

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, Dan Nelsen, Nelson Russell, David Scapicchio, Jim Staszak, Scott Van Ness, Pat Walsh (7:31), Steve Bedell, Brad Zwigard, Howie Weiss

**Members Excused:** Mayor Robert Greenbaum

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

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

---

**APPROVAL OF MINUTES**

**December 8, 2011 Public Meeting**

Motion: Jim Staszak  
Second: Dan Nelsen

**Roll Call:**

Dan Nelsen - yes  
Nelson Russell - yes  
David Scapicchio - yes  
Jim Staszak - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Brad Zwigard - yes  
Howie Weiss - yes

**December 15, 2011 Public Meeting**

Motion: David Scapicchio  
Second: Joe Fleischner

**Roll Call:**

Joe Fleischner - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
David Scapicchio - yes  
Jim Staszak - yes  
Steve Bedell - yes  
Brad Zwigard - yes  
Howie Weiss - yes

**January 12, 2012 Reorganization Meeting**

Motion: Scott Van Ness  
Second: Dan Nelsen

**Roll Call:**

Joe Fleischner - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
David Scapicchio - yes  
Jim Staszak - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Brad Zwigard - yes  
Howie Weiss - yes

---

**RESOLUTIONS FOR APPROVAL**

**Resolution #PB 11-31 – Vincent LoConte – (Block 4113, Lot 18)**

Motion: Jim Staszak  
Second: David Scapicchio

**Roll Call:**

Dan Nelsen - yes  
Nelson Russell - yes  
David Scapicchio - yes  
Jim Staszak - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Brad Zwigard - yes

**Resolution #PB 11-34 – Fun ‘n’ Friends Nursery School – (Block 4500, Lot 27)**

Motion: Steve Bedell  
Second: Dan Nelsen

**Roll Call:**

Dan Nelsen - yes  
Nelson Russell - yes  
David Scapicchio - yes  
Jim Staszak - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Brad Zwigard - yes

**Resolution #PB 02-07 – Toll NJ (Morris Hunt) – (Block 4400, Lots 86 & 108)**

Motion: Steve Bedell  
Second: Nelson Russell

**Roll Call:**

Dan Nelsen - yes  
Nelson Russell - yes  
David Scapicchio - yes  
Jim Staszak - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Brad Zwigard - yes

**Resolution #PB 01-04 – Toll Brothers / Morris Chase Phase I – (Block 4400, Lot 79)**

Motion: Steve Bedell  
Second: Nelson Russell

**Roll Call:**

Nelson Russell - yes  
David Scapicchio - yes  
Jim Staszak - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Brad Zwigard - yes

---

**COMMITTEE REPORTS**

MR. WEISS: Okay committee reports the Mayor is not here, Councilman Pat Walsh is not here. Environmental Commission Nelson?

MR. RUSSELL: We met last night not a whole lot went on we discussed 11<sup>th</sup> Hour Rescue we still have concerns with animal waste and stormwater runoff. We discussed again the tree planting around the lake.

MR. WEISS: Nelson are you going to have any kind of detailed report for the application later this evening from the Environmental Commission?

MR. RUSSELL: No, no detail report no.

MR. WEISS: Okay but you'll have input if it comes up.

MR. RUSSELL: Yes.

MR. WEISS: Okay thank you. Ordinance committee?

MR. STASZAK: My understanding we're going to have a meeting shortly once Chuck can find the date that's good for everybody on the schedule.

MR. WEISS: Perfect thank you. And the Street Naming Committee didn't meet and Pat Walsh is not here for Open Space Committee.

---

**DISCUSSION MATTER**

**MARCIA WILLIAMS – APPEAL OF CHARGES & PROCESS REQ'D FOR PARKING AREA**

MR. WEISS: So we'll get right into our first discussion matter of the evening which is a discussion matter that we need for Mrs. Marcia Williams. Mrs. Williams you can certainly come right up here to the table. We understand you have a question on the process of the charges for your recent . . .

MRS. WILLIAMS: Well it wasn't necessarily the process, well to a degree the process. This whole thing came about when the Zoning Officer came by and told me basically that I needed to stop what I was doing which was clearing a piece of property. And when I mentioned that I wanted to put down some gravel for some additional parking and he told me I needed a driveway permit. So went inside I read through the Code Book and at the very end of the driveway ordinance for residential it says if you feel if these items don't apply or you want an exception you can request a meeting before the Board, or the Council I'm sorry. So I came in to request that meeting and was told I needed to put \$500.00 up front before I could even have a meeting which I did only to find out as I said it was a parking area not a driveway and it didn't apply. There's nothing in zoning that says I couldn't put down gravel. I don't feel I should be responsible for the fees for that meeting or any other meetings that came about because there was nothing in zoning anyway to begin with.

MR. WEISS: So perhaps what I think we should do is maybe Gene if you can explain to us the process.

MR. BUCZYNSKI: Sure I can. I didn't get into it at the beginning I did not make the decision that Mrs. Williams needed to go for a driveway opening permit. She went to the Town Council like she said and the Town Council then sent it to me through Lisa Lashway to review it for the driveway permit because per the ordinance the engineer is supposed to review it. I reviewed it and I had to write a letter back to Mayor and Council basically stating that in my opinion it wasn't a driveway permit because it wasn't a driveway. It was a parking lot for a residential dwelling. So my charges were number one for a meeting that was set up with Councilman Toby and I think Mr. Perkins was also there so there was a meeting with Mrs. Williams to go over that so there was a charge for that meeting which was an hour and a half that was on October 27 and then I did a site inspection on October 10 and then we met again with . . . I prepared a report and we also met again with Mrs. Williams with Catherine to go over the procedure and what we felt she needed to do to be able to get approval for the driveway. That's the time I spent on the project.

MR. WEISS: Okay. And you feel Mrs. Williams that because you're not ultimately getting a driveway that you shouldn't be liable for the charges to review a driveway permit that you didn't need?

MRS. WILLIAMS: Yes there was nothing in zoning that said I needed to go through any of this.

MS. COFONI: Gene am I correct she needs a variance for what she was looking . . .

MR. BUCZYNSKI: Catherine sent Mrs. Williams a letter on November 4<sup>th</sup> outlining what needs to be done. That because it's considered a structure per the ordinance therefore the proposed parking area must adhere to the setback requirements for an accessory structure in the R-4 zone district. As a result the parking area must be setback a minimum of 50 feet from the front line on Whippoorwill Road

and be situated a minimum of 5 feet from the rear and side lot line. A zoning permit must be secured prior to installation of the parking area. And basically what happened if she continues to show it where it is right now she'll be in front of the Planning Board because there will be variances that are required.

MR. WEISS: So ultimately at the end of the line you understand the engineer's determination is that you'll need a variance to continue.

MRS. WILLIAMS: Oh yes I do understand that.

MR. WEISS: And my thought here, and please tell me if I'm not correct, is that in the event that you didn't follow the process that you did and just continued and put down your asphalt or your gravel you probably could have been looking at a fine rather than a review, I'm guessing. If you were to avoid this process that you took, I'm just trying to help you follow through; if you didn't follow this process and just took it upon yourself to go forward you would have been in violation as the final letter back to you dictates.

MR. BUCZYNSKI: Just for the record too the reason I think the Zoning Officer went out to the site was because there was excavation being done, there was trees cut down. I will admit there was a concern to with that area behind that area was another residential dwelling. So when I went out to review it from a stormwater management standpoint I will admit they did have soil erosion measures already put on the site. But there was a concern by the adjacent properties.

MR. WEISS: Which is what brought you out.

MR. BUCZYNSKI: Correct.

MR. WEISS: So I'm just trying to help you understand the process.

MRS. WILLIAMS: I understand the process and had the Zoning Officer said we have something that you know we have something that's going to . . . that dictates what you can do here in the Land Use section I certainly could have gone on the computer and read it myself and known that it would be variances and such. And right now I'm not willing to do that so it's not going to be an issue right there it would have stopped.

MR. WEISS: I don't really understand and I'm going to turn to you Tiena the power of this Board to waive fees or to change ordinances that discuss fees.

MS. COFONI: You know that's actually what I'm looking now. The bottom of Catherine's letter and this may be why you're here, talks about if you disagree with this determination you may appeal to the Planning Board.

MRS. NATAFALUSY: Excuse me Tiena it's the letter that I sent for the escrow account and in that letter we say this correspondence is sent to you in compliance with Township ordinance requirements, ten day notice provided prior to the applicant to the disbursement of funds. You're entitled to request a hearing by the Planning Board if you wish to challenge the reasonableness of this intended charge against the escrow account.

MS. COFONI: Okay that's what I was trying to look for.

MRS. NATAFALUSY: That's what she's here for.

MS. COFONI: Okay that's what I was trying to look for. Okay so to explain to the Board you're not appealing the actual determination subsequently she's appealing the actual charges.

MRS. WILLIAMS: Well not necessarily even the charges, just that I am paying for them.

MS. COFONI: Oh right.

MR. BUCZYNSKI: See she's not questioning the hours that was spent to do this work she's questioning why should she be the one paying for it.

MS. COFONI: Yeah and that's essentially the charges again. What we have, what the Board has the ability to determine is whether or not the charges that were charged against your escrow account are reasonable.

MRS. WILLIAMS: Okay so I'm at a dead end.

MS. COFONI: Well no that's a determination the Board can make.

MR. WEISS: Well let me ask a silly question if you don't want to pay for the charges who should pay for the charges?

MRS. WILLIAMS: I think the town should absorb them. It was the Zoning Officer that came by and said it was a zoning thing and that I had to have a driveway permit when in the end as it turned out there was no driveway permit. There was never a permit application filled out, it was always a parking area.

MR. WEISS: Joe?

MR. FLEISCHNER: Not to be the nay-sayer but I would think that the Zoning Officer if the Zoning Officer could not find an ordinance that pertained to the applicant then it's the responsibility of the town. If the town wants to further bring in an outside consultant. What I'm hearing is there was nothing on the books that required her to have this study done by the Township. Now if she comes for a variance yes she has to. I'm just trying to sort this in my mind.

MRS. NATAFALUSY: I think the Zoning Officer called it a driveway and maybe he . . . . you know that's what he thought it was another driveway on the property.

MR. BUCZYNSKI: And that set off the whole process.

MR. FLEISCHNER: And certainly if that was the case then by all means you have to put money in escrow. But do two wrongs make a right, I mean in my mind that was an error on the part of the Zoning Officer. Did the Zoning Officer ever ask the applicant Mrs. Williams is this a driveway? Or were you ever . . . .

MRS. WILLIAMS: Oh yeah I even came back and questioned when he said it was a driveway and I needed to fill out a permit and I told him I wouldn't fill out a permit because it wasn't a driveway. But everything I read in the zoning it wasn't a driveway and the very last line in that is if you feel you want to ask for an exception to those requirements you could ask this in front of the Council.

MR. BUCZYNSKI: My involvement didn't start until the Council sent it to me and said we want you to review and make a determination for the driveway. So at that point I really have to do something in writing to go back to them I can't just call somebody and say that they don't need this.

MR. FLEISCHNER: Absolutely.

MR. WEISS: Steve you have a comment?

MR. BEDELL: I might not always agree with Joe but if she came in and paid for permits for a driveway which was never really needed I don't know how we could keep the funds when if she comes in for a variance for the parking lot . . . .

MR. BUCZYNSKI: She didn't put up the money; the money wasn't put out for the driveway permit itself. In essence it was put out for my review relative to the permit but the actual driveway permit is not a lot of money.

MRS. WILLIAMS: I don't know I've never filled one out.

MR. BUCZYNSKI: A driveway permit itself is \$25.00.

MR. BEDELL: But in the end the work was done which it was but it was maybe . . . . I won't say necessary because it wasn't for a driveway if I'm hearing correct.

MR. BUCZYNSKI: A lot of times the driveway permit will just be reviewed by the Zoning Officer and he'll if he needs me to get involved he'll call me to get involved. But how this got from there to the Council and then to me I don't know.

MR. RUSSELL: Was there a zoning violation?

MR. BUCZYNSKI: Well there was a violation relative to doing construction without a permit. Doing construction, taking down trees there was concern that there was a violation. It never went that way.

MRS. WILLIAMS: Excuse me.

MR. BUCZYNSKI: Yes mam.

MRS. WILLIAMS: On a residential dwelling less than an acre I can remove as many trees as I want in the ordinance.

MR. BUCZYNSKI: In the ordinance yes you're right.

MRS. WILLIAMS: There was no violation.

MR. BUCZYNSKI: You're right. Well the excavation was done, she took down trees but you did excavate for the parking lot.

MRS. WILLIAMS: No I didn't.

MR. BUCZYNSKI: It's pretty clear the whole area is . . . .

MRS. WILLIAMS: I took the stumps out I didn't have them ground I had them pulled.

MR. BUCZYNSKI: Well I didn't make that determination.

MR. WEISS: Well that's not the issue at hand. I'm just a little uncomfortable because we're not hearing from the Construction Official, we're not hearing from . . . . not the Construction Official but the Zoning Officer and maybe we should bring him into our meeting before we can . . . .

MR. SCAPICCHIO: Mr. Chairman?

MR. WEISS: Yes.

MR. SCAPICCHIO: It appears to me that this may be something that the Council needs to deal with. They authorized Mr. Buczynski to do his work and we told this woman that she had to pony up \$500.00 I'm not sure what our authority is here.

MS. COFONI: I think the authority comes, Catherine correct me if I'm wrong because I don't have that letter, from general abilities to appeal escrow accounts.

MRS. NATAFALUSY: Yes.

MS. COFONI: And because the . . . . Catherine is really the one that handles the escrow accounts, the township probably had it posted with her because she's the one that has the ability to handle that paperwork procedures per say so it kind of . . . . I mean it's unusual because it is a Township committee . . . . Township Council action but it was handled as an escrow account probably because I know in other towns that's how they do it because that's the mechanism to get an escrow account handled. And the appeal of that would come to us.

MR. WEISS: But this one is odd obviously Mrs. Williams is not appealing the charges per say she's appealing how we got to this point.

MS. COFONI: But ultimately it's the same thing.

MRS. NATAFALUSY: And the bill still has to get paid because Gene did do the work.

MRS. WILLIAMS: I mean in the end a phone call was made to the town attorney who said there's nothing in zoning that says this woman cannot put down gravel if she chooses to.

MRS. NATAFALUSY: Who called the town attorney?

MRS. WILLIAMS: You did with Gene that day after . . . .

- MRS. NATAFALUSY: No the Planning Board attorney not the town attorney.
- MRS. WILLIAMS: Oh I'm sorry.
- MRS. NATAFALUSY: Planning Board attorney.
- MS. COFONI: Me?
- MRS. NATAFALUSY: Ed.
- MR. BUCZYNSKI: But they have to meet the setback requirements.
- MS. COFONI: Right so the parking lot as proposed could not be constructed.
- MR. BUCZYNSKI: As shown on the drawing she submitted to us that's correct.
- MS. COFONI: Right so it would have been in violation of the zoning if you had constructed it the way you had planned and you decided not to go forward with the variance.
- MRS. WILLIAMS: That was under Land Use not zoning.
- MR. MCGROARTY: Zoning is part of the Land Use Ordinance.
- MRS. WILLIAMS: I'm not sure why you're making that distinction but okay I understand what you mean.
- MR. BUCZYNSKI: In all fairness Mrs. Williams did try to do the right thing.
- MR. WEISS: Joe go ahead.
- MR. FLEISCHNER: Mr. Chairman I just think the way it sounds to me Mrs. Williams as Gene just said tried to do the right things and the bureaucracy of government whether small, large or whatever got in the way and created more of a problem than needed to be done. It's my feeling at this point in time that she should not be held responsible for the charges and where the question is who pays for it certainly that's an issue but I think that's an issue that the Township needs to work out on who's budget it comes out of. But I think . . . .
- MRS. NATAFALUSY: It's going to come out of my budget. It's going to come out of the Planning Department budget I know it is it's not going to come out of any place else.
- MR. FLEISCHNER: Well it really should come out of the Town Council budget.
- MRS. NATAFALUSY: It's not going to.
- MS. COFONI: Can I ask you how much, I don't know if you said this, how much the charge was?
- MRS. WILLIAMS: I had to put up \$500.00 in escrow.
- MR. BUCZYNSKI: \$483.00.
- MS. COFONI: \$483.00 so you would get the balance, I mean the \$20.00 back but yeah \$483.00. I was just curious I didn't know how much that was.
- MR. WEISS: So I go back to the same question do we have the authority to . . . .
- MS. COFONI: Make that determination? Yes.
- MR. STASZAK: She shouldn't have been charged . . . her escrow account shouldn't have been charged that.
- MRS. NATAFALUSY: That's what she is appealing to you.

- MR. STASZAK: Right.
- MR. BUCZYNSKI: I think that she shouldn't pay for the fees that were charged.
- MS. COFONI: You think that?
- MR. BUCZYNSKI: I'm saying that's what it is.
- MS. COFONI: Yes.
- MR. WEISS: All right so we can beat this until the horse is dead. Does anybody else have any other comments on this?
- MR. RUSSELL: Well I feel the Zoning Officer made a determination that wasn't correct. Mrs. Williams shouldn't have to pay for an error on the part of the Zoning Official.
- MR. WEISS: Mrs. Williams do you have anything else you want to add to the conversation?
- MRS. WILLIAMS: No I think that's pretty much summed it up.
- MR. WEISS: Dan.
- MR. NELSEN: Is that just semantics that the Zoning Officer called it a driveway when in effect it was a parking area?
- MR. WEISS: It sounds to me that way.
- MRS. NATAFALUSY: Yes.
- MR. NELSEN: And if it were a parking area she would need permits?
- MR. BUCZYNSKI: If it was a parking area the way the plan was she'd have to come in front of the Board and pay the fees and actually account everything else in front of the Board.
- MS. COFONI: She would have needed variance approvals to construct a parking lot where she proposes.
- MR. NELSEN: As it was being constructed.
- MR. WEISS: What is the status of this project now have you ended your desire to put in that parking area?
- MRS. WILLIAMS: Yes at this time I don't plan on going forward with it. I mean I might in the spring or so but at this point I need to take a break on it.
- MR. STASZAK: What have you done?
- MRS. WILLIAMS: I put a shed on the property.
- MR. STASZAK: No I mean with the parking area. Cut down the trees and remove the stumps?
- MRS. WILLIAMS: I took down the trees and the stumps have been removed.
- MR. STASZAK: And that's all you've done?
- MRS. WILLIAMS: And the shed has been put in there. It was a whole piece of property I purchased from the town.
- MR. STASZAK: Okay but that's all you've done is remove the stumps and as far as the parking area . . . .
- MRS. WILLIAMS: Yes.
- MR. NELSEN: Has there been gravel installed?

MRS. WILLIAMS: No.

MR. WEISS: Any other conversation? All right let's bring this to a head. Does anybody want to make a motion?

MR. SCAPICCHIO: I'll make a motion that we return Marcia Williams' \$500.00 escrow.

MR. VAN NESS: I will second that motion.

MR. WEISS: Any other conversation? Roll call Catherine.

MRS. NATAFALUSY: Joe Fleischner - yes  
Dan Nelsen - yes  
Nelson Russell - yes  
David Scapicchio - yes  
Jim Staszak - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Brad Zwigard - yes  
Howie Weiss - no

MR. WEISS: So okay so tell us now when can Mrs. Williams expect a . . . .

MRS. NATAFALUSY: I will start the process tomorrow.

MR. WEISS: Did you pay money? You did you paid \$500.00. Okay so Catherine will start the process I guess you can keep track of that through Catherine's office.

MRS. NATAFALUSY: Right. I have to send here a purchase order to sign and then I give it back to Finance and it goes on a bill list.

MRS. WILLIAMS: Okay that's it I'm done?

MR. WEISS: You're done thank you.

MRS. WILLIAMS: Thank you, thank you all.

**HIGHLANDS CHECKLIST ORDINANCE**

MR. WEISS: There is another discussion matter on our agenda this evening but we're going to carry that until . . . . Catherine and I can look at the schedule with Chuck and we'll address it another time. Thank you Chuck.

---

**APPLICATION #PB 11-27 – TOMASA JALLAD**

MR. WEISS: Okay that brings us to the first developmental matter of this evening which is PB 11-27 Tomasa Jallad requesting a variance for side yard setback located at 134 Flanders-Drakestown Road Block 7100, Lot 66. Tonight in front of us we have Michael Selvaggi, and Mr. Selvaggi before I turn the hearing over to you I just want to state for the record that the Planning Board is fully aware that we have an official objector to this application. Although it doesn't happen often the process is going to be as follows, we will allow you Mr. Selvaggi to present your witnesses. After each or throughout the testimony of these witnesses we will allow the audience to cross examine your expert on the testimony that was delivered. And you'll continue the process until you've exhausted all of your witnesses. At that point I will turn it over to the public at which point if the objector chooses to use that opportunity to state your case, present your witnesses or to put up your case that would be the opportunity. As well as anybody from the public will have an opportunity at the end of this hearing before we close it to the public to have a say on any matter on any issue that you'd like and of course the public will have plenty of opportunity to question the experts throughout and at the end of their testimony. And that being said Mr. Selvaggi I welcome you once again and the hearing is yours.

MR. SELVAGGI: Thank you.

MS. RUBRIGHT: I need to be heard on a jurisdictional issue before they proceed.

MR. WEISS: I think if you would, we've read the letters we have gotten our advice from our attorney the process as I laid it out is the process that we're following. We understand there's an objection to the process, we have reviewed the letter our attorney has told us that we have the ability to go forward with this hearing and we have chosen to go forward.

MS. RUBRIGHT: I understand that I just want to put on the record that we are objecting on jurisdictional grounds on the basis of notice. Neither the application nor the notice indicates that the applicant requires relief to use the preexisting nonconforming abandoned structures and there are two abandoned structures on the property. A review of the record and a review of the previous applications indicates very clearly that both the day care center and the former general store are abandoned structures. I will leave it to the Board, it is the applicant's burden to show that the structures are not preexisting and nonconforming and that they're not abandoned but I will take under advisement what you've indicated. I just for the purposes of the record want to indicate that we do have research that shows that both of these structures are abandoned and that they were not noticed as seeking relief for that. I'm also unclear because the notice does not indicate that the applicant is addressing anything to do with the former general store if that is being discussed tonight or not. I think it should be in the notices it's not there are certainly people that may be interested in knowing what's happening with that structure. If it is going to be discussed this evening and that was not in the notice so I want to just make that as a record as well.

MR. WEISS: Mrs. Rubright?

MS. RUBRIGHT: It's Mrs. Wilson but you can call me Ms. Rubright.

MR. WEISS: Whatever you're comfortable with.

MS. RUBRIGHT: Ms. Rubright is fine.

MR. WEISS: Ms. Rubright your objection is dually noted and as I said we'll give you ample opportunity to support your claim and go on the record for those.

MS. RUBRIGHT: I appreciate it thank you.

MR. WEISS: I suppose Mike (inaudible).

MR. SELVAGGI: Yeah with respect to I think which is probably the issue that the objectors are most concerned about the general store, we will certainly address that in terms of what it's going to be used for which I guess probably the best way to describe it would be ornamental. The applicant proposes to invest their own money to renovate that building to restore it to what it looked like in the 1800's. We've presented the proposal to MOTHS the Mt. Olive Historic Commission and they've certainly endorsed the proposal. It is not going to be used as a residence; it is not going to be used for any commercial/industrial purpose we'll even agree to a condition to that affect. We obviously . . . you don't have jurisdiction over the process of getting building permits and going through that. There's certainly issues that have to be resolved with other departments within the municipality but I don't believe the issuance of building permits and the zoning approval associated with that would be germane here. With regards to the building itself the day care center has certainly we will confess has been abandoned but the notice is clear that we're putting an addition on the intent is to restore the building, this is the main building, to use it as a permitted single-family dwelling which in fact brings the property into more conformity because a day care center under current regulations is not a permitted use. So we believe on both issues the notice that was given is sufficient to provide neighbors and 200 foot property owners with information so they can figure out or determine what's going on with the property.

MR. WEISS: All right so just two other quick points of business then. Number one for the record Mr. Walsh has arrived and number two we have a busy agenda so Mr. Selvaggi in about quarter to nine I'm going to ask you to wrap up. I'd like to wrap your hearing up starting at a quarter to nine so we can give the second application enough time to get started and to present some of their applicants. So we're going to use that time frame and if we can't finish it we'll look to carry it.

MR. SELVAGGI: Okay. What we'd like to do is again just by point of reference the application is for Lot 66 in Block 7100 its Flanders-Drakestown Road. For those or many I trust all of you are familiar if you were traveling from here headed to the school you're going to pass it on the right hand side. It was previously and we have photographs that will show a day care center that was kind of over run, the Jallad's had purchased the property and proceeded to clean it up, renovate the interior of the main

building or the brick building as we will refer to it. In the course of doing that and in order to get it to an amount of space that they feel is adequate for the familial needs. They've elected to put on approximately 400 square foot addition as well as a garage. Important the garage is conforming with respect to all of the bulk requirements. Given the location of the house which is kind of nestled in the left hand corner or the easterly corner of the property if you'd seen the survey is a triangle, unfortunately the proposed location of the addition is going to necessitate a side yard variance. So that's what's prompted the application to be filed and we have to go through we'll show justification as a C-1 as well as a C-2 standards for the addition. But what I'd like to do since time is short have the applicant's architect and professional planner Bill Martin who is to my right sworn and he can proceed with testimony.

MS. COFONI: Sure.

(WILLIAM J. MARTIN 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. MARTIN: William J. Martin (M-A-R-T-I-N) my business address is 25 Blvd., Westwood, New Jersey 07675.

MS. COFONI: Thank you.

MR. SELVAGGI: Mr. Martin I believe this is the first time you testified in Mt. Olive?

MR. MARTIN: No I've been before this Board before but it was some years ago.

MR. SELVAGGI: All right so for purposes of the record could you let the Board and members of the public know what your educational background is, professional licenses you hold as well as your experience in Land Use matters.

MR. MARTIN: Sure I attended Carnegie Mellon University as well as Pratt Institute my degree is in architecture from Pratt Institute that I got in 1988. I'm licensed as an architect in five states including New Jersey, I'm also licensed as a professional planner in the State of New Jersey, I'm also licensed as a Construction Official and Building Inspector in the State of New Jersey.

MR. SELVAGGI: Okay are you a professional planner as well?

MR. MARTIN: Yes.

MR. SELVAGGI: Okay. For the State of New Jersey?

MR. MARTIN: I'm licensed in the State of New Jersey as a professional planner.

MR. SELVAGGI: And have you testified as a professional planner in Zoning and Planning Boards throughout the state?

MR. MARTIN: I have in many cases.

MR. SELVAGGI: Okay. You also have a certain empathy for these people correct? The Board members?

MR. MARTIN: Yes I also sit on a Board myself.

MR. SELVAGGI: And where is that at?

MR. MARTIN: In Westwood, New Jersey which is in Bergen County.

MR. SELVAGGI: Okay and you're also a member of a Historic Preservation Advisory Board correct?

MR. MARTIN: I'm an appointed member of the Bergen County Historic Preservation Advisory Board yes.

MR. SELVAGGI: Okay and have you had involvement as an architect with historic structures?

MR. MARTIN: Yes it is part of my architectural practice I do handle historic structures depending on you know what condition they're in. We design to repair and restore, to bring back the materials and such so that we can bring back the historic character of the building. And I've done that on occasions with single-family homes, I've done it with commercial structures, a number of structures.

MR. SELVAGGI: I'm going to embarrass you a little bit you've actually received certain recognition for that work have you not?

MR. MARTIN: Yeah I've got a few things there yeah.

MR. SELVAGGI: All right if you could just let the Board know?

MR. MARTIN: I've received several accommodation awards before I was on the Bergen County Historic Preservation Advisory Board. The Board used to have the duty of reviewing my work and they've actually gave me several accommodation awards for the quality of my work in preserving the residential and commercial history of Bergen County. So I'm proud of those accommodations.

MR. SELVAGGI: What I'd like to do is at least offer up to the Board this is Mr. Martin's CV.

MS. COFONI: Why don't we mark that as an exhibit?

MR. SELVAGGI: Do you want to mark it A-1?

MS. COFONI: Yeah why don't we mark that as A-1 with today's date?

MR. WEISS: And that was Mr. Martin's resume?

MR. SELVAGGI: Yeah.

MR. WEISS: Just one thing for verification Mr. Selvaggi Mr. Martin is presented tonight as . . .

MR. SELVAGGI: Architect and planner.

MR. WEISS: Both? He'll be testifying on both okay.

MR. SELVAGGI: Yes.

MR. WEISS: Anybody have any questions for Mr. Martin? Well it looks like we'll have no objection to accepting Mr. Martin as a licensed planner and architect for this application.

MR. MARTIN: Thank you.

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

MR. BUCZYNSKI: No not at all.

MR. MCGROARTY: No.

MR. WEISS: Okay go ahead.

MR. SELVAGGI: Okay Mr. Martin if you could lets first kind of give a general overview perhaps of the property for members of the Board and the public who may not be all that familiar with it.

MR. MARTIN: Well if it's all right I'd like to go through the exhibits that I've put on the Board here that were also given to the Board members as part of the application.

MR. SELVAGGI: Do you want to mark those or do you want to . . . they're part of the record already.

MS. COFONI: Yeah why don't we go ahead and mark them. How many sheets do you have there Mr. Martin?

- MR. WEISS: Maybe we should mark them as you address them that would be easier.
- MS. COFONI: Okay why don't we go ahead and mark the first one A-2 with today's date and I cannot tell what it is.
- MR. WEISS: Tell us the title of A-2.
- MR. MARTIN: Okay the title of it is Site Plan and it contains site plans and details and the zoning analysis.
- MS. COFONI: And what is the date on it?
- MR. MARTIN: The date of the drawing is August 15, 2011.
- MS. COFONI: Thank you.
- MR. MARTIN: The next one . . . .
- MS. COFONI: Well we can go ahead . . . the Chairman recommended that we just go ahead and mark them as you talk about them so we can go ahead and discuss the first one.
- MR. MARTIN: Well actually what I was going to do is I was just going to flip through them all and then return and then start to discuss it. I mean I'll do it any way you want.
- MR. WEISS: It's probably easier to transcribe the record if we slow it down a little bit so let's as turn the map to talk about it we'll mark it.
- MR. SELVAGGI: So A-2 Bill.
- MR. MARTIN: All right I also had some photographs that I would like to submit is that . . . do you want to do that as well?
- MR. SELVAGGI: Well you're going to talk about A-2 and the photographs we'll . . .
- MR. MARTIN: We'll just wait until the photographs come up.
- MR. SELVAGGI: Yeah.
- MR. MARTIN: All right. The project is located at 134 Flanders-Drakestown Road, Mt. Olive Township as our attorney has said. The property is 3.75 acres and is known as Lot 66 in Block 7100 as shown on the Mt. Olive tax map. You see the site plan depicted here on exhibit A-2. The property is currently improved with a one-story day care center building that has no basement it's a slab on the ground. Its area is 2,812 square feet and there's also on the property a two-story "barn shed" which is the old general store that covers 1,003 square feet including the front porch that isn't part of the structure. The proposed project is to abandon the commercial day care use and convert the building to single-family home to be occupied by my client and family. That is a building here that's in the corner of the triangular property at the easterly corner.
- MR. NELSEN: Excuse me Mr. Martin could you turn that a little bit so we can come and get a little bit of it?
- MR. MARTIN: I'm sorry.
- MR. NELSEN: Thank you.
- MR. MARTIN: North on this is down; the north arrow indicates it's down so this is the easterly corner. This is where that day care structure is. Also proposed is a modest addition of 29 foot 3 inches by 15 foot 11 inches to allow for sufficient living space for a three bedroom single-family home. Again the structure has no basement.
- MR. WEISS: Mr. Martin do you know what I'm going to ask you to do? Perhaps take your exhibit and move it more towards the podium and maybe tilt it in towards us and hopefully the Board

can see it and maybe some of the members from the public can see it. There's a microphone over there so we'll be able to pick you up from that microphone.

MR. MARTIN: Okay. All right now what I wanted to do is flip to the floor plan the next drawing, it's my drawing C1 it's dated 8/15/11 and you want me to mark it?

MR. WEISS: A-3.

MR. MARTIN: A-3.

MR. WEISS: With today's date.

MR. MARTIN: 2/16/12.

MR. WEISS: And you stated that's entitled the floor plan.

MR. MARTIN: It is entitled First Floor Plan and you can see here in the upper left is where the addition is to be placed, you also see that on the site plan and that is to modestly increase the size of the structure so that we can accommodate the typical needs of a three bedroom single-family home. Also proposed is a detached garage, which I'll flip back to exhibit A-2, the detached garage is an accessory structure it's setback behind the 100 foot line and it's 26 by 36 and it's 17 foot 10 away from the main structure and that will be a two-car garage that's also proposed to be constructed on the property as we convert this back to single-family. We're also proposing in the, I guess we'll call this the westerly corner of the property, to repair and restore the existing "barn/shed" building which we now know as an old general store. That plan is . . . all right first I'll stop at the garage plan with garage elevations. Here is the garage floor plan A-4?

MR. WEISS: A-4.

MR. MARTIN: Okay. And there you see 26 by 36 with two garage doors and some windows the design is to be compatible with the conversion of the day care into a single-family house. The addition to the house will include adjustments to the roof lines to create a more residential looking unified and pleasing exterior design. Architectural elements will be added to match the house to the new two-car garage. I'll flip to the elevations views this is my drawing C3 Concept Elevations of the Proposed Single-Family House converted from the Day Care, A-5?

MR. WEISS: A-5 and this again this is a concept elevation of the single-family home?

MR. MARTIN: That's right it's the front elevation and the rear elevation and then the next drawing which is my drawing C4 dated 8/15/11 is the concept elevations of the left side and the right side and that's A-6. So there are features that are added to create a more pleasing looking structure. We've raised the roof line, we added some dormers in the front to create a more residential single-family type of a look, and we added a little cupola on the roof line, and on the garage we have similar features. Now I'm looking at my drawing C6 which is concept elevations of the garage this shows the left side, right side, front elevation and the rear elevation of the garage and this will be A-7. And the, like I said the garage was designed to be compatible with the improvements made to the main structure. I was going to describe the variances that we need for the project. We're addressing essentially the need for a side yard variance. The side setback to the addition, I'm going to go back to the site plan now, the side setback to the addition is 23.9 feet where 50 feet is required. The existing structure already exists at 22.3 feet and because of the shape of the property and because of the angle of the property line our addition is actually further away from the property line than the existing structure currently exists.

MR. SELVAGGI: So that's a pre-existing nonconforming side yard variance.

MR. MARTIN: The structure exists now in a nonconforming location and what we're proposing is not going to increase that nonconformity it's going to be . . . what we're proposing to add is actually further away from the property line. There are several other nonconforming conditions, the property area; the lot area is 3.57 acres where 4 acres is required. The minimum front setback of the existing structure here at the former day care is 29.6 where 75 feet is required, again that exists in that location. And as I said the minimum side setback required is 50 but the existing structure exists at 22.3. And these conditions will remain; the existing nonconforming conditions remain unchanged. The existing accessory barn which is at the western portion of the property also has nonconforming conditions that will remain unchanged with a front setback of 40.3 feet to the main part of the structure and a side

setback on the westerly property line of 11 inches. The new proposed garage in the middle here adjacent to the single-family home is proposed in a conforming location so that structure will conform. The project represents improvement to the community and the nonconforming commercial use will now be moved and replaced by a conforming use. The previous day care which is no longer in use but was set up as a day care is now going to be permanently converted to a single-family home and that of course is a permitted use in the zone, in the RR-AA residential zone. The odd shape of the property and the location of the existing structures present practical difficulties for my client in adding on. The addition is proposed in a location to expand the home in a manner that's at least visible you can't see it from the front it's behind the house and least disruptive to the property. So we can add on the square footage that we need in order to again create a comfortable normal sized three bedroom single-family house. Again we have no basement and our attic space to be gained from our upper roof line is going to be just mechanical space because we have no place to put it otherwise with no basement. The improvements also create a more desirable visual environment to the neighborhood by making the design more compatible with the residential character and this advances the purposes of zoning. Also the removal of the nonconforming use presents a change that brings the property into conformance with the use as I said the RR-AA rural residential zone. My opinion this is a substantial benefit to the community which removed this commercial use in a residential area where it doesn't belong. This supports appropriate use of land in the zone as defined in the zoning promoting public health, safety and general welfare. This application will not be detrimental to the public good; will not substantially impair the intent and purpose of the zone plan and the zoning ordinance. In fact it supports and affirms the zone plan by removing the nonconforming use from where it does not belong. I respectfully, I would request that the Board consider the circumstance of this property and approve the requested variances so my client can add to and create their home on this unique property. I'm happy to answer any questions you might have.

MR. SELVAGGI: Before they ask just Bill one of the things that Mr. Buczynski had noted and I think maybe you glossed over; he was looking for a roadway dedication. Before you comment on that, why is roadway dedication needed here? What's one of the, probably the more unique and unusual features regarding this property?

MR. MARTIN: As I look back to exhibit A-2 you'll see the site plan you'll notice that Flanders-Drakestown Road actually encroaches onto the property rather substantially. In fact a portion of the property is actually on the other side of the cart way of Flanders-Drakestown Road. How's that for unique?

MR. SELVAGGI: So does the proposal include the roadway dedication that Mr. Buczynski had requested?

MR. MARTIN: Well we anticipate being requested to have that portion of the property dedicated to Flanders-Drakestown Road.

MR. BUCZYNSKI: If I could just add to that. Mr. Selvaggi I think you're referring to my report dated January 30<sup>th</sup>. Depending on how the Board treats the existing barn if it's going to be demolished or remain, if it remains of course we can't take enough of the right-of-way that would really conform to the town's requirements so in my letter I recommended to at least give right-of-way to the curb line so at least the roadway area would be part of the town's right-of-way now. Because right now the road is not in the town right-of-way.

MR. MARTIN: Yeah it's the intention . . . . .

MR. BUCZYNSKI: Then it wouldn't disrupt anything to do with the existing structure.

MR. MARTIN: My client anticipated that you would want to have the property that's in the cart way dedicated to the road. So we anticipate that you will most likely impose a condition on us to make that . . . .

MR. BUCZYNSKI: Normally we would take more right-of-way 10 feet behind but we can't really do that in this case. It's kind of odd to take it along the curb line but I think in this situation to preserve the existing historic dwelling that would be best to at least take it at the road cart way like you said into the town's possession.

MR. MARTIN: Right I do understand and I would expect that to be a condition if we reach that point.

MR. BUCZYNSKI: All right.

MR. SELVAGGI: Now Mr. McGroarty in his report was . . . information concern the general store and for the record I have a copy but I believe the Board should have received a copy of the letter that was issued by the Mt. Olive Historic Society dated February 6<sup>th</sup>?

MRS. NATAFALUSY: I sent it to the Board.

MR. SELVAGGI: Now they talk about the general store building all the way to the right of the property is a run through the history and references the store as far back as 1888. Before we get into that one of the more interesting things tonight that I learned is the store is actually referenced on a map here isn't it?

MR. MARTIN: Yes one of the maps that you have hanging in the rear of the chamber here actually does show that store and labels it as a store.

MR. SELVAGGI: Okay. Now you've been in that building?

MR. MARTIN: I have yes indeed.

MR. SELVAGGI: There's questions probably people have is to whether that building can in fact be saved. And in your opinion as a . . . .

MR. WEISS: Mike I don't want to interrupt your progress but I'd like to stay back with the Planning testimony. I'd like to stay there because I know I'm following Chuck's report and there are issues and you know tell me if I'm wrong I know your jumping into another area of conversation but I'd like to finish addressing the planning. If you don't mind because I don't want to jump all over with this application. And Chuck again I always follow the report it sounds like Mr. Martin has addressed most of the items through page two and I know you have some issues. Would you say that there's any issues that you want to talk about with Mr. Martin? Things that you might want to address?

MR. MCGROARTY: Yes Mr. Chairman what I would ask is on page three, well we'll hold off questions about what I call the barn as I know that structure, go to 7.5 there are on the site plan it shows the existing parking which is the parking area right contiguous with the street. And the question is why keep it? Because if it's a single-family dwelling it seems to be out of character, and I would note that parking that type of parking we would call it a parking area not unlike the situation Mrs. Williams had earlier, it's not recognized or permitted where it's located.

MR. MARTIN: Understood. That parking area referred to is in front of the building between the cart way and the building itself and I'm going to circle it here on exhibit A-2 its right here. It's actually labeled on my drawing on my site plan drawing to be repaired but in fact it will be removed.

MR. MCGROARTY: Okay. Mr. Chairman I'll just keep going if you have no objection?

MR. WEISS: Sure please Chuck.

MR. MCGROARTY: Okay I think that's, aside from the questions about the barn itself, 7.7 that's just miscellaneous things you can address on the plans.

MR. MARTIN: Yes.

MR. MCGROARTY: Details, the last point or it's really just an observation on my part I'm not really sure and it's the DEP's call not ours or Highlands call or whatever, but because this was nonresidential and will become residential the single-family garage I'm not sure if you're qualifying under the exemption which is the 125 percent exemption. And if so I'm not sure you're going to be allowed to have a garage set in a location where there had been no impervious coverage. But again that's not a condition, or rather that's not an issue that this Board has jurisdiction over but it would be a condition of any approval.

MR. MARTIN: Yeah we would of course accept that condition. I'm actually not done researching that yet.

MR. MCGROARTY: Okay. The other comments Mr. Chairman I had had to do with the barn and I guess they'll get addressed as Mr. Selvaggi goes through his questions.

MR. WEISS: Okay I just wanted to make sure that the planning testimony . . . because it's kind of a whole different scope if you agree.

MR. MCGROARTY: Well one other thing just for the record on the planning testimony. Mr. Martin you did mention, and we agree it's a substandard lot, is there any ability to acquire additional property?

MR. MARTIN: My client doesn't own any adjacent parcels, they're all privately owned we're up against the road, we have a triangular property and I believe adjacent to the east is the school.

MR. MCGROARTY: So you don't have any land that you can acquire.

MR. MARTIN: No.

MR. MCGROARTY: Thank you.

MR. WEISS: And then Tiena had a question before I turn it over to the Board.

MS. COFONI: Yes I just wanted to clarify the variances that you were actually seeking relief from. Well I guess the sections of the ordinance that you're actually seeking relief from the variances that are requested. The side yard setback in relation to the easterly side is one of the variances that you're seeking?

MR. MARTIN: What was that?

MS. COFONI: The easterly side yard setback is one of the variances correct?

MR. MARTIN: That's right.

MS. COFONI: And I'm looking at Chuck's report and also the insufficient lot area is another variance you're seeking?

MR. MARTIN: Well it's an existing nonconforming condition it will not change.

MR. SELVAGGI: But you probably have to grant a variance for that. In fact the side yard variance as well for the pre-existing nonconforming structure would really probably run off of the closest point which is I think 22.3 feet anyway.

MS. COFONI: We can certainly make note of the addition distance but yeah the 22.3 is the existing variance is a more significant variance than what's proposed.

MR. MARTIN: Right and again that's preexisting. I just wanted to make the distinction between what we're proposing is already there.

MS. COFONI: Okay. And I think that's all.

MR. SELVAGGI: Well you'd also have depending on the disposition of the general store that would also be a variance because those are preexisting nonconforming conditions.

MR. MARTIN: Well there's one other dimensional one too as the front yard setback.

MR. SELVAGGI: Yeah the front because of the road dedication.

MS. COFONI: The front yard setback for the existing building.

MR. SELVAGGI: Yes.

MR. MARTIN: The front yard setback for the existing building and a very small portion of the addition falls within that front yard setback.

MR. MCGROARTY: Now if I can the existing building and the . . . that would be converted to the residential and the barn other than the addition that you described are you doing any other external improvements? Expanding the footprint of either structure.

MR. MARTIN: We're not expanding the footprint of the barn.

MR. MCGROARTY: So the, stay with the barn then for a second, so if you're asking for the variance that's I guess a technical variance but you're not exacerbating the nonconforming condition. You're not extending further into the setback.

MR. MARTIN: That's correct.

MS. COFONI: So that would be, Chuck tell me if you agree, that's an existing condition that wouldn't be required as part of this application if you're making no changes to that.

MR. SELVAGGI: It depends Tiena on how you want to approach some Boards even if it's a pre-existing condition if that's not your practice then you don't need it.

MS. COFONI: We generally don't unless it's specifically requested.

MR. SELVAGGI: Okay.

MS. COFONI: So that's up to the . . . Now the front yard setback for the existing buildings since we're putting on an addition that's something that I think we would need for this.

MR. MCGROARTY: But the addition is in the rear and does not fall into that front yard setback.

MS. COFONI: The addition I thought you just said was within the front yard setback.

MR. SELVAGGI: Well . . .

MR. MARTIN: The addition is in the rear, the front yard setback is 75 feet the building is less than 75 feet.

MR. MCGROARTY: Oh okay.

MR. SELVAGGI: So even the . . .

MS. COFONI: So the addition falls in the . . . the addition actually goes in the front yard setback.

MR. MARTIN: It's in the back of the building but it falls into the . . .

MS. COFONI: Okay so I think that's one that would be required.

MR. WEISS: Scott you have a question?

MR. VAN NESS: Well you're going in the same direction that we had questions over here. The conditions that they're going to change don't make it any worse than what already pre-exists here. So for the side yard setback why would a variance be required if they're not already exceeding what exists?

MR. MCGROARTY: Because you can't . . . our ordinance doesn't allow you to work off of the existing encroachment and continue in the same plane as it were. Some ordinances do or used to but when you're adding a new . . . when you're expanding the structure into the setback you need the variance for that.

MR. VAN NESS: So you're saying that our ordinance doesn't allow a 22 foot 3 inch setback to be applied to that whole property line?

MR. MCGROARTY: That's correct.

MR. VAN NESS: Just for that point of the building.

MR. MCGROARTY: That's correct.

MR. SELVAGGI: Yeah there's more nonconforming surface if you will on that side that's within the side yard setback.

MR. FLEISCHNER: Which is already there.

MR. SELVAGGI: Well no the addition is going to make that a little bit more.

MR. VAN NESS: Well the addition will be 6 inches or more actually a foot and a half farther off of what exists.

MR. SELVAGGI: But there's still more surface or more structure in the side yard setback.

MR. WEISS: Dan?

MR. NELSEN: I would imagine when you said you're taking out that existing parking area.

MR. MARTIN: Yes.

MR. NELSEN: Would it be safe to say that all of that macadam walkway around the house would also be removed?

MR. MARTIN: The macadam walkway . . . well right now there's a front entrance here.

MR. NELSEN: Right.

MR. MARTIN: So we would retain some of that. It's essentially the parking area that will be removed and restore some type of landscaping turn.

MR. NELSEN: And around the side and back of the house?

MR. MARTIN: Around the side we would retain a walkway to be able to access the front of the house and also around towards the rear.

MR. NELSEN: And there's some chain link fence there?

MR. MARTIN: I'm not sure where you're referring to the chain link fence.

MR. NELSEN: On the side of the house.

MR. MARTIN: On this side?

MR. NELSEN: No on the other side, the west side of the house or the building, right on the outside of the macadam.

MR. MARTIN: I don't have that on my drawing.

MR. SELVAGGI: Oh he has, you have the new drawing and you the old is that right?

MR. NELSEN: I have both.

MR. SELVAGGI: Oh you have both okay.

MR. MARTIN: You may be looking at the survey. Yeah this is the survey. Yeah this chain link fence will be removed.

MR. NELSEN: And you're going to maintain that macadam.

MR. MARTIN: Yeah.

MR. WEISS: Okay so for the record the chain link fence will be removed.

MS. COFONI: We need to make sure that all of these discussions are on the record. I don't know Catherine if we're able to pick up all of these kind of side discussions.

MR. WEISS: Well I guess we can summarize. The question was is the chain link fence that's currently there going to be removed and the answer from Mr. Martin is that it's going to be removed.

MR. NELSEN: And also the macadam.

MR. WEISS: But not the macadam.

MR. MARTIN: The parking area macadam will be removed.

MR. WEISS: Yes but Dan's question originally was the macadam walkway along the side of the house. You stated that it's going to remain.

MR. MARTIN: We'd like to retain that in order to be able to access the entrance to the property.

MR. WEISS: Correct.

MR. MCGROARTY: Mr. Chairman just . . . where is the chain link fence now?

MR. MARTIN: It's shown on the survey not on the site plan.

MR. MCGROARTY: Not on the site plan.

MR. NELSEN: On the western side of the building.

MR. MARTIN: It's overgrown and it's covered with weeds.

MR. WEISS: It will be removed regardless.

MR. SELVAGGI: Yeah we're going to remove it.

MR. WEISS: Anybody else on the Board? Pat.

MR. WALSH: Just a quick question and I apologize by the way for being a few minutes late I got stuck. The current status of the contract of the property, have they purchased, is it closed, what's the status? Are they looking to purchase?

MR. SELVAGGI: The Jallad's own the property.

MR. WALSH: They own it.

MR. SELVAGGI: Yes.

MR. WALSH: Okay have they just purchased it recently? Because I know it was on the market for a while.

MR. SELVAGGI: Yeah I can have them . . . they're not sworn but just so I'm clear . . .

MR. WALSH: There's a reason why I'm going with this.

(TOMASA JALLAD SWORN IN FOR THE RECORD)

MRS. JALLAD: My first name is Tomasa Jallad (J-A-L-L-A-D) and my address is 159 Mt. Olive Road in Flanders.

MR. SELVAGGI: And Mrs. Jallad you heard the question, when did you purchase this property?

MRS. JALLAD: Yes.

MR. SELVAGGI: Okay and I'm going to show you what we can mark as A-8. Is that a copy of the deed that you received when you purchased the property?

MRS. JALLAD: Yes it is.

MR. SELVAGGI: And what's the date on the deed?

MRS. JALLAD: October 13, 2010.

MR. WALSH: So you've purchased this just recently. Well a couple of years ago.

MRS. JALLAD: About a year and a half ago.

MR. WALSH: Oh okay. Were you selling it before? Or did you try and sell this?

MRS. JALLAD: I didn't own it before.

MR. WALSH: Oh okay so you bought it but you haven't tried to sell it since you bought it.

MRS. JALLAD: No, no, no, no.

MR. WALSH: You bought it to build a house on?

MRS. JALLAD: Yeah.

MR. WALSH: For yourself.

MRS. JALLAD: Right absolutely.

MR. WALSH: Okay. And then just a couple more. How long has it been sitting vacant . . . so I mean it was a day care . . . I mean approximately I don't know if you know.

MRS. JALLAD: I've lived in the township for 21 years and it's been vacant since I've lived here.

MR. WALSH: Oh okay and the last use was a school of some sort?

MRS. JALLAD: Happy Time Nursery School.

MR. WALSH: Happy Time Nursery School okay. And so you're planning on building . . . are you going to be using part of the existing structure or are you just going to be . . .

MRS. JALLAD: Yes.

MR. WALSH: You are okay. Because I know this land sits up I drive by it all the time . . .

MRS. JALLAD: It's built like a fortress because it was built to be a school so we're going to keep it.

MR. WALSH: Oh yeah right that makes good sense. And there's no flood plain on all this because I know it sits up high or is there any flood . . .

MRS. JALLAD: No.

MR. WALSH: Yeah no so there's no worries there.

MRS. JALLAD: No.

MR. MARTIN: The entire building will be a single-family home.

MR. WALSH: Right it's a single-family okay great. Oh and the barn has there been any use of the barn I guess that's been sitting empty.

MRS. JALLAD: The general store . . .

MR. WALSH: There was a general store last use?

MRS. JALLAD: And it was a weigh station before that for the . . .

MR. WEISS: I don't think we've really given much testimony to that yet Pat and I think there's going to be quite a lengthy conversation about that.

MR. WALSH: Oh there is?

MR. WEISS: Yeah about that part in general. I'm trying to get through the planning testimony.

MR. WALSH: Okay, okay.

MR. FLEISCHNER: If I might in the mid-70's it was a school because I moved in in 1974 and it was an operating . . . .

MR. BUCZYNSKI: I think it was abandoned in the early 1980's. Because I remember dealing with Mrs. McDavitt in the early 1980's.

MR. WALSH: Well it's nice to see something being done with an empty building that's for sure.

MR. WEISS: Thank you Mrs. Jallad thank you for answering that question.

MRS. JALLAD: Thank you.

MR. WEISS: Does anybody else have any questions for Mr. Martin based on the testimony that he's given on the planning? Let me real quickly open it to the public if anybody has any questions for Mr. Martin based on the testimony that he's delivered so far. Please state your name for the record.

MS. RUBRIGHT: Yes again Susan Rubright I'm here from the law firm of Bach Eichler, the law firm of Bach Eichler is representing adjoining property owners who obviously have an interest in the property.

MR. SELVAGGI: Could I just for point of reference who those adjoining property owners are?

MS. RUBRIGHT: Oh I'm sorry Elizabeth and Carl Sorano.

MR. SELVAGGI: Okay.

MR. WALSH: And could you say which property? Are they right next door?

MS. RUBRIGHT: It's . . if you're looking at the property it's to the right it's actually right . . . if you know the abandoned general store their house is right behind it.

MR. WALSH: Behind okay it's the neighboring piece.

MS. RUBRIGHT: Correct. Mr. Martin you indicated and you did provide some planning testimony as well as some architectural testimony I just want to be clear, when this addition, if this addition is built the entire structure will be in the front yard setback of 75 feet?

MR. MARTIN: No.

MS. RUBRIGHT: How much will be outside of the front yard setback?

MR. MARTIN: There will be about 11 feet or so which is behind the 75 foot setback. The rest of the existing structure is within that front yard setback.

MS. RUBRIGHT: But you're adding to the structure that's already violating the front yard setback. Or you're not but your client is proposing to add to a structure that's already in violation of the front yard setback and that part of the addition save 11 feet will be in the front yard setback. That's what you testified to.

MR. MARTIN: Yeah it's about 11 by 12 foot area of the addition that will be within the front yard setback. And that's why we're here.

MS. RUBRIGHT: I understand that's why I guess you're amending . . . . Mr. Selvaggi are you amending the application to request that as a variance? I missed that part.

MR. SELVAGGI: What the building being in the front yard setback?

- MS. RUBRIGHT: The addition being in the front yard setback.
- MR. SELVAGGI: Yes.
- MS. RUBRIGHT: Now you also testified with regard to the right-of-way dedication, are you aware that a previous applicant and owner of this property has already dealt with the issue and had already agreed to dedicate that right-of-way?
- MR. MARTIN: I was not aware of that.
- MS. RUBRIGHT: But as a planner is it your understanding that Land Use approvals run with the land unless otherwise requested to be changed by an applicant?
- MR. MARTIN: I don't know the details of what was done prior.
- MS. RUBRIGHT: No but as a planner I'm asking you the question is that your understanding as a planner that generally Land Use approvals run with the land?
- MR. MARTIN: It depends on the circumstances generally speaking variances granted by the Board will run with the land.
- MS. RUBRIGHT: Correct okay and conditions of approval run with the land correct?
- MR. MARTIN: That's correct.
- MS. COFONI: Ms. Rubright you said that someone agreed to it? Was that actually ever dedicated to your knowledge?
- MS. RUBRIGHT: I don't believe it was dedicated but there was an agreement. I'm not going to testify I'm just asking the witness if he's aware of whether it was or not.
- MS. COFONI: Okay because otherwise we wouldn't be asking for it if it's already been . . . .
- MS. RUBRIGHT: It would be in the . . . it would be a matter of public record in the deed if it happened.
- MS. COFONI: Right clearly it's our understanding that that was never dedicated which is why I was asking.
- MS. RUBRIGHT: But there was an agreement. There was an agreement I mean I'm not going to testify about it.
- MR. BUCZYNSKI: Do you have a copy of the agreement?
- MS. RUBRIGHT: Yeah we do but we'll present that with our direct testimony.
- MS. COFONI: Okay.
- MS. RUBRIGHT: Mr. Martin when you . . . let me ask you this, if the right-of-way is dedicated or if there's an agreement to dedicate what will the front yard setback be after that is done?
- MR. MARTIN: I don't know until the Board engineer or the town engineer decides where he wants the dedication line to be.
- MS. RUBRIGHT: But I think . . . suffice . . . can we make a presumption or an assumption that if a right-of-way is dedicated that the front yard setback will even be, will be reduced even further than it is today for this building?
- MR. MARTIN: Across about 75 percent of the property the front yard setback will shift back and then there's a small section where it actually will come forward.
- MS. RUBRIGHT: What about with regard to where this . . . .

MR. MARTIN: Based on the suggestion that was made that it be the, I think it was the edge of the cart way was that the suggestion?

MR. BUCZYNSKI: Yes sir.

MS. RUBRIGHT: What about with regard to the area that's in front of the former day care center? Will that right-of-way if when that right is dedicated will that front yard setback be reduced? It will be correct?

MR. MARTIN: Again it depends on what the town engineer wants the edge of the cart way to be. The edge of the cart way they would actually be adding some lands to my client's property in order to take some away.

MS. RUBRIGHT: In front of the day care center?

MR. MARTIN: Yes. I can't answer that question because I don't know what they're going to ask me for or ask my client for excuse me.

MR. WEISS: The engineer can give us some insight here.

MR. BUCZYNSKI: What we'll probably ask them for is go along the curb line except where the house is the existing right-of-way is already beyond that so we would follow that right-of-way at that point. Do you follow me?

MR. MARTIN: Right so that I understand you is at the point where the edge of the cart way meets the property line is the point that where you're going to begin.

MR. BUCZYNSKI: Correct.

MR. MARTIN: And then you're going to take . . .

MR. BUCZYNSKI: Because we already have enough beyond the roadway.

MR. MARTIN: Okay.

MS. RUBRIGHT: Are you aware that there's a well on this property as well?

MR. MARTIN: There are a few things, there's a septic field on the property I wasn't specifically aware of the location of the well but I knew there's a well there somewhere.

MS. RUBRIGHT: And are you aware that the well serves the former Mrs. McDavitt home on the other side of Flanders-Drakestown Road?

MR. MARTIN: I was not aware of that.

MR. WEISS: You know what I'm going to interrupt. We had no testimony about wells and Mr. . . .

MS. RUBRIGHT: Actually . . .

MR. WEISS: I understand the question was to ask Mr. Martin about testimony that he gave. He didn't speak about a well so let's keep this thing focused.

MS. RUBRIGHT: Okay let me just . . . let me ask a foundation question then. Mr. Martin did you review in connection with your planning testimony in support of the variances, did you walk the property did you review the property in the context of the surrounding neighborhood? I realize that's three questions.

MR. MARTIN: Yes to all three.

MS. RUBRIGHT: Okay. Are you aware . . . can you describe what are the types of properties that are across the street from this property.

MR. MARTIN: Well there's a relatively speaking new development across the street, then there's some older homes that are directly across the street, then to the west is your client's home.

MS. RUBRIGHT: And the new houses that are built across the street those are large homes? Relatively large homes like 4,000 or 5,000 square feet?

MR. MARTIN: Relative to the small amount of work my client is doing those are large homes yes.

MS. RUBRIGHT: I'm not sure I . . . .

MR. SELVAGGI: I'm not sure I understood the question.

MS. RUBRIGHT: Let me phrase it in terms of, are they 4,000 to 5,000 square feet is that a . . .

MR. SELVAGGI: Objection I don't know how he would know.

MS. RUBRIGHT: Well sir did you survey the area or not?

MR. MARTIN: I did not survey the area. I walked the property I reviewed the neighborhood I made note of those homes I do not know the specific size of those homes.

MS. RUBRIGHT: Right I understand and I'm not . . . I'm just trying to get an idea of the surrounding neighborhood. One of the things that you testified about is that there's no detriment to the neighborhood. What I want to show if I might is a photograph that was taken by my clients . . .

MR. WEISS: Now is not the right time we're asking questions you'll present testimony at a different time. You're asking a question we don't need to see a photograph at this time.

MS. RUBRIGHT: May I ask him if this is . . . if he recognizes any of the homes in this area that he saw these during the time of his . . .

MR. WEISS: You can ask him that question.

MS. RUBRIGHT: Mr. Martin I want to show you a photograph that I'll represent to you was taken by my client of the houses in the neighborhood and I want to ask you do you recognize seeing any of these houses in connection with your review of (inaudible).

MR. SELVAGGI: Do you want to mark that O-1?

MR. WEISS: We're going to mark that O-1.

MR. MARTIN: I'm looking at a photograph I don't know the points at which the photograph was taken.

MS. RUBRIGHT: So you don't recognize those houses.

MR. MARTIN: I don't recognize these houses from this viewpoint angle possibly if there were other angles I might recognize them but I don't . . . .

MS. RUBRIGHT: That's fine. Should I mark this Counsel?

MR. WEISS: We're going to mark that O-1.

MR. SORANO: Mr. Chairman that is . . .

MR. SELVAGGI: I object he cannot speak he's represented by Counsel.

MR. SORANO: That's not accurate.

MR. WEISS: Hold on if you'd like to speak when she's done you certainly have . . .

MR. SELVAGGI: He cannot speak because he's represented by Counsel. If he wants to dismiss Ms. Rubright and take it on prose he can.

MR. WEISS: And that has been confirmed by my attorney that's correct please sit down, no. Ms. Rubright go ahead.

MS. RUBRIGHT: I think all he wanted to say was that we pre-marked some exhibits OBJ.

MS. TIENA: OBJ?

MS. RUBRIGHT: OBJ I'm sorry I'm just getting over laryngitis. O as in "O", B as in Boy, J as in James.

MS. TIENA: That's fine and we can use that numbering system which is fine.

MR. WEISS: OBJ.

MS. RUBRIGHT: OBJ-1.

MS. TIENA: And can you just give me the date of that? The date that photograph is taken and a description?

MS. RUBRIGHT: It was probably today which is February 16, 2012.

MR. WEISS: And you said that picture was taken by Mr. Sorano?

MS. RUBRIGHT: Sorano yeah.

MS. COFONI: And can you just give me a general . . . it's a photo of?

MS. RUBRIGHT: I was hoping he could identify it but he wasn't able to but I'll tell you it's a photograph of property it's of two houses directly across the street from the subject property.

MR. WEISS: What's the name of that development?

MRS. NATAFALUSY: Wyndham Point.

MR. WEISS: Wyndham Point. So it's a picture of a home in Wyndham Point.

MS. RUBRIGHT: Mr. Martin Flanders-Drakestown Road has . . . are you aware that it's been designated as a collector road under the Mt. Olive Master Plan?

MR. MARTIN: It wouldn't surprise me if it was.

MS. RUBRIGHT: Why is that? What is a collector road in general?

MR. MARTIN: A collector road collects smaller roads in order to funnel traffic out to larger roads.

MS. RUBRIGHT: So it's like a connector road collects . . . explain it in a little bit more detail.

MR. MARTIN: If you're saying it's a connector road I wouldn't dispute that but I don't know that's it's been designated that. That's something that you have said to me.

MS. RUBRIGHT: Okay. So it collects traffic from small roads to take them what to like roads like Route 206 that kind of thing?

MR. MARTIN: Generally speaking a collector road collects the smaller streets and then distributes the traffic to the larger streets such as highways and so forth.

MS. RUBRIGHT: Mr. Martin what were you retained on behalf of the Jallad's, were you retained to be the architect and the planner in connection with this, the addition or were you retained at all to look at any kind of other alternatives with regard to this property. For example building perhaps demolishing the existing structures and building a new house on the property. Was that an option that was discussed at all at any time?

MR. MARTIN: I was retained by the client to examine the general store building to develop a plan to restore it and to examine the former day care to create a comfortable single-family home three bedrooms all on one level and a garage.

MS. RUBRIGHT: That's the detached garage.

MR. MARTIN: That's correct.

MS. RUBRIGHT: With regard to your . . . I'm sorry strike that. You indicated that you've been inside the what we're now referring to as the general store?

MR. MARTIN: Yes.

MS. RUBRIGHT: When was that?

MR. MARTIN: It was probably about six months ago. No it had to be longer than that my drawings are dated August so I would say it would have to be prior to that.

MS. RUBRIGHT: Are you aware that this structure has been cited by the Constructed Official as an unsafe structure?

MR. SELVAGGI: I'm going to object only because the way the Chairman wanted to . . . because we were going to talk about that.

MS. RUBRIGHT: You know you're right. No you're right okay you're going to talk about that next?

MR. SELVAGGI: Yeah.

MS. RUBRIGHT: Fair enough I'll hold that for later. As a planner when you evaluate variances and look at hardship and detriment to the neighborhood and no substantial detriment to the neighborhood and no substantial detriment to the zone plan, what did you look at specifically here in order to satisfy yourself that these variances could be granted? I mean you said that . . . your testimony I believe was that it was opinion that the variances could be granted because there was no substantial detriment to the zone plan and no substantial impairment to the neighborhood or vice versa whatever the language is.

MR. MARTIN: Right.

MS. RUBRIGHT: But I'm curious as far as what's the support for that?

MR. MARTIN: The current use on the property of the day care center will be removed therefore the property will now be made conforming as a single-family home that is what the zoning seeks to achieve, conformance with the zoning. So that is a benefit to the community so there will be no detriment caused by doing that there is in fact a substantial benefit.

MS. RUBRIGHT: Right I understand but the structure itself will still be nonconforming and in fact not only will it remain nonconforming but the applicant proposes to add to that nonconforming condition by building an addition in the front yard setback correct?

MR. MARTIN: The structures on the property are legally there.

MS. RUBRIGHT: Well let me ask you about that. You understand the law as a planner I'm assuming that you're familiar with the concept of pre-existing nonconforming uses correct?

MR. MARTIN: Right but these are lawfully existing structures that exist in nonconforming locations.

MS. RUBRIGHT: I understand that that's your opinion I haven't heard any testimony about why that's your belief and I would just ask you this question, is it your understanding as a planner that when an applicant makes that statement it is the applicant's burden to put on the proofs to show that a structure and/or use are pre-existing and nonconforming.

MR. MARTIN: We've submitted documentation to demonstrate that.

MS. RUBRIGHT: What was the documentation?

MR. MARTIN: We have the survey of the property that was done and its references and that is the document that I used to prepare this site plan document.

MS. RUBRIGHT: Did you submit any documentation to when the ordinance was passed that made these structures nonconforming?

MR. MARTIN: I did not.

MS. RUBRIGHT: Would you not as a planner do you not . . . is it not you're understanding that as part of your burden to show that a structure is pre-existing and nonconforming that you need to go through certain proofs to show that the structure predated the Zoning Ordinance which makes it nonconforming?

MR. MARTIN: I have no reason to believe that the lawfully existing structures were not lawfully placed at the time they were put. The ordinance changed at some point in the past and made them nonconforming they're now lawfully nonconforming in terms of their location. As far as the use goes the use of the day care which is not permitted in that zone will no longer exist.

MS. RUBRIGHT: I understand that but what is the basis for you to state your opinion that you have no doubt, I think that's what you said, that you have no doubt that this structure when it was built was conforming.

MR. MARTIN: I said I have no reason to believe.

MS. RUBRIGHT: No reason, I'm sorry I'm not trying to misquote you.

MR. MARTIN: I was not there when the structure was built.

MS. RUBRIGHT: Right but you don't have any proof to that effect.

MR. MARTIN: I do not have the building permits from the time it was built.

MS. RUBRIGHT: Right so you don't have any proof, you didn't do any research, you didn't research the ordinances, you didn't research any prior applications. You can't say standing here today that that structure is a legally nonconforming use correct?

MR. MARTIN: I believe that structure to be a legally nonconforming use.

MS. RUBRIGHT: And/or . . . .

MR. MARTIN: And I have seen nothing from the Township that would lead me to believe that those structures were built illegally.

MS. RUBRIGHT: But you don't have any proof to that effect. All right I'm not going to belabor the point; I'm not going to belabor that point.

MR. MARTIN: This one structure dates to the 1800's so . . . .

MS. RUBRIGHT: We're not talking about that structure right now.

MR. WEISS: Joe you had a question for Ms. Rubright?

MR. FLEISCHNER: Yeah I have a question. You spoke to detriment to the community, the client you represent when he chose the purchase a house in that neighborhood did he drive past this particular home?

MS. RUBRIGHT: I can't see your name sir so I'm just going to address that by saying we will have testimony I'm going to put my client on but I will indicate just to briefly answer your question, my client did purchase the property I believe it was 16 years ago the building was in a different condition at that point. In addition I'm going to have photos that I'm going to introduce on this and actually even the listing agreement from 2007 shows substantial vegetation around this vacant store structure where it

was largely hidden from view. And I would also indicate that I am going to provide testimony from my client that indicates that over the time that he has lived there this structure has fallen into more substantial disrepair than what exists there presently.

MR. FLEISCHNER: Okay so I asked you what time and you just built me a watch. My question to you was was your applicant aware of the building that sits on that property?

MS. RUBRIGHT: He's going to testify about that.

MR. FLEISCHNER: Simple question, simple answer yes or no. I just would like to have a yes or no answer.

MS. RUBRIGHT: You know I'm sure he did.

MR. FLEISCHNER: Thank you that's all. Thank you.

MS. RUBRIGHT: I'm sure he did and we will provide additional testimony on that.

MR. WEISS: (Inaudible) legal question go ahead.

MS. COFONI: Ms. Rubright I just have a question, I know I understand what you're talking about with a nonconforming, a pre-existing nonconforming I'm just not sure why you think it's an issue in this particular case with regard to the dwelling.

MS. RUBRIGHT: Because we've done research of the previous files and that's . . . even though that's not our burden. You've got a condition, there's a structure there that doesn't meet the side yard, it doesn't meet the front yard and it's on an undersized lot.

MS. COFONI: Okay and they're requesting variances for those things.

MS. RUBRIGHT: I understand that, I understand that.

MS. COFONI: So even assuming it's not a pre-existing nonconformity their requirement would be to seek variances if it weren't and that's what they're doing.

MS. RUBRIGHT: But the structure was abandoned so part of what our argument is is that you know the best thing for this may be given all of the conditions that exist here, the best thing may be for this given the health, safety, welfare concerns about this roadway and the fact that they don't want to widen it and the fact that the previous owner did agree to widen it maybe the best thing is for the owner to take these buildings down since they are abandoned and build a nice house that conforms with the neighborhood. This building for everything that they're indicating does not conform with the neighborhood. That's one of the things we were trying to show with . . .

MS. COFONI: Okay and that's . . . My issue was more of an issue of legalities and that is if they're asking for the variances it doesn't matter if they're a prior nonconforming use because they're requesting the variances.

MS. RUBRIGHT: Well it does in terms . . .

MS. COFONI: If they were not requesting the variances then they would have to show it's a prior nonconforming structure. Because we know the use was abandoned they're not trying to use it as a day care, if that were the case they would have to show it was a prior nonconforming use and that it wasn't abandoned but we're talking about structures here.

MS. RUBRIGHT: We're talking about a structure that doesn't conform with your ordinance and we're talking about a structure that not only does it not conform with your ordinance but they want to increase the nonconformity.

MS. COFONI: Agreed.

MS. RUBRIGHT: That's why we're . . . And to my point earlier about the notice, this was not noticed to the public the variances that they're asking and I understand your position . . .

MR. WEISS: We can save that testimony until a different time.

MR. SELVAGGI: But I don't mind addressing it I mean we talked about a side yard variance, there was also the "any and all other variances that were requested" so you know while I appreciate here argument I disagree with it because I don't think it's . . . I think the notice is adequate to again apprise any interested party as to what's going on here.

MS. COFONI: That's all I have.

MR. WEISS: Okay Steve you had a question I don't want to interrupt Ms. Rubright's time.

MR. BEDELL: Yeah just quickly you made comment about a detriment I guess to the area, you make note of the homes across the street 3,000 or 4,000 or 5,000 square feet, I mean I know the area pretty well there's a lot of homes I'm not sure of the size of your client's home I'm sure you do I mean you know the size of the homes across the street and I know there are several homes down the street there is that old stone house very pretty but I know it's not a 4,000 square foot home. So if you could maybe tell us the Board what the square footage is of the neighbor's homes in that area and how this home is not conforming.

MS. RUBRIGHT: I'm not here to testify I'm just really asking the questions.

MR. BEDELL: No I know but I'm saying you're telling us or you made the comment to us that the house doesn't conform and I'm just asking you if . . .

MS. RUBRIGHT: Well if I made that comment I'm not supposed to be testifying and as a planner and as a lawyer I tend to do that sometimes and I shouldn't be testifying.

MR. BEDELL: Okay I just want to make that clear I just want to . . .

MS. RUBRIGHT: What I was trying to ask the witness is he indicates that he did a survey of the neighborhood I was trying to get an idea of what is the neighborhood is like.

MR. BEDELL: I understand but your claim was the house doesn't fit with four or five thousand square feet, most of the homes on Flanders-Drakestown don't conform to four or five thousand square feet so I just want to make that known or if I'm wrong just at least . . .

MS. RUBRIGHT: Mr. Martin let me ask you this question, what would you consider to be the environs like the environs of the neighborhood for this particular property. Is it the entirety of Flanders-Drakestown Road? As a planner I'm asking this because I think that's what you deal in neighborhoods and trying to determine and for the basis of you to try to determine that there is no substantial detriment to the neighborhood. How did you define the neighborhood?

MR. MARTIN: What I looked at were the neighboring properties and the properties that were just beyond the neighboring properties.

MS. RUBRIGHT: Okay so I think that's the answer to your question.

MR. BEDELL: Okay.

MS. RUBRIGHT: I don't have any further questions at this time and I appreciate the Board's indulgence.

MR. WEISS: Thank you anybody else from the public have any questions for Mr. Martin? All right seeing none I'll throw it back at you Mike to continue on where you were going.

MR. SELVAGGI: You know, and obviously despite Susan and I's best efforts we're probably not going to finish in ten minutes. We were going to go off on a separate, and I'll talk about the building and everything else. I mean what's going to happen is we're going to start we're not going to finish that and you know I leave it up to you I mean I'm trying to be honest here because we'll end up having to rehash the whole thing next . . .

MR. WEISS: Mike I don't disagree with you that's unfortunately the time restraints that we have so if you wanted to end it now and we could reschedule it for another date to continue.

MR. SELVAGGI: Yeah I mean I think it's just procedurally it makes more sense to do it that way.

MR. WEISS: I still I'm satisfied that we did it this way because the planning testimony . . . .

MR. SELVAGGI: Oh yeah no I don't take any objection to that.

MR. WEISS: Okay so before we wrap up for the evening is there anybody else in the audience that has any comments about what Mr. Martin spoke about or what was testified to this evening? Obviously we're going to continue with public portion.

MR. SORANNO: I just want to say I wasn't attempting to testify I was just clarifying the marking on the exhibit so I didn't want to usurp my position. But . . . .

MR. SELVAGGI: Now you are.

MR. SORANNO: No, no, no I just have a question because he asked for public comment on this portion. Is this continuing I didn't know . . . .

MS. RUBRIGHT: He has a procedural question.

MS. COFONI: I can probably clarify. What we're doing is we're going to stop at this point because the next part of the testimony that we're going to have would be on the barn for Mr. Martin and it seems the Chairman and Mr. Selvaggi think that it's not a good idea to start that and then have to stop it in the middle of it. So at the next hearing we'll be starting the testimony regarding the barn and anything else that comes up and there will be opportunity for the public to comment on all of that at that time. So it's not like the public comment is over.

MS. RUBRIGHT: When you say barn you mean that former school.

MS. COFONI: Yes storage, whatever that is yes it's on the plans as a barn.

MR. WEISS: Westerly most structure.

MS. COFONI: Westerly most structure yes.

MR. WEISS: Okay so let's take a look at our schedule and Catherine I'm sure you've jumped ahead.

MRS. NATAFALUSY: March 8<sup>th</sup>.

MR. WEISS: That's our next meeting right?

MRS. NATAFALUSY: That's our next meeting.

MR. RUSSELL: Howie can I ask a question of the applicant?

MR. WEISS: Sure go ahead Nelson.

MR. RUSSELL: The day care center building dates from when?

MR. WEISS: Is this for Mrs. Jallad or Mr. Martin?

MR. SELVAGGI: When was it or when was it abandoned?

MR. RUSSELL: The barn dates from 1883, how about the other building?

MR. SELVAGGI: I have that in the record I'll produce that I think it was 1962 or 1963. I have it in here and I'll produce it as an exhibit.

MR. RUSSELL: Okay thank you.

MR. WEISS: Okay so Catherine you suggested that the next meeting is March 8<sup>th</sup>?

MRS. NATAFALUSY: Right I'm going to need an extension from the applicant to hear this application through the end of March maybe?

MR. SELVAGGI: That's fine yes.

MS. COFONI: Is March 8<sup>th</sup> okay?

MR. SELVAGGI: March 8<sup>th</sup> is fine.

MR. WEISS: March 8<sup>th</sup> at 7:00. What's the schedule look like when can we expect them to be on? Do we have anything else?

MRS. NATAFALUSY: I just have a waiver from a condition of completeness for an application in Woodfield.

MR. WEISS: So there's a small hearing right before yours Mr. Selvaggi and we'll take yours after that.

MR. SELVAGGI: Okay.

MRS. NATAFALUSY: So it's carried with notice.

MR. WEISS: It will be carried with no further notice and Mrs. Jallad you'll need to sign and advise your client accordingly Mr. Selvaggi.

MRS. NATAFALUSY: Do you want to sign it or . . .

MRS. JALLAD: Mike Selvaggi will sign it.

MR. WEISS: And that extension Catherine gives us through the end of March?

MRS. NATAFALUSY: I put it through March 31<sup>st</sup>.

MR. WEISS: Okay. So gentlemen thank you, members of the public thank you obviously it's a slow process we will get there.

---

**APPLICATION #PB 11-35 – THE 11<sup>th</sup> HOUR ANIMAL RESCUE INC.**

MR. WEISS: Let's take a quick break our next application is a use variance so Mr. Walsh you will be excused on this application. We'll continue our agenda this evening with the next applicant which is PB 11-35 which is The 11<sup>th</sup> Hour Animal Rescue. Requesting a D-1 variance for an animal shelter kennel in a zone that doesn't allow for it, as well as a D-1 variance for residential use for the same reasons. Preliminary and Final Site Plan with variances located at 484 Route 46 which is Block 8301, Lots 11 and 12 Mr. Selvaggi is representing the applicant. Good evening again.

MR. SELVAGGI: Good evening Mr. Chairman again Michael Selvaggi on behalf of 11<sup>th</sup> Hour Rescue we're here as the Chairman correctly pointed out for a use variance relief as it relates to Lots 11 and 12 in Block 8301. This is property on Route 46 many of you probably remember it as Tempe's Limousine it's the property which is on the same side as an application we heard not too long ago for Michael McCort and kind of catty-corner diagonally from Callaremi another application we've heard. What I'd like to do is get right into it, 11<sup>th</sup> Hour Rescue is looking to use this property, recycle it which is a term that's in vogue in the Highlands because we are located in the Highlands Preservation Area and use it for its kennels. And 11<sup>th</sup> Hour Rescue as you'll hear in a moment is an organization dedicated to saving dogs that are scheduled to be euthanized, you know nobody wants them they actually go rescue these dogs treat them if necessary and then try to place them with families who would like a pet. The executive director or president is here she can give us far more greater detail than I about the operational standpoint which is why I'd like to begin so you guys have a sense of what this is all about. Linda?

MR. WEISS: You know Mike as your first witness comes up we'll use the same timeframe we're going to be done here this evening Mr. Selvaggi by 10:00 so I would prefer to do the same thing maybe we'll give ourselves about an hour. It gives us some time to wrap up if you feel you can finish it and if you need a few extra minutes by all means I'll give you that.

MR. SELVAGGI: All right let's see where we are.

MR. WEISS: Let's move on and again we'll swear in your first witness.

MR. SELVAGGI: Okay.

MR. WEISS: And also for the record Mr. Walsh is the Council representative and is not eligible to sit on the hearings for this application. But just for the record he's sitting here without . . . he won't be a voting member on this application.

MR. SELVAGGI: Okay that's fine.

MR. WEISS: The advice Pat was to maybe not sit on the dais.

MR. WALSH: Okay you got it.

MR. WEISS: You have a good evening if you choose to leave otherwise there's plenty of seats. Thank you. Okay back at you.

MR. SELVAGGI: Yes if my witness can be sworn.

(LINDA SCHILLER 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.

MS. SCHILLER: Okay my name is Linda Schiller (S-C-H-I-L-L-E-R) and our do you want where we're incorporated or this?

MR. SELVAGGI: The current address for Eleventh Hour.

MS. SCHILLER: Oh 861 Route 10 in Randolph.

MR. SELVAGGI: Okay Linda have a seat. And while you're getting comfortable what's your position with respect to 11<sup>th</sup> Hour?

MS. SCHILLER: I'm the President and Founder.

MR. SELVAGGI: Okay and how long have you been involved with the organization?

MS. SCHILLER: Since 2004.

MR. SELVAGGI: When was it formed?

MS. SCHILLER: We incorporated in 2005 actually.

MR. SELVAGGI: Okay so you've been there at the ground level?

MS. SCHILLER: Yes.

MR. SELVAGGI: All right and the Randolph address you gave that's your current location? Has that been your only location you've been operating out of?

MS. SCHILLER: We used to operate out of just foster homes and we were lucky enough to procure or be renting a property in Randolph that currently has two kennels where we can house 60 dogs besides the dogs we have in foster.

MR. SELVAGGI: Okay and your corporate structure, you're not for profit?

MS. SCHILLER: Not for profit 501C3.

MR. SELVAGGI: Okay now besides . . . are you an employee or are you a volunteer there?

MS. SCHILLER: I'm a volunteer.

MR. SELVAGGI: Okay do you have any employees?

MS. SCHILLER: We have a kennel keeper and we have . . . a full time kennel keeper and then some part time staff that their job is just to maintain the kennel, take care of the dog, feeding, cleaning and everybody else is just volunteer. We do it . . . our pay checks are dog kisses and tail wags and that's about it.

MR. SELVAGGI: All right now I had in artfully for sure tried to explain what it is 11<sup>th</sup> Hour Rescue does I'm sure you can do a much better job than I and if you can let the Board know and I'll distribute what . . . these are brochures for the organization?

MS. SCHILLER: Yes.

MR. SELVAGGI: Mark this A-1.

MS. SCHILLER: It explains a little bit about what we do and who we are. Our focus, our mission had originally been to save dogs from death row. We don't go looking for them now we have a reputation, people come to us kill shelters where volunteers are there and well we'll get an email, you know I've been working with this yellow lab for two weeks now and they're going to euthanize him on Wednesday can you help I'm begging I'm begging. So in those instances we try to go in and help the animals where volunteers are particularly attached and asking for help. We will try to help everybody and hope that nobody gets killed that day. With the downturn in the economic climate our focus while it still is dogs on death row we are also helping people who are losing their homes, moving in with relatives, we get please I'm moving in with my Uncle and I can't take my dog and if I bring him to a local shelter owners surrenders get killed first they're going to kill him and I'll start crying I'm sorry. But when I get these people coming to us and they've lost everything and now their pets are going to be killed I can't say no I'm sorry. So we do that we also get calls from . . . we're signed up with some battered women shelters, some of these women will not leave a battered situation until their pets are free or safe because they feel that the abuser is going to take it out on them. So we will take the animals in and either rehome them or in some instances try to hold them for as long as we can until they can get into a situation where they can take them. So as I said our focus is still you know animals that are scheduled to be euthanized but we are helping in other ways now.

MR. WEISS: If I can interrupt real quick can we mark this brochure as A-1?

MRS. NATAFALUSY: Yes we did.

MR. WEISS: For the record the brochure that you handed out which summarizes The 11<sup>th</sup> Hour Rescue Operation is A-1.

MR. SELVAGGI: Now when a dog or a cat you rescue you bring it to your location what do you do with it there then? I mean is there a process it has to go through?

MS. SCHILLER: Well I'll kind of step all the way back. Before we bring any animals in whether they're coming from a shelter, especially coming from a shelter we put them at a vet's office in quarantine for ten days. They get totally vetted, they may or not get spayed and neutered at that point in time but they will eventually get spayed and neutered before they're adopted. Animals coming from a situation as I said earlier where somebody is losing their home, they need to rehome their animals and if we have that records and we know they've been in a home not in a situation where they might have been exposed to you know living in group communities where they might get illness or disease they will come immediately and we're very strict about that quarantine period. Not only because we have animals that are kenneled, a lot of our animals are in foster homes and we don't want our foster families exposing their own pets to you know any illnesses. So they first go to the vet, then they come into our kennel or foster program, and then we hold adoption events and we get them placed into hopefully loving homes permanent homes.

MR. SELVAGGI: Now you mentioned a moment ago your adoption events, you actually have some experience with Mt. Olive Township already for those events correct?

MS. SCHILLER: Right, right we are currently running the adoption center in the Petsmart in Mt. Olive.

MR. SELVAGGI: All right and how long have you been doing that?

MS. SCHILLER: Since November 19<sup>th</sup> I can't even tell you how wonderful it is and we've just placed so many animals out of there it's amazing.

MR. SELVAGGI: Now when you place do you sell these dogs or cats?

MS. SCHILLER: We do have an adoption fee but I object to saying we sell them because that implies that anybody can come off the street and give me money and they can have my animal. They have to apply for them, we do vet references, we do personal references, business references you know and in some cases if we're not sure about any of the references we've gotten we'll do a home visit and we'll deny people their applications if we don't think they're suitable for one of our animals.

MR. SELVAGGI: I don't know if I'd get a dog. If you want I mean we have more but yeah go ahead.

MR. WEISS: No I thought you were done that's fine.

MR. SELVAGGI: Now besides the animals themselves is there any retail component to your operations? Leashes, dog food, anything to that . . . .

MS. SCHILLER: No.

MR. SELVAGGI: Okay. Now you've been in Randolph six years or so why are you looking to relocate?

MS. SCHILLER: The property that we're currently renting is for sale and the kennels that we're renting . . . . Well the reason we're on that property they were old boarding facilities and there is two kennels on there so it suited our needs. The property there is extremely expensive it's right on Route 10 in a very desirable corridor that we can't afford that property and honestly the kennels are in such disrepair where we are that I was trying to talk to the landlord and said give me a break on this property and he says well you have all the value added property you have all of the buildings I said there are demolition costs to anybody else except myself. These kennels are in horrendous shape, if we did buy the property, which we can't afford, we would have besides the cost of the kennels we would have the demolition cost as well because we wouldn't be able to stay there for any length of time.

MR. SELVAGGI: Where, by the way, where do you get most of your financial support?

MS. SCHILLER: By the most incredible passionate dedicated volunteers on the planet. We do tremendous amount of fundraising and my volunteers haven't learned the words "you can't". People say you can't do it, you don't have the money, you'll never raise it and they just turn around and say watch us and we do.

MR. SELVAGGI: So when you set upon, after you realized you couldn't purchase the property your at, and you embarked on this search what was some of the criteria I mean what were you looking for and how did you arrive here in Mt. Olive?

MS. SCHILLER: Oh this is the funny thing. We only looked at this property because we thought it was zoned for what we wanted. We thought it was zoned for indoor/outdoor kennels and that is the only reason we looked at this property. I mean besides we love the area you know there are certain areas we really liked and Mt. Olive was one of them but the reason we looked at it was we were lead to believe it was already zoned that way.

MR. SELVAGGI: Okay you're a contract purchaser correct?

MS. SCHILLER: I'm sorry?

MR. SELVAGGI: You're a contract purchaser you don't own the property right?

MS. SCHILLER: Oh no we don't own the property.

MR. SELVAGGI: Okay and if you're fortunate to get an approval here what would you say to the Board? I mean how would you describe what you're going to do there? I mean the number of kennels, the buildings and things like that.

MS. SCHILLER: Okay because we're restricted by the Highlands and we worked with a Civil Engineer and our architect to come up with a plan that we could utilize the footprint and come up with something where we could have approximately 70 dogs on the property. And I don't know if you gentlemen and ladies are familiar with the property, there's a residence a house in the front of the property and the kennels will be attached to the house running out the back.

MR. SELVAGGI: Okay and that house how are you going to allocate the space in the house?

MS. SCHILLER: It's going to be a reception area, a food prep. area, a grooming area, and what we call a meet and greet area where people can come in, sit on a couch; play with the dog you know a place for them to interact.

MR. SELVAGGI: Okay and then upstairs?

MS. SCHILLER: We're going to have a caretaker's apartment.

MR. SELVAGGI: And the caretaker needs to be there to facilitate the kennel operations?

MS. SCHILLER: Yes and I really, I want somebody on the property 24/7 to make sure that you know God forbid there's ever a problem somebody is there for the animals.

MR. SELVAGGI: Let me just ask you because that brings an interesting question. Your current location have you had any problems you know of any kind, any complaints from neighboring property owners?

MS. SCHILLER: Nope and actually the Animal Control Officer for the area if you gentlemen even wanted me to get something from her I could, she has to come in and inspect us all the time and we've always passed with flying colors.

MR. SELVAGGI: Okay now . . . So you have the kennels, the dogs will have the opportunity to be outside correct?

MS. SCHILLER: Correct.

MR. SELVAGGI: How is that going to be handled?

MS. SCHILLER: We have now and what we intend to do if we're lucky enough to get the Mt. Olive property we have indoor/outdoor kennels the dogs have a nice indoor run there is what they call a guillotine door where they can go outside to either relieve themselves or it's a nice day sit in the sunshine you know they'll have free roam in and out weather permitting.

MR. SELVAGGI: Okay the outdoor area is that going to be lit? Like I mean will you have it like a backyard and when the dogs are out there so there out there at night or no.

MS. SCHILLER: Well actually no. As I said and during the winter months when it's cold what we're currently doing during the cold weather they're shut in earlier. We'll let them out if it's cold they don't get access in and out all day. In the summer months we shut down the kennel between 8:00 and 9:00 everybody is locked in.

MR. SELVAGGI: Okay and when would they be able to be outside in the morning? What is the earliest you'd have them out?

MS. SCHILLER: 8:00 in the morning.

MR. SELVAGGI: Okay. Now obviously there's some residential properties in the vicinity clearly those people have concerns I'm sure about the noise and the barking and things like that. What are some of the things that you try to do or you're doing now that minimizes or eliminates that issue?

MS. SCHILLER: We don't have, one of the things we found is that when the dogs are left alone and there's no activity in and out of the kennel you can walk in the front door and you don't hear a sound. The stress and the barking happens when you have people coming in and out. So one of the things . . . we are not a shelter, we are not open to the public, and we decided to do this at Randolph. Just because the stress level for the dogs when strangers are walking in and out and kids are poking their fingers through the cage you know it's too much for them. So we do not have hours open to the

public that helps eliminate a lot of the noise because there is not all of the commotion going on for them to react to. We will have people there to meet the dogs by appointment only and only the volunteers will go back bring the dog out to the meet and greet area. And the design that we're looking at right now is one of the things we found is that when they're looking at each other face to face that causes barking, you know this guy is yelling at this guy over here, so we're going to have it structured so that no one gets to look at another dog they're going to be blocked off. So that's going to eliminate a lot of you know the potential for that. Plus we have the kennel enrichment program where we have volunteer who take these animals and take them for walks in the park and that exhausts them and tires them and keeps them calmer. They're also with the way the building is being constructed some of the . . . we're going to have very . . . I don't know all of the details . . .

MR. SELVAGGI: Well we have an architect coming up.

MS. SCHILLER: They've done some things to allow for that and address that.

MR. SELVAGGI: Now there's the issue perhaps of noise which you've addressed. What about, you have 70 dogs that's a lot of dog waste and things I mean how do you propose to clean it and minimize odors and things like that?

MS. SCHILLER: Okay well we're going to do the same thing we're currently doing at the Randolph property. We have a routine in the morning all the waste is picked up by the kennel keepers, the kennel is totally sanitized in the morning there's a special kennel cleaner that kills all the bacteria, all of the odors it has to stay down for ten minutes then it gets hosed off and dried. The same procedure will apply to the new place when we do that. That gets done in the morning and during the day if anybody has a random accident you know that gets cleaned up immediately.

MR. SELVAGGI: What about outside when they're running around outside in the lawned area?

MS. SCHILLER: We're going to have a play area there but they're not going to be . . . they're going to be in the runs about 90 percent of the time. Like the play areas for them to go out they would be monitored with a volunteer. Like somebody wants to come over take the dog throw a ball there's going to be one dog out with a volunteer at that time.

MR. SELVAGGI: Okay and generally you have 60 kennels now, how often are you at full capacity?

MS. SCHILLER: All of the time. An empty kennel is a dead dog.

MR. SELVAGGI: And then how many out of that full capacity what's the turn over? How long are they usually with you?

MS. SCHILLER: We can have dogs there less than 24 hours you know and then we have a couple of dogs there for at least a year.

MR. SELVAGGI: Okay but generally on average what would you say you know . . .

MS. SCHILLER: I would say two to three weeks.

MR. SELVAGGI: And when somebody comes I think you mentioned before they need to have an appointment you just don't take walk-ins.

MS. SCHILLER: Right.

MR. SELVAGGI: How do they determine what kind of dog or they pick out a dog, I mean how does that process work?

MS. SCHILLER: Well after the application process that I mentioned earlier once they're approved we have someone who contacts them and they might say that they're interested in Spot and Spot is this two year old Lab that loves to run, that's hyper that needs a lot of exercise and it's apparent that this family are couch potatoes. We will not let them take Spot we will encourage them to you know get Fido who wants to watch old movies and eat popcorn. So we have a screening process where . . . and when we tell people they're approved we say you're approved for a dog that's right for your family and while you might love the picture of this dog you just saw on line when you meet him in person you might feel differently. So we do have volunteers who work with the families and try to make sure that

they're getting a dog that's going to make them happy and this way the dog is happy and the family is happy.

MR. SELVAGGI: Okay. That's all I have for Linda.

MR. WEISS: I have a couple of questions. Go ahead Nelson?

MR. RUSSELL: Your brochure has pictures of cats and you've been talking almost exclusively about dogs.

MS. SCHILLER: Yeah well we don't have cats at the kennel we have cats in foster homes.

MR. RUSSELL: Okay.

MR. WEISS: I have a couple of questions. Linda you said that you would have housing for dogs for 70 units? And Michael you had 60.

MR. SELVAGGI: 60 is where they are now, 70 is what's proposed here.

MR. WEISS: Okay I just wanted to make sure. And then Linda also you talked about you found this piece of property because you felt it was zoned for such. Did you look at any other property when you were looking for a new facility?

MS. SCHILLER: We've just been looking on line this was the first property that we actually physically looked at.

MR. WEISS: Okay. Chuck go ahead.

MR. MCGROARTY: How do you select your care taker? What would the criteria if any be for someone . . .

MS. SCHILLER: The girl we currently have right now she has kennel experience and she's a vet tech. and that's important to us to make sure that we have someone on the property that can identify you know a dogs coughing. Is it something serious where we need to rush him to the vet or is it something we can treat ourselves. So you know we're looking for two things we're looking for someone with kennel experience and vet tech. experience.

MR. MCGROARTY: And the understanding would be that that apartment would be only for that person, a person in that capacity.

MS. SCHILLER: Absolutely.

MR. MCGROARTY: I mean typically a single individual? Or is there such a thing as typical?

MS. SCHILLER: The care taker we had started single and now she's married.

MR. MCGROARTY: All right thank you.

MR. WEISS: Go ahead.

MS. COFONI: Is it anticipated that she'll be the care taker at this location?

MS. SCHILLER: I'm not certain. We have . . . well we're discussing that she doesn't know this yet but we're discussing that as well.

MS. COFONI: So it's not known yet.

MS. SCHILLER: Yes.

MS. COFONI: Okay that's fine.

MS. SCHILLER: We're not sure.

MR. WEISS: Dan?

- MR. NELSEN: I have a couple of questions. Your disposal again of your solid waste is how?
- MS. SCHILLER: Actually we pooper scooper it out take out the solid waste we bag it and dispose of it. We pay for the garbage removal on that.
- MR. NELSEN: Private sanitation okay.
- MR. SELVAGGI: I have just a follow up. How often will they come?
- MS. SCHILLER: The garbage removal I think we have them . . . I'm not sure, right now I think it's twice a week.
- MR. NELSEN: Is there any kind of septic system that's going to be on the property?
- MS. SCHILLER: Yes.
- MR. SELVAGGI: Yeah our engineer Dan will talk about that next.
- MR. NELSEN: Okay. Your time from the time that the animal is turned in they go to a vet first you said?
- MS. SCHILLER: Yes unless it's an owner's surrender where they're not coming out of a shelter.
- MR. NELSEN: But they come to your facility fully inoculated?
- MS. SCHILLER: 90 percent of the time they always have the Rabies when they come in. We will administer the DHPP which is the Distemper Parvo and we microchip on site.
- MR. NELSEN: You do microchip of all the dogs?
- MS. SCHILLER: We do microchip as well that's part of the adoption fee. The dog is totally vetted spayed, neutered, rabies, distemper, Bordetella, canine influenza, micro chipped we spare no expense they get everything.
- MR. NELSEN: They're inoculated before they come to you?
- MS. SCHILLER: The rabies always, we will do the DHPP if they're not already inoculated.
- MR. NELSEN: And the Bordetella?
- MS. SCHILLER: Bordetella yes.
- MR. NELSEN: You'll do that.
- MS. SCHILLER: If they have not had that already we do do that.
- MR. NELSEN: Okay I'm sorry did you say that there is a period . . . a quarantine period for ten days that they stay at the vets before they come to you?
- MS. SCHILLER: Right. Now we get dogs locally as well as some dogs from out of State so . . .
- MR. NELSEN: Right but if you're getting dogs from the vet and there's a quarantine period of ten days wouldn't they get the Distemper/Hepatitis and Parvo?
- MS. SCHILLER: It depends on where the dogs are coming from and if they're going to be transported. If they're going to be transported any distance they get everything done prior to coming to us. If it's a dog that we're pulling locally we use the Animal Clinic of Morris Plains right now because they don't charge us boarding. We will bring them there and they will quarantine them for us and we waive the cost. Now if they're going to charge me \$15.00 for a DHPP then my vet tech. can buy it and administer it for \$5.00. We will tell them you know do a rabies, do a fecal, do this and we will administer what's more cost effective for us.

MR. NELSEN: I'm thinking about the Bordetella and the Canine Influenza as far as bringing a dog to your facility before they have that there should be an inoculation period before they actually . . .

MS. SCHILLER: Well the Canine Influenza we cannot administer ourselves. We actually got a grant from Pet Finder I don't know if you're familiar with them.

MR. NELSEN: Yes I am.

MS. SCHILLER: And they are donating Canine Influenza vaccines to us and they said that they won't give it to us they give it to our vet to administer.

MR. NELSEN: Right but what I'm saying is when . . .

MS. SCHILLER: On the Bordetella?

MR. NELSEN: Yeah when will they get that before they come to your facility? I'd hate to see you bring in dogs in who have Bordetella and spreading it throughout your facility.

MS. SCHILLER: Well I'm going to tell you right now we have dogs that are coming in that 90 percent of them have Bordetella and we are administering to the others that the Bordetella once they arrive.

MR. NELSEN: Yeah but there's an incubation period with Bordetella.

MS. SCHILLER: Yep we've had kennel cough at the kennel so I know.

MR. NELSEN: So I'd hate to see that spread around.

MS. SCHILLER: Yes I know. And we have an isolation ward where we can put them that it's something that has happened and that's why we've warrant doing Bordetella initially because there's so many strains that you can . . . It's like having the flu, you can get a shot for Bordetella and its strain B that's going around and you know they're still going to get it.

MR. NELSEN: Is there any connection with yourself with this facility and Petsmart?

MS. SCHILLER: No this is nothing to do with Petsmart.

MR. NELSEN: And this is strictly not for profit.

MS. SCHILLER: Strictly not for profit.

MR. NELSEN: You won't be boarding other people's animals?

MS. SCHILLER: Nope any space that's not my space is a dead dog so that's why we're always full.

MR. NELSEN: I have no other questions.

MR. WEISS: Does anybody else have any other questions? Let me open it to the public then if anybody has any questions for Ms. Schiller based on the testimony she gave. Sir if you would be so kind go to the podium you'll state your name and address for the record.

MR. MARX: My name is David Marx (M-A-R-X) I'm an attorney from Denville I'm representing Mr. Robert Gladish the gentleman in the blue sweatshirt who lives adjacent. He's the building as you're looking standing on Route 46 looking at the property in question he's on the right. That house is as you've seen a lot of you went out there is relatively close.

MR. NELSEN: Is he on Lot 10?

MR. MARX: Yes that's it. Ms. Schiller let me just first state that Mr. Gladish and probably everybody in the room admires you and what you're doing and your organization and nobody is against that you're doing God's work but we feel that in this property it's just not suitable. In your property in Randolph you have nobody there 24 hours a day is that correct?

MS. SCHILLER: No we do.

MR. MARX: But your website says there's nobody there it's staffed by volunteers.

MS. SCHILLER: We are staffed by volunteers but I have somebody there 24/7 I have a kennel keeper.

MR. MARX: And that person lives there?

MS. SCHILLER: Yes.

MR. MARX: On site.

MS. SCHILLER: Yes.

MR. MARX: Okay I was not aware of that. The procedure for cleaning up after the dogs the liquid waste you spray a chemical of some kind?

MS. SCHILLER: A kennel cleaner.

MR. MARX: You let it sit for ten minutes?

MS. SCHILLER: Yes.

MR. MARX: And then you hose it off?

MS. SCHILLER: Right.

MR. MARX: And where does that run then when it's hosed off?

MR. SELVAGGI: We'll testify Mr. Marx there is going to be a separate dedicated septic for that.

MR. MARX: And the liquid doesn't drain on the adjacent property then it's caught?

MS. SCHILLER: No.

MR. MARX: Okay we'll ask your expert about that. As we move on the plan it says the total number of kennels is 71 that's 64 and 7 is that correct?

MS. SCHILLER: I'm not sure how it's broken out off of memory but that sounds right.

MR. MARX: I have no further questions of Ms. Schiller I think we'll wait for the expert. Thank you.

MR. WEISS: And you know maybe for the record Mr. Marx as I said earlier I don't know if you were here we'll afford you the same benefit we'll follow the process and at any point we'll open the meeting to the public to question the experts and at the end of the meeting we'll give you ample time to present any testimony or present any experts to us.

MR. MARX: Thank you.

MR. WEISS: My pleasure. Okay is there anybody else from the public?

MS. SCHILLER: And I just want to mention one thing. Everybody here has heard the benefits of having an animal that you know helps people live longer and better our lives, now we're hoping to do service for the community as well and we hope that you know we're going to do a good job and we'll be welcome. And you know by helping the dogs we're helping people. I just wanted to put in a little plug. Thank you.

MR. WEISS: Thank you Ms. Schiller. And I had asked if there is anybody else from the public and I saw none so I'll close it to the public and Michael we'll move right along.

MR. SELVAGGI: Yes Mr. Glasson will be our next witness.

(JAMES GLASSON SWORN IN FOR THE RECORD)

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

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

MR. SELVAGGI: Jim just for the record and I know Mr. Marx is here as well he may not have the benefit of your expertise but if you can give us your professional licenses, experiences in matters of civil engineering.

MR. GLASSON: Yes I've been a professional engineer in New Jersey and Pennsylvania for approximately 17 years. I've appeared over 60 Boards throughout the State of New Jersey giving expert testimony as a professional engineer. I've appeared before this Board probably 50 times.

MR. WEISS: I'm not sure if we've seen Mr. Glasson before. Does anybody have any questions? We certainly accept Mr. Glasson as an expert engineer.

MR. SELVAGGI: Jim you had prepared what was submitted the preliminary and final site plan for the two lots correct?

MR. GLASSON: Yes I did.

MR. SELVAGGI: And why don't we just kind of start with an overview of what's out there now and what you propose if we're fortunate enough to get an approval here.

MR. GLASSON: This is a kind of a colored up version of my sheet 2 of 12 that you have in your plans Existing Conditions Plan.

MR. SELVAGGI: We'll mark that A-2.

MR. WEISS: its call Existing Conditions Plan?

MR. SELVAGGI: Yeah it's the second page on his . . .

MR. GLASSON: 2 of 12.

MR. WEISS: And that's dated . . .

MR. GLASSON: 10/28/11. As Mike had said this property is known as Lots 11 & 12 in Block 8301. Lot 11 the street address for this property even though it's divided into two properties the street address is 484 Route 46. Lot 11 which is the property that's kind of in the front I just kind of tried to show you with a yellow line here where that property is its 150 foot wide by 300 feet deep and that property is 42,810 square feet. And the property directly behind that is 150 wide by about 125 foot deep and that is 18,763 square feet. The combination of the two of them is 1.41 acres or 61,000 square feet. This property is located about 1,150 feet to the east of Sand Shore Road intersection with Route 46. The property is located in both the Highlands Preservation Area which if you look at your sheets H1 and H2 in the back of your plans you'll see those are the approved Highlands Exemption Plans that we've shown as part of our set. Very stringent requirements in what we could put as coverage, I'll get into that as I go along but as I refer to it its sheets H1 and H2 in the back of your plans. We're also located in your township C-2 zone which requires a minimum lot size of 2 acres, a minimum lot width of 200 feet, depth of 250, Floor Area Ratio of .3, building coverage 20 percent, lot coverage 60 percent, front setback 90, side 60, and rear 50. They're going to come into play all of those setbacks because we're going to leave some of the buildings in place and a lot of these structure are nonconforming. I'll get into the Highlands end of it because with the way the Highlands is worded and the way the exemption is sought by an applicant what we did was Exemption #4 that applied to this lot for coverage. It was very difficult to move structures it's almost impossible to move structures into certain areas of the property and I'll get into that as we go along. There are three buildings on the property if you look at your plan sheet 2 you'll see we labeled them A, B & C. Building A is the main structure it's a two-story structure that's located somewhat centrally on the property it has a footprint of 1,552 square feet, a second floor of 998 and a basement floor a full basement of 1,552. That's the white structure with kind of the "A" frame front view from Route 46. Building B is a one-story frame building that's located off to the left of Building A or in a westerly direction. That building is much closer to Route 46, that building is

36 feet off of Route 46 while Building A is 65 feet off of Route 46. As I said earlier 90 feet is required front setback so neither one of those structures are conforming with their front setback. Building B is 824 square feet it's a single-story. In the rear what we call Building C is a two-story frame barn it's a red barn it's located in the rear along the easterly property line. Again this building is somewhat nonconforming in the fact that it's located 4 feet off of the right side whereas 60 foot side setback is required. It does conform for its front off of Sand Shore Road because it's 131 feet, it does conform to its westerly side line because its 110 feet. The site is presently served by a private well its located directly behind Building A we're going to abandon that well and drill a new well. But to the left side of Building A is an existing septic system a substandard system it's just a septic tank and seepage pit we're going to have a complete new septic system is what we're proposing. In the front of the building the area that's colored gray here is an existing paved area. The paved area then transforms to gravel and along the entire east side there's a gravel driveway that then runs out and connects to Sand Shore Road. A combination of the paving and gravel is about 14,000 square feet. Our coverages that exist right now we have 5.69 percent building coverage where 20 percent is allowed, 33.46 percent where 60 is allowed on the lot coverage. And that's important because the Highlands Exemption will allow you 125 percent and that's existing at 33.49 so you would think we would be able to take 33.49 times 1.25 is about 42 percent. We actually ended up when we're done with this with less coverage than we have now. Only because the way the Highlands Exemption is generated is if you remove coverage from an area you lose the coverage. So unless we were to put all our proposed coverage back exactly where you see it on here along the easterly side line adjacent to Lot 10 directly around this building and out there you actually lose that coverage. The less you overlay directly over that coverage and then put 25 percent around that area that's the only way we would get 42 percent. So we're going to show you with what we're proposing we're actually reducing our coverage by I believe it's about a percent. Our adjacent properties Route 46, directly across Route 46 is the Callaremi car dealership on Lot 43 also in the C-2. Two on the westerly side is a residential structure a two-story residential structure on Lot 13 that's also located in the C-2 zone, behind us to our north is office/warehouse in the C-LI zone across Sand Shore Road various office warehouse buildings. To the right if you're looking at it to the easterly side we have a communications cell tower on Lot 9 and on Lot 10 in Block 8301 is the residential structure that the attorney was speaking about next door to us. If I can I would like to now turn to what is my site layout sheet 3 of 12.

MR. WEISS: Mark that A-3 Jim. Same date October 28<sup>th</sup>?

MR. GLASSON: Same date October 28 it's a colored version of it. I'd just like to . . . we want to renovate this site and use it for The Eleventh Hour Rescue I think you have an idea now of what the operation of Eleventh Hour is. I will go through what the changes are we're proposing to make. Number one Building B that was in this corner that was nonconforming and that it was 36 feet off of the right-of-way is to be removed in its entirety. That building really didn't serve any purpose and what it did was it really messed up how we would access this site so that building would be removed. A second item that we were looking to do is to add additions to Building A. Ms. Schiller talked about two additions out the back of the building. The first addition that's called out on my plans called out as Addition #1 and its this dark gray area that I've shown on this plan here it's behind the left side of the building there would be a hallway out of the first floor, it's a single-story addition there would be a hallway out of the first floor of Building A in the rear and it would run to a 5 foot hallway that would bisect kennels on either side. There's a detail on those plans if you look up in a typical kennel detail shown on sheet 3 of 12. It shows just one side, it shows the hallway with a concrete floor with the Guillotine door going into a concrete area that is the enclosed area of the cage that would be the 4 by 5 area. And then there's another Guillotine door out into what is considered the yard area. Outside of that there's a gate going out into the overall yard so that's a typical kennel detail. One thing you'll notice about each of these interiors as well as the exteriors it shows a 4 inch drain in the corner of the interior area of the kennel as well as the exterior dog run. And it shows a slope on there these will have concrete floors and they will be pitched to these drains. And I'll get into where these drains will go but we talked before or we had commented before about hygiene and the wash down process. And when these kennels are hosed out they will go into these drains and I'll discuss where they'll go but the idea is so that nothing would run out of these stalls everything is pitched to the corners inside and outside so it will get into this drain system. The second . . . and that addition by the way is 88 feet to its front because we do, we would require a front yard setback variance for that, 88 feet is the closest point to the front yard there because of the fact that we're coming off the back of the building but we still do not have achieved the 90 feet. It was very similar to the previous application where the addition is in the back but we still do not achieve the 90 foot front setback. The left side setback is 60.2 so we do conform to the side setback of 60 feet for that addition. The second addition, Addition #2 . . . And by the way that addition is 34-1/2 by 112 it's an addition of 40 kennels and it's 1775 square feet. So that's the first area of kennels of 40. The second area of kennels is this addition that we see here and it's a single row of kennels and it's designated as Addition #2 on my plans it's 1188 square feet, 19.25 by 125 and that's

24 kennels. What we've done to design that and I'll have Mr. Burn next up or he's coming up next in the architecture end but what we've done to design that so that we basically shield our neighbor on Lot 10 is we've set that addition in at the back right hand corner of the building and we've made the hallway a windowless hallway adjacent to the neighbor and the kennel is now facing the other direction. The kennels are facing the westerly direction. We've made that wall a soundproof wall which Mr. Burn will discuss we have no windows on that side of the building so the intention is to shield that neighbor as much as humanly possible and I'll get into that with buffering. But the idea was we took out that driveway that was previously up that whole side so there was coverage there that's where we gave up a substantial amount of coverage under the Highlands because it would have made sense for us to put our coverage back where that coverage was. But we took out that coverage so we could shield that neighbor we did buffering along that side and the intention that these kennels would face the opposite direction. And the kennel area and the area that dogs would be outside would be over in here. For parking you see a pretty square parking lot showing the front. The previous or the existing parking area has two ingresses and egresses you know there are two ways in and out and it's kind of haphazard there's no striping out there right now. We have a conforming parking lot with 15 spaces, a 25 foot aisle and we have 10 by 18 parking spaces 15 of them. That 15 conforms to the ordinance at one per 200 square feet with our building sizes. And what we've done is we pushed our entrance over to this left side and we were able to do that because of that building we took down Building B. As I said if we put the coverage back where the coverage is we keep it. So we did that on this side, what it does it provides a lot better sight line. The sight line along this side was not as good as the sight line is here and we've restricted our exit to a right turn out only. With regard to our parking spaces we have 15 spaces striped, we have a handicap space directly in line with the entrance/exit and we have delineated handicap access. On the left side of the building you go up a slight incline ramp to a new doorway that would go into the building that would provide that handicap access. The front steps that presently exist at the building will remain but this provides the handicap access that's needed for this use. You'll notice in the rear we have another separate parking area, and by the way this parking lot is Belgian block curbed and paved. In the back we have a separate parking area and I'll call it a loading and unloading area only it will be designated and signed accordingly. It's about 2,000 square feet and what it is a 10 foot wide aisle way in and it's for access for garbage pickup and a dumpster area a 6 by 14 dumpster area back here, but more importantly it's for access into a gated area. We'll have a gated area that will cross the driveway for The Eleventh Hour van that travels out to pick up the dogs in need of rescue and also for a loading space. Now the loading is unique with regard to this project in that they don't take deliveries of food, they don't have trucks come a volunteer I believe goes out with an SUV once a week to Tickners in Hackettstown and picks up food and it's a volunteer delivery. So that volunteer would literally come in, unlock the fence come through the fence park here and offload. So that's kind of unique to what we're doing. So that would be a gated area. Now they would offload to what is called Building C in the rear. Now Building C is the previous barn, Building C would have 7 kennels there's two small additions of outside door areas on that building but the structure itself would remain. And an interior portion of the structure would be for the 7 kennels the remainder of the first floor of that building would be utilized again for laundry for the dog bedding, for food preparation area as well as a bathroom for the employees and I'll get into the septic system for that. That would bring the total kennels up to 71 so our actual number of kennels is 71. Now this is more what we were talking about before when we said there's a potential quarantine area. These 7 kennels back here are kind of separated from these other ones up front those 64 out here so any area that they would need to quarantine anybody would kind of be back in that area there. The second floor of that building we had no real intended use. That building is 1130 square feet per floor and the second floor of that building they're going to utilize just for a dog play area. Because inclement weather if they want to just take a dog and let him run around take him up to the second story at least they can throw some balls and (inaudible) stuff like that in there and have a dog run up there. But we didn't really have any use for that second story so we figured that was something that would be useful in inclement weather. With regard to the yellow that you see on here are walkways. We do have one main walkway running from the parking area in the front along the right side of the building to the Building C in the back. It also has access to the kennels along this side and also has access to what is this care takers apartment. Now the second story of Building A is designated for the care taker as Linda said. The care taker doesn't necessarily walk through the lobby or the office of Building A and have to go upstairs, they have a separate entrance there's an exterior stairwell if you look at sheet 4 of my plans the Grading Plan it shows that stairway access I believe there's a detail on there it shows that stairway access as well as that access from the walkway. Understand this walkway is not for the general public there is a fence, I'll get into where the fence goes but the fence encloses this walkway so you would have to have a gate, a key to get into that gated area. And that would be for the employees as well as the care taker to enter. As Linda had said Building A the basement floor would be for storage the stuff associated with the dogs. The first floor of Building A the 1552 square feet would be for their offices, the meet and greet, and food prep area, they would have a bathroom area there, as well as a two bedroom apartment in the care takers with a bathroom and kitchen area above. With regard to our utilities you can see kind of an outline here we do have a rather large septic system and a

reserve area that's shown kind of back in a wooded area that's 2,400 square foot septic area. It is a dual tank system in that there's a tank system that runs for the main house which would be for the human waste in the main house that would have their separate tank system that runs directly to the system and then there is a completely separate system that takes Building C and the kennel areas and it takes it through a septic tank, a two tiered septic tank system and then a filter system. And the filter system are systems that pick up hair so any of these kennels that are washed down with those drains those floor drains are all connected to this filter system separate piping system with a main trunk line that runs underneath so that they would not have the problem of anybody hosing down stuff and running on the ground it would all go into this main filter system. We sat down with the Board of Health and went over quantities of what they wanted for each of these cages on a daily basis and that's how we came up with the sizing of this. It's before them I believe they issued a letter that they have no problem with what we're doing they would not issue any final approval on this yet until we get through the Board. But it is a pretty intricate system in that we don't have anything that would run off. The other thing that I would mention about the kennels is Mr. Burn came up with this idea I'm going to steal some of his thunder, he had an idea we were trying to talk about Linda said we want the kennels to be outside. We want the dogs to be exposed to the sun but we wanted to have these concrete floors so what do you do when it rains? I have to have a drain in that floor. So we're saying okay every time it rains now what are we going to do we're going to get rain water going into the drains I can't account for that in a septic system. So what we have is we have awnings on all of these kennels and they're rain sensitive, they rain sensor and these awnings as soon as there's rain or inclement weather come out over the kennels so that rain water does not go into our drainage system. Because I was trying to figure out how am I going to design a septic system with that. So there's a rain sensor and he'll get into that but we were looking around and trying to figure out what to do when she said that and I thought it was a pretty ingenious idea by Mr. Burn. We do need a new well the previous well was located right here in the location of what is our Addition #2 we have a new proposed well located out front in this island by the right-of-way. With regard to any other utilities we do have an emergency generator pad shown here, we will have a propane fired generator on a 3 by 8 pad behind Building C, there will be a 1,000 gallon underground propane tank located here for delivery in the back off of Sand Shore Road. Again that will be propane fired I don't know if you've heard of propane generator it's incredibly quiet. Once a week they run for an hour just to check themselves basically it's on a fault switch that switches the power over for an hour a week and it runs just to make sure things are running correctly but it's incredibly quiet. Stormwater management we really don't have any storm system in Sand Shore Road and we really can't tie into this system in the DOT's right-of-way on Route 46 other than put an overflow. So what we've done is we've done three underground systems, we'll start backward System 3 in the back is a dry well system that takes the entire paved area to an inlet here as well as the roof area from roof drains and runs that to an underground system there and that's exclusive of the pen areas which again are hosed and go into the septic system. The second system is out here in the yard area here there is a drain between the two kennels as well as a yard drain located out here to take any runoff from overlay flow as well as the roof areas of kennel Addition #1 and 2 and that takes that to an underground dry well system. All of these dry well systems are designed to infiltrate 100 year storm there's no value in there for any type of perc in the soil so we've sized these things to completely infiltrate the 100 year storm. System 1 is located up in the front right corner again an inlet in the corner of the parking lot generating the flow from this parking area to an underground pipe system that pipes to this inlet and it also takes the roof area for just Building A not the kennels they go to System #2. All three of these systems are piped together with an overflow so that's the only thing the DOT will let us tie into their system is just an overflow pipe. So we have an overflow pipe that connects in case of failure but you'd have to have a pretty catastrophic condition, 100 year storm for that to happen. Landscaping, lighting I just tried to turn on here what was the majority of our landscaping that we've concentrated on is along our neighbor on Lot 10. He has a large mature tree line that I've shown here but we've also put seven to eight foot high Blue Spruces along that side and I'll talk about the fence between them but we're proposing a 6 foot high stockade fence also. Again that's on the side that is the side of our kennel that's our soundproof wall as well as our hallway that the kennel is facing the other direction. We have landscaping out front between our parking lot and our handicap ramp; we have some landscaping and islands out front. Our lighting we have three pole mounted lights one in the front parking lot centered, we have one in the yard area out here, and we have one back in the rear to light up this off loading space. We have I believe two wall mounted lights on Building C on either side of Building C. We took advantage of bollards and I think we have 7 bollards we have a number of bollards running up this path they're 36 inches high, ground mounted, lights directed downward as well as along this handicap access along this side and along the front side. The fence that I was talking about before would come off of the left side of the building it would travel 88 feet out towards the left side line it would travel another . . . it's a 6 foot high stockade travel another 230 feet meandering through this woods over here to a point in the corner and turn 135 cross this driveway and run up this side line here where it would continue back and join the front of the building. It would be a gate located behind the handicap, along this walkway over on the right hand side and a gate out of the back driveway. We have two signs proposed we have a freestanding sign that's

located on the left side of the property. The reason I picked that spot was basically that's the location of the existing sign but Mr. McGroarty did point out in his report that it looks more sensible to put the sign on the right hand side which it probably is because we do avoid the sight triangle we have a sight triangle so that you can see out as you take a turn out of this property or you get to turn in. But the sign that exists right now on the left side of the property actually looks into a tree line as you drive up to it so it's really difficult to see. So probably on the revised plans we'd look to move that sign to the opposite side it will be a lot more visible for them. The sign we've picked out has 40 square foot per side, 90 is allowed so we have 80 square feet. And we have a building mounted sign and as I said before there's kind of like an "A" frame look in the front of this main Building A and we have an "A" frame kind of configuration there and inside that we have a building mounted sign that's 42 square feet with 24-1/2 feet to the top so that would conform. That would be The Eleventh Hour I believe there is a detail in the plans on the detail sheet of what that would look like. We have been, we have submitted our application to the Morris County Planning Board received a letter of no exemption, we submitted this exact layout as you see on your sheet H1 and H2 to the Highlands and we have an approval for exactly the footprint that you see. Again moving that footprint is very difficult you know we gave up . . . our ending coverage is 32.28 percent where we have 33.46. As I said earlier if we utilized the coverage that we had we could have come up with 42 but we did take out coverage because this area over here was not really useable to us because we did want to buffer that neighbor. We did take a lot of thought in doing that because it was difficult to design this with most of our coverage being over here. The previous, or the site that's out there right now has a pool area here so we wanted to take advantage of that but we couldn't take these things and shift them all the way to the left side of the property because we didn't have coverage there. So we were very mindful to provide a buffer here from that neighbor and how we designed that Mr. Burn will talk about that. Our floor area ratio is .5 where .3 is allowed so we're about a half of that; our building coverage is 9 where 20 is allowed. I'll go through the variances right now we'd need a front setback variance for this kennel 90 feet is required it's 88.3 that would be a new variance. We do need a variance for Addition #2 because it is 18.9 feet off of the right side where 60 feet is required. We do need a variance for the accessory structure in the back because the entire accessory structure is within the 60 foot side setback and we are actually making it more nonconforming by adding those cages off the two sides of it. So that would need variances for both of those sides. We need waivers for our loading space size, you require 12 by 60 we have a 10 by 20 loading space size. I think we only need a 10 by 20 and I think . . . I don't remember if you said anything about really having UPS or every once in a while there was something but there really wasn't many deliveries that were done other than the food delivery and the garage pickup. And the garbage pickup is outside of this fenced area and that would be by there own private sanitation company scheduled at their own doing. We do need, now you can see our front parking lot is literally pinned to the right-of-way line we are 1/2 a foot off of the right-of-way line because that's where the coverage is now. So if I stick the parking lot further back we don't get the parking that is needed in front of this building to get 15 spaces and if I stick the parking lot further to the left and stay further off of that property line I don't get the parking that's needed and I give up the coverage. So we do need parking setbacks from the front and side 15 feet is required on the side we have 11.2 on the one side, and 25 is required in the front and we have only .5. And I would just say that they are really predicated because of the Highlands I mean we cannot push those things back because we lose them.

MR. SELVAGGI: Jim even if you were to add more dirt and get more property would the development proposal look any different?

MR. GLASSON: Not unless we went back and put coverage back where more coverage was. We gave up coverage so we couldn't put coverage somewhere else, put it that way. You're also under the Highlands in this exemption only entitled to one acre of disturbance. We pined if you look at my H1 or H2 sheet it shows the area of disturbance and it has to be under an acre to qualify. Not only can you only increase by 25 percent but you have to be . . . . Yeah you'll see a disturbance line on the left side sheet H2 and there's a limit of disturbance line and that basically just gets inside that septic system that we have in the back left and you know that's kind of . . . that tree line right there. So we really, this could never be taken down, we can't touch that ever that's restricted against there's just certain portions of the property that we can't touch.

MR. SELVAGGI: So if the discussions and I think the Board has been made aware of it, the property owner to the west giving additional land . . . . If that were even possible would the development look any different? And that's all a function of the Highlands.

MR. GLASSON: And in my opinion the property owner to the left can't do anything with that piece of land here. This wooded area here would be very difficult for that property owner to the left seeing the coverage that they have right now to be able to get the same exemption that we got and take that area down and utilize that area. Because again you see that's separated that's not contiguous with

any coverage there's a wood line here but there's no coverage next to it from what I have shown on that plan. I probably have a better view of that house on my existing conditions or my . . . Yeah if you look at my sheet 2 of 12 my full sheet you can see how far away that house is on the lot to the left of us Lot 13. Lot 13 would have two choices, they would have to get a Highlands Exemption to build a brand new house which would entitle them up to a quarter acre of coverage and one acre of disturbance or to take that coverage that they already have and apply under Exemption 4 for the 125 percent footprint. That would only allow them to cover what's covered plus 25 percent. So you can see they could never get over near our property line nor could we get over near their property line because we don't have that ability.

MR. SELVAGGI: So that additional 25 percent is really just to expand upon . . . it's not an additional 25 you can stick anywhere on the property. It's got to be enlarging what's already there or expanding.

MR. GLASSON: Correct. And if you take out what's there you lose it so it's kind of a double edged sword.

MR. WEISS: Maybe what we should do then Jim if you're done.

MR. GLASSON: Yes.

MR. WEISS: I'm going to turn it over to you Gene I know we're getting late but I know we have your report.

MR. BUCZYNSKI: I have only a few things.

MR. WEISS: Okay.

MR. BUCZYNSKI: Mr. Glasson in a report dated January 11 one of the items, I know you have the exemption could you just get me a copy of it because I don't have a copy of the exemption for the file?

MR. GLASSON: No problem.

MR. BUCZYNSKI: On the next page again O&M Manual I do not have a copy of the O&M Manual.

MR. GLASSON: You don't?

MR. BUCZYNSKI: I don't.

MR. GLASSON: Okay.

MR. BUCZYNSKI: It was never submitted to me so if I could just get a copy of that.

MR. GLASSON: All right.

MR. BUCZYNSKI: And just a note that per the plans too all proposed utilities will be in fact installed underground. You gave us testimony on lighting I didn't hear what time the lighting is going to be shut off. Is there a specific time?

MR. GLASSON: You can put on record right now that you will have the lights off other than security lighting after "X" time which they'll put in the resolution. So what . . .

MS. SCHILLER: 9:00.

MR. GLASSON: 9:00?

MR. BUCZYNSKI: Thank you. And one thing regarding the architectural drawings the dimensions but we can discuss that with Mr. Burn. Status of the DOT permit.

MR. GLASSON: That's a good question. Do you have any permits that I don't know about, DOT or anything because I sent them all in the same time I submitted but I haven't heard back. I actually hand delivered to DOT myself.

MR. BUCZYNSKI: I figured that would take the longest.

MR. GLASSON: Yeah.

MR. BUCZYNSKI: I know you have Soil Conservation.

MR. GLASSON: No.

MR. BUCZYNSKI: You don't have it yet.

MR. GLASSON: I don't have it yet. No there's two permits I haven't gotten yet.

MR. BUCZYNSKI: Okay.

MR. GLASSON: You haven't heard from either one of those. I hand delivered to DOT but I still haven't heard from them.

MR. BUCZYNSKI: That's all I have.

MR. WEISS: Okay Tiena has a question.

MS. COFONI: Mr. Glasson did you say that you have a rear yard setback variance? Did I mishear you about that?

MR. GLASSON: No I have a side yard setback for the rear building.

MS. COFONI: The rear building okay so I . . . .

MR. GLASSON: The rear building is completely nonconforming now in the side yard and it will be more nonconforming because we're adding an addition in the side.

MS. COFONI: Right okay so Building C you're talking about.

MR. GLASSON: Building C yes.

MS. COFONI: Okay all right I didn't think so. All right so that's fine thank you.

MR. BUCZYNSKI: Just for the record you do have Soil Conservation.

MR. GLASSON: I didn't know that.

MR. BUCZYNSKI: It was certified December 7, 2011.

MR. GLASSON: Does it say I was copied on there because I didn't get one.

MR. BUCZYNSKI: It doesn't say but Catherine has it.

MR. SELVAGGI: Wow.

MR. WEISS: Dan you had a question?

MR. NELSEN: Yeah Mr. Glasson you've been before this and other Boards here many times and you always do a terrific job. I have to tell you I'm having a real problem seeing this. The size of the print.

MR. GLASSON: Oh seeing the . . .

MR. NELSEN: Actually seeing it. Seeing what you have here the size of the print.

MR. WEISS: That's Mr. Nelsen's way of thanking you for making the font so small.

MR. NELSEN: Yeah I'm having a problem with font.

MR. SELVAGGI: We can get you a bigger, do you want a bigger one?

- MR. GLASSON: I thought you wanted them reduced.
- MS. COFONI: Yeah, yeah he's looking at the reduced smaller version.
- MR. GLASSON: I have a full set I mean . . . I only submit reduced copies because you guys want reduced copies. But I could submit you full sets.
- MR. NELSEN: Yeah I'm just you know maybe it's just me I'm loosing . . . .
- MR. GLASSON: When you reduce these things like this there's no way with that kind of wording on it for me to keep the . . . .
- MR. NELSEN: There's a lot of detail here and I'd like to be able to really absorb it but I'm really straining to see these little boxes here.
- MRS. NATAFALUSY: Dan I have copies in the office if you want the full size. I just gave the Board the reduced because it's easier . . . .
- MR. NELSEN: Okay.
- MR. FLEISCHNER: I went to see them.
- MRS. NATAFALUSY: Mr. Fleischner came in yesterday and reviewed the larger sets.
- MR. GLASSON: Should I give you more of them from now on? I mean because all of mine are like that it's pretty hard to see.
- MR. RUSSELL: If you could submit it a PDF form we can blow them up on computers.
- MR. GLASSON: Yeah you can do it right on your computer yeah.
- MR. WEISS: Go ahead Scott.
- MR. VAN NESS: What's the distance between the edge of the parking lot and the edge of the curb line on Route 46?
- MR. GLASSON: About 7 feet.
- MR. VAN NESS: Okay.
- MR. WEISS: I'm sorry go ahead.
- MR. RUSSELL: Under existing conditions this was formerly a limo place were there any oil spills or problems with the prior occupant?
- MR. GLASSON: He's not sworn but the owner is here who was . . . .
- MR. SELVAGGI: For the purposes of answering Mr. Russell's question I have no problem Tiena if you . . . . .
- MR. WEISS: We'll have to swear you in.
- MR. SELVAGGI: Yeah.
- (GEORGE BLASKO 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 please.
- MR. BLASKO: George Blasko (B-L-A-S-K-O) address is 510 Ocean Avenue, Unit 24, Long Branch, New Jersey 07740.
- MR. SELVAGGI: George you heard the question, any environmental problems given the prior use?

MR. BLASKO: No never.

MR. SELVAGGI: Now how do you know that?

MR. BLASKO: When I purchased it it had a No Further Action Letter and I haven't done anything on the property to do anything since.

MR. RUSSELL: Okay there were no oil changes and stuff done on the property before?

MR. BLASKO: No never.

MR. RUSSELL: Thank you.

MR. WEISS: Mr. Blasko I do have a follow up question on that. Explain if you would who issues a No Further Action Letter? Tell me about that.

MR. BLASKO: As far as I know it's DEP in New Jersey.

MR. SELVAGGI: Yeah the DEP issues if there's a problem or whatever and there is some clean up required DEP monitors it and then when the final report is submitted by the Environmental Consultant for the property owner and they fill it out and they certify as to what was done and what's there the DEP performs it's follow up investigation and determines that it is in fact clean they issue it to that effect.

MR. BUCZYNSKI: The issue regarding the tank removals quite often.

MR. SELVAGGI: Yeah, yeah.

MR. BUCZYNSKI: So before were you the owner when they did the removal?

MR. BLASKO: No that was before I bought it and that was a condition of the sale when I bought it.

MR. SELVAGGI: You bought it from Mr. Temperino?

MR. BLASKO: Correct.

MR. SELVAGGI: Mr. Temperino happened to be a client of mine that's how I knew what was going on.

MR. BUCZYNSKI: Everybody seems to be a client of yours.

MR. WEISS: Mr. Blasko thank you very much. Any other questions for Mr. Glasson?

MR. MCGROARTY: I have one.

MR. WEISS: Chuck go ahead.

MR. MCGROARTY: Jim I don't know if I missed it but on the variances there is the lot area and lot width did you cite those as well?

MR. GLASSON: I talked to about what they were but I probably didn't point them out. Two acres is the requirement, we have 1.41, 200 feet is the width and we have 150.

MR. NELSEN: Jim?

MR. GLASSON: Yes.

MR. NELSEN: The size of the runs it looks to me the inside runs are maybe 6 by 10 feet?

MR. GLASSON: The inside runs are 9-1/2 foot long by 5 foot wide.

MR. NELSEN: By 5 foot wide, the outside runs?

MR. GLASSON: I'm sorry that's the outside runs. The inside runs are 4 by 5, the inside area the night area is 4 by 5 the outside runs when you say the outside runs if the component of the interior portion of the cage is 4 by 5 and the outside is 9-1/2 by 5.

MR. WEISS: Anybody else any other questions for Mr. Glasson? What I'd like to do, I'm sure Mr. Marx you have a question, a series of questions?

? (Inaudible) his report?

MR. MCGROARTY: No, no I don't thank you.

MR. WEISS: No we're not going to do your report now Chuck.

MR. MCGROARTY: No I'm done I had no other questions anyway thank you.

MR. WEISS: Mr. Marx we'll certainly . . . . Let me just ask you a question because I don't want to limit, if you have a series of questions then we'll carry it but you have a few . . . .

MR. MARX: No, no just a couple of things.

MR. WEISS: Please then.

MR. MARX: Okay. Mr. Glasson did you testify that the kennels all face away from Mr. Gladish's property?

MR. GLASSON: No I testified that the row of kennels in Addition #2 face away from Mr. Gladish's property. That row of kennels in Addition #2 face that direction.

MR. MARX: This walkway is for nothing I mean . . . .

MR. GLASSON: That walkway is for employees for getting to the back building that's not really, that's not intended . . . .

MR. MARX: This is no . . . there's no access through there.

MR. GLASSON: No there's access there no.

MR. MARX: And what kind of fencing is along here?

MR. GLASSON: A 6 foot high stockade. That's in between the 7 to 8 foot high Spruces we're going to plant and also right now if you went out there there's probably a 10 foot row of bushes that exist right now.

MR. MARX: And if this system of drains failed for any reason or overflowed . . . .

MR. GLASSON: There's not even any drains on that side. Right now the property completely sheet flows in this direction.

MR. MARX: Right onto Mr. Gladish's property.

MR. GLASSON: Mr. Gladish will have ten times less water coming towards . . . right now there's gravel that runs right up along his property there. There's not even going to be anything there all of this water now is picked up prior to getting to there. There's a drain here and a drain here all of this water is picked up including these roof areas and pipe it underground to our system designed for . . . .

MR. MARX: Now it drains onto his property.

MR. GLASSON: Yes.

MR. MARX: One thing, lighting did you design the lighting or does Mr. Burn do that?

MR. GLASSON: I'll take that.

MR. MARX: How is that shaded or directed?

MR. GLASSON: On your clients side we specifically . . . you see these round circles we put ground mounted 36 inches high bollards that they just direct light downward. It took a total conscience effort to make sure there was nothing on this side of the property.

MR. MARX: The pole lights?

MR. GLASSON: The pole lights there's one in the back or the front parking lot and one out in this yard area. Nothing that would have me . . . if you look at the lighting plan sheet 7.

MR. MARX: Are these then shaded down rather than go onto the adjacent property.

MR. GLASSON: Yes directed downward and these are only 36 inch high they're like mushroom lights. Like this right here that's it that's one of the bollards right there they're just mushroom lights that come up 36 inches so that they direct light straight down.

MR. MARX: Okay thank you. I have no further questions thank you.

MR. WEISS: Thank you Mr. Marx. Okay let's do this let's wrap up the evening Catherine I need you to take a look at the schedule and when we think we can carry this application.

MRS. NATAFALUSY: March 15<sup>th</sup> how's that.

MR. WEISS: It works for me.

MR. MARX: March 15<sup>th</sup>? Can I request or suggest that the Board may wish to do a site inspection at the existing site in Randolph on Route 10 it's probably fifteen minutes away on the eastbound side of Route 10. I think that might give some idea as to what this project is going to look like or how it's going to be maintained.

MS. COFONI: Well the site in general site inspections aren't done by the full Board because we can't have a quorum because there would have to be notice. So it's usually done by several members of the Board and not the full quorum.

MR. WEISS: I think that's an excellent suggestion.

MS. COFONI: Mr. Selvaggi did you catch that?

MR. SELVAGGI: Yeah while Mr. Marx was commenting I asked Mr. Blasko as the property owner because we don't have that authorization and he has no problem.

MR. BUCZYNSKI: No not that site.

MR. MARX: No I'm talking about 861 Route 10 East in Randolph.

MS. COFONI: He's suggesting or requesting that they visit the site in Randolph to see the current operation.

MS. SCHILLER: I have no objection to that.

MR. WEISS: Nelson?

MR. RUSSELL: We've heard testimony though that those kennels are in poor repair.

MR. GLASSON: They are I saw them they are in very poor repair but the facility . . . they keep it very clean.

MR. RUSSELL: I'm wondering if that gives us a true sense of what's coming here.

MR. GLASSON: I'm just saying they don't own that facility so they can't fix it up.

MR. RUSSELL: Right.

MR. GLASSON: But I've been there it's very clean.

MR. WEISS: So let's leave it like this then between the next month let's see if as many members of the Planning Board can get over to the Route 10 facility it might give us a better understanding of the operation.

MS. SCHILLER: You have to make an appointment we're not open to the public.

MR. WEISS: So if anybody wants to go please call. Maybe you can give us the phone number?

MS. SCHILLER: Well I can't give you my phone number . . . .

MR. WEISS: Well how would the Planning Board . . . . maybe you can come up to the microphone . . . .

MS. SCHILLER: I can give you my phone number in . . .

MR. WEISS: No there's a phone number on the back of the brochure.

MS. SCHILLER: It goes to an answering machine you know we don't have . . . We're volunteers we don't have anybody staffing the phones so we just check messages twice a day. I mean you can certainly leave a message there but if you want my number you can have that as well.

MR. WEISS: That might be a good idea so if we want to make an appointment to go visit the facility Linda's going to give us a phone number . . . .

MS. COFONI: Now your number will now be on public record once you give it.

MS. SCHILLER: Oh I'd rather . . . .

MR. WEISS: I'll tell you what let's give this number leave a message and for the record the phone number is (973) 664-0865. Go ahead Scott.

MR. VAN NESS: The kennels that you use today when you moved into that facility was it already a kennel? Or were those kennels built there for you.

MS. SCHILLER: No they were already there they've been there, my understanding there was a German Sheppard breeder there and then a . . . .

MR. VAN NESS: So the equipment that is being proposed here is nothing like what exists there today?

MS. SCHILLER: Oh no.

MR. VAN NESS: So the representation of the building itself is that fair to say that it would be the same or is it the operation that you want us to look at?

MR. MARX: It was the operation, the waste disposal, cleanliness that type of thing not the buildings.

MR. VAN NESS: Fair enough.

MR. GLASSON: Right because if you go there and look at the buildings . . . .

MR. VAN NESS: As long as we're not there . . . . I mean because I heard testimony earlier that the building is not . . . it doesn't do you any justice so if that's the issue then I think that we're going to get a picture by going there to visit the operation. If it's just to see the cleanliness and everything else that's different I don't object to that.

MS. SCHILLER: And actually if you wanted I could have the Animal Control Officer who has to report to the State of New Jersey and does a surprise inspection, I can ask her if it would be helpful to submit her report.

MR. WEISS: I would imagine if you feel that that's an important part of the application then we wouldn't stop you. But I wouldn't ask as our opinion that's up to you to make that determination.

MR. FLEISCHNER: Mr. Chairman?

MR. WEISS: Yes sir.

MR. FLEISCHNER: I believe you answered this before but have you ever been cited by Animal Control?

MS. SCHILLER: No.

MR. WEISS: That includes noise ordinances and . . .

MR. FLEISCHNER: Right.

MS. SCHILLER: No. And we have some residential properties around us as well we're not just . . . I mean there's a house a couple . . .

MR. FLEISCHNER: Yeah I know where you are.

MS. SCHILLER: And there's some big houses behind us.

MR. WEISS: We have carried this application to March 15<sup>th</sup> no further notice.

MR. VAN NESS: I will be absent.

MR. WEISS: Scott you will be absent listening to the tape if it's carried again.

MR. VAN NESS: Yes.

MR. WEISS: Anybody else have anything else to add? Thank you for your time everyone and your patience. Any other business to address this evening? Thanks for staying late everybody.

MR. VAN NESS: Motion to adjourn.

MR. STASZAK: Second.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 10:15 P.M.)

Transcribed by:  
Lauren Perkins, Secretary  
Planning Department