

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, Nelson Russell, David Scapicchio, Scott Van Ness, Pat Walsh, Steve Bedell, Brad Zwigard, Howie Weiss

Members Excused: Mayor Robert Greenbaum, James Staszak

Members Absent: Dan Nelsen

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

Professionals Excused: Tiena Cofoni, Esq.

APPROVAL OF MINUTES

January 19, 2012 Public Meeting

Motion: Steve Bedell
Second: Scott Van Ness

Roll Call:

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

RESOLUTION OF APPROVAL

Resolution #05-51 ZBA – Princeton Alliance Church – Block 7000, Lot 87

Motion: Steve Bedell
Second: Scott Van Ness

Roll Call:

Nelson Russell - yes
Scott Van Ness - yes
Steve Bedell - yes
Howie Weiss - yes

COMMITTEE REPORTS

MR. WEISS: Okay committee reports the Mayor is not here, Council Mr. Walsh?

MR. WALSH: Yeah really nothing to report at this time.

MR. WEISS: Nelson environmental commission?

MR. RUSSELL: We meet Wednesday.

MR. WEISS: Okay ordinance committee, Jim is not here. Street naming committee I have nothing to report. Open space committee Mr. Walsh?

MR. WALSH: Yeah nothing to report at this time.

MR. WEISS: Very good thank you.

DISCUSSION MATTER

MR. WEISS: We have a very brief conversation to be had about the environmental commission recommendation for tree planting. We all got the report from the environmental

commission I take it we've read it there are some recommendations here as to locations where we'll be planting trees. Nelson did you have anything we might want to look for?

MR. RUSSELL: No those locations are in priority order.

MR. WEISS: Okay. And I think as I looked at it the environmental commission, I know Kathy Murphy is here as well, correct me if I'm wrong Kathy that although the report lists the locations in priority order as Mr. Russell talked about we're going to leave the species up to Jim Lynch to decide what species are best for the specific locations. Please Kathy if you would.

MS. MURPHY: Yes even though everything is in priority order they want to make sure that Mr. Lynch has leeway for being able to plant different species. And even you know if the occasion's presents that he be able to change that order around sometimes depending on you know as conditions arise.

MR. WEISS: That expertise will be up to Jim Lynch to tell us what's the best, most appropriate planting for the environment where it's going.

MS. MURPHY: He'll consult with expertise and with . . . there's plenty of manuals and advice out there for him.

MR. WEISS: Okay and the environmental commission is looking for approval from this report is that what you're

MS. MURPHY: Yes we'd like to release funds to Mr. Lynch so that he can get busy starting on some plantings this spring because its optimal to plant in the spring.

MR. WEISS: Can we accomplish that Mr. Buzak by a vote this evening on this?

MR. BUZAK: Yes.

MR. WEISS: Okay so the challenge here is we have the environmental commission report in front of us, the request is to follow the report in priority order and for us to release the funds to Jim Lynch to go ahead and plant. Does anybody have any conversation or comments about it? Chuck or Gene did you have any questions on it?

MR. MCGROARTY: Only that I think you're recommending to the Township Council, am I right? They would be the body

MR. WEISS: Right we're going to vote that way. Thank you. Does anybody have any additional comments? I'll entertain a motion that we pass this on.

MR. FLEISCHNER: I move that we move this recommendation on to the Town Council for approval.

MR. RUSSELL: Second.

MR. WEISS: Further comments? Seeing none Catherine roll call.

MRS. NATAFALUSY: Joe Fleischner - yes
Nelson Russell - yes
David Scapicchio - yes
Scott Van Ness - yes
Pat Walsh - yes
Steve Bedell - yes
Brad Zwigard - yes
Howie Weiss - yes

MR. WEISS: So Nelson and Kathy at this point we'll obviously send our support over to Council for their approval. Thank you for preparing that report for us.

APPLICATION #PB 11-27 – TOMASA JALLAD

MR. WEISS: Brings us to our lone topic on the agenda this evening which is developmental matter PB 11-27 Tomasa Jallad variance side yard setback located at 134 Flanders-Drakestown Road Block 7100, Lot 66. This hearing is carried from last month I'm just getting my notes Mr. Selvaggi hold

on if you will. And I also want to state for the record that the Planning Board was supplied a verbatim transcript from last month's hearing so any Board member that had to miss or walked out I just want to confirm that everyone has read those. Catherine do you have the paperwork in order?

MRS. NATAFALUSY: I have something from Mr. Scapicchio yes that he read it because he had to leave early, and Scott has told me that he . . . so I'll have him sign something. I don't think anybody else left.

MR. WEISS: I think I had asked Pat just to make sure.

MR. WALSH: Right, right exactly so do you need me to sign something?

MRS. NATAFALUSY: Yes I will get it together now and you can sign it.

MR. WALSH: Okay thank you.

MR. WEISS: So the record will show that all of the Planning Board members that might have missed a portion of last month's testimony has read the minutes and again as we've carried this hearing from last month?

MR. BUZAK: The 16th.

MR. WEISS: The 16th but we're here to carry the application. Mr. Selvaggi you're here and perhaps what you might want to do is review for the Board and maybe the audience as to where we left off.

MR. SELVAGGI: Yeah thank you very much. Michael Selvaggi from Courter, Kobert & Cohen at the last meeting we had gone through our planning testimony in support of the variances that we're looking for where I think we had determined at that point not only did we need the side yard but we might even need a front yard given the lot requirements for the RR-AA rural district. At that point we have concluded, and I do believe the witness was beginning or subject to cross examination. So . . .

MR. WEISS: Correct well I did find my notes so page one and just to review Mr. Buzak just to make sure your notes are in sync with mine. We were presented exhibit A-1?

MR. BUZAK: Correct.

MR. WEISS: Mr. Martin's resume. A-2 site plan details with zoning analysis dated August 15, we heard and we saw Exhibit A-3 which is a floor plan dated August 15th. We had exhibit A-4 the garage elevations floor plan. We have Exhibit A-5 which is the elevation of the single-family home which is sheet C-3 front and rear. A-6 Elevation of the left side which was sheet C-4. A-7 which was the concept the garage elevation page C-6. We finished up with A-8 which was the deed of sale from Happy Time Nursery School I believe that was A-8.

MR. BUZAK: I had just concept elevation of garage I didn't really have a note on there, sorry Mr. Chair.

MR. WEISS: That's fine I just want to make sure we're right on point.

MR. BUZAK: You said A-8?

MR. WEISS: A-8 was a deed of sale.

MR. BUZAK: Right.

MR. WEISS: And then we had one exhibit we noted it OBJ-1 which was a photograph picture by Mr. Soranno of February 16 of the home across the street at Wyndham Pointe.

MR. BUZAK: Correct.

MR. WEISS: And if that's your records as well then we're set.

MR. SELVAGGI: Yes we're agreed.

MR. WEISS: I do recall that your witness Mr. Martin was cross examined and I believe that we finished the cross examination of Mr. Martin.

MR. SELVAGGI: I don't know if we

MR. WEISS: We'll certainly make sure that as we finish I know we had . . . we opened it to the public Ms. Rubright do you know if you were complete with your cross examination of Mr. Martin?

MS. RUBRIGHT: With regard to certain aspects of his testimony that's I think why we stopped.

MR. WEISS: You're right.

MS. RUBRIGHT: I do have some questions though regarding some of the right-of-way issues if you would like me to finish with him on that or would you like me to . . .

MR. WEISS: No I think because Mr. Martin we did have a conversation about right-of-way. I believe we did is that correct Gene?

MR. BUCZYNSKI: A brief discussion on it we did.

MR. WEISS: So let's say you come up to the podium and because of the couple of weeks off Mr. Selvaggi, Mr. Martin if you feel that it was not testified to we'll have a conversation about it but I do recall a conversation about right-of-way.

MR. BUCZYNSKI: Yes we did.

MR. WEISS: So you can come to the podium and ask questions. Mr. Martin you know we have a copy of that so would you like to turn that around maybe the audience can see it?

MR. MARTIN: Oh okay.

MR. WEISS: We all have a copy of that. Thank you.

MS. RUBRIGHT: Okay thank you for the record Susan Rubright of Brach Eichler in Roseland, New Jersey on behalf of the adjoining property owners Carl & Elizabeth Soranno. Mr. Martin just a follow up on part of the discussion that we had regarding the right-of-way in preparation for your meeting this evening did you have the opportunity to review any of the prior plans or application materials from any of the prior applications involving the property?

MR. MARTIN: Prior to my client purchasing the property?

MS. RUBRIGHT: Yes.

MR. MARTIN: The only thing I was provided with was a copy of a resolution from 1991.

MS. RUBRIGHT: All right was that for . . . do you have a recollection of what application that was for? Was that for

MR. MARTIN: I believe it was an action of the Zoning Board related to the day care that was there, the school day care that was on the site at that time.

MS. RUBRIGHT: That was a resolution that you reviewed?

MR. MARTIN: I don't recall I mean you most likely have the same information.

MS. RUBRIGHT: I'm just trying to get an understanding of whether you were able to review anything or if you did review anything.

MR. MARTIN: I looked it over I didn't review it in detail.

MS. RUBRIGHT: Okay. Do you have that with you?

MR. MARTIN: I do.

MS. RUBRIGHT: Can you just read what is the . . . how did you obtain that do you know?

MR. MARTIN: I obtained it from my client who obtained it from the municipality. It's the Zoning Board of Adjustment regular meeting I believe it's . . . it looks like minutes.

MS. RUBRIGHT: Okay. I'd like to take a look at that. But you did review it is that your testimony?

MR. MARTIN: I read it over but I did not commit it to memory.

MS. RUBRIGHT: No I understand that. Mr. Chairman may I review what it is that he's referring to and then I guess we should mark it.

MR. WEISS: Mr. Martin I'm not sure what is it . . .

MR. MARTIN: October 7, 1991 page 18, page 19 and page 20 it looks like it's from the minutes of the Zoning Board of Adjustment regular meeting.

MR. BUZAK: What's the date of the meeting?

MR. MARTIN: It says October 7, 1991 on here.

MR. BUZAK: Thank you sorry.

MR. WEISS: Okay Mr. Martin I think that that's your document and I'll leave that up to you.

MR. SELVAGGI: Ms. Rubright can certainly . . .

MS. RUBRIGHT: I don't want to ask him questions if he hasn't reviewed it.

MR. WEISS: I suppose Mr. Martin can testify to that report so I know you had some questions based on right-of-way so feel free.

MS. RUBRIGHT: Yeah I wanted to find out whether there's anything in here about the right-of-way because I do want to ask him some questions about the right-of-way.

MR. WEISS: Well if you'd like Ms. Rubright we won't certainly close the door on that if you want to take some time and review it and come back up.

MS. RUBRIGHT: Yeah I'd like to do that. I guess if I can just ask Mr. Martin if he has any understanding of what was required or were there any discussions in any of the previous applications regarding the dedication of right-of-way.

MR. MARTIN: I'm not familiar with any.

MS. RUBRIGHT: Okay. In general do you have an understanding of the reason why a Board may or may not require right-of-way be dedicated in connection with the site plan application?

MR. MARTIN: In general or in this particular case?

MS. RUBRIGHT: Well I think you were qualified as a professional planner so yeah in general as a professional planner what's your understanding of when right-of-way may be required as to be dedicated in connection with the site plan application.

MR. MARTIN: Well the road, the road bed of Flanders-Drakestown Road encroaches into my client's property so I would expect that the municipality would request that a portion of the property covered by the road bed would be dedicated to the municipality for the purposes of keeping the road.

MS. RUBRIGHT: In general have you worked on any kind of site plan applications where rights-of-way have been required by a municipality to be dedicated?

MR. MARTIN: Yes in some cases its part of a future concern or in some cases it's similar to this where you have an old road and it happens to have meandered over the last century and now happens to encroach on a property.

MS. RUBRIGHT: So you would agree then I suppose that there are instances where a road that perhaps even a collector road which I think we established this is characterized as, that rights-of-way would be requested to be dedicated by an applicant in order to provide for future road widening purposes.

MR. MARTIN: It does not surprise me that the municipality would be interested in having that section of the property dedicated to Flanders-Drakestown Road.

MS. RUBRIGHT: For road widening purposes.

MR. MARTIN: For the purposes of establishing the roadway itself within its own line off of my client's property.

MS. RUBRIGHT: I'm not sure I understand the answer then.

MR. MARTIN: That road that exists there now.

MS. RUBRIGHT: Correct.

MR. MARTIN: So my understanding of the request, and I believe we had a discussion at the previous meeting about that, is that the request is that the road bed in its current location be dedicated to the municipality for the purposes of maintaining the road on municipality property or on property other than my clients.

MS. RUBRIGHT: And would it also not surprise you if in the past that right-of-way was requested here in order to provide for road widening in the future.

MR. MARTIN: I'm not familiar with previous requests or previous applications where that request was made no.

MS. RUBRIGHT: Okay I understand. If a request had been made in the past for road widening purposes for dedication and it were not requested now would that be considered in your professional capacity as a planner would that be considered something that would be arbitrary? That it had been requested in the past and it was not being requested now for widening purposes?

MR. MARTIN: I don't have sufficient information to be able to determine whether that isn't the case.

MR. WEISS: Now let me jump in real quick if I can. Gene?

MR. BUCZYNSKI: Just for the record because I think I know where somebody might be going. That resolution that you're referring to from the Board of Adjustment back in 1993 there was no right-of-way dedicated. It was if at such time that the town might want to widen the roadway that the applicant at the time was willing to dedicate the land. Way back when there were different standards for roadways. The roadway was widened in the late 1980's to 24 feet it's a collector road, RSIS Standards called for a collector road to be 20 feet wide so I don't see the town ever considering widening the road at this point.

MS. RUBRIGHT: Were there dedications that were requested and required and actually obtained in connection with any other properties along that part of Flanders-Drakestown Road to your knowledge since you've raised it?

MR. BUCZYNSKI: I think that there might have been in the past.

MS. RUBRIGHT: You think there might have been but you don't know.

MR. BUCZYNSKI: Well I don't have my records in front of me so I can't really answer that.

MS. RUBRIGHT: Well let's look at what does the road look like today? Are there areas that are wider than others along Flanders-Drakestown Road?

MR. BUCZYNSKI: Yes there are because new developments were constructed and we widened the frontage of those developments in accordance with town standards.

MS. RUBRIGHT: And why would that be done?

MR. BUCZYNSKI: Because of the ordinance.

MS. RUBRIGHT: So there are parts of the road that would be widened in connection with or in accordance with ordinance standard but then other portions that wouldn't be widened in accordance with ordinance standards.

MR. BUCZYNSKI: Well I think it's a Township decision whether they want to widen the roadway or they don't want to widen the road.

MS. RUBRIGHT: In different parts of the same roadway?

MR. BUCZYNSKI: Yes.

MS. RUBRIGHT: And what would that be based on do you know? What would be the determining factor do you know? Any idea?

MR. BUCZYNSKI: Oh yeah trips coming in and out of a certain roadway. For instance a new development such as Wyndham Pointe across the street they had a certain trip generation and you wanted to get acceleration and deceleration lanes. That's why it was widened along their frontage. For this particular project I don't see where we're going with this to be honest with you.

MS. RUBRIGHT: I'm just asking because it seems that there are some properties that where there were rights-of-way that were required to be dedicated and others that were not and that even in connection with this very property there are documents in the previous applications where there was discussion about it.

MR. BUCZYNSKI: Well I don't think there will be a need to consider taking a right-of-way and basically demolishing property to take . . . buildings to take right-of-way for a future roadway that's never going to be constructed. That doesn't seem to make a lot of sense to me.

MS. RUBRIGHT: Well then why do it for anyone? Why take it for anybody's property then?

MR. BUCZYNSKI: Well we took it for development properties that were for acceleration and deceleration lanes. Just health and safety of the people.

MS. RUBRIGHT: So it is important though to have property . . .

MR. BUCZYNSKI: In certain situations.

MS. RUBRIGHT: Okay thank you no further questions on that issue at this time.

MR. WEISS: Okay anybody else from the public as we close it to the public for any questions . . . before we close it to the public are there any questions for Mr. Martin based on the testimony that he's presented back on February 16th? Seeing none Mr. Selvaggi I'll turn it back over to you.

MR. SELVAGGI: Yes. I have the Commissioner of the Historic Society.

MR. WEISS: We should swear her in?

MR. SELVAGGI: Yes.

MR. WEISS: We're going to swear you in.

(THEA DUNKLE SWORN IN FOR THE RECORD)

MR. BUZAK: Please go to the podium state your name and the business address for the record.

MS. DUNKLE: My name is Thea Dunkle I'm President of the Historical Society and the Township Historian.

MR. BUZAK: Thank you.

MR. SELVAGGI: Thank you for coming out this evening Ms. Dunkle. Just a few questions I don't want to impose too much on your time. How long have you been involved in the Township's Historical Society?

MS. DUNKLE: We formed in October of 1997.

MR. SELVAGGI: Okay and how long have you personally been involved?

MS. DUNKLE: I was one of the fore founding members.

MR. SELVAGGI: Okay. And what is it that the Society tries to do?

MS. DUNKLE: We try to preserve the history of Mt. Olive, educate, have presentations, open meetings, just research and document the history in Mt. Olive.

MR. SELVAGGI: Okay. Now have you had an opportunity to review the development plans for the Jallad property?

MS. DUNKLE: I've looked at them I haven't studied them in any you know . . . I've looked at them.

MR. SELVAGGI: Okay have you had any discussions perhaps maybe not on the entire plan but on the western section as it relates to what was formerly the site of the general store.

MS. DUNKLE: I'm not sure what you're asking me.

MR. SELVAGGI: Have you looked at the plans or the survey specifically as it related to the general store on the property.

MS. DUNKLE: Yes.

MR. SELVAGGI: Okay and have you done any research into that particular building?

MS. DUNKLE: Yes I have.

MR. SELVAGGI: And what was the results of your investigation?

MS. DUNKLE: I went down to the deed vault and I got the deeds back to 1861. I know all of the owners; you know I did some genealogy on the family. I checked with the atlas' it's on the 1887 atlas as a general store owned by the two Sammon brothers. I have other documentation there was a Sammon family genealogy that was done, it's cited a paragraph about the store. I found a newspaper article from 1916 about somebody buying the property which was Abraham Hill at the time bought the property. I found out that Mrs. McDavitt bought it in a public auction in 1952 I have all of those documents.

MR. SELVAGGI: Okay. And you're certain that the structure that's on the Jallad property now is the site of the general store from the 1870's approximately?

MS. DUNKLE: Known documentation we know it was on the atlas at 1887 it could have possibly been built prior to that yes that is definitely the store.

MR. SELVAGGI: And what is it your understanding that Mr. & Mrs. Jallad would like to do with that structure?

MS. DUNKLE: They expressed an interest in, you know driving by and living here for many years, driving by and liking the property they want to preserve it the best that they can. Try to make it look back similar to what it was using new modern materials you know to the best of their ability. And maintain it for you know just a general store you know something to preserve the history of Mt. Olive. And you know they said they'd be willing to open it up for the Historical Society's use and to show the kids when they go on their . . . when they study New Jersey history I believe in Grade 4. They take the kids up to the churches and the cemeteries and they said they would let the kids go there and look at the general store. So just you know interest for the history of Mt. Olive.

MR. SELVAGGI: In this area in particular does have some history and there are some other historical structures along Flanders-Drakestown Road is there not?

MS. DUNKLE: Yes the Historical Society with the help of architect preservationist we were able to get the area down by the two churches, the cemeteries and the academy which was built in 1832 on the State Historic Register. At the time we did not include the general store on the register because you have to get permission from the owners.

MR. SELVAGGI: And did you seek that permission?

MS. DUNKLE: No we did not because we were told many times that Mrs. McDavitt to basically she was not interested in having anybody go and look around the property. So we gave her the respect and did not bother her.

MR. SELVAGGI: Now would the Society be willing to work with Mr. & Mrs. Jallad if they were ever to get an approval to kind of help shape with this restoration or renovation?

MS. DUNKLE: Yes we would be very willing and very happy to help them any way we can.

MR. SELVAGGI: Have Mr. & Mrs. Jallad asked the Society for any financial contribution?

MS. DUNKLE: None, none whatsoever.

MR. SELVAGGI: Okay and as far as you know how are they financing this if they're able to go ahead with this?

MS. DUNKLE: I guess their own personal funds I have not had any discussion with them on that.

MR. SELVAGGI: Thank you very much.

MR. WEISS: Anybody from the Planning Board have any questions for Ms. Dunkle? Seeing none let me open it to the public if anybody has any questions for the testimony, Ms. Dunkle you might have to stay there for a few more minutes. If anybody from the public has any questions for Ms. Dunkle based on the testimony. Perhaps we can get Thea to sit over here because we're going to ask the member of the public to speak from over there. And if you would sir state your name for the record and spell your last name.

MR. SMITH: Shawn Smith (S-M-I-T-H) of Brach Eichler on behalf of the adjoining land owners Mr. & Mrs. Soranno.

MR. WEISS: Hold on one second please. What was the question?

MRS. NATAFALUSY: Is he a planner, is he an architect?

MR. SELVAGGI: He's an attorney.

MRS. NATAFALUSY: Oh I'm sorry I didn't hear it.

MR. SMITH: Of Brach Eichler. Just a couple of questions, you mentioned earlier that the Society that you're a member of your one of the fore founding members? Is that correct?

MS. DUNKLE: Yes.

MR. SMITH: And one of your missions is to preserve the history and document the history of Mt. Olive correct?

MS. DUNKLE: Yes.

MR. SMITH: And in terms of part of your mission, part of it will be going about and collecting research about buildings that exist within the Town of Mt. Olive correct?

MS. DUNKLE: Yes.

MR. SMITH: Okay and part of that is what you did here you found out that this building was built at some point in the 1860's or 1860 is when you found the first deed correct?

MS. DUNKLE: That the deed only tells you about the land it doesn't tell you about the structures on the land.

MR. SMITH: Okay so the earliest deed you were able to find was from the 1860's without any descriptions as to the structure?

MS. DUNKLE: Yes.

MR. SMITH: Okay but as you testified today you're pretty confident that's where the general store was correct?

MS. DUNKLE: Yes.

MR. SMITH: Now in your discussions with the Jallads they indicated that they wanted to modernize the building today correct? Bring back its former glory I think is something along those lines?

MR. SELVAGGI: She never testified to that. Not using those terms.

MR. SMITH: Okay yeah what would be your terms?

MS. DUNKLE: I don't know what their plans are and their ability of funding to preserve the building. They have expressed that they're going to fix the structure you know to make it secure and they are going to try to bring it back to about what it looks like now. Of course they're going to use probably modern windows we're not going to go back and try to find glass from the 1800's.

MR. SMITH: And they also expressed a desire to you to bring local children to visit the property right?

MS. DUNKLE: Well in New Jersey in different grades they have to study New Jersey history in their curriculum. The schools have taken children up to the grave yard and have them do grave yard rubbings, they said that they would allow that to be opened up for the children to see that it was a general store.

MR. SMITH: Now if you were to find out that if they were in fact planning on turning that building into a workshop would that surprise you, or a place to store equipment rather than use it as a general store?

MR. WEISS: I have a problem hold on I'm going to stop. Tell me if I'm wrong I'm looking at the nature of this application. The future of this general store is not what's in front of us is that correct?

MR. BUZAK: Correct.

MR. WEISS: Why are we spending time talking about something that's not . . . I understand your asking a question . . . whether they make it blue or green that's not for the Planning Board, that's not in front of us in this application. I'm not sure why we're speaking about it and how the Jallads eventually decide to use it is not a matter of the Planning Board. So are we going to be here all night as we talk about issues that have nothing to do with this application?

MR. SMITH: No we're not beyond what we're . . .

MR. WEISS: Okay because we're well on our way.

MR. SMITH: I did not call this witness as evidentiary for purposes of putting this plan before the Board.

MR. WEISS: You're spending a lot of time asking the witness about the future of the building which has no place for this Planning Board.

MR. SMITH: Well respectfully you allowed her to testify relating to the purpose of the use of the building and the fact that it was going to be utilized for students and children to come down . . .

MR. WEISS: I don't think that this witness obviously can talk about what the future of the building is going to be.

MR. SMITH: But she's testifying as to what the applicant's intentions are for the building.

MR. WEISS: This applicant doesn't own it, doesn't have control of it you know better this has nothing to do with the application. Ask a question that's poignant to the testimony that she gave.

MR. SMITH: If you were to find out that this building was not going to be utilized for anything other than a workshop or a barn would that surprise you? Would that be contrary to what this applicant told you their intention was to utilize this building?

MS. DUNKLE: It really is no business of the Historical Society at all what they're going to use the building for.

MR. SMITH: So it's really not about preserving history then is it?

MS. DUNKLE: No it is about preserving history we want the structure to stay there.

MR. SMITH: The structure but nothing about the structure the fact that it was a general store that people in the past utilized it as a general store.

MS. DUNKLE: We are going to put a sign out there we're going to make the sign with the original name of the store on there so people will know that it was the general store.

MR. SMITH: So the fact that it hasn't been utilized as a general store in many, many years, the fact that the property owner may or may not intend on having it rebuilt to look anything like the prior use of that property makes no difference to you correct?

MS. DUNKLE: No.

MR. FLEISCHNER: Excuse me if I could interject I'm getting confused because Thea what you testified to was that the applicant, and correct me if I'm wrong, the applicant was going to try and return it to the way it looked but would have to use modern materials because you can't get glass I think it was in your words from the 1860's. So as far as the . . . and I'm not a member of the Historical Society, attempting to put the building back to the way it looked using current materials. Am I wrong in saying that's a common occurrence when trying to restore buildings to look at least resemble at least older buildings?

MS. DUNKLE: Yes you can buy windows that look historic, they're not going to put aluminum siding on it they're going to put wood maybe clap board on it.

MR. FLEISCHNER: Right that was my understanding that's why I was like . . .

MS. DUNKLE: Yeah and they said they were going to try to put a metal roof back on so it would look similar.

MR. FLEISCHNER: Similar to like the old church up the street so it looks like the church it was over a hundred years ago.

MS. DUNKLE: Yes. Any other questions?

MR. WEISS: Are there any other questions from the public for Ms. Dunkle based on the testimony that she presented this evening? Seeing none thank you Ms. Dunkle. Mr. Selvaggi?

MR. SELVAGGI: Yeah you know look it's . . . the application is for an addition to a structure that was formerly a nursery school. The Jallads are looking to return it or convert it back to a permitted residential use given the location and not to belabor what Bill had talked about last month they needed a bulk variance we set the standards. You know the purpose of this discussion here was, and we had included in our plans an architectural layout for that general store. I know there's questions about it, I know you're going to hear you know at least try to hear more from the objectors but I think we have to focus on what's at issue here. I mean it was approximately 400 square foot addition onto an existing structure; we needed "c" variance relief we certainly offered more than adequate justification for that.

We talked about the roadway dedication what should have been done or what was asked 20 years ago I can't really go back I've seen the records we can certainly agree at this time we would make that a condition of approval and you would certainly be able to keep a close reign on us with that. And you know with regard to the general store clearly it's our position what we can do or can't do with that is subject to Building Department and going through that process clearly there's a history there. And candidly despite the Jallad's best intentions it's entirely possible that these other agencies that you do not control may take a different view or take a view that will not make that possible. So you know again I've tried as John Wooden used to say you know use the KISS method Keep It Simply Stupid and that's what I've tried to do and you know we don't really have much more to say about it at this particular time.

MR. WEISS: Before Mr. Selvaggi rests his case does anybody have any other questions for Mr. Selvaggi? Chuck, Gene?

MR. BUCZYNSKI: No.

MR. MCGROARTY: No.

MR. WEISS: Okay well with that being said let us then, I'm going to turn this hearing over to Ms. Rubright and I know you have a case you would like to present so I know you were kind enough to send us a note today and kind of laid out where you're going to go and we appreciate that. So we'll give Mr. Selvaggi a minute to clean up and I'll turn it over to you Ms. Rubright. Please go ahead.

MR. SMITH: We'd like to call Carl Soranno.

MS. RUBRIGHT: Actually if I could just by way matter of procedure, I don't have a copy of the transcript from the last hearing. But my understanding when we broke last time and that the time in the meeting when we broke was it's supposed to be a convenient time period for when Mr. Martin was going to complete his testimony with regard to the nonconforming former day care center and that he was then going to provide testimony with regard to the general store and you know aspects of that. So from a procedural standpoint I don't know you know where . . . what the change in plans were based from the applicant. I will be providing testimony from Mr. Soranno, I also do have Mr. Hammerham here tonight who is a historical architect so we will be providing testimony with regard to that structure. It's my position and I'll provide testimony in this and then also legal argument in my conclusion, it's my position based on your ordinance that this applicant cannot ignore that structure from an abandonment standpoint and a nonconforming use standpoint. Because it's a structure that's existing on the property and that it's not just a question of the Construction Official giving permits, that if there's a certain percentage under your ordinance, if there's a certain percentage of that structure that needs to be renovated or cannot be repaired that your ordinance is very clear a use variance is required. So at the very least when we complete our testimony we will be asking for some kind of a condition if this Board does not feel it can take jurisdiction over whether that building is a nonconforming use or a nonconforming structure. And if it does . . . whether or not it's been abandoned at the very least, this Board's going to have to recognize that before that applicant can do anything it needs to have a determination made on that. An abandoned structure is nothing and that's what your ordinance says it's not me Susan saying it's your ordinance. That if more than 50 percent of that structure needs to be repaired it has to get a use variance. And that's your ordinance that your Construction Official cited. So I want to be very clear on you know what you're looking at and what you're not looking at. We're not waiving any rights to have an objection with regard to whatever this action this Board may or may not take if they're going to consider or not consider that structure. I'm not trying to confuse the issue or confuse anybody but my impression, and I don't know as I said I have not read the transcript and I might be completely misremembering, but my understanding was we broke at that time so that we could come back tonight and Mr. Martin could present his testimony with regard to that structure. So if they're withdrawing that that's fine but I will present testimony in support of my case as far as why I believe that this applicant needs to provide testimony not only on the fact that it's a nonconforming structure and use but that it has been abandoned. And we're going to present testimony on that so I want to give you fair warning on that that's part of my case and you know if anybody is going to present an objection I'm going to object to that objection.

MR. WEISS: A couple of things, I know you spoke and I wasn't going to interrupt, certainly as you know Mr. Selvaggi has the right to rest whenever he feels he's presented his case.

MS. RUBRIGHT: Absolutely.

MR. WEISS: The Planning Board can simply make a determine based on what we've heard so if Mr. Selvaggi claimed that Mr. Martin would speak further and he chose not to that is his prerogative.

MS. RUBRIGHT: I understand that.

MR. WEISS: And I can't answer to your concerns and Mr. Selvaggi is a professional and knows how to handle his case. Secondly your raising an interesting question about abandonment and I think that's perhaps a legal question I'm not sure personally when a property becomes abandoned. I don't know if we're agreeing with you or if I'm agreeing with you that the property has been abandoned.

MS. RUBRIGHT: Yeah I'm not asking you to and frankly you can't make that determination until we presented our evidence because gosh that would be prejudging.

MR. WEISS: Well I don't disagree with you, I don't disagree with you. You're standing here claiming that it's been abandoned and I'm sure you'll give testimony to back up your claim and until I hear otherwise I just said I'm not sure at what point legally a property becomes abandoned or just not used. And I'm sure as we cross those bridges we will get the proper legal opinions from both sides and I think we had a question over there. Steve?

MR. BEDELL: Yeah I'm not sure if this is the right time but how long has the homeowner been in the house?

MS. RUBRIGHT: We're going to be talking about that.

MR. BEDELL: Okay well the question is if they been there for five or ten years, fifteen years, whatever it is and the structure has been in this condition for the last five, ten, fifteen years you know the structure you know was in horrible shape and now it's just going to be in better shape, prettier to look at, a safer structure and I guess that will probably come out . . .

MS. RUBRIGHT: I would prefer . . . absolutely and you were cross examining me on that last time and what I would like to be able to do is not have me testify and not have you testify but let . . .

MR. BEDELL: Listen I'm asking a question.

MS. RUBRIGHT: No I know.

MR. WEISS: Excellent strategy so let's continue.

MS. RUBRIGHT: But have the witness testify because he knows how long he's lived there I don't.

MR. WEISS: Okay so before we go it looks like Mr. Selvaggi has a . . . Mike if you can please just come to the . . .

MR. SELVAGGI: I'm assuming that the focus of the objector's case is going to be on the general store. I'm assuming that since they do not have a planner to talk about the merits of the variance application. And since the witness all of a sudden Mr. Soranno, the other witness is an architect they're going to be focused on that. As a matter of law they have nobody that can testify as to the bulk variance since I do not believe the architects at least on their website have PP after their names. If that's the case I think what we could do is bifurcate the application, focus on the dwelling or the soon to be dwelling and then have the general store a separate issue. I believe that, as I said to you earlier that ultimately what we can do with that building and everything else is subject to the decisions that are going to be made by your Construction Code Official. And we're willing to standby that process and if in fact we do not get the permits we're going to have to satisfy the UCC Standards for what we're going to do there. Then this thing you know doesn't get built and at least the objector is satisfied.

MR. WEISS: Mr. Buzak has an answer, please.

MR. BUZAK: This application is being over complicated and I'm not going to get into a debate with any of the attorneys. But Mr. Selvaggi you have an obligation to come forward with your case as the Chairman said. You know what you are asking for, you've made those determinations, your client has made those determinations. You've had the opportunity to present your case, to present your evidence, you've rested I'm sure the Chairman will give you the opportunity if you want to supplement anything before any objector starts their case you can do so. You can certain offer rebuttal witnesses to

their testimony but you have present your case and you'll stand or fall on your case as you know. With regard to this issue of abandonment it is a red herring it's just not an issue and Ms. Rubright may disagree with me and that's fine and you know ultimately a Judge may have to decide that issue. Abandonment is not an issue. As I understand it this application is for an addition to an existing structure and the applicant is requesting variances for the nonconforming structures that are there i.e. front yard, side yard. The proposed use of that structure is not a non-permitted use; the applicant is seeking to use that structure as a permitted use. So abandonment . . . I don't really care the Board should not care whether this was a general store and has been abandoned because it's not an issue. It could have been a house that no one has lived in for 100 years and its there and the structure is there. If the applicant were attempting to take that and say I want to reconstruct that as is and not come before this Board other issues may be raised as to whether there was an abandonment. And even in that case when you're talking about a structure and not a use in my view, in my understanding of the law abandonment is not an issue. So the applicant is coming in here seeking variances he's not trying, or the applicant is not attempting to circumvent the ordinance provisions and it's up to this Board ultimately whether to grant those variances or not. If the Board is disinclined to grant the variances and denies it the application is over and it is what it is. They happen to be existing out there but that's what it is. So while an objector can present whatever evidence they want to present, on the other hand that evidence needs to be material to the application that's before us. Or we can sit here all night and listen to irrelevant and immaterial testimony as it relates to the issues that are before us. I'm not suggesting that's what's happening because I don't know what that is but I certainly disagree with this concept of abandonment and the Board's got to make decisions on abandonment, that issue is simply not before you. And I will direct you and tell you that it is not before you. So you can listen to the testimony but that issue is not an issue that this Board needs to deal with. So with that Mr. Selvaggi is it correct that you've rested your case subject to of course rebuttal?

MR. SELVAGGI: Subject to rebuttal absolutely.

MR. BUZAK: Okay and Ms. Rubright will now present her objector's case however she desires to present it provided that the presentation is material to the issues that are before us.

MS. RUBRIGHT: I have no intention or no desire to burden the Board with irrelevant materials. You're all volunteers I understand that, and your time is precious as is ours. However, I don't believe that any . . . there's always the however right? The application, the set of plans does show architectural drawings for a barn, to convert the existing structure that's on Mr. Soranno's property line. That's part of the application as far as I'm concerned because there's a set of plans that show it being renovated and Ms. Dunkle testified about what she thought was a good idea with regard to the Jallad's wanting to renovate that. So if you can tell me how that doesn't make that part of this application I would like to hear that because I don't . . . and I'm not trying to be a smart-aleck about it.

MR. BUZAK: Ms. Rubright look we can debate this all night.

MS. RUBRIGHT: Okay.

MR. BUZAK: You have a case . . .

MS. RUBRIGHT: I don't want to do that.

MR. BUZAK: Present your case to the extent that we may disagree and to the extent that the Chairman may ask you to not delve into an area it will abide the event.

MS. RUBRIGHT: Fine I appreciate that. So let's proceed. I would like to have my colleague provide or actually to provide the direct testimony for Mr. Soranno.

(CARL J. SORANNO SWORN IN FOR THE RECORD)

MR. BUZAK: Please be seated just state your name and address for the record spelling your last name.

MR. SORANNO: Sure, Carl J. Soranno (S-O-R-A-N-N-O) I live at 136 Flanders-Drakestown Road, Flanders, NJ.

MR. BUZAK: Thank you sir.

MR. SMITH: For the Chairman I just want to make sure is the site plan exhibit A-2? I just want to make sure I reference them correct.

MR. BUZAK: Yes A-2 is the site plan.

MR. SMITH: Thank you. Mr. Soranno you've given your name and your address, how long have you lived at that address?

MR. SORANNO: I purchased the house with my wife in December of 1996.

MR. SMITH: And have you lived at that residence since 1996?

MR. SORANNO: Yes we have.

MR. SMITH: Okay and who else lives at the house besides you and your wife?

MR. SORANNO: My two daughters which are here Juliana and Elizabeth they were born in this area and lived in that house ever since they were born.

MR. SMITH: Okay and today you're here as an objector to a variance application for the property next door to yours?

MR. SORANNO: I'm here as I understand it and I've been listening to object to the front yard and side yard setback application by the adjacent property owner with respect to the former day care center. And I also understood by being present in the proceedings last time that it also included, would include applications to either make repairs or restorations or renovation to the other existing accessory structure.

MR. SMITH: And I'll direct you to exhibit A-2 right here is your understanding because of the repairing and maintaining of that existing structure as a result of reviewing A-2?

MR. SORANNO: Yeah well you know I'm not a planner I'm an attorney but I've seen plans before and this is a site plan, obviously it says that, it deals with the triangular shaped property which is 134 Flanders-Drakestown Road. The focus is of course on the property, it specifies various drawing notes that were made to the drawing with respect to proposed additions to the day care center, the effort to convert it to a single-family home, the addition of a driveway, a new detached car garage two-car garage, and the external barn as it's referred to on the plan to remain and be repaired and restored. So when I reviewed these plans and all of the subsequent and supporting documents it was my understanding that the application included this entire project.

MR. SMITH: Now in terms of the property can you give the Board an understanding of what the property was used as in 1996 when you moved in?

MR. SORANNO: The 134 Flanders-Drakestown Road property?

MR. SMITH: I'm sorry 134 Flanders-Drakestown Road.

MR. SORANNO: It was abandoned and vacant when I first . . . there was no activity in the day care center, no activity in the accessory structure it was boarded up in all areas of the building and there were signs specifying keep out on two sides of the building.

MR. SMITH: When you referenced an exterior structure you were referring to what's been called a barn or the general store?

MR. SORANNO: Well it's not a barn it was the former general store as I understand it.

MR. SMITH: And between 1996 and 2011 what activities have taken place at the former day care center?

MR. SORANNO: There has been no activity since 1996 except for a very, very brief time when the Mt. Olive Rescue used it one night a week and when I inquired about that it was my understanding that that was a special use granted by this Board to allow them to utilize that building one day a week. But other than that the homeowner at that time Mrs. McDavitt did not use it for anything and it remained closed with also a keep out sign and the property after Mrs. McDavitt died which was

inherited by actually three people they did not use the property for anything it was completely abandoned grass growing, foliage growing just totally . . . he left the State of New Jersey Allan Hull was his name.

MR. SMITH: Did you have any conversations with Ms. McDavitt relating to the day care building?

MR. SORANNO: No I can't say that I did.

MR. SMITH: Did you ever have any conversations with her with regard to the other structure on the property?

MR. SORANNO: Just one or two conversations with her when I first moved in I introduced myself to her and let her know I purchased the property, I know she was elderly my understanding was she was legally blind and was having trouble hearing so I offered her any support or help I could. She thanked me I asked her what the building was or use to be and she told me it was a former general store.

MR. SMITH: Okay and during . . . and how long was Mrs. McDavitt alive from 1996, when did she pass away?

MR. SORANNO: I think she passed away, I mean I have records of it but I'm going to say in maybe four years ago, three or four years ago.

MR. SMITH: Okay and between 1996 and three or four years ago was the day care facility ever utilized by Mrs. McDavitt as a day care center?

MR. SORANNO: Nobody went on the property, walked on the property, utilized any of the buildings it was completely

MR. SMITH: That you saw.

MR. SORANNO: That I saw and my wife can testify directly but from my understanding from my wife it was never used and I can tell because it became basically a field in essence and many animals in various forms of wildlife moved in.

MR. SMITH: Okay and during that same period of time did the exterior store, was that ever utilized?

MR. SORANNO: Never ever.

MR. SMITH: Now just for purposes of the record what type of a neighborhood do you live in?

MR. SORANNO: Well the neighborhood has evolved since 1996.

MR. SMITH: What was it like in 1996?

MR. SORANNO: Well when I moved in in 1996 it was extremely rural, the property across the street was all woodland it was all forest and woods there was no development whatsoever on the opposite side of the road other than the McDavitt house. This building was not constructed, the middle school was not constructed, and Flanders-Drakestown Road was in most part a country road very rarely traveled.

MS. RUBRIGHT: When you said this building you mean the municipal building correct?

MR. SORANNO: This building we're sitting in here did not exist. This was also woods.

MS. RUBRIGHT: I'm not trying to double team I just saw you . . .

MR. WEISS: No that helped that's very helpful thank you.

MS. RUBRIGHT: I saw you look and you

MR. SORANNO: I'm sorry I'll try to be clear I apologize.

MR. WEISS: That's okay.

MR. SORANNO: This complex did not exist, Flanders-Drakestown Road was a rural road there were basically my home, the two other properties 138 and 140 and then that was all that existed and the abandoned structures on that property.

MR. SMITH: Okay and obviously this municipal complex has been built since then.

MR. SORANNO: Yes.

MR. SMITH: How is the neighborhood around Flanders-Drakestown changed?

MR. SORANNO: Well it's changed quite a bit in fact one of the reasons why we moved to Flanders is because it was becoming a very progressive area it had plans to build a new middle school, the school system was improving which is why we wanted to buy the home and raise our daughters here in the school system here. We understood that the area was growing and it was fairly obvious that it has. In fact the property across the street from me which I believe you refer to as Wyndham Pointe I refer to the larger development as Vista Drive but you know there is a major development there of single-family colonial homes, modern homes. Since I had the opportunity to look at those homes I understand that they're somewhere between 3,500 and 4,500 square feet, that's all been developed. Sidewalks were built across the street there's been development all up and down the road, there's been the construction of this new municipal complex and there's been the construction of the middle school changing the way Flanders-Drakestown Road is used. In fact the traffic on Flanders-Drakestown Road in the last 16 years has increased dramatically.

MR. SMITH: I was going to ask you a question relating to; you mentioned sidewalks are there sidewalks on this portion of Flanders-Drakestown Road?

MR. SORANNO: No.

MR. SMITH: For purposes of reference I'm just seeing if there's a north, south. Okay for purposes of the Board I'm just going to identify in looking at A-2 with the pinnacle of the lot facing up I'm going to refer to this side as right of the property and this side as left of the property just so the record is clear when I'm referring to the witness because it doesn't appear that there's a north directional arrow on this for me to identify.

MR. BUZAK: That direction reflected Mr. Smith refers to left he's referring to the left of the structure as you are which is labeled existing first building No. 134 and when he refers to the right he's referring to the area to the right of that portion of the plans marked as existing barn. Mr. Chairman has indicated that west is directed away from the existing barn to the right.

MR. WEISS: Before you go on Mr. Smith and I don't want to break your train of thought, I need you to repeat your last question. You asked a question about sidewalks.

MR. SMITH: Yes.

MR. WEISS: So your question again to Mr. Soranno was what, are there

MR. SMITH: Are there sidewalks on this portion of Flanders-Drakestown Road?

MR. WEISS: On either side of the road.

MR. SORANNO: I'll rephrase my question. On the side of the road of where my house sits and this property sits there are no sidewalks. On the opposite side of the road directly across from this property and my property there are no sidewalks. However, when the development was put in there are sidewalks going from just past my house going this direction and then on the opposite side . . .

MR. WEISS: This direction will be west.

MR. SMITH: West past your property toward . . .

MR. SORANNO: Right towards the municipal building and then doing the same thing the opposite direction. It basically . . . it excludes the old McDavitt house.

MR. SMITH: My next question is when you reference the old McDavitt house is that on 134 Flanders-Drakestown Road?

MR. SORANNO: No it's directly across the street.

MR. SMITH: Okay so across the street from there there's another house, another structure?

MR. SORANNO: Yes there is.

MR. SMITH: Approximately how close is that to the street?

MR. SORANNO: It sits literally on the street. I mean I would estimate that maybe 2 or 3 feet.

MR. SMITH: Okay and on your property which is on the right side or west side of this is that correct?

MR. SORANNO: Yes.

MR. SMITH: How far does your house sit back from the street?

MR. SORANNO: Well I know that it's at least 150 feet because the original subdivision required it but I believe it's longer because the house sits with the driveway and I believe that's in excess of 150 feet. So I'm somewhere between 150 to 200 feet off of the roadway.

MR. WEISS: Mr. Smith I might want to jump in here with him. I think for the record that Mrs. McDavitt's house that you're referring to is Block 7600, Lot 21. Catherine can you confirm that. I just want to make sure because I'm looking at a map of the area and I think based on what I know just so we want to make sure that we know what Mr. Soranno is referring to.

MRS. NATAFALUSY: Block 7600, Lot 21.

MR. WEISS: Just for the point of reference that's . . . you said Lot 21.

MRS. NATAFALUSY: That's the old Mrs. McDavitt's house across the street.

MR. WEISS: Okay.

MR. SORANNO: Mr. Smith I have a photograph of that area that you're focusing on if you'd like to use it.

MS. RUBRIGHT: OBJ-2?

MR. WEISS: Yes OBJ-2. So I take it you're going to present OBJ-2 which is Mr. Soranno why don't you tell us what that is. You mentioned it's a photograph.

MR. SORANNO: Mr. Weiss I just want to make a clarification for the record the documents are pre-marked that's actually OBJ-Photo 2 to distinguish it from the documents which were marked OBJ-1 through whatever. But I took this photograph with my camera the Simple Sony digital camera, I took this photograph approximately 3-1/2 or 4 weeks ago there's so many photographs that I can't tell you exactly the date I took this photograph although if I had my camera I would but certainly I took it.

MR. WEISS: That's fine, fair enough.

MR. SORANNO: The photograph, I'm standing in front of the former day care center and I included in the photograph, and there's copies for the Board, but I'm standing . . . and I included the sign the mailbox at 134 so you can see where I'm standing. And it depicts a photograph looking down Flanders-Drakestown Road and as I testified to it displays the former McDavitt residence literally sitting on the roadway. And it displays the location of the structure, general store that used to be there. Or is still there but used to be used as a general store.

MR. BUZAK: Do you have copies of that for the Board?

MS. RUBRIGHT: You know there's a whole packet of photographs and what I think we should probably do is just mark the packets.

MR. SMITH: What I will do is have Mr. Soranno authenticate them so that I can present them all to the Board in one packet.

MR. WEISS: That would be most preferable rather than

MR. SMITH: Rather than do a piece meal because it will take us forever.

MR. WEISS: We're going to have to mark each one right?

MR. SMITH: Each one is actually date stamped in the lower right hand corner with the markings OBJ-Photos 1 through

MR. BUZAK: I'm going to suggest this; I'm going to suggest that you distribute the photographs to the Board so they have them in front of them while you are testifying. It does us no good to have Mr. Soranno looking at the photograph, describing in great detail what it shows while all of us are sitting here looking at blank pieces of paper. We can then mark them and we can have an official marked version that will then go into the record with this eventually.

MS. RUBRIGHT: Some are black and whites, some are in color.

MR. WEISS: Does everybody have them?

MR. BEDELL: Yeah we're good.

MR. SMITH: All good? OBJ-Photo 2 is actually the second page it should be the second photograph a picture of the mailbox that Mr. Soranno had testified to. Mr. Soranno I'm going to give you a packet that's been marked as OBJ-Photos 1 through I believe its 32?

MR. SORANNO: Yes.

MR. SMITH: Have you seen those before?

MR. SORANNO: Yes I have.

MR. SMITH: Did you take those pictures?

MR. SORANNO: Yes I did. I took the photographs they're all with the same camera I took them on or about the same time within days of one another. I put the package together, I also physically copied them and my paralegal date stamped them. So in terms of chain of custody never left my hands.

MR. SMITH: Okay and those are accurate depictions of the property known as 134 Flanders-Drakestown Road as well as . . . well maybe I'll show you photograph number 1.

MR. SORANNO: Right.

MR. SMITH: What is photograph number 1?

MR. SORANNO: It's looking down Flanders-Drakestown Road at the abandoned former general store.

MR. SMITH: Okay and just in terms of that building can you describe it briefly for the Board in its current condition?

MR. SORANNO: A large structure boarded up plywood boarding it up in disrepair to quote Mr. Lindsey it's in extremely poor condition, the foundation is crumbling and its fascia is coming apart and there are numerous problems with the building.

MR. SMITH: And you've had an opportunity to observe that building since 1996?

MR. SORANNO: Yes I have.

MR. SMITH: Now in 1996 when you purchased the property how had the prior property owner maintained the landscaping around that building?

MR. SORANNO: Well you know it's an interesting question and I'm going to address Mr. Bedell if the Board is . . . because I know this is an ongoing question everyone seems to be asking. When I moved in as I said this was a rural area, this building was completely surrounded and I have photographs of that, not in this packet, but completely surrounded by trees, foliage, growth hidden basically part of the landscape, part of the rural landscape. Mrs. McDavitt kept it that way; Mr. Hull kept it that way. It was difficult to see from my home, the building in my view has always been nothing but vacant and abandoned and an eyesore. Since the present applicant has owned the building as you can see several trees were cut down around the building, all of the foliage has been removed; the building literally sticks out like a sore thumb now. And as a result it gives the appearance which is why I took this second picture OBJ-Photos 2 from there it doesn't even look connected to 134 Flanders-Drakestown Road it literally looks now like it's sitting on the front property. So the whole entire dynamic of the building has changed.

MR. SMITH: Okay and that change in the property is that part of the reason you're objecting today to the requests?

MR. SORANNO: Well I'm objecting to several issues with the application. The first thing is I'm objecting to the front and side yard setback variance with the former day care center. I mean you know

MR. SMITH: Why?

MR. SORANNO: Why? Okay first of all the building has vacant for years nobody has touched it it's a commercial building and my point of view is that no matter how much you try to make it look like a single family house it's not going to. The second issue is it literally encroaches into the cart way of Flanders-Drakestown Road where every other house in that vicinity other than the former McDavitt house is setback at least 50 to 75 feet or more which is in conformance with the zone. I don't believe this applicant has made sufficient justification for this Board to grant the variance. That is a 3-1/2 acre piece of property there's clearly the ability to build a single family home in conformance with the local zoning ordinance, in conformance with the Highlands Act. But for whatever reason, and it's not for me to say, but he's looking to expand that existing building. And you know I think the Board has to consider the growth of the area, has to consider what the property and the surrounding areas look like now, and I think that should be taken into consideration which is a relevant thing to take into consideration when granting a variance.

MR. BEDELL: When you say expand; expand the building I don't

MR. SORANNO: Yes the plans show an addition to the building.

MS. RUBRIGHT: Into the front yard.

MR. SORANNO: Into the front and side yard. It's on the plans I'll . . . Mr. Bedell if I may it shows here on A-2

MS. RUBRIGHT: There was testimony, extensive testimony about that last time.

MR. SORANNO: Susan I can answer the question.

MS. RUBRIGHT: I'm sorry.

MR. SORANNO: On A-2 there is a planned addition

MR. BEDELL: Oh for that building yes I thought you were referring to

MR. SORANNO: I'm focusing on the day care center.

MR. BEDELL: Okay I thought you were referring to the general store.

MR. SORANNO: That's what I thought the application is . . . yes Mr. Smith's question was what am I objecting to and I'm objecting to the conversion of the existing abandoned day care center into a single family home.

MR. WEISS: Let me, I'm going to jump in here because obviously the word abandoned has been popping up. We addressed it, Ms. Rubright and I addressed it a few minutes ago and Mr. Soranno you used it multiple times. Maybe I'm going to ask my attorney to explain, well actually I'm not, I'm going to ask you Mr. Soranno because you claim that you're an attorney.

MR. SORANNO: Yes I am.

MR. WEISS: You told us you're an attorney.

MR. SELVAGGI: I'm going to object only because he's not testifying as an attorney he's got able Counsel to do it so I don't think he's . . .

MR. WEISS: I'm going to ask his opinion Mr. Selvaggi. You claim that the building is abandoned, tell me what do you feel abandoned means?

MS. RUBRIGHT: You know I'm not going to let him answer that question because he is here as a fact witness.

MR. SORANNO: No, no, no I'll provide Mr. Weiss

MS. RUBRIGHT: It's a legal term you've used that word

MR. SORANNO: Susan excuse me I think it's a fair question Mr. Weiss and I'll stick to the facts.

MR. WEISS: Hold on a second.

MR. BUZAK: Bang it (inaudible).

MS. RUBRIGHT: Oh please come on.

MR. BUZAK: You couldn't hear that?

MR. SORANNO: Mr. Buzak excuse me.

MR. BUZAK: Thank you when the Chairman bangs the gavel we all keep quiet.

MR. SORANNO: Understood.

MR. BUZAK: Thank you.

MR. SORANNO: I understand.

MR. BUZAK: Thank you. Mr. Chairman the witness has testified and utilized the word abandoned.

MR. WEISS: Correct and I'm confused by that.

MR. BUZAK: You have a right to ask that witness what that witness means by his use of the term. It's not a legal issue it's his use of the term.

MS. RUBRIGHT: Thank you Mr. Buzak.

MR. BUZAK: If Ms. Rubright wants to prevent him from testifying she can do so.

MS. RUBRIGHT: I agree completely.

MR. BUZAK: Thank you.

MR. WEISS: All right so Mr. Soranno I'm going to ask the question again tell me what you think abandoned means.

MR. SORANNO: Okay. Mr. Weiss first of all I want to apologize I didn't mean to overstep the gavel of course for 20 years I've been appearing in court and I understand what a gavel means. But I'll stick to the facts because I do agree with Mr. Selvaggi the ultimate determination whether this is

abandoned is solely within the Board's determination it's a legal issue. But what I mean is the building has not been utilized by any homeowner or any individual for at least the 16 years that I've been living there. When I reviewed the prior applications by Mrs. McDavitt going back to 1992 to sort of revive the day care center and expand it there's testimony from her attorney and testimony from her specifically which I have excerpts of which says she has not used the day care center for some time. In fact the issue of abandonment was part of the record back then and I think some of the members of the Board were there asking the identical question. I also base it on the fact that the structure hasn't been improved, hasn't been changed, hasn't been modified, no one has been living in it, its nonconforming use hasn't been maintained it hasn't been converted to a conforming use. And when I looked at the Mt. Olive Ordinance it stresses the . . . it determines what abandonment is and it's a building that hasn't been used or has been discontinued for 12 consecutive months. That's what I'm basing my opinion on.

MR. WEISS: Okay.

MR. SMITH: Now Mr. Soranno I'm going to show you what's been marked as OBJ-2.

MR. SORANNO: Okay.

MR. SMITH: Have you ever seen this before?

MR. SORANNO: Yes it's a memorandum to Gary Lindsey from Frank Wilpert, Jr., Zoning Officer and Engineering Aid dated June 9, 2011.

MR. BUZAK: This is non-photo.

MR. WEISS: Okay so this is an OBJ-2. I'm sorry we were kind of talking over you Mr. Soranno, OBJ-2 is a letter from Mr. Lindsey?

MR. SORANNO: No it's not from Mr. Lindsey it's from Mr. Wilpert to Gary Lindsey.

MR. WEISS: Understood.

MR. SMITH: And how did you come into possession of this?

MR. SORANNO: I filled out an Open Public Records Act request various times, several times with respect to this application and I requested from the township these records. And the active file was given to me and I either took photographs of it or had a copy made.

MR. SMITH: And Mr. Wilpert is a Zoning Officer/Engineering Aid for this township?

MR. SORANNO: He identifies himself as that I never met Mr. Wilpert.

MR. SMITH: Okay and is there any indication in this as to Mr. Wilpert's opinion as to what abandonment means under the local Municipal Land Use Code?

MR. SORANNO: Yeah and what's also confusing about this is because it refers to this vacant structure on the property which everyone refers to as the general store which is why I'm confused about what the applicant is really seeking. But nevertheless he states in the letter very clearly he defines under the Mt. Olive Ordinance 400-87 what the definition of abandonment is.

MR. SMITH: And is that similar or different than what you just testified to?

MR. SORANNO: No it states A Section b a nonconforming use involving a structure is discontinued for twelve consecutive months. That's abandoned. The day care center is a nonconforming use involving a structure that was discontinued for twelve consecutive months.

MR. WEISS: I have a question though, this memo that you put in front of us is regarding the barn.

MR. SORANNO: Understood but it's the same definition.

MR. WEISS: But this letter is about the barn.

MR. SORANNO: Yes but I'm just establishing this for purposes of the definition.

MR. WEISS: I understand but why are you continuing giving us information about something we said that's got nothing to do with this application.

MR. SORANNO: Mr. Weiss as I said the letter deals with the barn I agree but the definition of 400-87 is contained in the letter.

MR. SMITH: Mr. Weiss this goes to your initial question of the witness as to what is his understanding as to what abandonment is. This gives a full context

MR. SORANNO: Of the day care center.

MR. WEISS: You're helping me define how you answered the question about abandonment. I would like to see you keep it to that question and stop testifying on to the barn.

MR. SORANNO: No problem I'll confine it to that.

MR. WEISS: Okay so your explanation is fair enough.

MR. BEDELL: Mr. Chairman?

MR. WEISS: Steve go ahead.

MR. BEDELL: Do we know if taxes on this property have been paid for the last 13, 14, 15, 16 years?

MR. WEISS: I would have no idea.

MR. BEDELL: Yeah I didn't think you would offhand but . . .

MR. SELVAGGI: Well they've been paid now or we wouldn't be here.

MR. BUZAK: They had to be paid to date to have the application come before us.

MR. BEDELL: Well that's part of my point.

MR. BUZAK: They've been paid.

MR. BEDELL: So okay I just wanted a confirmation. That's what I assumed because we are here I just wanted to kind of confirm that that's all.

MR. SMITH: Mr. Soranno I'm going to show you what's been marked as OBJ-13.

MR. SORANNO: Yes.

MR. SMITH: What is OBJ-13?

MR. SORANNO: Again this was requested via the Opra act it is the tax records

MR. WEISS: Wait, wait what about 4 through 12?

MR. SMITH: Well I premarked all of my exhibits I can mark that as OBJ-4 if that makes it easier for the record that's fine.

MR. BUZAK: Well look you're going to have to . . . if you mark your exhibits randomly we're not going to be able to do that here.

MR. SMITH: No that's fine I'll just remark them.

MR. BUZAK: So this will be OBJ . . .

MR. WEISS: We'll make the note we'll give it to Catherine as OBJ-3 and explain what OBJ-3 is Mr. Smith if you would.

MR. SMITH: Oh I was having the witness testify as to it. It is the property tax records.

MR. WEISS: Property tax records.

MRS. NATAFALUSY: Are they all the same?

MR. SORANNO: Yes.

MR. SMITH: Oh no, no

MR. SORANNO: This is one packet that I received in requesting the property tax records for 134 Flanders-Drakestown Road from the township this is what I received this entire packet. So that's what it is.

MS. RUBRIGHT: How many sheets is it?

MR. BUZAK: It's one set? Do you have one set?

MR. SORANNO: One set.

MR. WEISS: I don't think we need to see but that's fine I think Catherine you keep that OBJ-3 as a packet of property tax records that you've submitted approximately Mr. Soranno 15 pages?

MR. SORANNO: Yeah I would say How many?

MR. SMITH: Over 27.

MR. WEISS: Okay so approximately 25 to 30 pages there's only one copy the secretary has it.

MR. SORANNO: And to respond to Mr. Bedell's question the property tax records are listed it's written in the document vacant office building it looks like ranch style house. Again in the most recent records it's described as a vacant office building. In earlier records, and again at the risk of . . . I'm not trying to anger the Board I'm just trying to be complete, it lists it as Happy Times School and the barn or the store is listed as frame unsound NV I assume means no value but I have no information. So that's how it's been taxed as a vacant office building and it's a commercial record.

MR. WEISS: I take the liberty, does anybody on the Planning Board want to see a copy of their tax I assume that you didn't but if anybody wants to. Okay so continue I'm sorry.

MR. SORANNO: That's it I mean I was responding to Mr. Bedell how it's been taxed and it's been taxed as a commercial vacant office building.

MR. RUSSELL: Taxes were paid.

MR. SORANNO: I have no idea.

MR. WEISS: Yes.

MR. BUZAK: Taxes have been paid because they had to be paid in order to come before us today.

MR. WEISS: Okay.

MR. SMITH: Mr. Soranno when did the current owner take ownership of the property?

MR. SORANNO: Not really sure but I'm going to guess . . .

MR. SMITH: I don't want you to guess.

MR. SORANNO: I don't know.

MR. SMITH: Okay was it in the last five years?

MR. SORANNO: Oh definitely in the last five years.

MR. SMITH: Okay last three years?

MR. SORANNO: No.

MR. SMITH: Okay so sometime between three and five years.

MR. SORANNO: No, no, no that's not correct.

MR. SMITH: It's more recent than three years?

MR. SORANNO: Yeah it's probably within the last year.

MR. SMITH: Okay and have you had the opportunity to meet with the property owner?

MR. SORANNO: I've met with the property owner twice I believe.

MR. SMITH: Okay and . . .

MR. SORANNO: No there are two property owners so I've met with Mazouz Jallad twice and I believe Tomasa Jallad once maybe twice.

MR. SMITH: Okay and what did you guys talk about?

MR. SORANNO: Well the first time I met Mr. Jallad was sometime around October because I was raking leaves and he was walking in the woods between . . . it's wooded between the two properties there and he was marking his property with an orange can of paint. And I walked over and introduced myself and said I was Carl Soranno and he introduced himself, and his wife walked over and I introduced myself to his wife. We talked for about fifteen minutes.

MR. SMITH: Did you talk about his proposed use of the property?

MR. SORANNO: I asked him, I introduced myself I said hi how are you the kids are outside so I said these are my children I asked him what his intentions were with respect to the property, I can't recall exactly what he said with respect to the entire property. We discussed whether he was going to cut down any trees, he said no but that wasn't the case and then we did talk about the building, the abandoned structure and he said he wanted to use it as a workshop for himself and then with respect to the day care center he said he was planning on converting it to a single-family house. And my response was how are you going to do that? I think that was pretty much the conversation.

MR. SMITH: Why would you respond how are you going to do that with regard to the house?

MR. SORANNO: Well because you know I understand and I can't detach myself from being who I am. I understand that the property lies, because my property lies inside the Highlands Protection zone. I'm aware of the law just by being an attorney I know that the day care center in my view was a nonconforming use abandoned. I understand that the structure itself, the building was the accessory structure is not permitted where a form of building is a commercial use. I understand that in order to convert the building it requires Highlands exemption, it sits in the cart way of Flanders-Drakestown Road, I knew it required variances it couldn't be expanded so I was curious as to how he intended to do what he wanted to do. That's why I asked the question.

MR. SMITH: Did he give you any indication as to whether he intended in living in the house?

MR. SORANNO: Um he said to me that . . . well he has children in town he said he's not sure who is going to occupy the house he may move into it, his family may move into it that's what I recall I don't remember any distinct . . .

MR. WEISS: Okay (Chairman gaveled meeting).

MR. BUZAK: I just want to remind Counsel that the issues before this Board relate to a request for variances. That's the application before us so I would ask Counsel to focus the questioning and hopefully focus the witness's responses to the questioning to issues that relate to the request for the variances that are being requested. Any legal argument can be made at the conclusion your putting together why you think this is a bad idea and therefore he does not meet the criteria can all be done at

the end. But we can't have fact witnesses testifying as to what they think about why someone would want to use this building as a residence, or how they were going to do that. Those issues are simply not before the Board and I don't think the Board should be burdened with listening to the testimony related to those items. Mr. Chairman that's my advice to Counsel, that's my advice to you and the Board can accept it or not accept it.

MR. SMITH: Yeah we'll move it along that's fine. Mr. Soranno in looking at the site plan identified as A-2 what is your objection to the site plan?

MR. SORANNO: Okay if I may? All right my objection to the site plan is follows okay, I don't know of any other structure along Flanders-Drakestown Road that has been granted a side yard and front yard variance okay for this purpose for a single-family home purpose. The only property that I'm aware of is the property across the street the McDavitt house which obviously preexists. What the applicant is asking to do is as I understand it from the Township Engineer is to only have a road dedication back to the curb, the existing curb. But my property and all of the other properties along this line okay have road dedication 25 feet from the center of the road back. So it literally goes, and I'm trying to describe it, but it goes into the property comes around this way, goes like this and goes back. I can't understand why the Board would consider not thinking about the future expansion of Flanders-Drakestown Road and I understand there's no plans to do it but the township is growing and it perhaps would be necessary. And I think that has to be taken into consideration. The prior Board actually asked for the setback to be further in when it was going to be a day care center then used. That's number one. Number two this already encroaches into the side yard setback and you're going to permit an addition that's going to further encroach into the side yard setback. And again I don't believe this applicant has established on record, and the only witness was Mr. Martin, as to why this was good for the neighborhood which is absolutely critical to your consideration. As I've also said every house along Flanders-Drakestown Road on both sides, and you can take notice of it because you live here, has large setbacks. But they're looking for a front yard variance which is essentially going to be it looks from this drawing less than 30 feet, maybe even less than 25 feet from the front of a single-family home. Now my point is this, this is a 3-1/2 acre piece of property and a single-family home could be built anywhere on this property.

MR. SELVAGGI: I object only because he's not an engineer I don't know how he can say that.

MR. SORANNO: Well I'll rephrase it by saying this. My understanding of our front yard and side yard setback requirements in this town would permit a single-family home to be built within the confines of our zoning ordinance. In other words it could conform, I don't know if it could be built that's true I don't know what the water is like, I don't know what the topography is like, I don't know any of that. But I do know that somewhere on this property a single-family home could be located to conform to local zoning ordinances. And yet the homeowner is looking to convert, the applicant is looking to convert a commercial building into a single-family home that literally will sit on the curbing of Flanders-Drakestown Road and encroach into the side yard setback of the property that is occupied by Tinc Road School. Any other homeowner up and down Flanders-Drakestown Road is to conform and I'm not clear as to why this one isn't going to conform.

MR. WEISS: Well Mr. Soranno I think we can give you a pretty good answer although you're very much entitled to your opinion I don't think that your opinion is accurate and I'm sure that Chuck as I see will kind of explain to you

MR. MCGROARTY: Well I just had a question Mr. Chairman.

MR. WEISS: Okay sure.

MR. MCGROARTY: To the witness since the gentleman said he was familiar with the Highlands Act. Could this lot be developed under the Highlands? If the building were taken down could a new house be built under the Highlands Act?

MR. SORANNO: Frankly I'll answer the question this way. Since this is a commercial building that preexisted 2004, and again this is totally based on my own research, 2004 the Highlands will not allow that conversion. It will only allow the single-family house that existed as of 2004; the accessory garage also is probably not permitted. But I'll leave that to the homeowner who obtained his exemption then I think

MR. MCGROARTY: Let me ask I'm sorry go ahead.

MR. SORANNO: I was going to say and I think any variance that's granted should be conditioned and your own reports specify that. I can't point to Mr. I think it was McGroarty's report

MR. MCGROARTY: Well that would be me.

MR. SORANNO: Right but I'm saying for the benefit of the record Mr. McGroarty's report which actually states exactly that.

MR. MCGROARTY: Well no my question was, because you mentioned the preference to tearing the house down and rebuilding it I'm asking you could that be done?

MR. SORANNO: I don't know the answer to that frankly.

MR. MCGROARTY: Okay that's fair. Let me ask one other question, under the Highlands Act under Exemption 4 could the building be expanded to 125 percent of the existing footprint? If you know.

MR. SORANNO: You're asking me?

MR. MCGROARTY: Yes.

MS. RUBRIGHT: It depends on whether it's a residence or a commercial.

MR. BUZAK: Ms. Rubright the question is for him he can answer it or not, if he can't answer it that's fine.

MR. SORANNO: No I can answer the question to the best of my knowledge.

MR. MCGROARTY: That's fine.

MR. SORANNO: Okay if it's a single-family residence I believe yes, if it's a commercial building I think and it preexisted . . . it wasn't a single-family home as of 2004 no.

MR. MCGROARTY: Okay that's your reading of the Act.

MR. SORANNO: That's my reading but again I'm not an expert in Highlands and obviously it's going to be up to the Highlands Commission.

MR. WEISS: Gene I think you had a question?

MR. BUCZYNSKI: Pretty much the same question Chuck had because the way I understand the Highlands Ordinances if you're going to try and build a house there, I could be wrong Mr. Soranno, but I thought earlier you said that they could build a house on that property further back and meet the Highlands. But I don't think you can if you're building it in an area that's not impervious coverage right now.

MR. SORANNO: Well I would say this Mr. Buczynski I think it's the applicant and this Board's responsibility to either present evidence that they can or they can't and the Board can consider that as a potential hardship on the applicant. But there's no testimony about that I think it's incomplete and I think it's being ill-considered. If it's possible then I think it's necessary for this Board to consider as to whether that variance should be granted or have that property after all these years conform to the rest of the neighborhood. And I think that is a relevant inquiry as to whether it conforms to the rest of the neighborhood. I believe Mr. Buzak can speak on that point but I think it's accurate.

MR. WEISS: Mr. Smith I'll turn it back to you.

MR. SMITH: No further questions for Mr. Soranno.

MR. WEISS: Okay anybody on the Planning Board have any questions?

MR. MCGROARTY: Well Mr. Chairman I do.

MR. WEISS: Okay.

MR. MCGROARTY: Mr. Soranno are you saying that the burden of proof, part of the proof has to show that it has to conform to the neighborhood?

MR. SORANNO: My understanding is that when you're giving a . . . when this Board considers whether or not to grant a variance one of the considerations is as to whether or not it fits with the overall zoning plan of the township.

MR. MCGROARTY: Where do you find that language? In a case or . . .

MR. SORANNO: Well Mr. McGroarty if I had the NJSA . . .if I had the Municipal Land Use Statutes in front of me . . .

MS. RUBRIGHT: I think he's referring to the negative criteria.

MR. MARTIN: I'll be happy to give it to Mr. Soranno.

MR. BUZAK: Please be seated Mr. Martin.

MR. MCGROARTY: Could you tell us then you're . . .

MR. SORANNO: I'm not a Land Use attorney I'm using it on my own words as a fact witness.

MR. MCGROARTY: Understood. Since you're objecting to it and based on your knowledge of it what do you see the negative criteria has to be? What is the negative criteria test? You raised it not us.

MR. SORANNO: Well you know if I could get some notes I can read it from my iPad for you but I don't know it off the top of my head.

MR. MCGROARTY: That's up to the Chair.

MR. SORANNO: If I was going to answer that question I would answer the question in writing or I would answer with notes in front of me.

MR. WEISS: Chuck I think the Planning Board, and certainly gentlemen chime in, I think Mr. Soranno is giving an opinion. I don't think . . . he sat there and has said he is not a Land Use attorney, he's testifying as the homeowner and I think the Board needs to give Mr. Soranno a little bit of a break. He's entitled to say what he wants and I think we have various levels of expertise when it comes to Land Use and I would like to think that my fellow Board members have an understanding of negative criteria and I don't think we should ask Mr. Soranno to raise to that level.

MR. MCGROARTY: I only did Mr. Chairman because, and I respect that and I will stop, I only did because I understood his objection to include a criticism that that issue is not addressed as part of the applicant's testimony.

MR. WEISS: I think it's fair to say that as we sit here over various applications homeowners in this case have the right there's passion, there's compassion, there's various feelings and we're going to listen to what the witness is telling us and we're going to take it and put it into our heads and use it as we feel it's appropriate. And I don't think it was an unfair commentary from Mr. Soranno we'll take it for what it's worth and we understand that your objection is that you feel that it's not appropriate for all the legal reasons that you were trying to explain and that's fine for me.

MR. SORANNO: Thank you Mr. Weiss I appreciate that and I know I'm not being questioned but if I just may say one final thing with respect and I imagine I might be cross examined I don't know.

MR. WEISS: Please.

MR. SORANNO: But there seems to be a misunderstanding here of my motivations and I wanted to clarify that okay? I live in this town, I love this town, my kids go to school here, my wife teaches in the school system. Okay? I'm not an interloper in the town I live next door none of you live next door to this property you don't have to drive by it literally every single day, maybe some of you do maybe some of you don't. But the point I'm trying to make is this, this property has been literally left alone and this is not a term of (inaudible) abandoned, abandoned for years. It is now . . . there's an opportunity to fix it and fix it properly and my point is we have zoning ordinances for a reason, we have a Municipal Land Use Law for a reason. And all I'm asking this Board to do is to take everything into consideration

and not rush to judgment. And the rush to judgment in my opinion is to change what the Board originally thought was an appropriate road dedication and now do something different without thinking about why they're doing that. Two: whether you're going to grant a front yard or side yard setback you need to think about that and whether you want a single-family home literally on the street okay? And I think the applicant has to demonstrate to this Board sufficiently that he has the ability to do that under the existing Zoning and Municipal Land Use Law. There are no sidewalks on that side of the street, there never will be sidewalks on that side of the street, my kids can't walk to school because there are no sidewalks on that side of the street. And I don't want to get into the building but I also don't understand, and this is clearly layman and frankly gentlemen and ladies my lawyer has tried to explain this to me a dozen times and I still don't get it, how the Board can consider this variance application without considering the offending structure on the other side of the property and take it piecemeal.

MR. WEISS: We certainly understand that. Anybody else have a question for Mr. Soranno?

MR. WALSH: If I would please?

MR. WEISS: Mr. Walsh.

MR. WALSH: Thank you Mr. Chairman, I just have three or four quick questions so I have a floor just for a second?

MR. WEISS: Absolutely.

MR. WALSH: Thank you. First of all thank you for your information all of the questioning and everything has helped me out tremendously. Do you feel as the property sits right now with the building that the applicant is trying to work on here, do you feel it looks good the way it is now?

MR. SORANNO: Which building are we talking about?

MR. WALSH: The one that you're . . .

MR. SORANNO: The day care center?

MR. WALSH: The day care center yes.

MR. SORANNO: No.

MR. WALSH: Okay. Prior to them purchasing it say the year before, you've lived there a long time, what in your mind honestly did you feel was going to eventually happen to these buildings on the property?

MR. SORANNO: That they would eventually be demolished and a single-family home would be built.

MR. WALSH: Okay, okay I'm just trying to get some things clear. Okay and the only one that's historic just for my record the one on the right the barn is the one that's considered historic? I mean I know that's not part of the application but . . . so this building to the left is not historic correct?

MR. SORANNO: The day care center?

MR. WALSH: Or am I wrong that neither one is historic.

MR. SORANNO: The day care center is not historic as far as I know. I don't even know what the definition of historic is but as a matter of law, because I've tried and it's difficult to find and I'm sure my expert could testify but . . .

MR. WALSH: Is either building protected under any historic law?

MR. SORANNO: Not that I'm aware of.

MR. WALSH: Okay thank you very much.

MR. SORANNO: I'd just like to modify one statement as to why I thought that, and that is in conversations with Mrs. McDavitt at one point I asked Mrs. McDavitt to sell . . . this was when it was

one acre zoning there and that was still commercial, to sell me a piece of that triangle so that I could straighten out my property on the opposite side and she wouldn't sell it to me. And the reason she said is because if they ever change the zoning the lot has to be that big or no one would be able to build a house on it. And that's initially where I got the notion that it was going to stay as one lot with a new single-family house on it.

MR. WALSH: Thank you.

MR. RUSSELL: In your Opra requests did you uncover the original building permit?

MR. SORANNO: For which building?

MR. RUSSELL: For the day care center?

MR. SORANNO: The original building permit? At what time? I looked through every file related to this property that the township had. My lawyer just informed me we didn't ask for construction files we only asked for Planning Board files so I didn't see any permits.

MR. RUSSELL: Thank you.

MR. WEISS: Okay let me open it to the public if anybody from the public has any questions for Mr. Soranno based on the testimony that was delivered this evening feel free. Looks like Mr. Selvaggi.

MR. SELVAGGI: Yeah just a few I don't want to . . .

MR. WEISS: And of course Mr. Selvaggi you'll state your name.

MR. SELVAGGI: Yeah Mr. Soranno you mentioned the ordinance section that Mr. Wilpert talked about in his letter about abandonment did you not?

MR. SORANNO: Yes I did.

MR. SELVAGGI: Did you look at that entire ordinance section?

MR. SORANNO: Yeah I actually have it, I just asked my attorney for the entire section.

MR. SELVAGGI: So you're familiar that there's nothing in that ordinance section that says even if there's an abandonment there has to be a subsequent demolition.

MR. SORANNO: I don't think it says that but I

MR. SELVAGGI: Well in fact doesn't it say the subsequent use of an abandoned building shall be in conformity with this chapter and this Subpart B any nonconforming building may be changed to conform to this chapter but shall not be changed back to the nonconforming status. Isn't that what we're doing here?

MR. SORANNO: No I disagree with you.

MR. SELVAGGI: Why is the change to this building to a residence not conforming to the plain language of this ordinance?

MR. SORANNO: Well I disagree in the way you asked the question. If you read the Statute closely under Section A it says abandonment. Okay and it says a nonconforming use shall be considered abandoned if it's terminated by the owner, it's been discontinued for 12 consecutive months and I don't think 6C applies. So once it's abandoned it's no longer a nonconforming use. And so when conversion to a permitted use refers to any nonconforming building, this is a nonconforming building it's abandoned it's just a building. So I disagree with you and I also think that also applies to Section E restoration and repairs as well. The other thing here is you have

MR. SELVAGGI: You know what I didn't ask any other questions.

MR. SORANNO: Okay but that's why I disagree with you.

MR. SELVAGGI: All right. Are you familiar in your discussions with your attorney that under the Land Use Law there's actually a . . . it's a favored policy to see nonconforming structures or buildings be brought into conformity?

MR. SORANNO: Well I can't talk to you about conversations I had directly with my attorney but my understanding is that that's only when a building is determined to be nonconforming. So for example if this building were still being used as a day care center it would be a nonconforming use because it was continuous, it could be converted to a conforming use and it would be favored by the Board because it would conform to the local ordinance. Since it's been abandoned

MR. SELVAGGI: So your position is abandonment

MS. RUBRIGHT: You need to let him finish.

MR. SELVAGGI: He's gone well beyond the question I asked.

MS. RUBRIGHT: Well you know that's your opinion.

MR. SELVAGGI: So in your opinion abandonment essentially means demolition.

MR. SORANNO: It's not my opinion I'm going by what our own ordinance says 400

MR. SELVAGGI: Where does it say in there that abandonment means that the only remedy is demolition?

MS. RUBRIGHT: That's not what he said. Ask a question.

MR. SELVAGGI: I'll ask another question, if the building is abandoned what can you do with it?

MR. SORANNO: You're the Land Use attorney you answer that question.

MS. RUBRIGHT: You know what that is not a property question of this witness.

MR. SELVAGGI: He's just spent five minutes telling me about the ordinance and now all of a sudden because there's a question that you can't handle he suddenly can't answer it.

MR. SORANNO: I didn't say I couldn't handle it.

MS. RUBRIGHT: You're asking him . . . you're asking him to give you a legal interpretation based on the ordinance.

MR. SELVAGGI: Fine, fine all right. Mr. Soranno you lived in this neighborhood for 16 years correct?

MR. SORANNO: That's correct.

MR. SELVAGGI: When you come out of your driveway and you go west on Flanders-Drakestown Road is it your testimony that every home for a mile all conforms to the front yard setbacks?

MR. SORANNO: When I make a right turn I think you mean west?

MR. SELVAGGI: I mean a left excuse me.

MR. SORANNO: You want me to make a left or a right?

MR. SELVAGGI: Yeah if you come out and make a left going towards the municipal building is it your testimony that every home in that neighborhood conforms to the front yard setback.

MR. SORANNO: Well the first two on the left hand side do, the one across the street does, the one as you go down the hill appears to conform but I'm not sure and the rest all the way up Flanders-Drakestown Road in my view they do. Because I mean they're set back . . .

MR. SELVAGGI: Isn't there a

MR. SORANNO: I mean they're setback . . . I'm answering the question.

MR. BUZAK: Mr. Selvaggi let

MR. WEISS: Mike, Mike hold on a second.

MR. SORANNO: I want to answer the question.

MR. BUZAK: Go ahead Mr. Soranno we're going to try to control it.

MR. SORANNO: Thank you. Every house along the left side of Flanders-Drakestown Road as I'm coming towards the municipal building except I believe one which preexists okay which is an older building does, and then on the opposite side you have the new Vista development which I assume does because they wouldn't have approved it. And going up you have the rest Stephens Farm and then you have older buildings that preexist the zoning ordinance and you have the farm and then you have the Middle School. So the answer is yes except for preexisting buildings.

MR. SELVAGGI: So the preexisting buildings do not conform.

MR. SORANNO: I don't know the answer to that question. I can go out and measure them but from my appearance by eye they appear to be setback sufficiently on the front yard.

MR. SELVAGGI: All the buildings or just the preexisting ones?

MR. SORANNO: From my eye they appear to be all of them. As I said except for the McDavitt residence.

MR. SELVAGGI: Okay when you spoke to Mrs. McDavitt what did she tell you she intended to do with this property?

MR. SORANNO: She never told me what she intended to do with the property. I told you the only conversation I had with her is I asked her . . .

MR. BUZAK: Mr. Soranno you've answered the question.

MR. SORANNO: Okay.

MR. BUZAK: You answered the question thank you.

MR. SELVAGGI: Did she ever tell you what she intended to do with the day care center?

MR. SORANNO: Yes.

MR. SELVAGGI: What did she tell you?

MR. SORANNO: She said she had enough she wasn't doing anything with it.

MR. SELVAGGI: Okay. When you tried to purchase it from her was that property listed for sale?

MR. SORANNO: I didn't try to purchase the property from her.

MR. SELVAGGI: Or a portion of it.

MR. SORANNO: No that was when I first moved in that was 16 years ago I asked.

MR. SELVAGGI: Okay oh I'm sorry.

MR. SORANNO: I told you when it was still one acre zoning.

MR. SELVAGGI: Okay. So that was the only time you spoke to her about possible acquisition of the property. And then is it your testimony then; and I apologize if I got my notes wrong, you then tried to purchase it after the Hulls had it?

MR. SORANNO: I never tried to purchase it from the Hulls.

MR. SELVAGGI: Okay, all right.

MR. SORANNO: Now maybe I should . . . what do you mean by purchase? Because I want to be accurate what do you mean by purchase? But in a formal contract? No never.

MR. SELVAGGI: Okay. And with regards to the Highlands and that debate and believe me I don't want to go into it much further than this, have you read the Highlands Statute?

MR. WEISS: You know Mr. Selvaggi I think we've asked that.

MR. SORANNO: Yes.

MR. WEISS: Let's not go there. We understand Mr. Soranno is the homeowner; we have no expectations of his knowledge of the Highlands of the zoning. Let's not get into that conversation.

MR. SELVAGGI: Okay that's fine.

MR. WEISS: The answer is not going to be helpful.

MR. SELVAGGI: All right. Now what did the building before the Jallads purchased it, what did the . . . I'm talking about the day care building just for clarifications, what was that what did that look like?

MR. SORANNO: Before they purchased it?

MR. SELVAGGI: Yeah.

MR. SORANNO: The property was transferred through the McDavitt Estate to three people Allan Hull was one of the three people he basically . . .

MR. BUZAK: Mr. Soranno . . .

MR. SORANNO: I'm answering the question.

MR. BUZAK: The question was what did the property look like.

MR. SORANNO: It looked like it . . . the building looked like it does now the land looked like a field is what I said. It looked like a pasture is the best explanation.

MR. SELVAGGI: So the building, the day care center was not overgrown or covered in vegetation or anything like that?

MR. SORANNO: It's still covered in vegetation and it has vegetation growing on the roof.

MR. SELVAGGI: Okay but the exterior the grounds around it has there been clearing and improvement in that regard?

MR. SORANNO: Well I wouldn't define it as improvement several trees were cut down which I notified the town and I believe it's not appropriate under our tree ordinance.

MR. SELVAGGI: In fact you wrote a letter complaining I guess it was dated February 10th?

MR. SORANNO: I wouldn't characterize it as complaining I just reminded the town that we had the tree ordinance.

MR. WEISS: Mr. Selvaggi that wasn't testimony that Mr. Soranno brought. I understand you probably have a copy of . . .

MR. SELVAGGI: Well he submitted a copy of that letter to this Board.

MR. WEISS: But we're asking for testimony that Mr. Soranno just gave and he didn't bring that up and let's keep the meeting moving by asking questions of Mr. Soranno based on the testimony he presented. Thank you.

MR. SELVAGGI: Okay. I have nothing further.

MR. WEISS: Thank you anybody else from the public have any questions for Mr. Soranno based on the testimony that he delivered this evening? Seeing none I'm going to close it to the public. Ms. Rubright I'll turn it back to you.

MS. RUBRIGHT: Thanks. I do have a historic preservation architect which I think is appropriate for me to offer his testimony given that we did have testimony from the applicant's architect. There are plans on file with regard to the accessory structure our witness Mr. Hanrahan is that historic preservation architect he has reviewed those plans. We also had testimony from the Historic Preservation Chairman and it's appropriate I would like to offer that witness.

MR. WEISS: Okay here's what we're going to do. We're going to take a five minute break it's now 9:00 at 9:05 we're going to resume and in that five minutes I'm going to speak to our attorney about this question.

MS. RUBRIGHT: Okay thank you.

(FIVE MINUTE BREAK TAKEN)

MR. WEISS: Ladies and gentlemen in the audience we are back I'm going to turn the hearing back over to Ms. Rubright. Thank you for the pause I know you had requested and you actually said that you'd like to bring up your expert architectural witness. I spoke to Mr. Buzak who said it's within the realm of what we're talking about to certainly go ahead and we'll ask you're . . .

MS. RUBRIGHT: Thank you Mr. Weiss thank you Mr. Buzak I appreciate that. I would also note that the building that I'm going to have Mr. Hanrahan discuss is also mentioned in your planners report as well and I didn't mention that before we broke. What I would like to do is have my witness sworn and then I will qualify him, provide his professional and educational background.

MR. BUZAK: Mr. Hanrahan can you please raise your right hand and place your left hand on the Bible.

(MICHAEL HANRAHAN SWORN IN FOR THE RECORD)

MR. BUZAK: Please be seated state your name and business address for the record spelling your last name.

MR. HANRAHAN: My name is Michael Hanrahan (H-A-N-R-A-H-A-N) I'm with Clarke Caton Hintz, 100 Barrack Street, Third Floor, Trenton, NJ.

MR. BUZAK: Thank you sir.

MS. RUBRIGHT: Mr. Hanrahan can you give the Board the benefit of your professional background as well as first your educational background and when you provide your professional background I would like you just to give some indication of some examples of certain projects that you've worked on to give the Board a full understanding of your qualifications.

MR. HANRAHAN: Certainly. As I mentioned my name is Michael Hanrahan I'm an associate partner of Clark Caton Hintz and we are a regional architecture, planning and landscape architecture firm based in Trenton. One of our areas of expertise and my own personal area of expertise is historic preservation. My education experience is I'm a 1996 graduate of NJIT. I earned my Bachelors of Architecture and my Masters of Science concurrently with honors there. I became a licensed architect in the State of New Jersey in 2002, I'm licensed in numerous states. I am the immediate past president of AIE New Jersey I've served on the Board of that for the past ten years or so. Currently I'm on the Board of Preservation New Jersey and as far as notable experience I was the project architect or project management whichever definition you'd like for Historic Morven in Princeton which is the former Governor's Mansion, now a State museum. The restoration of the Roman Mansion for the new home of the State League of Municipalities, all the buildings that the County owns on Main Street in Flemington, I did the restoration of the Historic Hunterdon County Court House, the Hall of Records I can do this for a while but hopefully that is sufficient.

MS. RUBRIGHT: Mr. Hanrahan what is Preservation New Jersey just for further benefit of your qualifications?

MR. HANRAHAN: It's a membership based organization that advocates on preservation issues both locally, at the state and federally.

MS. RUBRIGHT: Okay I would like to offer him as an expert in historic preservation architecture.

MR. WEISS: Does anybody on the Planning Board have any questions for Mr. Hanrahan? I have no problem except

MR. BUZAK: I did have one question.

MR. WEISS: Sure go ahead.

MR. BUZAK: Mr. Hanrahan have you testified before Planning Boards with regard to historic preservation issues?

MR. HANRAHAN: Yes.

MR. BUZAK: Can you just give us an idea of which Planning Boards and the general subject matter.

MR. HANRAHAN: I was before the Hunterdon County Planning Boards for those projects I noted in Flemington. Frequently before the Jersey City Planning Board we do a lot of work for the schools in Jersey City some of which are historic. The City of Trenton we're involved in numerous projects in the city it's our home turf.

MR. BUZAK: So you testified before the Trenton Planning Board?

MR. HANRAHAN: Yes.

MR. BUZAK: All right thank you I have no further questions.

MR. WEISS: And we will accept Mr. Hanrahan as a licensed architect, historical architect and the testimony that he'll present tonight will be based in that area of expertise.

MS. RUBRIGHT: Yes thank you. Mr. Hanrahan you were contacted correct from me and from Carl Soranno from my office?

MR. HANRAHAN: Yes.

MS. RUBRIGHT: And when was that?

MR. HANRAHAN: Last week.

MS. RUBRIGHT: Okay and in connection with that did you review any particular materials? Actually let me ask you, we asked you if you would consult with us with regard to one of the structures on the subject property correct?

MR. HANRAHAN: Correct and my testimony is strictly related to what's been known as the general store. I have no comment on the former day care center.

MS. RUBRIGHT: And we provided you with certain materials that you were able to review correct?

MR. HANRAHAN: Correct I received

MS. RUBRIGHT: I'm sorry and then you've also reviewed the site plan and the architectural drawings that were supplied by the applicant in connection with the general store correct?

MR. HANRAHAN: I saw them for the first time this evening on the table.

MS. RUBRIGHT: But you were able to spend some time reviewing them.

MR. HANRAHAN: I skimmed them yes.

MS. RUBRIGHT: Thank you. What else did you review in connection with your review of the application? What documents did you review?

MR. HANRAHAN: I was provided photographs by the owner, I was provided a copy of Mr. McGroarty's report dated November 28, 2011, I was provided a copy of the property record card which was noted as OBJ-13 I think that might have gotten changed earlier. I was provided a copy of the memorandums prepared by Gary Lindsey the Construction Official for Mt. Olive, I was provided a copy of the structural memo prepared by Eric Heiberg dated September 8, 2011. That's all I can recall at the moment.

MS. RUBRIGHT: Okay and after reviewing those documents and speaking with me as the attorney for Mr. Soranno did you agree to review the matter and then also provide us with an opinion and provide testimony here tonight?

MR. HANRAHAN: Yes.

MS. RUBRIGHT: Did you in connection with that prepare a report?

MR. HANRAHAN: Yes.

MS. RUBRIGHT: And I would just note for the record Mr. Weiss that I did provide a copy of that both to Mr. Selvaggi last evening and the Board secretary. I would like to mark . . . it's dated March 5, 2012 is it necessary for me Mr. Buzak to mark that separately as an exhibit or will the Board duly note that it is a matter of the record.

MR. BUZAK: If I might Mr. Chairman.

MR. WEISS: Please go ahead Mr. Buzak.

MR. BUZAK: I reviewed the report that was prepared by Mr. Hanrahan dated March 5, 2012 a letter to Ms. Rubright on this application. I would suggest that we mark it as the next exhibit which would be OBJ-4 but I noted that the report seems to go beyond the architecture issues so before it goes into evidence I think we should mark it as OBJ-4 for identification and then Ms. Rubright can have Mr. Hanrahan testify with regard to issues and then we'll take it at that point. We may wind up . . . my recommendation may be to limit, to let it into evidence but limit it to the area that Mr. Hanrahan has testified to. But let's see lets . . .

MS. RUBRIGHT: And we can get further clarification on what those areas are that you have reservations about. Okay great thank you.

MR. BUZAK: OBJ-4 into evidence for identification.

MS. RUBRIGHT: Mr. Hanrahan you've also been by the property correct?

MR. HANRAHAN: Yes I drove by it this evening on my way here.

MS. RUBRIGHT: And what is your understanding . . . and you've been here this evening and heard Mr. Soranno's testimony as well as the testimony from the township Historic Preservation Commission Chair as well as certain testimony from Mr. Martin who is the architect on behalf of the applicant.

MR. HANRAHAN: I've been here the entire meeting I've heard all of that.

MS. RUBRIGHT: Okay thank you. What is your understanding from your review of the materials and from listening to the testimony as well as reviewing the documents. What is your understanding of what is at the subject property at the present time. And when I say subject property I'm talking about the subject of the application.

MR. BUZAK: Okay now Mr. Hanrahan you testified earlier that you were referring to the barn and that your testimony would be limited to the barn is that correct?

MR. HANRAHAN: No I'm referring to the general store I have not heard evidence that it was ever used as a barn.

MR. BUZAK: Okay so the general store or the barn but we're talking about that structure is that correct?

MS. RUBRIGHT: That structure correct.

MR. BUZAK: Not the structure onto which the addition is being made and for which the variance is being requested is that correct?

MS. RUBRIGHT: Correct, right.

MR. BUZAK: Okay thank you.

MS. RUBRIGHT: What is your understanding of that structure? It's genesis, what it looks like . . .

MR. HANRAHAN: The information that was provided to me or as I was advised by the objector . . .

MS. RUBRIGHT: You can call him Mr. Soranno.

MR. HANRAHAN: Mr. Soranno sorry. That the building from the testimony we heard earlier was on maps that dated to 1887 so I see no evidence that . . . to the contrary that it would say this building wasn't here in 1887. The exact date of construction is unknown there wasn't building permits back in the day so we'll never know. But the building has been here since that period of time. I understand that the building is not listed on the National or State Register of Historic Places and I don't exactly know if it's listed locally. But perhaps it does have some local significance from the testimony I heard previously. As it was a general store for what was I believe a mining community back in its time. The state of the building appears to be a building that, I'm sorry for this, has been vacant for some time and my definition of that is a building that has not been occupied by human habitation.

MR. WEISS: I'm going to interrupt you and I don't want to continue to do this, why are we talking about this building? We've heard it 100 times this has got nothing to do with the application with the variances being requested we've addressed it.

MS. RUBRIGHT: I beg to differ in that what . . .

MR. WEISS: Wait a second you said that it's mentioned in Mr. McGroarty's report and I agree with you, three sentences. You're bringing up an expert to answer Mr. McGroarty's points in his memo I would expect you to answer the three sentences that Mr. McGroarty noted in his record because I do not want to be here listening to testimony that has got nothing to do with the application and the variances requested.

MS. RUBRIGHT: All right what I will do then I will ask Mr. Hanrahan to address some of the issues that I understand were raised by the Historic Preservation Commission Chairperson who talked about this building. So let me ask you Mr. Hanrahan did you have an opportunity to listen to the testimony from Mrs. Dunkle?

MR. HANRAHAN: Yes.

MS. RUBRIGHT: And you understand what her position is in the township as she introduced . . .

MR. HANRAHAN: Yes.

MS. RUBRIGHT: Did you have an opportunity to review the letter that was provided by Mrs. Dunkle?

MR. HANRAHAN: Yes.

MS. RUBRIGHT: I'm not sure if that letter was marked. Do you know was her letter marked?

MR. BUZAK: It was not marked.

MS. RUBRIGHT: It was not marked all right I would like to mark that then. Let me ask you did you recall Mrs. Dunkle indicating that one of the missions of the Historic Society is to preserve the history of the Township of Mt. Olive and to research and document.

MR. HANRAHAN: Correct.

MS. RUBRIGHT: Do you have an understanding of how the particular building that she did testify about which is the subject building that is off . . . is adjoining Mr. Soranno's property line, is there a way that that building . . . that the existence of that building as a general store in 1988 could be preserved, that the quality and essence of that building could be preserved without necessarily preserving the building itself?

MR. HANRAHAN: I would answer the question this way. My understanding of the ordinance was related to the cost of a new structure related to replacement versus the repair cost.

MS. RUBRIGHT: Actually I just want to . . . Mr. Weiss has indicated that he doesn't want to hear about the building except in that we need to limit our testimony with regard to the building to the extent that it was mentioned in the report by Mr. McGroarty, to the extent that it is shown on the plan of the applicant and to the extent that it was testified to how happy Mrs. Dunkle was and that she would do whatever she could on behalf of the Historic Society to help with the renovation of this building is that were to occur as it was her understanding from speaking with the applicants that it was their intention to preserve as best they can and make that building look like a general store. They also want to, this was her testimony, open it to the kids and to the Historic Society. So to the extent that you're not going to let me ask this witness about that I will ask you to please tell me that right now.

MR. BUZAK: Ms. Rubright ask the question you've now been . . . you need to ask the question of Mr. Hanrahan please ask it.

MS. RUBRIGHT: Well you know we're picking nits here okay? I want to make sure I'm not overstepping bounds here.

MR. WEISS: I'll let you know so ask the question.

MS. RUBRIGHT: All right so let me ask you this question then. You reviewed the plans that showed the architectural drawings correct?

MR. HANRAHAN: Yes.

MS. RUBRIGHT: If that building were to be restored as Mrs. Dunkle said that it was her understanding that the applicant wanted to, how do you believe that that building can be and should be restored to be an historic to keep it in its historic milieu, its historic nature and venue?

MR. HANRAHAN: The documents that I reviewed the architectural plans and elevations, more specifically the elevations that are in the back corner of the room are not in my definition of the word restoration, a faithful restoration. They indicate the use of cedar shakes on the exterior of the building, currently the building has clapboards which I can assume are original to the building although no one is I believe certain of that. The drawings are silent on the proposed windows in materials for the porch that it says new windows but I can't be . . . I'd be guessing if I thought they were wood windows or are they aluminum windows or are they vinyl windows? There's a lack of information on the documents so I heard testimony that the Historic Commission supports maintaining this building and restoring it to its former glory but I don't think the documents that I'm seeing are faithful to that. It would be more of a renovation or rehabilitation than a restoration in my opinion.

MS. RUBRIGHT: And is that . . . how does that correspond to preserving the history and the historic nature of that building if we are to assume that there is a historic nature to the building?

MR. HANRAHAN: If you're to assume there's a historic nature to the building often buildings are kept, I mean it's an issue of cost you know but often buildings are kept but they're advised by their local Historic Preservation Commission or their architect or other entities on how to go about that. The drawings that I saw showed renovating this building or rehabilitating this building in what I am assuming is consistent with the architecture of the proposed renovations to the day care center. The overall form and volume of the building is the same but there are elements of it which I don't believe are consistent historically with the building.

MS. RUBRIGHT: Based on your review of the photographs and your work as a historic . . . what is the correct way to phrase it?

MR. HANRAHAN: I'm an architect. The term historic architect refers to in 1976 Congress passed the National Historic Preservation Act that defines standards for historic architects that the State Historic Preservation Office can advise on. I do meet the criteria for that.

MS. RUBRIGHT: Okay so I can call you an historic architect.

MR. HANRAHAN: Yes.

MS. RUBRIGHT: Based on your work as a historic architect what would this applicant have to do in order to "preserve as best they can" this building?

MR. HANRAHAN: The building needs . . . the building based on photographs is consistent with what I often see as a building that you know has been neglected over time. There's holes in the roof likely needs structural repairs that are . . . foundation is crumbling or non-existent in some locations, so the foundation certainly would have to be repaired, repointed, constructed where needed. The structure would need to be replaced most likely in places there's been open to the weather so it's probably been deteriorated, there's probably portions that need to be sistered to match modern loading. The building itself the clapboards that exist are currently nailed at least from photographs, appear to be nailed directly to the wood frame structure. It would be great if they could be salvaged and reused in a restoration, some of them can't, some of them will break during the salvage process. The reason I say that is you have to remove the siding under current Codes you would need to add plywood or something similar to the frame of the building to create a diaphragm that resists lateral shear in the building and then the siding can be reattached. Wood windows would be appropriate for the restoration and then a new roof sheathing and new roofing minimally for the envelope.

MS. RUBRIGHT: And if you can just elaborate then on, if you can or if you think it's necessary, what would be required to make this look like a general store. Anything further on what you just indicated.

MR. HANRAHAN: Further on that would be the recreation of the porch, although that is a little speculative because I do not know if historic photographs of the general store exist.

MS. RUBRIGHT: And in your experience in doing this kind of work is there a general cost that one could estimate on what it would be? Like a square footage cost for this type of renovation to make it look like a general store and to preserve it?

MR. HANRAHAN: We typically see in what I would consider a faithful restoration of buildings of this type rural agrarian buildings wood frame that we would expect the cost to be somewhere between \$200.00 and \$250.00 a square foot.

MS. RUBRIGHT: Thank you. Now one of the other comments was that this building would be open to the kids and to the Historic Society. In your experience in doing this kind of work what is generally required from a construction standpoint in order to allow a building such as this to quote "be open to the kids and to the Historic Society"?

MR. HANRAHAN: Well the documents would be prepared or the design of the building would be prepared according to the Uniform Construction Code in the State of New Jersey. They would file a building permit the Building Official would look to make sure that the proposed design meets that criteria.

MS. RUBRIGHT: And a Certificate of Occupancy obviously would have to be issued.

MR. HANRAHAN: That's correct.

MR. FLEISCHNER: Mr. Chairman?

MR. WEISS: Sure Mr. Fleischner.

MR. FLEISCHNER: How many square feet is this building? I'm just trying to figure out a big number.

MR. HANRAHAN: I approximate it at 1800 but I would defer to someone else.

MR. FLEISCHNER: Okay thank you.

MS. RUBRIGHT: And I in artfully tried to ask this question before but one of the things that the Historic Preservation representative indicated that one of the missions, and I believe she testified to this a couple of times, was that one of the missions is to try to preserve the history of Mount Olive. Do you recall her testifying about that?

MR. HANRAHAN: Yes that's their mission.

MS. RUBRIGHT: Are there ways to preserve the history of an area without going through the expense of the type of renovation that you're talking about here?

MR. HANRAHAN: A point of clarity I was discussing restoration.

MR. WEISS: Hold on one second.

MR. BUZAK: This hearing is not about how people can go about maintaining or restoring the historic nature of a municipality or the area. This is an application for two variances or for variances with regard to a structure. So I'm going to ask the Chairman to disallow this question and move on to a different subject.

MR. WEISS: I think Mr. Buzak we need to find common ground. And I think if we were to look at Mrs. Dunkle's dream and perhaps you're looking at it as her fantasy we have to agree that regardless of what happens to that building it is not under the authority of this Planning Board to rule on that. It is not going to come in front of us; this Board is not going to hear that. So whether it's turned into an education center, or happened to be knocked down that is not for us to decide. I'm going to remind you Ms. Rubright at 9:45 we're done for the evening. We shut down at 10:00 so if I haven't mentioned it before I'm letting you know now.

MS. RUBRIGHT: I appreciate that. Well I've already gone on the record as disagreeing with that I believe that under the terms of your ordinance and under the terms of your ordinance as well as the Municipal Land Use Law this Board does have jurisdiction over what happens to that building because if it needs construction permits it needs a zoning permit it's a separate use that's going to be occupied on that building. If this is going to be open to the public where are people going to park, are they going to park on Mr. & Mrs. Soranno's driveway, are they going to park on the road that doesn't have any right-of-way, where are they going to park? So you know with due respect I respect Mr. Buzak immensely in his opinions generally, I respectfully disagree with him on this and also with you Mr. Weiss but we'll take that under advisement I certainly will not further any questions on that.

MR. WEISS: But I'd suggest I think that we're agreeing with each other in that when that day comes then that will be addressed. If the applicant comes back and asks for permits then there will be another application presented and we'll go through the proper channel. But right now what's on the table is two variance requests for front and side yard setback. And now we're talking about how we're going to fund or finance a building. I don't want to go there.

MS. RUBRIGHT: That's actually not what I was asking but I just find it a little curious as to why some of the testimony was presented on behalf of the applicant and I understand that you feel that you're offering us an indulgence by letting us present this witness this evening. But the applicant did provide testimony from your Historic Preservation person as well as from the witness from his own architect. And the plans, what do we do with the plans? Let me just assume, let me just ask the question of Mr. Buzak if this application gets approved will those plans, those plans are a part of the plan set so if . . . let's just assume that you approve this application what happens to that plan set?

MR. BUZAK: The applicant needs to proceed to get whatever permits he needs to get and if there's an issue with regard to a construction permit, that issue will be addressed by others than this Board. And if there's some determination made . . .

MS. RUBRIGHT: And it needs to get zoning clearance as well.

MR. BUZAK: Right and if in fact a determination has been made that they cannot do what they want to do they can appeal that to this Board because this a joint Board or they can take whatever

other actions they need to take in order to remediate that issue. But those issues are not before us at this time.

MS. RUBRIGHT: Understood. I would just like to ask one final question of the witness for clarification on one aspect of his report and if you're going to object you know please do. But you do mention something at the very end of your report called Historic American Building Survey and I'm just curious as to what that is.

MR. HANRAHAN: There are times when a building cannot be saved. When that's the case there are mitigation measures that are appropriate for . . . if demolition is required. Those measures include things such as documenting a building to the Historic American Building Survey Standards or HAB Standards as they're known. It's a method of drawing and photographing the buildings so that they can be filed often locally at your library or with your local Historical Commission of what may have been on that site previously. And sometimes historical markers, signs something like that are erected to say what was here back in the day.

MS. RUBRIGHT: Okay I appreciate it no further questions.

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

MR. MCGROARTY: I do not thank you.

MR. BUCZYNSKI: No thank you.

MR. WEISS: Scott?

MR. VAN NESS: Did you walk the property?

MR. HANRAHAN: No.

MR. WEISS: Any follow up? Anybody else? Seeing none let me open it to the public for any questions of Mr. Hanrahan based on the testimony that he delivered this evening. Mr. Selvaggi?

MR. SELVAGGI: Yeah Mr. Hanrahan did you have an opportunity to look at any of the local ordinances?

MR. HANRAHAN: I was provided pieces of the ordinance we I skimmed. I can't say I know them in any great detail.

MR. RUBRIGHT: You know I

MR. WEISS: I'm going to actually agree with where you're going. Mr. Selvaggi . . .

MR. SELVAGGI: No, no we're

MR. WEISS: No, no, no Mr. Selvaggi we made it very he's not testifying at anything but an architect so I'm going to go back to you. If you have a question as the ordinance will pertain to an architect then ask him but please don't ask Mr. Hanrahan.

MR. SELVAGGI: We've spent a lot of time and we're doing all of ourselves a huge dis-service. There is a section in your Township Ordinances, it's under the same section of abandonment

MR. BUZAK: Mr. Selvaggi you will have . . . I believe the Chair will give you and Ms. Rubright the opportunity to sum up, you can make those whatever issues you want to make and legal arguments you want to make or support to your position you can make those at that time. The opportunity now is to question the witness.

MR. SELVAGGI: Okay so I'm clear then this particular ordinance Section 408-87 you did not have made available to you.

MS. RUBRIGHT: You did, you did, you did.

MR. HANRAHAN: Okay I don't know it by the number.

- MS. RUBRIGHT: But he's not allowed to testify about it.
- MR. WEISS: I think the question is is he aware of it that's all.
- MR. HANRAHAN: Yes.
- MR. WEISS: Yes.
- MR. SELVAGGI: Just a quick question, I mean you represent municipalities?
- MR. HANRAHAN: I do not. I mean they're our architectural clients from time to time our office does represent municipalities in the planning capacity.
- MR. SELVAGGI: So you yourself have never
- MR. HANRAHAN: I am not a planner.
- MR. SELVAGGI: No, no, no I meant as an architect I'm sorry.
- MR. HANRAHAN: When I have municipal clients yes.
- MR. SELVAGGI: Have you served as an advisor to any Historic Preservation Commissions?
- MR. HANRAHAN: Yes.
- MR. SELVAGGI: Where at?
- MR. HANRAHAN: Flemington, I was on my local Historic Preservation Commission in Reddington as a citizen, I have filled in for my counter parts in Ocean Township, and in Rocky Hill.
- MR. SELVAGGI: And generally those commissions if you know, do you know that they were created by way of a statute, a State Statute?
- MR. HANRAHAN: I honestly don't know.
- MR. SELVAGGI: Okay. What's generally the mission of those Historical Preservation Commissions?
- MR. HANRAHAN: It's consistent with what was testified previously.
- MR. SELVAGGI: Okay and are you familiar with the New Jersey Historic Trust?
- MR. HANRAHAN: Yes, very.
- MR. SELVAGGI: Okay and what is the New Jersey Historic Trust?
- MR. HANRAHAN: The capacity in which I know them they administer the Garden State Historic Preservation Trust Fund which is competitive grants that fund planning projects as well as bricks and mortar projects across the State of New Jersey.
- MR. SELVAGGI: Okay are you familiar with their goals and objectives besides that which you just testified?
- MR. HANRAHAN: I don't know their mission statement by heart no.
- MR. BUZAK: Mr. Selvaggi with all due respect this is cross examination of Mr. Hanrahan he did not testify at all about all of that. And you know if you have a (inaudible) perhaps you can get to it.
- MR. SELVAGGI: I'll ask a question. Yeah, no that's fine and I'll just ask a question. Isn't there generally a movement or one of the staticals of municipals to try to preserve their historic sites wherever possible?
- MR. HANRAHAN: My experience has been that those municipalities have those historic sites documented. Whether it be on the National or State Register of Historic Places or locally.

MR. SELVAGGI: So if they don't even if a site might have some as you had said I think local significance . . .

MR. HANRAHAN: Perhaps.

MR. SELVAGGI: That doesn't warrant any particular protection or treatment?

MR. HANRAHAN: If someone is entitled to ask, I wouldn't say it was the Historic Trust I would say it's the State Historic Preservation Office for a letter of eligibility I believe is the terminology for inclusion on the National or State Register of Historic Places. And perhaps that may offer some protection.

MR. SELVAGGI: I don't have anything further.

MR. WEISS: Thank you does anybody else from the public have any questions for Mr. Hanrahan? Seeing none I'll close it to the public. Ms. Rubright back at you.

MS. RUBRIGHT: I don't have any other witnesses.

MR. WEISS: Okay so then at this point I think what we'll do Mr. Buzak according to what you had suggested earlier is I think we should give Mr. Selvaggi . . . we're going to give you an opportunity to, any kind of closing comments, any legal arguments you might want us to consider and then we'll turn it over to Ms. Rubright for the same courtesy.

MS. RUBRIGHT: Mr. Weiss I don't want to breach your protocol. My client has asked me if there's a way that he may be permitted to provide a comment, not through me, as a member of the public and I know you know I am representing him but he is the member of the public and I mean I can bring him back I suppose and try to tease it out of him but I would like to have the opportunity for him to present. Perhaps he can even give the closing I mean I don't want

MR. WEISS: I'm going to have to ask the attorney for that answer I don't know enough about it. I've been told that he's represented by Counsel and therefore gives up the right to speak on his own behalf?

MR. BUZAK: You have been told that and that is correct.

MR. WEISS: Okay.

MR. BUZAK: That doesn't mean to say the Board can't consider something else but that is the correct advice.

MR. WEISS: Okay so let's do this. In an effort to keep this open and moving if you're going to give your opportunity to close to Mr. Soranno I'm going allow that. But we're not going to sit here all night and let Mr. Soranno have a say, you have your say, Mr. Smith have his say so I'll leave that up to you. Mr. Soranno keep in mind is in front of us as the owner of the home not as an attorney.

MS. RUBRIGHT: Understood.

MR. WEISS: So I don't expect Mr. Soranno to

MS. RUBRIGHT: I'm going to let Mr. Selvaggi do his . . . you're going to let him close and then I'll open for

MR. WEISS: And I do ask for brevity Mr. Selvaggi though it's not always easiest thing for you.

MR. SELVAGGI: Yeah no, no I'll be brief. Listen . . .

MR. BUZAK: Before you start Mr. Selvaggi, Ms. Rubright can I interrupt you for a second and perhaps Mr. Smith. We had some twenty odd things photographs that were given to the Board in a package. There was testimony provided with regard to two or three of them, two photos one and two. Was it your intention to place all of these photographs into the record?

MS. RUBRIGHT: Yes.

MR. BUZAK: Okay. Mr. Soranno could I . . . and Ms. Rubright can I just ask Mr. Soranno a couple of questions?

MS. RUBRIGHT: Yes to authenticate?

MR. BUZAK: Yes.

MS. RUBRIGHT: Correct yes.

MR. BUZAK: Mr. Soranno are you familiar with the package that you premarked photographs OBJ-1 Photo through 32?

MR. SORANNO: Yes I am.

MR. BUZAK: And do those photographs . . . did you take those photographs at one time or another?

MR. SORANNO: Yes I took every one of them.

MR. BUZAK: And do all of those photographs depict what you actually saw at the time that you took the photographs?

MR. SORANNO: Yes they do.

MR. BUZAK: Mr. Chairman I would ask that or Ms. Rubright had asked that this be placed into evidence and placed as part of the record. We should make the photos as OBJ-Photo 1 thru OBJ-Photo 32 as part of the record and in the evidence.

MS. RUBRIGHT: Mr. Buzak thank you for that. I also since we're doing that wanted to clarify what was the Board's position with regard to OBJ-4 which was Mr. Hanrahan' May 5, 2012 report.

MR. BUZAK: Okay Mr. Chairman I would suggest as I had speculated before we actually had the testimony that the report be placed into the record, as part of the record and evidence but limited to the extent of the testimony that Mr. Hanrahan gave with regard to the historic nature and his background, etc. There are other aspects of this that seems to go to planning issues and other ancillary issues and those I think are outside the expertise of Mr. Hanrahan with all due respect and therefore we should allow the report into . . . or written document that Mr. Hanrahan has prepared but limited to the

MR. WEISS: And I think they supported that I don't believe Mr. Hanrahan testified to any planning testimony.

MR. BUZAK: I believe that is right.

MR. WEISS: And I think that Mr. Hanrahan testified to exactly what we feel his avenue of expertise lies so I think we kind of make that a mute point at this point, except noted for the record.

MR. BUZAK: Very good.

MR. WEISS: Okay Mr. Selvaggi?

MR. BUZAK: Try to set a time period Mr. Chairman it's quarter to 10:00 we have two people . . .

MR. WEISS: I would say if you can do this in four minutes.

MR. SELVAGGI: Four minutes is fine. First of all thank you very much and I appreciate the time and the courtesy extended and I apologize if I got on your nerves. This as I said earlier this evening we've tried to kind of keep it simple. This is an application for front and side yard variance relief to convert an old day care center on Lot 66 in Block 7100 to use it as a residence which is in fact a conforming use in your RR-AA zone district. We had offered the testimony from Mr. Martin both as in support of the C-1 standard and the C-2 standard. That's the planning testimony that is required in support of the two variances sought. Importantly that evidence has gone in, that expert evidence has gone in without any contradictory evidence. I believe the Board correctly pointed out that the architect

while offering expert evidence as to the general store and his opinions on that cannot offer any confident evidence to rebut the planning testimony. And quite honestly even if you had or if they had a planner I think the overwhelming strength of the evidence that was offered certainly justifies the grant of the variance. It's a preexisting structure, it's been there, the addition to the back is actually less of an encroachment in the side yard and the front yard setback is really a creature of the fact that the property owner is going to give roadway dedication, and I think we would all agree is desperately needed. The notion that the day care center has been abandoned and hence it should be destroyed as suggested by the objector is not only contrary to the Municipal Land Use Law it's also contrary to this Township's own Ordinance standards. And I point specifically to Section 400-87 and while the objector correctly noted the idea or the definition of abandonment there's nothing in there that suggest the only remedy is to have the building come down. And in fact the ordinance mimics what's been the longstanding principal in New Jersey Municipal Land Use Law is that you want to take nonconforming structures and try to bring those into conformity. Can you always do it in a situation where it's entirely conforming? No we can't. But it's not our obligation and we can agree to a condition and I think Mr. McGroarty would probably recommend that with respect to the Highlands we understand we're in the Preservation and we have to do that. I respectfully disagree with the notion that we can tear down all of these buildings and run to the Highlands Council and get an approval. The tail that's been wagging this dog is really the general store and that same ordinance I pointed to Section E of that ordinance has a provision dealing with restoration and repairs. And in my humble opinion I think it's directly on point and it lays out the standard by which the Jallad's as I've instructed them will have to abide by. And I'm not going to bore you with it it's fairly lengthy but it talks about what you have to do, you get the Zoning Officer involved, your architect and then they assign a third party to go through it. I believe that that is the very ordinance that should be a condition as it relates if the Board is inclined to go that way that would govern what happens with regards to the general store. Clearly as Mr. Martin testified to there's no suggestion with all due respect to Mr. Soranno I don't think that the conversion of the general store and this house is going to create a negative impact on your zone plan and you're zoning ordinance. And I don't know if I made four minutes but I hope I did so thank you very much.

MR. WEISS: Again we agreed that Mr. Soranno will provide his testimony.

MS. RUBRIGHT: I'm sorry?

MR. WEISS: I thought you said that Mr. Soranno was going to

MS. RUBRIGHT: No, no I was going to incorporate my comments his comments into my close.

MR. WEISS: That's fine. Four minutes.

MS. RUBRIGHT: Okay the day care center, the variances in connection with converting this existing day care center or abandoned day care center, former day care center we're not proving. We believe that this grant of a side yard variance and a front yard variance and to expand the front yard variance would be arbitrary, capricious and unreasonable as there has been no testimony that it would conform with the neighborhood or not be a detriment to the zone plan. In fact Mr. Martin could not even identify the properties across the street from this property; he didn't provide any testimony about how this property conforms with the zone plan or will not be a detriment to the neighborhood. And despite the comments about the one mile, whoever said it was a mile that was the neighborhood up and down Flanders-Drakestown Road? The neighborhood, although Mr. Martin didn't even define the neighborhood but I think we all know what a neighborhood is it's the general area and most of the properties except Mrs. McDavitt's house across the street are set back like Mr. Soranno's house 150 feet from the neighborhood. We have a chance to start afresh here and I'm not advocating a waste of resources however, one needs to look at whether allowing this building to continue and increase in size when the right-of-way is not going to be dedicated, I'm confused about what we're doing with the right-of-way now. My understanding was that the applicant's not going to dedicate the right-of-way. The right-of-way of every other property including individual lots was dedicated. Why is this applicant getting a pass? I'm also confused about what this Board decided about letting us talk about this abandoned structure that's been there for you know since 1988. You let Mr. Selvaggi talk about the ordinance; you wouldn't let my expert talk about the ordinance. What are we doing with it? You had the witness talk about it from the Historical Preservation Commission and then when I tried to have my expert talk about certain things you don't let him talk about it. To me that's arbitrary and capricious and I would certainly at the very least if you're going to grant variances you need to make very specific, a very specific condition that the notices of violation, the notices of imminent danger that were issued in June by your Construction Official are dealt with. I'm unclear about how this Board can grant an application on one aspect when there are outstanding violations on another aspect of the property. But

at the very least if you're going to grant these approvals for these variances for this former day care center that building needs to be cleaned up, the existing violations need to be determined, what you're going to do with them, they need to go through the correct approval and I submit we will be back here in two months or three months asking for the variances or they'll be asking for the variances that you would not let us talk about. So just I plead with you make that a condition of the approval that that be dealt with. Highlands you know obviously that's got to be made a condition of the approval as well. I think Mr. Soranno really he was impassioned, he's looked at this thing for a long time it never looked as bad as it does now that's his motivation, he likes the Township he wants to continue to live here and raise his children here and granting the variances to let this building be converted into a house is not going to be in the best interest of the community or the neighborhood.

MR. WEISS: Thank you Ms. Rubright.

MS. RUBRIGHT: Thanks.

MR. WEISS: At this point I'm going to open it to the public if anybody has any comments about the hearing tonight? Seeing none I'm going to close it to the public. I'll open it to the Planning Board anyone? Joe?

MR. FLEISCHNER: I think the, you know it's a difficult situation but I think the applicant has actually created part of the discussion tonight by including the old general store on the map. Because this application really had nothing to do with that and I agree with the Chairman it had absolutely nothing to do with the old general store. The variances that are being requested are for the old day care center. If it were approved the applicant, before they can do anything with the old general store/barn has to go to our Building Inspector, they would probably have to come before this Board and then a reasonable decision would have to be made by this Board as to whether or not it's acceptable. And from what I've heard, and you can't take back what you've heard once you've heard something you heard it, we're talking huge costs involved if one was going to restore the old general store back as it was let's say 100 years ago. And I know we've struggled in this town and I certainly cannot make a decision as whether the applicant has sufficient funding to do it that's the applicant's business. But there are serious issues with that particular structure. With that being said I don't think that comes into our decision at all on how we vote on this variance. The variance needs to be discussed strictly for the day care center and that everyone has to make their own obviously decision. So I certainly agree with the Chair and with our attorney who has said that the general store has nothing to do really with this application. And again I repeat it was the applicant's mistake in my opinion of actually even referring to that that they were going to go and restore it. That is not a concern for this Board with regard to the variance it's up to them.

MR. WEISS: Thank you Joe. Anybody else? Chuck, Gene?

MR. BUZYNSKI: No.

MR. WEISS: Ed any other discussion?

MR. BUZAK: No I think that I have provided the Board with an adequate framework under which to evaluate the application that's before it and the issue as has been discussed is an application to convert an existing structure to a residential use and to seek two variances. One related to insufficient lot area this is a lot that is 3.57 acres in a 4 acre zone, and secondly for two bulk variances related to the proposed addition to the existing building, and when I say existing building I'm referring to the former day care center both from the easterly side line and the front yard setback. Those are the issues before the Board, if the Board is inclined to find that the applicant has met the burden of proof to demonstrate that there's a hardship based upon either the existing conditions on the lot or a weighing of benefits and detriments with regard to granting the requested variances and that the applicant has satisfied the negative criteria that there's no substantial detriment to the public good and that there's no substantial impairment to the zoning ordinance or the zoning plan. If these variances are granted I would suggest that the conditions among our usual conditions which usual conditions include compliance with all local, county and state laws provide the following specifically, 1) that any approval would be subject to approval by the Highlands Council as required, 2) that there be a dedication of the right-of-way fronting this property consistent with the recommendations of the Planning Board engineer. Those are the only two Mr. Chairman other than as I said earlier one that is always in our conditions which is compliance with all township ordinances that are required.

MR. WEISS: Mr. Buzak as I look over Chuck's report I do have a note if you look on page three 7.5 the applicant testified that the driveway will be removed.

MR. BUZAK: I'm sorry Mr. Chairman you are correct.

MR. WEISS: 7.5 and on 7.7 when requested the applicant said they will revise those plans.

MR. BUZAK: I'm sorry you're correct Mr. Chairman I didn't even look at Mr. McGroarty's report I apologize.

MR. WEISS: And then of course 7.8 applies to the Highlands and without a doubt maybe one of our boiler plate conditions is that it meets the Highlands.

MR. BUZAK: That's correct.

MR. WEISS: And that's all I had. Does anybody else have any conditions? Pat?

MR. WALSH: Yeah on conditions is it possible, I don't even know if it is, that a condition be that the other building be either restored or raised? Is that possible?

MR. BUZAK: I think that's beyond the application that's before us.

MR. WALSH: We just focus on the one okay I hear you.

MR. BUZAK: Correct.

MR. WEISS: That being said

MRS. NATAFALUSY: Mr. Buzak? Mr. Chairman?

MR. BUZAK: Yes.

MRS. NATAFALUSY: Do they have to pay COAH fees, residential?

MR. BUZAK: They may and we usually put that in as part of the condition that's one of our boiler plate conditions if it's applicable.

MR. WEISS: Anything else? With that being said I will entertain a motion.

MR. RUSSELL: I'll move that PB 11-27 be approved with those conditions.

MR. WEISS: And a second?

MR. NELSEN: I will second.

MR. WEISS: The motion has been made and seconded, if anybody has any comment you can do so before you cast your vote at this point. Catherine I'll ask for a roll call.

MRS. NATAFALUSY: Joe Fleischner -

MR. FLEISCHNER: I do have issues but I will vote yes.

MRS. NATAFALUSY: Nelson Russell - yes
 David Scapicchio - yes
 Scott Van Ness - yes
 Pat Walsh - yes
 Steve Bedell - yes
 Brad Zwigard - yes
 Howie Weiss -

MR. WEISS: I have a couple of comments before I cast my vote. I understand, I heard Ms. Rubright's passionate plea at the end and I kind of respectfully disagree. I think that from the Chairs standpoint not allowing the architect to testify on planning issues is extremely reasonable. It's hardly arbitrary and nor is it capricious so I kind of stand where I stood the only reason I shut down the architect was because we were getting near testimony that dealt with planning issues. The same is true when it came to the opportunity that the objector had towards providing testimony about the barn, the

general store whatever we'd like to call it. The instructions were clear throughout the entire hearing doing the right thing, the reasonable thing that you put on target we provided reasonable and certainly ample opportunity for the objector to provide testimony as it pertained to the applicant's testimony delivered previously. And I'm really going to base my decision on, I kind of stuck in my head about an hour ago when Mr. Soranno was talking about his plea, his passionate plea and I kind of agree with him where he said we have an opportunity to fix it and to fix it properly and I think the Planning Board in front of us has an opportunity to take a nonconforming residence or nonconforming structure and turn it into a conforming use and I think we're well on our way and I know at this point it seems to be apparent but I'm going to vote yes as well. With that being said this meeting is concluded thank you all for your participation. We have no further business I'll entertain a motion to adjourn.

MR. VAN NESS: Motion to adjourn.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 10:05 P.M.)

Transcribed by:
Lauren Perkins, Secretary
Planning Department