

In compliance with the Open Public Meetings Act of the State of New Jersey adequate notice of this meeting has been mailed to The Daily Record and posted at the municipal building.

ROLL CALL:

Members Present: John Cavanaugh (7:44), Joe Fleischner, Rene Gadelha, John Mania, Nelson Russell, Mayor David Scapicchio (8:05), Scott Van Ness, Steve Bedell, Howie Weiss (8:30)

Members Excused: Jim Staszak, Dan Nelsen

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

Professionals Excused: Tiena Cofoni, Esq.

APPROVAL OF MINUTES

April 21, 2011 Public Meeting

Motion: John Mania
Second: Joe Fleischner

Roll Call:

Joe Fleischner - yes
Rene Gadelha - yes
John Mania - yes
Nelson Russell - yes
Scott Van Ness - yes
Steve Bedell - yes

APPROVAL OF RESOLUTIONS

Resolution #PB 11-08 – Juan Perez

Motion: Joe Fleischner
Second: John Mania

Roll Call:

Joe Fleischner - yes
Rene Gadelha - yes
John Mania - yes
Nelson Russell - yes
Scott Van Ness - yes
Steve Bedell - yes

Resolution #PB 11-03 – Douglas & Susan Tack

Motion: John Mania
Second: Scott Van Ness

Roll Call:

Joe Fleischner - yes
Rene Gadelha - yes
John Mania - yes
Nelson Russell - yes
Scott Van Ness - yes
Steve Bedell - yes

MS. GADELHA: Okay and for the record I'd just like the record to reflect that John Cavanaugh has arrived. Moving on to 08-03 ZBA.

Resolution #08-03 ZBA – Glasson & Careaga

Motion: John Mania
Second: Scott Van Ness

Roll Call:

Joe Fleischner - yes
Rene Gadelha - yes
John Mania - yes
Nelson Russell - yes
Scott Van Ness - yes

Resolution #PB 11-12 – Adam & Janine Norris

Motion: Nelson Russell
Second: Joe Fleischner

Roll Call:

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

COMMITTEE REPORTS

MS. GADELHA: Okay moving onto committee reports the Mayor is not here it should be shortly so if he comes in and has anything to report we'll come back to that. Mr. Mania do you have a Council report?

MR. MANIA: Just congratulations on your primary election.

MS. GADELHA: Well thank you very much. Nelson anything from the Environmental Commission?

MR. RUSSELL: No we meet Wednesday.

MS. GADELHA: Okay. Jim usually represents the Ordinance Committee he's not here but we have not had a meeting since the last Planning Board meeting so there's nothing to report there. Street Naming is Howie who is not here if there's anything for that when he arrives he'll report. And for Open Space Committee that's me and our next meeting is this coming Monday the 13th so nothing to report there.

DISCUSSION MATTER

MS. GADELHA: Moving on to our discussion matter the Boy Scout Project at Pond at Turkey Brook. We have a request for funds from the tree bank to purchase 12 trees at a cost not to exceed \$2,600. Catherine do we hear from the Boy Scout to present first or does Chuck want to . . .

MRS. NATAFALUSY: No we have a Boy Scout that approached Administration last week and Mr. Sohl contacted me and asked if we could, you know how he would get money from the tree fund. And the recommendation is made by the Planning Board to the Governing Body and then ultimately the Governing Body makes the decision. So the Boy Scout is here to tell you about his project and about the money he wants from the tree fund and then I guess we just make a recommendation. I could always send a memo, Mr. Buzak?

MR. BUZAK: Yes that's fine we make a motion at the appropriate time.

MRS. NATAFALUSY: Do you want to come up and speak to the Board? His name is Grant Guenther.

MS. GADELHA: Welcome Grant.

MR. GUENTHER: Yeah I'm asking for \$2,600 so I can install three types of trees around the water shed basin that's next to the All Veterans Memorial in Turkey Brook. The types are going to be Beech, Ornamental Cherry, there was originally planned for Sycamore but it's been changed to the White Ash. Overall total cost is going to be around \$3,500 I'm going to be installing a Dumor Bench which would be

about another \$1,000 along the near the paved trail around there. Is there anything that anyone needs to know?

MS. GADELHA: I'm sure we probably have some questions. I'm curious about what sparked the idea. Are you earning this towards a badge or . . .

MR. GUENTHER: This is for my Eagle Scout Project.

MS. GADELHA: Eagle Scout okay thank you. How about other Planning Board?

MR. FLEISCHNER: Are there any . . . there's like one tree there now? Is that your left hand or is that a sample of a tree.

MR. GUENTHER: That was there before that's not a sample that's not going to be one of my trees.

MR. FLEISCHNER: Oh okay.

MR. GUENTHER: I'm going to have one of each type per corner so there's going to be three trees per corner of the water basin.

MS. GADELHA: Scott?

MR. VAN NESS: So you're having . . . the trees are going to be bunched up in each corner?

MR. GUENTHER: Yeah.

MR. VAN NESS: Is the Veterans Memorial the group that manages that involved in your plan?

MR. GUENTHER: No.

MR. MANIA: I think they should be contacted.

MR. VAN NESS: I think they should be because it's . . . maybe Gene or Chuck can help with that.

MR. BUCZYNSKI: I have another question too besides that.

MR. VAN NESS: Because the Veterans Memorial views that not as a watershed but as a reflecting pond so there might be some . . . I just want to make sure you don't end up with some conflict and as your holes are being dug and someone coming up and confronting you in a negative way.

MR. GUENTHER: All right.

MR. BUCZYNSKI: Have you also discussed it at all with Jim Lynch?

MR. GUENTHER: Yes.

MR. BUCZYNSKI: You did okay. Because he could help you too with the types of trees.

MR. GUENTHER: Yeah that's where I got the trees from.

MR. BUCZYNSKI: Great.

MS. GADELHA: So who could we recommend Grant reaches out to for the contact for the War Veterans Memorial. Who would that be?

MR. VAN NESS: Actually Jim Lynch would probably be the best contact for him to assist him with the Veterans Memorial.

MS. GADELHA: Okay.

MR. VAN NESS: But it's a great idea to have the trees planted it's kind of sparse.

MS. GADELHA: Joe?

MR. FLEISCHNER: Catherine how much money is in the tree bank?

MRS. NATAFALUSY: I don't know honestly the CFO controls that.

MR. GUENTHER: Last time I was told it was about \$75,000.

MS. GADELHA: \$75,000?

MR. BUCZYNSKI: Oh yeah there's a lot of money in there.

MR. FLEISCHNER: I know we've accumulated over the years and there were some plantings along the lake to replace

MR. MCGROARTY: It's on here as well some years ago.

MR. FLEISCHNER: Right. But could you maybe Catherine for the next meeting, just for curiosity could you check with our CFO just so we have an exact, I'm just curious what the exact amount is.

MRS. NATAFALUSY: Oh sure okay.

MS. GADELHA: Chuck?

MR. MCGROARTY: I just had a question did you say that the total cost is going to be \$3,500?

MR. GUENTHER: Yeah about \$3,500.

MR. MCGROARTY: But you only want \$2,600?

MR. GUENTHER: Yeah I only want \$2,600 for the trees I'm going to be collecting various donations towards the Dumor Benches it's about \$1,000.

MR. MCGROARTY: Oh I see so the bench is the additional expense.

MR. GUENTHER: Yes.

MR. MANIA: So that's going to be the only cost to the township was the \$2,600.

MR. MCGROARTY: Well actually not even to the township it's in the tree bank.

MR. MANIA: In the tree bank.

MR. MCGROARTY: That money has to be spent at some point for legitimate purposes anyway.

MS. GADELHA: Do you know what kind of fund raiser you're planning to have for the bench?

MR. GUENTHER: I'm going to be going to various organizations such as the Rotary Club, Knights of Columbus and Park Partners and then if I can't get enough donations from them I'm going to have a car wash type sale.

MS. GADELHA: Joe?

MR. FLEISCHNER: For purchasing of the bench do you go directly to the manufacturer of this bench?

MR. GUENTHER: I have a contact.

MR. FLEISCHNER: You don't have to give me a name but you might also want to speak with Mr. Lynch too because maybe

MR. GUENTHER: I was told that Kathy Murphy

MR. MANIA: If I could expound on that Joe.

MR. FLEISCHNER: Yeah if you could.

MR. MANIA: We the Council get books on various vendors that sell these benches I'd be glad, I have the book at home I'd be glad to give it to you if it could be of any use to you.

MR. GUENTHER: I've been talking to Kathy Murphy since I was told that she deals with the benches that I've gotten a contact from her that she deals with when she gets the benches.

MR. MANIA: Whatever helps you.

MR. FLEISCHNER: I just don't want to see you taken advantage of. I want to make sure you get the best deal possible.

MS. GADELHA: Anymore questions? Why did you switch from the Sycamore I think you were switching to . . .

MR. GUENTHER: Yes I switched because after going to several nursery's I was told that I'll be 25 by the time I find somebody that donates or even supplies Sycamore's. They used to be (inaudible) but now they're extremely hard to find so the other choice was White Ash that Mr. Lynch (inaudible).

MS. GADELHA: And I know we kind of sprung this on you this evening with the War Veterans Memorial and there might need to be some consideration of that, would you reduce the number of trees or consider bunching them differently if that's a recommendation or is there a reason why you have the plan that you have or are you pretty flexible.

MR. GUENTHER: I'm pretty flexible.

MS. GADELHA: Oh good.

MR. GUENTHER: I want to try to stay away from reducing the number of trees but if it means reorganizing them I'm all for it I'm game.

MS. GADELHA: Great. How about the deer and any wildlife are these all friendly to any . . .

MR. GUENTHER: Yeah another reason why they were chosen was because they don't produce a scent which is one of the reasons why Mr. Lynch wanted these for if anyone gets on the trails they don't attract any type of bug so

MS. GADELHA: Great any other questions from Planning Board members?

MR. MANIA: Good luck in your endeavor.

MRS. NATAFALUSY: Excuse me would we then Mr. Buzak make a motion to recommend?

MR. BUZAK: Yes.

MRS. NATAFALUSY: Okay.

MR. MANIA: I'll make that motion.

MRS. NATAFALUSY: Motion to recommend to the governing body that it

MR. MANIA: Right.

MR. VAN NESS: I'd like to make sure you add that the Veterans Memorial is addressed.

MR. MANIA: Right.

MR. VAN NESS: Because they could work well together I think. That's a good idea.

MR. MANIA: Right.

MR. RUSSELL: I'll second.

MS. GADELHA: Nelson seconded that. Great I think that that's it. Gene, Chuck?

MR. BUCZYNSKI: No.

MR. MCGROARTY: I think it's a good use of the money and the money should be used.

MS. GADELHA: Excellent good luck.

MR. BUZAK: We need a vote on it. Don't leave yet.

MS. GADELHA: Oh I apologize I'm sorry.

MRS. NATAFALUSY: Mr. Mania motioned and Mr. Russell second?

MS. GADELHA: Yes he did.

MRS. NATAFALUSY: John Cavanaugh - yes
Joe Fleischner - yes
Rene Gadelha - yes
John Mania - yes
Nelson Russell - yes
Scott Van Ness - yes
Steve Bedell - yes

MS. GADELHA: There you go good luck.

APPLICATION #PB 11-14 – JOSE TAMAYO

MS. GADELHA: So first up development matter PB 11-14 Jose Tamayo this is variances to construct a pool and shed at Block 4400, Lot 48 – 9 Mt. Olive Road. Everyone is eligible to vote notices have been received this expires September 7, 2011. We welcome Mr. Tamayo to come up and swear him in. Correct? Okay we're going to swear you in, our attorney is going to swear you in for the record and Catherine should you start with the history of this or we'll let him go.

MRS. NATAFALUSY: Sure.

MS. GADELHA: Okay great.

(JOSE TAMAYO SWORN IN FOR THE RECORD)

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

MR. TAMAYO: My name is Jose Tamayo I live at 9 Mt. Olive Road in Budd Lake and what we're going to do is put an 18 foot round pool and extend the deck about 11 foot by 16 foot and build a shed 10 by 12 right in the corner of the property.

MS. GADELHA: Okay we'll let Mrs. Natafalusy give a little more history on this application.

MRS. NATAFALUSY: Okay this is PB 11-14 it's an application to install an 18 foot above ground swimming pool and deck which would be attached to the house and the applicant is also seeking a variance to construct a shed on the property. The property is known as Lot 48 in Tax Block 4400, otherwise known as 9 Mt. Olive Road. Lot 48 is comprised of approximately 8,502 square feet and is located in the R-3 zone district where a minimum lot size of 15,000 square feet is required. As I said before the applicant is proposing to construct a deck and attach an 18 foot above ground swimming pool to the new deck. Therefore the pool is going to be considered part of the principal structure and must conform to the setbacks of the principal structure. The minimum setbacks in the R-3 zone is 40 feet from the rear lot line and 20 feet from the side lot lines. The pool as proposed will be positioned approximately 17.9 feet from the rear lot line, 12 feet from the northerly side lot line and 16 feet from the southerly side lot line therefore variances are required for that. The applicant is also seeking variances to locate a storage shed measuring 12 feet in depth by 10 feet in width by 9 feet 8 inches in height directly on the rear and the side lot lines. The minimum setback for accessory structure in the R-3 zone for lots of 1 acre or less is 5 feet from the rear and the side property lines. I think the applicant should address the reasoning for having it directly on the lot line as opposed to the 5 feet. Variances are

also required because of the size of the lot he also needs variances for building coverage which 20 percent is the maximum and with all of these improvements it would be 25 percent, and lot coverage where 30 percent is the maximum and these improvements will result in a 35 percent lot coverage. I also did for the Board just so you would see I did a rendering where the shed would be 5 feet in and he could do it and still be about 9 feet from the back deck that he's proposing to do and then he would conform to the setbacks.

MS. GADELHA: So Mr. Tamayo can you tell us why you're proposing to put it right on the line when you wouldn't need a variance if you pushed it back.

MR. TAMAYO: Well first the backyard is very small and we got this house about almost two years ago and there was a shed it was 10 by 10 but it was all . . . the wood was all rotted the roof was broken so I took it down and this shed was on concrete slab. So the concrete slab is over there so I'm not adding anything I'm just going to put, replacing the old one with a new one in the same area over here.

MS. GADELHA: So you're saying the slab is actually on the line itself and that's why you're proposing to keep it there.

MR. TAMAYO: Right, right yeah the old shed was right on the corner of the property.

MS. GADELHA: Okay John?

MR. MANIA: Quick question, what is the purpose of the shed for storage or for changing or what is it?

MR. TAMAYO: No for storage. I have three kids and they have a lot of stuff and we don't have a place where to put so we need storage and that's why we're building that shed a little bit bigger.

MR. MANIA: I bet you wish you had the pool in today.

MRS. NATAFALUSY: Mr. Buzak the applicant submitted three photographs of the property do you want to mark them?

MR. BUZAK: Yes why don't we mark those A-1, A-2 and A-3 and perhaps Mr. Tamayo you can look at those photographs and explain to the Board what they show.

MR. TAMAYO: Oh the letter says that the pool is going to be located 17.9 from the back, 12 foot from the north side, and 16 from the south side. It's actually 36 from there.

MRS. NATAFALUSY: Well I was talking about the deck that's going to be attached to the house that the pool will be attached to.

MR. TAMAYO: It says the pool location is 16 I think in the letter.

MRS. NATAFALUSY: Okay.

MR. TAMAYO: That is 36.

MRS. NATAFALUSY: Right but the deck that's being proposed that's what gives me 16 feet.

MR. TAMAYO: Right, right and that shed that I mean was there for a long time and none of the neighbors had any problem with that. The neighbor on the left side is over 100 feet away, the neighbor on the back is also over 100 feet away and the neighbor on the right side it's close and he's a very good friend of ours and he's okay with that we talked to him we told him what we wanted to do and he's okay with that.

MS. GADELHA: Let the record reflect that the Mayor has just arrived and everyone was noticed right?

MRS. NATAFALUSY: Yes.

MS. GADELHA: Okay.

MR. BUZAK: I have a question just for clarification. Either to Catherine or to Mr. Tamayo do you know the distance of the deck from the rear yard, rear line? The pool is 17.9 inches from the rear.

MR. TAMAYO: No the pool is 18 . . . well the pool is going to be 17.9 from the back.

MR. BUZAK: From the back.

MR. TAMAYO: Right.

MR. BUZAK: How about the deck because it does look like the deck goes all the way to the end of the pool.

MR. TAMAYO: Oh no it's like half so it would be 9 foot . . . it would be like 26.9.

MR. BUZAK: 26 feet?

MR. TAMAYO: Yeah 27 yeah.

MR. BUZAK: That's still less than the 40 that's required.

MRS. NATAFALUSY: If I scale this it's 25 feet, the end of the deck will be 25 feet from the rear lot line.

MR. BUZAK: Mr. Tamayo can you come up for a second we have these three photographs that you submitted let me show you what's been marked A-1 did you take that photograph?

MR. TAMAYO: Yes.

MR. BUZAK: Okay can you just show it to the Board and explain to the Board what that shows please.

MR. TAMAYO: This one shows picture A-1 shows the back of the house the shed is going to be located on the right rear side of the house so this is showing the back of the house (inaudible) the house is about 100 feet away, the nearest neighbor in the back of this house.

MS. GADELHA: Is that the slab?

MR. TAMAYO: Yeah the shed was right in the corner so the only thing I'm going to do is just build another shed that's going to be 2 feet deeper that's all.

MR. BUZAK: Will it fit on the same slab?

MR. TAMAYO: (inaudible).

MR. BUZAK: If I might Mr. Chairman? Is there a house on the lot behind you?

MR. TAMAYO: Yes there is a house like I said its maybe 100 feet away.

MR. BUZAK: And it looks like there's a tree buffer in between your rear property line and the house is that correct?

MR. TAMAYO: Tree buffer?

MR. BUZAK: Just a stand of trees.

MR. TAMAYO: Yes, yes.

MR. BUZAK: And about how wide are those trees from that property line up to your neighbor's house?

MR. TAMAYO: I'm sorry I don't . . .

MR. BUZAK: If you stood at your rear property line and walked to your neighbor's house across the way how many feet would you walk through trees before you got to their backyard?

MR. MANIA: In others how many feet of trees?

MR. TAMAYO: It's all the way to the neighbor's property yeah.

MR. BUZAK: Do you have any idea of how many feet based upon you know your lot?

MR. TAMAYO: It might be like 8 or 9 feet.

MS. GADELHA: Should we pass them down?

MR. BUZAK: Yeah why don't you pass that one around and Mr. Tamayo let me show you what we've marked A-2 and can you explain what that shows. You took that photograph as well correct?

MR. TAMAYO: Yes. This is showing the deck that I have right now on the house this is the deck that we want to extend 11 feet out. It could be less I mean I just want to make it a little bit longer so we can have access to the pool.

MR. BUZAK: This is now marked A-3 with today's date and you took that photograph as well correct?

MR. TAMAYO: Yeah.

MR. BUZAK: Could you just explain to the Board again what that shows.

MR. TAMAYO: This is also (inaudible) from the house and the pool is going to go right here in front of the garage and the deck extension is going (inaudible).

MR. BUZAK: How deep will the pool be?

MR. TAMAYO: 4 feet.

MR. BUZAK: And will it be even with the deck?

MR. TAMAYO: A little bit higher.

MR. BUZAK: A little bit higher?

MR. TAMAYO: Yeah the wood is higher.

MR. BUZAK: Thank you Madam Chairwoman.

MS. GADELHA: Thank you. Would it be best to entertain some questions from the Planning Board or hear from Chuck or Gene as to their reports?

MR. BUCZYNSKI: We have no reports. I have no report.

MR. MCGROARTY: We have no . . . Catherine

MS. GADELHA: That's it okay, anyone from the Planning Board have any questions?

MR. BUCZYNSKI: Just one thing if I could?

MS. GADELHA: Sure Gene.

MR. BUCZYNSKI: Mr. Tamayo looking at the pictures it doesn't appear that there's any problems relative to grading or drainage onto adjacent properties?

MR. TAMAYO: No, no, none.

MR. MANIA: I have a quick question.

MS. GADELHA: Sure.

MR. MANIA: Just for the record you said you talked to all of your neighbors and they don't have a problem?

MR. TAMAYO: Well not all of my neighbors

MR. MANIA: I mean the ones that are

MR. TAMAYO: The ones on the right side that is close to the house that

MR. MANIA: You talked to them they don't object to this?

MR. TAMAYO: No, no they're okay with it.

MS. GADELHA: Yes Mr. Van Ness?

MR. VAN NESS: Standing in front of your house the lot to your left that's an empty lot is that correct?

MR. TAMAYO: On the left side? Yeah.

MR. VAN NESS: And then the left property would be Lucky Garden?

MR. TAMAYO: Right.

MR. VAN NESS: So you're the first house on the left from Route 46.

MR. TAMAYO: Yeah, yeah.

MR. VAN NESS: Would the fence that's down be rebuilt or removed?

MR. TAMAYO: Yeah it's going to be rebuilt to next to that shed.

MR. FLEISCHNER: Do any of your neighbors have any pools in the back?

MR. TAMAYO: We've seen some . . . we're new homeowners so we went around the neighborhood and we saw all of the houses with pools very close to the house some were attached to the house so we didn't (inaudible) we didn't know this process that you have to go through. And I said I'm going to ask just in case and that's

MR. FLEISCHNER: Well you did the right thing.

MR. TAMAYO: Yeah I know. But we saw some houses around that they have the pool and they have small yards so that's why we thought it was okay.

MS. GADELHA: Mr. Nelson?

MR. RUSSELL: Picture A-1 there's some pictures of lumber on the ground did you start construction on that?

MR. TAMAYO: Lumber? No that's from the shed that I took down the old shed that I took down.

MR. RUSSELL: Oh okay.

MS. GADELHA: I have a question, Catherine Mr. Tamayo mentioned adding two feet onto the slab and it's already on the lot line would this be I guess there's no way to know what was approved prior to

MRS. NATAFALUSY: I don't think anything was approved prior to I think it was just done without approvals.

MS. GADELHA: Okay so what we decide on this tonight can right that wrong going forward? Okay. Any other questions from the Board? I'm going to close it to the Board and open it to the public any questions from the public for Mr. Tamayo? Seeing none. Chuck?

MR. MCGROARTY: I do, just one, and the property behind the applicant is owned by the township so it's a vacant lot right now and probably for the foreseeable future will remain vacant but if it's going to be built right on the lot line sir how would you know where your property line is? Do you have a monument out there?

MR. TAMAYO: There is those bars that they put with the red tape that indicate every corner of the house so there is one right there, one on the front

MR. MCGROARTY: So you'll know where to stop in other words.

MR. TAMAYO: Right. And also I'm going to build it right on the concrete slab that is already there so I'm not going like farther up. That concrete slab is in the property.

MR. MCGROARTY: Okay and so the question before about it's expanding a little bit, you'll expand into your lot not beyond your lot.

MR. TAMAYO: Oh no, no into it.

MR. MCGROARTY: Okay.

MR. BUZAK: Chuck did you say that this property I'm sorry that you see on this shed Chuck is this the property back here that's township owned or is that the neighbor's property.

MR. MCGROARTY: I believe so Lot . . .

MR. BUCZYNSKI: Lot 45.

MR. MCGROARTY: Lot 45 in Block 4400 is shown to be owned by the town.

MR. BUCZYNSKI: It is town property.

MR. VAN NESS: Is that lot landlocked?

MR. BUCZYNSKI: Lot 45? No you've got Madison Avenue.

MR. MCGROARTY: I mean it's on the tax map as being township owned . . .

MR. BUCZYNSKI: It is.

MR. MCGROARTY: That status hasn't changed okay.

MS. GADELHA: Maybe I missed something but what does this do to the impervious coverage with respect to the deck and the pool construction and now the addition of the slab? Is that a variance for that in particular?

MRS. NATAFALUSY: Yes.

MS. GADELHA: How much is that the 30 to 35?

MRS. NATAFALUSY: Yes.

MS. GADELHA: Okay.

MRS. NATAFALUSY: He needs variances for building and for lot coverage. It's an 8,000 square foot lot within you know the R-3 zone which requires 15,000 so anything he's going to do it's a nonconforming lot.

MS. GADELHA: Any further discussion from the Planning Board?

MR. VAN NESS: Just to reiterate Catherine you said no matter what he does this lot is a small lot so there's nothing that this gentleman can do to his property without having to have variances. Accept to maybe put a little deck on the back of his house.

MRS. NATAFALUSY: Well I did calculations based on existing and right now he's at 22 percent building coverage, that's before even putting the new deck on and the new shed. And he's at 29 percent lot coverage and 30 is the maximum and that's without the pool and the new shed.

MR. VAN NESS: Do we have a calculation for everything once it's done?

MRS. NATAFALUSY: 25 percent and 35 percent.

MR. VAN NESS: 35 percent.

MRS. NATAFALUSY: 35 lot right.

MS. GADELHA: John I would turn to you and ask since this is something that would have come before you before our Boards combined if this . . . how does this sound?

MR. CAVANAUGH: It's good I mean what you've got on the record which is good is you know this is not anything unusual for the neighborhood it's not doing anything special it's not creating any other conditions for any other neighbors that might be detrimental. So I think it's, I think you covered it.

MS. GADELHA: Okay thank you. No further discussion I would ask for a resolution?

MR. VAN NESS: With that said I'd like to make a motion that we approve this application PB 11-14 with the requested variances.

MR. MANIA: I'll second it.

MR. BUZAK: I assume a condition would be to repair the fence in the rear as shown in the photograph A-1 after the shed is constructed?

MR. VAN NESS: Just to repair or remove. Well actually he's probably going to require it anyway because of the pool.

MR. BEDELL: You know with that can you also just state that any addition to the slab should be done inside the lot as opposed to the back of the slab?

MR. BUZAK: Yes good point.

MR. BEDELL: Or the side of the slab closest to the house.

MR. MANIA: Right.

MR. BEDELL: Just so it's in there on paper.

MR. BUZAK: Does that work Mr. Tamayo?

MR. TAMAYO: Sure.

MS. GADELHA: Does that cover everything? Steve you had your hand up a minute ago.

MR. BEDELL: But that what it yeah I'm good yeah thank you.

MS. GADELHA: Okay. Catherine roll call please.

MRS. NATAFALUSY: John Cavanaugh - yes
Joe Fleischner - yes
Rene Gadelha - yes
John Mania - yes
Nelson Russell - yes
Mayor Scapicchio

MAYOR SCAPICCHIO: I'm going to abstain only because I wasn't here for all of the testimony.

MRS. NATAFALUSY: Scott Van Ness - yes
Steve Bedell - yes

MS. GADELHA: Okay maybe Catherine could you go over the process of what's going to happen next with this for Mr. Tamayo in terms of how long this takes and the various steps.

MRS. NATAFALUSY: The resolution will be adopted at the July probably 14th meeting?

MR. BUZAK: Yes.

MRS. NATAFALUSY: Then after that you can get your building permits.

MR. TAMAYO: July 14?

MRS. NATAFALUSY: July 14 right.

MR. TAMAYO: Okay all right thank you.

MRS. NATAFALUSY: But we can see if the Construction Code Official will start the process of you know issuing the permits prior to. We can talk to him if you want to come in to the office and talk to me about it.

MR. TAMAYO: Okay.

MRS. NATAFALUSY: Okay.

MR. TAMAYO: Thank you.

MS. GADELHA: Okay thank you good luck.

MR. FLEISCHNER: Madam Chair?

MS. GADELHA: Yes.

MR. FLEISCHNER: I know this may not be regular procedure but I know that the Chairman, no disrespect mam, the Chairman will be here by 8:30 and I would request if the Board members see fit if we could just take a brief recess until the Chairman gets here so that we don't have to repeat anything and we don't have to go through tapes, etc. I don't think 15 minutes is going to change the course of history so I would respectfully request that.

MS. GADELHA: I don't have any problem with that I think it's a good idea considering we're not going to finish this tonight and I think that we can give that leeway.

MR. FLEISCHNER: As long as the applicant is okay with that.

MR. VOGEL: I'm at your service.

MS. GADELHA: Thank you okay we'll have a brief recess.

(BREAK AT 8:16 – RECONVENED AT 8:30 P.M.)

MR. WEISS: We'll come back in session and I do certainly want to take a moment to thank everybody. I appreciate it because there's certainly is no greater pleasure than to be able to sit in an audience and watch a child being honored in a school. So first things first so I thank everybody for being patient.

APPLICATION #PB 11-05 – MT. OLIVE CENTER ASSOCIATES / MT. OLIVE MEWS

MR. WEISS: Our next development matter is PB 11-05 Mt. Olive Center Associates – Mt. Olive Mews it's a conversion of an age restricted units to non-age restricted family units located at Block 4100, Lots 80, 83 & 84 located on Route 46. Good evening Mr. Vogel.

MR. VOGEL: Good evening Mr. Weiss.

MR. WEISS: Welcome and I think, I don't want to take any of your thunder maybe you'll introduce the application. I do want to before you get moving real quick I would like to just ask some questions of our attorney but certainly if you wanted to have some opening remarks?

MR. VOGEL: I do.

MR. WEISS: Please go ahead.

MR. VOGEL: First I'd like to apologize for my voice I'm suffering the ravages of an early summer cold and I kind of partially lost my voice and I've been under the weather. Those of the Board members who have been here for a number of years will recall that I spent some considerable time before this Board obtaining an approval for this particular property. Initially there was a preliminary site plan approval that was granted for 215 townhouses and 54 low and moderate income units that was approved on April 17, 2008. Subsequently we came back and there was a modification as to the design with respect to the low and moderate units and the access to the property and that was memorialized by a resolution of December 11, 2008. And we're back here on a rather unique application I don't know whether or not you've had one of these before but the legislature in July of 2009 adopted a Statute which is 45:22A46-6 that's the citation. But in plain and direct terms what that Statute says, and I'll paraphrase it and Mr. Buzak will correct if I make a misstatement but it gave owners of property who had age restricted developments approved the opportunity to come back to the Board that approved that application to have the age restriction removed. And in adopting that Statute the legislators had stated that such an action would not constitute a use variance a "d" variance because if your ordinance provides for age restricted, normally if somebody came in and started an application and they didn't want to have the age restricted on it that would be a use variance. But the legislature in adopting this Statute looked at the status of our economy and the fact that, and I will have testimony to this, that the market for age restricted housing just doesn't exist, that the ability to get financing doesn't exist and so it gave this opportunity to come before a Board, in this case the Planning Board because that's where the resolution I referred to was granted and make an application. And it set out rather specific criteria those criteria are in the Statute and they are so specific that it's very clear what the intention was. There are really five specifics that are required. One is that it meet RSIS requirements in a residential site improvement standards that I'm sure you're all familiar with by virtue of other applications. That there be recreation improvements and other amenities constructed that be revised so as to accommodate non-age restricted people, that there be a water supply system adequate and there be a sewer system that is adequate to take care of this converted development. In addition that the number of parking spaces is sufficient for the development and also that there not be any substantial detriment to the public good negative criteria which you're all familiar with. So the Statute really is very interesting because it finishes with a direction to Boards and it says that if you meet the criteria the application for the conversion shall be approved. That's the wording of the Statute. We're here this evening, this property was rezoned from retail to its current residential with age restriction in approximately 2003, 2004. Hovnanian came in for a project which you may recall and they walked away. Since that time we came back and changed . . . hoping that the units that were redesigned which you finally agreed with and approved would then be saleable and that hasn't worked. So we're confronted with a circumstance that unless we can achieve this conversion which the legislature has given us the opportunity to appear before you on this is a piece of property that is essentially been zoned into inutility, we can't do it. And I want to be very clear there is no change to this project. The number of units is the same, the number of low and moderate income units are the same, it's the same 215 market rate same 54 low and moderate, the access, the roadways, everything is the same the only change is the one that is required by the Statute that's to change the recreation improvements to accommodate non-seniors rather than the age-restricted. And I might say in that regard before we even start that while we have provided that change we're prepared to do whatever the Board would desire with respect to accommodating non-age restricted community with respect to the recreational amenities. That essentially is the premise of why we're here. I am not the person to testify I have this evening two people both of whom appeared on the original application. One is Hal Simoff who is both a principal in the applicant and the engineer who designed the site. And I have Mr. David Zimmerman who was the planner who testified before you on the prior application. And unless there's a question of me Mr. Chairman I'm prepared to call my witness.

MR. WEISS: Mr. Vogel thank you very much for that summary and as I mentioned earlier what I'd like to do before you get into your experts is to turn it over to Mr. Buzak to review the legislation as he sees it I don't know if I see anything different from what I've been told. And for the record the Planning Board all has been educated as to what the legislation tells us I think we wanted to . . . certainly you mentioned it and I certainly don't disagree with you that this is not a use variance it's

not a “d” variance and I think that our attorney should make that call as well it was a question that I had. So perhaps without putting words into your mouth Mr. Buzak maybe you’d like to summarize the legislation and perhaps answer that question to set the record straight about whether this is a use variance or not.

MR. BUZAK: I thank you Mr. Chairman and the record should reflect that prior to tonight’s meeting I had sent to the Board a letter dated April 4, 2011 outlining some of the salient portions of the Statute that Mr. Vogel has gone through with the Board tonight. I take little issue with the explanation that Mr. Vogel has given I think it’s generally accurate. I point out three items before I answer the Chairman’s question or perhaps let me answer your question first and then I’ll point out the other three items. It is clear that this is not a use variance and I guess as part of the three items I wanted to refer to is that the legislative history of this bill is interesting because when it was first adopted it did not have . . . it had the language in it as has been pointed out that this application for a conversion will not be deemed a use variance or a “d” variance. That original legislation after being adopted by the legislature was vetoed by Governor Corzine at the time and in his conditional veto he required or requested the legislature to add language to the legislation that while it stated that this was not a “d” variance the language he required be added is the negative criteria language. That is that there’s no substantial . . . the Board must find that there is no substantial detriment to the public good and there’s no substantial impairment to the zoning plan or zoning ordinance. That created a very interesting structure because while you do not have a use variance you still have to satisfy the negative criteria. And the history of the way this bill worked its way through the legislature and ultimately was adopted by the legislature who had accepted the Governor’s conditional veto included all of those revisions I think gives pause to us in terms of how we evaluate the application. While Mr. Vogel took the position that if they satisfy the criteria they are automatically entitled to an approval I think included in that satisfaction is the satisfaction of that negative criteria. That negative criteria is a less objective kind of criteria than some of the other criteria such as meeting the RSIS parking requirements, ensuring that the water system and sewer system has adequate capacity and so forth. And while you do not have unbridled discretion the burden is on the applicant to meet all of the criteria that’s set forth in the ordinance. The second item that’s very interesting in terms of the legislation is that the bill again as Mr. Vogel pointed out requires that developments that had been approved as age restricted developments in that window prior to the time that the Statute was adopted in July of 2009 would be required if they were going to convert to set aside 20 percent of the units for affordable housing. And if you look at the preamble of the bill they talk about, and the legislation talks about the fact that we don’t have adequate, and they call it interestingly affordably priced work force housing, but then they go on to not require work force housing and require low and moderate income housing which is a different level of housing it’s a step lower in terms of income qualification than what would otherwise be work force housing. So there’s some disconnect between the legislative purpose and the legislative statement and what the legislature actually did. But my point is that interestingly when one looks at the legislation and attempts to analyze it I think the legislature was looking at it and saying look if we’re going to allow a conversion one of the quid pro quos of that conversion is that the developer give the municipality 20 percent of those units as affordable units to help them satisfy their affordable housing obligation then under COAH and I guess still now under COAH until the Supreme Court makes its determination. In this case there is no such quid pro quo because the developer is already providing that in his age restricted development. So there’s not that benefit I think that the legislature was thinking about as they were going through this and I think they simply didn’t think it through all the way to say well what happens if you have a development, an age restricted development that already has a 20 percent set aside, what do they have to give back in order to change this to a market development what does the municipality get? The legislature was silent about that they didn’t address that at all and I just think it’s an interesting observation in terms of the manner in which the legislation was ultimately adopted. The last thing and I didn’t hear Mr. Vogel say this at all and eventually we’re going to get to this tonight or before the conclusion of the hearing, is that the Statute does give one benefit to those municipalities that either already have an affordable housing or had an affordable housing component of the development in the original approval or get it as a result of the conversion and that is an occupancy preference. That is 50 percent of the units, and that is the affordable units the low and moderate income units, can be set aside or residents and workers in the municipality who would otherwise qualify could get preference for living in those units. And that is something the residency preference is something that the legislature had adopted several years ago back when there was a modification to the Fair Housing Act and interestingly the Supreme Court effectively invalidated the residency preference. Now the Supreme Court went on to say that you could have a preference for people who live in the region, and the region consisted of two or four member Counties but you could not have one for each municipality. So all of the ordinances the early ordinances in this field that had a residency preference were all invalidated and then had to be eliminated and that caused some consternation with the municipalities who felt that you know they ought to at least give some of their residents and workers the ability to live in the town in which they work or live in the town in which they grew up. Here in this legislation one saving grace of it I think is that they reinvented that.

Now no one has challenged that provision I'm not sure how the Supreme Court were to actually view it today as opposed to how they viewed it 15 or 20 years ago but it's something that I think this Board should be cognizant of and eventually we'll get to seeing where the applicant stands on that. Mr. Chairman I think that that really concludes my remarks as I said I think Mr. Vogel has outlined the criteria it's the applicant's obligation obviously to meet that criteria through the testimony that they will provide. And let me just add one other thing, these applications are always interesting we've dealt with those in other municipalities and the history of the application and how they got to where they are is sometimes instructive in terms of the view of this. And in this case as again was pointed out the predecessors to this developer had approached the township to rezone this property that was previously rezoned as retail or commercial to age restricted housing and pointed out you know the variety of benefits that would flow from that type of project and benefits both in the affirmative sense and the lack of negative impacts. And in evaluating all of that the Township in its wisdom decided that they would rezone the property and the applicant came in and got their approvals as of right so to speak. And I say as of right because they did not have to seek a use variance in order to get the approval they had to meet the criteria that was set forth in the ordinance. Now while it's not this applicant as I understand it anyway who had pushed for the rezoning that had been done previously with another developer, we now have an applicant coming in and saying well that's really not you know the way it should work because of circumstances that have now bring up this change. So I think that the manner in which we get to where we are is something that we need to just keep in mind as we review the application. But again the criteria is set forth in Statute and it's the applicant's burden to present his case to us and for us to then make the determinations based upon that criteria.

MR. WEISS: Let me just make one thing more clear than what you said Mr. Buzak. It was not Mr. Simoff that brought the original zone change to the Township but it was Mr. Simoff that brought the active adult plan. I just wanted to make sure that it was Mr. Simoff that brought the active adult to the Township. Right Mr. Simoff?

MR. SIMOFF: If I can clarify that.

MR. WEISS: Sure.

MR. SIMOFF: It's always been the same property owner the applicant, Hovnanian had an application for 384, 382 units . . .

MR. VOGEL: Why don't I let him be sworn.

MR. BUZAK: Yes why don't we do that?

MR. VOGEL: Get some background.

MR. BUZAK: Thank you Mr. Vogel.

MR. MCGROARTY: Mr. Chairman just one thing too Mr. Buzak just on the COAH issue or the 50 percent of the preference? We don't, the Township doesn't have substantive certification for the third round. As I read the Statute correctly you have to have that in order to give that preference.

MR. BUZAK: But right now we do have an application pending with them. I mean we're down there.

MR. MCGROARTY: It says substantive certification I just wanted to point out, we don't have it we've petitioned but under the circumstances they've stopped work.

MR. BUZAK: Fair enough thank you.

MR. WEISS: Swear in Mr. Simoff.

(HAL SIMOFF SWORN IN FOR THE RECORD)

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

MR. SIMOFF: My name is Hal Simoff and my address is 2 Shunpike Road, Madison, New Jersey.

MR. VOGEL: Mr. Simoff are you a principal and the owner of this property?

MR. SIMOFF: Yes I am.

MR. VOGEL: And what is the name of the owner?

MR. SIMOFF: Mt. Olive Center Associates.

MR. VOGEL: And are you also licensed by the State of New Jersey in any profession?

MR. SIMOFF: Yes I have an engineer's license and a planner's license.

MR. VOGEL: And would you describe in general for the Board your experience in your professional endeavors.

MR. SIMOFF: Yes I've been in the practice of engineering for almost 30 years. I've been qualified from Cape May County up to Bergen County as a professional engineer, as a traffic engineer, as a site engineer and as a professional planner. As I said I have my own firm in Madison, New Jersey and we represent municipalities as well as applicants.

MR. VOGEL: Did you qualify as the engineer and designer of the project which was the subject matter of the resolution previously adopted by this Board for the age restricted units?

MR. SIMOFF: Yes.

MR. VOGEL: Before I start with Mr. Simoff I have the resolution that was memorialized on December 11, 2008 I provided a copy to Catherine and I would ask that we mark it A-1 for the purposes of this evening's hearing.

MR. BUZAK: And that's the resolution on the amended application is that correct?

MR. VOGEL: Yes that's correct it's approved December 11, 2008 memorialized December 11, 2008.

MR. WEISS: Mr. Vogel I don't want to take your thunder I think what we were going, we were still kind of addressing the legal issue and I had made a comment . . .

MR. VOGEL: If I may.

MR. WEISS: Sure that's why I wanted to . . .

MR. VOGEL: Howie I just wanted to get him under oath before we stated it.

MR. WEISS: Okay perfect I don't want you to start testimony because I was still going to turn it over to the Planning Board.

MR. VOGEL: I thought that whatever he did say wouldn't be under oath.

MR. WEISS: That would be fine.

MR. SIMOFF: Mt. Olive Center Associates . . .

MR. CAVANAUGH: Are you representing yourself as the owner and the engineer and the applicant?

MR. SIMOFF: Yes.

MR. CAVANAUGH: So you'd be developing this property?

MR. VOGEL: Well the owner and the applicant are one in the same.

MR. CAVANAUGH: Okay.

MR. SIMOFF: Mt. Olive Center Associates has owned this property since the mid 1980's and it was zoned office and retail then it was zoned retail then it wasn't in the sewer service area. The sewer

came by we were added to the sewer service area we arranged and prepaid for 40,000 gallons of sewer which we're still paying for and then in . . . I lose track of time, but in approximately 2003 or 2004 we entered into a contract with Hovnanian. And Hovnanian filed an application as the contract purchaser for 382 or 384 units. They were originally 380 plus apartments it was three story buildings over parking. And in I believe in October or November of 2007 Hovnanian pulled out of the deal because there was no market for apartment age restricted units. Then what happened is we were advised by Hovnanian that townhouses were still viable, age restricted townhouses. So in 2008 we filed an application and we received approval for age restricted townhouses and that's where we are now.

MR. WEISS: Okay it sounded to me when Mr. Buzak was reviewing the summary it sounded a little bit unclear so that's why . . .

MR. SIMOFF: I'm open to clarification or questions on that but basically Mt. Olive Center Associates has owned the property since the mid 1980's.

MR. WEISS: Okay so that being said I just want to make sure that the members of the Planning Board understand the legal issue that's at hand. I know we've had a little bit of time to digest the legislation it's not an easy question I guess to go back to one of your first comments, no this Planning Board has not heard a conversion hearing so I need you to be patient and make sure that we all understand the law as it applies to us this evening and Mr. Buzak has done a wonderful job helping us with it. You've heard from Mr. Vogel, heard from Mr. Buzak I want to make sure that we put this away if there's any questions from a legal issue let's talk about it now. Go ahead John.

MR. CAVANAUGH: The only clarification I have is in ready the legalize they have an existing layout of so many units and I don't think we have the detail of the size of those units but I would assume that when age restricted designs were put forth and approved that it was around a certain number of occupants in one of these dwellings. And now if they take off the age restricted and now maybe a young family comes in and you know this isn't China so you can have a child, you can two children you can have three children, is there any design criteria change that would say you know well this was really designed and approved for two adults and now it winds up being two adults and one child, two children, three children. What does that do to the overall design Master Plan you know you see traffic capacity increasing what's in the legalize that gives us any guidance as a Planning Board?

MR. BUZAK: Well I think that's a good question Mr. Cavanaugh I think the applicant would have to come forth and explain how this development is going to change if at all in terms of the number of bedrooms, the size of the units those kinds of things as a result of the change or the elimination of the limitation as you point out. I mean I'm only repeating what you've just said I think that's the applicant's function to address that issue.

MR. CAVANAUGH: Okay.

MR. BUZAK: And the attendant ancillary activities with that you know traffic, they talked about recreation you know you're in a different age group all of those kinds of things these are all of the things that have to be properly addressed (inaudible) pursue it.

MR. VOGEL: If I may Mr. Chairman address myself to that. The Statute does not contemplate that someone comes back with a changed application with respect to the configuration and the number of units. Statute simply says if you have an approval a site plan approval as we have you can come back for what you got approval for. If we came back for something else other than what was approved we'd have to start from scratch. We would then need a use variance so we've got to stay with what you previously approved. To direct myself to the question about well was it when age restricted in a configuration that didn't contemplate children, the design of the project is self limiting the units have a certain number of bedrooms, the units have a certain size, we contemplate and we've done this very carefully no change to the project because if we did as I admit to you we would need a use variance. We simply are here under the Statute that says if you don't make a change then you can make an application to convert it. The one change the Statute does talk about is change the recreational amenities because that's pretty fairly obvious bit the answer is we're not changing a blessed thing. The road layout, the parking, the units, the number, the size they're all the same.

MR. WEISS: Mr. Mania?

MR. MANIA: With this change how many children will be in our school system?

MR. VOGEL: I have testimony from Mr. Zimmerman and our best estimate would be 22 but let me address myself to that. And Mr. Buzak can either agree or disagree with me. The number of children that would come as a function of a conversion is irrelevant under the Statute. It is not a consideration for this Board in making a determination whether or not to approve the conversion. The Statute does not contemplate any such consideration, legislature was clear about that.

MR. MANIA: So the Assembly in its infinite wisdom says it doesn't matter how many more school kids if we have to build another school go ahead and build it. Is that what I'm hearing?

MR. VOGEL: There's a certain appeal to that kind of argument and I understand it from a municipal standpoint and while my position legally is as I just stated I think it's incumbent on me on a rational basis to address it. But in addressing that is as follows, there are given studies that will indicate that projects such as this, units configured such as this generate a number of school children. Developments such as this are not basically family orient they are by their very nature self limiting when it comes to the number of children they generate. And a planner can come in sometimes Boards believe the planner, sometimes they don't they can turn to their own planner who will tell you whether or not that's a valid analysis. But the very nature of this type of a development even not age restricted does not generate a significant number of school children. Now when I say significant I pause because every time I do that in front of a Board they always say to me what's significant to you is a little different than it is to us because one or two or three school children you know are very significant. I can tell you two things and we will have testimony, one we don't generate more than 22 school children if this was converted, two the economic benefit to the municipality although not as great as if it was age restricted is still positive after the addition of 22 school children. It is not a negative the amount of taxes generated based upon all municipal services including children does not turn out to be negative but that's just to answer that. But I must tell you that my position is those are entirely irrelevant under the Statute.

MR. MANIA: They may be irrelevant to you but they are relevant to me.

MR. VOGEL: And the only reason I say it Mr. Mania is I'm a realist.

MR. WEISS: Mr. Vogel I appreciate that and I think what might be helpful I think, and I've had this conversation Mr. Buzak perhaps you'd like to chime in a little bit on that conversation.

MR. BUZAK: Yes let me address two items. First with regard to following up on John Cavanaugh's question and Mr. Vogel's response, the Statute does contemplate that there could be decreases in the number of bedrooms, the aspects of the development, that is that you cannot increase the number of bedrooms you cannot increase the footprint so the size of the development of the physical development the structures cannot be increased but they can be decreased and that's certainly at the option of the applicant. And I don't think that that kind of change would generate the need for a use variance because I think that that Statute contemplates that kind of reduction. Secondly with regard to school children I think Mr. Vogel has addressed it fairly in terms of the perspectives of the applicant versus the perspective of the Board and who knows what the perspective of the legislature was. But I do think that when the legislation was changed after the conditional veto and the negative criteria were added that needed to be satisfied by the applicant that is that there is no substantial detriment to the public good and there's substantial impairment to the Zoning Ordinance and Zoning Plan. While undoubtedly the legislation did not talk specifically about school children one has to look at that negative criteria language and give that some substance. You know those are words what's a substantial detriment to the public good. What is the public good? What's a substantial detriment to the public good? And while you know there's case law over the years that has developed about that we also have that being utilized in the context of an age restricted conversion Statute. So I think that it's not as clear or it's not as black and white as has been stated that none of that can be considered whatsoever. I think that the Board can take some of that into account and I think that you know we'll get into that we're going to have testimony about that, we have our own planner who would address it, and there's the economic impact and I think Mr. Vogel again has pointed that out to you in terms of the difference between a age restricted and a non-age restricted development and the economic impact on the municipality. We'll get that through testimony after Mr. Vogel's testimony he's being very clear that he's not testifying he's just giving us a preview of what Mr. Zimmerman and others may say. So I hope I addressed you're

MR. WEISS: I think it addressed your question.

MR. MANIA: Yes.

MR. WEISS: Okay and before we go on Mr. Bedell.

MR. BEDELL: Yeah earlier Mr. Vogel said that I guess applicants like this have the opportunity you know to have you know the use change from age restricted to non age restricted but if there were five conditions that were met you know then we basically have to approve it. If I didn't misunderstand so kind of looking down this road and maybe I'm missing a couple of turns its if they meet those conditions that are set by the Statute it's almost like what's the purpose of the meeting or is it really irrelevant to what we do, what we say and if they meet those five criteria do they get it anyway?

MR. BUZAK: Can I answer that?

MR. WEISS: Please.

MR. BUZAK: I think that perhaps that commentary was somewhat overstated. I think certainly the Statute says what Mr. Vogel has said it says, that is that if you satisfy the criteria then the applicant is entitled to an approval. However if you review the history of the development of the legislation initially there was no negative criteria in the Statute. And therefore when the legislation was originally structured it was a rather objective kind of analysis and I think that the comments made are accurate in the first iteration of that legislation. The legislature contemplated when it first put it on the floor that here's the criteria we're going to make this very simple, very objective if you meet this you meet the parking requirements you have adequate sewer, you have adequate water, you have adequate recreational facilities then it must be approved it was going to be cut and dry. That's what I think Governor Corzine objected to when he vetoed the legislation and said well it's not going to be that easy, it's not going to be just you meet some checklist and you have it. Because if you're going to do that then why even go before a Board the Board has no discretion. We can have you know the engineer or planner just check that out and have an Administrative approval. So I think when you understand the history of the legislation the addition of that, that is the negative criteria, I think was intended to give the Board some discretion because if we don't have any discretion in terms of doing what we have to do then why are we doing it at all. But the point is if the applicant produces the proofs that is necessary and meets not only the objective criteria but the negative criteria that's a little bit more subjective, and I don't mean that in the terms of being discretionary I mean it subjective in the terms of evaluating the testimony that's being given, if the applicant has met that well then he's entitled to get an approval. The other thing is the conditional veto also requested that the legislature change and they did the standard by which the Court would review a denial of a conversion application. And that's something that I think is important for you to recognize and we talked about this before or I talked about it in my letter to you outlining the legislation. And that is when Governor Corzine vetoed the bill he also asked that the legislature include a standard by which the Court would review a denial of the application and that standard is a reasonableness standard, whether the Board's determination in denying the application was reasonable. Now again I think reasonableness is not a clear objective standard, it's not discretionary but I think there's some evaluation process that you go through. And I think in doing that again the Board in evaluating the evidence could have situations, and I have no idea whether it would be in this case, where the decision to deny the application would be reasonable because an applicant has not met some criteria. Perhaps they propose recreational changes that the Board feels in light of the conversion are inadequate to address the new population that this development is going to have. There may be a whole variety of things that you'd look at and say well you know this is not adequate and I think in that case then a Board's decision to deny it may well be found to be reasonable in light of those circumstances. So I think as we let this unfold we'll get a better feel for what the applicant is proposing and we'll start to be able to put some meat on the bones of this you know sort of you know nebulous language that you're read in this legislation.

MR. WEISS: So with that being said if there's no other questions I'd like to . . . Mayor?

MAYOR SCAPICCHIO: About the sewers only because Mr. Simoff brought it up and maybe just clarification, you said you paid for 4,000 gallons.

MR. SIMOFF: 40,000.

MAYOR SCAPICCHIO: Oh 40,000 gallons oh okay. Because in Mr. Zimmerman's report he says you're probably going to need an additional 9,000.

MR. SIMOFF: Yes.

MAYOR SCAPICCHIO: How many EDU's was that 40,000 related to do you remember?

MR. SIMOFF: No.

MAYOR SCAPICCHIO: What is it like 272

MR. BUCZYNSKI: 216 I think.

MAYOR SCAPICCHIO: 216?

MR. BUCZYNSKI: Yeah.

MAYOR SCAPICCHIO: So you're going to have to buy some more EDU's?

MR. SIMOFF: Yes.

MAYOR SCAPICCHIO: Okay thank you.

MR. SIMOFF: We have a sewer extension permit for the age restricted configuration and the, I'll call it the conventional housing generates a little bit more sewerage. So we have to buy we're short a little bit on the you know what we paid for and what we have on the original application and then this is a little bit more.

MR. VOGEL: We should get a credit for paying for 10 years and never using it.

MAYOR SCAPICCHIO: I'm not sure we can do that.

MR. VOGEL: I don't think so.

MAYOR SCAPICCHIO: Thank you.

MR. VOGEL: If I can just . . .

MR. WEISS: Sure Mr. Vogel.

MR. VOGEL: I smiled when Mr. Buzak was giving his comment. I just want to; I can't resist making the comment that if you deny the application what would be reasonable to you would be unreasonable to us. And if it ever went to a Judge it's going to be his determination of what's reasonable so you know reasonableness is as Mr. Buzak says is a standard that if you talk to your children and you want them to do something that they don't want to do your unreasonable. I always enjoy that part of the law.

MR. WEISS: Well let's get the application started. I'll turn it over to you Mr. Vogel and I'm sure Mr. Simoff has a lot to tell us he's chomping at the bit I can tell.

MR. SIMOFF: I'm making notes.

MR. WEISS: I can see. So let's get started like Mr. Buzak said let's put some meat on the bones.

MR. VOGEL: Mr. Simoff for how long a period of time has Mt. Olive Associates owned

MR. SIMOFF: I believe it's 1983.

MR. VOGEL: And when the property was first acquired what was its zoning designation under the ordinances of the Township of Mt. Olive?

MR. SIMOFF: I can't give you the nomenclature but it was zoned office and half of it was zoned retail. Approximately.

MR. VOGEL: And did there come a time when there was an opportunity to sell this property to a residential developer and specifically was that developer Hovnanian?

MR. SIMOFF: Yes in between it was rezoned for C-LI which is the same zoning as the Trade Zone South I guess it's called, so when the Township rezoned the Trade Zone South area this was

included in the C-LI zoning. And then in approximately, it was almost 2003 or 2004 Hovnanian applied to the Planning Board and it was rezoned for R-6 I believe.

MR. WEISS: R-6.

MR. SIMOFF: It was rezoned R-6.

MR. VOGEL: And R-6 include age restriction?

MR. SIMOFF: Yeah six units per acre age restriction.

MR. VOGEL: And as a function of that rezoning what in general terms was the nature of the Hovnanian application to this Board?

MR. SIMOFF: It was, I'll call them age restricted apartments or flats where there was parking under the building with elevators up to the floors with hallways and apartments.

MR. VOGEL: And what was the bulk number of the units on this parcel?

MR. SIMOFF: Well it was six units per acre the property is 62 acres it was approximately 382 or 384 units.

MR. VOGEL: And what happened to the Hovnanian proposal to develop the property as you've indicated?

MR. SIMOFF: Well Hovnanian processed the application and then near the end of their application they made a business decision to withdraw or not exercise the option, withdraw from the contract and I believe they withdrew the application.

MR. VOGEL: And that occurred in or about what period of time?

MR. SIMOFF: I believe it was October 2007.

MR. VOGEL: And as a result of that what did Mt. Olive Associates undertake to do?

MR. SIMOFF: Well in our discussions with Hovnanian they said that they were, they thought that the town, age restricted townhouse market was still viable but they didn't want to reduce it from . . . I mean we have 215 units and they didn't want to go from 382 to 215 units it didn't fit their model and so they just gave us advice that townhouse age restricted townhouses were you know in 2007 were still viable. So we put together an application, I put together the application and Mt. Olive Center Associates filed an application early 2008 for 215 townhouses and 54 COAH units. Through the process it resulted in 215 and 54 I think there were a few more but we cut back.

MR. VOGEL: Originally there was a proposal for access off of Chamberlain?

MR. SIMOFF: Yes we had different variations of the plan and it took about ten months to get the approval in working back and forth with the Board but originally we had access on Chamberlain and then we optioned the property in the front that Lot 83 we revised the application the township rezoned because Lot 83 was not zoned R-6. So we went through that process the township rezoned Lot 83 which is about three quarters of an acre and we added that to the parcel and we came up with the plan that you have in front of you.

MR. VOGEL: And so the primary access as approved by the Board in the resolution we've marked A-1 is from what vantage point?

MR. SIMOFF: The sole, there's an emergency access or a fire access along Chamberlain but the only vehicular access is right turn in and right turn out on Route 46.

MR. VOGEL: Subsequent to obtaining that approval describe in general terms to the Board the process that you the property owner went through in an attempt to develop this property in accordance with the approvals.

MR. SIMOFF: We tried to market it because we received preliminary approval as noted in December 2008. We tried to market it over the, since January 2009 so it's been two and a half years and continuously we can't even get any interest unless the age restriction is lifted.

MR. VOGEL: In that regard Hovnanian did walk away, did you contact or have communications with any other major developers?

MR. SIMOFF: Yes we've had interest from about two or three New York Stock Exchange I'll call them public builders and we've had some serious interest but they will not buy the property or they will not enter into a contract without the age restriction being lifted.

MR. VOGEL: Having had that experience did you then attempt to market the property with a less, what would I say, a less expansive tier of developers?

MR. SIMOFF: Yes we even we've spoken to a couple of private developers either they don't need public money and they can't finance the project without the age restriction being lifted.

MR. VOGEL: Did you attempt to finance the project on your own with various banks and institutions?

MR. SIMOFF: I've spoken to some banks one particularly was the bank that I deal with Columbia Bank and they're still lending money but they say they won't lend money for an age restricted project.

MR. VOGEL: Did you also ask that myself and others that were involved in the project to attempt to find financing for the project?

MR. SIMOFF: Yes we've had this approval for 2-1/2 years and we've made continuous efforts to sell the property or to find a developer or to joint venture it and nobody wants to touch it with the age restriction.

MR. VOGEL: Did you read the preambles to the Statute under which we've made this application?

MR. SIMOFF: Yes.

MR. VOGEL: And which the legislature indicated the basis for this legislature?

MR. SIMOFF: Yes.

MR. VOGEL: Did you find that the basis for the adoption of the legislation proved to be accurate in the marketplace with respect to the need and ability to develop age restricted housing?

MR. SIMOFF: I agree with the concept of the . . . and I have direct proof the concept that the age restriction market is no longer viable.

MR. VOGEL: As a function of that did you then upon the adoption of the Statute configure the application for conversion to a non age restricted?

MR. SIMOFF: Yes we stepped back, we looked at the law, we looked at the criteria of the law and we also one of the issues that's been discussed is that the law . . . my reading of the law is that you're not allowed to change the bedroom mix or the bedroom number. So we went back to our original plans and we looked at the layout of the units and we decided to file the application with the exact same footprint and we're requesting the architectural plans that were previously submitted, I believe in my transmittal letter to Catherine that the architectural plans that were previously submitted be made part of this application. So the floor plans will be exactly the same.

MR. WEISS: Do you know that bedroom number? What the bedroom number was?

MR. SIMOFF: Two per unit.

MR. WEISS: The total bedroom on the 215?

MR. SIMOFF: So it's 430.

MR. WEISS: It was all two bedroom okay.

MR. SIMOFF: They were all two bedroom.

MR. WEISS: And the COAH units all two bedroom?

MR. SIMOFF: No it was COAH by your COAH ordinance at the time and I can't . . . I haven't reviewed the latest COAH ordinance if it has changed.

MR. MCGROARTY: If I may there's a distribution between one, two and three bedrooms.

MR. WEISS: So does anybody remember the number the total number of bedrooms?

MR. SIMOFF: So there's 20 percent . . . it's on the plan . . .

MR. WEISS: I understand I know . . .

MR. SIMOFF: It was 20 percent one bedroom, 20 percent three bedroom and 60 percent two bedroom.

MR. WEISS: Okay.

MR. VOGEL: That was your distribution at that time under your ordinance.

MR. MCGROARTY: Well it's consistent with COAH's rules.

MR. WEISS: I'd like to say I know that off the top of my head but I'd be lying. Okay and it's going to stay the same obviously.

MR. SIMOFF: So the only change to the site plan that we've instituted is we took out the pool and we reduced the clubhouse. Because my investigations indicate that age restricted clubhouses have more of card rooms and where people socialize more. I've spoken to people that are somewhat interested in this development and the feedback that I've gotten and the architect that I hired to do the clubhouse tells me that it should be approximately 2,500 square feet. So we have a little bit less than that, 2,390 I believe is the square footage or 2,500 square foot clubhouse.

MR. VOGEL: And does that free up additional open space for recreational amenities for non age restricted?

MR. SIMOFF: Yes the feedback that I've gotten from different developers is that some want a pool and some don't want a pool so I took the pool out. But again we're here as part of the site plan process we've been here we're on a first name basis if the pool is a major issue we'll put the pool in. But some of the developers feel that a pool increases the cost of the condo fees and they would prefer not. And then some want it for marketing so when we come back for final approval we'll come back with a more detailed plan for the recreation and the pool.

MR. WEISS: Chuck I'm going to ask you I know you said it and I was writing I might have missed it. With our COAH plan 20 percent two bedroom, 20 percent . . .

MR. MCGROARTY: Under COAH rules or actually it's the Uniform Housing Affordability Control Act there is a distribution minimum and what Mr. Simoff described I think is the units in this project but they were consistent with that. There's . . . I think it's no more than 20 percent can be studios or one bedroom, I think it's at least 30 percent have to be two bedroom, and no more . . . I can't remember now.

MR. BUZAK: I thought it was at least 20 percent have to be three bedroom and the rest then are two bedrooms.

MR. MCGROARTY: That's right.

MR. BUZAK: So you could have more three bedroom if you wanted to have it.

MR. MCGROARTY: Thank you that's right.

MR. WEISS: So there is no problem with 60 percent three bedroom?

MR. SIMOFF: Two.

MR. BUCZYNSKI: Two bedroom.

MR. WEISS: 60 percent two bedroom.

MR. SIMOFF: And 20 of the other two mixes.

MR. WEISS: Thank you I was writing and I missed that. Oh I'm sorry Rene.

MS. GADELHA: So are you talking about reconfiguring the square footage on the clubhouse. What have you got in feedback in terms of what you would have in there for market age you know if you don't have card tables and that kind of thing what does occur in there?

MR. SIMOFF: I didn't bring my copy but it's out here on the table. We submitted architectural plans prepared by Barton Associates and Barton Associates you've heard testimony originally from Tom Barton as part of the original application, they've done thousands of multi-family units for I'll call them public builders. And so what we have is a 2,792 square foot . . . these plans were submitted as part of the application, 2,792 square foot unit I'm sorry clubhouse with a community room, men's and women's bathrooms, a small kitchen, a multi-purpose room, a conference room, and an office for the on-site manager.

MS. GADELHA: And I had seen in the report mention of some trails is that right? Some walking trails for passive recreation?

MR. SIMOFF: The aerial that I presented in the site plan we're covering about half the property so its 62 acres and we're clearing about 30 acres. So the rest of the property is available for walking trails and that's originally what we had and you know a sidewalk system we haven't changed. The only change to this is the area in the center of the development where we had approximately a 6,000 square foot clubhouse, we've reduced the clubhouse to 2,792 I'll call it 2,800 and we had originally we had a pool behind the clubhouse.

MR. BUZAK: Mr. Simoff why don't we mark what you've been pointing out for the Board A-2 and that's an aerial photograph of the project site. And was this a page of your plans I think?

MR. SIMOFF: No this was just a rendering at I believe it's 100 scale because the plans are a mix of different scales so I just took the aerial photo it shows the surrounding properties it shows the Board of Education building in the lower center, Route 46 East and West on the lower portion of the site, and to the east, north is down, to the east is township property Green Acres property and to the south is Country Oaks.

MR. WEISS: And again this rendering is of what you're proposing it's not the age restricted.

MR. SIMOFF: Well yes.

MR. WEISS: Because you took out the pool.

MR. SIMOFF: I took out the pool but the road system, the units, everything is exactly the same I didn't change the COAH and I did not change the COAH recreation. This is exactly what was approved. COAH recreation, the COAH buildings were approved, the only thing we changed was we reduced the clubhouse and took out the pool.

MS. GADELHA: Mr. Chairman one more question. For the 22.4 children or whatever the statistic is, is there a playground or something to accommodate because obviously that wouldn't have been part of the age restricted. So do you have anything specific for that population should they come?

MR. SIMOFF: Well we have, and we've always stated that when we've been before this Board we have we were just asking for preliminary approval and we've always stated that when we can finance it or build it we would be back for final. We'll take advice from this Board if . . . I understand that part of the, and again being candid part of the concern of the Board and the township is school kids. Now our planner will give you testimony as to how many school children are expected based on the statistics but

if you put in a tot lot is that going to increase more children? So it's a two edge sword we want to be responsive to the development but we also want to be responsive to the concerns of the township.

MR. WEISS: Mr. Simoff can I just kind of turn it over to Mr. Buzak a little bit and let him give an explanation between the preliminary and final procedures.

MR. BUZAK: Mr. Chairman I was not the Board attorney at the time this application was presented and approved as an age restricted development. And a comment that Mr. Simoff made triggered something in my mind that I just wanted to bring out and perhaps get some further information about it. And the Board is familiar with this because we've talked about this on a number of occasions with other applications and that is while preliminary approval of a site plan which is what this is sounds somewhat tentative and in fact it use to be years ago be called tentative approval as opposed to preliminary approval. The reality is that when you apply for final approval the criteria that you utilize to determine whether the applicant is entitled to final approval is whether he met the conditions and the requirements of the preliminary approval. So therefore in general the preliminary approval is probably the most important step of the process and things like recreational facilities as Member Gadelha has talked about while perhaps the Board previously may have said well we'll deal with that you know when we get the final because we'll see how it's marketed and whatever I'm very reluctant to advise the Board to go in that direction. Because I think that the road to Hades is paved with good intentions. And I say that respectfully I'm not critical of the applicant. But I think that my advice to you is that with regard to any of the aspects of this development we need to get the nails down relatively specifically. So that then if the Board grants an approval or grants the conversion and deals with these issues we don't have another applicant perhaps if this project is sold to somebody else coming back and saying well I'm going to put this in and you saying well wait a minute the applicant said when they come back for final they talk about you know putting in this recreational thing and I'll see what happens and they say well that's not what the preliminary approval says. So I think we need to be careful about that and I would advise the Board to go in that kind of direction in terms of this application and . . .

MR. VOGEL: If I can direct myself to that?

MR. WEISS: Sure Mr. Vogel go ahead.

MR. VOGEL: I agree with Mr. Buzak and my agreement would include the following: the Board, the members who were here when we got the prior approval will recall that I referred to appearing before a Planning Board as a collaborative effort not a confrontational one. And I think we did work it out pretty well over a period of time and in that same vain in excepting what Mr. Buzak says which is accurate and I agree with, we're prepared to put in whatever kind of amenities recreationally that you would want and we can address that. And if you approve the conversion you can make it a condition we have that discussion and we'll put it in. And the reason we didn't and we were afraid to is what Mr. Simoff said, we knew before Mr. Mania opened his mouth tonight that the issue of school children was going to come up and we felt if we put a tot lot in what's going to happen, people are going to say well we're drawing children to it. So we left it out. If you want it we'll do it, if a pool is what you'd like you may recall we had some discussion when we made the larger clubhouse for age restricted we decided to make it bigger because there was some consideration that seniors like to have exercise rooms inside rather than outside. So we made it bigger so they'd have that. I view it as kind of the tail wagging the dog we were looking at the bigger picture of the 215 units and the 54 while I agree with Mr. Buzak that we ought to nail down and you should tell us what you want when we get there we don't have a preference we'll put it in.

MR. SIMOFF: And let me just make one statement to that. The Statute says appropriate for the use so what again we'll go back to the discussion, what the Board thinks appropriate and what the applicant thinks appropriate may be two different things but we're willing to work that out.

MR. CAVANAUGH: Can I make a quick question to the two attorneys?

MR. WEISS: Sure John go ahead.

MR. CAVANAUGH: I'm new to the Board I've been on the Zoning or former Zoning Board for a few years.

MR. VOGEL: And you had to get stuck with us.

MR. CAVANAUGH: No, no, no. So the Counsel that we had when we were on the Zoning Board is that we were quasi judicial right and we had to create the variances and rulings and so forth. And the

Planning Board now has a dual role so I'm going to assume we still have some quasi judicial view of testimony. So if I sit back here and I wasn't here for the original application but I think you presented a good history of a fair type of development and you were given economic direction by reputable professionals Hovnanian and others, you've gone one way with age restricted and now you're here with non age restricted. In the Zoning Board we used to be cautioned about zoning by variance and this is almost like zoning by or developing by economics. Accept the new law doesn't allow us to really do anything. I mean basically it's what we think might be good and what you hope will be good because you can make some money on it but ultimately it goes back to the attorneys and the legislature saying well on that day we didn't agree with you maybe it wasn't that good so we're going to change the rule. Or maybe we did feel it was good on that day so we agree with your decision. So I just yield to the two attorneys I mean I don't know what else the Board can do. At some point I'd like to go home and have dinner but I mean I'm happy to sit here and conjecture over what we should do but maybe at the end of the day it doesn't matter what we do because it's really it comes down to legislation and how it's viewed by either an applicant that has an economic stake, a Board that has a kind of a protective stake of the township, you know and then ultimately maybe we'll come to a conclusion and you'll go off and get an investor and you'll start building it and maybe people will run in and populate it or maybe they won't. I mean that's the risk of development.

MR. VOGEL: And isn't that what the system is about?

MR. CAVANAUGH: It is.

MR. VOGEL: That you have entrepreneurs in a capitalistic society who have a piece of property and they want to develop it.

MR. CAVANAUGH: Absolutely.

MR. VOGEL: And so they have that right.

MR. CAVANAUGH: They do.

MR. VOGEL: But on the other side of it society has a right to make sure that it's developed in an appropriate way consistent with the zoning scheme and plan that the municipality has developed. And that's the effort that we engage in together and we may come at it from a different point of view but there is a meeting place. I'm sorry Mr. Buzak I get philosophical sometimes.

MR. BUZAK: No I think that we . . . this is one of those unique circumstances that we find from time to time where the legislature after having given the right to control land use to municipalities, to the local units decides for a variety of reasons that they're going to take some of this back. Okay and I think that's what happened here and either you see it with certain types of Statutory permitted uses you know day care centers in non-residential zones or industrial zones whatever it is that's a Statutory provision it supersedes whatever you have in your ordinance. So you can say there's no day care centers in a commercial zone, it doesn't matter the legislature has deemed it fit to direct you and to dictate to you I don't care what you say that's the way it's going to be. And you see that with you know that area of the law has expanded to a whole variety of things that the legislature in their infinite wisdom has decided should be encourage, the uses should be encouraged so we are going to say you municipalities have to allow that. You can't zone them out you can't make them prohibited uses. This is another variation I think of that mentality where the legislature has decided as a result clearly of the economic situation and the change in the make-up of the market that developers who were pursuing municipalities to develop age restricted units have now found themselves in an economic situation that is not favorable. They've decided, the legislature, to effectively over rule the municipalities and say despite the fact that you may have zoned this because of the fact that it was age restricted and there was a whole series of benefits we don't care. There's some greater good that we see and we are going to supersede your authority and say these developers have a window, and there is a window here by the way, this window to convert ends August 2, 2011. And when I say ends it doesn't mean that you know an applicant who has filed his application doesn't get approval after that but the applications for conversion have to be filed by August 2, 2011 which is the twenty-fifth month after the legislation was adopted. That was the window that the legislature created and said if you want to come in that's when you have to come in. Now could that be extended? Yes it could be but you know they decided what's best, what they believe is best for the State, what's best for Mt. Olive, what's best for other municipalities and they've come in and said this is what we're going to do. You know whether in the end they're right I don't know. As this Board knows and perhaps the applicant knows not more than six months ago this Board approved a brand new age restricted development. Where an applicant came in and sought and obtained approval for an age restricted development and I think a number of us and I'll

speaking myself we were scratching our head and wondering I don't quite understand you know where this conversion legislation and the legislature says gee this ought to be . . . developments ought to come in because we have way too much age restricted development and we need to allow this conversion and yet you have an applicant coming in saying I want approval to do precisely that. Now it would be nice if we could have linked up that applicant with this developer and they could just have bought this project and that would have ended that.

MR. VOGEL: I'd be very surprised if they finance that project.

MR. BUZAK: Well I understand that I'm just . . .

MR. VOGEL: Notwithstanding their approval.

MR. BUZAK: The irony is that you know that's what this Board has seen so I'm not sure of infinite wisdom does not reside necessarily in the legislature.

MR. WEISS: Let us get back on track.

MR. BUZAK: Sorry.

MR. WEISS: I know Rene had a question and Scott had a question.

MS. GADELHA: I'm good.

MR. WEISS: Scott?

MR. VAN NESS: It seems that the focus of this entire process is the economic value of what can be done in Mt. Olive Township. And as our attorney just said in just six months past we have had testimony of quite the opposite value of what's going on here. And if we have to focus on what economic realities are for a whether age restricted is appropriate or whether a conversion is more appropriate, where should we be focusing now? Is that the primary item that we should be looking at? Because the project can't change we all know that or we all know that now. The project can't change in and of itself other than the pool but if we have to focus on the economic realities of whether or not age restricted is not going to sell but common use is going to sell well frankly common use isn't selling either. So if the whole economic reality of real estate and what people are going to buy is in the crapper, pardon my French, then what would give this applicant any hedge way over in getting that conversion?

MR. BUZAK: Well I think that while we've been talking a lot about the economics and the market and trying to explain or speculate as to what the legislature had in mind the reality is that that is not something for this Board to consider in terms of this application. You know the legislature has spoken, the legislature has given an applicant who has an age restricted approval within a certain period a right to come in and seek and obtain a conversion if they meet all of the criteria that's set for in the law. And unfortunately or fortunately depending upon your perspective one of those criteria is not economic viability. That's not conspicuous by its absence here the legislature has made that determination you know they've said that by their action and in parts of the preamble that they've decided that age restricted development is not economically feasible. Now you know if we were to give them the Marveland Farms application and said well what about this one I'm not sure what they would have done they probably would have said yeah that's an aberration and we're going to do what we're going to do it anyway. So I think while we've talked about it and you're struggling with it and you're absolutely right that is not a determination that this Board has to make we don't look at the economic viability of it.

MR. VAN NESS: Then what's the point? Why are we wasting our time? Why is the applicant wasting their time? Why is the Board wasting their time on something that there's nothing that we're going to be able to do with it?

MR. MCGROARTY: They have to go through this though. They can't just come in tomorrow and change it in paperwork administratively they have to come back to the Board. The law says they have to come back to the Board so they're doing that.

MR. VAN NESS: I have handcuffs here I mean should we handcuff each other to the chairs now?

MR. VOGEL: If I may very briefly, I can understand Mr. Van Ness' comment and it's partially my fault. Because while Mr. Buzak and I both have made the statement that there are other criteria in the Statute and one of is that economic reason I gave it to you is just to give you some historical perspective of background. But the Statute doesn't talk about it the only reason I wanted you to know why we didn't go ahead with it but we're here irrespective of what the economics are in our society right now.

MR. WEISS: You know what I'd like to do maybe turn some of these comments to a question to you Mr. Simoff. We've heard your history of your problem selling it versus an active adult, getting financing and now your desire to turn it to a market value community. Anywhere in your thought process did you ever consider going back to its original C-LI and perhaps looking to market it as a commercial property again?

MR. VOGEL: We did explore that sure.

MR. WEISS: During this process?

MR. VOGEL: We did explore that over the last six months.

MR. WEISS: And that wasn't

MR. VOGEL: It's not viable.

MR. WEISS: Because I kind of agree with Scott it's ultimately your decision but you know we have other housing developments in town, and I guess I'm getting off point but you know Morris Hunt, Morris Chase are kind of stalled there doesn't seem to be a very strong housing market and my question is have you considered that?

MR. VOGEL: You've asked the question which is not relevant to this application.

MR. WEISS: No I understand that.

MR. VOGEL: But I want to be as candid with the Board as I've always have been and I will continue to be. We're here because of the window that Mr. Buzak talked about. Okay so if we just sat back and we tried to look for a retail user, an industrial user something like that and let the 25 months pass where would we be? We have an age restricted product that can't be sold, we would have passed our opportunity, we've had people indicate that when the housing market is viable a non age restricted development would be viable. But to just let that go by the wayside and chase down maybe some retail user or some other . . . in this market and miss this opportunity would be imprudent from a property owner's standpoint.

MR. WEISS: That's fair enough. John go ahead.

MR. MANIA: Just a quick question for Mr. Buzak. Would I be wrong in thinking that the legislation that was passed is to stimulate construction in these economic times?

MR. BUZAK: You would not be wrong. That was the

MR. MANIA: Purpose?

MR. BUZAK: One of the premises of it yes.

MR. WEISS: Rene did you have something?

MS. GADELHA: My question was yours about the possibility of rezoning that to C-LI and have you thought about that or had any viable investors looking at it.

MR. WEISS: And I think your answer is absolutely clear and obvious.

MS. GADELHA: It's fair.

MR. MANIA: Yeah absolutely.

MR. WEISS: Lets stop this and come right back to where you were.

MR. SIMOFF: So here we are with the exact same footprint except for the recreation, and I want to say this as candidly and as diplomatically as possible but sometimes it doesn't come out that way, if the Board is you know if the issue is the design of the recreation we're willing to work with the Board and to develop a recreation plan with Chuck and that's not going to make or break the deal, if I say it the right way. If the Board is not inclined, and again I want to be candid, if the Board is not inclined to you know vote positively on the conversion what we do on the recreation has no bearing. So we would like a determination and we'll present planning testimony and we're going to present testimony on the . . . how we conform to the Act and everything else but I would suggest that we are willing to work with this Board but why waste everybody's time if we're not going to get over that threshold issue. Again being candid if the Board is not inclined to entertain the conversion then we have to evaluate our possibilities but if the Board is willing to do the conversion we have no problem with developing whether it be a larger clubhouse, or a pool, or a sitting area, or walking trails or whatever we'll work with Chuck and Gene to come up with an acceptable recreation plan like we did the last time.

MR. WEISS: So we can simplify it by just turning to Chuck and Gene and saying if we were to just add a condition that there will be appropriate recreation facilities for school age children we could leave it at that if you're comfortable with that we can get off this issue. We should get off this issue.

MR. SIMOFF: I'd like to get off the issue.

MR. WEISS: So would I. So does everyone feel comfortable? Gene?

MR. BUCZYNSKI: Well I think you wanted to come . . . that plan should really be approved by the Board too at some point. I don't think you want to just leave it up to us if you have certain thoughts.

MR. WEISS: I saw some viability in the comment about at final to come up with the meat and potatoes as long as the condition says that it would be appropriate for the use. And I think that that would be acceptable, it sounds acceptable to me.

MR. BUCZYNSKI: I agree.

MR. WEISS: So with that said let us move forward. Is that okay?

MR. BUZAK: Yeah I'm not sure I agree to be perfectly candid with you. I think that, and I understand Mr. Simoff's comment but and why I also you know recognize a collaborative effort here and there's some merit in that concept. On the other hand the Board is reactive we're not an initiator; we don't design projects with all due respect. And while I appreciate an applicant coming before the Board saying you know we want to listen to you I think as a threshold the applicant's got to propose something. He's got to come up with this because particularly in this case where one of their criteria is a transformation of that recreational activity or amenities from an age restricted to non age restricted development. You know that's a critical factor because now you have a different need so while I understand the applicant doesn't want to waste it's time and the Board granted (inaudible) it's time, on the other hand I think that they have to propose something and then we can react to it and they can then take that back. So I would rather do it that way then have you know us say well you know we need some appropriate generic improvements and you know we'll leave it to Chuck and Gene and the applicant to come up with something and then come back to the Board at final because when Mr. Simoff gets a buyer at preliminary and says I want to buy this project and they buy the project and we don't have Mr. Simoff and Mr. Vogel here but we have Mr. Hovnanian or someone else and we say well that's what you were supposed to do and they say well that's not what it says.

MR. MCGROARTY: Can I make a suggestion if I may?

MR. WEISS: Sure.

MR. MCGROARTY: Actually Mr. Vogel and I kind of crossed swords a while back because I thought a lot of this I took the same position that as much as possible get it worked out at preliminary and not final. But as Mr. Buzak said he wasn't here someone else was. But we got to a good point, I think on the recreation I think if the Board is comfortable with this maybe we'll move away from that for the moment and I'll tell you why. I think apart from, I too would like to get if all other things being equal, I'd rather get that all worked out now at least the general parameters of what the recreation would be. As part of that conversation though I think we'll want to figure out how it's going to interface with the recreation set aside for the COAH. And who's allowed to what and where in the development but to me that's sort of like . . . I almost think that's a question we can work on later whether it's this evening or

whenever but I agree with Mr. Simoff in a way let's figure out what the Board wants to do generally and then we can work on those particulars.

MR. VOGEL: My suggestion is that although I had had this rather exalted view of having finished this evening, we will come back with a finite plan that can be reviewed that you can either accept, reject or modify.

MR. WEISS: Perfect great idea.

MR. SIMOFF: But if

MR. VOGEL: Let's just let that issue lie.

MR. SIMOFF: Yeah if that's the issue that the Board . . . we'll make that a second, call it a second phase of preliminary.

MR. VOGEL: Don't all right don't.

MR. SIMOFF: Okay.

MR. VOGEL: Let's get to the meat.

MR. WEISS: I think we'll leave it as Mr. Vogel explained it. Let's move forward.

MR. SIMOFF: Okay.

MR. WEISS: I'm sorry you have a question?

MR. FLEISCHNER: Well it wasn't a question but having sat through the previous presentations and actually I think I was Chairman for part of it, it took quite a while to get to that plan. I mean there was a lot of back and forth and we did concern ourselves with the recreation because I still remember my statement of I didn't want to have the COAH in a ghetto. I didn't want to create, if you look back at the minutes, an area where the COAH kids just got trapped in an area. So I think it is important and I have to agree with Mr. Buzak that it is an important part of the site of how the integration takes place for if we have more and more children and I don't necessarily agree with 22 children but that's a separate issue. But I think the fundamental question still comes down is does the applicant have the right to go and achieve this conversion? That's what the fundamental basic issue is and probably the sooner we get to that point that doesn't mean if they do have that right that we give a preliminary approval until we see a detailed plan of all the other issues. I think that's what has to take place.

MR. SIMOFF: We agree.

MR. VOGEL: If the dog didn't die yet we'll kick him once more.

MR. WEISS: Let's stop kicking, let's move on Mr. Simoff, let's precede I know you have a lot to tell us.

MR. VOGEL: I'm referring now to criteria number one in the Statute which reads the site meets the residential site improvement standards, parking requirement for the residential land uses in a converted development as established pursuant to NJAC5:21-4.14 through 4.16. Did the previously approved age restricted development meet the RSIS Standards as indicated in that section of the Statute?

MR. SIMOFF: Yes.

MR. VOGEL: Does the current non age restricted proposal meet the RSIS requirements as indicated in that section one of the Statute?

MR. SIMOFF: Yes.

MR. VOGEL: Number two relates to the recreation improvements does it not? I refuse to address myself to it currently so I will skip to number three. Three provides the water supply system is adequate as determined pursuant to NJAC5:21-5.1 to meet the needs of converted development.

Describe to the Board the water supply system and whether or not it's adequate to meet the needs of a converted development.

MR. SIMOFF: Yes this is in the Mt. Olive Township service area water system the wells are across the street at Village Green. The wells have allocation adequate enough to serve this project.

MR. VOGEL: Both as an age restricted and non age restricted development.

MR. SIMOFF: Yes.

MR. VOGEL: Criteria number four is the capacity of the sanitary sewer system is adequate to meet the projected flow requirements of a converted development pursuant to NJAC7:14A-23.3. Describe to the Board the availability of a sanitary sewer system.

MR. SIMOFF: Yes as I stated in answering the Mayor's question we have a sewer extension permit for the age restricted project we're going to need some additional capacity but based on my read of the available sewers in the area there's adequate additional capacity in the Musconetcong Sewer System.

MR. VOGEL: And also has this applicant paid for a 40,000 gallon reservation for over a period of ten years for this property?

MR. SIMOFF: Yes we've paid extensive amounts of money.

MR. VOGEL: And item number five relates if additional water supply is needed that does not apply does it not?

MR. SIMOFF: It does not apply because there is adequate water.

MR. VOGEL: And number six in the Statute says if additional parking is needed and . . . I'm sorry number five was water and sewer.

MR. SIMOFF: Water and sewer.

MR. VOGEL: And number six it says if additional parking is needed and developer is unable to provide. And seven relates to if additional parking is provided and increases the impervious coverage. Would you describe to the Board the number of parking spaces that were designed into the project as currently approved for age restricted.

MR. SIMOFF: The age restriction approval had 753 parking spaces and based on RSIS the required number is 495.

MR. VOGEL: So that you have in excess of what RSIS Residential Site Improvement Standards require for this project?

MR. SIMOFF: Correct.

MR. VOGEL: And as a result would you be increasing the amount of impervious coverage by more than 1 percent?

MR. SIMOFF: No we end up with a reduction this site plan configuration reduces the impervious by about half a percent.

MR. WEISS: Steve?

MR. BEDELL: Yeah your parking spaces of the 750 and change I'm assuming your counting space on the driveway as parking spaces.

MR. SIMOFF: Your allowed based on RSIS your allowed to count the garage which is two spaces, and then you're allowed to count not all two spaces out in front, you're allowed to count for one and a half so that's what we have. So the driveways are one and a half and the garage is two.

MR. BEDELL: I mean I get your numbers by the book but you know when I look around you know I don't see much or if any overflow parking you know in between units and I would just say to me you know if there is a way to add more please do.

MR. WEISS: You know I don't want to interrupt but it's very clear that this has already been approved. Mr. Simoff said he's not going to make a change.

MR. BEDELL: Oh I'm just putting in my two cents I mean you know we're changing not the use but we're changing the structure and the age and you may have a child with . . . someone may have a 17 old or 20 year old with a car I'm just thinking out load. So for whatever its worth that's all.

MR. WEISS: John?

MR. CAVANAUGH: Mr. Chairman for the record because I wasn't on the original application, do they allow on-street parking at all in this development?

MR. SIMOFF: No we didn't plan for it.

MR. BUCZYNSKI: What was your road width I forget?

MR. VAN NESS: The on street parking was not rejected.

MR. SIMOFF: 24 feet. The main road is 24 feet the other roads are somewhat . . . the main the loop road is 24 feet but these I'll call them these courtyards are 20 and that's exactly the way it was. So, on the 24 foot loop road you could put some parking but we designed it with all two car garages.

MR. BUZAK: Does that include the COAH units as well?

MR. SIMOFF: No the COAH unit count is on the plan. The COAH unit count based on the bedroom mix requires 107 and we have 110 provided. There are no garages in the COAH units.

MR. BUZAK: That's outdoor parking.

MR. SIMOFF: Yes we didn't change the COAH concept.

MR. WEISS: So just to make sure you have 753 parking spaces were originally on the age restricted and that number is going to remain the same?

MR. SIMOFF: We reduced them a little bit because we took some parking away from the clubhouse.

MR. WEISS: Okay.

MR. SIMOFF: Five or ten parking spaces.

MR. BUZAK: Did that include the COAH parking space or not? I'm sorry I just want to get that straight.

MR. SIMOFF: No.

MR. BUZAK: COAH is in addition.

MR. SIMOFF: Yes.

MR. BUZAK: 107 in addition to the 753.

MR. VOGEL: The way we reached the 753 was two times 215 is 430 and then one and one half times the 215 brought it up to the 700.

MR. WEISS: Okay.

MR. VOGEL: The access to this property the major access you indicated is at Route 46 is that correct?

MR. SIMOFF: Correct.

MR. VOGEL: Are there any other streets that are impacted by access to this site?

MR. SIMOFF: We just have an emergency access on Chamberlain but its paper it's not proposed to be used and that's the same way it was before. The access to Route 46 is right turn in and right turn out we went back to the DOT and we revised our permit to accommodate the additional traffic to be generated by a non age restricted as proposed and we received a DOT permit.

MR. VOGEL: And with respect to that is there any impact positive or negative as a result of the increased traffic from this proposed conversion to non age restricted?

MR. SIMOFF: No we're increasing the morning peak hour by 66 vehicles that's the total of in and out and we're increasing the afternoon peak hour by 75 vehicles. Now if you put those numbers in perspective you've got about 3,000 or 4,000 cars in front of the site it's an indiscernible amount of traffic.

MR. VOGEL: All right and the numbers that you came up with about the increases is that a study that you personally did?

MR. SIMOFF: No it's based on the ITE Trip Generation Statistics that the DOT uses when one applies for a DOT permit.

MR. VOGEL: And the ITE refers to the Institute of Traffic Engineers.

MR. SIMOFF: Transportation Engineers yes.

MR. VOGEL: And that is used by the NJDOT.

MR. SIMOFF: That's the accepted standard.

MR. WEISS: I'm sorry Mr. Vogel. Rene you had a question?

MS. GADELHA: I just have a question on this report because the a.m. and the p.m. both double and I realize it's still within the confines of the allowable but it does double. So what is your average not school age children but average amount of people driving age living in each of these units estimated at?

MR. SIMOFF: I'll pass that one to the planner.

MS. GADELHA: Because you're saying you know it's discernable obviously there's a calculation because . . .

MR. SIMOFF: It's based on the unit, based on . . . the Institute of Transportation Engineers did studies and they didn't do a sociological study they just went to an age restricted development, multiple age restricted developments. They went to about 200 regular developments apartment, townhouse developments and they just related the traffic to the number of units. And they published the book it's been published 8 times.

MR. WEISS: Scott?

MR. VAN NESS: Has the intersection of Woodland the jug handle Woodland/Netcong Road is that part of your traffic study?

MR. SIMOFF: It was in the original application.

MR. VAN NESS: And these new calculations has it been applied at that intersection?

MR. SIMOFF: Ah no as I said we submitted to DOT and we got a DOT permit.

MR. VAN NESS: Frankly I am completely unconcerned with DOT because I find them not quite reliable in how they handle traffic in this region or infrastructure. With that said because actually you're getting a pass on The Village Way intersection in case you didn't know.

MR. SIMOFF: I noticed this evening.

MR. VAN NESS: And the biggest issue that's going to exist is not going to be in front of the complex going in or getting out it's going to be at the Woodland Avenue / Netcong Road jug handle traffic light. And I'd like to know what the calculations are going to be on that.

MR. SIMOFF: I think the major impact is going to be in the afternoon so if we're adding 75 vehicles and about two thirds of those would be . . .

MR. VAN NESS: Coming from the East that have to use that jug handle.

MR. SIMOFF: Entering about two thirds entering, one third exiting so we would be adding about 50 vehicles and not all of those 50 vehicles would be going through you know making the U-turn so it would be adding about 30 to 40 vehicles to that jug handle.

MR. VAN NESS: Over what kind of time frame?

MR. SIMOFF: An hour. So it's about . . . that light cycles it's a 90 second cycle I believe so that light cycles 40 times an hour so we're adding about one car per cycle.

MS. GADELHA: May I ask a quick question on that?

MR. WEISS: Sure go ahead Rene.

MS. GADELHA: That's residents not visitors also I mean is there a visitor calculation because you're talking about numbers of residents may be returning home but then you also have to factor if company coming, babysitters, tutors you know.

MR. SIMOFF: Well the ITE numbers are for the p.m. peak hour which is usually the highest compounded hour. The Saturdays are less when you have the visitors and the DOT issued us a permit I believe they have based on their calculations it's . . . Well I'm sorry they don't differentiate. In some applications the DOT gives you a.m., p.m. and Saturday this one doesn't it's just peak hour trips.

MR. CAVANAUGH: Mr. Chairman would it be appropriate to request a specific traffic study as opposed to just a tabular review?

MR. WEISS: You know I don't know that question.

MR. CAVANAUGH: I mean let's just take this application and make it generic and say it's not age restricted or anything . . .

MR. BUCZYNSKI: They did a traffic study.

MR. CAVANAUGH: They did.

MR. SIMOFF: We did a traffic study originally.

MR. CAVANAUGH: With the flow going through this jug handle?

MR. SIMOFF: Yes.

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

MR. SIMOFF: So as I said we'd be adding about one car per cycle when you do the conversion.

MR. CAVANAUGH: Okay. So Scott how does that sit with your experience?

MR. WEISS: Nelson?

MR. RUSSELL: That intersection already backs up where you'll have traffic in both directions on Netcong Road trying to turn (inaudible). It's not unusual to be 13, 14th in line waiting for that traffic light during prime time. I don't know what the service level of that light is but I've gone three light changes trying to get through that intersection.

MR. WEISS: I think I might be correct, that's probably not part of this application you're not changing any of your testimony from before. The number of units are the same I don't know if . . .

MR. RUSSELL: Well it's the increased traffic is a negative impact.

MR. BUZAK: Was there testimony Mr. Simoff that the conversion of this development from a non age restricted to an age restricted will add one . . .

MR. MANIA: It's the opposite.

MR. VOGEL: it's age restricted to non age restricted.

MR. BUZAK: One can hope. Converted from an age restricted to a non age restricted will add one car per cycle to the queuing at that intersection?

MR. SIMOFF: To the westbound approach or making the U-turn.

MR. BUCZYNSKI: I don't have the original study but what is the level of service before was it D or F?

MR. SIMOFF: I don't recall, I don't have it.

MR. BUCZYNSKI: You were going to testify that you were going to change the level of service at all.

MR. WEISS: What we really need to do actually is let's finish this traffic testimony because it's twenty after ten and we certainly would like to open it to the public for a couple of questions if they have of Mr. Simoff and then we would need to, unless you're going to rest, would be to . . .

MR. VOGEL: Ready to take a vote.

MR. WEISS: If you want us to.

MR. VAN NESS: I want to correct some numbers it's 20 cycles per hour.

MR. SIMOFF: If it's a 90 second cycle?

MR. VAN NESS: I'm a terrible mathematician however.

MR. SIMOFF: Well if it's a 60 second cycle it's 60.

MR. VAN NESS: But I'm not convinced that it's just 40 cars at the peak so I'd like to see your calculations again on paper.

MR. VOGEL: You know what we'll do we'll get the old study out and we'll update it to some extent.

MR. VAN NESS: That would be fine thank you.

MR. WEISS: Yeah I just have an interesting commentary. We kind of joked earlier about uses of what's moderate for us or what's reasonable for us is not so much for you. And I'm looking at your traffic study where you're, Mr. Simoff you're talking about trip generation volumes are moderately higher which is an interesting word because when I look at the numbers and all your using a numerical difference percentage wise I think it's a tremendously big increase a.m. peak is 2-1/4 times, p.m. peak is double so although it's moderate number wise or percentage wise it's quite an increase.

MR. VAN NESS: And that's my point of view as well.

MR. WEISS: Yeah so going back to what you find moderate, we find extreme or vice versa I'm just kind of commenting on the report. Any other testimony Mr. Simoff on the traffic? We can end it there what I'd like to do is open it to the public. Mr. Simoff has spoken about a few different issues so I'll open it to the public on any topic that Mr. Simoff has spoken about. Mrs. Labow?

MRS. LABOW: Colleen Labow Third Street, Budd Lake. I just want to offer testimony, not testimony I'm sorry a comment

MR. WEISS: No.

MRS. LABOW: No I can't. Can I ask a question?

MR. WEISS: At the end you have to ask a question.

MRS. LABOW: All right the question that I have then is that I would like to have more details on the Netcong jug handle there. In terms of and I think Mr. Weiss actually pretty much covered it I mean the percentage . . . I was really alarmed when you started talking about having more cars that are going to be going through there. Because I don't know if you've actually gone there at peak times at the end of the day and I want to know how will you address when the cars, well it's not that you're going to be addressing but a concern I have is

MR. WEISS: No, no.

MRS. LABOW: No can't have a concern I have to wait until the end of the . . okay. It's going to jam that up.

MR. WEISS: I think your question was can they provide traffic numbers for you on that intersection.

MRS. LABOW: Yeah and more detailed traffic studies for that because that is a huge concern for me.

MR. WEISS: Is that a doable thing for you? They'll provide that next time.

MRS. LABOW: And when is the next time?

MR. WEISS: We'll get to that. No one is leaving until we come up with that date.

MRS. LABOW: Thank you.

MR. WEISS: Anybody else from the public? Sir if you would come up to the microphone state your name and address for the record.

MR. HALBUR: Tim Halbur Saunders Lane, Hackettstown mailing address.

MR. WEISS: If you can spell your last name too for the record.

MR. HALBUR: Halbur (H-A-L-B-U-R). Just as a point of record I am a Board of Education member but I'm asking that question somewhat in regards to that but somewhat in general. Which is the statement . . . there was a statement stated that there was studies that would come up with the number of 22 and I realize that others are probably going to have that same question but I just want to know do we have documentation of what studies those were that came up with that calculation of 22? And what are those studies and could they be provided?

MR. WEISS: Mr. Halbur I just based on what I'm reading here in front of me and I would imagine that the planner, is that correct? Will provide that testimony and explain. Yeah there is a process that we haven't heard from the planner Mr. Zimmerman who will testify to his report and will most likely explain to us where that number came from and how they derived it.

MR. HALBUR: Perfect thank you.

MR. WEISS: Is that accurate Mr. Vogel?

MR. VOGEL: Correct.

MR. WEISS: Anybody else from the public? Seeing none let me close it to the public and we'll turn I guess to Catherine to take a look at the schedule of upcoming . .

MRS. NATAFALUSY: We've got three applications on for next week so that would be kind of tough. The first meeting in July we've got a variance and we've got Woodfield if the Board would like we can put this on first that evening and then

MR. WEISS: I think because of the complexity here and the tremendous amount of . . . we're getting off point for a good reason. Is it possible to not schedule anything else and let's try to get through the bulk of this in one night?

MRS. NATAFALUSY: But I've already got applications scheduled.

MR. WEISS: Oh are they small ones? Are they short?

MRS. NATAFALUSY: Well Woodfield is coming in for the amendment to the building option plan.

MR. BUZAK: I don't think that one is going to be a short one.

MRS. NATAFALUSY: It's not going to be a short one, Toll Brothers that's a quick one that night. Then the next meeting after that is July 21 I've got three variance applications scheduled that night.

MR. WEISS: Bulk variances?

MRS. NATAFALUSY: Yeah just pools.

MR. WEISS: That might be the good night to do it.

MRS. NATAFALUSY: I don't know unless we move Woodfield has to be heard that night.

MR. WEISS: They do, okay.

MR. MCGROARTY: Well you have Woodfield but the other one is just a deck variance.

MRS. NATAFALUSY: I can move that one into the next meeting.

MR. WEISS: Let's do that and keep Woodfield on second and let's have Mr. Simoff's application first and . . .

MR. ZIMMERMAN: What is that date if you don't mind?

MRS. NATAFALUSY: July 14th.

MR. ZIMMERMAN: I'm not going to be here on the 14th.

MAYOR SCAPICCHIO: I'm not going to be here either.

MR. WEISS: Okay we'll certainly need Mr. Zimmerman here because it will be his evening so

MRS. NATAFALUSY: The next meeting after that is July 21 or then we go into August and we would need an extension from the applicant if we go into August.

MR. MCGROARTY: You have three applications on the 21st.

MRS. NATAFALUSY: On July 21st, variance applications.

MR. WEISS: Those aren't necessarily time consuming though is that correct?

MRS. NATAFALUSY: No.

MR. WEISS: July 21st?

MR. ZIMMERMAN: Can't make that one either.

MR. WEISS: We tried let's move on. August . . .

MRS. NATAFALUSY: August 11th?

MR. ZIMMERMAN: That's fine.

MRS. NATAFALUSY: There's nobody else on that night.

MR. WEISS: Okay and I'm going to ask Catherine not to schedule anything else for that evening.

MRS. NATAFALUSY: Okay.

MR. WEISS: And let's try to spend some good quality time without interruption on August 11. So we'll move this application to August 11 with no further notice.

MRS. NATAFALUSY: Mr. Vogel will you sign an extension for me?

MR. WEISS: But we're not done yet so quickly because Rene has a question.

MS. GADELHA: I just want a confirmation really. On the traffic study that's being requested it looks like these numbers were just added onto the study. I wasn't on the previous Board that heard this you know a few years ago. So were these numbers done on the numbers in 2007 or 2008 and just added to that? Because I'd be curious to see obviously a 2011 traffic study and then these numbers added. I just want to confirm that that's what is being done.

MR. SIMOFF: They . . . I apologize I'm trying to work my calendar at the same time. No those were submitted to DOT because DOT permits the driveway based on the traffic volume. We had a previous permit for the age restriction and so when I submitted to DOT that's what I did.

MS. GADELHA: Right but that traffic study that you submitted was . . .

MR. SIMOFF: I didn't submit . . . they do their own traffic study.

MS. GADELHA: So this reflects 2011 numbers? I just want to make sure we're not . . . what you come back to us with with the traffic study and how many cars it is per cycle is based on the 2011 traffic that's coming down Route 46 into Netcong and not 2007 or 2008 numbers.

MR. SIMOFF: Well we'll do updated counts.

MS. GADELHA: Okay that's it I just wanted to confirm that.

MR. SIMOFF: We'll do updated counts at the intersection and then these are the numbers 114 is the total trip generation in the morning, 135 is the total trip generation in the afternoon and will send those cars through the intersection.

MS. GADELHA: Okay that's it thank you. That's all I have.

MR. WEISS: Okay. Gentlemen thank you we'll pick this back up again on August 11th.

MR. BUCZYNSKI: One second.

MR. WEISS: Sure.

MR. BUCZYNSKI: I'm not sure if there's a play on words here. You say you're not going out to do a new traffic count you just said you're going to take the 114, 135 and put it through your calculations right? Or are you going to do actual counts on the site again?

MR. SIMOFF: Well I thought I'd . . . it's been a couple of years I'll do new counts.

MR. BUCZYNSKI: Okay all right I just wanted to make sure.

MR. SIMOFF: And then I'll use the higher numbers.

MR. BUCZYNSKI: All right.

MR. SIMOFF: Conceivably I've seen numbers go down in the last couple of years.

MR. BUCZYNSKI: Okay.

MR. WEISS: Okay and so for the record Mr. Vogel you did extend you gave give Catherine an extension?

MRS. NATAFALUSY: Yes to the end of August.

MR. WEISS: Thank you gentlemen. If there's no further business I'll entertain a motion to adjourn.

MR. VAN NESS: Motion to adjourn.

MR. FLEISCHNER: Second.

MR. WEISS: All those in favor?

EVERYONE: Aye.

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

Transcribed by:
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