

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: Steve Bedell, Joe Fleischner, Judy Johnson, John Mania, Dan Nelsen (7:15), Nelson Russell, Brian Schaechter (7:09), Scott Van Ness, Michael Koroski, Howie Weiss

Members Excused: David Koptyra

Professionals Attending: Chuck McGroarty, Planning Consultant, Eugene Buczynski, P.E., Edward Buzak (7:09), Catherine Natafalusy, Planning Administrator

Professional Excused: Tiena Cofoni, Esq.

APPROVAL OF MINUTES

May 23, 2013 Special Public Meeting

Motion: Joe Fleischner
Second: Steve Bedell

Roll Call:

Steve Bedell - yes
Joe Fleischner - yes
Nelson Russell - yes
Scott Van Ness - yes
Michael Koroski - yes

APPROVAL OF RESOLUTIONS

Resolution #PB 13-22 – Richard Davieau – (Block 5410, Lot 42)

Motion: Steve Bedell
Second: Joe Fleischner

Roll Call:

Steve Bedell - yes
Joe Fleischner - yes

Resolution #PB 13-16 – Michael Callaremi – (Block 8100, Lot 41, 42 & 43)

Motion: Joe Fleischner
Second: Scott Van Ness

Roll Call:

Steve Bedell - yes
Joe Fleischner - yes
Scott Van Ness - yes

COMMIITTEE REPORTS

MR. WEISS: Okay let's move on to committee reports, do we have any report from the Mayor?

MS. JOHNSON: There is no report from the Mayor.

MR. WEISS: So the Mayor is silent on the issue.

MS. JOHNSON: Apparently.

MR. WEISS: Okay. Mr. Mania welcome back it's great to see you, you look wonderful.

MR. MANIA: Thank you.

MR. WEISS: How are you feeling?

MR. MANIA: A little sore yet but hanging in there.

MR. FLEISCHNER: We're glad to have you back.

MR. MANIA: Thank you.

MR. WEISS: We missed you. Do you have a Council report for us?

MR. MANIA: No.

MR. WEISS: All right environmental commission, Nelson?

MR. RUSSELL: The meeting was cancelled.

MR. WEISS: Ordinance committee?

MR. FLEISCHNER: We did have a meeting to discuss the accessory apartments which Chuck put together a proposal and maybe you can just state where we are Chuck please?

MR. MCGROARTY: Yeah its actually when I introduced first reading on Tuesday evening, next Tuesday evening at the Council is the accessory apartment ordinance which will . . . it's part of the town's affordable housing plan. So that ordinance and also the Highlands exemption ordinance will be on next Tuesday.

MR. WEISS: Next . . .

MR. MCGROARTY: For a first reading and then it will come back to this Board for you're . . .

MR. WEISS: Okay we'll watch for that. Anything else Joe?

MR. FLEISCHNER: Just that Chuck has been really helpful and we're trying to clean up a lot of ordinances and get them done before the end of the year for those that need cleaning up.

MR. WEISS: Street naming committee there was an issue that came up this month that was a request from the committee to name a street that ended up, Catherine you'll help me I wasn't fully prepared it was a paper road?

MS. NATAFALUSY: Seneca Highlands there was an issue with addresses on Stephens State Park Road and the Tax Assessor asked if we could at least give it a name so that he can give it numbers for the post office. And he came up with it.

MR. WEISS: So we went back and forth with the committee and felt that a street to be named just for the sake of getting an address wasn't worthy of a veteran as the committee has been honoring so we chose not to give that street a name of a veteran from our list. So what was the outcome of that Catherine?

MS. NATAFALUSY: I think we decided Seneca Lane or . . .

MR. VAN NESS: May I?

MR. WEISS: Yeah go ahead Scott.

MR. VAN NESS: I believe it was Seneca Court and for the record it's a private road and the street sign will actually indicate that it's a private road as well. It was needed to be able establish numbers off of Stephens State Park Road to prevent a numbering problem for Stephens State Park Road down the road.

MR. WEISS: The bottom line is that it wasn't necessarily a public street it's not from what the committee wants to use their list for so we opted out and Seneca Court is the outcome. So thank you for filling in the blanks on that one. And I think David is not here he's open space so we are done with reports. Gene do we have any kind of engineering report for us?

MR. BUCZYNSKI: No.

MR. WEISS: Chuck anything from you besides what you have reported?

MR. MCGROARTY: Just that for the Board's information next Thursday at the Highlands Council meeting all the Highlands Council will be considering the grant that we have submitted, the Township has submitted for the Route 46 redevelopment area. So we hope that they approve the grant, if they do then we can move ahead and do some planning out in that area it's along the lake and properties along the highway.

MR. WEISS: Very good thank you and Ed anything from our legal?

MR. BUZAK: No we're still waiting for some decisions from the Supreme Court on the COAH matters and we're hoping that they come down soon but we haven't heard anything yet.

MR. WEISS: Okay thank you Ed. And for the record Brian Schaechter has arrived.

DEVELOPMENT MATTER FOR COMPLETENESS

APPLICATION #PB 13-19 – KEVIN DORLON – (Block 8500, Lot 19)

MR. WEISS: And that brings us to our first issue of which is a developmental matter for completeness review only. As I noted last time I have a personal stake in this application being a partner in this business I'm going to step down I'll pass the gavel over to Mr. Fleischner you'll run the meeting through this part I'll step down.

MR. FLEISCHNER: Thank you. Chuck I'm going to let you . . .

MR. MCGROARTY: In the absence of anybody saying anything.

MR. FLEISCHNER: No I was going to . . .

MR. MCGROARTY: No, no I don't mean you Mr. Chairman Mr. Selvaggi was here but . .

MR. FLEISCHNER: Yeah where did he go?

MR. MCGROARTY: He's here for another application maybe he is down the hall. We did receive an environmental impact statement in response to last month's meeting with it, does everybody have it?

MS. NATAFALUSY: Yes I emailed it to everybody.

MR. FLEISCHNER: 33 pages.

MR. MCGROARTY: No it's fairly brief actually with some mapping.

MS. NATAFALUSY: 8 or 9 pages maybe including maps.

MR. MCGROARTY: Right.

MR. FLEISCHNER: Yeah I look on my phone so it's 4 pages, tiny phone.

MS. NATAFALUSY: So we really just really just brought it to the Board tonight since we deemed it incomplete because we didn't have an EIS now can we deem it complete? That's the only reason it's here tonight.

MR. FLEISCHNER: And if you recall we requested that the EIS be done because of the property's close proximity to wetlands and the river. Anybody want to raise any discussion around the EIS? I mean I . . .

MR. BUCZYNSKI: Mr. Chair just if I could just a minute.

MR. FLEISCHNER: Yes.

MR. BUCZYNSKI: Remember last time when it came in they just had a report from Wander Ecological Consultants, now they (inaudible) report briefly and that's in an appendix and then I guess

Mr. Snyder pretty much addressed all of the other issues in the ordinance and he also gave his resume which is a requirement in the ordinance too so I don't see any problem with it if you want to take action on it.

MR. FLEISCHNER: Chuck?

MR. MCGROARTY: Again only because it's only for completeness and not the substantive issues I wouldn't have any objections. I will tell you I had suggested to Mr. Snyder that they contact the Natural Heritage Program DEP because of the issue of the potential habitat. I mean that's standard procedure to do that and I didn't get a response and they still haven't done that. So we can keep that in the report when the time comes, I'm a little surprised they didn't do that.

MR. FLEISCHNER: Well should we deem this complete, it isn't like it's the end of the journey?

MR. MCGROARTY: No, no absolutely.

MR. FLEISCHNER: I'm just reiterating for the record that they still would have to come before the Board and . . .

MR. BUCZYNSKI: And our reports will address any deficiencies we have they have to address at the meetings.

MR. FLEISCHNER: Correct. Anybody have anything else they'd like to add or a question? Seeing none is there a motion to deem this complete?

MR. SCHAECHTER: I'll make the motion that we deem the development matter for PB 13-19 complete.

MR. MANIA: Second.

MR. FLEISCHNER: Roll call please.

MS. NATAFALUSY: Steve Bedell - yes
Joe Fleischner - yes
Judy Johnson - yes
John Mania - yes
Nelson Russell - yes
Brian Schaechter - yes
Scott Van Ness - yes
Michael Koroski - yes

MR. FLEISCHNER: Please note for the record that Mr. Weiss is back in charge of the parade.

APPLICATION #PB 13-24 – HOA & BETTY PHUNG – (BLOCK 3106, LOT 16)

MR WEISS: That brings us to our first development matter of the evening it's application PB 13-24 Hoa & Betty Phung which is a variance for a rear yard setback on 17 Netcong Road which is Block 3106, Lot 16. Mr. & Mrs. Phung?

MR. PHUNG: Yes.

MS. PHUNG: Yes.

MR. WEISS: Please if you would. Okay let's do this I'll help you I'll explain the process to you. We'll swear you in and so you'll also address who you are and we'll swear you in as well and I'll explain why you are here I understand why you are here.

MR. BUZAK: Anyone who is going to discuss the application tonight needs to be sworn in so if all of you are going to do that or you may do it why don't each of you raise your right hand.

MR. WEISS: For the record just state your name and we'll get this gentleman's name too and we'll address it accordingly.

MS. PHUNG: Betty Phung.

MR. PHUNG: And I'm Hoa Phung.

MR. OWENS: Vincent Owens.

MR. WEISS: Sorry Vincent what was your last name?

MR. OWENS: OWENS (O-W-E-N-S) I'm a friend of the family and project manager.

MR. WEISS: Okay so Mr. Owens is a project Manager but I think the Phungs were a little uncomfortable I think with the process and Vincent had offered to help explain.

MR. OWENS: That's correct.

MR. WEISS: Explain so you don't have any language errors and you asked Mr. Owens to help you with the process and I think we'll certainly understand why Mr. Owens is here, if there's any questions certainly stop and ask. What we're going to do at this point we're just going to have you present to the Planning Board what you want to do, I believe we have some plans you'll explain what the problem is why you need a variance and we'll help you through the process. So why don't you explain to us what the project is about.

MR. OWENS: May I start?

MR. WEISS: Please.

MR. OWENS: The Phungs have a . . . the family is getting a little bit larger and they have an elderly mother-in-law that lives with them that needs to just be on one level of the house. So she's upstairs and they have a daughter high school age and they just became guardian to another girl from China that's starting in school here I think this week. So the girl's needs more room the house is getting a little small so what we propose to do there's this addition on the back of the house that's really dated and it needs to come down its really bad. So we'd like to make a living space so that the girls have the entire lower level to have room to breathe.

MR. WEISS: Okay. Tell us a little bit if you would about the property. Again we're creating a record as to the feel of the property; tell us a little bit about the topography of the neighborhood that you live in. I need you to testify as to what size home it is, what size lot maybe a little detail as to exactly what you're going to be building and perhaps you can state for us what the problem is.

MR. OWENS: Okay the home is a split level home and the home itself. .

MS. NATAFALUSY: Excuse me Mr. Chairman I have some photographs of the property I had sent to the Board but if you want to look at them.

MR. WEISS: Does everybody have the photographs? I think we have them. Are they the same?

MS. NATAFALUSY: Yes.

MR. WEISS: If anybody needs them let me know.

MR. OWENS: I brought some additional ones too if it would help to illustrate. So it's a split level so adding to the side of the house is difficult because of the topography and also there's a . . . the second level is a little bit . . I'm sorry the right hand side of the house is higher it has the sliding doors and the . . .

MR. WEISS: You know what I'm going to interrupt you for a second because your giving us good testimony, let me just help for the Planning Board for the record that the problem with this application is that it's a rear yard setback is 35 feet in this zone and this proposal will bring it to 11 feet. So that's why you have a request for a variance. And my follow up question to that would be why do you have to build it where you are rather than build it in a conforming manner. So I could ask the question now you can testify as you were doing.

MR. OWENS: Okay to build to the right side of the property it still doesn't conform to the I think it's the 35 foot setback so that wouldn't, I would still need a variance in order to do the project in that direction. The rear also that side of the house presents a problem because of the second level has the sliding doors and a deck out the side and all of that would have to be demolished and become not useable. The rear of the house seems most logical because of the plumbing on the lower level seems to be just right there we can just extend that. The existing room on the back of the house is in really bad condition so it needs to come down rather than not have the usability of it we'd like to make it a livable space out of it and improve the overall quality of the house and the look of the neighborhood.

MR. WEISS: Is the existing structure, and I'm seeing a picture of it, does that conform to the setback now?

MR. OWENS: No.

MR. WEISS: Okay so the existing structure doesn't conform now anyway.

MR. OWENS: No.

MR. BUZAK: In fact I think the house itself does not conform is that correct?

MS. NATAFALUSY: Right.

MR. BUZAK: Currently the house even without that structure on it I believe is only 25 feet from the rear yard.

MR. WEISS: It's not a bad thing, I see you're worried about that it's okay we're creating a record for you.

MR. BEDELL: Mr. Chairman.

MR. WEISS: Yes sir.

MR. BEDELL: How far back does the current structure go? The one that you wanted demolished.

MS. NATAFALUSY: The existing structure is 12 back.

MR. BEDELL: Okay and then how far back will the new structure go?

MS. NATAFALUSY: 14 feet.

MR. BEDELL: Okay so basically where the current structure is you would just be going back another 2 feet from where you are now.

MR. OWENS: Yes.

MR. BEDELL: Okay.

MR. WEISS: Okay Scott do you have a question?

MR. VAN NESS: Sure are you going to build this on a slab or are you going to put a basement under it?

MR. OWENS: Slab.

MR. VAN NESS: Is there a basement under this house now?

MR. OWENS: Yes this is the basement level.

MR. VAN NESS: No that would be a ground floor so there's no basement.

MR. OWENS: No basement.

MR. VAN NESS: And you want to basically widen that structure to 23 feet wide from what the currently 12 feet?

MR. OWENS: Yes its 12 feet out and about 12 feet wide.

MR. VAN NESS: Is this going to be a one story addition? I don't remember seeing the plans I know they're on there but I don't know what the plan says.

MR. OWENS: One story addition.

MR. VAN NESS: What's going to happen with the window above the planned addition?

MR. OWENS: The window won't be affected by the new roof line.

MR. VAN NESS: What is the height of the addition that you want to put on?

MR. OWENS: I'm sorry Catherine do you have the

MR. VAN NESS: I'm looking at . . . I just don't see a height that's all. I know it's 14 by 23.

MS. NATAFALUSY: There isn't a height shown on the drawings.

MR. WEISS: So as we proceed we're going to . . . do we make an assumption that the height will conform?

MS. NATAFALUSY: It's single story.

MR. WEISS: Okay so we're just going to proceed the understanding that the height is going to conform with the bulk standards that are there now?

MR. OWENS: Okay.

MR. WEISS: And so if there's any deviation from that that will just cause a problem later. So we'll just . . . based on the lack of testimony we'll just go forward with the understanding that it's going to conform. No action is required from the Board.

MS. NATAFALUSY: This is a one story, a single story addition right?

MR. OWENS: Single story, one story yes.

MR. BUZAK: And your testimony was that the roof line of the new structure will be below the window that presently exists which is on effectively the second floor as you've described it is that correct?

MR. OWENS: That's correct.

MR. BUZAK: So it will be lower than the current roof height.

MR. OWENS: Yes.

MR. BUZAK: Okay.

MS. NATAFALUSY: Excuse me is the area, the roof is not habitable above that it's just . . .

MR. OWENS: No, in the addition no.

MS. NATAFALUSY: Okay in the addition I'm sorry.

MR. VAN NESS: Is there any plans to expand the second floor down the road?

MR. OWENS: No.

MR. WEISS: I can't imagine that we would hold it to that answer Scott.

MR. VAN NESS: Well I mean I just . . .

MR. OWENS: We just need a room because we have a kitchen up there too.

MR. WEISS: Okay so your testimony has been very clear and it seems like the questions from the Planning Board have been asked. I have a question for you if you would be so kind to tell us a little bit about the neighborhood. Is this home consistent with other homes in the neighborhood, will this addition make your home much bigger or any more noticeable than any other home in the neighborhood?

MR. OWENS: This house is typical of the other homes that I've seen on the street I think the one thing that this proposed modification would do would improve the look of the house, not that anybody can really get around the back of it, but the addition that's on there right now is really in rough shape. So I think the overall, not that anybody will see it, but the overall look of the house is going to be greatly improved. This will be very well done but it won't change the look of the house from the front or even anybody's sight line from either side.

MR. WEISS: How many square feet will the house be with the addition?

MS. NATAFALUSY: I can . . . 1400 square feet.

MR. WEISS: Okay so it would be 1400 square feet with the addition?

MS. NATAFALUSY: Well the existing house is 1100 square feet and the addition is 322 so it's about 1400 square feet.

MR. WEISS: Okay and compared to other homes, are other homes in the neighborhood about 1400 square feet?

MR. OWENS: Visually from my best judgment yes.

MR. WEISS: Fair enough. Okay so it sounds like you've just testified that there will be no negative impact by putting this addition onto the home. Perhaps one other question if you could, as I look at the survey is there an empty lot behind your home?

MR. OWENS: There's (inaudible).

MR. WEISS: Is that an empty lot?

MR. PHUNG: I think it belongs to the neighbor across the street there is a big empty lot there.

MR. WEISS: Okay so it's a vacant lot essentially.

MR. BEDELL: Do other homes on the street have structures like that as well? You know that are within 12, 13 feet from the rear property line?

MR. OWENS: I would say that the house directly next door is about the same as this one.

MR. BEDELL: Okay and they have . . .

MR. OWENS: It's a bigger house.

MR. BEDELL: And they have another structure like that off the back that may be like 10, 12, 13 feet from the property line?

MR. OWENS: I can't say that I've looked into their property so much it's a larger house and from my visit to this space it's about the same footprint as the Phung's residence.

MR. BEDELL: Do you know how long this has been up for, this structure this 12 by 12 structure? I mean it looks like it's been there for a while.

MR. PHUNGS: I bought the house like that it hasn't been touched for over 20 years.

MR. OWENS: They bought it 20 years ago it was there . .

MR. BEDELL: Oh so it's been there for at least 20 years, that structure.

MR. OWENS: And it has that clear corrugated fiberglass that was so popular back around the 1970's, I don't remember.

MR. BEDELL: Okay, all right.

MR. OWENS: It's really dated but it's in rough shape.

MR. NELSEN: You testified that the roof of the house would be below the windows on the second floor?

MR. OWENS: Yes.

MR. NELSEN: Is that the peak of the roof? The peak of the roof will be below the windows of the second floor?

MR. OWENS: No I believe the peak is going to come up

MR. VAN NESS: It's 32 inches high from the top of the wall based on the plan that they're showing. So it should probably come right to the base of the window.

MR. NELSEN: That's at 32 inches?

MR. FEISCHNER: Yeah it's on the plan.

MR. WEISS: Okay so in an effort to keep it moving Mr. Owens it sounds like you just testified that if we were to grant such a variance this variance would not cause substantial detriment to the public good or the community. Does that sound like what you just said?

MR. OWENS: Definitely.

MR. WEISS: Very good. Does anybody else have any comments? Chuck, Catherine do you have anything?

MR. MCGROARTY: None from me Mr. Chairman.

MR. WEISS: Mr. Buzak are you satisfied that we've demonstrated positive and negative criteria for this application?

MR. BUZAK: Yes Mr. Chairman I think the applicant has been able to do so based upon the testimony.

MR. WEISS: I would agree and I've taken some notes and it sounds like the existing topography the irregular shaped lot and the irregular topography that your living with as well as the preexisting nonconforming condition that you already have in your home is already there and it doesn't conform to the standards that's the fact that we have to deal with. So I would say that's your positive criteria and if anybody from the Planning Board has anything else otherwise let me open it to the public. If anybody from the public has anything about this application? Seeing none, Gene?

MR. BUCZYNSKI: Just one thing the height, Scott brought up the height regarding the roof Scott you said it 32 inches high, it's not 32 inches high it's 32 inches on center stiffener so we don't really know how high is it to the roof, the proposed roof.

MR. OWENS: I'm sorry no I didn't put that on . . .

MR. VAN NESS: The way we were reading this shows your saying that so this is at center the 32 inches?

MR. BUCZYNSKI: At 32 inches on center that's the stiffeners that's going to be going up going to be 32 inch on center. That's not the height.

MR. VAN NESS: Because that measures out . . .

MR. BUCZYNSKI: (Inaudible) measures but . . .

MR. VAN NESS: He only has room for about 36 inches on the side of the wall from the existing structure to the bottom of the window looks to be about what three levels of shingles is about a foot each right?

MR. BUCZYNSKI: Maybe the highest is 30.

MR. VAN NESS: 36 at best so I mean it's not going to be a flat roof right?

MR. OWENS: No absolutely not no.

MR. VAN NESS: So you're going to have a peaked roof? Or are you going to have a . . .

MR. OWENS: Peak roof.

MR. VAN NESS: So you're going to have a peak roof that slopes back towards the house? Or are you going to do side to side so the peak is facing the back of the house.

MR. OWENS: If this is the back of the house this roof comes like this.

MR. VAN NESS: So the peak is 32 inches from the top of the . . . is that what you're saying Gene 32 inches at the top?

MR. BUCZYNSKI: Yeah.

MR. VAN NESS: So it would meet the roof at the side of the house at 32 inches.

MR. BUCZYNSKI: I guess.

MR. NELSEN: That's not a lot of room for the roof and had consideration if he was . . . I didn't want to get in trouble with Building Department if it can't be that. So Gene if you can take a good look at that.

MR. BUCZYNSKI: Yeah.

MR. NELSEN: I don't know if you can scale it out from where you are.

MR. BUCZYNSKI: I can't I don't have the drawings.

MR. OWENS: I don't have access to the computer drawing currently.

MR. VAN NESS: He's going to have to conform to any building standards anyway so that's not an issue.

MS. NATAFALUSY: It's a single story structure; it's an addition single story.

MR. WEISS: We can address that in a condition of approval that obviously it's a standard (inaudible).

MS. NATAFALUSY: Wouldn't the Construction Code Official have to look at that?

MR. WEISS: All right well we've opened it to the public, closed it to the public does anybody else have any comment? Otherwise I will look for someone to make a motion.

MR. FLEISCHNER: I move we approve PB 13-24.

MR. RUSSELL: I'll second it.

MR. WEISS: Thank you Joe and thank you Nelson.

MR. BEDELL: Just a notation there's nothing definitive about the roofs so maybe just add to the resolution you know as per the roof and everything.

MS. NATAFALUSY: Single story approved by the Construction Code Official.

MR. WEISS: Pretty standard boiler plate. Dan?

MR. NELSEN: Gene it's a 5 on 12 roof?

MR. BUCZYNSKI: Right.

MR. NELSEN: its 23 feet wide so that's about 11-1/2 feet to the peak so that's going to give you about 60 inches of roof.

MR. OWENS: The wall plus the . . .

MR. NELSEN: You're going to have 8 foot ceilings in this room?

MR. OWENS: Yes.

MR. NELSEN: So you have the 8 foot ceiling and the 60 inches is 5 feet of the 13 feet.

MR. WEISS: Well I think we've addressed it. Are there any conditions Mr. Buzak that you would add to this application if we were to . . .

MR. BUZAK: No just the usual ones that we would you know comply with the ordinances, etc.

MR. WEISS: Okay that being said the motion has been made and seconded Catherine roll call please.

MS. NATAFALUSY: Steve Bedell - yes
Joe Fleischner - yes
Judy Johnson - yes
John Mania - yes
Nelson Russell - yes
Brian Schaechter - yes
Scott Van Ness - yes
Michael Koroski - yes
Howie Weiss - yes

MR. WEISS: Mr. Owens thank you very much for your time tonight. Mr. & Mrs. Phung in one month we'll have the resolution drawn and at that point you can take your resolution to the building office and you can begin your construction at that point.

MR. PHUNG: Thank you.

MRS. PHUNG: Thank you.

MR. WEISS: Have a good evening.

APPLICATION #PB 13-25 – CWM PROPERTIES LLC – (BLOCK 3300, LOT 19)

MR. WEISS: Okay our next application is PB 13-25 CWM Properties LLC coming in for an amended preliminary and final site plan with variance. The property is located at 246 Route 46 which is Block 3300, Lot 19. Gentlemen good evening.

MR. DWYER: Good evening.

MR. WEISS: If you would introduce yourself.

MR. DWYER: My name is Patrick Dwyer from the law firm of Nusbaum, Stein on behalf of CWM Properties the applicant.

MR. MAISANO: And my name is Tom Maisano better known as State Farm Insurance Agent in Budd Lake.

MR. WEISS: Nice to meet you Tom.

MR. DWYER: Nice to meet you.

MR. WEISS: I understand you'll be taking over from Alan a little bit as he drifts into retirement correct?

MR. DWYER: Correct he's on a cruise as we speak.

MR. WEISS: Well we'll certainly miss him but look forward to working with you Mr. Dwyer. If you would I will turn it over to you Mr. Dwyer you can take it from there.

MR. DWYER: Okay I would just like to just give a brief background if I may for the Board that this project was granted site plan approval by the Board in October of 2004 and the premises are at 246 Route 46. That the approval was for a brand new office building with two tenants, one of those tenants is Mr. Maisano who is the owner. That the approval then included a freestanding sign and that the application this evening is to replace the existing freestanding sign. I would note that that sign is lit and the only difference between the old sign and the new sign is the new sign is slightly larger and will be internally lit and that's the basis of the application.

MR. WEISS: And again you're here before us because the ordinance says that this sign cannot currently be lit internally.

MR. DWYER: That's true Mr. Chairman and your resolution also noted that it could not be lit internally. So we're asking for relief from that as well. And with the Board's permission I'd like to call Mr. Maisano.

(TOM MAISANO SWORN IN FOR THE RECORD)

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

MR. MAISANO: My name is Tom Maisano (M-A-I-S-A-N-O) business address I use 238 Route 46 West in Budd Lake, New Jersey.

MR. WEISS: What is 246?

MR. MAISANO: Real quick the Federal Post Office only recognizes 238 because it's the next one in line. When it was just five vacant lots they said choose a number so 246 Route 46 sounded reasonable and so that's what the town has but the Post Office has the other.

MR. WEISS: If it works for the mailman we're happy with that. I've introduced it as 246 okay I just want to make sure we got that.

MR. DWYER: Tom can you tell the Board what's your relationship to CWM Properties.

MR. MAISANO: I'm the owner of the LLC it's for my business for State Farm.

MR. DWYER: And we noted that back in 2004 you applied for and received site plan approval to build a new building at that location. Can you tell us a little bit about what if anything that building did to help redevelop Route 46.

MR. MAISANO: I hope that everybody after eight years being there is happy with my project that I put up there I'm very proud. I'd like to think that I was at the beginning of all of the improvements that are done to the highway. I boast to the customers and anybody that will listen to me that I have the best lawn on Route 46 if not the only one on Route 46. I think that I've improved the corridor greatly I still get compliments on the building and how it helped the town. As noted in the Board planner's memo to us dated August 29th this property is located in the PB zone and the PB zone is located in 400-100(I) of the ordinance and it talks about the somewhat difficulty of promoting development along the corridor while not interfering if possible with the residential uses that exist there

already. And what steps if any were taken in this project design to meet those two goals. Well back in 2004 going through the process in 2005 extensive consideration was done for the residents around my building. There was a variance granted for an 8 foot resin fence that goes the entire length which is 250 feet.

MR. DWYER: And that's at the back of the property.

MR. MAISANO: That's in the back of the property protecting those houses. Before that there was no fence and it was just vacant land and they saw and heard Route 46. So the 8 foot resin fence and then I had a double row of Pine trees that were about 6 feet at the time, now they're about 15, 18 feet tall. So it's an 8 foot fence double row of Pine trees and now I have my structure which is about 108 feet long and I'm guessing around 20, 22 feet tall.

MR. DWYER: Okay and how about along the sides of the property?

MR. MAISANO: The sides I have a 6 foot resin fence three quarters to protect the side neighbors again with mature plantings and Pine trees to put a buffer between them.

MR. DWYER: Okay I'd like to with the Board's permission introduce an exhibit.

MR. BUZAK: You can mark it Mr. Dwyer we can mark it A-1 with today's date and if Mr. Maisano can describe that exhibit for the Board it would be helpful.

MS. NATAFALUSY: That was submitted with the application.

MR. WEISS: Yeah I don't think we need to mark that.

MR. DWYER: This is revised.

MR. WEISS: I'm sorry okay. So it's a revised submission and I see it it's the revision to the proposed freestanding sign.

MR. BUZAK: Yes.

MR. WEISS: So A-1 is going to be a revision to the proposed freestanding sign.

MR. DWYER: Okay Mr. Maisano there's a sign there currently correct?

MR. MAISANO: Correct.

MR. DWYER: And your proposal is to replace it with a new sign.

MR. MAISANO: That's correct.

MR. DWYER: Can you tell us about the new sign?

MR. MAISANO: The new sign is going to use the existing posts that are already there. It's a triangle so it gets it from both angles so it's two sided separated. I'm using the same posts with the same height basically the same . . . it was a sheet of plywood so it was 4 feet by 8 feet wide so it was 32 and I'm asking for 36 square feet instead of 32 square feet. That's only because of the boxing for the cabinet.

MR. DWYER: And that's within the 40 square feet that's allowed in the zone correct?

MR. MAISANO: That's correct.

MR. DWYER: How tall will it be?

MR. MAISANO: It's going to be the same height which is 7 feet and I think . . . what is the ordinance 8 feet?

MR. DWYER: The ordinance 8 feet it will be under 8 feet correct?

MR. MAISANO: So it will still be the same height.

MR. DWYER: Will it be internally illuminated?

MR. MAISANO: My hope is that it is internally illuminated that's one of the revisions on here is to show the description of the lighting. Cool light high output fluorescent lamp the illumination is under 120 volt 85 watt bulb. Right now I have two spotlights on the sign, actually one spotlight is out right now.

MR. DWYER: Do you know what the wattage is on those spotlights?

MR. MAISANO: I would say it's comparable I do not know the exact wattage.

MR. DWYER: And if I can I would like to go through the planner's review with you at this time to see if we can address those issues. The first issue had to do with the type of relief needed for a sign especially with regard to this zone which is close to residential properties and what if anything can be done about this application to reduce impact on the neighbors. Have you looked at how close the neighbors are?

MR. MAISANO: Yeah I did my own measurements from the plan as well as my own measurements of the property. Directly across from me is woods, the closest diagonal if you're standing in front of the sign on the sidewalk on the highway to the right across the street is the CVS is the next closest neighbor. But you can't see the CVS from my sign just all woods. To the left there is a structure that's approximately 200 feet, I'm not sure what that structure is used for and then after that there is the one that recently burned there was a fire there about two months ago so the roof burned. That's across the street from me. On the left side of me if we're still facing the highway our back to the sign there's been a vacant house about 8 years that I've been there, it's currently for sale.

MR. DWYER: And how far is that property line from the sign?

MR. MAISANO: That's 105 feet from the sign.

MR. DWYER: And to the right?

MR. MAISANO: And to the right next to the parking lot there's a single family house that's the second owner since I've been there he purchased it after my building was already constructed. And now that's recently for sale too. He's the only one that is within sight, if he goes out on his front porch and looks to the left and that's 143 feet away.

MR. DWYER: From the property line.

MR. MAISANO: From the property yeah.

MR. BUZAK: I'm sorry from the property or from the sign?

MR. MAISANO: From the sign.

MR. DWYER: Okay let's move onto 4.2 in the planner's memo which talks about the hours of the sign being illuminated.

MR. MAISANO: There is a request to turn it off at 11:00 and I would honor the request. I have a timer right now I try to leave the timer all night for the house lights for security reasons I've had no issues there except for a stolen mum or a pumpkin. Aside from that I've been blessed without any issues. So I leave the lights on and I've been granted all night but the sign I can have separate to shut off at 11:00.

MR. DWYER: Okay the third comment had to do with the type of illumination where it had said before in the Sign-A-Rama proposal it was cool white output, you've now identified that the Sign-A-Rama proposal is for cool white high output fluorescent lamps with a maximum of 85 watts. Is that correct?

MR. MAISANO: That's correct.

MR. DWYER: And that's comparable to what's existing.

MR. MAISANO: Comparable.

MR. DWYER: Okay the next comment had to do with the sign face that says divided into two horizontal panels each two and a quarter feet in height. And if you look at exhibit A-1 you'll note that in the top it has State Farm and the bottom it's blank. Can you explain why that is?

MR. MAISANO: The bottom is blank it's going to be for my tenant use next door. But as the landlord I just had 2-1/2 years of no tenant there so I'm going to have that and one of the concerns was about the glare from traffic. So I'm going to have it matted which will be blacked out there will be no light shining through that panel it will just be a white panel but there's no light shining through when there is no tenant. When there is a tenant they'll pay and they'll put their sign up there. So when they leave I have my panels to put back up.

MR. DWYER: Okay and the last comment had to do with the sign showing a total of 7-1/2 feet whereas the total prior sign had 7 feet and there's an increase in square footage from 32 square feet to 36 square feet. Could you please tell the Board why it is that you're changing the sign?

MR. MAISANO: I'm changing the sign for several reasons. One I'm encouraged by all the new developments in this 8 years on Route 46 and how it's improved. I love the CVS, I love the new malls, I love everything that's going on there and like I say I hope that I was at the beginning of that effort. I like to modernize like everybody else is modernizing, I'm very proud of my building and yes I do my own bushes four times a year you probably see me out on the highway at 6:30 in the morning so I take a lot of pride in this. So my sign my father and I did ourselves and quite frankly I'd like to upgrade and modernize like everybody else has. Also a huge factor is a safety issue for my existing customers as well as new business. When you're doing 45 miles an hour especially when it's busy on both sides going in both directions I've had a lot of customers slow down looking for my building and I have my staff people describe the building because they always pass it. It's a one story, green building with stone in front. If you pass Mt. Olive Road it's immediately on the right when you come around the bend going west and hit the lake you've gone too far. For 8 years it's the same speech they all go too far. Last week we had somebody decide to stop and back up on Route 46 and enter the driveway and we all sit in the front window so we're all screaming oh no. So it's a safety concern with the sign that's developed here, that I have here it's going to be better visibility for cars doing 45 miles an hour to identify oh there's State Farm.

MR. DWYER: Has anybody ever commented about your sign or complained about your sign about it being lit?

MR. MAISANO: No.

MR. DWYER: Has anyone ever commented about the project in general?

MR. MAISANO: No. You know obviously like all projects everybody is concerned, residents are concerned but I've never received any complaints or issues from any of my neighbors. I hope that I've improved their quality adding sound barrier as well as privacy for most of them. I think I've been a good neighbor, I've never heard otherwise.

MR. DWYER: Do you think there's going to be any adverse impacts from this sign?

MR. MAISANO: No I think it will help improve safety issues I don't think this would harm anybody in any way.

MR. WEISS: Gene do you have a question?

MR. BUCZYNSKI: Just a quick question. Tom I think you gave us, you passed out an old one it's like 7 feet the one you passed out today it's not 7-1/2 it's 7 feet.

MR. MCGROARTY: It does have the new details but . . .

MR. BUCZYNSKI: But it's the wrong height?

MR. MCGROARTY: Yeah when you read the height it says 4-1/2 feet then 2-1/2 feet to the bottom and the sign that we had submitted for the report was 4-1/2 feet and 3 feet which gave you the 7-1/2 feet height. This one only shows 7 feet.

MR. BEDELL: Caps on the posts.

MR. MCGROARTY: No, no, no.

MR. BUCZYNSKI: No you've got it different when it shows 7-1/2 feet.

MR. MCGROARTY: So your intent is to have a 3 foot post from the base of the sign to grade open 3 feet not 2-1/2?

MR. BUCZYNSKI: 3 feet.

MR. MAISANO: Right and then the cabinet is the existing post.

MR. DWYER: It would be 54 inches plus the posts that's the proposal.

MR. MCGROARTY: So exhibit A-1 really is corrected to show that as Gene said then the posts will be 3 feet from grade to the base of the sign.

MR. DWYER: Right rather than the 30 inches. I don't have any more questions for that witness Mr. Chairman.

MR. WEISS: All right anybody from the Planning Board have any questions (inaudible)? Scott?

MR. VAN NESS: It's two basically two separate signs that meet at a point?

MR. MAISANO: Yes.

MR. WEISS: Anybody else?

MR. BEDELL: I think the bulbs are pretty similar or the wattage. Will the new sign be any brighter than the current sign? Or will it be pretty darn similar.

MR. MAISANO: I would say it's similar; it would obviously be brighter because it would be all more evenly spread throughout the cabinet versus the spotlight which I guess it radiates away. But I would assume the same wattage. My high hats in the peak are 100 watt and the sign is 85.

MR. VAN NESS: Do you think that the sign that you're proposing will propose less glare or more glare than the exposed bulbs that you have today.

MR. MAISANO: I would say about the same I don't see any difference in the glare. And like I say addressing that bottom panel was a valid concern and I got the answer for that one.

MR. WEISS: I would just like to turn to Chuck I know we addressed your report Chuck, were you satisfied with the responses to your requests?

MR. MCGROARTY: Yes I know they don't have strictly planning testimony tonight but I think the testimony was it was your position that this sign is going to . . . in your opinion it will make the property more visible to people traveling to your clients or customers driving along the highway.

MR. MAISANO: Correct.

MR. MCGROARTY: And so I take it it will be lit throughout the day?

MR. MAISANO: Well yeah throughout the day probably 3:00 on until 11:00.

MR. MCGROARTY: Do you have evening hours in your office?

MR. MAISANO: We have evening by appointment I'm toying with the ideas of Tuesdays and Thursdays until 7:00 and one of my employees is back there and doesn't know that yet.

MR. MCGROARTY: So you would have reason to be in the building dusk, dark whatever.

MR. MAISANO: Yes, yes and my tenant does mortgages and closings and they do it in the evening as well.

MR. MCGROARTY: Just to translate that into our . . . from normal language into stuff that (inaudible) I would see that as the basis for a C-2 type variance in that especially if it does promote public safety access to the site, better visibility to the site. I think the effort to shield the bottom panel is appreciated and the wattage I think is kind of (inaudible).

MR. WEISS: And of course the hours of illumination work within your recommendation so . . .

MR. MCGROARTY: Well it's the ordinance and so if the agreement is to not have the sign illuminated after 11:00 p.m. that would comply with the ordinance requirement.

MR. WEISS: Okay. Thanks for that input Chuck. Anybody else? Let me open it to the public if anybody from the public has any comments or questions based on the testimony you've heard this evening now is your chance. Seeing none I will close it to the public. If there's no other conversation from the Planning Board I will open it up if there's a motion but before we do that Mr. Buzak were there some conditions that you wanted to note if in fact the motion is made and passed?

MR. BUZAK: Just the notation that the height of the sign over 7 feet 6 inches and that A-1 will be amended for that purpose, and reiterating that the lower portion of the sign will be shielded and the lighting blocked while there is no tenant message on that portion of the sign. Those were the only ones that I had Mr. Chairman.

MR. WEISS: Thank you Mr. Buzak. With that being said will there be a motion made?

MR. RUSSELL: I'll make a motion that PB 13-25 be approved.

MR. MANIA: I'll second it.

MR. WEISS: Any comments? I actually just have one, for those of us that have been on the Planning Board and involved with the process for a long time we've all worked very hard for improving, and I know you're not in the C-1 zone your actually in the Professional Business zone, but if I just randomly call that the C-1 zone along the corridor of Route 46 we have worked very hard to improve it. And I think, I agree with you 100 percent your building is a tremendous leader for what we'd love to see along the highway.

MR. MAISANO: Thank you it means a lot it's very important to me.

MR. WEISS: And it makes a big difference for those that have been here a long time and I know that we've sat in plenty of meetings racking our brains to find out how do we make that corridor nicer. Your building is a perfect example of what could be done.

MR. MAISANO: Thank you so much it means a lot.

MR. WEISS: So I think that the sign is just a nice touch. It will modernize what's there and hopefully lead by example again as we look forward. Are we agreeing on something? With that being said roll call.

MS. NATAFALUSY: Steve Bedell - yes
Joe Fleischner - yes
Judy Johnson - yes
John Mania - yes
Dan Nelsen - yes
Nelson Russell - yes
Brian Schaechter - yes
Scott Van Ness - yes
Howie Weiss - yes

MR. WEISS: Thank you Tom.

MR. MAISANO: Thank you very much everybody.

MR. WEISS: You know the procedure in about a month from now we'll have the resolution drawn.

MR. DWYER: Thank you.

MR. MAISANO: Thank you.

APPLICATION #PB 13-21 – FLANDERS ROAD PARTNERS LLC – (BLOCK 4400, LOT 3)

MR. WEISS: Okay we are moving right along if everybody is ready we will introduce . . . okay we're just going to take a quick 2 minute break and let the applicant set up. As we get ready for the next application . . .

MR. BEDELL: Mr. Chairman I have to recuse myself on this application.

MR. WEISS: And that's exactly what I was going to go through Mr. Bedell as we prepare for the final application as a bit of order to be noted. Number one for the record Ms. Johnson did listen to the tape and she is eligible to sit on the Planning Board. Mr. Bedell thank you very much he has recused himself and is stepping down as he did last time thank you very much. Mr. Mania you are excused and we are happy to have you and get some rest we'll see you again.

MR. MANIA: Thank you.

MR. WEISS: And also Michael was not eligible to vote and he's also been excused and has already left. So the remaining members of the Planning Board are eligible and if we get to it tonight we'll be voting on the application. That being said I'm going to introduce our next application which is PB 13-21 Flanders Road Partners LLC which is a preliminary and final site plan with a variance located at 184 Flanders-Netcong Road Block 4400, Lot 3. Mr. Selvaggi I want to just take a couple of seconds to just summarize and make sure we're all on the same page. This is a carry-over hearing I didn't date it . . .

MR. BUZAK: August 8.

MR. WEISS: August 8th was our last hearing and during that application we had presented six exhibits going 1 through 6 and line 6 was line of sight drawing as we called it which was a photograph I believe from the entrance.

MR. SELVAGGI: Yes.

MR. WEISS: We ended the evening with the traffic engineer Mr. Peregoy who discussed the parking and all of the issues that he had to deal with with traffic. I do believe we were finished with the traffic engineer?

MR. SELVAGGI: Yes.

MR. WEISS: And that's the way we ended our hearing. Mr. Buzak if you had anything else, I just want to make sure we pick up where we left off.

MR. BUZAK: That's all I have Mr. Chairman.

MR. WEISS: And I'll turn it over to you Michael.

MR. SELVAGGI: Thank you Mr. Chairman, thank you Board members this is a continuation, the property is Lot 3 in Block 4400 it's some of you would refer to it as the old Flanders Tennis Club. At the last meeting there were issues raised among other things about noise as well, what Willow Partners has done is retained the services of an acoustical engineer who is seated to my left who will be offering testimony. I distribute a report that Mike has prepared but what I'd like to do is to have him sworn this is his first appearance in front of you, we'll go through his credentials and then he can get into the substance of his report.

(MICHAEL SPENCER SWORN IN FOR THE RECORD)

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

MR. SPENCER: Sure my name is Michael Spencer (S-P-E-N-C-E-R) and my business is JMS Acoustics and we are located at 1035 Jeter Avenue in Bethlehem, PA.

MR. BUZAK: Thank you sir.

MR. SELVAGGI: Okay Mr. Spencer what's your educational background as well as your experience in testifying in Land Use Matters in New Jersey and perhaps elsewhere as well.

MR. SPENCER: Certainly I have a Bachelor of Science specifically in the field of acoustics; I also have a Master of Science in the field of acoustics. I've been put before and testified, accepted as an expert and testified in front of numerous Zoning Boards, Planning Boards and also in Court.

MR. SELVAGGI: In New Jersey?

MR. SPENCER: In New Jersey yes. Oh Court was Pennsylvania.

MR. SELVAGGI: Approximately how many acoustical evaluations have you done in your career?

MR. SPENCER: Um I don't know thousands. I've been doing this for 17 years.

MR. SELVAGGI: Okay. And JMS Acoustics is your company?

MR. SPENCER: Correct I am the President and Principal Consultant at JMS Acoustics.

MR. SELVAGGI: Okay and did you perform the acoustical study here on this property in question?

MR. SPENCER: Yes.

MR. SELVAGGI: Okay if you have anything further.

MR. WEISS: I don't have any questions for Mr. Spencer, does anybody else on the Planning Board? My one question is if you had testified in New Jersey and not knowing if there's different standards in New Jersey versus your home town of Pennsylvania.

MR. SPENCER: I actually worked in, before I had a business in Pennsylvania I worked for Louis Goodfriend & Associates in New Jersey for 13 year so the majority of clients are in New Jersey, the majority of my work is in New Jersey so I'm extremely familiar with the New Jersey State Noise Ordinances and wish Pennsylvania was fortunate enough to have something like that.

MR. WEISS: It's not a testimony we normally hear we don't often hear from acoustical engineers when we do it's usually very interesting testimony. Is there anything that we need to know about this part of the State as the County; is Mount Olive unique in any way when you did your testing? Did you find anything unique that was different from our area because I know you've never testified in front of this Board?

MR. SPENCER: I haven't but I have done many other municipalities I've actually testified on behalf of this client before in Florham Park regarding the Chatham Center Court locations.

MR. WEISS: I just didn't know if there was any special circumstances.

MR. SPENCER: No and I'll be happy if you have questions specific when we get to the actual testimony portion regarding you know the Mount Olive noise ordinance versus the State noise regulations and what the differences are and what that means.

MR. WEISS: I'll leave that up to you I was just curious if there was anything that was unique about this particular site. I will accept Mr. Spencer as an expert acoustical engineer and welcome this evening.

MR. SELVAGGI: Okay Mr. Spencer you had performed an acoustical evaluation, when did you do it, how did you do it and what did you find out after you had completed your study?

MR. SPENCER: The results of the evaluation that we're talking about, and I assume that we probably want to mark this into exhibit or contained in the September 12, 2013 report to Kevin Costello.

MR. BUZAK: We'll mark it as A-7 with today's date.

MR. SPENCER: So our first part of doing any sort of acoustical evaluation is to determine what are the applicable regulations. Township of Mount Olive does have a regulation regarding noise I believe it is Chapter 160 and in that it has overall A weighted daytime and nighttime limits. Those limits are 65 DBA, DBA is the short abbreviation for an A weighted sound level, 65 during the daytime hours and then 50 during the nighttime hours. The New Jersey State Noise Regulation which enforced Statewide also has the same overall limits, the exception being that they also have octave band limits which are limits in discreet frequency bands. And that actually makes the State Noise Regulation more stringent than the township regulation so the results of evaluation are all compared to the State regulation. And then after looking up the regulations and finding out what was applicable the next thing was to go ahead and go to the site and perform some measurements during both the daytime and nighttime hours. And that's where you start seeing what's unique about one site versus another site. Because we have regulations that are enforced Statewide but the sound levels aren't the same Statewide. So I went out on August 26 and performed the daytime measurements and then returned on September 4 and performed nighttime measurements. Those were performed at four different locations in the community surrounding the proposed soccer dome and I think if you turn to page 11 that has a figure that will show you where those locations are. One is pretty much due west of the proposed equipment for the soccer dome, one is south across . . . well right along Vaccaro Road, then we have two that are actually located on sort of the southeastern and eastern side of the site. And I wanted to try to get a good feeling for what were the ambient levels because we have a lot of different roads that intersect at this location and you're going to find that as you get different distances from the traffic you're going to get different sound levels. And I did a spec sheet based acoustical evaluation based on manufacturers data, the manufacturer of the pressurization of the unit for this particular dome was kind enough to do octave and measurements for us of the exact same type of unit at their facility out in St. Louis, MO so that we had real good . . . real world data to go on as far as doing this evaluation. I took the manufacturers data for that both with the . . . this unit comes with pressurization fan and two circulation fans and then there's also a heating unit that's an indirect fired burner for it. We did measurements with just the air handling portion operating just the fans and then also with the air handling unit plus the heat on. And what we actually found from the manufacturer was that it's louder when the heat is running. So part of one of the things that I looked at here and have discussed with Willow Street Partners is only operating that heat during the daytime hours to try to limit the sound levels during the nighttime hours. We also looked at the 17 kilowatt backup generator and the sound levels from that and that also comes equipped with a quiet test mode. One of the things about the State regulation it exempts the emergency operation of generators but they do have to meet during the regular testing cycle. I will say you know looking at the data that have for this generator and all of the equipment even with the heat on if we were to run all of that simultaneously we'd actually be under the State and Township regulations at all the property lines. But the thing to me that was unique about the site was we had quieter background sound levels. So part of what's been incorporated into the design now of this is running the heat only during the daytime hours which drops at the heating element portion from that duct burner and then the backup generator is only going to be tested during the daytime hours as well. One of the other things that happened on top of this was that I've recommended and it's been accepted by my client to install duct silencers on both the intake air and discharge air openings for this unit which will further reduce the sound levels when it's operating and it's air handling unit only portion. So you know there's a lot of additional noise control that's actually gone into this particular project that I haven't seen on some of the other domes that we've done. That being said once all if that is incorporated we're actually looking at nighttime sound levels that are quieter than what the existing sound levels are at the site right now. And that's summarized in the report and I also have quite a few figures if you look through it in the back that plot all of these and the different frequency bands from low frequency to high frequency and then the numbers on the far right where it says DBA that's the overall A weighted number.

MR. WEISS: What page were you on?

MR. SPENCER: These figures are on page 12 through page 19. I mean the overall conclusion is that you know not only will the equipment out here meet the daytime and nighttime limits of the noise regulations but there have been extra measures taken into this design to reduce it further below what the regulatory limits are to make sure that it's more consistent with the character of the sound already out in the community. And I will add that the levels that I'm comparing to in the community are what we call the L90 sound levels. They are the sound level that are exceeded 90 percent of the time. In other words it's the steady background sound there. Basically it statistically filters out, if you have for example a dog barking on Vaccaro or you know cars passing by on the roads, unless those are happening 90 percent of the time you're not seeing those in the ambient sound levels I'm presenting here. So

we're really comparing the maximum levels from the proposed equipment to the steady background sound levels that exist out there now.

MR. SELVAGGI: So in summary daytime, nighttime with all of the equipment we satisfy both the State and Municipal sound maximum levels.

MR. SPENCER: That's correct. And I'll just for the record add what those levels are, during the daytime we are looking at maximum sound levels of 46 to 48 DBA at the nearest residential properties which are well below that 65 DBA limit, it's actually below the 50 DBA nighttime limit. And then during the nighttime hours we are looking at sound levels of 20 to 23 decibels at the nearest property lines. And if you look at . . . to flip one more time here on table 4 on page 7 that has measured ambient levels and the measured ambient levels ranged from 45 DBA up to 52 DBA during the nighttime. The reason we have added the additional silencing and the numbers sound so much lower than those ambiances, the insects were controlling the nighttime ambient levels. So when I did my evaluation I factored out the insects and looked at what the ambience would be without the insects because the majority of the time this dome will be up there will be no insects. So we want to make sure we're comparing the right things. So you know overall it will be well below the State Regulatory limits and we'll be even below the nighttime ambient levels.

MR. WEISS: I'm going to just need you to go back to page 7 table 4.

MR. SPENCER: Sure.

MR. WEISS: I'm confused, looking at the nighttime readings tell me what those numbers are because each one of them is over the 50.

MR. SPENCER: That's the existing sound levels that are out there now that I measure. That's not the levels due to the equipment and the only reason they're over 50 is I'll give you an example, if we flip to one of the figures I'll pick page 17 because that's one I happen to flip to, figure 7 that dashed line the thin small dashed line is the measured sound levels that are out there now. The bigger dashed line is the State nighttime limits and as your looking at this again it's low frequency down at that 31-1/2 up to higher frequencies up to 8,000 on the right and then the A (inaudible) overall, the solid line with the X's that's what's predicted for the new equipment that we're proposing to add to this site as part of the application. You can see though that the . . . where I've got labeled sound due to insects in those two frequency bands the 2,000 hertz and the 4,000 hertz that's what's controlling the A weighted sound level. That's the reason we've designed this equipment to be much quieter than the A weighted sound levels that we're looking at and looked at it on the individual frequency bands. Does that answer your question?

MR. WEISS: Yeah it does thank you very much.

MR. SPENCER: You're welcome.

MR. WEISS: Does anybody else have any questions? Dan?

MR. NELSEN: Sir you mentioned your nighttime sounds you did them without the heat pump?

MR. SPENCER: Which heat . . . are you talking about the analysis?

MR. NELSEN: Yes.

MR. SPENCER: Yes during the nighttime hours the plan is to not run the heating unit on the soccer dome.

MR. NELSEN: Because the levels would be higher than what they're allowed to be?

MR. SPENCER: No because they would be not what they're allowed to be because they would be higher than what the existing ambient levels are out there and my client made it clear to me that they want this to be consistent with the community that's out there. So they're electing to turn that burner off because they don't have soccer games starting first thing in the morning to be able to turn the heat off during the nighttime hours.

MR. NELSEN: Is that, I'm calling it a heat pump, but is that heat necessary to keep the dome erect?

MR. SPENCER: No there is a pressurization fan and then there are two circulation fans. That's what inflates the dome. The heat is simply to make sure that the dome is not the same temperature inside as it is outside because during the winter hours it would be too cold to be able to have sports in. Does that answer the question? And I will add that we're again even conservative on the burner, the unit that they tested out at their factory in St. Louis the heating section is just enclosed in a sheet metal enclosure, the version that they are manufacturing to ship to this particular location would have a 2 inch thick perforated liner on it with insulation in it. So the levels will be lower but I think that they're not going to be significantly lower to the point that it would change my recommendation as far as not running the heat at night.

MR. WEISS: Brian?

MR. SCHAECHTER: Yeah I'm no sound engineer but I do have a quick question regarding sound. Is sound cumulative meaning is you have a background noise of 52 decibels and you add another sound at 48 decibels is it cumulative on top of that? Do you get a greater sum of office (inaudible) . . .

MR. SPENCER: You do. Let's assume that we had two of these units out there that we're going to operate right next to each other. We're predicting that they would be 22 at you know the location I guess what is that the southeast property line with 195 Flanders-Netcong Road, this is again Figure 7 on page 17, if we were to add a second unit there they would be cumulative in terms of the fact that it would now go from 22 to 25. Okay so if you double the number of sources it changes by 3 decibels. Now when it comes to dealing with the ambient sound you're not going to get as much of a change because of the ambient is actually greater in most of those frequency bands than what we have out there. And I will also mention that the regulatory limits relate to the sounds that are emitted by any particular site, not the site plus the ambient sound levels in the community because that's something that somebody doesn't have control over.

MR. WEISS: Anybody else? Nelson?

MR. RUSSELL: The decibel numbers, decibels are (inaudible) right?

MR. SPENCER: Correct which is why when we add 22 and 22 we get 25 which doesn't make a lot of sense to a lot of people.

MR. RUSSELL: If that unit were an electric lawnmower would that be loader or . . .

MR. SPENCER: Oh a lawnmower is significantly loader than what we're talking about here. And actually I repeated the measurements that I . . . the ambient measurements at location one during the daytime hours because there was a resident running a lawnmower. And again I wanted to make sure that I was getting the steady background without contributions of things that I would deem to be not normally happening the majority of the time so that we have a fair comparison.

MR. RUSSELL: Now when my generator goes off (inaudible) it sounds like, and I'm inside the house, it sounds like somebody outside is mowing the lawn.

MR. SPENCER: This generator is actually quieter than that. It's in a sound attenuating enclosure it's a small generator, it's a 17 kilowatt Guardian generator. And the other thing is during the regular testing they have designed a specific quiet test mode for this generator where it runs at a slightly lower speed. Now on the generator that we evaluated here actually they have the same model generator installed in Chatham and this was actually based on the post installation measurements done at Chatham for that generator and the post installation measurements were consistent with what the manufacturer publishes in the way of sound data to.

MR. RUSSELL: Thank you.

MR. WEISS: Dan?

MR. NELSEN: This facility is larger than the one in Chatham; this generator would suffice for that facility?

MR. SPENCER: That's correct. The generator would suffice. The air handling portion of the unit is larger than what's at Chatham which is one of the reasons why we have built in additional noise control into this design that does not exist at the Chatham location.

MR. WEISS: Gene do you have anything to add?

MR. BUCZYNSKI: No I don't.

MR. WEISS: Chuck?

MR. MCGROARTY: I just have a couple of questions. What hours constitute night time for turning this off?

MR. SPENCER: Daytime hours are from 7:00 a.m. to 10:00 p.m., night time hours are from 10:00 p.m. to 7:00 a.m.

MR. SCHAECHTER: You mean from shutting the heat off.

MR. MCGROARTY: From shutting the heat off. So the heat will run up until 10:00 that's the expectation.

MR. SPENCER: Yes.

MR. MCGROARTY: And in your report which we just had a chance now to look at I see in the summary some of the points you make, is it somewhere in here a list of all of the recommendations that you made? Again I see a couple.

MR. SPENCER: They're not just recommendations at this point they have been incorporated into the design of this unit and part of the application so they're not separate, they were recommendations when I first brought them up to my client they are now part of what is in this application.

MR. MCGROARTY: Well turning the unit off is not really part of the design that would be a specific . . .

MR. SPENCER: It actually this unit comes with a time controlled system so it is part . . .

MR. MCGROARTY: And the other question I have is, and this is something for Gene to look at or the Construction Official would look at, but have you provided details of this? Because how would we even know your describe the, not that we question your testimony I just . . . you know when the units are designed a very specific way as you described are there plans that detail that? That have been submitted or will be submitted?

MR. SPENCER: I don't know if there are plans on that. I mean typically you don't, you know it would be the example of if you had air handling units on top of a building you don't normally submit you know cut sheets for the air handling units as part of the application.

MR. MCGROARTY: No I understand but . . . no and I suppose there's a certain level of (inaudible) to that but I guess its supporting your testimony specifically that your reducing whatever potential negative impact would be to the neighborhood. So the details are important.

MR. SPENCER: Yeah and I actually I described the silencer type that was considered in the evaluation on, if you look at well I think I've got it at several different spots that I talk about the silencers in here. I mean it is definitely discussed in the report exactly what was used as far as the evaluation and what is being put into the design.

MR. BUCZYNSKI: We have these numbers but I guess we could also if we could make it a condition I think Ed that once everything is up and running that there's tests being done to verify ...

MR. SPENCER: You can the issue is going to be with that is that we're talking about sound levels here that are quieter than what the background sound levels are so you're actually not going to be able to measure the unit in terms of determining what this is because of where the existing ambient levels are.

MR. VAN NESS: But we can measure whether your exceeding it or not.

MR. SPENCER: The State regulation? Absolutely.

MR. VAN NESS: That measurement can occur as to make sure that you're conforming to the regulations.

MR. SPENCER: That's absolutely possible.

MR. VAN NESS: And that's absolutely what would have to happen it's not even possible it has to happen.

MR. WEISS: Okay I see it's been noted as a condition. Thank you for that Gene. Anybody else on the Planning Board have any questions? Seeing none let me open it up to the public if anybody in the public has any questions for Mr. Spencer based on the testimony he delivered this evening now is a good time. Come up and speak if you would over here please sir. State your name and address for the record as we've done before.

MR. WILLIAMS: Stacy Williams 5 Vaccaro Road, Flanders, NJ. My question is the fans that you said there's a pressure fan, a circulation fan, a heating fan and a back-up generator.

MR. SPENCER: There's one pressurization fan, two circulations fans then there's an indirect fire burner that's used to heat the air stream, and then there is the back-up generator. Correct which will only operate during the testing mode or which they have to exercise it so you know I'm not sure what the testing frequency is exactly on that but . . .

MR. WILLIAMS: That's fine so I'm just trying to scope out those basic elements okay?

MR. SPENCER: Correct.

MR. WILLIAMS: So you're saying that when all of those elements are running in unison during the day you get a reading of 46 to 48 and during the night you get 20 to 23.

MR. SPENCER: We're not running all of those elements during the night time hours.

MR. WILLIAMS: So you're saying that only those elements without the heating fan you get those numbers.

MR. SPENCER: Correct and without the generator because the generator won't be part of regular night time operation.

MR. WILLIAMS: Okay so it's the two circulation fans and the pressure fan you get those values that you . . .

MR. SPENCER: Correct. With the silencers that will be installed on the unit that's correct.

MR. WILLIAMS: Okay and that's 7:00 a.m. to 7:00 p.m. the 10:00 p.m. and 7:00 a.m. is what you consider day and night to run the heat aspect of it.

MR. SPENCER: Correct.

MR. WILLIAMS: The burner. When you add the burner during the day, I don't have access to the report what does the value go up to?

MR. SPENCER: That's the 48.

MR. WILLIAMS: So we're still on the high end right?

MR. SPENCER: That was with the burner, the generator and all of the units running. So one of the key things to understand is that with everything that's going on on this site if they were to operate all of that simultaneously it's actually under the night time regulation limits of the State regulation. What they've done is they've said we want to be good neighbors so we're going to go ahead and turn the burner off during the night time hours and we're going to get additional silencing for the air handling portion of the unit.

MR. WILLIAMS: Well good neighbors and it will also probably save them a lot of money on natural gas or oil or whatever . . .

MR. SPENCER: That wasn't my impression based on my conversations with the client.

MR. WILLIAMS: All right that's fine. And also my last question is as an expert can you provide examples of what something in nature sounds at 46 to 48 and 20 to 23? Like I said a lawnmower is excessive . . .

MR. SPENCER: Yeah the insects that were out there both during the day and the night that I did that were actually loader than that. So that gives you . . .

MR. WILLIAMS: So the ambient noise was like the cicada is what I don't know . . .

MR. SPENCER: I don't know if it was cicadas that were out there but with whatever was out . . .

MR. WILLIAMS: The cicadas or whatever bug that chirps at night right? Crickets?

MR. SPENCER: Yeah I mean during the daytime hours and the night time hours the insects . . . and again I'm using a study . . .

MR. WILLIAMS: Like I don't want to . . . what is a lawnmower, like what is a lawnmower in your opinion?

MR. SPENCER: A lawnmower if you're mowing with it it could be over 100 decibels.

MR. WILLIAMS: Okay and what is a car going by traveling at 40 miles an hour an average car.

MR. SPENCER: The cars that I was measuring were up to 60 something. It's going to be quieter than the cars passing by.

MR. WILLIAMS: So 20 to 23 is . . . what would that be comparable to? What would that, in real life as an expert with all your 17 years of doing sound what would 20 sound like to me?

MR. SPENCER: There is not a single spot in the State of New Jersey the entire time that I've been doing this where the ambient level has been on the order of 20. The quietest that I've ever measured was 26 decibels and that was in Bedminster, PA.

MR. WILLIAMS: And that's very impressive. Now do we talk at 20? That's what I'm trying to get from you is what does 20 sound like to the layman that's here that doesn't understand you know what decibels and how decibels impact noise.

MR. SPENCER: I mean 20 is more comparable in terms of what you would have if you went into a concert hall and everybody was sitting quiet.

MR. WILLIAMS: So you have a hush environment.

MR. SPENCER: Yeah its quiet I mean it's quieter than a library. I mean there were many schools that would be happy if the background sound levels were 20 decibels. To give you an idea the New Jersey State Standard for background sound levels in classrooms sets 45 dba is the background level that's appropriate for being able to teach from mechanical systems and things like that. You know so we're talking levels that are significantly quieter than what the State mandates as far as the maximum levels for night time operation. We're talking about something that's significantly quieter than what's out there now.

MR. WILLIAMS: That's all I have thank you.

MR. WEISS: Thanks Mr. Williams. Anybody else from the public?

MR. SCHAECHTER: Can I ask Mr. Spencer one question? Your mechanicals in your house, if you had central air conditioning on a four ton unit what would you hear in the house?

MR. SPENCER: It really depends upon the units and the house. I mean I'm unfortunately not fortunate enough to have a central system I have an air conditioning unit in the window in our bedroom and it's on the order of . . . it's got to be probably close to 75 in my bedroom, 70.

MR. SCHAECHTER: So central would be a little more quieter than that.

MR. SPENCER: It would be yeah.

MR. SCHAECHTER: So you wouldn't be able to hear outside ambient noise it will be interior ambient noise that you hear.

MR. SPENCER: Inside the house?

MR. SCHAECHTER: Yes.

MR. SPENCER: Yeah. I mean, and that's the other thing is we're looking at you know just so people understand we're looking at the outdoor sound levels during the time of the year when people are going to most likely have their windows closed because it's the cooler time of the year. You know unless it's a cool evening and somebody wants to open it, so you're not going to hear this inside your house realistically. At least I would not expect based on the evaluation I've done.

MR. WEISS: All right mam will you state your name and address for the record.

MS. BURCHARD: My name is Barbara Burchard 100 Flanders-Netcong Road. I think one of the things that probably has some of us confused is your giving us the levels for the equipment. You're giving us the levels for the ambient noise. What's the total? If I factor in ambient noise plus the equipment is it going to be higher than the ambient noise that you measured?

MR. SPENCER: Than the ambient noise that I measured here? No not really I mean because we're talking about ambient levels that were on the order of you know 48 to 52. I would imagine during the daytime hours when they've got that duct burner going if we had levels that are on the order of 48, yes you know there could be a slight increase in the ambient sound.

MS. BURCHARD: My other question is when did you do the daytime measurements? I'd like to know time of day, and I don't need exact time of day, morning/afternoon and day of the week.

MR. SPENCER: It was 3:50 p.m. on August 26 which was a Monday; sorry that was when I took the meteorological conditions. I started the measurements at 3:00 I was actually out there for almost two hours because I had to go back and redo that first location. The night time measurements were done on Wednesday the 4th of September.

MS. BURCHARD: Okay night time I'm less concerned about. One of the things I'm concerned about especially on the weekends, especially when people are home is we have a tremendous amount of traffic that comes by already and therefore ambient noise because of Turkey Brook. If you're going to start adding, I'm more interested in the noise levels not necessarily from the building itself but if you start adding the building and the traffic, the traffic going to this place as well as going to Turkey Brook that's more what I'm concerned about. It's the overall not just the noise levels from the machine.

MR. SPENCER: Let me clarify for a second. If we were to look at traffic noise and the sound levels you use a different metric instead of the steady background sound levels. My measurements for the ambient factor basically remove the traffic noise unless there is steady traffic noise you know on distant roads like Route 46 you know way away. You know because that's what we want to look at when we're looking at the impact on a residential area. We don't want to consider, I could put numbers together for when a car goes by and say it's 66 and we're only going to produce you know 48 and all of a sudden it looks like oh there's no impact here at all. But that car is not going by 90 percent of the time. So if you look at the average from traffic noise the levels go up considerably related to the ambient. And then what you find is that to really affect that average level you have to double the amount of traffic going through an area to be able to change the average ambient level using the metric that we use to evaluate traffic. Because each individual car doesn't get any louder when it goes by it just happens more frequently.

MS. BURCHARD: No argument with that but if you take a look at measuring during the week versus measuring on a Saturday or a Sunday, today just with Turkey Brook I can guarantee at most times it's going to double.

MR. SPENCER: That's why I picked time during the day that was not during an area where there is a lot of traffic I tried to make sure that I was out there before people started commuting home. The measurements were done before 5:00.

MS. BURCHARD: And again if you're measuring the equipment I think you agree from a town's perspective I think we need to take a look at it as far as the overall. I don't necessarily disagree with . . . I don't disagree and don't know enough to disagree with you on the actual equipment itself but I think we have to take a look at the area as a whole with all of the noise that's going to be generated.

MR. SPENCER: But what I'm saying though is if you had additional traffic to this site the amount of traffic that you are going to add if we were to fill up that entire parking lot full of cars the number of cars that would be there versus the number of cars that go by this area on a regular basis it's not going to be enough that it's going to raise the ambient sound level due to the traffic. You'll have more traffic going through but you'd have to double the amount of volume on that roadway to be able to even get a three decibel change in the sound which is considered the least perceptible change that somebody would even notice.

MS. BURCHARD: Okay thank you.

MR. WEISS: Anybody else from the public? Okay and if you would state your name and address for the record please.

MS. BURY: My name is Maryann Bury (B-U-R-Y) 191 Flanders-Netcong Road. The question I have deals . . . I'm trying to get a handle also on this noise level. There is an electrical substation down the street, were you aware of that?

MR. SPENCER: I wasn't aware of that.

MS. BURY: It makes a humming noise. It's quite large ever since the new developments came in and I was just wondering as a comparison is the sound that we're going to hear from the equipment similar to the sound, the humming sound from the electrical station?

MR. SPENCER: I did not notice the humming from the electrical station when I was out there doing the measurements so I really . . .

MS. BURY: No you wouldn't where you were.

MR. SPENCER: Well I was right in front of your house.

MS. BURY: Right but the electrical station is down the street so I guess, I don't think that it would combine

MR. SPENCER: Well are you talking about the sound from the electrical station at your house or when you're standing in front of it down the street?

MS. BURY: I'm talking about . . . could I assume that the sound coming from the electrical station when I'm standing in front of the electrical station is the sound that I could expect to hear from the equipment?

MR. SPENCER: I would have to say no because of the fact that I did not hear the electrical station at your house and the results of the evaluation have indicated that you know the ambient sound levels that are at your house are going to be greater than what we're expecting from this equipment. So if I can't hear the electrical station at your house . . .

MS. BURY: Well normally as an expert you know the sound of an electrical station, the humming. Or would you have to know how large it is?

MR. SPENCER: Well I mean it's not just the type of sound something produces but it's the level that it produces that's also important. And that's one of the reasons why we have silencers on this particular unit is to make sure that the levels are well below what they would be otherwise. So I mean they didn't have to put silencers on this to be able to meet the limits of the regulations that's something that they've decided to do as an additional cost to lower those levels to be more consistent with the sound in the neighborhood.

MR. WEISS: Thank you Mr. Spencer. Scott you have a question?

MR. VAN NESS: So you're saying that you did not notice the electrical unit station down the road?

MR. SPENCER: I can't comment on it because I don't know anything about it.

MR. VAN NESS: Well it leads into my next question. So when you conducted your ambient sound are you saying that you did not do anything to remove any noise that came from the electrical station from that ambient sound measurements that you conducted?

MR. SPENCER: I didn't hear anything related to the . . . I don't know that there's anything to remove.

MR. VAN NESS: My point is this, so you didn't know the electrical station was around the bend. Is that correct?

MR. SPENCER: Correct.

MR. VAN NESS: So you didn't make any adjustments to . . . Did you make any adjustments to your sound that would . . .

MR. SPENCER: No.

MR. VAN NESS: Eliminate any noise that came from around the bend?

MR. SPENCER: No.

MR. VAN NESS: So you're saying that if there was noise coming from the electrical station it is included in the ambient sound of your measurements you provide in this report?

MR. SPENCER: Correct. I can tell you you know if we want to discuss what was out there I have it noted in here. During the daytime ambient sound measurements the sound sources that I heard were insects, traffic on the local roads, fairly frequent aircraft, there was an infrequent dog that was barking at 5 Vacarro Road I believe, there was a water sprinkler that was running in front of location four which is 191 Flanders-Netcong Road.

MR. VAN NESS: These are the sounds that you heard right?

MR. SPENCER: Those were . . .

MR. VAN NESS: These are the sounds that you heard from your ears . . .

MR. SPENCER: Correct those were the sounds that I heard and wrote down on the data sheet as far as what was contributing to the sound levels during the measurements.

MR. VAN NESS: But there could have been other sounds coming that made your measurements what they are.

MR. SPENCER: Correct and it's a contribution of all different sounds from all different directions.

MR. WEISS: Anybody else from the public have any questions? If you would just state your name and address for the record please.

MR. ORDONEZ: John Ordonez 68 Drakesdale Road, Flanders, NJ. Just for the record which will probably answer our question sir in the summertime you really won't hear the hum of that electrical outlet area but in the wintertime when you lose all of the leaves on the trees from my back deck you will hear it.

MR. WEISS: I've got to just interrupt and we'll be here all night ask him a question I understand your testifying just ask a question.

MR. ORDONEZ: No but if you will bear with me, in the wintertime now when we lose the foliage on our trees and such in conjunction with that will we . . . I'm assuming the answer is yes there will be an audible increase in the ambient noise correct?

MR. SPENCER: Yeah during the daytime there will be, during the night time there may be an audible it's close enough to the ambient levels that it's hard for me to be able to tell whether you're going to hear a difference between whether it's on or off. I mean because we're talking about levels that are so quiet.

MR. ORDONEZ: I understand thank you sir.

MR. SPENCER: You know and just so everybody knows the evaluation that we prepared here considers that there, not just are there no leaves on the trees, there are no trees. It's assuming a direct line of sight there's no attenuation from the ground, there's no attenuation from foliage because I know that especially with the amount of tree buffer that we have at this site you're not going to get significant attenuation during the summer. You may get some scattering at higher frequencies but you know effectively it's the tree trunks that provide the attenuation so if you can see through the trees the sound goes through.

MR. WEISS: Mr. McMullen I think you had a question do you want to come up? Brian?

MR. SCHAECHTER: Yeah Mr. Spencer real quick while Mr. McMullen is coming up, your equipment would you consider it more sensitive than your own ear?

MR. SPENCER: Absolutely.

MR. MCMULLEN: Mike McMullen 177 Flanders-Netcong Road. I have a couple of questions, one you talk about noise levels and perfect equipment have you taken into consideration five years from now what a bearing and a motor what the noise levels will be then when it's worn down?

MR. SPENCER: I can't testify as to what happens as far as if somebody either has not maintained equipment or does proper maintenance on it. You know it's been my experience that properly maintained equipment stays relatively close to the sound levels that it shifts with. And that's one of the important things is that you maintain your equipment when you install it.

MR. MCMULLEN: And what is the generator power?

MR. SPENCER: The generator is powering I believe the air handling units for the pressurization of the dome because if that were . . . if we were to have an electrical outage and those were to turn off the dome would deflate.

MR. MCMULLEN: So it's only in an emergency .

MR. SPENCER: Correct.

MR. MCMULLEN: It's not constant.

MR. SPENCER: It's not constant.

MR. MCMULLEN: And last what about voices inside the unit and out in the parking lots? I mean soccer games are not a calm thing. If you're inside the dome can you be heard outside the dome?

MR. SPENCER: The answer to that would be I would expect that you would be able to be heard outside the dome if you're inside the dome. What I can tell you as far as the regulations and one of the reasons it's not considered is the unamplified human voices specifically exempt from regulations. Otherwise we wouldn't have people that would be able to go down a sidewalk into a church or anything like that.

MR. MCMULLEN: So you're just going to allow for people yelling and carrying on inside of a dome. Like it's okay.

MR. WEISS: Well let me interrupt Mike, I believe the testimony last time is that this facility is not providing an area for fans, this is not a spectator facility. So I'm not sure what kind of yelling you're referring to short of the fan base.

MR. MCMULLEN: Well how many people are in a dome at any given time?

- MR. SPENCER: That I can't . . . I have no idea on that.
- MR. MCMULLEN: Are you not allowed to have spectators?
- MR. SPENCER: Again that's a question that's outside of my scope. I did an acoustical study here of the equipment that's going to be supporting the dome.
- MR. MCMULLEN: So then I'll ask the Board when will we be able to know that?
- MR. WEISS: I think we addressed that last time. Mr. Costello do you remember? Just to answer my question.
- MR. COSTELLO: Yeah we don't have or don't provide bleachers; we don't provide viewing areas or anything like that. You know the vast majority of our users are drop-off you know youth soccer players, youth Lacrosse, whatever it may be.
- MR. WEISS: We're looking at this as a training facility rather than an arena for competition?
- MR. COSTELLO: Exactly, exactly.
- MR. WEISS: In a general sense, not that you're not going to have competition but in an overall sense.
- MR. COSTELLO: Yeah I mean it's basically a training facility you know we'll have our coaches and stuff but not games or
- MR. WEISS: I don't want to spend too much time reviewing the testimony I just wanted to give you a quick answer.
- MR. MCMULLEN: Well are there going to be games or not?
- MR. COSTELLO: Yeah we have league play like . . .
- MR. MCMULLEN: So if my son plays in a game am I allowed to go see him?
- MR. COSTELLO: Yeah you could see your son sure.
- MR. MCMULLEN: So theoretically you could have 150 people in the building?
- MR. COSTELLO: No I mean I don't think we'd ever get that kind of
- MR. MCMULLEN: Well you have 22 players and 3 people for each let's say its 80 people.
- MR. COSTELLO: You couldn't fit that many people in the dome. I mean the playing area we leave enough room for basically a net and a walkway to walk between the net and the side of the dome but it's 4 feet or 5 feet it's not a . . . we don't expect, and you know I don't know how Mike would quantify this but kids at a pool as load as any outdoor activity that you know I can think of I don't think any levels in the dome are going to come anywhere near exceeding what a busy Saturday is.
- MR. WEISS: Kevin I'm going to stop you (inaudible) I asked the question you answered it I don't want you getting to your opinion on sound with all due respect.
- MR. SCHAECHTER: Before you sit down Kevin one quick question on an average summer day how many people do you have at the pool?
- MR. COSTELLO: 60 to 80 people on a hot day.
- MR. MCMULLEN: Can we expect all of the noise to be less than what goes (inaudible).
- MR. COSTELLO: Yes.
- MR. WEISS: No I can't accept that as an answer. You're not qualified to answer that question. That's a question for the expert.

MR. MCMULLEN: Can he answer that?

MR. SPENCER: And I haven't observed a day with 60 to 80 people at the pool so unfortunately I can't answer that question either.

MR. MCCULLEN: If there was 10 people at the pool can you answer that?

MR. SPENCER: What I can tell you is about what happened when I was actually at the site. There were people at the pool, I didn't pay attention to how many people were there I know there were a couple of kids, there were people out still sun bathing around. I can tell you when I was at the properties that it wasn't something that I was noting as a major sound source when I was doing my measurements.

MR. MCCULLEN: Is all the equipment on the tennis court side of the dome? It's away from the road?

MR. SPENCER: Yes, yes it's on the opposite side but you know I don't look at it as we're getting attenuation going through the dome. I look at everything like it was just going right through you know if we had a direct line of sight and the dome wasn't there (inaudible) the equipment. There will be some additional attenuation from the dome but I think it was beyond the scope of what I wanted to undertake in terms of doing the noise control on this to measure it because the low frequency was what I was looking at relative to this and that's why we have the silencer.

MR. MCMULLEN: And lastly how far in your opinion do you think you're going to be able to hear everything from the equipment?

MR. SPENCER: You know it's tough when you start talking about how people can hear things because different people hear things differently.

MR. MCMULLEN: Let's take you then, how far could you hear it?

MR. SPENCER: During the daytime hours I think it's going to be audible at the property lines. I don't think that it's anywhere near the Code limits, I don't think it's near the night time limits. Do I think it's going to be audible? I do.

MR. MCMULLEN: Directly across the street or at property lines how far away?

MR. SPENCER: I don't know how far away you'd have to get before it became inaudible.

MR. MCMULLEN: Okay thank you.

MR. WEISS: Okay anybody else from the public have a question for Mr. Spencer? Seeing none I'll close it to the public. Chuck?

MR. MCGROARTY: Mr. Spencer did you, if I understood correctly then, your task was not to analyze any potential noise within the dome itself or noise that might have . . .

MR. SPENCER: Not from patrons of the facility. I mean generally speaking there is part of the reason for that is there is president in the State that patron vehicles moving on and off of a site are exempt from the noise regulation. The unamplified human voices exempt so those are things that are not normally included in any sort of acoustical evaluation for a site.

MR. MCGROARTY: Okay the reason I ask is in my report 7.3 I said testimony should address potential noise levels per Township Ordinance standards, and you've done that when dome is in operation including noise from air handling and generator. And I would just call your attention or the Board's attention to this zone district which is only enacted in 2010. And among the permitted principal uses, and again this is an accessory structure, but facilities within an enclosed building with suitable acoustical construction so as to abate noise beyond the interior of the building accommodating training, playing sports and so on. So I think that's what I was trying to ascertain as well as any noise outside is because it's going to go on at night, there's going to be games, more practices, there will be whistles blown, there will be some noise to some extent and I don't know if it will be heard or not and that was one of the reasons why I asked for that comment. And again the ordinance is very specific about it when this district was created in 2010 recognizing that it's in proximity to residential areas.

MR. SELVAGGI: But the oddity with that is if you didn't have this dome up there you could put up a soccer field and play summer, night until 9:00 and there would be no barriers I mean people would be yelling it would no different than at Turkey Brook.

MR. MCGROARTY: Well I don't know if you could play at 9:00 Mr. Selvaggi that would be a separate question for the Board or it would be a question of whether the lights would be permitted and so on. I'm only saying here, I'm not trying to score points honestly I'm just trying to say that was very specific when this district was created anticipating that you know if there were any night time activities or even daytime activities for that matter, within the building because there's a range of potential uses permitted here and they're recreation in nature which tend to be boisterous. So that's what the language in the ordinance says.

MR. WEISS: Yeah please Mr. Buzak.

MR. BUZAK: Mr. Spencer is there a way in which you would be able to measure that before the facility is actually built and being utilized?

MR. SPENCER: I don't need to measure that I can tell you that a dome does not have sufficient attenuation that you're going to have something inaudible outside the facility.

MR. BUZAK: Excuse me sir you said inaudible?

MR. SPENCER: Inaudible yes as in making it so that you cannot hear it outside.

MR. BUZAK: So you will hear noise that is generated inside this dome outside of the dome.

MR. SPENCER: That's my opinion on it. You know and I do know the reason that this kind of thing doesn't normally come up is that the State is the sole entity that has the authority to regulate noise relative to specific activities. And they have specifically exempted that, and I do know that the only ordinances that they approve are in for an ordinance to be validated actually has to go through a formal approval process with the NJDEP. Because again they are the sole entity in the State that has the ability to regulate noise they only approve ordinances that are consistent with their ordinance.

MR. BUZAK: And therefore your conclusion is that even if there were significant noise generated internally that there is nothing that you are aware of at least under State regulations that would prohibit that.

MR. SPENCER: Correct.

MR. BUZAK: And further that the municipality could not enact an ordinance that would regulate that because the State has preempted the field and therefore there is no regulation that limits the noise levels in that type of activity.

MR. SPENCER: That's my understanding and that's the reason why it's very difficult for me to answer questions relative to that is that it's not something that's looked at because of what the State of New Jersey has in the way of laws.

MR. WEISS: Joe?

MR. FLEISCHNER: My question is actually for Chuck or maybe Gene. Do you know if we ever, before the lights were put in at Flanders Crossing did anyone ever you know for the baseball field down there, now they play at night and did anybody ever look or did anybody ever raise a concern of the noise level that would be generated out of that field as well as the lights at Turkey Brook because they play at night as well.

MR. SCHAECHTER: I will tell you that everybody and their brother came to the same (inaudible) I was on the other side for that. Almost half of the neighborhood came down for those and . .

MR. BUCZYNSKI: For Flanders Park.

MR. SCHAECHTER: For Flanders Park and how many years has it been five years, six years? It's not an issue.

MR. FLEISCHNER: Okay I'm just asking because I stayed away from those.

- MR. MCGROARTY: Well it didn't come to the Planning Board.
- MR. FLEISCHNER: No it didn't come . . . but I mean . . .
- MR. MCGROARTY: So that's the extent I would have any (inaudible) other than what I read in the papers.
- MR. FLEISCHNER: Okay I was just wondering if you knew if there was anything you know . . .
- MR. BUCZYNSKI: I don't think there were any measurements done.
- MR. FLEISCHNER: All right I was just curious, thank you.
- MR. NELSEN: Question just for reference. I hear probably an air conditioning unit in here right now . . .
- MR. SPENCER: This is significantly loader than the levels that we're talking about.
- MR. NELSEN: What would you say this is?
- MR. SPENCER: I have no idea again it's . . .
- MR. NELSEN: Come on now you're an expert.
- MR. FLEISCHNER: We won't hold you to it.
- MR. SPENCER: I don't know it's probably 50, 45. I mean it's hard to tell because . . . this is the reason I own a sound level meter. You say guess on it and I can tell you that what I can tell you about acoustics is that it's not intuitive that's the reason why we have equipment that measures these things. Because when you start talking about different band levels in terms of how they contribute to an A weighted sound level that becomes a very tricky thing to be able to guess at.
- MR. RUSSELL: Back to voices within the dome and sounds within the dome, will it be quieter within the dome than it would be without the dome during the summer when the leaves are out. Is there any attenuation from sound from the dome?
- MR. SPENCER: That I don't . . . for the purpose of the evaluation that I did because I considered the mechanical sound that was being rated outside the dome and also the sound actually that was going into the dome and coming out from the mechanical unit, so I did at least look at you know from that side we've addressed both portions of the air handling unit. You know I did not consider any attenuation due to the dome, my understanding is it's a heavy you know cloth type structure there's probably going to be some high frequency attenuation. I do not know of any measurements that have been done to quantify the sound transmission lost through a dome.
- MR. RUSSELL: But you would guess it would be quieter during the winter than it would be during the summer without the dome?
- MR. SPENCER: Oh if we had people playing on a field there the answer is yes at high frequency I would expect that there's going to be attenuation I just have no idea what order of magnitude.
- MR. RUSSELL: Thank you.
- MR. WEISS: Scott?
- MR. VAN NESS: Can I ask a question of the representative? It's more about complaints.
- MR. WEISS: Sure go ahead.
- MR. VAN NESS: How many other structures that are built does this company operate?
- MR. COSTELLO: Six.

MR. VAN NESS: And of those six have any of the residents, is there any history of complaints about noise coming from within the dome?

MR. COSTELLO: No none of our air supported structures you know have any history of complaints. They're also kind of . . . the neighborhoods are a little bit different than these you know a little bit more urban in character than this one which is why the other domes don't have the noise attenuation in the blowers and inflation units as we're proposing on this one because this is more of a rural character so but no we have no history of complaints.

MR. WEISS: Okay we see no other questions Michael I will move on to . . . Mr. Spencer thank you for your time.

MR. SPENCER: You're welcome.

MR. SELVAGGI: We'd now like to move into planning testimony.

(KATHRYN GREGORY SWORN IN FOR THE RECORD)

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

MS. GREGORY: Kathryn Gregory (G-R-E-G-O-R-Y) business address is 96 Linwood Plaza #350 in Fort Lee, NJ.

MR. BUZAK: Thank you.

MR. SELVAGGI: Ms. Gregory have you ever testified in Mount Olive?

MS. GREGORY: No.

MR. SELVAGGI: Okay so we'll do the same drill we did with Mr. Spencer. What's your education background, professional licenses you hold and your experience both in Land Use Boards and Courts in New Jersey?

MS. GREGORY: I'm a licensed professional planner in the State of New Jersey and have been so since the year 2000. I'm a member of the American Institute of Certified Planners as well; I have a Master of Architect and a Master of Urban Planning from the University of Illinois which I received in 1998. I have testified probably hundreds and hundreds of times over the last 13 years before various Land Use Boards in the State of New Jersey. I also represent a few Boards in different municipalities which would include Richfield, Woodland Park, Clifton and Edgewater, New Jersey.

MR. WEISS: Does anybody have any questions for Ms. Gregory?

MR. BUZAK: How do you spell your first name? Is it "K", "C"?

MS. GREGORY: K-A-T-H-R-Y-N.

MR. BUZAK: Thank you.

MR. SELVAGGI: Okay Kathryn you had been retained to perform a planning analysis and we'll get into that but let's first start because we had notified and you were involved in a balloon test correct?

MS. GREGORY: Yes.

MR. SELVAGGI: And let's start with that because that was one of the things that the Board had asked for at our August meeting and some of the members of the public as well. So we'll move into that because that kind of sets the context for your planning testimony as well.

MS. GREGORY: Yes there was a request at the last meeting that a balloon test be performed. I have a report here so I guess we need to mark as an exhibit?

MR. BUZAK: Mark as exhibit A-8.

MS. GREGORY: A-8.

MR. BUZAK: Do you have a date on that?

MS. GREGORY: Yes, September 12, 2013.

MR. WEISS: And this is a report on the balloon test Ms. Gregory?

MS. GREGORY: That is correct.

MR. WEISS: Okay go ahead.

MS. GREGORY: What the report involves is it has on the first page what you'll see is the cross sections of the dome and I'd like to note that in our original application we are proposing a 52 foot dome, we took a better look at it and the absolute minimum that we can actually get down to in terms of height is 46 feet for the size of soccer field that the applicant would like to put on their property. So that's actually the first most important point, we've reduced the height by 6 feet. Second of all what you'll see on the first page is a description of what was performed out on the site on August 26. Six balloons were placed, two in the center, two at the 46 foot height right before it tapers down at the edges, and then two at about a 35 foot height. And what you'll notice is that on the right hand side there I put an extra one of them because apparently one of them actually popped on site. So that one went by the wayside but we did have the others and we also have the dome section of the side and you can see the different height of the balloons as well from the side section of the dome. What you'll see on the following pages, on page two at the top a series of photos were taken and they are identified at the bottom of the first photograph which is an aerial which has been marked up with the site of the proposed dome and that was actually outlined by our engineer. And then I placed a faint yellow line down the middle to show the center and then placed the approximate locations of where the balloons were on that so you can have a reference. And then down in the lower left hand corner what you'll see is there's a series of nine different photographs that were taken from Vaccaro Road and those are identified by the red arrows and in some locations there were two taken and some locations only one was taken. So as you go through this essentially all they are are the photographs that were taken, so you can take a look and see where each photograph was taken and see what you can actually see from that location on Vaccaro Road. Photo number one is taken from the most easterly point and what it shows is the most southerly balloon at a height of 35 feet. If you take a really close look you'll see a red balloon at the center of that photo, it is very much shielded by the existing foliage that is out there right now, we do understand that this will look different in the winter months. But I also urge you to consider the fact that there still will be trees and branches, while there won't be any leaves and it will be more open you can see that at least while the trees are in full bloom and probably even until the leaves fall off, you're not going to really be able to see the dome from this particular location. When you follow through also photo number two I would say the same thing. What you can see again in the center of the photograph is the red balloon it's very hard to make out but it is towards the center of that photograph. In photo three as we're moving down Vaccaro what you'll see is the most southerly balloon at the height of 35 feet and then the next balloon which is at that taper point and you will see that there's sort of a deviation in the foliage where you can actually see the edge of the dome at this location. The same would be said for photo four on page four, again we're taking a photograph of approximately the same spot but from a little bit different location and again you'll be able to see the edge of the dome right there. When you go to photo five what you'll see is that you can't see any of the balloons from this particular location. And the same will be said for photo six on page five, the same can also be said for photo seven on page five, just as well following through with photos eight and photo nine on page six. So I have a conclusionary statement at the end and basically what we are admitting to is that we understand that right now all of the trees are in full bloom so we don't have the benefit of being able to take photographs at this time a balloon test with no leaves on the trees. But with that said the applicant is proposing landscaping in the form of Evergreen trees, I've been advised that we are going to provide at least 15 foot Evergreens along the southerly portion of the property and we would like to leave the existing trees on the Flanders-Netcong side because when you take a look at the photographs, and that's going to be my next exhibit, they actually are quite nice and we're going to infill that with more landscaping and Evergreens. So that the next I guess exhibit I'd like to . . . Oh well I guess maybe I should take questions on this first and then maybe go to my next exhibit?

MR. SELVAGGI: We can keep rolling or . . .

MR. WEISS: No let's just keep going with it.

MS. GREGORY: Okay. All right I have another photo exhibit and these are photos that were taken at the end of July I'll hand those out and this will be marked A-9.

MR. WEISS: Wait Ms. Gregory hold on one second. Scott?

MR. VAN NESS: On Vaccaro Road what is the height that the photographs were taken from?

MS. GREGORY: Person height. Actually I was not the one who took the actual photographs. That was my . . .

MR. VAN NESS: Thank you.

MR. WEISS: So why don't you just tell us what A-9 is, you said these are photographs . . .

MS. GREGORY: Yes for the record it's an 8-1/2 by 14 photo exhibit that was prepared by myself the photos were also taken by myself, its entitled Existing Conditions & Surrounding Neighborhood Characteristics 184 Flanders-Netcong Road in Mount Olive, New Jersey. What you'll see is a series of photographs that were taken by myself and you'll also see the same aerial that was located in the report on the upper right hand corner. So obviously I'm sure everyone is very familiar with the area as you can see we have our facility on a very large site and the predominant surrounding characteristic in terms of Land Use would be single family I'm sure we're all well aware. This is sort of a unique piece of property based on its location, based on the power lines to the rear and also the substation just as well comes at very interesting little bend to the road there at Drakesdale and also Flanders Road and when you take a look at the other photographs on the upper left hand corner I'm standing in the parking lot, the existing parking lot and I'm taking a picture of the area of where the proposed dome is going to go. What you'll also see is on the left hand side you'll see all of those existing trees and while they're deciduous they are pretty large and I think that they really sort of frame the property pretty well. The same could be said for . . . along the southerly portion as well. When you take a look at those aerials you'll see some of those trees as well. This property actually has a lot of nice trees around it I would hate to totally lose all of them because I do think that they're attractive but obviously that's just my opinion. On the second row I looked across the road to the closest residential property which is on the corner of Flanders-Netcong and Drakesdale Road and obviously perhaps one of the issues with the neighbors is the fact that this drive happens to come out right across from their driveway. And that's where most of the traffic happens to come in, I did take some photographs obviously from that particular property looking in which would be actually on the last row of photographs. I'm trying to get really a panoramic view of this side of the property. Again this is where I'm talking about with the trees, the trees are actually pretty nice so we'd hate to lose those we'd like to infill along that location and obviously to the left is where the proposed dome is going to be in front of, if you can see the fence or the tennis courts. And then in the center what we have is, this was actually the entrance to the pool area and I took a picture of it because what struck me is that it was pretty new landscaping and it was pretty nice and I think that's indicative of really what this applicant wants to do with the property. And that's why I thought it was important to put it on this particular photo exhibit. Obviously the parking lot needs a little bit of help but the idea is that you know part of the parking lot is actually going to be taken over by the soccer fields so obviously the applicant isn't going to repave that any time soon until at the end of conclusion of this application. But again like I said I think that's indicative of what the applicant really wants to have this property look like going forward. So I don't know if anyone has any questions about the photo exhibit, I was there on the day in the middle of the afternoon and there were children at the pool and there was some noise and I'm not a noise expert by any stretch of the imagination but you can definitely hear them that's for sure because kids get real excited when they're in the pool and they're playing Marco Polo and other types of games.

MR. WEISS: Does anybody on the Planning Board have any questions for Ms. Gregory? Dan?

MR. NELSEN: Ms. Gregory you brought up something about landscaping 15 foot trees on the southerly border.

MS. GREGORY: Yes.

MR. NELSEN: That would be along Flanders Road?

MS. GREGORY: Yes.

MR. NELSEN: Okay. The trees there, what do you consider the trees there now are they of any value?

MS. GREGORY: Actually I think its better question for our engineer. I mean I would say yes but .
. . . .

MR. SELVAGGI: But I'm just curious value in what way? In keeping them or are they dead?

MR. NELSEN: Keeping them because she said we have some very nice trees. I think you
meant on Flanders-Netcong and I was wondering what you thought of the trees on Flanders Road.

MS. GREGORY: Well they do follow through but one of the issues at the last meeting where
there were several residents from Vaccaro Road that were very concerned about the visual impacts so
therefore that's why we took the liberty of suggesting that we put in more Evergreens at that location.
Because unfortunately how the topography is in that location we actually can't really do a nice berm and
the engineer can get a little bit more specific into that because the (inaudible) we can't get bigger trees.
So we thought maybe the better option was because when you take a look at the balloon photographs
you're at eye level and you'll see there's lots of brush in the bottom. So to provide a berm at that
location anyway I don't think you're going to really see much and you'll see a shorter tree on top of a
berm maybe and so we felt that larger trees in that location that were Evergreens would probably be a
better solution. But when we're talking about the other street you also have to consider that Flanders-
Netcong has the access to the property, it has the two driveways. So you want it to not be completely
closed off as if it was a wall you want it to be a little bit open so people know exactly where they're
going so they can actually kind of see a little bit of the dome, see the pool structure and also the tennis
building. So both of them serve a little bit different purpose because the entry happens to be on
Flanders-Netcong and so with my limited subjective opinion upon being on Flanders-Netcong Road and
noticing how the trees are just about evenly spaced and they all seem to be about the same height and
for that to already be there I would hate to lose that. I think it's a nice quality of the site so we can infill .
. . .

MR. NELSEN: I agree with that but the ones on Flanders Road I thought weren't of the same . .
.

MS. GREGORY: Same caliper.

MR. NELSEN: Same caliper and I'm wondering if indeed a larger berm could be put in there
along with some bigger trees.

MR. WEISS: Maybe that's a question for the engineer to answer.

MS. GREGORY: Yeah I think the engineer can get into that a little bit better than myself.

MR. NELSEN: You mentioned a landscape architect, do you have one here?

MS. GREGORY: Actually I didn't mention a landscape architect I did mention landscaping but I
don't know if we're going to hire a separate landscape architect or if the engineer is going to take care
of that for us. Because he is the one who investigated putting berms in and there are some limitations
to doing bigger berms along Flanders.

MR. NELSEN: Thank you.

MR. WEISS: But you won't testify to that.

MS. GREGORY: Well we'll let him do that.

MR. SELVAGGI: Yeah Jim will

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

MR. MCGROARTY: Just one Mr. Chairman.

MR. WEISS: Go ahead Chuck.

MR. MCGROARTY: Did you take any pictures from Flanders-Netcong Road during the balloon test?

MS. GREGORY: No.

MR. MCGROARTY: Okay thank you.

MS. GREGORY: I think the only reason was that at the last hearing it was all of the residents from Vaccaro and I think that we ended up focusing on that viewpoint rather than the other one. I think that was really the only reason why.

MR. WEISS: Could I ask, did everyone attend the balloon test?

MR. VAN NESS: No, no. And so would have taken five more minutes to take some pictures off of Flanders-Netcong Road (inaudible).

MS. GREGORY: I can't tell you why, other than that reason I don't think that there was a reason.

MR. SELVAGGI: All of those people were noticed right Kevin?

MR. COSTELLO: Yeah.

MR. VAN NESS: Right but we all couldn't go because then it would be considered an open public

MR. WEISS: Not necessary, at different times.

MR. VAN NESS: And I was away as well so you know having that picture may have been helpful for myself as well as the audience.

MR. WEISS: Okay is there anybody from the public that has a question for Ms. Gregory? Mr. McMullen?

MR. MCMULLEN: Once again Mike McMullen 177 Flanders-Netcong Road. My statement is this you say you didn't take pictures from Flanders-Netcong and there was a balloon test done, I did receive a notice it was after the last Planning Board meeting when I received the notice and I was also told it was going to be done on a Saturday after 3:00. And it turns out it was done Monday so we never had an opportunity to see these balloons. I'd like to know why that is.

MR. SELVAGGI: I don't recall ever saying it was going to be on a Saturday.

MR. MCMULLEN: I received a letter in my mailbox saying it was going to be done on a Saturday from I think it was 10:00 to 3:00 if I remember correctly.

MR. SELVAGGI: That wasn't the notice that we prepared.

MR. MCMULLEN: Okay I never received a notice from you then. Is that because you didn't have to legally or because you chose not to?

MR. SELVAGGI: Mr. Costello if you can.

MR. COSTELLO: We noticed everyone within the 200 foot list as well as the entire Board. You know we got the same list from Ms. Natafalusy and notified everyone so I mean a lot of neighbors were out there I don't know why one notice would be different than the other.

MR. WIESS: Mike are you 200 feet from the property or more?

MR. MCMULLEN: No I'm more, I would be more.

MR. SELVAGGI: That may have been the reason why.

MR. MCMULLEN: So maybe it was a secondary source (inaudible) notice.

MR. WEISS: No legal obligation to notify you after that.

MR. MCMULLEN: Okay thank you.

MR. WEISS: Anybody else from the public have a question for Ms. Gregory? Mam if you come to the podium you may ask a question based on the testimony that Ms. Gregory provided this evening.

MR. SELVAGGI: There's more testimony to come by the way.

MR. WEISS: I'm sure there is.

MR. SELVAGGI: From her as well.

MS. ALZARIA: My name is Lisa Alzaria I live on 9 Vaccaro Road I was never notified there was going to be a balloon test, period. It was found out through word of mouth I never received . . . and I was at the balloon test only because I was notified by word of mouth by other neighbors. And I live within the 200 feet so I'm quite disappointed there. Also why did we do the balloon test with the trees? I don't see the facility any longer from my street, I see it from my windows and when there is no foliage I can see the entire, the entire complex. And that's all I have to say.

MR. WEISS: Okay anything else from the public? Mr. Williams? Please I urge you questions, we're here to ask questions there will be time at the end of the hearing for comments.

MR. WILLIAMS: Stacy Williams 5 Vaccaro Road, Flanders. Ms. Gregory were you present at the balloon test?

MS. GREGORY: No.

MR. WILLIAMS: So you did not take . . . these pictures were taken by . . .

MS. GREGORY: By Kevin Costello.

MR. WILLIAMS: Okay are you aware that it was windy that day?

MS. GREGORY: Yes.

MR. WILLIAMS: And that the height of . . . I guess the highest point was truly never reached at that time because the wind kind of pushed the balloon.

MR. FLEISCHNER: That's not true.

MR. BUCZYNSKI: That's not true.

MR. SELVAGGI: What you do is you let more of it out . . . you try to fly it higher so it takes into account the wind so when it does get pushed down it's at that 45 feet.

MR. SCHAECHTER: Those ropes were taut we made sure they were. I was there for about an hour.

MR. WILLIAMS: I mean I guess I have no questions then.

MR. WEISS: Anybody else from the public have any questions? Mam?

MS. BURY: Mary Ann Bury from Flanders-Netcong Road. Were there two balloon tests?

MS. GREGORY: No.

MS. BURY: Because on the picture that you sent around there were quite a few balloons up there but yet when I walked across the street because of the notice that you gave us there was just one balloon. So it wasn't taut I mean it was flying around it was one balloon.

MR. WEISS: The question was asked there was multiple balloons we saw it. If there is a question to follow.

MS. BURY: There were not two tests?

MR. WEISS: There was one test.

MR. SCHAECHTER: Yeah I believe you were there when I was there and there were four, five balloons.

MS. BURY: Okay.

MR. WILLIAMS: They performed a little impromptu test a few days before. They raised a single balloon.

MR. WIESS: Mr. Williams we're not going to pick you up on the microphone so the testimony there was one balloon test. If they did a pretest on their own so be it we had one test that's what their testimony was. Were there any other questions for Ms. Gregory? I see none I'll close it to the public and you'll proceed with more planning testimony.

MR. SELVAGGI: Yes Ms. Gregory you're familiar with the site plan that's been filed with the municipality correct?

MS. GREGORY: Yes.

MR. SELVAGGI: And you're aware that in order for this soccer facility to get approval we're going to need a bulk variance relief correct?

MS. GREGORY: Yes.

MR. SELVAGGI: Why don't we first talk about that since really this application hinges on being able to get that relief, what are the standards by which you believe the applicant is entitled to the relief it's seeking?

MS. GREGORY: Well we are proposing a 46 foot high dome structure and the accessory structure permitted height is 15 feet because we are considered to be accessory to the tennis club so therefore we do need a variance for height of the structure. I'd like to just read the permitted uses to you, they do include swimming pools both indoor and outdoor, health clubs, and then it does state as your planner stated facilities within an enclosed building with suitable acoustic construction so as to abate noise beyond the interior of the building accommodating training and playing of sports. Such as tennis, basketball, baseball, softball, volleyball, handball courts and skateboarding, and then also child care centers. I'd like to make a comment about that in terms of the fact that we are an accessory structure if any of these other than tennis because we already have a tennis facility, if these were to be provided they would have to be provided in a 15 foot building. So I don't know how a 15 foot building would accommodate a baseball field or a softball field or potentially some of the other types of uses that we're talking about. And certainly obviously unfortunately not a soccer field, you wouldn't have a 15 foot building with a soccer field because if somebody kicked the ball it would just hit the roof.

MR. WEISS: Ms. Gregory you're referring to the 15 feet in the accessory building.

MS. GREGORY: That is correct. Because well basically what we have is a little bit of a constraint on the property because the tennis building facility is already there and that's considered to be the primary structure and it's been there for a number of years. So like I said we're a little bit stuck here to provide other types of uses on the property that would exceed a 15 foot height limitation. So that's where we're coming in with the variance and while it sounds like it's really big if you were to consider more than one structure on the property the permitted height is 40 feet which is what the tennis center is at that's 40 feet. And what I'd like to note is that this structure is temporary, it's only up for a portion of the year it's not up in the summer months. So therefore, you know the impact of that particular height is also less because it's not during the whole year and I do understand that it's during the winter months when there's no leaves on the trees but again it is temporary. And the applicant has already talked about the fact that it's going to be a grayish color, it's not going to be this glowing ball that I have a feeling maybe some people are thinking that's what it's going to look like it's going to be like a big glowing UFO you know in the center of the field. And that's not really the case the applicant is taking great measures to really try to shield it between the landscaping and then the actual construction of the dome itself. In terms of the variance . . .

MR. SELVAGGI: Also if I can just interrupt too this is also not a . . . and I think it was illustrated on your report, I mean this isn't like a rectangular box. I mean it's at the peak and then it I guess kind of pears down after that.

MS. GREGORY: If I may I'd like to refer to another exhibit.

MR. SELVAGGI: We'll mark this A-10 I believe we're up to. And what is A-10 Kathryn?

MS. GREGORY: A-10 is a drawing that was prepared by Arizon Structures it is dated 5/14/13 and these were those sections that were excerpted on the balloon test where I drew the little balloons on there. What you see here is the section of the dome that's actually above the 40 feet. So you'll see that it's really limited in nature particular from the side but also towards during the length of it. This is the height that is taller than the tennis building and as you can see it's kind of limited it's not really a lot of the structure because it does taper off as you can see here. So it's not even like a big square building so this is you know (inaudible) compared to the tennis building which actually goes end to end at 40 feet. So I think that this helps visualize what the differential in height is of the dome and I think that's another probably important point to our testimony. In terms of the variance it is a bulk variance a "c" variance and I would venture to say we have a flexible C-1, C-2 but I actually believe we really do have a C-2 variance. Where the purposes of zoning would be advanced and the benefits derived by the variance would outweigh the detriments. As I talked about before we do have a little bit of a hardship because of the nature of the existing site and the existing building and where we can place the dome and the fact that it's a soccer field and it's not a different type of use and we need that actual height to actually cover it. So I'm going to talk about basically the positive criteria we have to meet for a "c" variance both the positive and the negative criteria. In terms of the positive criteria I think that we do promote a couple of purposes of the Municipal Land Use Law. And most important it would be purpose A which talks about promotion of the public health, safety, morals and general welfare. I think we can probably all agree that obviously this does promote the public health we're providing an additional recreational opportunity for the local residents as well as the surrounding area. And that sort of goes without saying its recreational sports. But even with that what it also is going to do as was described to me by the applicant and the operator is that they do actually donate time to local sports teams and schools and other charities. And they do actually sponsor an anti-bullying charity and what this will also do is eliminate long distance travel in the winter months to take children and/or even adults sports teams that have to travel elsewhere to go use indoor type facilities so that they can continue to play soccer throughout the year. I think there's a lot of benefits to it, we just talked about the public health number one and then all of the local community benefits in terms of all of those other things. I also believe that it will still provide adequate light, air and open space which is purpose C. I do understand that there is a concern over the height but as you can see it is limited in nature and it is far enough away from the properties, the closest residential property is well over 200 feet from the edge of the dome just from the corner of the dome. So just the distance itself already creates somewhat of a buffer and then all of the foliage in between will also help to create a buffer. I do understand one woman's point about how she can see the facility out of her second floor window, unfortunately we just don't have the opportunity to get into people's homes to take those photographs to see what that sight line is compared to the street otherwise we would. So that's what our limitation is there but like I said the applicant is willing to do extensive landscaping to help shield this in every way possible. So therefore with the enhanced landscaping as well as all of the improvements that will be made to the site I do believe we promote purpose H which talks about promoting a desirable visual environment. In terms of the negative criteria, I don't believe there's any substantial detriment to the public good. The only detriment potentially would be the visual and that would be the height and we are taking every measure that we can to help mitigate that. I believe that the benefits to the public good definitely outweigh any types of negatives visually because you are providing a valuable community service and it is a public health issue, it is a sports issue, recreation as we all know that playing sports really helps not only just with your physical stature but also your mind, it helps especially kids they tend to just develop better in terms of being competitive and working in teams and they have greater confidence and all of those types of things. All of those types of things are really a community benefit. So I don't see that there's any substantial detriment to the public good. And in terms of your zone plan and zoning ordinance I don't believe there's any substantial impairment to the intent and purpose of your zone plan and zoning ordinance. I specifically say this because this particular zone, this particular piece of property was the subject of a Master Plan Reexamination in 2010, it was subject of a Land Use Amendment in 2010 and then following through also an ordinance adopted in the end of 2010. All specifically addressing this property and as stated from the Land Use Amendment the active recreation zone district blends well with the concept of establishing a center of active and passive recreational facilities for township residents. The purpose in creating a zone district to encompass this recreational complex is to recognize the importance of this community resource which has served the residents of Mount Olive and neighboring communities for many years. And to encourage reinvestment in the facilities which might otherwise be inhibited by its present preexisting nonconforming use status. Because at that time this was actually zoned residential it was not zoned active recreation. Not only is it unlikely that the buildings and the related site improvements in place on Lots 2 and 3 would be removed to allow for the construction of single-family dwellings, the Highlands Preservation Area restrictions would impose such

a limit, local zoning notwithstanding, the power lines that traverse the rear of the lot and the proximity to the power substation would further argue against the wisdom of keeping these properties in a residential district. So the intent was to rezone this for active recreation and passive recreation and it does talk about a recreational complex. So we are talking about different types of uses on the same property. And then it goes on to talk about the principal permitted uses which I stated earlier which it involves some of the types of uses that were proposed but it doesn't go on to say soccer. So unfortunately I think if soccer were actually, technically contemplated or listed maybe a different standard would have applied because soccer fields are larger, much larger than tennis courts or basketball courts or skateboarding facilities. So I think that you can look to the Master Plan even as a guide and what the intent of the Master Plan was, even if it wasn't specifically written into the ordinance. And I, again I go back to the fact that this is a valuable community resource and the dome structure is temporary in nature, it's not a permanent structure that we are proposing at 40 feet or 46 feet it is a temporary structure. And I'm sure that the applicant would be amenable to any type of you know sound monitoring or whatever the case may be going forward into the future to ensure that this is not an imposing or a negative impact on the community but rather a positive impact on the community. So I do believe that we meet the negative criteria I don't believe there's any substantial detriment to the public good and I don't believe there's any substantial impairment to the intent and purpose of your zone plan and zoning ordinance. I think that we really do meet the intent of the ordinance but again I think we have certain limitations on the site with the existing tennis center and the fact that we're proposing soccer versus a different type of use. But I do believe that the benefits outweigh the detriments, we meet the positive and the negative criteria so we hope that you would consider the variance that we are proposing this evening in the positive.

MR. SELVAGGI: Kathryn just a question, clearly there's a dozen or so people behind us that think that the height of this does represent a substantial detriment to the public good. How would you respond to that in a way, as a professional planner, so that you can demonstrate that that's not a substantial detriment? Perhaps what I'm saying is you know how do you define substantial? I mean what do you put, I mean is it just because you can see it it's a detriment? Or does it have to be something more?

MS. GREGORY: It definitely has to be something more and one of the examples that I always like to give is I have reviewed and testified for several wireless applications for panel antennas. And so when people put panel antennas on a building, Oh my God they're so ugly blah, blah, blah and then what happens is that I'll end up going out to the site and I'll take a photograph and what I'll see are a bunch of telephone poles and a bunch of wires down the street. And so what happens is is that those telephone poles and wires no one notices anymore they become part of the vernacular. And so the panel antennas really are smaller in scale but no one really realizes that because it's a new use, it's something that people are not used to. And I think the same can be said for the dome, I think that you know unfortunately I think we've done as much as we can to estimate the heights to show elevations of the proposed dome, the colors, and then also the landscaping to help mitigate any of those factors. And I believe that honestly the telephone poles and wires are going to look worse than what this dome is going to look like when we have all the landscaping up. So when you talk about substantial detriment, substantial detriment would literally be you know building this next to someone's house 5 feet away. But that's not what we're talking about because then you'd be limiting their light, air and open space. But we're really not impacting anyone's light, air and open space or any really light, air and open space just because it's so far away from residential neighbors you have one or two streets in front of all of the neighbors, plus our property with the landscaping so I don't see how it would be a substantial impact or a substantial detriment to permit the height that when you take a look at the exhibit over here there is only a limited amount that is over the 40 feet which is actually the maximum in the zone.

MR. SELVAGGI: Let me ask, given the fact that this has historically been kind of a recreational use of property is what the applicant propose do you think is going to cause damage to the character of this neighborhood given this property's history?

MS. GREGORY: I don't think so because if the damage hasn't already been done then I don't think that this is going to change anything. I think it's just going enhance the usage of the property. Soccer is a big sport and it's only growing so I think it's definitely going to be a benefit to the community and it's a symbiotic use with the uses that are there. At the last hearing we talked all about you know the pool is going to be closed obviously in the winter months so then we have the soccer instead so it's a recreational complex then its symbiotic uses. It makes sense and I think it totally meets the intent of the Master Plan in terms of what this zone is supposed to be.

MR SELVAGGI: And one final question, one of the interesting things you talk about its temporary in terms of when the dome is up. During the period of time when this dome is up isn't it also

trimming daylight hours are significantly reduced as well I mean we're in the winter months and what does that do in terms of the neighborhood? I mean with respect to the visibility of this structure?

MS. GREGORY: Well yeah obviously I think it would probably reduce . . . it obviously reduces the visibility at night at an earlier hour because it starts to get dark at you know 4:30, 5:00. So with the exception of the weekends when you know people are probably home during the day you know on the weekends and the winter during the weekdays they probably won't even really see it because they'll be out working during the day and then at night they won't be able to see it between you know the landscaping that we're proposing and the color of the dome and the darkness you know there's obviously going to be some kind of ambient light but I don't think that it's going to be so great that it's going to impact the neighbors and the enjoyment of their homes.

MR. SELVAGGI: I have nothing further Mr. Chairman.

MR. WEISS: Nelson?

MR. RUSSELL: If light standards were put in place it would provide summer evening play, how tall would those be?

MS. GREGORY: My understanding is that there's not going to be any summer play.

MR. SELVAGGI: I think it's a hypothetical.

MR. RUSSELL: It's a hypothetical.

MS. GREGORY: Oh how tall would the lights be?

MR. WEISS: I don't think that's a question for the planner I don't think the planner would be

MS. GREGORY: Yeah I would not be equipped to answer that question. The engineer would be a better candidate.

MR. WEISS: Scott?

MR. VAN NESS: Why not expand the existing tennis center to accommodate a soccer field and then build a smaller dome for tennis courts?

MS. GREGORY: You mean flip the uses?

MR. VAN NESS: Yeah.

MR. SELVAGGI: I don't know if that's a question . . .

MR. WEISS: Scott that's not a very good question. This is the planner and it's their application to build a dome, not to build a soccer center . . .

MR. VAN NESS: I'm just asking if it was considered, that's kind of where I'm going with that. Personally I don't think it's feasible because you have wetlands issues, and I think I already know the answer to the question but I think other people are out there . . .

MR. WEISS: I just think it's the wrong expert to ask that question to.

MS. GREGORY: Yeah I'm probably the wrong person to ask that that's probably for the applicant and/or the engineer.

MR. VAN NESS: Fair enough.

MR. WEISS: Okay hold on one second, Chuck I would be remiss to not give you the floor and .

MR. MCGROARTY: I just had a couple of thoughts or questions. Ms. Gregory would is it your opinion then that the list of permitted uses were anticipated to be housed within an accessory structure?

MS. GREGORY: Considering how this site is set up yes.

MR. MCGROARTY: No I'm referring to the ordinance.

MS. GREGORY: Yes.

MR. MCGROARTY: Well the ordinance, does the ordinance have a specific set of accessory uses?

MS. GREGORY: No.

MR. MCGROARTY: It does not?

MS. GREGORY: Oh I'm sorry yes it does.

MR. MCGROARTY: Okay so would it be fair to say then that when the ordinance makes a distinction between the uses which would be in the principal structure versus what uses would be in an accessory structure.

MS. GREGORY: Well the interesting thing about the permitted accessory uses is that most of them would be contained in the same building.

MR. MCGROARTY: True. What about a shed? Or whatever.

MS. GREGORY: Oh yeah a shed is a typical accessory structure.

MR. MCGROARTY: But I don't want to try to argue for the sake of arguing but if I understood your testimony you were saying that you have somewhat of a difficulty here because if you were to try and house one of the permitted uses in an accessory building which allows only a 15 foot height it's not practical.

MS. GREGORY: That's correct.

MR. MCGROARTY: And don't you think that was done by design in the ordinance? That principal uses go in a building that have a height of 40 feet and accessory uses do not because they're not the principal use on the site.

MS. GREGORY: Yes.

MR. MCGROARTY: Okay so I just question whether or not there's a basis to argue that there's some difficulty that you can't do what you want to do because the accessory building proposes a limit. You know and I don't disagree with a number of the points that you made but I would ask regarding the intent and purpose. And you quoted from the 2010 Master Plan and being familiar with it since I wrote it I would ask you is there anything in there that suggests that there ought to be two principal structures in this zone?

MS. GREGORY: Not that I recall no.

MR. MCGROARTY: And this zone just covers the two properties, or the property that contains this tennis facility and the pool?

MS. GREGORY: Yes.

MR. MCGROARTY: Okay. So isn't it possible that the intent and purpose of the zone which was only created in 2010 would be substantially impaired if there was such a deviation to allow an accessory structure of 40 feet or whatever number it is now 42 feet?

MR. BUZAK: 46 height.

MR. MCGROARTY: 46 feet I stand corrected I'm sorry. Or substantially above the 15 foot because it is such a recent ordinance and it was as you pointed out it was based on Master Plan Amendments so clearly there was some thought given to it. And so the fact that it's a somewhat of an unusual situation because the zone covers a relatively small area, it's not as if the zone applies in a number of other places

in the town. If there is this deviation does that not really undercut the intent and purpose of that zone plan that the governing body enacted?

MS. GREGORY: I don't think so. It talks about a recreational complex and unfortunately unless you expand that initial building then you can't have a lot of the uses that are even mentioned in the zoning ordinance on the site. And then I don't think that it serves the intent of what the zone is supposed to provide.

MR. MCGROARTY: Well when we speak of a complex we're talking . . . or does the Master Plan of 2010 not talk about the fact that there's an existing tennis building there, there's an existing swimming pool there, and there are existing outdoor tennis courts there thus a complex?

MS. GREGORY: Yes.

MR. MCGROARTY: Okay and just my other thought about that would be in any zoning ordinance that I'm at least familiar with and I could ask you based on your experience, there's typically a list of permitted uses correct?

MS. GREGORY: Yes.

MR. MCGROARTY: They all don't always fit on a site do they?

MS. GREGORY: Um well what's interesting is that this is a specific zone and two pieces of property, two lots rather.

MR. MCGROARTY: Well okay right well so speaking of this . . .

MS. GREGORY: It's not a broad brush stroke across several areas. So then what you're saying is that the zoning ordinance really was written to not permit the uses that are listed. That's what you're saying.

MR. MCGROARTY: No I don't but perhaps I mangled my question which I have a habit of doing. Would it be a reasonable interpretation to say if you look at the permitted uses for this zone they're the potential uses that could be on the site. Some of which are already there, others are not but they could be.

MS. GREGORY: Yes.

MR. MCGROARTY: And so by doing that it allows some latitude as opposed to a very specific, and I'm venturing into the area of potential spot zoning, this allows for some latitude. Some of those uses may never come to fruition on the site, some of them may and they may replace what's there today. But isn't that the purpose of creating a list of permitted uses so that there's a range of possibility?

MS. GREGORY: Yes.

MR. MCGROARTY: Okay so they don't all have to fit, or they don't all have to fit at the same time isn't that fair to say?

MS. GREGORY: Yes.

MR. MCGROARTY: Okay thank you.

MR. WEISS: Ed please.

MR. BUZAK: Ms. Gregory is it fair to say though that the ordinance encourages or at least anticipates that there will be multiple recreational uses on that site.

MS. GREGORY: That's how I interpret it.

MR. BUZAK: Assuming that that is true is not the difficulty here and actually the reason that you're seeking the variance not because of the fact that you're putting a soccer field. If you had a soccer field . . . if this application were merely for a soccer field, if I understand the ordinance correctly and the movement of the tennis courts you would not be seeking a variance is that correct? You would be compliant with the ordinance.

MR. SELVAGGI: It's our opinion that that use would be compliant or consistent with the zone.

MR. BUZAK: So it's the fact that there's now going to be a structure over that facility that really transforms the entire application to something different.

MR. SELVAGGI: It's not a use variance if you will it's a dimensional variance related to the dome, the temporary dome.

MR. BUZAK: Well we talked about that and we've had some discussions internally and I think we've had some discussions with you Mr. Selvaggi about this issue. And I think Ms. Gregory's testimony really highlighted it, the application was brought based upon the fact that this is an accessory structure. But if the Board denied the application for the variance for the structure, for the dome another alternative approach would be to consider it a principal structure and to seek a variance a "d" variance as opposed to a "c" variance to allow for two principal structures i.e. the tennis facility that's already there and this facility that becomes a principal structure because of the dome that your proposing.

MR. SELVAGGI: That's right.

MR. BUZAK: And I just throw that out, not to suggest that that's where anybody goes but I think to point out the fact that there's different ways to look at the application, to look at what the applicant is doing. And when you look at it from the accessory structure point of view you have to deal with and your attempting to deal with in the testimony the large deviation between the height limitation for an accessory structure which one would think is a shed as Mr. McGroarty said or those kinds of structures versus a structure over one of the multiple recreational uses that are there. If you decided to put a dome over the pool because you thought that you could encourage people to swim during the winter and they can't obviously do that without some kind of structure over it you have the same issue. A pool as it is is fine, you want to build another pool assuming other bulk requirements are met you can do that; you want to put a dome over the pool different story. And again that's a dome if you came in in this type of scenario it would be an accessory structure or you'd have to have multiple principal structures.

MR. SELVAGGI: Yeah.

MR. BUZAK: So it's the approach that has been made is one that the applicant has made and I know Scott was talking about you know some other alternatives. And the challenges that have been pointed out are challenges as a result of the manner in which the application has been brought. I'm not critical of that don't misunderstand me but when you bring it under that structure you have a different analysis, you're looking at it from a different perspective.

MR. SELVAGGI: Yeah I think one of the things that we had struggled with and with Kathryn had talked about is when you look at the zone and it talks about facilities within an enclosed building and then it lists you know tennis, basketball, baseball I mean unless you leave the tennis court there if you assume you leave the tennis court there any other . . . in all likelihood any other accessory or related or additional sport activity you would do probably could not be housed in a 15 foot high building. Now the wisdom of why the governing body did that is certainly . . . I'm not going to be critical of that but it is interesting because if you're trying to promote a recreational type use I think we could all agree that you know even a basketball court I mean the hoop has got to be 10 feet high, the backboard goes you know another 3 or 4 feet above that so your already at 14 feet and I mean if you have a jump shot that goes fairly high you're going to need at least 25 to accommodate it. So all that we're really trying to say is that I think there was an effort made, and Kathryn please save me here if I go over, to try to promote a active recreational type use. We believe that the facility that we propose with the limited nature of the dome further at least what the governing body had envisioned here. It may not envisioned a dome certainly we understand that but . . .

MR. WEISS: Joe go ahead.

MR. FLEEISCHNER: I think when this Board discussed the ordinance and I sat on this Board then and so did a few other people here, Chuck did an exceptional job. But I think as a member of the Board in my wildest dream I never would have come up with the idea of jeez maybe someday there will be a dome on this. I'm not speaking for anyone else but I kind of sense that's where we were at the time. We never, ever thought of a facility . . . we wanted recreation, we wanted a facility that was maintained and would be a real plus for the township but at no time did we ever think of a dome. It was just you

know one of those things so I think you know yeah it would have been nice but I think as a member of this Board we can't think of every scenario that's going to happen because no one can.

MS. GREGORY: Absolutely.

MR. FLESICHNER: And I don't think you could either I mean that's why applicant's come before this Board and we sometimes look and say "wow you know I never thought of that". So I think you know creating this zone the way it was in the ordinance was what we had to work with at the time and that's what we came up with and I'll say you know Chuck did an excellent job and all of the Board members with their input did. So I mean you don't have to say anymore but I just wanted you to get an idea that no one ever thought of a dome so that's where we are today and that's what we have to deal with.

MR. SELVAGGI: And trust me I would much prefer to come in on an application where at least the underlying use, the soccer use is permitted and this facility at least enjoys the character of having a permitted use to it. I mean years ago when you guys were confronted with the hockey and everything else this was a preexisting nonconforming use the burden was significantly greater in terms of getting anything done. One of the things that's interesting is from a private enterprise standpoint with these facilities is you have to maximize their use because you know as a parent of two kids who play soccer you know you try to play outside as much as you possibly can because it's free usually. So a facility like this is competing to try to capture that market from October through April so you need a dome in order to make not just the soccer facility viable but probably the entire site. Because you know tennis unfortunately is not as popular as it used to be and you really don't have enough land here to do a lot of other things to make it viable. But your right I mean it's hard to believe that was three years ago and these domes now have really popped up, no pun intended, all over.

MR. WEISS: Well let's do this we've heard a bunch of planning testimony let me open it to the public. If anybody from the public has a question for Ms. Gregory based on her planning testimony that she delivered in form a question. Sir if you would please state your name and address.

MR. HALILOVIC: My name is Edin Halilovic I'm located at 195 Flanders-Netcong Road and you mentioned it's going to be available to communities, surrounding communities can you be more specific in that? Is it just for Morris County, Mount Olive Township or is it going to be including other counties as well?

MS. GREGORY: Oh I doubt it's going to be other counties. It will be local communities and regional.

MR. WEISS: I got to interrupt that there was (inaudible) testimony, I think in the general concept it was available, Ms. Gregory talked about it being available for the community. Who gets it and who doesn't get it is not a question for Ms. Gregory.

MR. HALILOIC: Okay.

MR. WEISS: It's certainly not a question for this Board.

MR. MCGROARTY: Mr. Chairman I don't wish to disagree with you but it was cited as one of the purposes, Purpose A of the Land Use Law that it would satisfy the general welfare.

MR. WEISS: I don't disagree Chuck but I think the testimony, and certainly join us if you will was just a general commentary that it's available for the community. Which community and which community is not available to come was hardly part of the testimony that was delivered. I think the question here from the resident was who can use it.

MR. SELVAGGI: Anybody can use it.

MR. HALILOVIC: Anybody can use it. Well the reason why I'm asking that and then if you just give me two minutes to explain, I have been active I've been playing soccer for the last 30 years of my life. I play indoors at least twice a week and I visit a facility in Wayne at least twice a week and a night does not go where a fight in the parking lot doesn't break out or people will start pulling knives at each other. And living on Flanders-Netcong Road my biggest concern is safety and you mentioned there's no negative really to the surrounding communities. My concern is the safety two of my children that are about 250 feet away from there, when people come with load exhaust and cars and start drag racing at night after the games. How are we going to control that and . . .

MR. WEISS: Okay I'm going to stop this questioning. This is more of a commentary we'll give you plenty of time afterwards. If you feel it's an unsafe environment we'll bring you back up and you can tell us exactly why you don't feel safe.

MR. HALILOVIC: But the question would be, she can answer it you mentioned that how do you have anything proposed as far as security or a staff that will monitor as far as security?

MR. WEISS: Well again that's not planning testimony. I understand your concern, it is not the right question for this witness and I know it's a very frustrating thing. That's not the testimony that she gave us, she's not an expert to talk about safety or procedure or anything that has to do with that stuff. So I understand it's a concern just not for this witness.

MR. HALILOVIC: Okay, no problem.

MR. WEISS: Anybody else from the public have a question? Ms. Bury.

MS. BURY: Maryann Bury. Ms. Gregory you mentioned just that it will not be up except for several months. Can you tell me exactly what months because I may be under a different impression of the number of months the structure will be up?

MS. GREGORY: I actually have to defer to the applicant for the exact months. Labor Day to Memorial Day.

MS. BURY: And that's how many?

? Nine months.

MS. BURY: Okay that's a lot of months. And the other question, you had said that people will get used to it just like we get used to telephone poles, and you're probably right I'm retired and I'll be looking at it a lot and I'll probably get used to it over a few years but what about someone coming to purchase my home and they come around the bend and they see the structure and they don't play soccer? Am I going to be able to sell my home?

MS. GREGORY: You're going to be able to sell your home; everyone has this crazy idea that anything new in a community creates a negative impact.

MR. WEISS: Ms. Gregory I can't accept that you're not a real estate person. You can't say that she will sell her home and you never testified to the (inaudible) sell the home so I'm going to just ask you not to ask that question and I'm going to ask you not to answer that question.

MS. GREGORY: Okay that's fine.

MR. WEISS: We have to stay focused, planning testimony Ms. Gregory was very concise as to what she testified to. The first part of the question was very good; we just have to stay focused on what the testimony is. Anybody else from the public? Mam please.

MS. BURCHARD: Barbara Burchard 100 Flanders-Netcong Road. Forgive me if this was asked and answered at a previous meeting, what happens with that dome during the three months that it's not up? Or does it stay up?

MR. SELVAGGI: The testimony is it's deflated, it's folded up and it's put into . . . last month we talked about it and Mr. Costello again, there's kind of when you walk into the facility there's a building as you walk into to get into the dome. The dome is deflated, it is then stored in that building that otherwise would serve as the entrance when the dome is up.

MS. BURCHARD: And then what's left?

MR. SELVAGGI: It will be the soccer field.

MS. BURCHARD: The actual soccer fields themselves.

MR. SELVAGGI: Yeah, yeah it's an artificial turf field.

MS. BURCHARD: Okay.

MR. WEISS: Anybody else from the public have any questions for Ms. Gregory? Mr. McMullen?

MR. MCMULLEN: One thing you commented on, illumination what will it look like at 8:00 on a winter night?

MS. GREGORY: If you had the benefit of being here at the last hearing they actually did have an elevation of the dome structure and the color and the lighting that would project on it.

MR. SELVAGGI: The material that can be used could make this virtually, so there would be no light emanating from it. So on a dark night without a moon you'd probably wouldn't even notice it at all. I don't know if you've been to the facility in Gillette I mean Gillette you can almost drive past it because it's not lit up. It's not going to be a glowing orb.

MR. MCMULLEN: So you wouldn't see it, virtually wouldn't see it.

MR. SELVAGGI: No.

MR. MCMULLEN: Thank you.

MR. WEISS: Anybody else from the public have a question for Ms. Gregory? Okay seeing none I'm going to just make a commentary and then Michael we're going to have to determine where we're going from here because of the late hour. But I suggest that . . . you still have other expert witnesses I guess to bring up?

MR. SELVAGGI: I'm pretty much done. I mean we've got . . . Jim's got to come back and answer some of the questions that I think Mr. Van Ness had, some others about the trees and stuff like that. And then you're going to have public comment I'm sure.

MR. WEISS: Correct and I've already been notified that we have a small objector presentation. So I don't think we should push it in the next 15 minutes because it's not going to work, I think the Planning Board would pretty much appreciate if you carry this to another date. I don't think it would be prudent to just try to force it into . . .

MR. SELVAGGI: No, no and I don't want to deny the objector.

MR. WEISS: And that being said my commentary to the public is that the process is long, the process will take it's time and at the end of the hearing everyone will have an opportunity to say what's on their mind. And I'm going to make one recommendation that if you can't be, if you weren't at a prior meeting and you won't be at the next meeting I guess I'm talking to the wrong group because you're here, but maybe the message can be delivered that if you're wondering what was said last time please go to the Planning office and listen to the tape. I'm not going to allow questions that were asked last time. We'll be here for months and I'm not going to allow that. So I apologize if I appear to be short but we have to stay focused on the testimony that's being delivered by the expert at the time. And the process is going to continue and at the end of all of the expert testimony that the applicant wants to deliver you'll have an opportunity to say what's on your mind, to present a case if you'd like, and to tell us anything that you think might affect our decision to finish this process. And with that little soapbox speech Michael let's maybe we'll take a look at . . .

MR. SELVAGGI: Yeah just so I mean . . . we're not going to have Mr. Spencer come back we'll have Kathryn and we'll have Jim Glasson so if anybody, and it's your meeting, but if anybody has an acoustical question I hope they've asked it because we don't intend to have you know . . .

MR. WEISS: That's very fair I think there would be no reason to have Mr. Spencer come back.

MR. SELVAGGI: But you know understandably since you know the variance relief is critical to this and related to that is the engineering. Mr. Glasson and Ms. Gregory will be . . .

MR. WEISS: I think that's a good idea. We all understand that planning testimony is a key part of this application. Let's start looking at a schedule, Catherine can you help us with the schedule?

MS. NATAFALUSY: We can carry this for October 10th.

MR. WEISS: October 10th works Michael because we have until October 26 I think.

MR. SELVAGGI: If I can respectfully ask do you have other things on that night?

MS. NATAFALUSY: On the 10th? No.

MR. SELVAGGI: Okay.

MR. WEISS: It's good for me. Does October 10th work for you Michael?

MR. SELVAGGI: Yeah.

MR. WEISS: Okay so Catherine if you would we'll make this the first, we'll try to keep a very light schedule I would to finish it on October 10th.

MS. NATAFALUSY: I might just have one small variance application to go before this, a quick one.

MR. WEISS: Okay.

MR. SELVAGGI: That's fine.

MR. WEISS: October 10th.

MR. SELVAGGI: We'll do the Dorlon application then later on. Okay perfect because I wouldn't want those on the same night.

MR. WEISS: Okay so there will be no further notice this hearing will be carried until October 10th and it will be rather early in the evening unlike tonight that started 8:00. Thank you everyone for your patience. Do we have any other business for the Planning Board? Chuck, Gene, Ed? Catherine anything else for us?

MS. NATAFALUSY: No.

MR. VAN NESS: Motion to adjourn.

MR. FLEISCHNER: Second.

MR. WEISS: All in favor?

EVERYONE: Aye.

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

Transcribed by:
Lauren Perkins, Secretary
Planning Department