

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

**ROLL CALL:**

**Members Present:** Joe Fleischner, Rene Gadelha, John Mania, Nelson Russell, Mayor David Scapicchio, Jim Staszak, Scott Van Ness, Steve Bedell, John Ferrante, Howie Weiss

**Members Excused:** Dan Nelsen

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

**Professionals Excused:** Tiena Cofoni, Esq.

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MR. WEISS: Thank you Catherine. Before we proceed with the agenda tonight there's two small bits of business. The first one we'd certainly like to welcome Mr. John Ferrante tonight's his first meeting. John we welcome you to the Planning Board and we look forward to your input that I know can add to the meeting.

MR. FERRANTE: Thank you.

MR. WEISS: Thank you for joining us. And by the same token we're sad to announce that this will be Rene's last meeting. As we all know Rene has resigned from the Planning Board because of her personal move, her family is moving to Iowa and so we've worked out a schedule where this will be the last meeting that Rene sits. So we thank Rene for certainly all of the time and I personally thank you because I know I recruited you and you've been a valuable asset.

MS. GADELHA: Thank you I've enjoyed it.

MR. WEISS: And the final piece of the puzzle is that with Rene stepping down as we know is the Vice Chair of the Planning Board and is the liaison to the open space committee. So we're going to need to replace both of those positions. I know we didn't get a chance to talk about it in advance and I know that we're kind of late in the year but I do need somebody who would be interested to offer to step up to be the Vice Chair and, Mr. Mayor?

MAYOR SCAPICCHIO: I'd like to nominate Jim Staszak.

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

MR. WEISS: Do we have any other nominations? Seeing none roll call.

MRS. NATAFALUSY: Joe Fleischner - yes  
Rene Gadelha - yes  
John Mania - yes  
Nelson Russell - yes  
Mayor Scapicchio - yes  
Jim Staszak - abs.  
Scott Van Ness - yes  
Steve Bedell - yes  
Howie Weiss - yes

MR. WEISS: Welcome Jim and you're going to be put to it right away next week I'll be a little late and I'm going to abstain from one I'm going to move down from one hearing next week so be ready.

MR. STASZAK: Thank you.

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**APPROVAL OF RESOLUTIONS**

**Resolution #PB 11-05 – Mt. Olive Center Associates/Mt. Olive Mews – (4100/80,83&84)**

Motion: John Mania  
Second: Jim Staszak

**Roll Call:**

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

**Resolution #PB 11-17 – Dan Havican – (4700/1)**

Motion: Steve Bedell  
Second: Scott Van Ness

**Roll Call:**

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

**Resolution #PB 11-13 – Ceil West Lake Properties – (7702/21)**

Motion: Scott Van Ness  
Second: Steve Bedell

**Roll Call:**

Joe Fleischner - yes  
Rene Gadelha - yes  
Nelson Russell - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Howie Weiss - yes

**Resolution #PB 11-19 – Devin Connor – (3300/7)**

Motion: Nelson Russell  
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 11-23 – IIT Mt. Olive DC, LLC – (103/2)**

Motion: John Mania  
Second: Steve Bedell

**Roll Call:**

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

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**COMMITTEE REPORTS**

MR. WEISS: Thank you all, next under committee reports Mr. Mayor?

MAYOR SCAPICCHIO: Two things Senator Dorsey and I have a meeting in two weeks down at the DEP with the Commissioner and some Administrative Staff to address some long term financial obligations

that are attached to Combe Fill North which affect the solar farm. And second it's my understanding that there is a contract for the purchase of the BASF building. That's it.

MR. WEISS: Thank you Mr. Mayor. Mr. Mania Council?

MR. MANIA: Just that River Road has as I guess the Mayor can attest to River Road is back in operation thanks to a good job by the Administration in getting it done promptly.

MR. WEISS: Thank you John. Nelson anything from the Environmental Commission?

MR. RUSSELL: Nothing to report.

MR. WEISS: Jim the ordinance committee?

MR. STASZAK: Nothing to report.

MR. WEISS: There is nothing from the street naming committee and Rene perhaps your final report for the open space committee?

MS. GADELHA: I don't have one I was unable to attend the last meeting and just to reiterate that there's an empty seat in that monthly meeting on open space that could really use some representation. That's it.

MR. WEISS: We will keep that in mind as we go forward that we're looking for a representative of the open space committee. Is there a mandate Mr. Buzak that we have to have that position filled? Is it like the environmental . . . .

MR. BUZAK: It's not a Statutory committee so I don't know if the ordinances provide that.

MR. WEISS: Okay that being said and if there's any other business before our discussion matter later I also want to just make an announcement before we get into our agenda that two hearings tonight have been withdrawn and will be heard without notice pushed until next week.

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**APPLICATION #PB 11-21 – GOLD MINE PARTNERS LLC**

MR. WEISS: The first one not heard tonight will be PB 11-21 Gold Mine Partners LLC which is Block 4500, Lot 3 at 174 Gold Mine Road if there's anybody here for that hearing that will be moved to next week or carried to next week.

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**APPLICATION #PB 11-20 – S & S REAL ESTATE INC.**

MR. WEISS: And the like PB 11-20 S&S Real Estate seeking a "d" variance for preliminary and final site plan with variances and waivers located at 142 Route 46 Block 3207, Lot 3 that also will be carried until next week. So if you're here for that that won't be heard tonight.

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**APPLICATION #PB 11-10 – WOODFIELD AT MT. OLIVE HOMEOWNER'S ASSOCIATION**

MR. WEISS: So now we'll go forward, our first developmental matter of the evening is PB 11-10 which is Woodfield at Mt. Olive Homeowner's Association it's an amendment to the Building Option Plan Route 46/Drakestown Road Block 8400, Lot 11 and the original block and lot number prior to major subdivision. This is a hearing that we began when was that?

MR. WETTER: July 14<sup>th</sup>.

MR. WEISS: July 14 thank you and I know there's been some work so you're here to bring us up to speed on where we're going. Maybe you'd want to take a couple of moments and review with us where we were just so we can remember.

MR. WETTER: Good evening everyone Mark Wetter from Radom & Wetter representing the applicant Woodfield at Mt. Olive Homeowner's Association.

MR. VAN NESS: Excuse me Mr. Chair I need to recuse myself from this application.

MR. WEISS: Thank you Scott.

MR. WETTER: On July 14 we provided testimony of Michael Nolan to my right, we're here for the amendment to the Building Option Plan which basically has two components each part of our proposal was for one for decks and one for patios. A great deal of testimony was provided regarding the decks, when we got to the issue of the patios we heard the concerns of the Board. After the meeting we discussed it we had our own concerns as well. On August 9 I believe I submitted a letter I hope you all have a copy we actually withdrew the portion of the application as it pertains to the patios. We want to proceed exactly as we had proposed in July with regard to the decks with no changes. Mr. Nolan is here he can certainly summarize where we were on that issue answer any questions whatever the Board prefers. Clearly if the Board was inclined to vote in favor of this we would submit revised plans simply taking the patio proposed improvements off and it would remain as the Building Option Plan exists today and has for many years.

MR. WEISS: Right I think if we recall we had an issue, the Planning Board had an issue with the patio, extending patios and its effect overall on the stormwater management plan and I think that's where we kind of decided to break the meeting and come back. And obviously the applicant has withdrawn their request to increase patios. I don't think there was any other open issues.

MR. WETTER: Not that I recall.

MR. WEISS: And I don't know if we need to, unless Mike I don't want to take . . . .

MR. NOLAN: No I recall that you were inclined you were prepared to vote favorably for the decks as it was proposed.

MR. WEISS: I would agree with you I think we were ready to vote favorably on the plan and with no other changes. Chuck?

MR. MCGROARTY: Just, Mr. Chairman we're just trying to remember the size of decks that we . . . .

MR. NOLAN: I think we had settled on 250 square feet where it was permissible by the setbacks.

MRS. NATAFALUSY: Right.

MR. WEISS: And that's the way it was.

MR. NOLAN: Correct.

MR. WEISS: Okay Gene did you have . . . .

MR. BUCZYNSKI: No that was the only thing.

MR. WEISS: And then let me turn it to Mr. Buzak, do you have any open issues that you felt we'd might need to discuss?

MR. BUZAK: Just let me check my notes Mr. Chairman perhaps you can see if anyone else has anything.

MR. MCGROARTY: Mr. Chairman while Mr. Buzak is doing that we did mention and Mr. Nolan I believe you would then modify the Building Option Plans or I guess the Building Option Plans right?

MR. NOLAN: Yeah we'll work with you to clarify them however you're most comfortable with to limit it to 250 square feet and whatever other revisions you need.

MR. WEISS: Mr. Wetter did you have anything else you wanted to present to us tonight?

MR. WETTER: I have nothing further.

MR. WEISS: Okay.

MRS. NATAFALUSY: Can I ask a question?

MR. WEISS: Sure Catherine.

MRS. NATAFALUSY: Administratively how would we treat patios going forward? If somebody wants to extend the patio larger than what's on the Building Option Plan. Is it only what they have on the plan today is what they get?

MR. WEISS: I would think yes.

MRS. NATAFALUSY: Okay no variances would be . . . that's what has to be clarified. Would they be able to come in for variances to exceed?

MR. WEISS: Maybe Mr. Buzak can answer that question I think they would have the right to request for a variance.

MR. BUZAK: Well I think that's the way the Board has proceeded in the past these people have come in and one of the reasons that the applicant has come before us was to try to reduce the applications that we would get on these if I understand it correctly.

MR. WETTER: And the confusion yes.

MR. BUZAK: The difficulty with it is the fact that the Building Option Plan is as much in the nature of restrictive covenant as it is a requirement a zoning ordinance requirement of the municipality. And typically the municipality is the one who is able to grant variances or deviations from their own ordinances and I think what the Board has done on these applications is equate the restrictions with a Building Option Plan effectively as an ordinance requirement and then allowing variances to go forward with that. If the Board is comfortable with that and the applicant is comfortable with it you know we can clarify that in the resolution and set forth that people can do that so that there's not a question.

MRS. NATAFALUSY: I would like that in, whatever the Board wants in the resolution so that we can go to that and say what you got is what you got and no further extensions you know improvement or then they just . . . or are they allowed to come back to the Board to expand larger than a 10 by 10 or whatever is on the Building Option Plan.

MR. BUZAK: Well the other aspect of that before the Board discusses it and I'll ask Mr. Wetter, has the Association taken the position or has the position been taken that the Association must consent to an application for a variance from the Building Option Plan before it gets here. Is it sort of co-jurisdictional with the Planning Board and the Association?

MR. WETTER: My understanding is they would need the consent of the Association. But nothing would preclude them from coming before the Board for a variance.

MR. BUZAK: But are you saying that if the Board, if the Association does not consent they would then be unable to file an application? Because I think we need to clarify that as well because of the nature . . . you know as I said this is sort of a hybrid of being almost like a restrictive covenant.

MRS. NATAFALUSY: Can I just . . . In the past with the permits when people have come in previous to whenever . . . it was they needed to have the Association's approval before we would even look at the permit. So it's consistent with what was done in the past.

MR. BUZAK: It would seem to me to make some sense because we are creating this Building Option Plan and one of the purposes of it is to reduce the number of variances that come in.

MR. WETTER: I'm advised by the property manager that yes they would need the approval of the Association first and that's the way they proceeded and I think that's actually in the governing documents it could be by the way of the rules and regulations.

MR. BUZAK: Well we can clarify that process perhaps Mr. Chairman in (inaudible) so that we have something memorialized and people can look at in the future.

MR. WEISS: And that seems to be that's what Catherine would prefer as well.

MRS. NATAFALUSY: It would make my life a lot easier.

MR. WEISS: Sure okay and Mr. Wetter you don't have a problem with that?

MR. WETTER: I don't.

MR. WEISS: That direction will be in the resolution. Rene you have a question?

MS. GADELHA: I have a note from that last meeting where we had mentioned establishing an ordinance for an additional engineering fee if regarding is needed for the patio installation and because of the complication I don't know if that's needed.

MR. BUCZYNSKI: We don't need it now because of the fact we're not doing patios.

MR. WEISS: I think we took it off the table.

MRS. NATAFALUSY: But if somebody comes in for a variance then they'd have to provide a grading plan, if they came in for something and that would be covered under the escrow fee anyway.

MR. BUZAK: Yes.

MS. GADELHA: Okay thank you.

MR. WEISS: Any other comments from the Planning Board? Let me open it to the public Mr. Wetter if you're done.

MR. WETTER: I am.

MR. WEISS: And Mr. Nolan I take it you're agreeing with him?

MR. NOLAN: Yes.

MR. WEISS: Is there anyone from the public that has a comment? If you would maybe come to the microphone state your name and address for the record.

MR. HAHN: Kevin Hahn I'm with the law firm of Courter, Kobert & Cohen I represent Mr. Eric Tpaiche he's a resident of the community. I was here last time if you may recall, my client has an existing patio is that procedure still going to apply to him if he want to come in for a variance that he has to get the Association's approval beforehand?

MRS. NATAFALUSY: Yes.

MR. WETTER: Well can I just make a comment I believe there's pending litigation between the Township and your client correct?

MR. HAHN: I don't know if you call it pending litigation there's a pending there's a pending complaint in municipal court.

MR. WETTER: There's a lawsuit that's been pending for several years now correct?

MR. HAHN: It's not a lawsuit it's a complaint in municipal court.

MR. WETTER: So it's litigation it's in municipal court correct?

MR. HAHN: If you want to call that litigation.

MR. WETTER: I'm not sure that . . . I don't want to make any comment on . . . because of that pending litigation that's a separate matter, preexisting.

MR. WEISS: So to simply answer the question I would imagine that your client's patio would fall into the rule which says that he would need approval from the Homeowner's Association.

MR. HAHN: The rule that you just adopted tonight?

MR. WEISS: I'm guessing that I might want to turn to Mr. Buzak . . .

MR. BUZAK: Well I don't think the rule has just been adopted . . .

MRS. NATAFALUSY: It's not been adopted tonight that's the process that's been.

MR. BUZAK: I think that's been the process which is why I raised it.

MR. HAHN: If you recall I asked last time we were here if my client could file a separate application for a variance and I was told that we could. So our plan was to file after this was voted upon it was our plan to come in with an application for a variance for his patio. I was told I could do that.

MR. WEISS: I don't think the process has changed though is that correct a homeowner at Woodfield would need Homeowner Association approval?

MRS. NATAFALUSY: Yes.

MR. HAHN: Where does that . . . is that in the Woodfield by-laws? I don't believe there's anything in their documents that says that.

MR. MCGROARTY: Well that's really not a Planning Board matter is it?

MR. WETTER: It's not a matter before this Board.

MR. HAHN: There's nothing in their documents that says you have to have their approval before you come to a Planning Board and there's certainly nothing in the Municipal Land Use Law that says that.

MR. WEISS: And I'm not familiar with the covenants of the Homeowner's Association I don't think I can answer that question.

MR. BUZAK: Nor am I.

MR. HAHN: Yeah and under the Municipal Land Use Act there's no provision that says that a Homeowner's Association can pre-empt someone's right from coming to a Planning Board with a variance application by saying you have to get their approval first. That's not anywhere in the law that I'm aware of.

MR. WEISS: See I'm inclined to agree because that was my comment before that anybody, any homeowner in Mt. Olive can come before the Board and request a variance it doesn't mean they'll get it but they certainly have the right to ask for it.

MR. HAHN: That's what I thought.

MR. WEISS: I don't know if those rights are being changed or . . . .

MR. BUZAK: Mr. Chairman you know I think that we're beginning to walk down a slippery slope. I'm not familiar with all of the aspects, I'm not familiar at all with this matter Mr. Wetter has raised an issue that this matter apparently is the subject of a compliant that's been filed by the municipality. I think that if an application is filed with the Board we'll make a determination at that time based upon the information that we have, based upon additional information that we may get and we may conclude that there's no need for the Association. The Association may take a position that they do have to get it and we may be in some kind of adversarial position with the Association. I mean we'll have to abide the event here.

MR. WETTER: In addition to the Municipal Land Use Law you have to abide by your recorded governing documents when you move into a community Association. So what it is in there would also apply.

MR. BUZAK: Well that's true I mean if someone is in a condominium complex and the documents said that you need "X" and you know despite the fact that you may be a Mt. Olive resident you can't come in and get a variance or to get applications. But we'll see Mr. Chairman in fairness I don't know if we can answer the question because we don't have all of the information so I think that you know when the events occur we will react.

MR. WEISS: Okay.

MR. HAHN: Right and I was only asking the question because I thought I heard somebody say it was going to be in this resolution a requirement or provision or rule that was going to be put in there that would be effective going forward and I just wanted to see if that was going to apply to us or not. So I guess we'll proceed accordingly.

MR. WETTER: That process always requires approval of the Association it's not something that would just be tonight moving forward should you approve it. And I can confirm exactly the process if you want to incorporate that language into your resolution what takes place.

MR. WEISS: I don't think the Planning Board is here to change what's currently in the existence. I don't know the document, nobody on the Planning Board has any knowledge of that document but that document is not going to be altered by the judgment and the ruling of this Planning Board.

MR. WETTER: Right and I wouldn't expect it to be.

MR. WEISS: So I think we could leave it that way if it's there it's going to stay there if it's not we're not going to add it.

MR. HAHN: And I didn't hear what Mr. Wetter said did he say there was something in their documents that requires that?

MR. WETTER: I believe there is I don't have it in front of me tonight but I can certainly . . .

MR. HAHN: Okay well I'll speak to him off-line and we'll get to the bottom of it. Thank you very much.

MR. WEISS: Was there anybody else from the public? I'll open it up for Planning Board conversation Chuck, Gene, Ed if there's anything else?

MR. MCGROARTY: Nothing.

MR. BUCZYNSKI: Nothing.

MR. BUZAK: No I did check my notes Mr. Chairman I don't have anything further.

MR. WEISS: Okay seeing no conversation from the Planning Board I'll entertain a motion.

MR. MANIA: I move that we approve PB 11-10.

MR. RUSSELL: Second.

MR. WEISS: And this approval and second is with the conditions that although kind of limited Mr. Buzak might want to remind us what these conditions are.

MR. BUZAK: In addition to the usual conditions Mr. Chairman we will have a condition that the property owners would have to pay any development fees that would otherwise be required under the ordinances. We are simply going to require that the applicant is bound by all of the representations that they made before the Board at the meetings and that's it I don't have any other . . . I had one with regard to the patios but since the patios are not an issue we don't have to deal with that.

MR. MCGROARTY: The only thing I would add Mr. Chairman, Mr. Buzak first is that . . . and it was said earlier the maximum footprint of a deck can be 250 feet subject to, and it must adhere to all of the setback requirements and respect the easements and the like that are in place on the site until you get up to 250 square feet (inaudible).

MR. WEISS: Right.

MR. WETTER: Do you just want to add that we'll submit the revised plan taking the patios off?

MR. BUZAK: Yes.

MR. WEISS: Revised plans will be submitted.

MR. MCGROARTY: Yeah and you'll modify the footprint of the decks as well correct?

MR. WETTER: Correct.

MR. MCGROARTY: Thank you.

MR. WEISS: Okay that being said Catherine roll call.

MRS. NATAFALUSY: Joe Fleischner - yes  
Rene Gadelha - yes  
John Mania - yes  
Nelson Russell - yes  
Jim Staszak - yes  
Steve Bedell - yes  
Howie Weiss - yes

MR. WETTER: Thank you very much.

MR. WEISS: Thank you gentlemen.

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

MR. WEISS: Okay the next application on the agenda is PB 10-32 Ralph Marina / Joseph Marina seeking a variance to construct a single-family dwelling on a substandard lot at Block 7000, Lot 47 which is located at 406 Drakestown Road. This is an application that also has been carried. Gentlemen good evening.

MR. GALFY: Good evening.

MR. WEISS: I'll turn it over and maybe we'll do the same thing maybe you can give us a summary of where we were, where we left off.

MR. GALFY: At the last meeting we had our planner testify and present the planning evidence. We indicated the lot has court approval to be sold and I've submitted those documents to the Board. We ran into some issues with the Board concerning the engineering aspects of it and certain soil testing and we have done that that the Board wanted there we are now here tonight to present our engineer who I think can answer those questions and present a new revised plan and hopefully we can conclude tonight if that's possible.

MR. WEISS: Okay so why don't we swear in your expert.

(CRAIG HERMANN SWORN IN FOR THE RECORD)

MR. BUZAK: Would you please state your name and business address for the record spelling your last name.

MR. HERMANN: Craig Hermann (H-E-R-M-A-N-N) my business address is 200 Valley Road, Suite 400, Mt. Arlington, New Jersey 07856.

MR. BUZAK: Thank you sir.

MR. GALFY: Mr. Hermann would you state your occupation please?

MR. HERMANN: I'm a Civil Engineer.

MR. GALFY: And would you basically state your qualifications as a Civil Engineer.

MR. HERMANN: Sure I have a Bachelor of Science Degree in Civil Engineering from Rutgers University. I have been a licensed P.E. since 2004 and I have been accepted as an expert in a bunch of towns Borough of Emerson, Township of Mine Hill, Township of Mendham, Borough of Montvale, Little Ferry, City of Summit, Englewood Cliffs, Franklin Lakes, Parsippany/Troy Hills and I actually think served a little bit of time on this Board when my firm was taken over the Planning Board engineer position.

MR. GALFY: I believe that may be sufficient hopefully?

MR. WEISS: Mr. Hermann have you ever been in front of the Mt. Olive Planning Board?

MR. HERMANN: No not as an applicant.

MR. WEISS: Okay anybody have any questions for Mr. Hermann? All right we can accept Mr. Hermann as your engineer, welcome Mr. Hermann.

MR. HERMANN: Thank you very much.

MR. GALFY: Mr. Hermann would you please explain your revised plan that's been submitted and hopefully we can address them, the issues that the Board raised last time and get these covered as quickly as possible.

MR. HERMANN: Okay I believe the Board has my latest plans dated September 12, 2011.

MR. BUZAK: All right Mr. Hermann why don't we mark that. Mr. Chairman I don't have a, I was not at the meeting in which this applicant had previously proceeded and I'm looking in the notes and it looks like we've got . . .

MR. GALFY: I think we're up to A-3.

MR. BUZAK: Okay why don't we mark that A-3 Mr. Hermann.

MR. HERMANN: There's two plans to it are they both A-3?

MR. BUZAK: One A-3 and one A-4. And just give me a little description for the purposes of the exhibit list.

MR. HERMANN: Okay A-3 is sheet 1 of 1 the Building Permit Plot Plan it basically shows the location of the house, the approximate location of the disposal bed from the septic system and general grading.

MR. BUZAK: The date of the plan?

MR. HERMANN: Oh sorry. It's dated September 6, 2011 revised through September 12, 2011. Sheet 2 it will be marked A-4. That's a tree replacement plan and again that is revised through September 12, 2011.

MR. BUZAK: Also dated 9/6?

MR. HERMANN: Yes.

MR. BUZAK: And the first was sheet 1 of 2?

MR. HERMANN: Yes 1 of 2. The second is 2 of 2.

MR. BUZAK: Okay thank you.

MR. BUCZYNSKI: What's the revision date on sheet 1 of 2?

MR. HERMANN: 9/12/11. Revision four on sheet 1, revision three on sheet 2.

MR. BUCZYNSKI: I have 9/6/11.

MR. MCGROARTY: Yeah I have 9/6.

MR. HERMANN: Okay that's the latest revision but over in the revision boxes . . .

MR. BUCZYNSKI: It says 9/6/11 on the right hand side, the revision box also says 9/6/11.

MRS. NATAFALUSY: No I have 9/12.

MR. BUCZYNSKI: You do okay.

MR. HERMANN: Well what had happened was . . . if you don't mind I'll explain that when I go through . . .

MR. BUCZYNSKI: Yeah that's fine I just want to make sure I have the right . . . the right plan that's all.

MR. HERMANN: There's some additional information on this plan regarding existing septic systems that are surrounding the property (inaudible). I have copies of those plans if you'd like.

MR. BUCZYNSKI: Thank you.

MR. HERMANN: Anybody else?

MR. BEDELL: I'll take one down here please.

MR. HERMANN: It's my understanding from the last meeting there were three basic engineering questions that have come up. The first one had to do with the soil viability from both seepage pits and for a septic system disposal bed. The second one came up regarding trees and there was a third question regarding the lot areas that surrounded the lot since it's an undersized lot. To deal with the soil suitability for a septic system and seepage pits we did soil tests out there and I worked with the Health Department. In the front we had a soil that tested with a K1 value which meets the State requirements but not Mt. Olive's requirements for a septic system. So we then went back and did a number of soil tests in the back and I have two that were K2 soil that meet the requirements for Mt. Olive ordinance for septic systems. So what we did was we moved the septic system from the front which was in a wooded area where they were going to have to cut down woods and placed it in the back where the K2 soils were located and an open grassed area. With that we had to move some of the other items around, the seepage pits needed to be at least 50 feet away from the soil bed, the septic system so we had to move it over to here and then the well needed to be at least 100 feet away from not only the septic system that we're proposing but also a reserve area that's required by the Health Department. So the well is moved over here to just beside the driveway. Now that was the plan that I had submitted on 9/6 and then the Health Department came back and asked for additional information because we moved the septic system and the well they had some questions about where the septic systems were located on the adjacent lots because they still needed to be 100 feet away from all septic systems that are on our lot or the adjacent lots. We found that Lot 49 and 48 is basically one house and the septic system is located over here which is more than 100 feet away from the well and I didn't find any evidence of a septic system in a front yard of the neighboring lots so it had to be in the back. So we were more than 100 feet away so that's the reason for that 9/12 to add that information. The second issue that you guys had questions on was the trees. Now when we were first here there was a mistake in calculating the trees to be removed in that we only calculated the trees 10 inches and above that were being removed and not 6 inches which are required by the ordinance. When we were here last time we had said because of that mistake that only 23 trees were going to be removed. Now because doing a recalculation we're now at 45 trees that need to be removed. However we are, even though the number seems more we are reducing the amount of trees to be removed because when a septic system was in the front here we had to take a large portion of the wooded section down in front to place the septic system. We're now placing it in the back in an open area so the trees that we would have had to remove in the front are now going to be left. With that . . .

MR. BUZAK: I'm sorry Mr. Hermann what was the total number of trees that have to be removed now is it 45?

MR. HERMANN: 45 that have to be removed yes.

MR. MCGROARTY: Now if I may Mr. Hermann, Mr. Chairman if I may? Are you going to address the . . . it's a one for one replacement and you're shy.

MR. HERMANN: Correct.

MR. MCGROARTY: Okay.

MR. HERMANN: So we're going to talk about it.

MR. MCGROARTY: Okay.

MR. HERMANN: With that there's as Mr. McGroarty had just said there's a one to one replacement so we would need to replace 45 trees. Right now our proposal is to replace 40 trees that means we're 5 trees shy. Now as you can see we're placing trees all around the property as much as we can and just to keep a small open area in the back for you know our kids to play everybody wants the open yard for the kids to have the jungle gym and play soccer and everything like this. With that the whole rest of the lot is wooded in fact like I'd indicated before we're actually . . . the first proposal was to remove more trees to put the septic system and now we're leaving those trees in. So it's my understanding that for a single-family home there can be a waiver for trees and that's something that maybe Mr. Galfy can help me with?

MR. GALFY: Yeah I think we would request to the Board to consider waiving the 5 trees. The lot is very wooded, we need some open space on it and if we replaced everything, every tree that was taken down I think there probably wouldn't be much open space left. And I don't think that's a good result and therefore we would ask the Board to consider waiving five.

MR. HERMANN: The really only open space available is in the back here which you can't (inaudible) a septic system anyway. And then the front there's a small area where there's no woods.

MR. WEISS: Chuck is that an accurate representation that a single-family home can request a waiver?

MR. MCGROARTY: Well actually if you don't place them on the site if you cannot place them on the site then the alternative is to put the funds in the tree banking. Now you know they've done a . . . it's up to the Board here I don't know and Mr. Buzak can guide us on that but whether the Board can waive that additional five trees if your inclined to do that. They've obviously done a lot of work to get as many trees in as possible but the ordinance does say if I may it says that at the option of actually planting, I'm paraphrasing here, there's this tree banking option. It's not that you just waive the requirement to do it the ordinance was changed to require a one for one replacement on lots like this to make it more realistic as opposed to the earlier version of the ordinance that we had.

MR. WEISS: Is there a dollar value associated with banking five trees?

MR. BUCZYNSKI: We've been using \$250.00 a tree.

MR. WEISS: Okay so maybe the Planning Board should address that before we move on.

MR. MANIA: I was about to address that one we just brought up.

MR. WEISS: Anything on that?

MR. MANIA: I think we should use it in our tree bank.

MR. WEISS: Any other comments? Scott?

MR. VAN NESS: I think we should waive it.

MR. STASZAK: Do we have the ability to waive it?

MR. VAN NESS: If we have that legal authority to say that we're talking five trees single-family home in a wooded lot, a wooded area.

MR. WEISS: That was my original question I don't know if we have the ability to waive it.

MR. VAN NESS: If we have the ability to waive it that would be my opinion.

MR. WEISS: John?

MR. MANIA: I guess my question would be if we do that do that do we set a precedent?

MR. FLEISCHNER: We have done this in the past.

MR. VAN NESS: If we set precedence we have to deal with it individually but that's the way we've done it in the past.

MS. GADELHA: I remember when the Boy Scouts came before us a couple of months ago I think we have like wads of trees in our tree bank so . . .

MR. VAN NESS: A gazillion dollars.

MR. MCGROARTY: Lots of money.

MS. GADELHA: Correct we've got like \$75,000 in our tree bank so just to keep that in mind.

MRS. NATAFALUSY: Yes.

MR. WEISS: So do we need more money in the tree bank Rene or . . . .

MS. GADELHA: I don't think we do.

MR. WEISS: Okay I just want to be clear.

MR. GALFY: If I may the whole lot is wooded I mean if you look at the . . . it's a very long lot and from here back is all wooded so we can't touch that because we've got the Highlands approval.

MR. WEISS: I think we're just going to check into the legality of whether we can waive it or not.

MR. GALFY: I'd just like to point out that in this particular market (inaudible) time every amount is critical to building these homes and getting them sold so we'll do certainly whatever the Board wants us to do but I mean if it's not necessary it certainly would help us I think in . . . .

MR. WEISS: Does anybody else on the Board have an opinion on what to do with the . . . .

MR. FLEISCHNER: The only thing I can say I've been on the Board it will be six years now and we have in the past waived trees.

MR. BUCZYNSKI: Can I say something too Joe? (inaudible) they did make an effort of putting the 40 trees back but if you look at it every lot that has . . . you've got to put a house it's a building lot so you've got to put a house on a building lot. It just so happens the footprint for the house there's five trees being removed for the footprint so you know you just say hey he has to have someplace to put a house on this lot, took five of those trees just happens to balance it out in this case. You know 40 plus the 5 so it's up to the Board.

MR. WEISS: Well I don't see too much objection to waiving I don't know if we can I'm kind of delaying a little bit.

MR. BUZAK: Mr. Chairman you've done a great job of keeping things going while I've had a chance to look at the ordinance. This provision is actually not in the zoning ordinance it's in the land regulation ordinance the MLUL does give the Board, the Planning Board the ability to grant exceptions and waivers from subdivision or site plan regulations while this application is neither a subdivision nor site plan it is a . . . the tree banking is a requirement that's in the Land Development Regulation Ordinance so I would think that given the fact that we are a combined Board so to speak and while this is just a variance application as I understand it I think the Board would be within its rights to grant a waiver. The basis for a waiver is similar to what you would need for a variance although not as high a bar it requires that the Board find that a waiver can be granted as may be reasonable and within the general purposes and intent of the provisions that you are applying. So I think that if you make that finding under these circumstances we will be able to do it and I think it's important for the Board to note in considering it the fact that this is a heavily wooded lot and the applicant has really no other place there to put it, and the fact that our tree bank is healthy. I won't say robust but healthy is good.

MR. WEISS: And we certainly heard from Mr. Buczynski he's telling us that there's a real good effort it seemed to be upbeat on that effort and I don't think I would be remiss if I directed the applicant that we will grant the waiver. So therefore the Planning Board is willing to grant the waiver when it comes down to that end of our application.

MR. GALFY: Thank you.

MR. WEISS: You're welcome.

MR. HERMANN: Okay I believe there was one more question regarding the lot sizes of lots in the area and how our lot is 3.027 acres and Lot 45 which is over here according to the tax map is 1.23 acres, Lot 46 is 1.68 acres but these two are combined with one house so a merged total is 2.91 acres which we exceed that. On the other side we have Lot 49 which is 1.46 acres and Lot 48 which is again 1.46 acres. The same instance we have one house on both lots so that's a total of 2.92 acres so with just those two surrounding parcels or lots we exceed, even though we're below the ordinance requirements, we exceed those lot areas. That's really all I had there's were those three issues and I know if we go into Mr. Buczynski's report I mean I can discuss it a little further but I believe the answers to those three questions basically answered the questions in Mr. Buczynski's report with some other items that I know the applicant will agree to.

MR. BUCZYNSKI: Mr. Chair if I could just summarize the report?

MR. WEISS: Sure.

MR. BUCZYNSKI: That report was dated February 15, 2011 the only outstanding issue was item 2 in that report under technical items relative to the dry wells for the proposed stormwater management and we asked the soil logs to be provided to show that the soils had sufficient permeability rates so that the septic system will function. Now if I'm correct that has not been done yet.

MR. HERMANN: We haven't done one specifically at the location for the seepage pits because after they did the soil logs I had to move it to place the septic where I could. Now everything that I've done on the lot was at least a K1 soil up to a K2 so K1 soils are fine for it and we've agreed that at the time that we put seepage pits in we can do some . . .

MR. BUCZYNSKI: I have no problems with that and I was going to say that will just be a condition of approval I mean because they did show soil log results on the site relative to septic and his show that there is perc. So they designed the system without percs I don't really have a problem with it but it should be conditioned that prior to construction, any construction on the site soil logs should be done before the dry wells been submitted for our review prior to them moving ahead with the construction permit.

MR. WEISS: That seems to be a reasonable request.

MR. GALFY: That's fine.

MR. WEISS: Mr. Buzak noted that so that will become a condition at that appropriate time. Gene was there anything else on your report that you wanted to review?

MR. BUCZYNSKI: No everything else is the standard issues relative to well and septic to be approved by the Health Department and driveway permits from the Engineering Department so everything else is standard items to go into your resolution. But they did address all of the other comments that I had.

MR. WEISS: We have a report from the Health Department Catherine dated September 13<sup>th</sup>?

MRS. NATAFALUSY: Yes.

MR. WEISS: What is the Health Department approving here? They have no objection just the plan . . .

MR. HERMANN: That's the revised plan sir.

MR. WEISS: I'm sorry?

MR. HERMANN: That has to be the revised plan that was submitted.

MR. WEISS: Okay so they're not making any commentary on septic or wells or . . .

MR. HERMANN: I believe they are because they're approving the plan.

MRS. NATAFALUSY: Right approving that plan for the septic and the well.

- MR. WEISS: And they would approve that even without the . . .
- MRS. NATAFALUSY: They had the plans.
- MR. BUCZYNSKI: That's septic they're not talking about the dry wells they're talking about the potable well.
- MR. HERMANN: We would still need to do a septic design and have that approved by the Health Department before any kind of construction takes place. We're just showing that the lot is suitable to be able to accommodate a septic system.
- MR. BUCZYNSKI: That's all that's required to come before the Board.
- MR. WEISS: Okay because my concern was that the Health Department approved the plan but then the plan was revised I just want to make sure that they approved . . .
- MR. HERMANN: I believe this is the plan because for them to approve it I had to locate the existing septic system to confirm that the well was far enough away.
- MR. WEISS: Yeah I don't question that Mr. Hermann I just see that they attached an outdated plan to the report that's all.
- MR. HERMANN: Okay.
- MR. WEISS: So I just want to make sure that we cover that base. Chuck?
- MR. MCGROARTY: Mr. Chairman I just had two questions or two points. One is you do have a Highlands exemption and that was based on a different plan earlier perhaps almost identical but it's not our responsibility to deal with Highlands but are you resubmitting to them or is that necessary or they haven't looked at that?
- MR. HERMANN: I don't believe it's necessary because we are still within the conservation area that they required. Everything was within that envelope that we can disturb.
- MR. MCGROARTY: So you're still okay on that.
- MR. HERMANN: Yes.
- MR. MCGROARTY: And the onus will be on, the responsibility will be on the applicant to make sure of that.
- MR. GALFY: If we have to meet the requirements of Highlands it's a recorded instrument.
- MR. MCGROARTY: And I would just suggest, I mean they have gone through a number of plan revisions and not to generate more paper but if the Board were to approve this I would suggest that you modify sheet 2 and put a revision date and remove the reference that the remaining 5 trees shall be banked and indicate that the Board has waived that requirement so there's no confusion down the road when you come in for a CO and . . .
- MR. WEISS: And that would serve and protect the applicant.
- MR. MCGROARTY: Yeah exactly.
- MR. WEISS: Okay so it sounds like Gene's report was addressed. Mr. Buzak?
- MR. BUZAK: Yeah there were a couple of items in Mr. Buczynski's report, and again I wasn't at the first meeting so I just want to make sure we haven't missed them, there was a . . . and it's item B2 about a dedication I don't know if the Board had discussed that.
- MR. GALFY: The applicant is willing to do that that's not a problem.
- MR. BUZAK: B3 was that just for a revision of the plan?
- MR. BUCZYNSKI: That was done.

MR. BUZAK: Okay. And this conservation easement which is B5 is that . . . was that discussed and is that the conservation easement you were referring to Mr. Hermann or are you referring to a different one?

MR. HERMANN: There's a line that runs across the lot and that would be put into conservation.

MR. BUCZYNSKI: And I think at the last meeting we talked about that item relative to markers should be shown along the easement line.

MR. HERMANN: Yes.

MR. BUZAK: And how about, was 6 done the swale?

MR. BUCZYNSKI: Yes they revised the plans to address that.

MR. WEISS: Right down the side of the property.

MR. BUZAK: Thank you Mr. Chairman that's all I . . .

MR. HERMANN: Yeah the plan was completely redesigned.

MR. BUZAK: That's all I had thank you Mr. Chairman.

MR. WEISS: Okay anybody on the Planning Board have any questions right now for Mr. Hermann? Are you complete Mr. Hermann?

MR. HERMANN: Yes.

MR. WEISS: Okay before we close let me open it to the public if anybody in the room has a question for Mr. Hermann based on the testimony that he delivered this evening? Do you have any other witnesses as well?

MR. GALFY: No.

MR. WEISS: I'll even open it to the public for any commentary, any comments that you might have as well.

MR. WIJATYK: My name is Michael Wijatyk (W-I-J-A-T-Y-K) thank you for listening to me. The only thing that I see and it may have been discussed and I just may not know because I just don't know. In the last Planning Board hearing there was a lot of concern about the septic design and I didn't hear anything about the septic design it hasn't been designed from what I see so I don't know if that's an issue, if that's something that needs to be looked at going forward or if that's something that should be looked at. There was a lot of talk about the septic design last meeting.

MR. BUCZYNSKI: It was just stated that from the Planning Board hearing the only thing that's really required is that he provides soil tests to show the suitability of the septic system.

MR. WIJATYK: Oh okay.

MR. BUCZYNSKI: The septic system design is subject to the jurisdiction of the Health Department they'll have to submit that application for the septic system design to the Health Department.

MR. WIJATYK: Okay.

MR. BUCZYNSKI: Okay?

MR. WIJATYK: All right that's it thank you.

MR. BUCZYNSKI: Just one other issue before we go more to the public you have to revise the plans on sheet one to show the markers that will be installed. There should also be a detail showing what type of marker is proposed along the easement line.

MR. WIJATYK: I'm sorry just one more concern and maybe once again I don't know how to look at these plans maybe I don't see it, is there something on the plans about the well system? Because we don't have sewer systems in our . . . we don't have public water we're all on wells and I didn't see anything on the plans about a well system.

MR. HERMANN: The well is located right here on the side of the driveway and the requirements are that the well has to be at least 100 feet away from all septic systems including the one on our lot and the one on your lot. Which one day I was out there for 7:00 in the morning, I woke them up and I apologize for that to find the location of their septic system.

MR. WEISS: So Michael you understand that the applicant has the responsibility to prove that they have enough space to satisfactorily get that well with enough distance from the septic.

MR. WIJATYK: Right.

MR. WEISS: And that's what he's testified.

MR. WIJATYK: And I understand that you guys know more than me because you deal with it every month so I'm just trying to get my questions answered that's all. And I appreciate you guys taking the time.

MR. WEISS: Oh our pleasure Michael. Scott?

MR. VAN NESS: What's the distance required between wells?

MR. WEISS: Between wells?

MR. VAN NESS: How far away does a new well have to be from an existing well on another property? Is there a regulation on that?

MR. BUCZYNSKI: There is but I do not know because that's regulated by the Health Department. I'm not sure if it's 50 feet or 100 feet.

MR. VAN NESS: It has to be 100 feet from a septic.

MR. BUCZYNSKI: Right.

MR. VAN NESS: How far away from another well?

MR. MANIA: I don't know if there's any regulation between wells Scott.

MR. BUCZYNSKI: As long as it doesn't affect the other well.

MR. GLASSON: There's no regulation.

MR. WEISS: So an un-named person from the public has just said that there's . . . I can assure the public and certainly the Planning Board that whatever regulation is there it will be followed of course and if it's 50 feet and in this case Mr. Glasson has told us that there's none. If there's none of course that's the answer, if there's a distance that will be . . .

MR. GLASSON: The setback distance requirement off of the property (inaudible).

MR. VAN NESS: So it's a property line setback not a well to well setback.

MR. HERMANN: Now I know that this has gone . . . the Board of Health or I'm sorry the Health Department has reviewed this and specifically has noted the location of the well and like I said I had to go out and find the existing septic system so there was no mention of any distance to a well and you can see here's . . . the well is located right here I have at least 50 feet between the wells.

MR. GALFY: Whatever requirements the law provides we will have to meet obviously so . . .

MR. WEISS: Of course. Okay any other questions from the Planning Board? Anything else from the public? I noticed we have some representation from the public and we don't often so is there an objection is there an overall objection that we need to know about I know you've been here for both

hearings. I know some of it is technical but now would be a very good time to state any kind of comment or concern that we might need to know. Obviously you folks live there and if there's a concern that hasn't been addressed on these technical ends I do suggest that you let us know that we can consider. That's okay we won't bite.

MS. WIJATYAK: Hi my name is Mira Wijatyak I'm Michael's Mom I've been talking to Mr. Galfy and I've been talking to Michael I'm not here to stop them from building their house I just want to make . . . my concern is so my kids don't get hurt. Meaning that if the well, when they build this huge house and there's septic and the well together is it going to affect my sons well and he's going to start running out of water because of this water being used so much and then the septic and all this. That was the only concern that it's getting so close to the property so that's why I wanted to say . . . but I did like I said a few times I spoke to Mr. Galfy I even spoke to the previous owner of the property and I've been on top of it so far everything is fine and I'm sorry he has to wait so long for all of this but I just want to . . . you know my concern is so much kids don't get hurt by them building the house right next to them. That was the only thing that I wanted to say. And since they're putting the well in front and his in front to will there be an issue going . . . you know I know the water comes from the bottom but how deep is the well going to be that's what I'd like to know.

MR. GALFY: We're going to have to work that out with the Health Department and whatever they require we're going to have to meet. So you know I think we're getting a little bit ahead of ourselves I can understand . . .

MR. BUCZYNSKI: Do you know how deep your sons well is? Do you know how deep your well is?

MS. WIJATYAK: Mine is 400 feet.

MR. BUCZYNSKI: Okay.

MR. GALFY: Whatever is required to get good clean water will not interfere . . .

MR. MANIA: Whatever it takes.

MR. GALFY: Yeah whatever it takes we'll have to do and that's what we're going to do.

MR. WEISS: Joe?

MR. FLEISCHNER: I'd just like to add that at one time I contacted personally the Rutgers Geology Department and asked them a similar question and the head of the department, and I could check my notes for his name, but he said you can put two wells 10 feet apart, drill one well could hit water at 100 feet and another could be at 500 feet. So there's no way to tell where you're going to hit water until you actually drill the well. You're down 400 this gentleman drills his well he could find water at 100 feet or he could have to go 600 feet.

MS. WIJATYAK: There is always water at 100 feet but it's got sand in it.

MR. FLEISCHNER: Right.

MS. WIJATYAK: So you try to get clean water so you go deeper.

MR. FLEISCHNER: You know you have to meet the parameters that are required but you can hit drinkable water hundreds of feet apart even though you're well is only 10 feet apart.

MS. WIJATYAK: That's fine I was just concerned that's all.

MR. FLEISCHNER: And you should be because we all are (inaudible) well.

MS. WIJATYAK: I have no problems okay thank you.

MR. FLEISCHNER: The rain is good that we've been getting for wells but not for septic.

MR. WEISS: Anybody else from the public? Seeing none I'm going to close it to the public I will then turn it back over to you.

MR. GALFY: I believe the Board is familiar with this application it's a classic isolated lot situation I don't want to spend a considerable amount of time summarizing I think we've met all of the requirements. Certainly we met all of the Planning requirements and now the Township Engineer is satisfied subject to the conditions that will be imposed and I believe we have met the requirements so we therefore ask the Board to approve the application as submitted.

MR. WEISS: Thank you and before I ask the Planning Board to make a motion perhaps I'll turn it over to Mr. Buzak that if we were to make such a motion conditions would be as follows.

MR. BUZAK: Mr. Chairman the conditions the conditions would be that the applicant would be required to comply with all Highlands approvals and/or requirements. There would be a revision to sheet 2 to reference the waiver of the tree banking requirement as opposed to installing the trees. The conditions set forth in Mr. Buczynski's report as revised during the course of the discussion set forth in B1, 2, 5 and 8 will be included, will have a provision that the septic system design will go to the Health Department which we talked about before, and that the plans will be revised to show the location and type of markers along the easement.

MR. BUCZYNSKI: Just one other item too we mentioned about the roadway dedication. That the plans should also be revised to show the roadway dedication and the deed description submitted for review and approval.

MR. BUZAK: Very good.

MR. WEISS: Okay that being said I will then entertain a motion.

MRS. NATAFALUSY: Excuse me zoning permit required prior to . . . .

MR. WEISS: Chuck your concerns were addressed already?

MR. MCGROARTY: Yes and I don't think the note on sheet needs to go in the resolution I think Mr. Hermann will change the plan to address that. But yes otherwise (inaudible).

MR. WEISS: Is that about the waiver of the trees?

MR. MCGROARTY: Right yes.

MR. WEISS: Okay. All right it sounds like we're good anybody like to make a motion?

MR. RUSSELL: I'll move that PB 10-32 be approved.

MR. STASZAK: Second.

MR. WEISS: With conditions as read by Mr. Buzak and Mr. Staszak second?

MR. STASZAK: Second.

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

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

MR. WEISS: Thank you gentlemen.

MR. GALFY: Thank you very much.

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**APPLICATION #PB 11-15 (AMENDED) – MICHAEL CALLAREMI**

MR. WEISS: Our next application is PB 11-15 (Amended) Michael Callaremi Block 8100, Lot 43 on Route 46. It's a minor subdivision amended preliminary and final site plan with variances. Mr. Selvaggi welcome.

MR. SELVAGGI: Thank you and good evening everyone. We are here, actually this began as an amended site plan for Lot 43 there was a meeting, subcommittee meeting with the Board's professionals. And in discussing it with them and kind of bouncing ideas off of one another we've come in with something a little more expansive and it went from a mere amended site plan for Lot 43 to a subdivision of Lot . . . effectively what's being subdivided is Lot 42. If you're familiar with the property it's the Callaremi GM Dealership on Route 46 and if you were looking at the property there's a lot to the right and then there's another lot to the right of that. That middle lot Lot 42 the proposal is to subdivide that and then merge it's almost right in half, merge one side to the Callaremi property where the dealership is and then the other one would go to Lot 41. And there's some sound reasons for that and I think we have to agree that it makes the site plan application an easier one to deal with. We are still going to need not only amended site plan, we are going to need bulk variance relief as it relates to Lot 43. There is going to be by virtue of some required design standards that GM is forcing or asking Mr. Callaremi to make. We need a front yard variance and also too we're taking the lot coverage which now is in excess it's 89.29 percent, after the subdivision if we're fortunate to get an approval it will be reduced down to 72.7 percent. It's still in excess of what the C-2 zone requires or limits which is 60 percent however we hope that you'll find that it's a vast improvement over what's there now. So I think probably the best way to start this is Mr. Callaremi who is seated to my left I know he's familiar to many of you is going to testify and go over what's proposed at least onto Lot 43 and then Mr. Glasson that voice from the crowd on the last application will go through the more technical side of it and address both Mr. McGroarty and Mr. Buczynski's reports.

MR. WEISS: Let's do this let's start by swearing in Mr. Callaremi and we can swear in Mr. Glasson at the same time?

MR. BUZAK: That's fine.

(MICHAEL CALLAREMI SWORN IN FOR THE RECORD)  
(JAMES GLASSON SWORN IN FOR THE RECORD)

MR. CALLAREMI: I'd like to just circulate this to the Board.

MR. SELVAGGI: We'll mark this A-1 Mr. Callaremi will be referring to this in his testimony. And Mike if you can A-1 is really a packet of three documents if you can, and Mr. Buzak I defer to you whether you want A-1-1, A-1-2 or just keep the whole thing as A-1.

MR. BUZAK: Well will we be referring to the other pages independently?

MR. SELVAGGI: Yes.

MR. BUZAK: Well then why don't we mark them A-1, A-2 and A-3 and this way then we can refer to each one by exhibit number and they'll just be in the same order that they are stapled.

MR. SELVAGGI: All right while the documents are being passed out Mr. Callaremi how long have you had some affiliation with these three lots?

MR. CALLAREMI: From the very beginning?

MR. SELVAGGI: Yeah from the very beginning.

MR. CALLAREMI: Well we've been in town for 44 years I've worked for dad since 1970.

MR. SELVAGGI: All right and how long have you managed the Dealership on Lot 43?

MR. CALLAREMI: Since 1989 since his death.

MR. SELVAGGI: Okay. Now I think we're all familiar where it is we don't have to spend time on that. What are you being asked to do right now by GM which kind of prompted this application?

MR. CALLAREMI: Well as most people in town know we were wound down, fought to get back in and the new GM with their overall bankruptcy plan had developed a long term goal and that was to restyle all of their dealerships. Because they were losing brands and they were moving down to four brands they came out with three specific styles one for Chevy, one for Buick/GMC and one for Cadillac. And they've developed programs that help the dealers obtain some monies through sales to perform these required images that they're basically mandated on us. Some dealers have a little longer time periods to develop these, some don't, I'm one of the unfortunate. There are three waves that they develop I was put into wave 1 and the third wave is just beginning now so those dealers will be able to take two years from now.

MR. SELVAGGI: When we look at A-1 what are you being forced to do by GM?

MR. CALLAREMI: A-1 I took this off of the image site so that you'd have an understanding of what I have to try to perform here. The main sign, the Buick/GMC sign has already been put up in place that was phase I, that's just the face plate the black sign. What they want us to do now is remove that blue, we call it cheese grater sign and put this new entry tower that has this sloped top to it.

MR. SELVAGGI: You're looking at A-1?

MR. CALLAREMI: A-1 yes.

MR. SELVAGGI: And that's to the right of that any town?

MR. CALLAREMI: Yes it's the center, it's the entry tower basically. People are going to be directed to walk through that through your doors and into your showroom. They've designed this black ACM paneling and white ACM paneling and white ACM paneling that will go on the exterior. And one of their other biggest things is a drive-in service bay. So as you come as a customer you'll be able to drive inside, exit your car, walk into the service area, have your paperwork drawn, sit in the waiting area and have your car serviced and finished. I only gave you the interior to show you what some of the changes will be there. Most of its banners, lighting, floor colors, I'm not going to have to do exactly all of these because I have the Cadillac mixed in. I have gotten some waivers I've gotten a waiver on the floor so I don't have to rip my floor out that I just put in. I will have to make some interior wall changes but that's not a big deal.

MR. SELVAGGI: Now your proposal if you go to A-2 has it been approved by the Franchise?

MR. CALLAREMI: Yes there's stages that I had to go through and Gensler is this outside company that GM has hired. They come in and do a two day consultation, we agree to a floor plan that's acceptable and they then go back and draw the plans. We then . . . I have to hire an architect which I've done I've drawn those cads submitted them back to Gensler for approval and finally they have approved them although there's one issue in here on the flooring, I have an exemption from Detroit on that which I'll address later. But as it sits now I'm through that phase. The next phase is of course before the town to get final approvals here and then get permits and so forth and move forward.

MR. SELVAGGI: And your expected to have this all done by when?

MR. CALLAREMI: Well A-3 is the key, A-3 is a time line that they've kept me to. As you can see if you look I was supposed to have this second A-2 approval on October 2010 and it's now 2011. And the reason I'm so far behind is number one they didn't give me the Cadillac back voluntarily I had to fight for that. That process took me about six months to work through with them. I was unwilling to enter into this timeline until I knew what direction I was going because it definitely affected the overall design of A-1 because there were different images for different brands. And I said look, I'll submit the documentation which I did as you can see on time I entered it but I refused to go to the furthest steps until I had a clear direction of where I was going. So that put me back about six months and then dealing with Gensler put me back another four months at least from them just bouncing me back and forth. I got two exemptions from Detroit which took eight weeks at a clip, that took another four months right there. One was for the brick on the exterior of the building their documentation clearly says as long as it's a natural masonry you can go with that. Well that's what those bricks are. Gensler said no you have to paint it, I said I'm not painting the brick because it's going to peel and that's going to maintenance forever so I went back to Detroit asked for an exemption and just received that recently. So I'm now at the point where I'm under a timeline here which they want me to finish this project by March, I don't know if I can so time if of the essence for me. It is built into my contract my contract, my sales and service agreement expires on March 30, 2012, how ironic so does this. So I think that's an important factor for me to try to get these approvals if they can be obtained. If not then I have to deal

with it from a different angle with General Motors. But I think we tried to meet all of the requirements I've been as open as I can be, subdividing and giving up a lot and splitting it in order to increase the footage there to reduce the impervious. There's really not much more I can do in this plan.

MR. SELVAGGI: Now one of the things that's interesting is as it relates to have to the setback variance for that new signage or whatever entranceway. About 20 years ago or so you guys actually had more frontage correct?

MR. CALLAREMI: Yes.

MR. SELVAGGI: And what happened there?

MR. CALLAREMI: The State came in when my father was still alive, I think it was like 1982, there's an easement a right-of-way that goes from Naughtright to the exit of our driveway. Its 20 feet wide and it narrows at the very end it's an acceleration lane that they developed, the State. And they basically forced him to give up that frontage. If you go by our place you'll notice that our light poles have been moved inward you'll still see the old bases sitting there on the grass. You know we had to move those poles inward in order to get off of that right-of-way. We just never removed the bases they're still sitting there so we have double bases there. I do have documentation back at work for all of that if the Board requires it I'll provide it. But that took 20 feet off of the front.

MR. WEISS: That would have made a big difference then.

MR. CALLAREMI: Yeah.

MR. SELVAGGI: Well it would have eliminated one of the variances. I have nothing further for Mr. Callaremi I mean obviously he's available for questions now or . . . .

MR. WEISS: Does anybody have any questions for Mr. Callaremi? Scott?

MR. VAN NESS: Why is Cadillac not on your sign?

MR. CALLAREMI: It is this is just a rendering off of the computer. It's on my new sign that's there.

MR. STASZAK: He means on the plan.

MR. CALLAREMI: It's not on the plans? Cadillac is on the new one it's the standing . . .

MR. VAN NESS: It's the last page.

MR. SELVAGGI: Yeah you can't see it because of the photocopy.

MR. STASZAK: Blame Mr. Glasson.

MR. SELVAGGI: He was a big help on the application before us he's not doing me any good I knew that was going to happen.

MR. VAN NESS: Well that's really to me not important. As far as . . . can we talk about the trucks?

MR. WEISS: Sure.

MR. VAN NESS: The tractor trailers? I see on this plan that you do have a squashy traffic plan for your tractor trailer traffic.

MR. WEISS: Scott hold that for Mr. Glasson.

MR. SELVAGGI: Yeah he will . . .

MR. WEISS: I would think that . . . we will bring that back up I see where you're looking too. Anybody from the public have any questions for Mr. Callaremi? Well your direction was very helpful Mr. Callaremi and I certainly think that we can (inaudible) together and start working on this immediately.

MR. CALLAREMI: Thank you.

MR. WEISS: Mike next . . .

MR. SELVAGGI: Yeah Mr. Glasson, and I know Jim has been here . . . .

MR. WEISS: Yeah we don't need to swear him in. We know Mr. Glasson has been before us many times.

MR. SELVAGGI: All right Jim why don't we just walk the Board through what's proposed and then we can focus a little bit on the comments that Mr. McGroarty and Mr. Buczynski have.

MR. GLASSON: Okay this is my sheet 2 of 6 that you have before you.

MR. BUZAK: Mr. Glasson you're going to have to speak up and if we can mark that A-4.

MR. WEISS: 2 of 6 you said Jim?

MR. GLASSON: Yes.

MR. SELVAGGI: It's a colorized rendering.

MR. GLASSON: Colorized rendering of my sheet 2 of 6 entitled existing conditions. If I could just walk you through the three subject properties we have on the left side . . . .

MR. WEISS: Jim I'm going to stop you one more time I'm sorry about that, the date on this is 8/17/11?

MR. GLASSON: Yes.

MR. WEISS: Thank you.

MR. GLASSON: There are three lots that are part of this application Lot 41, Block 8100 which is 2.68 acres, the middle lot that is the lot that is going to be subdivided which is Lot 42, Block 8100 which is 1.42 acres and the dealership lot which is 3.24 acres Lot 43, Block 8100. All three lots are located on the eastbound side of Route 46 they're all located between what is now known as the Motion/Kia which was previous the Motion/Lincoln Mercury, and to the west the Mt. Olive Parkade the Burger King area. So these three lots fall within that area. All of the lots are located within your C-2 zone the C-2 zone requiring a minimum lot size of 2 acres, minimum lot width of 200, lot depth 250, your principal building setback 90 foot front, 60 foot side and 50 foot rear and there becoming the situation with existing Lot 42. We could go back and look at Lot 42 that is a 1.42 acre lot so that is sufficient in lot area for your C-2 it also has 156 feet of lot width or frontage being deficient from the 200 feet required. So that is the property that we are proposing to subdivide but I'll get into that further in a minute. Lot 41 as you can see just from my colored up version the majority of that property is wooded but the front side of that property Lot 41 shows a large paved area with two accesses off of Route 46 and 19,500 square feet of pavement with a parking lot in front and a small single-story 988 square foot building. That property is currently vacant meaning that there's no user it was previously a bank and it also was a truck sales center at one time. But the majority of that property, the front side of that property has been built upon it has a coverage of 25.4 percent. This middle lot Lot 42 which will be the lot that we are proposing as our subdivision the 1.42 acre lot previously had a single-family home that is the reason for the gravel driveway (inaudible) versus the lot along the westerly side line off of Route 46. That's the reason why you see an existing well located kind of centrally on the property there was a house back there. And that lot has again 156 feet of frontage and a depth of about 404 so it meets the requirement of the depth but it does not meet the width or the area requirement in the C-2. And Lot 43 being the dealership lot 3.42 acres that property has 436 feet of frontage on the highway Route 46, it has a westerly side line of 327, an easterly side line adjacent to the Kia of 267. The property is served right now, that dealership is served by an on lot well that's located on the east side of the building that "W" you see on your plan and the septic system is located on the westerly side of the building under the parking area. The site right now really doesn't have a lot of pavement demarcation out there it's kind of haphazard parking that's something we're going to get into with my site plan but there's approximately 178 spaces that I've shown on the plan. Although they do not conform to aisle widths some of the parking is on gravel areas along the shoulder that's this cross hatched area here and there's a lot of parking that's along the back property line so we do have some problems that currently exist with the proximity from parking to the side and rear property lines. The impervious coverage that you see on this plan is 89 percent that currently exists out there as this lot exists today. All of the lots by the way

are in the Highlands Preservation Area. They were designated for a Redevelopment Area for the Highlands by the town but they all fall in the Preservation Area. So anything we do has to fall within the Highlands guidelines. The second sheet I'm going to show you is just a small colored up or marked up version of my minor subdivision plan sheet 3 of 6 that you have again dated 8/17/11.

MR. BUZAK: Let's mark that A-5 Mr. Glasson.

MR. GLASSON: The outside highlighted area is the area of the three lots and this area that you see in blue here or marked in blue here is the area of Lot 42.

MR. WEISS: Jim I'm going to interrupt you just for the record that's now . . . A-5 is your minor subdivision plan.

MR. GLASSON: Yes.

MR. BUZAK: And what's the latest revision?

MR. GLASSON: 8/17/11 again.

MR. SELVAGGI: Sheet 3 of 6.

MR. GLASSON: Sheet 3 of 6. The area that you see marked in blue here is Lot 42 and this yellow line down the middle is our proposed subdivision line. And what we're doing here is taking about 31,000 square feet or about half of that frontage the 156 foot of frontage or 75 feet somewhere in that neighborhood and adding that to Lot 41 and taking the other half about 30,250 and adding that to the dealership. Now what that does for the dealership is a number of things, besides the conformance or the bringing the lot coverage more into conformance, there's presently an existing variance on the car dealership side setback. Right now there's a side setback nonconforming issue along the westerly side there's a 46.6 foot setback along that side where your zone requires 60. When we do this subdivision that nonconforming now is eliminated and the side setback becomes 122 so we've eliminated that by this subdivision. We've also reduced the coverage that would exist on Lot 41 from 25 to 23 and we've reduced our coverage which I'll get into with the site plan on our property from the 89 to the 72. This property originally received site plan approval in I believe it was 1973 and I think we looked it up when we in the town that at the time that zoning allowed for a 70 percent lot coverage so we are getting it closer in conformance with what was originally approved or intended to be approved at the time. A third plan I'd like to show you after this subdivision plan is my site layout plan sheet 4 of 6 that deals primarily with the dealership lot.

MR. SELVAGGI: A-6.

MR. GLASSON: That also has a date of 8/17/11.

MR. WEISS: A-6 is sheet 4.

MR. GLASSON: This is a blow up at 30 scale of just the dealership lot with the additional area added. The additional 30,000 square feet is now added to this property bringing the lot area up to about 3.94 acres increasing it. As Mr. Callaremi stated we are looking to put a drive-up area and that this appendage that you see in the northeast corner of the building 22 by 48 it's about 1,020 square feet it would meet the setback requirements it's 233 off of the right side or the easterly side where 60 feet is required and it's 113 feet off of the front setback where 90 feet is required. You can see the setback lines shown on the plan if you look at that sheet 4. This would allow easy access for the customers garage door, two cars can fit they basically drive in their in from the elements and then they can walk in and wait in the waiting room for their car to be serviced. The car is then taken from here into the service door it's not actually worked on here this is just a drive-up area. We have added this entry element. It's hard to see on my plan but if you look at sheet A-2 of the architectural plans, I don't know if everybody got copies of those, but the architectural plan sheet A-2 shows probably the same view that you see in that picture that Mr. Callaremi gave you on that overhang or that connection.

MR. SELVAGGI: A-1.

MR. GLASSON: A-1?

MR. SELVAGGI: That's what Mr. Callaremi . . . .

MR. GLASSON: Right I'm sorry I'm referring to his . . . the architect is A-2 plan is the one that shows that. Really this connection is only made by an overhead connection so it does reduce our front setback on the front of the building from the 90 feet that exists to 87.3 but it's not actually to an occupied building it's to this façade area that's added the element that we're adding the front side of the building. What this revised alignment with the additional 30,000 square feet has allowed us to do if you can look at this plan now you can see we've provided 25 foot aisle ways around the building which the building did not previously have if you looked at the existing conditions plan. We've also provided a conforming parking layout with marked striping, marked aisle ways and marked spaces. We've designated display spaces, we've designated service spaces, employee spaces, we have a total shown on the plan of 186 spaces and these spaces now are not in the side or rear setback that presently exist on the site. We've eliminated the spaces that are located in the gravel area that was along this rear area and along this side lot, we've eliminated those and also paved an area that was gravel to now put all of these spaces that were . . . some that were in gravel in pavement. Now any paving that we're doing is in an area that already had gravel and already was impervious coverage so we're not adding coverage we're actually taking out . . . we're adding 10,000 square feet of pavement in areas that already are gravel but we're removing an additional 8,000 square feet of gravel. So that in combination with the additional 30,000 square feet we're adding to the lot, I'm throwing a lot of numbers at you, does reduce our coverage to the 72 percent from the 89. So we've reduced our coverage on this property by about 17 percent and we've also eliminated our nonconformity or our potential request for waivers for the rear and side setback. With regard to the loading space as Mr. Van Ness said we now have the ability to move a tractor trailer through this parking lot and utilize a loading space we have a 12 by 60 loading space in the rear of the property although it's not curbed it is marked such we are not proposing any curbing within our parking area only because there is no curbing within our parking area only because there is no curbing presently. So any areas that we are adding pavement on this side and along this side we are asking for a waiver from curbing because the ordinance says anything over 10 spaces, there's nothing out there presently curbed we are not proposing to curb it. There are existing inlets located within the parking lot there is no run off problem the property slopes presently from the west to the east at about 4 percent. There are no problems with any run off being directed towards the Kia dealership at the present time. There's actually low points in the parking lot in these areas that are marked with inlets. But the loading space can accommodate a tractor trailer for any deliveries for cars, any deliveries for . . . he doesn't have part deliveries in tractor trailers but that doesn't presently exist at the site. Presently if a tractor trailer were to pull in there it is kind of a nightmare with the way the cars are parked, there isn't really a lot of marking of the parking spaces that exists out there. We now have designated the customer spaces with the correct number of handicap spaces in front of the building. We've also designated specific display spaces, specific display aisles and we've separated the service areas for service access and the employee areas to the back corner. So we tried to clean up the site and we're going to have that all marked and the pavement marked accordingly. We do still need a waiver for the setback from the parking from the front property line where you require 20 feet or 25 feet from the right-of-way, as Mr. Callaremi stated at one point they took 20 feet but we still have areas that are as close as 5.5 to that front property line although they're 20 feet from the curb line of Route 46 on that westerly side there is still some areas that are as close as 5.5 feet.

MR. BEDELL: Say that again Jim.

MR. GLASSON: If you look at our existing display parking along our frontage we are as close as 5.5 feet to that front right-of-way line.

MR. BEDELL: Okay.

MR. GLASSON: And that is a condition that basically took place, the display spaces they have not changed that's where they are now but that has not changed. But what has changed is the DOT had to take 20 feet but we still do have an actual physical area to the curb line of 20 feet. So if you look out there now there's still 20 feet of grass but physically there's only 5.5 to the property line in that location. We have two new pole mounted lights that we proposed on the lighting plan, we have three new building mounted lights I know there was a problem with two of the roof mounted lights that are out there because they're kind of pointing up and they kind of create a glare we've eliminated those. We have as Mr. Callaremi said about the sign the sign has been refaced out here although this is nonconforming in its height in its face that's an existing sign face we've just refaced it. We do have a building mounted sign a wall sign that's 103 square feet and we've shown a calculation on the plan that there was an allowable building mounted sign of 129 so we're underneath that for our proposed building mounted sign face. Again we need a variance for our coverage 60 percent in the zone, 89 existing, 72.7 proposed but we feel we've done an admirable job of pulling our parking lot back within side these setbacks along the side adding that area over here. I also want to point out our front setback 90 feet front, now we're going to the 87 but we still are physically staying 90 feet to the building it's to

this façade or this sign façade that's the element that GM is requiring. We now meet the side setback for the building the 122 versus the 46, we now meet the parking setbacks along the side and rear, we still need a waiver for the parking within 25 feet of the right-of-way in the front, we need a waiver for the curb in the curb parking area. That really kind of sums it up we've actually if you looked at the floor area ratio the building coverage and the lot coverage although we've added a portion of building a small 1,000 square feet because we increased the lot area by a decent amount the actual building coverage or floor area ratio, building coverage and lot coverage have all been reduced mainly because we've added 30,000 square feet of area to the lot but only adding 1,000 square feet to the building. So all of those have been reduced and all of those are in conformance with the ordinance the C-2 zone.

MR. SELVAGGI: The setback the front setback I mean there's really nothing given the current location of the building itself you can do to eliminate that.

MR. GLASSON: Not with that element they're asking for.

MR. SELVAGGI: Yeah.

MR. GLASSON: I mean because it's attached to the building I mean I guess if it wasn't attached to the building it wouldn't account towards it but it does have an attachment to the top of the building.

MR. SELVAGGI: And yet that setback isn't that unique or out of place with other uses along that Route 46 corridor is it? I mean if you look at the Kia dealership they're about the same distance would you say Jim?

MR. GLASSON: I think they're actually closer because the right-of-way line is closer to their front I don't think they're even setback as much as we are.

MR. SELVAGGI: Now did you have occasion to look at Gene Buczynski's and Chuck McGroarty's reports?

MR. GLASSON: Yes.

MR. SELVAGGI: Whichever one you want to start with . . .

MR. GLASSON: Do they want to go over them and I'll . . .

MR. SELVAGGI: I mean I don't know how you guys want to handle it.

MR. BUCZYNSKI: I can go over mine because most . . . there's only I think one item Jim regarding my concern relative to, it's number 8 on page 3 and that was relative to proper signage and marking to denote which parking spaces are specific for the employees and customers.

MR. GLASSON: Yeah I've marked it on my plan but I have to have some way of doing that physically.

MR. BUCZYNSKI: Correct.

MR. GLASSON: You know I'll have to come up with some kind of signage.

MR. BUCZYNSKI: Okay.

MR. GLASSON: Meaning some type of way of noting to the people physically out there this is an employee space, this is customer because otherwise you're going to have . . .

MR. BUCZYNSKI: Well you'll know where they're supposed to park that's all.

MR. CALLAREMI: Yeah we do that as we deliver them as we're selling we do a complete walk-thru. We walk people back to service, we introduce them into service and show them where their parking spaces are for service and direct them through all of the processes that would be expected of them when returning to the dealership. We could do it in a different color even and continue that same pattern. No one has gotten confused to this point everyone seems to park in a designated area.

MR. GLASSON: That might be an easy way to do it have color.

MR. CALLAREMI: We can do it in different color mark out.

MR. GLASSON: Right.

MR. BUCZYNSKI: That's the only item really for any type of comment.

MR. CALLAREMI: If I may say there are curbs across the property there's cement blocks there for parking. Jim I don't know if you noticed them they're there.

MR. GLASSON: Along here.

MR. CALLAREMI: All the way across the front.

MR. GLASSON: Right they're just isn't . . .

MR. CALLAREMI: Not on that (inaudible) side no.

MR. BUCZYNSKI: I have nothing else in my report for comments.

MR. WEISS: Okay. Mike let me . . . you're not going to present a planner are you?

MR. SELVAGGI: No.

MR. WEISS: Okay so maybe Chuck you'll go over . . .

MR. BUCZYNSKI: Or an architect right?

MR. SELVAGGI: Unfortunately our architect is . . . he's got Lou Gerrig's disease yeah so he couldn't make it tonight.

MR. WEISS: That's a good enough answer. So let's move it along Chuck perhaps you would like to review your report?

MR. MCGROARTY: Well I think what I'd like to . . . I mean I have some comments in the back just in terms of things to be done if this were approved and we can skip through all of the descriptive parts of the report. I guess Mr. Glasson has addressed to the variances and the waivers, the parking proximity to the property boundaries are technically we treat them as waivers rather than variances. But he's given you I think the basis for that. I think we should just for the record make clear about two things. First as Jim has mentioned the site is way over the permitted impervious coverage today its 89 and 60 percent is the limit today. I mean Jim mentioned back in the 1970's when it was approved it might have been different. They're bringing down the total impervious coverage by using the undeveloped lot in between as you heard. When we met with Mr. Selvaggi, Mr. Callaremi, Mr. Glasson, myself, Gene, Mr. Buzak, Catherine, we kicked around we said what about taking that middle lot in its entirety and attaching it to this lot and that would bring down your impervious more and perhaps even closer to the 60 percent. I don't know if Jim, if Mr. Glasson's testimony really touched on this he did mention the Highlands and we thought that, and let me just . . . give me a moment because I think it would be helpful for the record if the Board in your deliberations, but we thought this arrangement made more sense even though it would not reduce the impervious coverage beyond what is proposed this evening on the car dealership lot. The reason why we thought it made more sense is because it also adds acreage to the third lot in this whole scenario which is Lot 41 which is developed and because it's in the Preservation Area any improvements to that lot would have to go through Highlands, it would have to look at the exemption and what it does is it increases the viability of the development or redevelopment of Lot 41, it eliminates the difficulty of dealing with the vacant lot in between the two by virtue of this minor subdivision and by adding whatever acreage they can to Lot 43 it improves that situation a little bit to. I guess I take for granted that we're all familiar with this stuff and I shouldn't because there's no reason why you folks would know all of the particulars of the Highlands language and it's frightening to think that I even know it. But what happens I think is that we have identified this area as a potential development area, the township has you have in part of the draft documents that have been submitted. So by doing this we're being . . . if you were to approve this minor subdivision as proposed and the site plan it would be consistent with the concept of a redevelopment area within the Highlands. And so I know that Jim mentioned that briefly but that's a long way, a long winded way of saying that the variance here I'm sure Jim meant to say this is probably akin to a c-2 type variance because what it's doing is it is meeting not only the objectives of Mr. Callaremi but it is furthering the objectives of Mt. Olive in terms of seeing this area of Route 46 as having viability going forward under Highlands. That's it. And then on the building setback I don't think I need to say anymore Jim has already mentioned the fact that the history here and the loss and the frontage and the like and it's probably more in this case a

c-1 type variance because of the position of the lawfully existing buildings on the site and so on. Then with regard to the review comments again if the Board is to approve this application as Mr. Glasson has mentioned there will be improvements to the existing car dealership property that I think we all at least once ourselves when we met with them thought it would be a vast improvement. There will be gravel removed and so on, as Jim mentioned the roof mounted lights will be removed. I've listed what I think are appropriate conditions under item 6.1 on pages 4 and 5 of my report I don't know if the Board has had a chance to look at it, I don't know if the applicant has seen it and objects to any of the comments that are offered there. Jim in the interest of time I won't read through them unless you want me to or unless the applicant disagrees with any of those suggestions. And then 6.2 again I'm making a suggestion there that a certain gravel area on the middle lot which is vacant be removed unless there's some good reason why it should stay, and 6.3 is just emphasizing that the flood lights are not permitted in the ordinance and the light standards have to be adjusted to reflect that . . . the light fixtures rather have to be adjusted so that the light source will be directed downward.

MR. SELVAGGI: The concern that we had Chuck with 6.2 is because it's in the Highlands Preservation Area just so every knows what happens is your entitled to go 25 percent more of whatever your coverage is currently under the Highlands. We're worried about eliminating that and depending on when the development is how do you go about affirming what was there and what becomes the base line. You know that's the reluctance and quite frankly the cost but more so the former which is we don't want to be in a dispute and when and if this gets redeveloped, trying to establish what the parameters were.

MR. GLASSON: Yeah I would say that the place that you could remove any gravel that exists would be on any remainder on Lot 43, the new Lot 43 but you don't want to remove anything that you're adding from Lot 42 to Lot 41 because if that lot is developed in the future and you do go with an exemption you're going to want to add this gravel to your potential area because that's going to drive up your coverage. So we could eliminate the gravel that's any gravel, which we would intend to do because as I show you on my site plan although I don't really say it there is a gravel area right here and that's right now grassed. But once you cross that new property line we would intend to leave that gravel driveway because now that's going to be added to Lot 41 and that's going to help us. Even if we do go for redevelopment there's no guarantee that redevelopment is going to happen you'd give up some potential exemption material down the road and I would advise them not to give that up.

MR. MCGROARTY: If I may I don't disagree with, for what it's worth, I don't disagree with that position I thought I was talking about, and perhaps I didn't make it clear, I thought I was talking about the gravel though which would become part of Lot 43.

MR. GLASSON: Anything that becomes part of Lot 43 is gone.

MR. MCGROARTY: Is it clear on the plan? I wasn't clear on your plan that on Lot 42 that when it's merged to 43 that gravel area will be removed.

MR. GLASSON: Yeah I mean I don't say it but I've shown that the only thing left on here is . . . I can make a statement that anything that ends up still left on Lot 43 would be removed.

MR. MCGROARTY: Right so on sheet 4 what's shown remaining that would be on the Lot 41.

MR. GLASSON: Yes.

MR. MCGROARTY: One other point if I may, on sheet if I may just go back to sheet 3 there are some improvements what looked like they were associated with Lot 41 this shows up on your minor subdivision plans, and they look like they extend over on Lot 39 which is not your property. Do I have it right there?

MR. CALLAREMI: No it is my property.

MR. MCGROARTY: It is your property.

MR. CALLAREMI: Yeah Lot 39 and 40 are mine.

MR. MCGROARTY: Lot 39 is yours as well.

MR. CALLAREMI: Yes.

MR. MCGROARTY: Oh okay.

MR. CALLAREMI: I go all the way up to the A&P.

MR. MCGROARTY: Okay so I mean why are those improvements, why is there a common driveway coming across the property as long as we're talking about it.

MR. CALLAREMI: Well when we came before the Board in 1989 for a resolution, I still have that; we asked the town we leased Lot 39 from the State at the time. We needed further parking area the State gave a lease we came before the Board to get approvals the Board gave us an approval to stone that whole area which it is it's all gravel. But the Board also dictated to us that we were not to cross into the highway we had to put in gravel to keep us off of the highway when going between the lots. Back then it was Lot 7 and 8, Lot 7 is what's 39 today, Lot 8 is what's 40 today you re-designated them years ago. I'm giving you back history on that. But we were told by the resolution that to use Lot 7 which the State owned at the time for display we would have to not go on the highway but we have to cross Lot 8 which is now Lot 40. We weren't allowed to go onto the highway so we put gravel in to accommodate that.

MR. MCGROARTY: So the short answer though is that you got approvals in the past for working in the gravel.

MR. CALLAREMI: Yes in 1989.

MR. MCGROARTY: I was not aware of that thank you. Mr. Selvaggi do you have any objections to the other comments?

MR. SELVAGGI: I think the balance . . . I think the bulk of 6.1 and yeah those were fine.

MR. MCGROARTY: Right. I mean they're really what Jim has on the plan anyway.

MR. SELVAGGI: Yeah that's exactly right.

MR. MCGROARTY: With that Mr. Chairman I don't have anything else.

MR. SELVAGGI: And I will say I mean I take no objection to Mr. McGroarty discussion, I had and he took a lot of my steam and I know you have other applications but I have the draft Highlands Master Plan or Land Use Plan for the township and that was the justification the reason why we did it. And the bottom line is the simplest way the more dirt you have on these preserved lots the better option you have going forward. We don't have anything in mind yet and we really don't know but you certainly enhance your development potential, and this is a property these properties were identified in the Draft Plan as being subject to redevelopment. And Mr. McGroarty who prepared this said it's the intent of this plan to encourage redevelopment where appropriate within the Highlands Preservation Area to ensure optimal and efficient use of the land. And it's our view that subdividing this in half rather than giving Lot 42 entirely to Lot 43 enhances the development, future development potential of Lot 41 so that's the approach that we took. So Mr. McGroarty is right for the impervious coverage variance that would be a c-2 because it's a better planning alternative and then the c-2 for the front yard setback that would be a c-1. So that's where we are now.

MR. WEISS: Anybody have any questions for Mr. Glasson? Anybody from the public have any questions for Mr. Glasson? Mike do you have anything else?

MR. SELVAGGI: No I mean . . . You know subdivision, site plan and the variances and hopefully Mr. Callaremi you know all of those can fall into place so he can beat that March 31 deadline.

MR. WEISS: Anybody from the public have any questions or comments about this application? Seeing none, Planning Board anybody have any comments? Nelson?

MR. RUSSELL: I think Mr. Callaremi is stuck between the GM bureaucracy and the municipal bureaucracy I think if we could minimize our bureaucracy for him he has enough of a battle to fight.

MR. WEISS: Nelson I personally agree one hundred percent I usually like to hear a planning testimony when you're asking for variances but I think in this case we have a fairly productive piece of commercial property in Mt. Olive that's now being made better. Mr. Glasson certainly explained that to us and again being in that neighborly mode if we can help Mr. Callaremi it sounds like . . . listen we all

followed that story in the paper and we all have sympathy. And it certainly seems like from a technical end our experts and our professionals don't have a problem with it and boy I can't imagine the Planning Board will either. Anybody else?

MR. FLEISCHNER: Can I ask a question?

MR. WEISS: Sure.

MR. FLEISCHNER: Rene raised something interesting and this is really something for Ed. I to also signed the petition for Mr. Callaremi does that preclude us from voting on this application? Because of course at that time we did not know that Mr. Callaremi would come before this Board.

MR. WEISS: I would imagine that their petition was to support Mr. Callaremi's effort to keep a business.

MR. CALLAREMI: That was the intention.

MR. BUZAK: I concur with Mr. Weiss' opinion.

MR. WEISS: Well we understand each other I think that being said let me entertain a motion.

MR. MANIA: I'll make the motion Mr. Chairman. I move that we approve PB 11-15 Amended with the variances.

MR. RUSSELL: I'll second it.

MR. WEISS: And if we were to approve such an application Mr. Buzak I don't believe there were conditions but maybe you want to go over some that you noted.

MR. BUZAK: Well we're going to add the condition again among the . . . or in addition to the usual conditions we're going to provide some condition with regard to identifying the spaces for the various needs however that's going to be done subject to the approval of the engineer. We're going to have conditions set forth in Mr. McGroarty's report clarifying that his condition 6.2 will only be the removal of unneeded gravel area that is appended to Lot 43 but not any gravel area that's appended to Lot 41. We talked about the waivers that will be in there I assume that we're talking about both variances and waivers that the Board had discussed and Mr. Glasson and Mr. McGroarty had discussed. And that's it Mr. Chairman.

MR. WEISS: Okay no problems with our motion and second with that. Catherine roll call.

MRS. NATAFALUSY: Well I have a question, are we going to require a zoning permit prior to getting building permits or Mr. Buczynski will he need a preconstruction meeting for anything on this?

MR. BUCZYNSKI: No the site is basically existing you know I would think a zoning permit.

MRS. NATAFALUSY: Okay.

MR. WEISS: Why would they need a zoning permit they already have the building . . .

MRS. NATAFALUSY: Well a zoning permit to put the signage up that kind of stuff. I'm just asking.

MR. CALLAREMI: I'm just curious as to . . . I understand the guidelines that this would not be adopted until the next Board meeting. Is there any provisions or any way I can get something before that so I can go back to GM? You see I have another gate to meet I'm jumping through hoops basically and if I can get the next gate with that which is start of construction it's going to put me in a better position with GM.

MR. SELVAGGI: Could I make a suggestion? Perhaps if Catherine on her letterhead just issues something, I mean we're not going to be . . . you've got to get that approval before you can go ahead with the building permit anyway.

MR. CALLAREMI: Yeah GM still has to finalize the approvals.

MR. SELVAGGI: We wouldn't necessarily be relying upon that for the building permit process because that's . . . he can't apply for that until he gets the GM approval. So it would really just be to satisfy GM knowing that this was in fact approved.

MR. CALLAREMI: Right.

MRS. NATAFALUSY: Oh okay I understand.

MR. WEISS: So maybe a letter from Catherine or myself.

MR. FLEISCHNER: Why not just type up the minutes of this meeting after tonight.

MR. WEISS: That's not going to happen.

MR. SELVAGGI: They won't read that much.

MR. FLEISCHNER: Well then you know you extract that portion.

MR. WEISS: I don't think that that's unrealistic Catherine you and I can do a letter.

MRS. NATAFALUSY: I can draft something.

MR. CALLAREMI: If there's something that you can do that I can push through.

MRS. NATAFALUSY: Right.

MR. WEISS: Mike we can kind of confirm that this hearing was held tonight and in a few minutes perhaps an approval was granted and we'll be memorializing the resolution most likely dated November 14 or so.

MR. SELVAGGI: I don't even think they're going to be that sophisticated I think they just want to know that it was approved. And even the subdivision you can leave all of that out they don't care about that.

MR. WEISS: Right just that perhaps it was approved.

MR. SELVAGGI: Yeah the site plan.

MR. BUCZYNSKI: Just one issue too on the zoning permit I don't think we need a developer's agreement for this site because it's all existing but there has to be some determination of an inspection escrow account for the in-house town inspector to go out and make inspections. So just note that the amount of the escrow account for inspection fees to be determined.

MR. SELVAGGI: That's fine.

MR. WEISS: And that will become another condition of approval.

MR. MCGROARTY: And there will be a deed I imagine the minor will be done by way of deeds?

MR. BUZAK: Oh yes, yes.

MR. BUCZYNSKI: They submitted the descriptions already so you have to submit the deeds.

MR. SELVAGGI: Now Mr. Buczynski does that go to you or does that go to the township attorney?

MR. BUZAK: To us and to Gene.

MR. SELVAGGI: All right.

MR. WEISS: Okay maybe we should stop before we find more conditions. Catherine roll call.

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

Mayor Scapicchio - yes  
Jim Staszak - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Howie Weiss - yes

MR. WEISS: And Mr. Callaremi good luck to you.

MR. CALLAREMI: Thank you.

MR. SELVAGGI: Thank you thanks for all of your help.

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**APPLICATION #PB 11-24 – OLD HICKORY ESTATES**

MR. WEISS: Okay let us bring on our next development matter for the evening which is PB 11-24 Old Hickory Estates Block 3002, Lot 3 it's at 6 Fourth Street requesting a variance encroaching within a rear yard setback. Good evening gentlemen thank you waiting, thank you for patience.

MR. LEVITT: Good evening thank you for hearing us Lee Levitt on behalf of Old Hickory Estates. I guess first we can get right into this I'd like to have the one witness I have this evening Wyatt Lineburg sworn in.

MR. BUZAK: Mr. Levitt could you just spell your name?

MR. LEVITT: Yes it's (L-E-V-I-T-T-) last name, 8 Wood Hollow Road, Parsippany, New Jersey.

MR. BUZAK: Thank you sir.

(WYATT LINEBURG SWORN IN FOR THE RECORD)

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

MR. LINEBURG: Wyatt Lineburg.

MR. BUZAK: I guess I'm going to ask you to spell your first name as well.

MR. LINEBURG: Wyatt (W-Y-A-T-T).

MR. BUZAK: Okay and the last name?

MR. LINEBURG: Lineburg (L-I-N-E-B-U-R-G).

MR. BUZAK: Thank you Mr. Lineburg. Mr. Levitt?

MR. LEVITT: Thank you ladies and gentlemen of the Board just very briefly this is a C-1 variance application by Old Hickory seeking approval of what . . . it's a new construction home that is already built. There was an added on section of rear decking extending from I believe the kitchen area over to what was the previously approved deck. And I'll wadia Mr. Lineburg on why the extra decking came to be. So we do ask that you listen to the testimony and any questions there from thank you. Mr. Lineburg were you involved with the construction of the new dwelling at 6 Fourth Street?

MR. LINEBURG: Yes.

MR. LEVITT: And to the best of your knowledge was all approvals obtained for that structure?

MR. LINEBURG: Yes.

MR. LEVITT: Okay all Planning Board and Engineering and Building Permits were issued.

MR. LINEBURG: Yes.

MR. LEVITT: Okay and when the building permits were initially issued did the building plans call for a rear walkway decking on the property?

MR. LINEBURG: We had a proposed sidewalk out of brick and a patio where the patio doors were.

MR. LEVITT: So the initial plans called for a patio door basically on grade with a few steps and then some patio pavers of natural stone with a walkway of stone?

MR. LINEBURG: Yeah it gave a stone or concrete.

MR. LEVITT: And then there would be a deck off of the kitchen I believe is the area?

MR. LINEBURG: It's like a sunroom.

MR. LEVITT: A sunroom okay. And when you started construction on the property did there become a field condition determination that required you to do something further with the home?

MR. LINEBURG: Yes.

MR. LEVITT: Okay and what was the condition and what did you guys do with the structure?

MR. LINEBURG: When we dug a hole to see how deep we could actually put the footing and at that time Frank, not Frank the engineer today, Frank Dolan we dug a hole and we seen where the water table was so we raised it up.

MR. LEVITT: You raised the actual foundation?

MR. LINEBURG: Yes.

MR. LEVITT: Okay and once the completed raised foundation was that still under the 2-1/2 stories 35-1/2 feet?

MR. LINEBURG: Yes.

MR. LEVITT: Okay upon raising the house did that create a condition in your mind of a safety issue with where the proposed steps leading from the back of the house were coming out?

MR. LINEBURG: Yes because the steps ended up going from 3 to 4 steps to I believe its 8 steps right now.

MR. LEVITT: Okay and did you make a change or did you add some additional decking that is part of the application tonight?

MR. LINEBURG: Yes I assumed being as we had the patio out there and the sidewalk I could just instead of putting all of that down there being that we're up so much higher and the stairs would have been, like to me it was like a dangerous situation. And now we're getting higher so I just built a deck all the way over to the deck, the runway and I wasn't covering any more area then I was covering from the beginning because we already had it for the patio and the sidewalk so I didn't think it was going to be a big problem and it didn't even come to that until after I was doing something else and I got Frank involved and he told me when we went over it.

MR. LEVITT: All right so to the best of your understanding your original plans called for a, I believe, it was a 10 by 10 foot stone patio with a stone walkway and the condition that you eventually created with the decking you believed was in essence similar to what was proposed. Is that correct?

MR. LINEBURG: Yes.

MR. LEVITT: Okay and you later came to learn that there's a technical difference between the stone patio and a wood structure.

MR. LINEBURG: Yes.

MR. LEVITT: And that that wood structure encroached into the setback line by I believe it's just under 4 feet correct?

MR. LINEBURG: Yes.

MR. LEVITT: Okay and that's what prompted this variance application correct?

MR. LINEBURG: Yes.

MR. LEVITT: The house that was built at 6 Fourth Street that house is under contract to be sold correct?

MR. LINEBURG: Yes.

MR. LEVITT: And in fact that closing is about to occur correct?

MR. LINEBURG: Yes.

MR. LEVITT: And you've spoken with the purchasers correct?

MR. LINEBURG: Yes.

MR. LEVITT: And could you relate to the best of your understanding their desire with relation to the walkway versus have 8 steps going down from the rear of the house?

MR. LINEBURG: Yes they would rather have the deck, the walkway over to the deck that's there now versus the stairs because it's up a lot higher than it would have normally been.

MR. WEISS: You know what let me interrupt real quick. I do see that we have some photographs maybe . . . .

MRS. NATAFALUSY: It might be helpful for the Board to look at these so they can . . . .

MR. LEVITT: Thank you if you could have those marked as A-1.

MR. BUZAK: We'll mark them A-1 through A-4.

MR. LEVITT: Thank you very much.

MR. WEISS: And these are images . . . who took these photographs?

MRS. NATAFALUSY: The applicant submitted them.

MR. WEISS: Okay.

MR. LEVITT: Mr. Lineburg you took those photographs?

MR. LINEBURG: Yes.

MR. LEVITT: And that's an indication of what presently exists at the site?

MR. LINEBURG: Yes.

MS. GADELHA: When was this construction done?

MR. LEVITT: Recently but I'll let Mr. Lineburg . . . .

MR. LINEBURG: That was done in 2008.

MS. GADELHA: 2008.

MR. LINEBURG: Yes.

MR. LEVITT: You're referring to the added decking?

MS. GADELHA: To the decking yes.

MR. LEVITT: To the decking.

- MR. BUZAK: Would it be easier if Mr. Lineburg explains those photographs?
- MR. WEISS: There's actually five photographs.
- MR. BUZAK: Oh there is.
- MR. WEISS: So we'll mark them A-1 through A-5. No this one is a duplication 3 and 4 is the same picture.
- MR. BUZAK: All right so I'll make this one A-4.
- MR. WEISS: Well let's do that we'll let the pictures get down there and then Mr. Lineburg you can explain to us . . . . I don't see a picture of the stairs that you're talking about but maybe you can . . .
- MR. LEVITT: I don't think the stairs were ever . . . . Mr. Lineburg were the stairs ever built?
- MR. LINEBURG: Yes the stairs are on the deck.
- MR. WEISS: Okay.
- MR. LINEBURG: On the deck itself and then the walkway comes across to the deck.
- MR. LEVITT: So just so we're clear where the walkway comes across out of the door there was a proposed stairway that would have gone from 3 to 4 steps to 8 because of the raising of the house.
- MR. LINEBURG: Yes.
- MR. BUZAK: Mr. Levitt while the photographs are making their way down the dais here all of us have the map from Jaman Engineering survey of the property.
- MR. LEVITT: I do not have that I apologize I was called in at the last . . .
- MR. BUZAK: The one document that we . . . .
- MR. LEVITT: I apologize to the Board for family you jump in at the last second.
- MR. BUZAK: Perhaps you can stand up hold that up if you would and can you explain because I'm having difficulty even seeing where a deck is on this because it doesn't show unless I'm missing it somewhere. So can you show on that survey where all of these items are.
- MR. LINEBURG: All if you're looking at the Fourth Street your right side up looking on this side of the property you're going to see . . . .
- MR. BUZAK: Which is the westerly side of the property where the chimney is and the wood deck.
- MR. LINEBURG: Yes.
- MR. BUZAK: Okay.
- MR. LINEBURG: And you'll see a set of stairs right in front coming down by where the deck is.
- MR. BUZAK: Yes we see that.
- MR. LINEBURG: Okay across the back you'll see a little line where the walkway, the wooded walkway now is from the staircase over like to where it says dwelling.
- MR. BUZAK: Yes we see that.
- MR. LINEBURG: Okay that's a sliding door right there.
- MR. LEVITT: Over by the line that points up to 31.81?

MR. LINEBURG: Yeah this line right here.

MR. LEVITT: Okay which would be the easterly line that's marked 31.81 that points . . . there's an existing slider at that point coming out of the kitchen?

MR. LINEBURG: Yes.

MR. LEVITT: Okay and at that point was where the proposed stairs were originally supposed to be but because of the raising of the house a walkway was constructed back west to where the stairs are presently existing.

MR. BUZAK: Okay and it's that walkway . . . .

MR. LEVITT: That encroaches on the setback line correct by a little under four feet. All other decking where it states what deck on it was on the original proposed plans did not encroach on the setback line and was in conformity. Again the original plans which are not on this survey did call for I guess where the two distance markers are called for a 10 by 10 stone patio down there where . . .

MR. BUZAK: On grade.

MR. LEVITT: On grade correct and you would have 3 or 4 steps which would not have violated the setback because of the nature of stairs and stone patios as opposed to decking which would be a structure and I think what Mr. Lineburg testified to is the fact that in his mind at that time they were analogist as opposed to a violation therefore requiring the variance.

MR. BUZAK: Okay. And the alternative here Mr. Lineburg would be to maintain the patio at grade but then you would have a, I believe your testimony was about 8 steps or 10 steps going from the sliding door down to that patio on grade. Is that correct?

MR. LEVITT: Yes which would not be as aesthetically pleasing and potentially a little more unsafe.

MR. BUZAK: Now will the patio remain and will you access it then after you go off . . . when you go down the steps on the deck will you then be able to access the patio?

MR. LINEBURG: No it's just blue stones on . . . .

MR. LEVITT: 2 by 2 blue stones?

MR. LINEBURG: 2 by 3 blue stones two of them together where it comes down and it's got stone base under it.

MR. LEVITT: So in fact the impervious coverage of the 10 by 10 stone patio has been removed and replaced by whatever . . . .

MR. BUZAK: Something smaller.

MR. LEVITT: Something smaller or less intense application in that fact.

MR. WEISS: What we have in front of us to then is, Catherine we have your department review report and I suppose really the only thing to discuss about this is that we can confirm that the applicant noticed properly?

MRS. NATAFALUSY: Yes.

MR. WEISS: Contacted his neighbors and I suppose . . .

MRS. NATAFALUSY: Yes and the newspaper.

MR. WEISS: And the newspaper. Is there anybody from, any of your neighbors here sir are you a neighbor?

Audience: No.

MR. WEISS: So the record will show that there are no neighbors here I'll take that as there's no objection from your neighbors I know that Fourth Street the neighborhood that you live in are fairly close smaller lots and I would imagine that if anybody had a problem they would certainly be able to speak up and I see nobody here so that's always a concern of mine. Any issues from your report Catherine?

MRS. NATAFALUSY: No we just have to identify the photographs if we are going to remark them as exhibits. Unless you just want to say A-1 through A-4?

MR. WEISS: We have A-1 through A-4 of the photographs Ed did write on the back of them.

MRS. NATAFALUSY: Okay.

MR. WEISS: I don't know we really haven't, if you want have Mr. Lineburg testify that's certainly okay.

MR. LEVITT: Mr. Lineburg I'm going to show you what's been marked A-1 through A-4 and show you the first photograph marked A-1 if you could describe that photograph. What's depicted in it?

MR. LINEBURG: Basically you can't . . . the staircase is right where the picture is cut off.

MR. BUZAK: To the left of the house.

MR. LINEBURG: Yeah and I was mainly trying to get this piece for you to show you. And there should be as you can see . . .

MR. LEVITT: This is A-4.

MR. LINEBURG: Yeah it's the width of it off of the house. This one is just showing how wide the step is.

MR. BUZAK: Where were you standing at the time that you took that photograph on the deck?

MR. LINEBURG: Yeah on the . . . back to the stairs I was actually standing on the steps when this was taken.

MR. BUZAK: Okay.

MR. LEVITT: On the existing steps.

MR. LINEBURG: Yeah.

MR. LEVITT: Okay and that photographs depicts about how wide is that decking?

MR. LINEBURG: Well each board is 5-1/2 inches wide.

MR. LEVITT: And how many boards are there?

MRS. NATAFALUSY: But that will be finished with railings.

MR. WEISS: I was just going to ask that question to him. Your construction I guess was stopped because there's no railings or . . . I don't see any handrail or guardrail or . . .

MR. LINEBURG: No we stopped for a while the house wasn't selling so we stopped a little bit on the outside and finished up the inside.

MR. WEISS: Okay.

MR. LEVITT: Is there railings now?

MR. LINEBURG: Yes.

MR. LEVITT: The house has received a Certificate of Occupancy.

MR. LINEBURG: Yes.

MR. LEVITT: There's a final CO on the house again and just to be forthcoming there's an agreement with the current buyer that if this application is not approved that we would put the stairs in. Again that's where the testimony was alliseted regarding their desire to have the . . .

MR. BUCZYNSKI: But is there railings on there now?

MR. LEVITT: Yes.

MR. LINEBURG: Yes.

MR. BUZAK: When were those photographs taken just approximately?

MR. MCGROARTY: So that's odd is it not that a CO is issued for the house? So the Building Inspector would have done an inspection and found the deck to meet Code.

MR. LEVITT: The deck meets Code it doesn't meet zoning.

MR. MCGROARTY: Right so they issued a CO?

MR. LINEBURG: With the stipulation that we take it down if we get failed here.

MR. LEVITT: Oh I wasn't aware of that okay. So it's a CO subject to.

MR. BUCZYNSKI: Subject to getting approval.

MR. LEVITT: Subject to getting this application approved.

MR. MCGROARTY: I learn something new every time.

MR. LEVITT: So I guess the term final was incorrect.

MR. MCGROARTY: Well more power to you for getting it I'm not criticizing you.

MR. WEISS: Rene?

MS. GADELHA: Just a question, if we're approving this are we approving the handrails that we can't see? I mean are we assuming that they're to Code or we write that in?

MR. WEISS: Well the testimony said there's handrails.

MR. MANIA: He's under oath and he testified.

MR. VAN NESS: And they're covered under Construction Code.

MR. LINEBURG: And we wouldn't have got a CO if it wasn't up to par.

MS. GADELHA: Well it sounds like you got pretty far.

MR. LEVITT: Well I guess the handrails are part of the structure that's intruding on the setbacks.

MR. WEISS: Perhaps even though we made a little bit of light on that situation Chuck that you brought up perhaps, I don't know how we fix that and clean up our house and I don't know if I turn to the Mayor or turn to . . . I don't know where we go but we can't have our inspectors giving CO's for properties that don't meet our zoning.

MR. VAN NESS: But he testified that it was in lieu of this approval. If he gets approval then it's not an . . .

MAYOR SCAPICCHIO: Why did you need the CO . . .

MR. MCGROARTY: I'm not sure that once you give a CO you can revoke it.

MR. BUCZYNSKI: Yeah it's a CO.

MAYOR SCAPICCHIO: Yeah why did you need the CO if the house wasn't going to be occupied? You weren't finished.

MR. LEVITT: No the house was finished they needed it for mortgage approval, the buyers needed it for mortgage approval so it was a process that was moving along and it was always under the stipulation that if it wasn't approved by this Board that the violative decking would come down and stairs would be immediately put in. So you know again it's the path of least resistance at that point.

MAYOR SCAPICCHIO: I will sit down with Catherine and the Building Department and see if we can figure out why this happened and . . .

MR. WEISS: I don't think it's a major problem but I think as we see it's not the first time that something like that has happened.

MR. LEVITT: So again I've set forth under the C-1 statute we feel it's a diminuous deviation of the setback and of the zoning ordinance it does present a hardship on the developer. The testimony was that the current buyers do desire to keep it so we do respectfully request that this Board approve the application.

MR. WEISS: Mr. Lineburg are there . . . the other properties near you do they have decks and the like? The homes that are surrounding your home?

MR. LINEBURG: I know a deck across the street they got a deck but they got a pool and everything tied into it.

MR. WEISS: Would you know if there's any other pre-existing nonconforming structures in your neighborhood?

MR. LEVITT: The only thing I can say if my recollection is correct when we came in originally for the site plan on this there were several pre-existing nonconforming structures, meaning substandard lots as you even set forth yourself that it's a very tight neighborhood.

MR. WEISS: I was just trying to obviously you know looking at a variance try to come up with some you know talk about any negative criteria that might exist and in this particular case it sounds like this wouldn't negatively affect the community because you have similar situations your lot seems to be the same size approximately of your neighbors. And that's why my question is if you're building all of these improvements and your neighbors don't then it would be a different issue I would think. That's why I ask that question and your answer was satisfactory that there are others due to the nature of the neighborhood so I don't personally think that it's going to be a problem. Does anybody else have any other commentary on that?

MAYOR SCAPICCHIO: I just have a question. The Building Inspector that gave you the final inspection and issued the CO understood that this additional portion of this deck wasn't on there but granted the CO anyway with the understanding that you needed to come before this Board to get approval.

MR. LEVITT: Correct in essence it would be revoked.

MAYOR SCAPICCHIO: Okay.

MR. LEVITT: That CO would be revoked if this Board were to reject that. Again whether it can be or can't be I think you know . . .

MR. LINEBURG: When it all went through I said we will take it down if you do not you know . . .

MAYOR SCAPICCHIO: I understand.

MR. WEISS: Well I think after tonight's hearing we can certainly make it all right and then we can fix what we have to.

MAYOR SCAPICCHIO: Right.

MRS. NATAFALUSY: We just have to identify the two other photographs A-2 and A-3.

MR. LEVITT: Mr. Lineburg I'll show you what's been marked as A-3 and can you give a description of what that photograph is?

MR. LINEBURG: That basically is showing you how high the deck went up due to the water table.

MR. LEVITT: And A-2?

MR. LINEBURG: A-2 is just basically it was another shot I don't know I was just taking a couple of shots because it all had been changed to much.

MR. LEVITT: Just what does it depict?

MR. LINEBURG: It's again it's the walkway it's just giving you a little bit different shot than the walkway on this shot.

MR. WEISS: And remember we're just . . . we'll be following the record of what's in writing so you just can't say A-2.

MR. BUZAK: Mr. Chairman I think you should also note that the front yard is 35.97 feet according to the survey and I assume that the front yard setback is 35 feet so the applicant would really have some difficulty if he had his druthers to shift the house forward to eliminate that deviation. He really doesn't have any room in the front to do that. Had this issue arisen before he actually put the foundations in and saw what was going on.

MR. WEISS: So it suggests that the applicant has a hardship by nature of the size of the lot.

MR. BUZAK: Correct.

MR. WEISS: Good testimony in case you're looking to defend a variance because you never know. Just in case it ever happens.

MR. BUZAK: I learned it from our esteemed planner.

MR. WEISS: I've learned it as well. All right I think we have beaten this horse dead.

MR. VAN NESS: Is there a motion that we're allowed to make at this moment?

MR. WEISS: I think we'll open it to the public just in case there's any commentary. Seeing none what we can do is turn it to the Planning Board if there's any comments, questions Chuck, Gene? Seeing none Catherine I think we've reviewed your report. Mr. Buzak anything, any conditions that we might want to consider?

MR. BUZAK: No just the standard ones Mr. Chairman that we normally have so I don't see any other particular conditions.

MR. WEISS: Planning Board?

MR. MANIA: I make a motion that we approve PB 11-24 Old Hickory Estates.

MAYOR SCAPICCHIO: I'll second that.

MR. WEISS: Any comments? Roll call Catherine.

MRS. NATAFALUSY: Joe Fleischner - yes  
Rene Gadelha - yes  
John Mania - yes  
Nelson Russell - yes  
Mayor Scapicchio - yes  
Jim Staszak - yes  
Scott Van Ness - yes

Steve Bedell - yes  
 John Ferrante - yes  
 Howie Weiss - yes

MR. MCGROARTY: You have ten.  
 MR. BUZAK: We have ten.  
 MR. WEISS: Yeah I don't know if John . . . .  
 MRS. NATAFALUSY: Sorry.  
 MR. BUZAK: We can only have nine voting members John so . . .  
 MR. LEVITT: Thank you Board members.

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**DISCUSSION MATTER**

MR. WEISS: We do have a quick discussion matter. We have a discussion matter regarding PB 11-03 Douglas & Susan Tack at Block 8400, Lot 2. Gene I think you wanted to discuss that with us?

MR. BUCZYNSKI: Yeah that's on Naughtright Road and we got a letter from Mr. Selvaggi I believe it is?

MRS. NATAFALUSY: Yes.

MR. BUCZYNSKI: Dated September 29<sup>th</sup> basically requesting a waiver of the need for a developer's agreement. There was no developer's agreement required in the resolution of approval we had spoken to him and we had spoken to attorney Dorsey everything is . . . and (inaudible) back to the Planning Board but everything on the site is really related to the site there's no municipal improvements involved, there's no curbing involved, there's a small parking lot like 8 or 9 vehicles and there's nothing that disturbs onto or causes any problems to municipal properties. So what's the purpose of a developer's agreement in this case it's minor improvements, minor site plan improvements I have no problems waiving the need for a developer's agreement and just moving ahead with the zoning permit and as long as they post monies for inspection fees. And we ask for an estimate for the improvements and we're going to require them to post an escrow amount of \$2,200.00 to cover town inspections.

MR. WEISS: Is that an unreasonable amount of money?

MR. BUCZYNSKI: It's the normal amount based on the amount of improvements to do on the site. It's 5 percent . . . .

MR. WEISS: Is it enough money?

MR. BUCZYNSKI: Yeah it's nothing I won't even be doing the inspections it's going to be in-house inspector doing most of it so it's fine.

MR. WEISS: I think we certainly take your guidance on that one. It seems to be out of our . . . Does anybody have any questions or objections? I didn't think so. Gene thank you for that.

MRS. NATAFALUSY: Ed could we do an all in favor or does it have to be a . . . .

MR. BUZAK: No I think you can do a voice vote without a . . . .

MR. WEISS: Well why wouldn't we just address that at the hearing?

MRS. NATAFALUSY: Okay.

MR. WEISS: I mean could we just address it at the hearing?

MR. BUCZYNSKI: It's already done.

MR. BUZAK: It's already done.

MRS. NATAFALUSY: It's already done we're waiving the . . . .

MR. WEISS: Oh okay I thought the name was familiar. Let's have a voice.

MRS. NATAFALUSY: Okay.

MR. WEISS: All in favor?

EVERYONE: Aye.

MR. WEISS: Any opposed? There you go.

MRS. NATAFALUSY: Okay.

MR. WEISS: That being said we have a meeting next Thursday and the agenda will be equally as busy and this is all because if you recall our last Planning Board meeting was cancelled because of the power outage so we don't normally like to schedule so many applications on one night but we did a pretty good job moving this many applications in this amount of time. Thank you for keeping on track I think we've been doing a good job on this Planning Board. So thank you and I'll have a motion.

MR. VAN NESS: Motion to adjourn.

MR. STASZAK: Second.

MR. WEISS: Rene would probably like to make that motion because this is her last meeting.

MS. GADELHA: Oh motion to adjourn.

MR. WEISS: All in favor?

EVERYONE: Aye.

MR. WEISS: Thank you all.

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

Transcribed by:  
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