a C-1 and a C-2 case here. As far as the C-1 goes and the positive criteria associated with that the property has a rectangular shape or a square shape and the lawfully existing location of the structures actually the principal structures lend itself really to subdivide this property and create what is essentially two conforming, not conforming, two conventional lots. They're basically rectangular, they're basically going to have adequate frontage, they're going to have separate utilities with these structures and the existing features specifically the driveways are such that there's no common element between the two. From a C-2 standpoint we think that there are benefits here that outweigh the detriments. As far as Purpose I goes which is to promote a desirable and visual environment the elements that Mr. Hays has already done to the property as far as the siding and the windows, new roof, he's also added some landscaping and so forth in order to take what really was a commercial property and now take it into a single-family residential use. If we haven't already mentioned it the use is going to be a two bedroom residential single-family dwelling which is permitted by the CR-3 zone. Also because of the renovations that he's done we think that the project does promote safety and general welfare which is Purpose 8. I think by taking it from a commercial structure and making it a residential structure eliminates the amount of traffic and parking which is also all positives and moving in a safe direction. As far as the negative criteria goes as you know we have to show that there's no substantial detriment to the public good, there's no substantial detriment to the zone plan or the zoning ordinance. I think from the public good you won't know that there's been a subdivision if you drive by. There would be a lot line that's invisible and the property will be maintained as it is now. But as far as positives with the public good the improvements that Mr. Hays has done with landscaping and siding and so forth again I think enhanced that. As far as the zone plan, the zoning ordinance goes I feel there's no substantial detriment actually no detriment at all I think it's really an enhancement because we're moving away from what is currently a nonconforming "d" variance situation into two lots that are generally consistent with the lots that are in the neighborhood. I have one exhibit that I just want to show to demonstrate that. I'll mark this A-2.

MR. WEISS: With today's date on it too Mr. Hansen.

MR. HANSEN: Yes sir. And what this is is a blown up tax map of the area it's at 1 inch equals 200. Our property is shown here in red and what I've highlighted in yellow are properties that also don't conform to the 1 acre zoning and don't have the appropriate frontage that we have or that the zone requires in the CR-3 zone. There's eleven lots here that are within the 1,000 feet of the property and these other lots here that are six lots are within a half a mile. So there's general a residential pattern of this type within the area and I think our project with our subdivision will be consistent with that, consistent with the neighborhood and there'll be no detriment to the zone plan. That's really all I have.

MR. WEISS: Joe?

MR. FLEISCHNER: I have a question, when we had hurricane Irene how far did the water actually get to this property?

MR. HANSEN: It came right up to about where you see the flood hazard line on this map here.

MR. FLEISCHNER: Yeah but it didn't go any further? It didn't get to where the house was?

MR. HANSEN: No, no.

MR. STASZAK: How about the flash flood we just had?

(JOSEPH HAYS SWORN IN FOR THE RECORD)

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

MR. HAYS: Joseph Hays (H-A-Y-S) 61 Hackelbarney Road in Long Valley.

MR. WEISS: Mr. Hays you're the property owner?

MR. HAYS: Property owner of this property yes.

MR. WEISS: Okay so there was a question.

MR. BLOUNT: The question was relating to the nature and extent of the flooding in the recent flash flood storm back in October.

MR. HAYS: It was a scary flood.

MR. BLOUNT: If you could . . . I believe the Board would like to hear testimony as to the extent to which the water came up to on the property.

MR. HAYS: It went a little ways in the front yard and it was going through the rear with a pretty substantial current. And I walked, my son lives . . . I have two sons one lives next door to this property and my other son lives in the back of the dog training facility on the corner. So I walked down his property and walked across the back and was able to walk here when they weren't allowing anyone to go down the road because the road was impassable at the time. And I had no water in the basement and neither did my son next door. But I know people down that road that had a little problem.

MR. WEISS: And I guess just for the record Mr. Hays was referring to Exhibit A-1 during that testimony. Thank you Mr. Hays.

MR. HAYS: You're welcome.

MR. WEISS: Chuck did you have any additions or comments or questions?

MR. MCGROARTY: Just a couple of points. Mr. Hansen you've got my report?

MR. HANSEN: Yeah I do.

MR. MCGROARTY: Just to address . . . you mentioned the well and the comments from the Health Department I did note in there about the well needing to be at least 10 feet. I know you have revised plans but has the well itself, I know you mentioned something about the well, will the well satisfy the Health Department's requirements?

MR. HANSEN: Yeah the new lot line now has it 10.3 feet away.

MR. MCGROARTY: All right.

MR. HANSEN: I haven't gotten approval from the Health Department but we expect to.

MR. MCGROARTY: But on the existing plan or the plan that we had it was close, it was within 6.4 feet of the front lot line as well is that a problem?

MR. HANSEN: We don't think so.

MR. MCGROARTY: Okay so that will be subject to their review.

MR. HANSEN: Correct.

MR. MCGROARTY: Okay. I mentioned, and this has come up some times in the past (inaudible) both the house and the commercial structure that would be converted to a house they're existing conditions they don't comply with the front yard setback and it's sort of a legal issue that's come up, it's not a legal issue but it's a question as to how the attorneys want to interpret this. You don't need necessarily a variance to keep the building where it is but in the absence of a variance recognizing where they are any changes to those buildings in the future would necessitate the applicant to come back. If I have that right.

MS. COFONI: Yes typically what's proposed does not affect the existing nonconformity it's been our practice not to grant variances. But Chuck's right that would result in variances needed if . . . I mean I guess if you were doing something to the rear of the property, the rear of the building it wouldn't affect the variance.

MR. MCGROARTY: Well it's still in the front yard setback.

MR. MCGROARTY: Well it's still in the front yard setback.

MRS. NATAFALUSY: The whole structure is in the setback.

MS. COFONI: The whole structure, okay.

MR. MCGROARTY: We just raise it in case they were prepared to address it if they're not and in the future if Mr. Hays or the other property owner wishes to do something to the building and it necessitates a variance they come back.

MR. BLOUNT: I mean I suppose from a conservative standpoint it's appropriate to ask for the relief since we are before the Board for the front yard setback for the preexisting nonconforming condition and that way it's a matter of record that the relief has been granted.

MS. COFONI: That's certainly your option to request it.

MR. WEISS: Okay so I take it you are going to request that.

MS. BLOUNT: Yes.

MR. MCGROARTY: And just on that point then Mr. Hansen there are no . . . well first of all the residential dwelling which will be on the new Lot 32, there are no changes proposed to that at this time.

MR. HANSEN: No changes proposed.

MR. MCGROARTY: By the way that setback would actually be measured to the front porch. The porch becomes part of the principal structure.

MR. HANSEN: Correct.

MR. MCGROARTY: And on the commercial building that Mr. Hays would convert to a residential dwelling, again you're not proposing any changes to the expansion to the footprint of the building or to the exterior of the building other than façade changes.

MR. HANSEN: That's yep just aesthetic changes.

MR. MCGROARTY: So you're essentially asking or the Board . . . for variance relief to acknowledge that both of those are existing nonconforming structures.

MR. HANSEN: That's correct.

MR. MCGROARTY: You know so I see what you're doing and that will help us then. So what will the setback be to the porch?

MR. HANSEN: It would be 39 feet.

MR. MCGROARTY: 39 feet even?

MR. HANSEN: Yes.

MR. MCGROARTY: Mr. Chairman I can move on unless you want to . . .

MR. WEISS: No, no please I'm just following you with your report.

MR. MCGROARTY: Okay, Highlands do you need anything or have you looked into that?

MR. HANSEN: Yeah we looked into and since there's no land disturbance and no project we don't feel that we need any type of exemption or any type of application to the Highlands.

MR. MCGROARTY: It might be prudent to make it a condition of approval just to investigate. I'll leave that to John. I mean you are not doing any other . . . the only reason I asked was because you're

creating a new lot and converting a commercial to a residential. But I don't know what they would review but

MR. HANSEN: I don't know either but in all ways it's really less intense than you know what's approved prior.

MR. MCGROARTY: All right I just raised it so we have There was just comments and questions from the Board about flooding, have you investigated any freshwater wetlands or the possibility of freshwater wetlands on the site?

MR. HANSEN: We haven't but there is in our file there was a footprint of disturbance letter of interpretation that was done ten years ago and just so the Board understands the footprint of disturbance LOI is you know you mark out an acre or less on your property and file an application the DEP comes out and tells you whether or not you have any wetlands or transition areas there. So when it was done back in 2001 it was . . . they marked out this front half of the property the front acre 1.86 acres here they marked out this. So the front acre of the property ten years ago had no wetlands, no transition areas so things really haven't changed out there. And I can say with some certainty that there's no transition areas and no wetlands that affect those existing dwellings now.

MR. MCGROARTY: Okay. And then the last point I had Mr. Chairman on the other report John but just the building itself, the commercial building be converted to the residential. It's a one-story and your plan indicates two bedroom that would make it somewhat small but that's Mr. Hays' choice certainly, is there any anticipation of increasing the size of the building and adding a second story or adding a garage whether attached or detached?

MR. HANSEN: There's no plans at this time and to tell you if it was to become a three bedroom dwelling we'd have to increase the size of the septic it probably wouldn't be too easy to do. So it really doesn't lend itself to any expansion.

MR. MCGROARTY: So it's going to be a two bedroom one-story?

MR. HANSEN: Yes.

MR. MCGROARTY: What about a garage?

MR. HANSEN: We don't have any plans at this time and I guess if we do need a . . . desire to have a detached garage in the future it would most likely . . . well if he wants to have a garage it would most likely be a detached garage and if need relief it would be before the Board of Adjustment I guess.

MR. WEISS: In Mt. Olive there's no Board of Adjustment.

MR. HANSEN: Then we'd be before you guys.

MR. WEISS: Nelson?

MR. RUSSELL: Yeah I have a question on lot width. In the drawing the proposed Lot 32 is 99.75 feet and yet in the zoning schedule down in the corner it says it's 103.65 feet.

MR. HANSEN: Well the lot width and the lot frontage are two different things obviously. The frontage here is measured at the side line of the road and then the lot width is measured at the setback so they're a little different.

MR. RUSSELL: Okay.

MR. HANSEN: And it's because of the way the angle of the lot line is it's larger.

MR. MCGROARTY: And on Mr. Russell's point John if you're revising the plans as you said you did for tonight if you would add, because it is a little confusing the way the ordinance is, so if you would add another line with lot frontage in addition to lot width just so that's on the record.

MR. HANSEN: Will do.

MR. WEISS: Thank you Chuck. Tiena did you have a question?

MS. COFONI: No.

MR. WEISS: Does anybody have any questions for Mr. Hansen? I actually do. Mr. Hansen tell me a little bit about, in your testimony about positive criteria you talked about the lessening of commercial traffic on the property. So maybe you or Mr. Hays can tell us about what goes in that commercial property now. Is it used as a commercial business? And if so how much traffic is there now?

MR. HANSEN: I wasn't really referring to what goes on right now, I was referring to what historically has gone on on the property and what could go on based on the approvals. So it hasn't been operated in recent times as a gas station/service station/general store but with the approval in hand I think it could be. And so that's my comparison.

MR. WEISS: Just to be clear because it sounded like there's an operating commercial business based on your testimony and the record will show that it is kind of a defunct commercial business right now.

MR. HANSEN: Right now it's vacant and the siding has been renovated, the roof has been renovated.

MR. WEISS: The other question I have is perhaps for Chuck, Mr. Hansen testified to us that there's upwards of eleven lots in the area that don't conform to the zoning as of now. Have we ever identified this area in town or maybe relook as a rezone?

MR. MCGROARTY: Well not that I'm aware of Mr. Chairman but I will mention, and this to can be a bit confusing, the CR-3 zone allows for lot sizes of 15,000 square feet or a third of an acre it jumps up to a minimum of one acre requirement anywhere in the township in a residential zone in the absence of central water and sewer. So any time a residential lot is developed with a septic system as is the case here it automatically requires the one acre so that's the reason for that. But I think your point is well taken the likelihood, and Gene correct me if I'm wrong, but there'll be no sewers down in this area so at some point although there's many things that will affect this and mostly it's the Highlands that's going to affect it in the future so . . . but it's certainly worth looking at as we're looking at the other zoning changes early next year as well.

MR. WEISS: Okay well we can throw that into our little lists of things to do.

MR. MCGROARTY: Yes. But the character of the area I think is such that there are homes that are certainly closer to the road or as close to the road as these and the lot sizes I'm not sure of but John has told us tonight based on the tax map.

MR. WEISS: All about equivalent size.

MR. MCGROARTY: Maybe historically when developed that one acre standard was imposed . . . I'm not sure when but it doesn't date back to the creation of the CR-3 zone I think it came afterwards.

MR. WEISS: Then I only had one other question if anybody else has a question? My question may be for Mr. Hays, do you have any history for us of how this piece of property came to have . . . I guess I know the answer, came to have two dwellings? I guess it was the home and the business on the same lot. Is there a history here of how this occurred?

MR. HAYS: There is some history. The gentleman who owned it . . . well Monty Cholish owned it prior to me but prior to him he had a bus business and he was parking buses there and I don't think anyone liked him parking buses there and he went to the Board of Adjustment and he got a variance to have a gas station and a general store. And that's the way it was sold to Monty Cholish and that's the way Monty Cholish sold it to me. Now I didn't really have, when I bought it I was in the process of trying to develop a golf course on what was then called The Tarn property. I had the acreage behind this which I have since sold to the State and our timing was not very good we got the golf course approved and there was no financing available I think it was early 1990's or the late 1980's banks were all being . . . it's almost like it is now as a matter of fact. And so the golf course got abandoned and this site was going to have a Par 3 coming over toward the road and then you're going to go back and actually you were able to go across the river twice which I don't think you could ever do again. Unfortunately it never really materialized so . . . do you want more history than that?

MR. WEISS: I don't know I was just curious I guess in its day it was a commercial building and then . . .

MR. HAYS: It was a lot of things.

MR. WEISS: And then perhaps maybe there was the home to support the commercial building maybe the same person owns both?

MR. HAYS: That's the way it went.

MR. BLOUNT: Mr. Chairman I went back through some of the files, the subdivision planning files myself and looked back and the variances were dating back to the early 1970's and referring to the use of the property all the way back to the 1950's so it's been in this dual principal structure for quite some time.

MR. WEISS: Obviously Tiena an approval of this application will permanently vacate the use of a commercial property?

MS. COFONI: Yes because it's not permitted in the zone.

MR. WEISS: But currently it's a preexisting nonconforming use that could continue to use it as commercial.

MS. COFONI: Correct.

MR. WEISS: Yeah so by granting this approval that goes away.

MS. COFONI: Correct it eliminates an existing nonconformity.

MR. MANIA: Mr. Chairman I remember the golf course the proposed golf course. There was three or four partners I believe that were proposing that.

MR. BLOUNT: Mr. Chairman just a matter of housekeeping I know it's in the township files but for the record there was a December 5, 2011 approval letter from the Morris County Planning Board directed to the township offices.

MR. WEISS: Thank you for bringing that up we do have a copy of that. That's part of the file right? Yeah we do have that. Okay and Chuck just to review the concern from the Health Department has been satisfied.

MR. MCGROARTY: I think the Board would make it subject to obviously their review and approval.

MR. WEISS: It sounds like the testimony supported that.

MR. MCGROARTY: Right but they'll have to approve the septic too won't they?

MR. BUCZYNSKI: Right it would be subject to . . .

MR. WEISS: Subject to the Health Department review. Does anybody have any questions? Let me open it to the public if anybody has any questions for Mr. Hansen and Mr. Hays? I know there's nobody here but for the record there's no questions I'll close it to the public. Mr. Blount anything else that you might have?

MR. BLOUNT: I have nothing further to add.

MR. WEISS: All right anybody from the Planning Board? Okay then at this point Chuck, Gene, John, Tiena?

MR. MCGROARTY: Nothing further.

MR. BUCZYNSKI: No.

MS. COFONI: No.

MR. WEISS: Okay let me open it up for a motion.

MR. RUSSELL: I'll move that PB 11-30 be approved.

MR. MANIA: I'll second it.

MR. WEISS: Nelson thank you, John thank you. Any comment? Seeing none let's make sure that the conditions are noted as Tiena has copies of if the motion is to be approved it will contain the following, the resolution will contain the following conditions.

MS. COFONI: Yes it's subject to the Health Department approval for the well and the septic system. There will be a requirement to comply with Highlands if applicable, and to add the lot frontage to the zoning schedule on the plans.

MR. MCGROARTY: I'm sorry can you just read those one more time?

MS. COFONI: Yes add lot frontage to the zoning schedule on the plans, if applicable comply with Highlands, and subject to the Health Department approval for the well and the septic.

MR. MCGROARTY: That's right and the plans will be revised to show the dimensions for the house on the other lot and the variances . . . they've asked for variance relief on those two existing nonconforming structures.

MR. WEISS: And the lot frontage Chuck is what you had asked for?

MR. MCGROARTY: That's correct yes. Mr. Hansen testified to it, it was in my report the numbers changed slightly based on . . . for the reasons he explained but he's going to add that to the zoning chart. So there's a lot width and a lot frontage two different dimensions.

MR. WEISS: Okay so those conditions you're still good Mr. Nelson and John you're okay with those conditions as read by Tiena?

MR. MANIA: Yes I am thank you.

MR. BUCZYNSKI: I just got one more I'm trying to find the location but there's a requirement for single-family dwellings to have dry wells and so I think we have to waive that requirement because I think at this particular project location doesn't really make sense to put a dry well.

MR. HANSEN: I agree.

MR. BUCZYNSKI: Because of the depth of the ground water.

MS. COFONI: Gene do you think that's a waiver?

MR. BUCZYNSKI: I believe so I'm trying to find where it is because it just hit me. Catherine do you remember where it is? It's 400-74H so that would be a design waiver.

MS. COFONI: Okay I have added that.

MR. WEISS: Still no problem with the addition of the design waiver?

MR. RUSSELL: No.

MR. MANIA: No.

MR. WEISS: Okay and we're good now Chuck, Gene?

MR. BUCZYNSKI: Yes.

MR. MCGROARTY: Yes.

MR. WEISS: That being said Catherine roll call.

MRS. NATAFALUSY: Dan Nelsen - yes
Joe Fleischner - yes
John Mania - yes
Nelson Russell - yes
Mayor Scapicchio - yes
Jim Staszak - yes
Steve Bedell - yes
Brad Zwigard - yes
Howie Weiss - yes

MR. WEISS: Gentlemen congratulations.

MR. BLOUNT: Thank you.

MR. HANSEN: Thank you.

MR. WEISS: Good luck to you Mr. Hays.

MR. HAYS: Thank you very much.

MR. WEISS: Ladies and gentlemen with no further business I guess it's maybe the appropriate time to wish everyone a happy and healthy new year, enjoy the holiday season and we will be looking to regroup on January 12 Catherine correct?

MRS. NATAFALUSY: January 12 at 7:30.

MR. WEISS: Does anybody have anything else? Motion to adjourn?

MR. STASZAK: Motion to adjourn.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 8:50 P.M.)

Transcribed by:
Lauren Perkins, Secretary
Planning Department