

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:** John Cavanaugh, Joe Fleischner, Rene Gadelha (7:33), Nelson Russell, Jim Staszak, Scott Van Ness (7:32), Steve Bedell, Howie Weiss

**Members Excused:** John Mania, Mayor David Scapicchio, Dan Nelsen

**Professionals Attending:** Chuck McGroarty, Planning Consultant, Eugene Buczynski, P.E., Tiena Cofoni, Esq., John Miller, Esq. (7:34), Catherine Natafalusy, Planning Administrator

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

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**APPROVAL OF MINUTES**

**May 19, 2011 Public Meeting**

Motion: Joe Fleischner  
Second: Nelson Russell

**Roll Call:**

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

MR. WEISS: Catherine Scott is here too so you might want to include him. Scott?

MR. VAN NESS: I have to abstain I don't know what you're talking about.

MRS. NATAFALUSY: That's why I didn't call him.

MR. WEISS: Okay I just wanted to give him that opportunity.

MR. VAN NESS: Thank you.

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**RESOLUTION FOR APPROVAL**

**Resolution #PB 11-14 – Jose Tamayo**

Motion: Joe Fleischner  
Second: Nelson Russell

**Roll Call:**

John Cavanaugh - yes  
Joe Fleischner - yes  
Nelson Russell - yes  
Scott Van Ness - yes  
Steve Bedell - yes

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**COMMITTEE REPORTS**

MR. WEISS: Okay committee reports it will be quick because the Mayor is not here; Mr. Mania is not here for the Council report, Environmental Commission Nelson?

MR. RUSSELL: We met last night we discussed the Rezamir Estates restoration, we discussed the docks at the boathouse we don't know who put them in. We discussed the rain garden at Sand Shore School, the Boy Scout tree planting at Turkey Brook which we had last meeting. The Simoff project and its conversion, and the feasibility of building environmental web pages on the town site.

MR. WEISS: Nelson do you think the Environmental Commission is going to have a report or any kind of presentation for that Simoff application?

MR. RUSSELL: It hasn't come up.

MR. WEISS: Okay well you know the date right its August something.

MR. RUSSELL: Yes.

MR. WEISS: Also just to fill up on what you said I know that the Mayor has been in communication with the owner of the docks that recently went into the lake so you might want to follow up with the Mayor I think he's had a meeting with them.

MR. RUSSELL: Okay.

MRS. NATAFALUSY: I can tell you we met with the owner of the Boathouse and they were the ones that put the docks in. They're moving them to the correct . . . they put them to the right of the main dock they're moving them because they were encroaching onto township property so they're going to move them over. I think everything should be okay.

MR. WEISS: Thanks Catherine. Ordinance Committee Rene?

MS. GADELHA: That's Jim but we haven't had it so there's nothing to report.

MR. WEISS: Jim do you concur with that report that Rene just presented?

MR. STASZAK: Yes we've met and we're waiting for some information from Chuck and Gene so once we get that we'll be able to bring you back that information.

MR. WEISS: Perfect thank you Jim and we'll look forward to that. Street Naming Committee we have no report although I did get an email from Thea Dunkle she wants to get a committee meeting together so I'll probably have something on the committee soon. Open Space Committee Rene.

MS. GADELHA: The only thing I have to report is that the trail maintenance day was moved from last weekend to this Saturday at 9:00 a.m. behind the High School for anyone who wants to help because of inclement weather last week.

MR. WEISS: Okay thank you. Okay any other business, open business Chuck, Gene? Catherine?

MRS. NATAFALUSY: I just have one thing the Board . . . Mr. Fleischner asked last week what the balance was in the tree fund, \$75,459.86.

MR. FLEISCHNER: Well we talked about last night actually if there was a fair amount of money that sitting there it doesn't plant any trees so we really need to come forth with the proposal of where we can plant some more trees on public property around town.

MR. WEISS: Are you suggesting that the proposal come from the Environmental Commission?

MR. FLEISCHNER: I would think that would be a good idea.

MR. WEISS: Well I'd like to make that an action item Nelson perhaps they can start working on that and make a proposal.

MR. RUSSELL: Right.

MR. WEISS: Catherine such a proposal would come to the Planning Board right? We'd make the final determination?

MRS. NATAFALUSY: You make a recommendation to the governing body.

MR. WEISS: Okay so we understand the process.

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**EXTENSION REQUEST**

**APPLICATION #08-13 ZBA – LANTERMAN / BORELLI**

MR. WEISS: Okay no other further business let's move on to our first extension request. The first one tonight is application 08-13 from the Zoning Board of Adjustment Lanterman / Borelli. It's an extension of a variance previously granted on Block 8000, Lot 10 located at 360 Drakestown Road and this evening I believe we have Donald Lanterman. Mr. Lanterman if you would come up to the table. What we're going to do this evening Mr. Lanterman is we're going to swear you in, we're going to let you to create a record and you'll explain to us why you need an extension.

(DONALD LANTERMAN SWORN IN FOR THE RECORD)

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

MR. LANTERMAN: Donald W. Lanterman, Jr. (L-A-N-T-E-R-M-A-N) 360 Drakestown Road.

MS. COFONI: Thank you.

MR. LANTERMAN: You're welcome.

MR. WEISS: Okay so Mr. Lanterman like I mentioned briefly you're here for an extension request of your previously granted extension.

MR. LANTERMAN: Yes sir.

MR. WEISS: And now you're looking for a request. So for the record why don't you tell us a little bit of history of what's transpired that brings you here tonight?

MR. LANTERMAN: Well over the course of the last four to five years I've been getting extensions because I've been in the National Guard and the National Guard has taken me overseas twice since then and I was never able to get the project started when I wanted to. Then unfortunately the downturn came with obviously the market and then I couldn't afford it, that last request I had was for 18 months and I thought I was going to be able to get started with it in that time frame but was unable to. When my builder was ready he came in come to find out, actually I think it was a week and a half ago that my extension was run out and I hadn't taken a look at it in probably months and just completely forgot about it. So I'm here to request another extension so that my builder can go ahead and get the application permits started.

MR. WEISS: Tell us briefly just real quickly what is the project that you proposed?

MR. LANTERMAN: It's an extension off the back of the house approximately 700 square foot kitchen addition and basement.

MR. WEISS: Okay and all approvals have been granted prior from this Board?

MR. LANTERMAN: Yes sir.

MR. WEISS: As well as originally from the Zoning Board when we had one.

MR. LANTERMAN: Yes sir.

MR. WEISS: I think I do recall this application. Okay so I guess one question for you Mr. Lanterman is what kind of time frame do you think you'll need from this Board to finish your project?

MR. LANTERMAN: Well at this point as soon as my extension is approved my builder is going to start with the . . . he's got the paperwork ready to go and he was ready to submit it but found out my extension, my variance ran out. So basically now it's just a matter of getting my extension so he can go ahead and put the paperwork in for permits.

MR. WEISS: Okay Catherine when did this extension expire?

MRS. NATAFALUSY: It expired on March 2011.

MR. LANTERMAN: Yes.

MR. WEISS: March 31<sup>st</sup>?

MRS. NATAFALUSY: March 31, 2011.

MR. WEISS: So any extension that we would . . . that this Board would grant would be effective from March 31 correct? Does anybody on the Planning Board have any questions? Anybody need any more information from Mr. Lanterman? Tiena anything we might want to know?

MS. COFONI: No I think that's everything.

MR. WEISS: Chuck?

MR. MCGROARTY: Nothing Mr. Chairman.

MR. WEISS: We had no issues pending that we remember from the last application. Well I think that with your commentary about your ready to start right now I would imagine that I one year extension . . .

MR. LANTERMAN: Will be more than enough.

MR. WEISS: From March 31<sup>st</sup> expiring March 31, 2012 sounds like it would be . . . .

MR. LANTERMAN: More than adequate yes sir.

MR. WEISS: Are you sure?

MR. LANTERMAN: Yes sir I'm ready to go now.

MR. WEISS: Okay let me then if I will I'll look for a motion to extend this . . .

MR. FLEISCHNER: Can I just ask a question?

MR. WEISS: Sure Joe go ahead.

MR. FLEISCHNER: If this motion is approved how many days does he have to wait to start? If he can start tomorrow once the . . . . I don't know that's why I'm asking.

MRS. NATAFALUSY: He could apply for his building permits if Gary has any issues I'll sign off on it knowing that the Board . . . .

MR. FLEISCHNER: Just wanted to make sure.

MR. WEISS: Can't imagine you'd have an objection with that.

MR. LANTERMAN: Negative I do not. Thank you.

MR. WEISS: Any other questions? So that being said I'll entertain a motion for a one year extension beginning March 31, 2011.

MR. FLEISCHNER: I move we approve the extension beginning March 31<sup>st</sup> through March 31, 2012.

MS. GADELHA: Second.

MR. WEISS: Perfect. Any conversation? Discussion? Seeing none Catherine roll call.

MRS. NATAFALUSY: John Cavanaugh - yes  
Joe Fleischner - yes  
Rene Gadelha - yes  
Nelson Russell - yes  
Jim Staszak - yes

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

MR. WEISS: Mr. Lanterman good luck.

MR. LANTERMAN: Thank you very much.

MR. WEISS: My pleasure.

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**APPLICATION #PB 11-11 – PETSMART**

MR. WEISS: Okay our first developmental matter this evening is continuation of PB 11-11 which is Petsmart. It is a “d” variance a use variance where they want to utilize a portion of the existing store for the pet adoption center located at 50 International Drive, Block 4100, Lot 9.01 and this hearing expires August 4<sup>th</sup> and we have Mr. Flannery with us.

MR. FLANNERY: Yes.

MR. WEISS: Welcome back Mr. Flannery.

MR. FLANNERY: Thank you very much. Good evening Mr. Chairman, members of the Board Peter Flannery appearing tonight before you on behalf of Petsmart. I’d like to thank the Board for this opportunity to come back and just supplement our testimony from last month I know there were some incomplete issues. Just a bit of housekeeping, notice was carried however we did re-notice out of an abundance of caution because we are asking for that secondary adoption station in the store and we’ll get into that in more detail. But we included that in our notice and I had sent it to Ms. Natafalusy yesterday.

MRS. NATAFALUSY: I got it today.

MR. FLANNERY: Great.

MR. WEISS: So that’s correct with you Catherine?

MRS. NATAFALUSY: Yes.

MR. WEISS: Okay. And Mr. Flannery I guess I recall when we met just a couple of weeks ago there was a lot of confusion as to the operations.

MR. FLANNERY: Correct.

MR. WEISS: I don’t think that you had the proper individuals here that were able to answer our questions.

MR. FLANNERY: Correct.

MR. WEISS: And if I’m wrong, maybe the Board will remind me, but I think we went through the expert testimony and we were really waiting to hear logistics from the Eleventh Hour?

MR. FLANNERY: Yes that’s correct. Mr. McDonough the professional planner had completed his planning testimony.

MR. WEISS: And so do you plan on bringing up any other expert?

MR. FLANNERY: No the only witnesses that we anticipate are the store manager for Petsmart and the adoption agency representatives.

MR. WEISS: Perfect that’s how I remember too. Okay well with that said Mr. Flannery why don’t you take over, call up your witnesses and let’s move on.

MR. FLANNERY: Thank you Mr. Chairman. My first witness will be Mr. Thomas Acconzo the Manager of the Mt. Olive Petsmart store.

MR. WEISS: We'll swear you in.

(THOMAS ACCONZO SWORN IN FOR THE RECORD)

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

MR. ACCONZO: It's Thomas Acconzo (A-C-C-O-N-Z-O) and it's at 50 International Drive, Flanders 07836.

MR. WEISS: Thank you Tom.

MR. FLANNERY: Mr. Acconzo if you could just briefly state your position and your years of service with Petsmart.

MR. ACCONZO: I am the store manager of the Mt. Olive store and I've been with Petsmart nine years.

MR. FLANNERY: Great. I'm going to introduce an exhibit I believe this is A-4 it's a Petsmart fixture Mr. Acconzo this has been prepared by Petsmart? I'm just going to pass it out to the Board it's a handout actually its very similar to . . . this was not submitted in time, the ten days but I have it to pass out to the Board members if I could.

MS. COFONI: This is a new exhibit 4? Or it was previously marked?

MR. WEISS: No we ended on A-3.

MRS. NATAFALUSY: Right.

MS. COFONI: Okay yep I have it here.

MR. WEISS: So this is now A-4?

MR. FLANNERY: Correct.

MR. WEISS: Which is what?

MR. FLANNERY: This would be an amended fixture plan. It's the same fixture plan it just shows the cat adoption station.

MS. COFONI: And what is the date on that?

MR. FLANNERY: The date is, looks to be November 5, 2010 I don't see a revision date.

MS. COFONI: Okay.

MR. WEISS: Mr. Flannery you might want to also give one to Tiena, Chuck . . .

MR. FLANNERY: Oh absolutely I'll be right there. Mr. Acconzo on exhibit A-4 the pink shaded area is the enhanced adoption facility correct?

MR. ACCONZO: Yes.

MR. FLANNERY: And how big is that approximately?

MR. ACCONZO: It's about 1,800 square feet.

MR. FLANNERY: Okay. It's located in the same location where the previously approved veterinary facility is located right?

MR. ACCONZO: Yes.

MR. FLANNERY: And who will be staffing this adoption center?

MR. ACCONZO: Eleventh Hour Rescue Group.

MR. FLANNERY: Okay and how many dog rooms will there be?

MR. ACCONZO: 19.

MR. FLANNERY: Okay.

MR. ACCONZO: I think its 11 small rooms and 8 large rooms.

MR. FLANNERY: Okay and large rooms are about 4 feet by 6 feet?

MR. ACCONZO: Yes.

MR. FLANNERY: Small rooms 4 feet by 4 feet?

MR. ACCONZO: 4 feet by 4 feet.

MR. FLANNERY: And there's one that's 3 feet by 3 feet.

MR. ACCONZO: Yes.

MR. FLANNERY: And there would also be 16 cat condos in the cat room?

MR. ACCONZO: Yes.

MR. FLANNERY: And those are about 34 inches high?

MR. ACCONZO: Yes.

MR. FLANNERY: 30 inches in length and 25 inches in width?

MR. ACCONZO: Yes.

MR. WEISS: Let me interrupt real quick I know you just said that you have 19 dog rooms?

MR. ACCONZO: Yes.

MR. WEISS: What is a dog room is that one per . . .

MR. ACCONZO: It's a kennel yes like a kennel area.

MR. FLANNERY: It's not a real room it's more of a holding area for the animal.

MR. ACCONZO: Yes.

MR. WEISS: Okay so when you refer to a room then it's essentially the space allocated for one dog.

MR. ACCONZO: Yes.

MR. WEISS: Okay.

MR. MCGROARTY: Would that be the same for a condo Mr. Chairman?

MR. WEISS: Well that would be a good next follow up question.

MR. FLANNERY: I believe its one cat to a cat condo and one dog to a dog room unless there's a litter of puppies and kittens correct?

MR. ACCONZO: Yes.

MR. FLANNERY: And the puppies and kittens go pretty quickly?

MR. ACCONZO: Yes, yes oh yes.

MR. VAN NESS: Mr. Chairman?

MR. WEISS: Hold on one second Scott?

MR. VAN NESS: Is that by regulation or is that just your plan?

MR. ACCONZO: That's just how we see it suitable for the dogs and the cats it's easier to house them with one per space.

MR. VAN NESS: There's no regulation that says you can't put more than that.

MR. ACCONZO: No it's just space (inaudible) in there it would be more comfortable I would say with one per cage or kennel or room.

MR. FLANNERY: In this facility there's also a playroom?

MR. ACCONZO: Yes.

MR. FLANNERY: And there's what we call a Caroma toilet a waste disposal system, storage, washer/dryer?

MR. ACCONZO: Yes.

MR. FLANNERY: Meet and greet rooms?

MR. ACCONZO: Two of them.

MR. FLANNERY: There's also going to be a smaller 150 square foot cat adoption station in the store?

MR. ACCONZO: Yes.

MR. FLANNERY: And that's located on the plan it's the sort of midway through the store on the . . . I guess the left hand side? It says adoption center?

MR. ACCONZO: Yes.

MR. FLANNERY: And who will staff this facility?

MR. ACCONZO: Pet Adoption League.

MR. WEISS: So just for the record you're referring to the area that's got a little squiggly line around it probably about half way through to the left.

MR. ACCONZO: Yes correct.

MR. WEISS: So I'm sorry I didn't hear what you said, how many cats are there right now?

MR. ACCONZO: Right now currently none.

MR. WEISS: None?

MR. ACCONZO: None.

MR. WEISS: I thought they said last time that there are currently cats there.

MR. ACCONZO: We were currently holding them there but since then we've taken them out.

MR. FLANNERY: After the hearing last month they were immediately removed. There was a misunderstanding that's when I thought that it was approved for that use and it was not.

MR. WEISS: Okay.

MR. FLANNERY: And how many cat condos are there?

MR. ACCONZO: There are eight small rooms and one large one.

MR. FLANNERY: And how many cats would be in the large one?

MR. ACCONZO: Two.

MR. FLANNERY: So there will be two in the large and then one each in the smaller, the eight smaller cat condos.

MR. ACCONZO: Yes.

MR. FLANNERY: Okay.

MS. COFONI: I'm sorry can you repeat that I missed it. How many in this special cat adoption area you'll have how many large cat condos?

MR. ACCONZO: There's one large currently yes where you can put two cats in it and then there's eight smaller ones where you could put one in each.

MR. FLANNERY: And who would staff this facility?

MR. ACCONZO: The Pet Adoption League.

MR. FLANNERY: Okay. In terms of exercise the dogs you exercise just in the designated play area correct?

MR. ACCONZO: Yes.

MR. FLANNERY: In the adoption facility.

MR. ACCONZO: Yes.

MR. FLANNERY: And the cats would not be exercised outside of their . . . .

MR. ACCONZO: Outside of the facility no.

MR. WEISS: Tom we missed one thing. Who is going to be taking control of these cats you said the Pet Adoption . . .

MR. ACCONZO: Pet Adoption League yes that's the organization.

MR. FLANNERY: And we'll have a representative from both agencies here tonight to discuss.

MR. WEISS: Okay.

MR. FLANNERY: Could you briefly describe the waste disposal process?

MR. ACCONZO: It's . . . what it is is a Caroma toilet bowl it's a high powered toilet bowl and that's what would be where you would put the dog waste.

MR. FLANNERY: And this is located in the adoption center.

MR. ACCONZO: In the facility itself yes.

MR. WEISS: Is it currently there?

MR. ACCONZO: No.

MR. WEISS: Okay.

MR. FLANNERY: And in terms of Petsmart policies these would be followed by the adoption agencies correct?

MR. ACCONZO: Yes.

MR. FLANNERY: In terms of screening animals that come into the store.

MR. ACCONZO: All dogs and cats that come in would be spayed or neutered beforehand and be current and up to date on shots along with the two week period where they quarantine before they come in.

MR. FLANNERY: And they would be of course healthy.

MR. ACCONZO: Yes.

MR. FLANNERY: And if an animal became sick it would be removed from the store as soon as possible?

MR. ACCONZO: Yes there is a room that they would go into right away but then the organization will take them out as soon as possible which would be that day.

MR. FLANNERY: And that doesn't currently exist it would be constructed as part of the adoption facility?

MR. ACCONZO: Yes.

MR. FLANNERY: There is one existing as Mr. Croker last month had indicated.

MR. ACCONZO: Yes there is a room that is enclosed where that area would be.

MR. FLANNERY: That's all the questions I have Mr. Chairman.

MR. WEISS: Anybody on the Planning Board have any questions? Rene?

MS. GADELHA: You mentioned the play area for the dogs?

MR. ACCONZO: Yes.

MS. GADELHA: Will they ever go outside to run or they strictly get their exercise in that play area?

MR. ACCONZO: Strictly inside yes.

MS. GADELHA: And what's the maximum amount of time you would have a dog in the facility if it wasn't adopted one day? How many days would the dog potentially . . .

MR. ACCONZO: That we were looking at 7 to 10 days.

MS. GADELHA: And then you give it back to where you got it?

MR. ACCONZO: Yes then it would almost be like . . . it would go back to the foster home and then a new one would come in.

MS. GADELHA: Okay.

MR. ACCONZO: So it's almost like rotating.

MS. GADELHA: But no dog would be there longer than the 7 to 10 days.

MR. ACCONZO: No.

MS. GADELHA: Okay.

MS. COFONI: Or cat?

MR. ACCONZO: Cats currently what we have it's up to three weeks, cats usually same thing get adopted pretty quick as well. But that's what we currently are using in the regular adoption centers.

MS. COFONI: So a dog will be there a maximum of 10 days and cats a maximum of three weeks?

MR. ACCONZO: That's what we we're currently using.

MR. FLANNERY: So would there be . . . is this an average you know there might be times where animals stay a little longer or they'd stay for less time?

MR. ACCONZO: Probably less time usually they get in and get adopted pretty quick. Especially when they have the exposure of the customers coming in and out every day they see them and usually right away they want to adopt some.

MR. WEISS: Tom who maintains the paperwork on that is it Petsmart or Eleventh Hour for the dogs to make sure that they're only ten days?

MR. ACCONZO: When they come in there's a form that we actually . . . we'll check the rabies and everything and sign in that they showed up on that date. And then that will stay with them for the time that they're in the facility.

MR. WEISS: Scott?

MR. VAN NESS: The play area, is there any time that dogs will be housed in there overnight or for any extended period of time because the condos and the rooms are full?

MR. ACCONZO: No.

MR. VAN NESS: And if the Board was to impose a ten day limit of the housing of the animals would that cause a hardship to any of the organization at all?

MR. ACCONZO: No I don't think so just because they have a good amount of fosters that they can move them in and out.

MR. FLANNERY: Let's qualify that and have the agency answer that if you don't mind Mr. Van Ness.

MR. VAN NESS: Fair enough.

MR. WEISS: Nelson?

MR. RUSSELL: The dog adoption area is that soundproof?

MR. ACCONZO: I'm not quite sure. I do know that it's not connected to any other store or retail or anything it's basically built in the middle of our store.

MR. RUSSELL: Glass front or . . .

MR. ACCONZO: Window front yes.

MR. RUSSELL: Window front.

MR. ACCONZO: But walls, concrete walls around every side except for the front it's a regular wall.

MR. WEISS: I just want to clarify one thing. Originally the application called for 19 dogs, 16 cats that's what we spoke about last time.

MR. ACCONZO: Correct.

MR. WEISS: And so now we're still at 19 dogs but according to my numbers we're at 26 cats.

MR. ACCONZO: Yes.

MR. WEISS: So . . .

MR. ACCONZO: 16 in the facility, 10 in the station.

MR. WEISS: Comes to 26.

MR. ACCONZO: Correct.

MR. WEISS: So do we have to make any kind of an amendment? The fact that I think the original . . . I don't know if it was on the application that you're looking to house 16 cats but now you're at 26 cats. Does that need to be corrected?

MS. COFONI: As long as it's clarified on the record by the applicant that's adequate. You don't have to technically amend the application.

MR. WEISS: Okay but we need to make sure that that's the number and I think we told you last time you tell us what the number is.

MR. ACCONZO: That would be the number.

MR. WEISS: I think the record right now shows at 16 based on what we talked about last time and today you said 26 so we'll have to make sure that if there's an approval it's for 26 because the day we approve 26 and you have 27 then it's a violation. The same thing if we agree to 16 the day you put 17 in it's a violation.

MR. ACCONZO: Absolutely.

MR. WEISS: We don't want to necessarily be worrying about violations. Tom I had one last question for you.

MR. ACCONZO: Yes.

MR. WEISS: The proposed adoption center, where is that currently in relationship to the grooming center?

MR. ACCONZO: If you're walking to the back of the store it would be to the left of the grooming center. So it would be if you walked in its directly straight ahead to the right is the grooming center.

MR. WEISS: The grooming center so it's the right hand corner.

MR. ACCONZO: Yes.

MR. WEISS: Jim.

MR. STASZAK: Question. Will there ever be more than 19 dogs in your adoption center? Maybe not overnight but just for an event? Or is that up to Eleventh Hour? Because you're having an adoption.

MR. FLANNERY: We can have Eleventh Hour clarify.

MR. ACCONZO: Yeah I'm not sure.

MR. STASZAK: We're talking about overnight accommodations for 19 dogs.

MR. ACCONZO: Overnight there shouldn't be . . . I mean for weekends that we would have like an adoption event there would probably be more but not housed in each cage and stuff like that.

MR. STASZAK: But more than 19 wouldn't be housed overnight.

MR. ACCONZO: No.

MR. STASZAK: Okay.

MR. WEISS: They'll take them back.

MR. ACCONZO: Yes.

MR. WEISS: I have a list of questions, open issues and it looked like Tom had just addressed those that he's comfortable with. Does anybody else have any questions? Rene?

MS. GADELHA: Just to clarify. I'm assuming that in the grooming area you have kennels.

MR. ACCONZO: Yes.

MS. GADELHA: So those would never be used for the purposes of housing overnight it's strictly this area designated in red.

MR. ACCONZO: Yes.

MS. GADELHA: Okay.

MR. FLANNERY: And we'd make that a condition of any approval.

MR. WEISS: And I think we did discuss that the authority of this facility is run by the Health Department correct?

MRS. NATAFALUSY: Yes.

MR. WEISS: The Health Inspector would have jurisdiction in this?

MRS. NATAFALUSY: The Animal Control Officer.

MR. WEISS: Animal Control okay. Okay Tiena.

MS. COFONI: We were talking about 19 dogs and 26 cats but you did say that if you had a litter of kittens or puppies that they would all be together in one room so that would increase that number and that could be overnight correct? I guess because you don't separate them and keep them all with the mother?

MR. ACCONZO: Yes you normally would. But if they're that young they would probably be still at the foster home just because there's the weaning off the mother.

MR. FLANNERY: We'll have Eleventh Hour discuss that and add some clarification.

MS. COFONI: Okay. I had another question for you. I missed how big the cat adoption area is the one that's on the side of the store, how big of an area is that? Do you know?

MR. ACCONZO: It's about 187 square feet.

MR. FLANNERY: I think you testified it was 150?

MR. ACCONZO: Oh yes 150 square feet.

MS. COFONI: So all of the animals go to the bathroom in the condo or rooms and then those are taken out and you use the then high powered toilet bowl to dispose of it.

MR. ACCONZO: Yes.

MS. COFONI: I think that's all I have.

MR. WEISS: Anybody else on the Planning Board? What I'd like to do at this time is open the meeting to the public, if anybody on the public has any questions based on the testimony that Tom gave us? Seeing none . . . I'm sorry sir what I'll ask you to do is come to the microphone state your name and address for the record. And again you're here to ask questions of the testimony given.

MR. CALDERWOOD: My name is Stan Calderwood 25 McKelvie Street in Budd Lake.

MR. WEISS: Stan would you spell your last name for the record please?

MR. CALDERWOOD: Yes (C-A-L-D-E-R-W-O-O-D) and my question is will any of the pets potentially be sent to research labs for animal research if not adopted?

MR. FLANNERY: Eleventh Hour will answer that.

MR. CALDERWOOD: Okay thank you.

MR. WEISS: You can certainly ask that question in the next round. Okay Tiena you had a question?

MS. COFONI: It's actually going to be for Eleventh Hour.

MR. WEISS: Okay I have nothing else Tom I thank you very much.

MR. ACCONZO: Great thank you.

MR. FLANNERY: My next witness I'd like to call Ms. Linda Schiller from Eleventh Hour Rescue.

MR. WEISS: Linda we'll ask you to do the same thing we'll have you sworn in.

(LINDA SCHILLER SWORN IN FOR THE RECORD)

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

MS. SCHILLER: Okay my name is Linda Schiller (S-C-H-I-L-L-E-R) 21 Mt. Pleasant Avenue in Rockaway.

MR. WEISS: Welcome Linda.

MR. FLANNERY: Ms. Schiller if you could just briefly describe your position with Eleventh Hour and a little history about Eleventh Hour and what you guys do.

MS. SCHILLER: I'm the President and founder of Eleventh Hour it's the best thing I've ever done in my life. We got our name Eleventh Hour because we go into kill shelters at the Eleventh Hour and take dogs and cats off of death row just before they're scheduled to be euthanized. And we've been doing it since 2004 we currently are renting a kennel in Randolph on Route 10 where we house 60 dogs and we have probably 60 more in fosters and we just started doing cats and kittens this year.

MR. FLANNERY: Great if you can describe the adoption program as it will be undertaken at the Petsmart store?

MS. SCHILLER: Right now we're anticipating we're probably going to hire two full time employees and two part time and supplement that with the volunteers. I have a bunch over-achieving volunteers who I will not be able to keep away from these animals no matter what so we will be probably overstaffed.

MR. FLANNERY: Great and you agree with the testimony of Mr. Acconzo in terms of the policies and the organization of the facility?

MS. SCHILLER: Yes.

MR. FLANNERY: If you can address the issue of the overnight stay of the kittens and puppies, litters?

MS. SCHILLER: Actually I would not allow 8 week old puppies to stay in a facility unattended overnight. If we were going to have puppies there they would be older probably like 3 or 4 months, 8 week olds are too young they need to stay in a foster.

MR. FLANNERY: Thank you. That's all I have of Ms. Schiller I don't recall any additional questions from the Board but certainly . . .

MR. WEISS: Nelson go ahead.

MR. RUSSELL: What do you do for flea control of both cats and dogs?

MS. SCHILLER: Well we do Capstar which is a pill you give them if they have fleas it kills them within 30 minutes and we Frontline them every month.

MR. WEISS: I guess maybe now is a good time I'm looking at a note that came from Frank Wilpert our Health Inspector and he of course talks about he has no objections assuming you work with approval of the State and Local Health Department regulations. I suppose that's your obligation Linda to make sure that that's . . .

MS. SCHILLER: We're currently doing that we're a 501C3 not for profit organization. We are controlled and mandated, but we do at our kennel by the Health Officer in Randolph so we're already in compliance with what we're doing and we've been doing that for four years and never have had a problem and we will do the same in Mt. Olive.

MR. WEISS: And so the final point of my comment was that according to what Frank had suggested he recommends that you meet with him and review the regulations that are in place here in Mt. Olive, and so we certainly would make that a condition that you meet with Frank to go over his concerns and make sure that everybody is on the same page regarding regulations.

MR. FLANNERY: Agreed.

MR. WEISS: Okay.

MR. FLEISCHNER: Just a quick question, your organization how is it funded? Donations or do you do fundraisers, etc.?

MS. SCHILLER: Donations, fundraisers. If anybody is interested we're tax deductible so.

MR. WEISS: Anybody have any other questions for Linda? Chuck or Gene?

MR. MCGROARTY: No it sounds like a very good idea.

MR. BUCZYNSKI: No.

MR. WEISS: Okay I have no other questions.

MS. SCHILLER: Oh and we do not, I would kill somebody who sent a dog to research by the way to the gentleman's question from earlier.

MR. WEISS: Okay that being said are there any other questions from the public? Seeing none I'll close it to the public and I'll open it to Tiena who has a question.

MS. COFONI: Is there a cost associated with the adoption?

MS. SCHILLER: Yes there's a \$250.00 adoption fee.

MS. COFONI: Okay and the same for dog and cats?

MS. SCHILLER: Cats are \$75.00, senior dogs over 8 years of age are \$150.00 and all of our dogs are spayed neutered up to date on shots and any dogs that come in have health certificates. And when we do pull from the kill shelters we do not take them into our organization for two weeks. They are in quarantine at a Vets office where they get all of the medical. Because right now I can't afford to have a sick dog come into my kennel and possibly contaminate my 60 dogs or have them go into a foster home and put their own pets at risk. So we are very stringent in our own personal controls with that.

MR. WEISS: Okay. Scott?

MR. VAN NESS: Does the Vet certify that the dog or cat has been held in quarantine for two weeks?

MS. SCHILLER: We can give you documentation if you required that yes. We have health certificates for the dogs and cats coming in and we can document that they've been in quarantine. Every animal coming in has a health certificate.

MR. WEISS: The records are kept with Eleventh Hour Rescue correct?

MS. SCHILLER: Yes.

MR. WEISS: Okay. Anything else? Good seeing none Linda thank you very much.

MS. SCHILLER: Thank you.

MR. FLANNERY: My final witness I'd like to call on a representative from Pet Adoption League. Please state your name for the record.

MS. SEVERUD: Debra Severud.

MS. COFONI: Can you spell your last name please?

MS. SEVERUD: (S-E-V-E-R-U-D).

(DEBRA SEVERUD SWORN IN FOR THE RECORD)

MR. FLANNERY: Ms. Severud if you could just briefly describe your position with the Pet Adoption League and describe your organization?

MS. SEVERUD: I am secretary of the Board to the Pet Adoption League we are a no kill animal rescue group. We do not have a shelter which is why we rely on Petsmart. We have been around for over 70 years and our primary right now is the cats.

MR. FLANNERY: Can you briefly describe the program at the Petsmart store as it would be?

MS. SEVERUD: We had our cats housed at the store we would have pre-adopts people would come in they'd see the cats we would ask them to fill out a pre adopt in which we would qualify the people. We feel we put a lot of time and effort and money into our animals and we want to ensure that they go into the best home possible. It's a screening process they would come in once they were approved on a Saturday and they would adopt the cat out.

MR. FLANNERY: Great and do you agree with the testimony of Mr. Acconzo regarding Petsmart policies and the layout of the cat station?

MS. SEVERUD: Absolutely yes.

MR. FLANNERY: That's the only questions I have of this witness.

MR. WEISS: I think we had a question earlier about the length of the stay of the cats. Now I think you were operating the cat adoption that was previously there?

MS. SEVERUD: Yes.

MR. WEISS: So perhaps using that experience how long were cats there?

MS. SEVERUD: Each cat varies sometimes we bring a cat out of foster care that we think would be great but they don't thrive in the Petsmart environment it can be very stressful for them. So sometime they're they for two days, sometimes they can be there for several weeks. We feel that if a cat has not been placed within maybe a month or two we'll take it out and we'll put it back in foster care and we'll put in a different cat. But the best exposure we have is Petsmart and just to let you know we adopted out 130 cats last year solely due to Petsmart and the visibility that we have there.

MR. WEISS: Was that in the calendar year?

MS. SEVERUD: Yes January 1 to December 31<sup>st</sup>.

MR. WEISS: I just want to make sure we create a good record because . . . and again I'm not one to object to the testimony but you had said a couple of months and earlier we talked about 3 weeks. So I just think we want to put . . . just give us a better parameter of the length of the stay.

MS. SEVERUD: If we don't have a cat waiting to be put at Petsmart if it goes four or five weeks we don't really like to leave them any longer than that because we just feel like it can be stressful on the cat and if people are not interested it's good to take that cat out and maybe put another, if we get a younger cat in to put a younger cat in or a different looking cat in. At one point about two or three months ago we got 20 cats in from a farm and they were all black and white tuxedo cats. So when you went up to Petsmart and you might remember if you've been there and you see the pictures the majority of the pictures and the cats that were there were black and white tuxedo cats. So we try to mix it up so that this way we have the cats moving out almost as quickly as we get them in. But again if they're not moving within that four week time frame we will take them out. If there's no other cat that's healthy or ready to be put at Petsmart then we might leave it an extra week.

MR. WEISS: Tiena do you see any kind of problem with keeping it vague if we give such an approval whether it's three weeks or eight weeks or . . .

MS. COFONI: If the Board doesn't have a problem with cats being there indefinitely, I mean I guess if you have a specific number of cats that can be there whether it's the same cat or different cats there's only going to be so many . . . 26 cats there. So whether it's the same 26 for a year or a different 26 every day you're only ever going to have 26 cats there. So I would think that it's probably not a big problem that it's a little vague on how long they'll be there because ultimately what you care about is how many cats will be there whether or not it's the same cat for a year or not.

MS. GADELHA: Yeah I agree I mean they're being fed, the temperature is regulated, they're being cared for, I think it's the maximum quantity number that can stay.

MR. MCGROARTY: How would you know? How would you know if it's the same cat?

MS. COFONI: That's true, Chuck is right I mean enforcement of that would be literally impossible unless the Health Officer is going to go and check paperwork on it every day which is just not going to happen.

MS. SEVERUD: Right.

MR. FLEISCHNER: Can I just ask a question this is just a curious question. Do you ever try and adopt out deaf cats?

MS. SEVERUD: Deaf cats?

MR. FLEISCHNER: Deaf cats all white, blue eyes.

MS. SEVERUD: If we had one yes but we would advertise it as a special needs cat and we would make sure that that cat was placed in the best environment for it.

MR. FLEISCHNER: I can tell you they don't need special needs because I've had three of them and let me tell you they feel vibrations pretty darn well.

MS. SEVERUD: Okay.

MR. WEISS: Any other questions? Nelson go ahead.

MR. RUSSELL: We have a trap neuter return policy in town, do you adopt out any feral cats or feral kittens?

MS. SEVERUD: No if we get kittens in we do try to socialize them. We have had two that we were not able to socialize and we found environments for them. We recently placed one in a barn the woman was specifically looking for a mouser and this cat fit the bill perfectly. We also do a trap neuter release with the town of Allamuchy so we release them back to where we catch them. If people contact us in particular and we have had that in the past where people are specifically looking for barn cats, mice, rats, whatever then if we have cats that come in and fit that we give them we don't charge them for that we give them those cats.

MR. RUSSELL: Thank you.

MR. WEISS: Okay seeing no other questions except from Tiena.

MS. COFONI: That just reminded me do you have a charge associated with the adoption?

MS. SEVERUD: Yes we have \$100.00 adoption fee and with that comes if the cat or kitten is not spayed or neutered at six months of age that pays for the spay and neuter and it pays for all of the shots that they've had up to date.

MS. COFONI: And you said that you don't have a facility to keep them so what do you rely on foster care?

MS. SEVERUD: Solely foster care yes.

MS. COFONI: I'm good.

MR. WEISS: Seeing no other questions from the Planning Board let me open it to the public if anybody from the public has any questions of the testimony we just heard.

MS. SEVERUD: And I would like to say the same thing to that man, absolutely not and again I'd be in jail for murder for the same reason so yes.

MR. WEISS: Wonderful seeing none from the public I'll close it to the public. Debra thank you for your time this evening.

MS. SEVERUD: Thank you.

MR. FLANNERY: Thank you Ms. Severud, that concludes my direct testimony and I'd just like to add that I read Mr. McGroarty's report and we agree with all of the information and conditions contained therein. We'll agree with all sorts of permits, approvals and licenses that's required.

MR. WEISS: Chuck do you have any commentary on your report?

MR. MCGROARTY: I don't I was not here last time but I reviewed the, briefly the testimony that Mr. McDonough and I know Mr. McDonough is (inaudible) professional so I'm sure he addressed the Board's concerns last time with respect to the use variance. And of course you had your expert witnesses this evening so I have no questions.

MR. WEISS: Thank you. Gene did you have any issues?

MR. BUCZYNSKI: I don't.

MR. WEISS: Okay.

MR. FLEISCHNER: Tiena could you explain to us what the approval will constitute because obviously . . . what's actually included in the, if there is an approval.

MS. COFONI: It's a "d" variance so a use variance to utilize a portion of the store for overnight housing of . . .

MR. WEISS: Kennel.

MS. COFONI: Not a kennel overnight housing in connection with the pet adoption operations.

MR. MCGROARTY: If I may and just to supplement that I mean it was our understanding that this is a little different from what we would typically see so it's actually constitutes a second principal use within the building. So even though they're obviously very closely related we have to figure out where the line was drawn and so there's a retail store and then there is the dog and cat adoption facility. So even though they work collectively there that's why it was treated as a D-1 variance it's a separate use.

MR. WEISS: Thank you Chuck. And I have a couple of notes as far that if the Board is to approve this use variance one of the conditions that we discussed last time we want to make sure we add is that there's absolutely no outside boarding. And of course the one condition that I made that

there should be a meeting set up, there must be a meeting set up between our Health Department and representatives of Petsmart and the two outside agencies.

MS. COFONI: I just want to, because we mentioned about the cat boarding and the time limitation not being an issue, we did have ten days for dogs is that something that the Board wants to include in the resolution and have that be a condition? Or are you not concerned about the ten days for the dogs I just wasn't sure how the Board felt about that. Because I don't want to include it if it's not something we're going to . . .

MR. WEISS: Scott?

MR. VAN NESS: My question that if we put a specific time limit on them is this going to hinder the adoption process? That's my question I mean it doesn't sound like they keep dogs and cats for any extraordinary long period of time and to move them back and forth, back and forth probably causes more stress on everybody involved including the animal then maybe is necessary. So if the dog could potentially be adopted in two weeks as opposed to ten days . . .

MS. COFONI: Right.

MR. WEISS: I suppose I agree with that I think we said it earlier the bottom line is that there's going to be 19 dogs that's never going to change.

MR. VAN NESS: My primary concern is that we should have in our resolution that no more than one animal stored in a cage for one animal, no more than two animals in a cage that store two animals or condos or . . .

MS. GADELHA: My only concern with that and I think there's a difference between cats and dogs in terms of staying in a facility for a long time is since there's no outside play or walking and dogs are bigger animals I would like to see some kind of maximum limit that a dog can stay as opposed to a cat. Typically they can live indoors their whole lives so I certainly don't want to be restrictive with the dogs but I wouldn't want a dog to be in there for three months never seeing the light of day and running through some grass or something. So I don't know what's reasonable, you know what's the longest amount of time.

MS. SCHILLER: Do you want me to answer that?

MS. GADELHA: I think so.

MR. FLANNERY: Have a redirect here. Ms. Schiller?

MS. SCHILLER: Yeah I'm sorry I just felt like I had to talk about this. Okay the way I envision this working is we might have a dog there for 24 hours that does not do well in that environment so we're prepared to remove that dog immediately. It's going to be on an individual basis some dogs are going to thrive on this and we're going to have volunteers in there these dogs are not going to be deprived at all. If it wasn't a good fit for our animals which are my priority. I know you're looking at a lot of different things but the only priority I have right now is to make sure I have a good safe environment, a happy healthy environment and a good outlet for my animals. So we would not allow an animal to stay in that situation if they were becoming stressed or we thought that they weren't thriving. It could be an animal is there for two weeks or three weeks and the perfect home comes and he's gone, and it could be an animal is there for two days and he's either adopted or it's not an appropriate situation for him. And the nice thing is that we do have our kennel facility which is literally 15 minutes away where we can remove the animal immediately and put him back into either a foster or kennel situation with us.

MS. GADELHA: So do you feel that four weeks for a dog if we put an end game is very reasonable?

MS. SCHILLER: I think four weeks if you needed to put a limit to . . .

MS. GADELHA: I only say that because I know I can tell that you have the best interest of the dog in mind but in 15 years you might not be the one in charge of this and you know I'd like . . .

MS. SCHILLER: I actually think four weeks is probably a very good amount of time that it gives a dog a lot of exposure and opportunity and the whole reason for doing this and the reason that I'm looking at this is you know I'm expecting to save 40 percent more lives next year.

MS. GADELHA: Sure. And I don't know if anyone else has a different number figure in mind but for the dogs specifically because of their size I just feel like we need to have a time for them.

MR. VAN NESS: And what's that time?

MS. GADELHA: She's saying four weeks she feels that they would either be adopted out or you take them back to your kennel facility.

MS. SCHILLER: Right and as I said . . .

MR. VAN NESS: I think that's reasonable.

MS. GADELHA: Yeah.

MS. SCHILLER: And I think to that with the volunteers there they would be looking at these dogs every day and if somebody wasn't doing well you know we're there for them. We're not there for the public; we're not there for anybody we're there for the animals. So we would make sure they were okay.

MR. WEISS: So then I'm keeping track here for the record will show four weeks for the dogs and three months for the cats?

MS. COFONI: I have no time limit on cats.

MR. WEISS: No time limit, you're right no time limit. Steve?

MR. BEDELL: Regarding Eleventh Hour I'm sure you're licensed I don't know if you need to be bonded but is that an annual or every two years, every three years?

MS. SCHILLER: Our 501C3 are not for profit we have and unless we violate some . . .

MR. BEDELL: Okay.

MS. SCHILLER: And we are . . . our kennel is inspected every year by the Health Department and we do have hold us to criteria if we have to.

MR. BEDELL: So I don't know if we need to make it have it in there you know in case they use somebody else or you decide to pack it in whatever the case may be whether it's tomorrow or two years from now that whoever else comes in meet certain criteria. You know the equivalent to what Ms. Schiller has.

MR. STASZAK: Well we have animal control ordinances correct?

MR. WEISS: Well I think that's what we talked about that the health standards as dictated by the Township Code would be prevailing regardless of who the operator is. And I think that's pretty fair that way if tomorrow if it's a different operator Petsmart doesn't need to come in front of the Board and say I'm using a different company.

MS. COFONI: Correct.

MR. WEISS: So as long as the established Codes are enforced that should say that in the resolution which I probably addressed already.

MR. BEDELL: Okay, all right.

MR. WEISS: And under the jurisdiction of the Health, of the Animal Control Officer I don't think we need to worry about that.

MR. BEDELL: Okay.

MR. WEISS: I think it also goes back to you know the 501C3 is I don't think anyone here is interested in your tax status I think we're more concerned about your certifications when it comes to health reasons. So I think we've addressed that not so much your tax status, not our concern.

MR. SCHILLER: Okay.

MR. WEISS: (Inaudible) that you have it but it's not our concern.

MS. GADELHA: Did you say that you think that you might pick up your adoptions by 40 percent with a move like this?

MS. SCHILLER: Right now we're just doing weekends and to have a place to showcase animals for seven days a week.

MS. GADELHA: Wow that's great.

MR. WEISS: Okay I think we pretty much addressed all we need to know. The resolution you have conditions, anybody have any questions what else would be in there? Do you need to read anything or you're pretty comfortable.

MS. COFONI: Let me just make sure that we've mentioned all of the conditions I just have a few . . . Oh one from last meeting I think is that day care for dogs, cats or other animals will not take place on the premises.

MR. FLANNERY: Correct.

MS. COFONI: And I'll change the maximum number of dogs and cats, and the time limit. Okay everything else we've mentioned tonight.

MR. WEISS: Okay that being said with the conditions that our attorney has noted and has discussed I'll entertain a motion.

MS. GADELHA: I'd like to make a motion that we move PB 11-11 Petsmart for the "d" variance with all of the conditions outlined.

MR. RUSSELL: I'll second.

MR. VAN NESS: I'd like to second.

MR. WEISS: I'm going to give it to Nelson did you want to second that Nelson? I'm very disappointed that he didn't make the motion so we'll give Nelson the second on that one. Just for the record this is a "d" variance so as you know Mr. Flannery it's not a simple majority it's a super majority.

MR. FLANNERY: Yes.

MR. WEISS: That being said any other comments about our approved motion? Seeing none Catherine roll call.

MRS. NATAFALUSY: John Cavanaugh - yes  
 Joe Fleischner - yes  
 Rene Gadelha - yes  
 Nelson Russell - yes  
 Jim Staszak - yes  
 Scott Van Ness - yes  
 Howie Weiss - yes

MR. FLANNERY: Thank you.

MR. WEISS: Congratulations we're looking forward to working with you.

**APPLICATION #PB 10-32 – RALPH MARINA / JOSEPH MARINA**

MR. WEISS: Okay next application is PB 10-32 Ralph Marina / Joseph Marina seeking a variance to construct a single family dwelling on a substandard lot at Block 7000, Lot 47 located at 406 Drakestown Road. Welcome.

MR. GALFY: Good evening ladies and gentlemen my name is Joseph J. Galfy, Jr. I am the attorney for the applicant but I am also the personal representative of the owner of the property and I will be offering some testimony tonight so I believe I probably should be sworn in.

MS. COFONI: Yes.

MR. GALFY: Okay.

(JOSEPH J. GALFY, JR. SWORN IN FOR THE RECORD)

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

MR. GALFY: Yes its Joseph J. last name is (G-A-L-F-Y), Jr. 163 West Milton Avenue, Rahway, New Jersey.

MR. WEISS: Welcome Mr. Galfy.

MR. GALFY: Thank you very much. I do have to apologize neither of the applicants could be here tonight both of them have children who are graduating from High School and the graduation ceremonies are tonight. I didn't feel I wanted to ask for an adjournment because quite honestly I hadn't intended on calling them anyway I don't really think we need them for the application. However if the Board does determine that they need them for some reason we'll have to request a continuance and have to get them next month. They didn't realize when we set this date that they were going to have night graduations. Basically this is an application by the contract purchaser to obtain a variance for construction of a conforming single family home on an undersized lot in the RR-AA zone. Typically this is a hardship case C-1 undersized lot it's a . . . I'm sure you've seen these types of applications on numerous occasions. We are not going to be asking for any other waivers and the . . . I probably should give the Board some history here because this application, I've been handling this estate for over ten years and this is the last piece of property, last asset in the estate it had all kinds of problems. The estate was distributed largely more than 8 years ago and we've been trying to get this property cleared up and I think we finally are getting to the point where this is the last piece of the puzzle. I won't burden the Board members with all the, we had big title problems here it took several years to get some of these things done but back in 2006 we entered into a contract to sell this property to the same applicant's who are here today for \$120,000. At that time the market was much better people were spending more money for lots and building nice homes and as you all know in the last few years that has changed considerably and we don't have that kind of activity, at least I don't believe Mt. Olive does. Most of the rest of the State certainly doesn't. So after we had to delay to get Highlands approval which we did and I furnished Catherine with the approvals for the Highlands so we're all set with that. If the buyers then determine that after several years of this delay that the property was no longer worth the \$120,000. Now since this is an estate and I had to go back before . . . we originally got approval from the Court. Because it's subject to Court approval on these types of sale for \$120,000 so I had to go back in and when we agreed to a price reduction down to \$65,000 to get a second order approving that. And because I think this may be relevant in establishing the true market value or fair market value for the property I would like to offer this as an exhibit to the Board. This is a copy of the order.

MR. WEISS: We'll mark that if you would A-1 and it is again . . .

MR. GALFY: Court order of authorizing sale for \$65,000. Now of course that was not the only cost that we had there were to get here as most of you probably know is not cheap the Highlands cost was over \$10,000 and there's been significant other expenses that we had to incur in connection with this application. So I'm just bringing that up here now because I think we may have some testimony from some neighbors who I have been in contact with. We did notify as we're required to do under the law the parties on each side of our property. The party to the right we notified and we never heard anything one way or the other. The certified mail letter came back unclaimed, the regular mail letter did not come back at all so we had presumed that they did get that and we heard nothing.

MR. WEISS: Mr. Galfy just to interrupt real quickly. Tiena had a comment.

MS. COFONI: I just, before we go any further I just want to clarify you represent both the owner and the applicant is that correct?

MR. GALFY: Right.

MS. COFONI: Okay I just wanted to make sure.

MR. GALFY: Well I am the personal representative of the owner estate that is the seller.

MS. COFONI: Okay.

MR. GALFY: I'm here as the attorney for the applicants however because the interests are the same they don't conflict.

MS. COFONI: Okay I just wanted to make that clarification. So you're not providing testimony on behalf of the applicant your only providing testimony on behalf of the owner.

MR. GALFY: Testimony on behalf of the owners that's correct.

MS. COFONI: I understand thank you.

MR. GALFY: Okay. But like I said since I was personally involved with most of this I really probably have more knowledge about the whole situation than the applicants do anyway. So as I said we did notify both parties on both sides, we did receive a notice back from the party on the left side Mr. Wijatyk and his wife that they would like to buy the property however their proposal was \$25,000 and we felt that that certainly is not fair market value since we already have a contract for \$65,000 and spent more money than that just getting here. So we feel that we have met the burden of . . . in addition I was contacted by a representative of Mr. Wijatyk I believe it was his mother and we spoke on several different occasions and I advise them that we would be willing to sell the property to them for \$80,000 if they would want it. I mean we sort of have to it would be our obligation, that would be recoup the cost that we had plus we would be at least above the \$65,000 that the court says the estate should get. I could not go back to the court and seek approval for \$25,000 I think I would be thrown out. So after a couple of months and several conversations I spoke to Mrs. Wijatyk about ten days ago, a week or ten days ago and she advised me that they were not able to come up with funds for that amount so we are proceeding on the basis that they are not able to do that. I believe they are here and they may have something different to say but that was my last conversation. I do have our expert witness here tonight is Mr. Dan Bloch who is our professional planner and I think I would like to start with his testimony at this point so we can move this along.

MR. WEISS: Absolutely I will do that same swearing in Mr. Bloch.

(DANIEL BLOCH SWORN IN FOR THE RECORD)

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

MR. BLOCH: Yes Daniel Bloch (B-L-O-C-H) my business address is 419 Furnage Road, Clinton, New Jersey.

MR. GALFY: Mr. Bloch by whom are you employed?

MR. BLOCH: Maser Consulting.

MR. GALFY: And are you a licensed professional planner in the State of New Jersey?

MR. BLOCH: Yes.

MR. GALFY: Have you appeared before this Board before?

MR. BLOCH: No.

MR. GALFY: Would you then give your curriculum vitae, your education and professional experience so that the Board can accept your qualifications.

MR. BLOCH: Yeah I have a Bachelor's Degree from the State University of New York and Buffalo for environmental design and urban planning, a licensed professional planner in New Jersey, also a member of the American Institute of Certified Planners. I've been working for Maser for over five years as a planner.

- MR. GALFY: And have you testified before Boards before?
- MR. BLOCH: Yes I've testified in West Windsor, Bellville, Upper Township and Blairstown.
- MR. GALFY: Does anybody have any questions on Mr. Bloch's qualifications?
- MR. WEISS: Chuck any questions?
- MR. MCGROARTY: No Mr. Chairman.
- MR. WEISS: Seeing none we'll accept Mr. Bloch as an expert planner.
- MR. GALFY: Thank you. All right Mr. Bloch are you familiar with the subject site and the purpose of this application?
- MR. BLOCH: Yes I am.
- MR. GALFY: Okay and in connection with your study in this did you review any documents in connection with your testimony for tonight?
- MR. BLOCH: Yes I reviewed the Planning Board application, the Building Permit Plot Plan prepared by C. Richard Roseberry dated February 5, 2008, revised December 3, 2010. Also the Tree Replacement Plan prepared by Mr. Roseberry dated December 3, 2010. I also reviewed the 2003 Mt. Olive Township Master Plan and Reexamination document, the Township Land Use Code and the review letters from Mr. McGroarty and Mr. Buczynski.
- MR. GALFY: Okay and would you describe the site as it presently exists.
- MR. BLOCH: The lot is 3.027 acres it's located in the RR-AA Rural/Residential Zone it has 125 feet of frontage along the northerly side of Drakestown-Bartley Road, approximately 800 feet west of Fairview Avenue. The lot as it is existing is vacant and wooded and there are some moderate and critical slopes located in the center portion of the lot away from the right-of-way.
- MR. GALFY: How does this lot compare with the adjacent lots? Or other lots in the area too.
- MR. BLOCH: It's comparable with the adjacent lots on the same side of Drakestown-Bartley Road, most of the properties on that side of the road are undersized. I actually brought in an exhibit that shows all of those lots. I will mark this as . . .
- MR. WEISS: It will be A-2.
- MR. GALFY: A-2.
- MR. WEISS: And describe it for us if you would what A-2 is?
- MR. BLOCH: This is an aerial photo showing the parcel lines as they were depicted on the survey, the property survey the subject property and the adjacent lots. And what it's showing here is that Lot 43, 44, 45, and 46 have actually been merged.
- MR. WEISS: Mr. Bloch before you go on, what's the date of that photograph?
- MR. BLOCH: The date is April 20, 2011 and it's showing the aerial photo is dated 2007 the images.
- MS. COFONI: Excuse me did you say that 43 through 46 were merged?
- MR. BLOCH: No 45 and 46 have been merged there were two lots.
- MS. COFONI: Thank you.
- MR. BLOCH: And also 48 and 49 have been merged under the same ownership. And all of these lots 43 through 49 are undersized for this zone and they all have houses except for the subject property Lot 47.

- MR. GALFY: Okay what changes proposed by the applicant in connection with this application?
- MR. BLOCH: The applicant is proposing to construct a two and a half story single-family dwelling.
- MR. WEISS: I have a question I think you had said Lot 45 and 46 have been merged.
- MR. BLOCH: Yes.
- MR. WEISS: So are there two homes?
- MR. BLOCH: No what it is is there was another lot line that's not showing here that comes between here in between . . . it's actually two lots they've been merged into one and one house on both lots so it's a double lot with one house.
- MR. GALFY: If I might add we were originally advised that the . . . I think the original tax maps showed this to be an unknown owner on the right side and it wasn't until we received the planner's report that this was discovered that these lots were merged and we then had to request an adjournment of our hearing so we can notify the people on the other side. So that's what happened I think they acquired the property that was unknown owner.
- MS. COFONI: Mr. Bloch can you just tell us what the lot . . . I'm missed I'm sorry I was writing notes, the lots numbers that are depicted on there? So I see obviously the one in red is Lot 47 . . .
- MR. BLOCH: And next to it we have 45, 44, 43, 42, 41 and on this side is 49 because 48 and 49 were merged.
- MS. COFONI: Okay I understand now thank you.
- MR. WEISS: I just have one other question. Is 45/46 and 48/49 a conforming lot?
- MR. BLOCH: No neither of those lots even as double lots are conforming. Lot 45 and 46 is about 2.63 acres and 48/49 is 2.85 acres and the zone requires 4 acres.
- MR. GALFY: What zoning relief is being sought by this application? Could you go over that for the Board please?
- MR. BLOCH: The relief is being sought from the minimum lot area for the RR-AA zone which is 4 acres. The existing property is 3.027 acres and since the adjacent lots are undersized there's no opportunity to purchase land from those lots without making them even further undersized. Also the minimum lot width, the zone requires 250 feet and there's 125 feet existing.
- MR. GALFY: Now would you discuss the Municipal Land Use requirements of this application?
- MR. BLOCH: Yes under the Municipal Land Use Law NJSA 40:55D Section 70(c)1 the hardship variance can be granted to relieve peculiar and exceptional practical difficulties where a unique property is affected by exceptional narrowness, shallowness or exceptional topographical conditions or other extraordinary or exceptional situations. This property relates to a specific property Block 7000, Lot 47 for the exceptional difficulties or undue hardship would result due to the exceptional narrowness, shallowness and shape of the property. The property is an existing isolated and undersized lot where there are no opportunities to acquire additional land area from the adjacent properties.
- MR. GALFY: All right now do you believe that this application constitutes good planning? And if so why?
- MR. BLOCH: Yes this application would further the purposes of zoning found in Municipal Land Use Law at Section 55D-2. First the proposed development will promote the general welfare, public health and safety and morals by providing housing in a manner consistent with the existing character of the neighborhood and the zone. It would also provide adequate light, air and open space as a majority of the lot will remain undisturbed and in its natural state consistent with the surrounding rural environment and with purpose J it will promote the conservation of open space and valuable natural resources, particularly the steep slopes in the rear portion of the property.

MR. GALFY: All right will this application result in any adverse change in the character of the neighborhood? In other words would there be any negatives to this application?

MR. BLOCH: There will be no negative . . . no steps to substantial detriment to the public good or to the adjoining properties. The proposed dwelling does not require relief from any of the setbacks or any other bulk requirements of the RR-AA zone.

MR. GALFY: Okay in connection with this application do you believe that the purposes of the Municipal Land Use Law would be advanced by the deviation from the Zoning Ordinance in this case?

MR. BLOCH: Yes as I already pointed out the Municipal Land Use Law purposes A, C and J will be promoted by this application. Also the last requirement for a c-1 hardship variance is whether the variance will substantially impair the intent or purpose of the zone plan. In this case it will not. The Master Plan states that the intent and purpose of this zone is to recognize and preserve the predominant rural agricultural and low density existing development pattern of the area. And here we have an existing lot, isolated with no opportunities to acquire additional land and there are other similar lots in existence adjacent to this property that have already been developed with similar single-family housing.

MR. GALFY: Do you therefore recommend approval of this application?

MR. BLOCH: Yes I would.

MR. GALFY: Okay. Now did you review the . . . you said you reviewed the engineer's letters and the planner's letters?

MR. BLOCH: Yes.

MR. WEISS: Hold on one second Mr. Bloch.

MR. BUCZYNSKI: Just before we go too much further on the variance itself.

MR. GALFY: Yes.

MR. BUCZYNSKI: I had spoken to Mr. Roseberry probably two months ago.

MR. GALFY: Yes.

MR. BUCZYNSKI: You keep on talking about 125 feet, it's 199.7 feet your frontage not 125. Look on the plans.

MR. GALFY: Okay.

MR. BUCZYNSKI: Okay and the record should state that it's 199.7 and not 125.

MR. BLOCH: Thank you for the clarification.

MR. BUCZYNSKI: It's 199.7 feet.

MR. WEISS: Road frontage?

MR. BUCZYNSKI: The road frontage correct the lot width.

MR. WEISS: In a zone that requires 250.

MR. BUCZYNSKI: 250 it's still a variance but they keep on talking about 125 feet and that's incorrect it's 199.7. Just for the record.

MR. GALFY: Thank you very much. Okay would let me have your comments on the engineer's letters.

MR. WEISS: Maybe before you address the engineer's . . . although I don't want to stop your thunder you're talking about planning testimony so maybe you should review the planner's report.

MR. GALFY: Okay.

MR. BLOCH: Okay I reviewed the comments concerning . . . comments 4.1 there was an offer as Mr. Galfy had already testified to that the neighbors gave an offer of \$25,000 and that offer has been rejected because it's not in accordance with the fair market value of the property of \$65,000 plus the other fees for the work that's been done.

MR. GALFY: And could you just briefly fill the Board in on the law and Mike was I correct in . . .

MR. BLOCH: Yes the New Jersey Court in Nash vs. the Board of Adjustment of Morris Township in 1984 held that while the financial loss of is not the definition of the hardship the hardship may be eliminated by a fair offer value, and offer of a fair market value for the property. So the fair market value has been established by the court of the estate at \$65,000 so that's what we have to go by.

MR. GALFY: As a minimum we would say.

MR. WEISS: Do you have a date on when that number was established?

MR. GALFY: It's right on the court order I believe its January of 2010.

MR. WEISS: And that court order said that the property was valued at . . .

MR. GALFY: Well that's what the court approved. We actually had an appraisal that came in even higher than that but this is what these people wanted to pay and we wanted to get this . . . they were very cooperative with us all along they've waited and we wanted to have them continue to buy it so we agreed to the lower amount provided we could get court approval and the court did approve this.

MR. WEISS: Okay thank you.

MR. BLOCH: So moving on comment to 4.2 is asking about the unknown owner for Lot 46 where 45 and 46 were combined. And as I said we made the proper notice for that that apparently didn't appear on the tax map but we did notice those people and as I said we have not heard anything from them one way or the other. Comments 4.3 and 4.4 I spoke to the engineer Mr. Roseberry and he said there's no problem with either of these and we'd like to make those condition of approval that we will comply.

MR. GALFY: That's acceptable to the applicants.

MR. MCGROARTY: Just on the 4.3 and 4.4 that's the tree removal, this was back in April this was released so I'm surprised that we haven't seen the revised plans. But your testimony is that whatever the standard is in the ordinance you will comply with that in terms of tree replacement?

MR. GALFY: Yes.

MR. MCGROARTY: Are you sure you're going to be able to fit them? I ask that not to be funny because quite often, and these are if I may characterize it this way, a more lineate standard, we revised the ordinance to recognize that on some single-family lots you can't fit all the trees that are required. But even with the reduced number there are times when the applicants can't fit them. If you can't fit them you need to come back then since you didn't revise the plans for tonight we don't have the authority you know once this Board makes a decision to act favorably. We don't have the authority to waive you know the tree requirements in the future. So that's something you need to know.

MR. GALFY: Is it possible that if we aren't able to fit them all on that the number that we're not able to fit on we can make the contribution to the Tree Bank?

MR. FLEISCHNER: We've done that before.

MR. BUCZYNSKI: It could be a condition.

MR. WEISS: Yeah I was kind of looking for . . .

MR. MCGROARTY: Well you can I mean if the Board accepts that. The question though becomes who decides what you can fit and not fit.

MR. BLOCH: Well I think the plan would have to be reviewed by the engineer and planner after . . .

MR. MCGROARTY: I understand that. But my question to the Board though is I mean if the Board wants to say to us your authorized to make that decision you can do that obviously but its unusual that you would then allow us to decide later what can and cannot fit.

MR. BUCZYNSKI: I mean it was actually brought up to their engineer not in April I brought it up in February and I even spoke to him about revising the plan.

MR. MCGROARTY: If the Board is comfortable doing it that way we can do it.

MR. CAVANAUGH: Mr. Chairman I mean I'd like to hold that as one item just my observation of this plan in general you know Gene is testifying that he's met with the engineer a couple of times.

MR. BUCZYNSKI: I spoke to him.

MR. CAVANAUGH: Well you spoke to him a while back. Wouldn't it be typical Gene on a drawing like this to see existing homes and existing wells and existing septic systems as well as the placement of the proposed?

MR. BUCZYNSKI: Existing homes? A lot of times we don't do that, a lot of times we . . . unless there's a real concern.

MR. CAVANAUGH: So you don't have any issue with that?

MR. BUCZYNSKI: I got some other items relative . . . when I get to my report regarding that he's showing approximate location of the septic but let's finish the planners so that we can go over mine.

MR. WEISS: Yeah I certainly agree with Tiena we need to resolve the tree issue.

MS. COFONI: Assuming it were to be approved.

MR. WEISS: Joe did you have any input on that?

MR. FLEISCHNER: We have in the past, granted it's been rare occasions but we have left it up actually to Gene to go out into the field and make the determination.

MR. WEISS: This one seems unique because there's no revised plan though. We're starting from scratch right Gene?

MR. BUCZYNSKI: Well let me just look at the . . . they do have a plan I commented on it in February with some of the trees they showed on their plan at the time they had a total of 14 trees and some of the trees are shown within a proposed swale which I said they couldn't be put there. That's why we asked them back in February to get us revised plans for the trees. I mean however the Board wants to pursue I mean I'm sure . . . not to speak for Chuck but I'm sure we can deal with it however you want to, whatever you feel like you want to do.

MR. GALFY: We would be willing to work with the engineer and the planner on resolving that issue. I think it can be done.

MR. WEISS: Anybody have any comment on that?

MR. CAVANAUGH: The only comment I would make is usually we have plans and there's been months of . . . now maybe this is unusual and I'll grant that because it's an estate but normally we would want revised plans before the hearing so that there's no ambiguity on the record. I have absolute faith in our professionals to go out and resolve it if that's what the majority of the Board wants but it's not the best practice to do that. It's better to have the revised plans for the evening.

MR. WEISS: And I guess it's the . . . your testifying that you will provide revised plans to our experts rather than . . .

MR. GALFY: Yes but what we would do is I would have our engineer and planner and Mr. Roseberry contact Mr. Buczynski and Mr. McGroarty.

MR. WEISS: You had a conversation recently about it's not the responsibility of our professionals to plan for the applicant and that's kind of . . .

MR. BLOCH: Well we're not asking you to do that.

MR. GALFY: No what we're asking is that we proceed with the variance tonight and as a condition of that approval before the applicant could be granted a building permit these conditions that have to be met. That the trees are found acceptable by the planner and the engineer.

MR. WEISS: Gene?

MR. BUCZYNSKI: We've got more issues besides that

MR. WEISS: Okay.

MR. BUCZYNSKI: I don't know if you want to (inaudible) now or not because there's other issues that normally we see which you don't receive.

MR. WEISS: We'll address them in one second I guess I just wanted to make sure that it's understood that you will present a revised plan to our engineer rather than having the engineer look at this?

MR. GALFY: Oh no we will present a revised plan.

MR. MCGROARTY: Well let me just . . . final note on that then Mr. Chairman, then I . . . and Tiena can guide the Board on this but strictly speaking they've asked for a waiver, they probably will need a waiver because they need more trees based on at least my calculations and so the Board I guess if your subject to any other things that are discussed this evening and if you were to grant approval your including some sort of a conditional waiver then it seems to me.

MR. WEISS: From the tree ordinance?

MR. MCGROARTY: That's correct a waiver not from the tree ordinance but a waiver from the requirement to put the trees on the site. Section 400-75 the ordinance requires that if they cannot put them on site an applicant doesn't have as of right opportunity to just offer cash. That's a decision that has to be made here at public hearing with a waiver. So if that's how you want to proceed just so it's on the record and it's clear that your granting them some sort of a provisional waiver as it were and we'll figure out later how many.

MR. WEISS: Well I think I'm hearing from the Planning Board and based on Nelson's report earlier that if you are going to start looking to use the tree bank or use money that might not be a bad idea to allow the applicant to come up with a certain number of trees and we can put in the (inaudible) put into the tree bank. Is that seems to be where we are headed with this?

MR. RUSSELL: Yes.

MR. WEISS: Joe and Nelson I'm looking at . . .

MR. FLEISCHNER: Well I think from the tree standpoint I think Gene has raised a point, the trees are actually . . . we know we have to get past that but there are other issues that are probably more important than the trees.

MR. BUCZYNSKI: Whenever you'd like I'd be glad to advise the Board.

MR. WEISS: I'm going to ask you to hold it just for a second until we're ready for you.

MR. BUCZYNSKI: I'd be glad to.

MR. FLEISCHNER: The only reason why I say that is because based on Gene's testimony it may require additional action by the applicant which therefore gives the applicant additional time to make changes if necessary to the tree disposition. That's the only reason why I raised that.

MR. WEISS: That's an excellent point. All right so let's pull away from that for a second.

MR. GALFY: Okay so moving on to the engineering comments.

MR. BUCZYNSKI: Mr. Galfy why don't I just address these items since their engineer is not present.

MR. WEISS: Let's do that.

MR. BUCZYNSKI: I'm going to go a little bit out of order relative to the more severe issues and see how we want to address it. And we also have a comment from Frank Wilpert and that goes back to March that there's no information on soil suitability on the site and no tests were submitted to him regarding the septic systems and nothing provided to them relative to water supply. And in my report I mentioned that they should definitely talk to the Health Officer about the septic system. Quite often I mean never have we really had a single-family dwelling approved where you don't even have soil logs for septic. Quite often we get a septic design that's gone through the Health Department and it comes to us with the application for the single-family dwelling. Now I think that is a concern because if you're going to approve the variances plus you're going to approve a dwelling for this lot I think you'd like to get some information and they can get a septic system design. I'm not saying they can't but I think it's, the burden of proof is on them. They haven't presented it tonight. And that also goes relative to their stormwater management which is item 2 on page 2 of my report where it did show two drywells and again we talked about getting soil logs to prove that the systems will work. We have not received that yet. I think those are issues in my opinion are critical relative to acting on an application prior to that information being submitted.

MR. WEISS: Excellent point.

MR. BUCZYNSKI: The other item which is item number B-1 on page two regarding consideration for roadway dedication which is standard for applications where an existing lot goes into the roadway. By ordinance we ask for at least a 20 foot dedication from the center line of the existing roadway and that can be done when the plans are resubmitted if the applicant agrees to that.

MR. GALFY: We wouldn't have any problem with that.

MR. BUCZYNSKI: The rest of my items I think are basically regarding issues as Chuck just brought up relative to tree replacement. As noted in Chuck's report it's going to be more than the 23 trees because you're looking at 10 inch diameter and not 6 inch diameter trees. So that number is going to be greater than the 23 trees to be replanted. And then the other issues in the report are of course approval to the proposed well and septic system by the Health Department and driveway permit from the Engineering Department which is standard.

MR. BLOCH: If I can go ahead and comment on your comments on the septic design. What we're basically asking for tonight is that we look at the variance in itself and bifurcate the actual, the full application in a sense that we want to know if we're going to get approval before we spend any more money designing a septic system. And that also has to go through the County department and everyone else has to sign off on it.

MR. BUCZYNSKI: Well what if you can't get a septic system why should we grant the variances?

MR. BLOCH: Well that's not one of the requirements in the Municipal Land Use Law.

MR. BUCZYNSKI: It's a requirement to provide information that . . . of the suitability of septic systems and you've provided no information relative to suitability. I don't think you're qualified to address it to be honest with you.

MR. BLOCH: No I'm not an engineer so I can't say whether this . . .

MR. WEISS: I just think it's a little bit out of order for your planner to give testimony on engineering I don't think that that's . . .

MR. BLOCH: No, no I'm not testifying anything about the soils or . . . what I'm asking is that we make that a condition of approval the same as the trees that we're going to grant the variance and if the plans can show that the soils will perc and everything else . . . that they can get their building permit.

MR. WEISS: Okay and I think everyone that's here heard Mr. Buczynski loud and clear his concern.

MR. GALFY: Yes.

MR. BUCZYNSKI: It's up to the Board if that's how you want to handle it.

MR. WEISS: I mean and I agree, I agree 100 percent the Board can make a decision and if you wanted to bifurcate it as your requesting or certainly taking the commentary we just heard. Mr. Galfy?

MR. GALFY: Yeah I think we can make it a condition that if you know if we could not meet those standards that the variance would not be able to go forward. I mean what we're trying to do here is to see where we stand in this application that there's been an enormous amount of money spent on it already and before we spend anymore with designing septic systems and things like that we'd like to know if we you know if we can get that approval that we can go ahead. You know if we can't then we're out a lot more money.

MR. WEISS: Mr. Galfy do you know why Mr. Roseberry didn't respond to Mr. Buczynski since the winter? Do you know?

MR. GALFY: I don't know, I thought that he had spoken with you . . .

MR. BUCZYNSKI: I called him up once and I told him my concerns and that was the end of it.

MR. GALFY: All right I wasn't aware that . . .

MR. BUCZYNSKI: And I didn't really have to call him he probably should have called me.

MR. WEISS: No I know. You work in the same office as Mr. Roseberry right?

MR. GALFY: Yes.

MR. WEISS: Do you know why there was a delay?

MR. GALFY: No I don't know why.

MR. WEISS: Okay.

MR. MCGROARTY: And I just want to clarify one thing, typically when one bifurcates an application isn't it for a use variance?

MR. BLOCH: Typically but . . .

MR. GALFY: I don't know if this is really a bifurcation or more rather than a . . .

MR. BUCZYNSKI: Conditions.

MR. GALFY: Conditions.

MR. MCGROARTY: I think that's a better way to put it.

MR. GALFY: I don't think we need to use the term bifurcation.

MR. WEISS: Okay. Let's do this for a little bit I know we're getting . . . we've got a lot of testimony on here, there's some people from the public so let's stop what we're doing and let me open it to the public. If anybody from the public has any questions based on the testimony that's been delivered tonight it's been a little bit all over the place I'll try to keep you in line. Sir if you can and as your making your way up the idea is to ask a question you won't be giving opinions or comments you're

going to ask a question from that podium. And then what you'll do is you'll state your name and address for the record.

MR. WIJATYK: Good evening members of the Board my name is Michael Wijatyk (W-I-J-A-T-Y-K) I live at 404 Drakestown Road, Long Valley, New Jersey. My question is as far as that picture that you have over there with the lines drawn on it, where did you come up with those lines? Because on the . . . what I'm looking at the right side of the red maybe correct but on the left side of the red as far as I'm concerned with my own lots its completely wrong. So I don't know if you . . . I just wanted to know how you came up with those lines and where that picture you know what I mean like how you came up with those lines is basically what I'm asking.

MR. BLOCH: These lines came from a survey that was prepared by Ferriero Engineering in 2005 and those are referenced on the site plan and what they're showing is this subject property and these three lots and this lot on that survey. And they're substantially different from the tax maps and that's why I wanted to show that because we thought they were more accurate.

MR. WIJATYK: More accurate but as far as like I said to the left of that that's my lot?

MR. BLOCH: Yes.

MR. WIJATYK: I actually own three lots on that side? So there's actually you know a few lines missing so I don't know if that's an issue but it is an issue you know I mean it's something that I saw that to me was wrong.

MR. WEISS: Michael would you say that you own Lot 48 and 49?

MR. WIJATYK: 48, 49 and 50 is the lots that I own.

MR. WEISS: And on your map Mr. Bloch you're calling that Lot 49.

MR. BLOCH: Yes 49 yeah 48, 49 and 50.

MR. WEISS: And the other smaller one is 50?

MR. WIJATYK: There actually is no 50 on that that's why . . .

MR. BLOCH: Yeah there is no Lot 50 on this.

MR. WEISS: Okay.

MR. BLOCH: So this is 51 so 48, 49 and 50 are Lot 49.

MR. WEISS: Michael maybe because you just made a comment that it's wrong.

MR. WIJATYK: I have a copy of your tax map with me I know he said that's not accurate and I'm (inaudible) with the understanding that as far as the Tax Assessor is concerned what he uses is more accurate than what the Tax Assessor uses. That's what the Tax Assessor told me but I just want you guys to be aware of what you know what I'm looking at and what they're looking at are completely two separate completely different things. And even the lines that I see there, I'm sure I'm looking at my property and I'm saying well that's past that line and they call that 51 and its not it's 50. You know and it's past this line and that's not what they're saying so I don't know if that you know makes an issue.

MR. GALFY: So you're saying that your lot is wider than what we're showing here?

MR. WIJATYK: Yes. So if you wanted to see the copy of the tax map that I have I'd be more than happy to show you or I can point it out on the map if you'd like to see.

MR. WEISS: Michael I don't know if it's got relevance to his property. I know your making a point and I know you wanted to check the accuracy I'd like to think that your satisfied that there's a deviation between the tax map . . .

MR. WIJATYK: Yep.

MR. WEISS: Okay I don't think you need to but I'm sure . . . Nelson?

MR. RUSSELL: Yeah there was a discrepancy between the 125 feet they show on the plan and what did you say?

MR. BUCZYNSKI: 199 that's for the subject property. The survey I just looked at the survey the adjacent lots Lots 48 and 49 show the frontage to be 125 feet per the survey.

MR. MCGROARTY: And actually just on that point as Gene mentioned earlier his plan directly shows 199 feet they just labeled it incorrectly on their table.

MR. BUCZYNSKI: The difference is because there was originally two lots and one lot of their proposal one lot was 125 feet the other lot was 74.7 and when they merged it it was then 199.7. The other two lots to the I guess the north are shown to be 125 foot lots on the survey.

MR. GALFY: Yep basically what happened here over the past ten years as I said I've been involved with this we actually did a quiet title action on a lot that was another one of these lots that was owned by a defunct corporation and that's how the merger took place there. When the lot originally started out at about 2 acres we were able to increase it to 3, over 3 and but the tax maps have not I don't think have caught up with this as of yet. And like I said we ran into the problem on the other side too. But I believe your engineer is correct that it's 199 as of now with the two lots.

MR. WEISS: Any other questions?

MR. CAVANAUGH: Just as a point of order. So he's bringing up testimony that supports in verbal fashion what we've been presented with, Gene has brought in inaccuracies and made recommendations that they change the inaccuracies, what documentation do you want us to look at for this meeting for this particular matter? Do you want us to take and mark up our own drawings? I mean not that I'm asking you as an individual I'm asking the Board you know in my past practice my suggestion would be have the applicant go back and revise the documentation and come in with a nice clean application. Otherwise you have members of the public that are going to be testifying and they're going to think one thing we may hear a different thing but it's not going to be clear on the record.

MR. WIJATYK: I think that does it for me thank you.

MR. WEISS: Anybody else from the public have any questions? Seeing none I'll close it to the public. John I don't know if I have an answer I don't know if it's our position to answer that question. I don't know John.

MR. GALFY: Mr. Chairman I don't know if it's really relevant and we need to worry about that it's . . . the issue here is I think there's no question that the property is 199 . . .

MR. BUCZYNSKI: Can I just clarify that maybe?

MR. GALFY: Sure.

MR. BUCZYNSKI: The plans show a distance of 199.7 it's just that they label it at 125 but the plan as far as the size on the plan it shows 199.7 feet. Even though they say 125 and it shows that.

MR. CAVANAUGH: Okay and then all the surrounding properties fit there's no questions right?

MR. BUCZYNSKI: In the survey that they had got from Ferriero it really shows it to be 199.7 so it's more so it's a drafting error of the map but the application should show 199.7 instead of 125.

MR. GALFY: Yeah but the 125 wasn't in the legend I believe is that correct?

MR. BUCZYNSKI: Right on the drawing.

MR. GALFY: Oh on the drawing?

MR. BUCZYNSKI: In the legend right on the drawings.

MR. GALFY: All right what we will do since we're going to have to revise the plans anyway we will certainly make that correction so that the final plans do reflect the proper numbers.

MR. WEISS: So I closed the meeting to the public Mr. Galfy you can continue.

MR. GALFY: Well I believe that's all we really have I think we've met our burden here.

MR. FLEISCHNER: The concern I have is, and I understand it's an estate and you really I'm sure at this point the only thing that's probably left in the estate is the property and there's no cash to do other items.

MR. GALFY: You're absolutely right.

MR. FLEISCHNER: Having been executor of many estates I know that. But what concerns me the most and I think it . . . I'm sure it concerns Gene a little bit and we've heard other applications so before we're going to approve something I mean I would like to know if the septic system is going to work. I mean that's a concern I have. Yes we could as a Board, I'm speaking really in essence to the Board, yes we could approve something and put in if the septic system works you can go ahead. But usually when we approved items like this, and correct me if I'm wrong Gene, we knew what kind of septic system was going to go in, we knew where the outflow would go, we would know those things.

MR. BUCZYNSKI: But even if their engineer was here we wanted some testimony to at least reference the soil types from soil survey maps and saying that based on the soil types it shows that you should get good percolation. We don't even have that information here tonight.

MR. FLEISCHNER: Right and that we've had in the past.

MR. BUCZYNSKI: You know to even give the Board some feeling.

MR. FLEISCHNER: Where we could move forward.

MR. BUCZYNSKI: Right.

MR. FLEISCHNER: And that's a concern I have I mean we have no idea really I mean is it solid clay? I mean what is it? I mean is it shale? I think we really need to know that before we . . .

MR. GALFY: I understand the position of the Board.

MR. FLEISCHNER: I mean that's the dilemma that I think I would face.

MR. GALFY: We certainly want to cooperate as best we can and I think we could probably have the . . . if the Board decided to allow us to carry this we'll carry it until the next available hearing date and we'll get our engineer here to do that. I would not really want to at that time to have to have a requirement that we design the system however because I think that's going to cost a real lot of money and . . . .

MR. BUCZYNSKI: That's not really a requirement for this Board either. They just have to make sure that it's suitable for a septic.

MR. STASZAK: I don't think they've reached that.

MR. GALFY: What we can do then is since there are some other corrections that have to be made to the plan and obviously since the Board members want to hear about soil conditions I would request then that an adjournment to the next available hearing date and we will waive any time requirements that . . .

MR. WEISS: I think that's a wise decision Mr. Galfy.

MR. GALFY: I want to be cooperative I understand I've been doing this stuff a long time myself and I can understand the Board's position.

MR. FLEISCHNER: I think then maybe you can better answer some of the tree questions.

MR. GALFY: Well we'll try to answer the tree issues as well you know and see if we can get that . . .

MR. WEISS: Well I think also Gene obviously you heard the questions that our engineer has presented so those obviously need to be answered. Tiena?

MS. COFONI: I think another thing that needs to be addressed while I understand the plans are correct with regard to visually the width. Mr. Cavanaugh raised the question about the adjacent lots and because we're talking about building on an undersized lot it is important that the Board see accurately the size of the lots surrounding the subject property. Because part of that is is it consistent with the neighborhood. So I think it's important, wait I'm looking at the plans now 45 and 46 are actually now merged so we can't even really see the size of the lot adjacent to your property. The other side 48 and 49 I think are now merged so I think while maybe typically for like a regular site plan application that wouldn't be important but this particular application it is important. Because that makes it look like it is pretty consistent with the lots around it but we've been told now that that's not accurate. So I think if there's any changes or corrections that need to be made to the surrounding lot line that's important for the Board to see.

MR. BLOCH: I'd just like to point out that this exhibit is a combination of the survey lines and the tax lines and what happens is those lines don't match and so what happened to Lot 49 is where the lines didn't line up it doesn't come out accurately. So without an actual property survey for Lot 50 we're not going to get an accurate line there.

MR. GALFY: The surveyors had a very difficult time surveying this whole street. I was contacted several years ago by Ferriero that's how we were able to engage Ferriero because they had done some of the properties down the street they had an extreme amount of difficulty because nothing seemed to line up. And in fact part of the reason this took as long as it did to get here at this stage from the time the estate was started is because the title of this property was horrendous. It was in such bad shape that we had to have a special searcher hired to do this there are only one or two or three people like that in the State of New Jersey who want to take the time to, before we even get clear title on the property. We now have that that's insured. So the reason I raise that is because I think our expert is probably right it may be very difficult to get exact dimensions that are going to match up with tax lots because I don't think the tax map has been really updated that recently either.

MR. BUCZYNSKI: Well a survey would read more accurate than the tax maps would be.

MR. GALFY: Right. All right well I think you know we could probably do that I'll talk to Rick about doing that as well and see if we can't . . .

MR. WEISS: Catherine do you have the schedule out?

MRS. NATAFALUSY: Yes we've got matters scheduled in July and the first meeting in August is the conversion application so the second meeting in August, August 18 we have nothing else on that night.

MR. GALFY: Which date is that mam?

MRS. NATAFALUSY: August 18<sup>th</sup>.

MR. GALFY: August 18<sup>th</sup> as far as I know it should be okay. I have to have Mr. Roseberry here for that one so I'll have to double check his availability on August 18<sup>th</sup>.

MRS. NATAFALUSY: I will need an extension from you?

MR. GALFY: Yes if you just send it to me I'll be happy to . . .

MR. BUCZYNSKI: Well if you address all the comments before then you might not have to be here.

MR. WEISS: We have a copy of that extension right now Mr. Galfy you can sign it.

MR. GALFY: Yeah I'll sign it right now.

MRS. NATAFALUSY: So for the record carry this to August 18<sup>th</sup>?

MR. WEISS: For the record it will be carried to August 18<sup>th</sup> with no further notice. I would suggest if people from the public want to know if there's a change in the date Catherine what do you suggest?

MR. MCGROARTY: That they renounce no?

MR. WEISS: They would have to renounce?

MR. MCGROARTY: If they change the date.

MRS. NATAFALUSY: Well couldn't we carry it on the 18<sup>th</sup> to the next meeting?

MS. COFONI: We can make an announcement on the 18<sup>th</sup> about the next meeting if you want to avoid having to come on the 18<sup>th</sup> unnecessarily then you can, Catherine said you can call her office.

MRS. NATAFALUSY: If it's not heard that night.

MS. COFONI: Right.

MR. GALFY: I would like to get it heard if possible.

MR. WEISS: Fine we have a light schedule that evening so you're carried to the 18<sup>th</sup> unless of course your engineer can't be available and you can work out a date with Catherine.

MR. GALFY: Okay that's the only thing I don't know what his schedule is.

MR. WEISS: Okay I just addressed to the public that it's the 18<sup>th</sup> or call Catherine's office.

MR. GALFY: Thank you very much.

MR. WEISS: Thank you.

(5 MINUTE BREAK TAKEN)

MR. WEISS: Our next . . . .

MR. VAN NESS: Before you move on.

MR. WEISS: Scott?

MR. VAN NESS: Can I ask a quick question?

MR. WEISS: Sure.

MR. VAN NESS: Does this Board have subpoena power?

MR. WEISS: Does it have subpoena power?

MS. COFONI: Yes.

MS. GALFY: Really?

MR. FLEISCHNER: Okay.

MR. STASZAK: You had to tell him that didn't you.

MR. MCGROARTY: Subpoena power?

MS. COFONI: Yes.

MR. WEISS: Care to explain?

MS. COFONI: No.

MR. FLEISCHNER: Not at this moment.

MR. VAN NESS: Never mind I said enough.

MR. WEISS: Okay.

MS. COFONI: Should I clarify? Subpoena power in relation to applications before us. Okay.

MR. WEISS: Steve I have some interesting news. I've just been told that you don't have to stay because it's five out of seven and you're the eighth so you couldn't be able to vote on it so we'll certainly excuse you if you'd like.

MR. BEDELL: All right that's all right.

MR. WEISS: All right I just wanted to give you that option.

MR. BEDELL: Well they've been here twice before so what the heck I might as well stay through it.

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**APPLICATION #PB 11-13 – CIEL WEST LAKE PROPERTIES**

MR. WEISS: Okay let me introduce we have PB 11-13 Ciel West Lake Properties seeking a "d" variance for amended preliminary final site plan with variances of Block 7702, Lot 21 located at 325 Route 46. Tonight we have Mr. Kron good evening.

MR. KRON: Good evening Mr. Chairman for the record Larry Kron of Nusbaum, Stein, Goldstein, Bronstein & Kron representing the applicant. The property as you've heard is 325 Route 46 East in Block 7702, Lot 21. This is an amended preliminary and final site plan. This application was approved by the Board of Adjustment in November of 2008 which contained a two-story retail building and a restaurant building and that application was subject to a Highlands Application a Highlands Exemption because we were in the Preservation Zone. And it was Exemption No. 4, Exemption No. 4 allows you to have 125 percent around existing impervious coverage. When we went to the DEP the DEP decided that certain of the impervious coverage that we were showing was not impervious i.e. a roof had come off an old shed and they said because it had no roof it was no longer impervious. And they found some grass growing out of some pavement and they said because there was grass there that wasn't impervious. So the end result was we had to shift the configuration of the property a little bit of what we did. It's basically the same application that you approved with the same two variances that were granted the last time the building height, the height of the wall. We have Jim Glasson the engineer will just describe the project and go through some of the comments that were made and Mike Burn is our architect and planner he will show you the difference between the two plans the one that was approved and the one that we have now. And also testify in terms of the two variances that I've just mentioned. So with that I'd like to have Mr. Glasson sworn in I know Mr. Glasson has testified before the Board many times so I assume he'd be qualified as an expert witness.

MR. WEISS: We can't assume that Mr. Kron we can't make that assumption.

MR. KRON: All right do you want me to qualify him?

(JAMES GLASSON SWORN IN FOR THE RECORD)

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

MR. GLASSON: James Glasson (G-L-A-S-S-O-N) my company address is Civil Engineering Inc. on 1 Cove Street in Budd Lake.

MR. KRON: May I ask for the record that Mr. Glasson be qualified as an engineer to testify in this matter?

MR. WEISS: And seeing no objection from the Planning Board we'll accept Mr. Glasson as an engineer.

MR. GLASSON: We had originally appeared before the Board as Mr. Kron said back in 2008, we were approved at the time for a two-story building with a footprint of 8,143 square feet. At that time the building had 3,587 square feet of retail on the first floor and the second floor was 4,556 square of restaurant use it was to be a 100 seat restaurant. We had 56 total parking spaces we were in conformance with the parking requirement and the site worked we thought very well. We then

submitted our plans to the Highlands or we hadn't submitted our plans to the Highlands when we had come before the Board and it was looked at by the Highlands for Exemption #4 reconstruction of any footprint within 125 percent of the lawfully existing coverage. Now that word the lawfully existing coverage is where the kicker is because where existing coverage lies under these exemptions, and I don't know if everybody even knows this, but if you take that coverage and move it or take it out you lose it. So if you were to look at this site right now this is an existing picture of the site you can see where the coverages lie along Route 46 with the buildings that sit there presently right now and if you were to move that coverage you lose the coverage. If you don't put coverage back where coverage is and you know it's not as if you can take this site and total up the coverage and then say okay I'm going to put the coverage back now in a different configuration. If you move coverage you lose coverage that's what that exemption is for. It's not very clear the way it's stated but that is how that exemption is interpreted. And I shouldn't say that that is what that exemption has always been, that exemption when it first came out actually was looked at differently but there's a new head of the department down there and they now have a rule that if you take coverage out you lose coverage. So we went before the Highlands people and because of the fact that for example we have a large shed in the back here it's a 580 square foot roof area, the roof is literally sitting out there on the ground on top of the foundation. Water cannot penetrate, that roof cannot penetrate those shingles nor can it penetrate the foundation but because that's a dilapidated structure they didn't give us credit for that. So they were arbitrarily going through this site and we argued with them for probably a year to a year and a half about specific coverages and finally we came back and came to an agreement. And because of that agreement we've had to amend the plans. I'll give you a brief overview of what the site is now in case anybody was not at our meeting in 2008 or was not on the Board when we were before it. This property has a lot frontage along Route 46 of 200 feet it's in your C-1 zone. It has a depth . . . .

MR. WEISS: Jim I'm going to interrupt you just real quickly. We'll mark that A-1 and apparently it's an existing conditions is that same sheet as 2 of 19?

MR. GLASSON: Yes.

MR. WEISS: Colored?

MR. GLASSON: This is my sheet 2 of 19 colored version.

MR. WEISS: A-1 with today's date.

MR. GLASSON: This particular property is located between Route 46 and McKelvie Lane. It's located physically between what is known as the Sandwich Shop out there and a large parcel of open space before the church that's located along Route 46. As I said the property has 200 feet of frontage on Route 46 and it has another 200 feet on McKelvie, it has a depth on the westerly side of 350 and the easterly side of 368. It's located in your C-1 zone which requires a minimum lot size of 43,560, this lot has 1.66 acres or 72,000 so it exceeds the C-1 requirement. The C-1 requires a lot width of 200 as I said the lot widths are in excess of being in conformance with 200 feet. The depth of 150 which exceeds and your C-1 requires that principal building setback of 75 front, 25 side and 20 foot rear. You can see from the buildings that are out there this was the old plumbing store the main building that's called A on my plans was a plumbing supply shop I don't know how many years ago I know it's been there for . . . it has not been in operation for a number of years. But that structure is only 2,417 square feet in the footprint but that footprint sits all the way up into the front corner of the property only 18.1 feet off of the right-of-way of Route 46 where your C-1 requires 75 feet. This gives you an idea of what we're up against with the Highlands because our coverage sits right down here on Route 46 and that's going to come into play as I show you what we're proposing. There also is a two-story what was used as a single-family structure two-story at 1,635 square feet in this area and this gray represents the paved parking area that presently existed the parking spaces in front of the residential as well as the parking area in front of the plumbing store. This area that's dotted in white represents a gravel area that's in the rear; this represents the area that we were credited for, for the gravel which actually stretched in a larger area back when we first went in with the plans to the Highlands. But that's what we agreed to. There is this building B that's in the back I believe at one point it was an old bath house used in conjunction with the lake many years ago, but that's 2,612 square feet so you can see there's various coverages on the site and we come up with an impervious coverage of about 34 percent of existing. Now your C-1 zone allows 60 percent we actually only slightly increased that with the 125 percent it sounds like we should be able to go up in coverage of about 43 percent when you take that existing coverage but we actually only increased our coverage by about 2 percent because of the give and take of what goes on with the Highlands. Adjacent properties again to our west the Sandwich Shop, behind that is Lot 26 that contains a detention basin for the residential subdivision that's in the rear on McKelvie Lane these are R-2 zone single-family homes on the other side of McKelvie. This area sits much higher than the . . . from the

front to back elevation the road here is at 990, the road out in Route 46 is at 937 so you're talking about a 60 foot elevation difference. The property slopes again from that McKelvie down to Route 46. The majority of the property is in the zero to 15 percent slope about 1.3 acres, there is a small area of about .3 in the 15 to 25 percent and there's a really small area of .008 in the greater than 25 percent. That mostly exists up in this area adjacent to McKelvie when you first come off of that embankment. That is an area we are not touching so we are not proposing any variance or any disturbance of steep slopes except for a small area within the allowable steep slope coverage and that really is existing in between these two buildings there is just some man-made steep slopes that were created here between the two buildings that showed up on our slope map. To our easterly side is an open space lot Lot 16.32, Block 7702 and that actually has a zone line that runs in between it so the rear portion of it is in the R-2 and the front portion is C-1 and directly across the street is Budd Lake. It should be noted that the storm system that's within this property there's various manholes and storm drains it runs directly to a storm system in Route 46 and discharges directly to the lake. And that will have some relevance in my testimony about what we're going to do. This second exhibit that I have is a colored up version with the landscaping turned on of my site layout which is my sheet 5 of 19. Do you want me to mark that?

MR. WEISS: Please A-2 and we'll call that proposed site layout sheet 5 of 19 with today's date.

MR. GLASSON: What we're before the Board tonight for is a modified version of what we were originally before the Board. This building footprint that you see on this plan or the building as shown in white has a footprint of 6,955 square feet it's about 1,188 square feet less than what we had come before the Board with originally. The first floor retail space which is serviced by this area this walkway in the front the first floor retail is now 2,999 where previously it was 3,587 so that's gotten reduced by 588 square feet. The second floor restaurant I have two options shown on my site layout plan. I have an option one which is shown up in the upper portion and that is for retail space on the bottom and the restaurant use on the top. I also have an option two if you cannot utilize the . . . or we cannot market the restaurant space, for office space on the top. Either way the first floor will remain retail but we wanted the option of coming in with two different options for the Board to look at. We intend to go forward as a restaurant but we're getting down in the number of seats in the restaurant we've now only been able to generate 87 seats and most users as the applicant made the Board aware I believe the last time we were before the Board, most of them look for 100 seats. So we are going to market it as a restaurant but I'm going to give you two layouts or two potential parking layouts to have it work both ways. So we would utilize first floor retail under both scenarios but the second floor might be utilized as office space if we cannot market it as a restaurant. The circulation to the property is provided by a 15 foot wide ingress that's located up in this northwest corner. That runs in a one way circular motion there is a two way aisle in the front, meaning there's a 25 foot aisle with stacked parking on either side. In the rear you'll notice there's only a single aisle and one line of parking. On the previous application this is where our application varies somewhat in that we had more coverage, we had a double stacked aisle in the back so this becomes a problem for us because trying to get the number of parking spaces to conform was our major issue. We're trying to conform to coverages. You'll notice the front parking lot is very close to Route 46 because if you'll notice or you'll recall on the previous plan I pointed out the existing building. You have to put coverage back where coverage is. So if you see this grass area here that grass area corresponds to on the previous plan the grass area that existed here behind the existing building and that parking lot. So it's very important that the coverage be put back where the coverage is or you lose it so it's kind of an odd layout. This parking area actually comes as close as 1 foot to the right-of-way in the front because that's what the parking lot does now. Although its 16 feet off of the curb line of Route 46 it comes very close to the front and that's going to be one of the waivers I'm going to go through. But for the parking this is option one up here. We have 28 proposed spaces in the front. Our retail space requires 20 and our restaurant needs 29 for an 87 seat restaurant at one space per each three seats. We've asked for more . . . I'm going to say we asked for more seats than we have parking spaces but we're deficient on this layout by four spaces and we're deficient with the addition of some valet spaces. They had come before the Board with a concept at one point to talk about some valet parking because we needed to increase our parking to stay in the 80, 85 range with our seats. We've kept it at 87 and we have eight valet spaces that would have to be deed restricted if this was utilized as a restaurant they would have to have valet parking. They would be on turf spaces thereby not counting towards our Highlands restriction. They would have depressed curbs and they would be stacked behind these paved spaces. So there would be nine paved spaces and eight turf spaces located here, seven of them would be stacked and one would be singular on its own that would be able to be accessed directly without having valet parking. And that layout is option one and of course that's our desired layout but we are four spaces short so we would need a waiver for nine spaces in that scenario. Option two shown on the bottom of the plan is for again we need the 20 retail spaces for this retail space underneath but we also need 18 spaces for office. We now have in the upper area the nine paved spaces, we would not install these valet parking spaces for an office we would then wind up one space short. Now as I sat

here and looked at the drawing I said to myself why don't we just not go for that other waiver and ask the Board to let us put in this one grass paver space if we go with that option because then we would be conforming. We would be conforming in the number of spaces in that we would have 38 spaces and 38 spaces are required. We are asking for a waiver on the second scenario for one space. This does not need a valet parking on this single space here but it would have to be put in as a grass paver space. But that would enable us to eliminate one of the waivers that we need for option two. But option one still would need a waiver for four parking spaces. Loading, we had originally appeared before the Board with a loading space on this easterly side of the building that was 10 by 60. At the time we testified we didn't really need a 10 by 60 but we were putting in a 10 by 60 that was the requirement of the ordinance we do not anticipate having any deliveries in this site other than a 30 foot SU truck and that's the turning movements that I showed on my sheet 15 of my plans. But quite frankly we could not accommodate a 10 by 60 space. The last time we had the extra coverage or we thought we had the extra coverage but I have a 10 by 30 space shown on this side of the building marked as a loading zone with access via walkways to the front of the building as well as the rear of the building. Our utilities, we had originally been before the Board with a storm drainage system located under the parking lot. We're going to put the same kind of system in now. This system is beneficial to not only our lot because we can cut our run off down and infiltrate our 100 year storm but it also is beneficial to the lake because we run our storm system completely through a storm filter with 21 cartridges located under the parking lot in this area and then we infiltrate it into the ground in a 60 by 37 bed that has oversized 36 inch perforated cmp corrugated metal pipes. So the idea here is to infiltrate that 100 year storm flow without discharging it to the storm sewer that runs right into the lake which is the present case right now. There is an overflow that runs there so in the event of a failure there would be something going into the lake but at least it would have already have been treated by this storm filter. But that would have to fail or it would have to overtop the 100 year storm for that to happen. With regard to our water supply, we had originally come before the Board for a well, a proposed well at the time we did not know that there is a water system back here on McKelvie that could accommodate us for I won't say accommodate us for domestic flows. We had put on our plan that we are going to attempt to tie in for sprinklers we don't know if they have the capacity yet so we're going to have to check on that. But we are going to put a two inch domestic line and I spoke with the water company and they can accommodate us for water for that so we would not have to drill a well but the architect will testify as to what we would have to do if we can't get the sprinkler line with the four inch line to tie into that it would be a four hour sprinkler system. We have a refuse disposal and recycling area in the rear of 6 by 25 it would be fenced and enclosed and would be utilized for the entire building. I will add that this building there's a building footprint in this lower right corner and there's a stairwell that runs, although our parking is kind of split up and there's probably more parking that's needed in the front I said we needed 20 spaces for the retail we have 28 in the front. There's an internal stairwell, open stairwell 10 feet wide that runs up through the building so there would be no problem with walking through the building. And quite frankly we looked to try to put walkways around the building on the previous plans we had them around the building but again we didn't have the coverage in those areas so we could not put that walkway back where we originally had them. I believe we originally had steps going up the side so now we put our stairwell inside 10 feet wide it will be an open air stairwell. Our electric, telephone and cable will be run underground you can see from this I just tried to turn on my landscaping Mr. McGroarty had a comment regarding the tree ratio which I think I used the incorrect tree replacement. I sent him an email earlier today just documenting that I checked it against the new ordinance and we still would be in excess but I would have to change that on the revised plan to show that new calculation of what is the number of replacement trees required. We have 53 trees proposed on the plan. These trees are tiered in this back area which is an area where we have a retaining wall and that's of significance because we need a variance for that wall because that wall varies in height from 2 to 13 feet. We had originally come in before the Board with walls stepping up the hill. Now one of the other requirements of this exemption is that we're only allowed to disturb up to one acre. And by stepping up that hill and disturbing more area we were basically putting ourselves out of the park with that exemption so again that came into play with how we designed this thing. So we do have a 13 foot high wall at its highest point in the middle, there would be trees I believe these are Doug Firs planted on the high and low side of the wall. For the neighbors in the back, just to give you an idea I wrote down some numbers, our ridge height of our building is at 981 the actual ridge our cupola which Mr. Burn will talk about runs up to 989. The top of the retaining wall here is at about 970 and we have 6 foot trees that would go up to about 974 to 976 in the upper area of the wall. The road up at this elevation is at 990 so the view from standing in the road here is actually just above the height of the top of the cupola. It's actually about nine feet above the ridge height of the building that's proposed. So it gives you an idea of what we would look like from the neighbors behind us and those houses actually sit above the roadway. Those driveways actually, you know not significantly, but those houses are actually grade so I don't believe other than possibly the top of our cupola would change anybody's views of the lake. Lighting we have 11 proposed lights we have a lighting plan, nine of them are pole mounted at a height of 18 feet very similar to the previous applications with two building mounted. I have shown a freestanding sign a

pylon illuminated sign in the front corner on the one island at the northwest corner at the entranceway. It's very similar in size than what was previously approved 7 foot by 8 foot it's 13.4 feet from the right-of-way Mr. Burn will discuss building mounted signs with his testimony. If I could just give you an idea my overall coverage that's proposed from 34.38 is now 36.69. And our building coverage which presently exists is 10.61 was run down to 6.02 so our building coverage actually is reduced by taking down all of those buildings and putting this single structure up. If I can go through my waivers and my variances and maybe I can just justify some of them for you. The first waiver we need is for our loading space size where you required a 10.60 we have a 10.30. As I said we only anticipate SU trucks and quite frankly we could restrict it with signage if that need be at the site entrance but we don't anticipate any WB size trucks. If you're a WB and you turn in here you've got trouble because you're not going to maneuver in here and we couldn't accommodate that. Our parking space size, this is important I failed to mention, our parking space size your ordinance requires 9 by 20 or 10 by 18 all of the parking spaces that I'm proposing that are conventional spaces are only 9 by 18. I can meet your width but I can't meet your length because once again if I meet the length I'm going to lose spaces. So I tried to look at our justification for that and my justification is that all of my parking spaces will overhang curb. We still have 25 foot aisle, we still have a 25 foot aisle in the front and a 25 foot aisle in the back but I do need that waiver for parking stall size. Parking itself as I said the retail restaurant use needs a waiver for four spaces and the retail office needs a waiver for one space but if I were to put in this paver spot here we wouldn't need a waiver for that space so I think that may be a good idea to look to change that and put that space in either way. So the idea would be we would not install . . . if we market this as a restaurant and it does not move and we decide we have to go the other way to the office we would then not install these grass block paver spaces. These seven I still would think we would install this one because then it would make us conform for parking for the office. So we would take away that one waiver. We do need a waiver for the valet parking because it's not allowed in the ordinance and that is for the, what I call the eight valet spaces it's actually seven actual valet spaces and one that's just off the island. As I said earlier the parking setbacks, you can see our parking in this area is one foot off of the property line, you require a front setback of 25 feet. If I take the 25 feet I'd lose that parking I would lose all of that coverage so we put the coverage back literally where the coverage was. If you recall on the previous . . . on the existing conditions on the left side of the building there's a concrete, it's shown in yellow here, there's a concrete aisle way that comes down on the side of the building and its very close to the property line so we actually lost some coverage there because I couldn't actually stick the coverage pins to the property lines so that just gives you an idea of what we tried to keep it as close as we could there. Our side setback where you require 15 feet and we have 4.5 on this left side as I said which is a little bit greater than it is right now and it's 12.8 on the right side. And that's basically so that we could utilize that space that was the parking that was in front of the existing residential home that's there right now so we can get access to that area and utilize that for parking. Our variances Mr. Burn will talk about our building height variance we are a 30 foot maximum, 38.89 is proposed. If you recall last time we were before the Board it's basically the function of it or the reason for it is because we're putting a very decorative cupola and I'll let him talk about that. And we do need a variance for the wall height as I said the wall height is dictated by . . . if I could do the walls the same way as I did last time I would tier them up the hill and I would make them conform to what Mr. Buczynski would like to see but I cannot accommodate that within the Highlands Exemption. So in conclusion I know this, to me this is kind of a unsymmetrical looking different layout than I had originally, I have my layout here from my original approval that you can see the two of them they vary in that this looks very symmetrical everything kind of lines up and you can see on the new layout things are kind of askew but that's really what we had to do to deal with the Highlands.

MR. KRON: Mr. Glasson you have covered the five waivers on page three of Mr. Buczynski's report let me just go through the rest of his comments starting with comment number 2 on page 4. The applicant should consider some landscaping, screening along Route 46 to limit the lighting glare from the vehicles on the parking spaces perpendicular to Route 46 in the parking lot. Landscaping has to be limited to provide proper sight distance along Route 46.

MR. GLASSON: Yes we can do some landscaping probably with these center spaces once I get out where the sight triangles will overlap I will not be able to get too much other than something small.

MR. KRON: Number three the proposed storm water management system is acceptable however this office recommends that the existing "B" inlet on the eastbound lane of Route 46 be reconstructed to provide a sump in the inlet.

MR. GLASSON: Yes that's acceptable.

MR. KRON: Number four the plans should be revised to show the invert of the sanitary sewer connection leaving the building and the size and grade of the pipe. The plan shows the proposed

sanitary line to be incased in concrete at the crossing of the storm service for proposed inlet number 7 the additional information is required to determine the extent of the conflict between the storm sewer and the sanitary sewer connection.

MR. GLASSON: Yeah I'll probably establish that grade, I'll probably take the elevation of the actual tie in point and then I'll work it back from there. Because it's going to be a new line the whole way anyway so I'll probably . . . I'll give you that information I'll give you the new layout.

MR. KRON: Number 5 the plan should be revised to show the size of the existing water main in McKelvie Lane and note that a wet tap is proposed for the connection to the water line. The connection is subject to the approval of the Township of Mt. Olive Department of Public Works.

MR. GLASSON: Yes and we'll also find out about that capacity for a sprinkler.

MR. KRON: There is a note in the plans that the building may have a sprinkler system if adequate capacity is determined in the existing water system the applicant should address if this was discussed with the Township of Mt. Olive Public Works Department.

MR. GLASSON: It was not. We only talked about domestic supply at the time so we're going to have to check and see . . . and Mr. Burn will address what our other alternative would be if we don't get the sprinkler system supply.

MR. KRON: Number 7 landscaping plan designates 8 existing trees to be remove that are 10 inches in diameter or greater this requires 44 replacement trees per the township ordinance, 53 replacement trees are proposed consisting of 9 Maples and 28 Douglas Fir and 16 Black American Arborvitae.

MR. GLASSON: Yes. I might have a different number but it will not be greater than . . . when I do it with those new ratios I may have a different number required but it won't be greater than the 53.

MR. KRON: Okay and number 8 is just a requirement that all of the site lighting with the exception of minimum illumination for security purposes shall be off between the hours of 10:30 p.m. and 7:00 a.m. Number 9 sight distance along Route 46 . . .

MR. WEISS: You know Mr. Glasson just I think you went like this . . .

MR. GLASSON: I believe that might be on my plan already.

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

MR. BUCZYNSKI: It's just a statement that's all.

MR. KRON: Number 9 sight distance along Route 46 should be shown on the plans the applicant's engineer should address the concern of left turns entering and exiting the site onto Route 46. Signage is proposed at the exit from the site indicating no left turns.

MR. GLASSON: I think I have . . . sheet 17 is my . . .

MR. BUCZYNSKI: I think it's also handled the fact that you have signage (inaudible) left turn.

MR. GLASSON: Yeah I have a sight distance analysis on my sheet 17 to show both directions but I do have a no left turn out of there.

MR. KRON: Okay we agree to number 10 the deed descriptions for the sight triangle easements should be submitted for review and approval and number 11 the various approvals are listed we would indicate we do have the Highlands Exemption already. That's actually the reason we're back here. And I think that covers Mr. Buczynski's report as far as your testimony is concerned. I believe you already testified in terms of Mr. McGroarty's you did testify about the issue of the tree replacement is that correct?

MR. GLASSON: Right he had a number of other items that I believe Mr. Burn will . . .

MR. KRON: And the rest will be covered by Mr. Burn. That's all the questions I have of Mr. Glasson.

MR. WEISS: We have the benefit to this evening Mr. Buczynski actually being here and so if there's anything you wanted to add Gene from your report I know Mr. Kron kind of took you through your report.

MR. BUCZYNSKI: That was very nice of him.

MR. KRON: So do I get my engineering degree for that?

MR. WEISS: So you're fine with that.

MR. BUCZYNSKI: I'm good.

MR. WEISS: Okay perfect. Okay and so Chuck do we have . . .

MR. MCGROARTY: I guess Mr. Burn is going to testify. I mean the tree Mr. Glasson as he mentioned he confirmed that the . . . even with the revised tree replacement requirements he exceeds the number and I am comfortable with the numbers that he has on the plans that he will.

MR. WEISS: Gene do we have to make any commentary about Tim Quinn's notice about the EDU's? Is that something we need to . . .

MR. BUCZYNSKI: Yeah we could I don't have that handy.

MR. WEISS: Do you want to see it?

MR. BUCZYNSKI: It's regarding how much . . . I think did you receive a copy of that relative to Tim's comments pertaining to I think the number of EDU's you need for the project and what's the cost going to be? Have you seen that?

MR. GLASSON: No.

MR. WEISS: It's dated June 7<sup>th</sup>.

MR. BUCZYNSKI: Do you want to read it or do you want me to cover it? Basically what it says including 87 seat restaurant on the upper floor and retail on the lower floor the amount will be for the lower level 2,999 square feet equal 1.3 times 2 EDU's plus the restaurant equals 14.03 EDU's totaling 15.33 at a cost of \$13,954.01 if it's conforming. So he's just noted this I guess to Catherine.

MR. GLASSON: And I would take it that will be option one which would be our highest use because of the restaurant (inaudible) the office.

MR. BUCZYNSKI: And nonconforming EDU's will be \$16,914.

MR. GLASSON: Okay.

MR. WEISS: Thanks Gene. Okay let me stop you here, anybody from the Planning Board have any questions for Mr. Glasson? Scott?

MR. VAN NESS: Just it was about the hours that were mentioned and the lighting. Is that an agreement that if let's say it is a restaurant is the restaurant going to close by 10:30 at night? I just want to clarify it I heard the lights should be off after 10:30.

MR. KRON: It says all site lighting with the exception of minimum illumination of security purposes shall be off between the hours of 10:30 p.m. and 7:00.

MR. BUCZYNSKI: That's on your plan.

MR. GLASSON: I don't believe . . . that has to be in error because 10:30 I would think if it's a restaurant he's going to want to stay open later.

MR. VAN NESS: Right I think it should be upon closing because is there going to be a liquor license in the building? Is there going to be an application for that?

MR. GLASSON: I hope.

MR. VAN NESS: So minimally you're looking at 2:00, or latest you're looking at 2:00 in the morning for that. So that's an issue that the Board should be aware of.

MR. KRON: What hours would you like us . . . do you want us to change that to would you propose?

MR. VAN NESS: But it depends on what the use of the building is approved for. What if they wanted to put a 24 hour restaurant in there?

MR. RUSSELL: There are no residents really that are going to be affected by it. If you go up the road 7-11 is open 24 hours a day.

MS. GADELHA: I see heads shaking in the audience Nelson.

MR. VAN NESS: It's the development that is behind this complex will be affected by any illumination that hasn't been there in ten years. And the houses weren't there when this place stopped operation so there's probably some definitely questions there. So the question ultimately is how is this building going to be used and is there . . . it doesn't sound like you want to be a 24 hour but who knows a tenant might want to come in and do that. So there's something that we need to be aware of. And that can probably handled I would imagine Gene with type of lighting which is addressed in their plan is it not?

MR. GLASSON: The owner has just said if it utilized, if we get the restaurant user he would be amenable to the 2:00 he's not going to do a 24 . . . you know he would be amenable to having that stated.

MR. KRON: For the purpose of this resolution if we could amend that to between 2:00 a.m. and 7:00 a.m. and then . . .

MR. MCGROARTY: Most likely restaurants . . . if you're not having a bar it's unlikely a restaurant is not going to stay open until 2:00 anyway.

MR. GLASSON: I don't want to stop us from doing that though because we don't know who the user will be at this point.

MR. VAN NESS: My opinion would be at closing hours as opposed to a specific time, no later than 2:00 a.m.

MR. GLASSON: Okay.

MR. VAN NESS: So if it's a regular restaurant that closes at 10:00 then why not turn off the lights at 10:00.

MR. KRON: Okay so closing hours but not later than 2:00 a.m.

MR. STASZAK: Right.

MR. WEISS: Anybody else from the Planning Board? Rene?

MS. GADELHA: I had a question about the landscape between the front parking lot and Route 46. You had mentioned the parking spaces were going to be two feet short from the ordinance requirement.

MR. GLASSON: Right.

MS. GADELHA: And then you talked about that being compensated by an overhang. So will the overhang interfere with where you would put landscaping?

MR. GLASSON: Well I'm going to have to get some kind of DOT . . . there's 16 feet there at the shortest point there's 16 feet so I'll probably have to go to DOT. On the one end it gets wider I'll probably have to go to DOT and get some kind of planting permit which typically they would allow. But they would be probably Boxwoods or something low shrubs anyway just something to block a light, a

headlight you know what I mean? But not to ruin the appearance of the building we want to be able to still see the building if Mr. Burn (inaudible) an attractive looking building.

MS. GADELHA: Okay. The second question on the parking if you go to plan B and you're not able to do the restaurant and you do office space I missed the requirement, the parking requirement spacing.

MR. GLASSON: The required spacing is 38 and we have 37 if we do not put any of these turf spaces in. If we put the single turf space in here that is not really needed by a valet it would be 38 and 38 so we could conform. It's a lesser requirement it's 4.5 per 1,000 for your office where it's 1 per 3 seats for your restaurant.

MS. GADELHA: But they would still be two feet short overall?

MR. GLASSON: Yes, yes they will still be two feet short.

MS. GADELHA: Okay.

MR. GLASSON: Any parking we have all of the spaces would be two feet short. But we do still maintain that 25 foot . . . the important part about a lot of the towns even accept 18 foot long spaces as long as you can overhang curb but the important part is that you have the aisle way Mr. Buczynski had commented. But the aisle way is the important part when you back out of that space to be able to have maneuvering area. So when you have two cars parked here and they go to maneuver back out of here they still have that wide aisle of 25 feet.

MR. WEISS: Scott?

MR. BUCZYNSKI: 18 foot long space is not uncommon. Our ordinance calls for a length of 20 but it's not uncommon to have 18.

MS. GADELHA: Thank you.

MR. WEISS: Go ahead Scott.

MR. VAN NESS: Gene the loading zone is that an actual requirement by ordinance?

MR. BUCZYNSKI: To have a loading zone?

MR. VAN NESS: Yes.

MR. BUCZYNSKI: Yes.

MR. WEISS: Nelson?

MR. RUSSELL: Could you indicate on the plan where the trash will be taken?

MR. GLASSON: Yes in the back here in this yellow area it's a 6 by 25 fenced dumpster area here it actually sits downhill of the wall. So it will be completely hidden from anybody in the rear it's going to have . . . it's probably where the wall is at its maximum height of 13 feet so it's going to have a wall sitting back behind it. It will be fenced, it will be gated and there's details on the plans on the construction detail sheet.

MR. RUSSELL: And there's room for pick up.

MR. GLASSON: That's right in the aisle, that's right in the 25 foot wide aisle way. So whether there was cars parked there or not it would not encumber (inaudible).

MR. RUSSELL: Okay thank you.

MR. WEISS: Any other questions from the Planning Board?

MS. GADELHA: I have another one.

MR. WEISS: Go ahead.

MS. GADELHA: You had mentioned the size of the truck, a delivery truck it was almost half the length of the ordinance requirement?

MR. GLASSON: Well when you say it's half the length a typical SU truck is 30 feet long that's a box truck like a food delivery truck but a WB50 or something like that an 18 wheeler we can't accommodate that.

MS. GADELHA: Right and so I guess my question is obviously you don't know what kind of retail would be in there but the food delivery truck, the 30 that size would accommodate most deliveries for retail or restaurant?

MR. GLASSON: Yes and we will have to make sure that happens. Because I mean if need be we could sign that that it does not allow, I mean not that it helps you when you're coming down Route 46 but it would not accommodate a truck that big.

MR. MCGROARTY: At Dattolo's mall out there now I mean if an 18 wheeler pulls in and blocks the whole (inaudible).

MR. VAN NESS: Where Domino's is?

MR. MCGROARTY: Yeah.

MR. WEISS: Jim does that wrap up your testimony for now?

MR. GLASSON: Yes it does.

MR. WEISS: Let me do this, let me open it up to the public for any questions that they might have for Mr. Glasson and his testimony that was delivered this evening. Sir if you would please step up to the microphone and state your name, and again you're here to ask a question of the testimony that Mr. Glasson gave.

MR. CALDERWOOD: My name is Stan Calderwood (C-A-L-D-E-R-W-O-O-D) my address is 25 McKelvie Street, Budd Lake just up behind the proposed building. Mostly the first question I could maybe have clarification from the Board if this project is being approved in some form and we're just looking for approval for the variances or is it possible that the project would not go forward at all?

MR. MCGROARTY: It's already been approved the site plan was approved by a different Board actually as I think Mr. Kron mentioned or Mr. Glasson did and they had to modify the size of . . . they've reduced the size of the building, the footprint of the building and so on because of the Highlands requirements as you had heard Mr. Glasson describe. So they're back in front of the Board, this Board now to amend an approval that was already granted but had to be modified as a result of the Highlands regulations.

MR. CALDERWOOD: I understand and basically would it be appropriately for me to ask for additional conditions to be considered?

MR. WEISS: I think that that would come up before the application is over. We'll certainly open up the meeting for commentary and at that point we'll take your input if you had some suggestions.

MR. CALDERWOOD: Okay. Well then let me just ask my questions and you can tell me if they are appropriate for now or for later. One question is about the occupancy of the building and the restaurant in particular in a family neighborhood is it reasonable to set some limits on what kind of restaurants could go in there. For example you know clubs might not be appropriate in that area or gentlemen's clubs and things like that may not be appropriate in that area.

MR. WEISS: Well I think I can give a quick . . . Chuck maybe you could help me by looking into what the zone allows for. The zone calls and pretty much spells out what is allowable in this particular zone. So some of your examples might be allowable and some of them might not.

MR. CALDERWOOD: So how would I find out that information about . . .

MR. WEISS: I think I'm going to get that for you in one minute.

MR. CALDERWOOD: Okay thank you.

MR. MCGROARTY: Well I pretty much can tell you the C-1 zone does not include a specific reference to . . . and I'm not trying to be funny but to a gentlemen's club and I have a sense of what you're talking about Gene has told me about this kind of thing. There's a list of types of things but I think the general category here would be restaurants, bars and nightclubs would be among the permitted uses. But now the testimony tonight is a restaurant there's been no indication that I'm aware of or the prior application for a nightclub. And a bar, perhaps there would be a bar if they have a liquor license but I think a nightclub and Tiena I'll look to you and to John to help me on this but if they're looking for . . . if they're coming in representing it as an office/retail or retail/restaurant and they want to do nightclub should that ever occur I think they'd have to come back.

MS. COFONI: I think they would yes.

MR. CALDERWOOD: Okay I'll accept that then.

MR. GLASSON: And I can tell you that we don't intend, it's not going to happen.

MR. CALDERWOOD: All right okay I'll accept that then. The second issue is that as the occupancy of the residential area is increased there are progressively more and more children just crossing Route 46 to get to the beach and the traffic conditions are already pretty unsafe. You know they say kids are not careless they're carefree and I'm wondering if there could be some plans or maybe if it wouldn't be a good corporate citizen type position to put in some kind of traffic calming measure or crosswalk or something like that near . . .

MR. WEISS: I would imagine Scott could give you a pretty good answer about that.

MR. VAN NESS: The Department of Transportation would have a heart attack.

MR. WEISS: You have to understand that Route 46 is controlled by the State and it would not be the jurisdiction of this Board or any Board in Mt. Olive to make that decision. Scott is right on the State . . .

MR. BUCZYNSKI: It would not be allowed by the State because of the amount of traffic on that road.

MR. WEISS: Right it would not be allowed.

MR. VAN NESS: There are plans, not plans but there have been discussions for decades about doing certain improvements at Old Wolfe Road at that intersection to allow for crossings and such with the State but they've never come up with a plan, they've never come up with any indication that anything will ever happen there.

MR. CALDERWOOD: All right so requesting something like an elevated bridge or crosswalk or something would not be . . .

MR. VAN NESS: An amusement park will be built on top of the lake too that's just not likely to happen. The thing that we see in Denville was millions and millions of dollars they don't see that it will ever happen here at least not in the current environment.

MR. CALDERWOOD: All right I think the next question I . . . I'm not quite sure how to phrase it but obviously a large selling point for the properties along there is the unobstructed view of the lake and whether a building like this might affect property values by obstructing that view of the lake. Is that something that can be considered?

MR. WEISS: Well I think Mr. Glasson testified about the site, maybe you want to go over that again Jim?

MR. GLASSON: Yeah I just had some numbers written down just to give you an idea of like if you were to stand in the road, directly in the road the road elevation is at 990 just take that as a number. The top of the Cupola which Mr. Burn will talk about what the Cupola means what that Cupola is the decorative structure on top of the building is at 989 so if you were to even just stand in the road, forget about from your houses which are at a higher elevation, your houses all sit up hill from the road

at that side. Very few of the houses sit at the road grade but from your windows you will be over the lake. We are actually like I said there was 60 feet of elevation from the front to the back of our property and we're basically putting this into the hill. We have a 13 foot retaining wall being constructed to basically burrow into the hill to create a flat area. We're not doing anything behind the retaining wall those grades are all remaining so the last 225 feet of the property is remaining exactly as you see it on this plan and we're basically running a retaining wall 13 feet into the ground here. So this whole area is not being touched, 220 feet behind.

MR. CALDERWOOD: Thank you but I think when you view the lake you actually look down on an angle.

MR. GLASSON: You do if you want to see Route 46. But if you want to look down and see Route 46 absolutely or you're going to look at our building we're in front of you.

MR. CALDERWOOD: Yeah but if we're looking at the lake we're going to be looking over the top of your building.

MR. GLASSON: You'll still see the lake though. I'm testifying that you'll still see the lake.

MR. CALDERWOOD: Fair enough. And then the last question is there are already as I'm sure your aware a lot of vacant retail space along Route 46 and whether it's a good idea just to put up another building that will likely have significant vacancy.

MR. WEISS: I think Jim . . .

MR. GLASSON: Can I comment on that?

MR. WEISS: Please.

MR. GLASSON: And I'll speak for you and you stop me if . . . because we went for the Highlands approval and because we finally got our Highlands approval straightened out in this market they don't intend to build this thing right now. Because they're not going to build something that's going to remain unoccupied. Because we got our Highlands approvals we felt it was appropriate to come back and get our site plan amended and get it straightened out at this point. They are not going to you know unless they get a user they're going to delay construction because of the market right now. But we felt it was appropriate to come back and get this cleaned up because we got our Highlands approval and it didn't match what we had originally had approved for our preliminary and final site plan. But speaking for you I think they even had a discussion with the town about that.

MR. MCGROARTY: Well not only that the Board . . . there wouldn't be a basis for them to deny the use of this property if it conforms to the ordinance or it gets the appropriate relief just because there's vacant stores elsewhere. So they really can't incorporate that into the decision.

MR. CALDERWOOD: I think they were all of my questions thank you very much for the opportunity.

MR. WEISS: Thank you anybody else from the public? Please sir.

MR. KAMATH: Thank you my name is Satish Kamath (K-A-M-A-T-H) residing at 19 McKelvie Street which is the property right behind the proposed site. The first question I have is obviously I think you will still have to remove some of the tall Spruce trees which are out there in order to construct the building. Is that correct?

MR. GLASSON: We're not removing anything in the last 220 feet. If that's what you're asking, behind the retaining wall we're not removing any trees.

MR. KAMATH: Okay I'm not sure where exactly the current tall trees are.

MR. GLASSON: I have a tree location plan that I show trees on that shows the specifics. There's a large cluster of bigger trees that are located up by the McKelvie Street right-of-way that we're not touching that whole area.

MR. KAMATH: Right but these are I think more towards the front and towards Route 46. The reason why I'm asking is if you are a resident there right now I think yes it blocks our view in summer but in winter because of the leaves falling they are able to see the lake. On the other hand the wind is

very high it blows actually from the lake towards the house. If you are going to remove some of those taller trees which are out there I think I mean I could have more insurance on my roof to make sure that they don't fly off. And that happened pretty much this season from the wind blowing and the kind of storms we had. So it's something that you can help to keep those trees, or however tall trees can be left there would be good.

MR. WEISS: Jim you said you're not touching the trees?

MR. GLASSON: We're not taking any trees down in the last 220 feet but we are taking down the trees that are in the you know we have I believe there's 10 trees that we're proposing to take down. They vary in size from 10 inch to 26 inch or 28 inch they're in miscellaneous places next to the existing residential home but the majority of the property that presently is wooded in the back past that what I call the bath house that's all remaining.

MR. WEISS: So you're not necessarily going to take down, the 10 trees are not going to be tree line they're going to be (inaudible) and scattered.

MR. GLASSON: No they're miscellaneous trees that are located right now throughout the existing structures.

MR. WEISS: I know you're not an expert on that but would you think that by removing 10 isolated trees you'd impact the wind pattern?

MR. GLASSON: Well we're going to put a building back there and we're going to put a line of trees on top of that retaining wall that's 13 feet high that are 6 foot high at planted height. So I mean I don't know how . . .

MR. WEISS: I thought I saw that they were Arborvitae correct?

MR. GLASSON: I believe those are Douglas Firs on top of the retaining wall.

MR. WEISS: Okay. I only hope that that answers the question.

MR. GLASSON: I don't know about the wind I mean the wind is higher than we can block I don't know the answer to that.

MR. KAMATH: Currently whatever they are are helping us and that's what I just wanted.

MR. WEISS: Okay.

MR. KAMATH: Okay and the second question that I have is having the restaurant you know again right now as I'm telling that the breeze is going to be there I don't want to be breathing the restaurant food smell or the cooking smell all day long too so if the business can be considered which is a non-restaurant type of a business I think I would appreciate that.

MR. WEISS: I would imagine that we'll hear from the architect as to the venting system perhaps is that right? So perhaps we'll hear that at the next . . . during the testimony.

MR. KAMATH: Okay. In the same context would be the dumpster and the garbage and trash and (inaudible) as well because that causes some of the . . . environmentally you know no matter what blockage and everything you may have but the food obviously you have owned a restaurant and grocery stores you can imagine the amount of the odor that you can get from the trash which is placed right behind the building and we are located right in front of that.

MR. WEISS: Jim do you think there's another place to put the dumpster?

MR. GLASSON: I think it's in a good spot it's 220 feet from the road above them and it's down below a 13 foot retaining wall so I think it's about as screened and cut off as you can be. If I put it anywhere else I mean any . . . you're saying a smell that's actually blocked. You know I would think that any other spot I put it would open it up more.

MR. WEISS: Okay.

MR. KAMATH: Another biggest concern I have is with the traffic (inaudible) there to make a left turn on Route 46 I have to start giving the left turn signal right at Sandy's Liquor shop signal to make a left turn. And we are the residents here and we already find it difficult to make left turn and right turns. So having this business now with having (inaudible) you know the permitted number of cars coming in what kind of traffic pattern will be there is one of my concerns for all of the people who are traveling. The other concern is if the restaurant business . . .

MR. KRON: This is a time for questions I think.

MR. WEISS: I think he's getting to a question.

MR. KAMATH: Right. So then if there are less back parking spots in there and there is more business where are the people coming to the restaurant going to come and wait in that time when they are . . . .

MR. WEISS: Well you know I think generally the answer to that question is that if a patron to a facility can't park then they won't be going to that facility. I think that's a pretty standard answer so I'm sure that if this is . . . . the business man wants to maximize his business he will account for parking and again if people can't park they're going to leave. I'm not sure how else we can answer that.

MR. KRON: It's a permitted use.

MR. WEISS: Right it is a permitted use they put in the amount of spaces you know short one perhaps or whatever the testimony was. You know it kind of is what it is with the parking and if it's not enough parking to have such a popular restaurant and people can't get there then they'll leave I guess. Jim what . . .

MR. GLASSON: I will say that we have three stores in the bottom they're retail stores I don't anticipate all three retail stores being open at the same time the restaurant will be at its most intensive use which would be at night. So chances are even though we are as I said we are deficient by four spaces there's probably going to be some at the peak time of the restaurant there's probably going to be at least one of those three businesses not going to be open in the lower area it's a retail store.

MR. WEISS: I would agree.

MR. BUCZYNSKI: Just regarding the traffic, you haven't gotten your access permit yet from DOT.

MR. GLASSON: We already got it the last time but we got to resubmit to them. But they . . .

MR. BUCZYNSKI: They didn't address any concerns.

MR. GLASSON: And we have less traffic now then we had the first time when they gave us the two openings.

MR. MCGROARTY: They being the DOT right?

MR. GLASSON: I'm sorry DOT yes.

MR. WEISS: And you had one final question?

MR. KAMATH: One last question is the timing of the restaurant being 2:00 being residents in the back you know we are concerned about the noise and lighting and (inaudible).

MR. WEISS: I understand is there a question though about it?

MR. KAMATH: Right what will be done if it's still open until that time?

MR. WEISS: Scott?

MR. VAN NESS: Sure the Township has specific ordinances that deal with noise and behavior and on and on and if the restaurant or whatever is put in there deemed to become a nuisance to the community then the owner would be taken to task through legal channels.

MR. KAMATH: Okay.

MR. VAN NESS: And if there's a liquor license the amount of scrutiny that goes into that business is more significant. So it's in their best interest to do the best they can to be a good neighbor.

MR. KAMATH: Thank you.

MR. VAN NESS: That's how we encourage all of our applicants to be.

MR. KAMATH: Thank you.

MR. WEISS: Okay thank you anybody else from the public? Sir if you would also come up state your name and address for the record. Catherine are you able to pick up the sound at the microphone?

MRS. NATAFALUSY: Yes.

MR. WEISS: Okay.

MR. THOMAS: Hello my name is Jessie Thomas (T-H-O-M-A-S) and I reside at 18 McKelvie Street. I guess my question and I know you had addressed about the view from the people on McKelvie Street behind the . . . I'm the resident to the left on the east side if I could just show you here.

MR. GLASSON: Which house, here?

MR. THOMAS: Yeah 18 McKelvie. I just wanted to get an idea of where this retaining wall would be in relationship to the house or am I going to be blocking off 10 feet of the parking lot?

MR. GLASSON: Is it going to be next to you?

MR. THOMAS: Yeah like if I come out of the side of my house is there a parking lot on the left? I'm trying to get an idea of (inaudible).

MR. GLASSON: That (inaudible) is set a couple hundred feet from the back unless there's a house right next door that's it. What lot number are you do you know?

MR. BUCZYNSKI: Block 7702.

MR. GLASSON: Do you know what lot number you are?

MR. BUCZYNSKI: 16.30.

MR. GLASSON: You're up here right?

MR. THOMAS: Yeah I'm up here.

MR. GLASSON: Where's . . .

MR. WEISS: We really can't have a side conversation I need you to go back to the microphone and ask the questions so that Mr. Glasson can answer it on the record please.

MR. VAN NESS: Sheet 4.12.

MR. WEISS: Thanks Scott.

MR. VAN NESS: There's quite a distance between your house and the other property.

MR. THOMAS: Well from my backyard I could actually take about 15 steps and be in the back of the current lot right now. So because you know how he says that the land goes down? Well my backyard goes down too so I'll be following parallel to this parking lot.

MR. WEISS: So let's get back on track, so your question for Mr. Glasson is what?

MR. THOMAS: Is how far away is that going to actually be from 18 McKelvie Street?

MR. BEDELL: So the corner of your lot to the tip of that retaining wall.

MR. THOMAS: Yeah.

MR. GLASSON: From the corner of your lot or the corner of your house? From the corner of your house it's about 120 feet to our boundary.

MR. THOMAS: 120 feet.

MR. GLASSON: To our boundary.

MR. THOMAS: To the retaining wall.

MR. GLASSON: And the retaining wall sits 4 feet inside the boundary line on that side.

MR. THOMAS: Okay so it's 120 feet.

MR. GLASSON: Right.

MR. THOMAS: Okay so it's not the 10 feet that I can walk to it now.

MR. GLASSON: No.

MR. THOMAS: Okay alright thank you.

MR. WEISS: Anybody else from the public? Okay seeing none I'm going to close the meeting to the public and obviously at this late hour Mr. Kron I think what we need to do is come up with a date to continue the hearing.

MR. KRON: What is the next available date?

MR. WEISS: Catherine?

MRS. NATAFALUSY: We can carry it to August 18 the same night as we did the Marina application.

MR. KRON: I just have one more witness Mike Burn and he's going to be basically pretty quick his testimony will not be that long he's going to just compare the two plans and testify on the two variances for the wall and the . . . .

MR. WEISS: Can we do it first on the 18<sup>th</sup>?

MRS. NATAFALUSY: You know it's up to you.

MR. KRON: I don't think it will be more than 15 minutes.

MR. WEISS: It's not going to go on tonight I'm telling you because it's 15, 20 minutes and then we go through conditions and then a conversation and now it's after 11:00 and it's a long day and we're not. Its 10:30 we're done and we'll carry it until the date that works out between us.

MR. KRON: Okay August 18<sup>th</sup>?

MRS. NATAFALUSY: August 18<sup>th</sup>.

MR. KRON: We'd be first on the agenda?

MR. WEISS: I don't know I think that would be fair if it's certainly a quick . . .

MR. KRON: Okay that's all it's going to be that's the last witness.

MR. WEISS: But I've been doing this too long to know that it's quick I certainly don't question his ability to do it fast it's just then we would have our own business to take care of. Do you agree?

MR. KRON: Okay Mike are you okay on that day?

MR. GLASSON: Do you want me to be at that meeting?

MR. KRON: No I don't think I need Mr. . . . we're finished with . . .

MR. WEISS: Gene?

MR. BUCZYNSKI: I don't think we need . . . I'm sorry I don't think we need . . . he'll have the plans revised . . .

MR. GLASSON: I'll revise the plans for . . .

MR. WEISS: I agree then I don't think you need to be here Jim.

MR. GLASSON: Is there anything that I would have to answer?

MR. WEISS: I think we kind of kept you up there and people had the opportunity and the Board had an opportunity I think we're done with the engineering testimony.

MR. GLASSON: Okay I'll get your revised plans then before that so you have plenty of time.

MR. BUCZYNSKI: All right sure.

MR. KRON: Just thinking on that parking issue we're talking about about people not finding space, I think it was Yogi Berra that said that it's so crowded nobody goes there anymore.

MRS. NATAFALUSY: Then we will carry this to August 18<sup>th</sup> with no further notice.

MR. WEISS: No further notice this meeting will be carried until August 18<sup>th</sup> and you'll be the first one on the agenda that evening.

MR. KRON: Thank you.

MR. WEISS: Anybody have anything else? Do I hear a motion to adjourn?

MR. VAN NESS: I'll make a motion to close the meeting.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 10:30 P.M.)

Transcribed by:  
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