

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

ROLL CALL:

Members Present: Joe Fleischner, Brian Schaechter, David Koptyra, Dan Nelsen, Nelson Russell, Frank Wilpert, Jr., Howie Weiss, Kim Mott

Members Excused, Henry Fastert, John Mania, Sandra Stotler

Members Absent:

Professionals Attending: Edward Buzak, Esq., Chuck McGroarty, Planning Consultant, Eugene Buczynski, Township Engineer, Catherine Natafalusy, Planning Administrator/Secretary

Professionals Excused: Tiena Cofoni, Esq.

Roll Call:

Joe Fleischner	- yes
Brian Schaechter	- yes
David Koptyra	- yes
Dan Nelsen	- yes
Nelson Russell	- yes
Frank Wilpert	- yes
Kim Mott	- yes
Howie Weiss	- yes

MR. WEISS: Thank you Catherine. We have one resolution tonight on the agenda which is PB 15-07, Toll NJ I, LLC. We've all had a copy of that and we've reviewed it. Does anybody have any comments? Seeing none, I'll have a...I'll entertain a motion.

MR. SCHAECHTER: I'll make a motion.

MR. WEISS: Brian, thank you.

MR. FLEISCHNER: I'll second it.

MR. WEISS: Joe, thank you. Is there any comment? Seeing none, Catherine roll call.

Roll Call:

Joe Fleischner	- yes
Brian Schaechter	- yes
David Koptyra	- yes
Frank Wilpert	- yes
Kim Mott	- yes
Howie Weiss	- yes

COMMITTEE REPORTS

MR. WEISS: Committee reports. We have no mayor rep here this evening.

MR. FLEISCHNER: Good luck. I like that. Nice hesitation. We have no mayor here.

MR. WEISS: The Mayor will be here actually. We have our Council. Our Council representative is also excused tonight. Environmental Commission, Nelson, anything?

MR. RUSSELL: No. We didn't have a quorum.

MR. WEISS: Ok. Ordinance Committee, Joe?

MR. FLEISCHNER: We did have a meeting. We spoke about the tree ordinance. I don't know if, Chuck, you want to comment on it? I mean, we're making some revisions so it's clearer, I would say. I guess that's it.

MR. WEISS: Alright. I have nothing for the Street Naming Committee. David, anything on Open Space?

MR. KOPTYRA: Open Space, Mr. Chairman, I cannot make the meetings on that night....on a Monday night because of a change in my work schedule. So, if somebody else is interested in attending.

MR. WEISS: You know, Dave, thanks, because we did speak about that...was it Kim, was it you?

MS. MOTT: I was taking that....volunteering for that.

MR. WEISS: Kim said she would step into the position.

MR. KOPTYRA: Alright.

MR. WEISS: Do we need to vote on that?

MS. NATAFALUSY: No.

MR. WEISS: Ok, so congratulations, Kim.

MS. MOTT: Oh, thank you.

MR. WEISS: You are now the Open Space Committee Liaison. I'm sure you will get the detail from David as to when they meet and David if you would be kind enough to pass Kim's information on to the Open Space Committee that would be appreciated.

MR. KOPTYRA: Yes, I will.

MR. WEISS: I have just one comment to make. I don't know if anybody has driven down 46 and taken a look at the old Budd Lake Post Office? That application that we approved a month ago....it looks beautiful! Really, we did a great job. The applicant's doing a great job and our support of that application really making a difference right there. So, if you haven't seen it go take a peek. It looks great.

MR. NELSEN: Both of them.

MR. WEISS: Boy, over a long period of time, that's our goal...to make that look better, so, kind of kudos to the applicant. He's done a great job. Let's go right into our first developmental matter which is PB 15-13 Jersey Girl Brewing Company, LLC. Here for a D-1 Use Variance. Located at 426 Sand Shore Road, Block 8200, Lot 5, this is a continuation from the May 21st meeting. Michael, whenever you're ready. Take your time. I think that what we can....

MS. MOTT: Before we start, can I, can I just...

MR. WEISS: Wait one second, Kim.

MS. MOTT: Ok.

MR. WEISS: So we have, and just for the record, I did listen to the tape, I signed the form, with Catherine.

MS. NATAFALUSY: Yes, I have that in the file. Certified that he listened to the tape.

MR. WEISS: Ok, so I did listen to the tape and I do believe, Michael, at the end of the month you received a letter from us and I appreciate it. It looks like you have taken our request and brought in additional professionals so I do appreciate that. Before Kim, you had something?

MS. MOTT: Yeah, just before we get started, I just have a question. As you know the internet's a crazy place. I have kids. I'm on Face book. I was reading your Face book and I was just wondering if you could give us an update. It says work continues in the development of our sample room. If you can expand on that and what are you talking about? I guess, because as far as I could determine last time we were here nothing was to start until you had Board approval. So I'm just trying to clarify the verbiage on your Face Book since it's a public page.

MR. SELVAGGI: You can come up. I was going to call Mr. Aaron anyway.

MS. MOTT: I'm just curious. I just want to know because it's kind of like we're all trying to do our due diligence and it kind of like the cart before the horse. So I'm just trying to understand better why that's out there.

MR. AARON: So what we were doing was sharing a picture with the landlord at the end of the space...before we even moved in. He was renovating.

MS. MOTT: Ok because it says "we" so I didn't know because as far as you said it was based on approval from us for you to get this space. The mailbox is up, progress is starting, so it's kind of, it's ruffling my feathers a little bit that we're spending hours here...

MR. AARON: Yeah. I apologize. It's not intended to do that.

MS. MOTT: No, I know that's why I figured I'd give you the respect that we give you to explain yourself.

MR. AARON: We're just trying to...the landlord took it upon himself to start doing the ceiling project in his space. Our lease didn't start until June 1 so he just wanted to start the renovations on it. We got excited.

MS. MOTT: No, I'm, I'm excited for you except it's just hard because we spend hours up here leaving families and it's (inaudible) to sit on this Board and it's just I do my due diligence as I'm sure the rest of the Board does...I drove by, I look, you know I see, I think it's great but it just defeats the purpose of me sitting here for 4 hours listening to Mr. Selvaggi. I'm just curious.

MR. SELVAGGI: Well, understand that he and the landlord have, it's really the landlord, if they're doing anything, they're doing it at their own risk,

MS. MOTT: Ok, that's all. I just wanted to make sure that everybody's on the same page on that.

MR. SELVAGGI: Because and I'm actually surprised you even get permits to do it because...

MS. NATAFALUSY: I don't think he has permits.

MS. MOTT: Cause we understand he didn't.

MR. WEISS: Wait, hold on a second. What is happening in there?

MR. AARON: He's putting a ceiling tiles up.

MR. SELVAGGI: He's putting the ceiling tiles in just, you know, the space hasn't been occupied in 3 years.

MR. NELSEN: He's replacing ceiling tiles right there.

MR. SELVAGGI: Yeah.

MS. MOTT: And the mailbox is up with their logo on it. It's just stuff like that and I pull in and I'm like...you know.

MR. AARON: We asked the landlord when we drove into the property and there were only 2 mailboxes for 3 sites so we asked if we could put a mailbox up and we just put a sticker on it. We were having a hard time getting any mail. The mail...I had to go to Hackettstown Post Office 3 times because we weren't getting notices we were supposed to get for our Federal app.

MR. WEISS: Ok then. Just for the record then what Kim is seeing and I guess anybody else who's gone over there, the construction that's going on in that room is general interior maintenance.

MS. MOTT: They posted a picture on their Face Book.

MR. WEISS: Actually, I have a picture of it.

MS. MOTT: And someone, and someone told me to like it, I guess you invited people. It's a public page so I just looked at it and I was just kind of like....you know putting the horse before the cart....that's all. And I'm excited for you, I get your energy, I understand it and I think it's on your bucket list and ...

MR. AARON: We think it's very clear that everything is contingent upon approval.

MS. MOTT: Ok, yeah, cause that's what I'm over hearing when we're sitting here so I was like how's this happening?

MR. SELVAGGI: The other thing too, just to be clear, from the landlord's perspective, if they don't get the approval those ceiling tiles will still have to be fixed anyway so it's really just (inaudible).

MR. WEISS: Ok. Well that's a good thing. Kim, thanks for bringing that out I guess although that would be more of an enforcement issue if there's construction going on, it was, you saw and it was probably appropriate to ask the question. So, if you're satisfied...

MS. MOTT: Just curious. Oh, no, I'm satisfied. I'm just curious. I just wanted to hear it from him in this forum.

MR. SELVAGGI: Ok, when Mr. Aaron was here last month and as reflected in a follow-up email that we received on May 29th, Mr. Fleischner had raised a legitimate concern about the whole possible explosion of the material, the grain that was going to be used. Mr. Aaron, in response to that, you've done some certain due diligence to kind of address that and I think let's start first because I think perhaps your explanation of this grinding is probably, you may be giving the wrong impression as to what you're really doing. Is it grinding or is it another process?

MR. AARON: It's actually, it's my misuse of the word grinding. It's actually cracking. It's not, it's a milling machine and what it does is the rollers are far enough apart that when the (inaudible) the shell, so we're not creating a fine powder. I brought a couple of examples. I can pass this around.

MR. SELVAGGI: We'll mark that, I forget where we are now.

MR. WEISS: I have it here.

MRS. NATAFALUSY: I think we're at A-3.

MR. SELVAGGI: A-3. And what is A-3?

MR. AARON: This is, this is the malt, this is actually filter malt that's used in the process of making beer. It's just an example of the grain after it's cooked before we crack the shell on the outside.

MR. SELVAGGI: Alright. And you can, people want to see that. We have more too if anybody wants to bring some home. And we'll mark this then as A-4 and what is A-4?

MR. AARON: This is the after-product. This is what happens after it goes through the cracker. The outside of the husk is broken, the interior material is clearly shown here and it's an example of what we start with and then what we wind up (inaudible).

MS. MOTT: Is after it.

MR. BUCZYNSKI: If I could just ask....the cracker is a milling machine though, right?

MR. AARON: It is a milling machine.

MR. BUCZYNSKI: Now is it, there are different models. Is it an explosion-proof milling machine?

MR. AARON: It is absolutely. It is absolutely.

MR. SELVAGGI: And as a follow up to that....what did you do in an effort to perhaps try to bring some closure to that issue?

MR. AARON: I went to the Fire Marshall here in town and I spoke with Fred and I provided him all the specs of our equipment, all the specs of the milling machine, the brewing, I showed him the plans that we were going to use. I took him through all of the equipment that we would use in this cracking process to get his view of, if there was a concern, what would we need to do to mitigate the concern.

MR. SELVAGGI: Ok. And we have all the materials that we provided. You have all the materials here that you provided the Fire Marshall but perhaps what we can do is....do you recall receiving or getting a copy of that?

MR. AARON: I did. Yeah.

MR. SELVAGGI: Let's mark that A-5. And what is A-5?

MR. WEISS: Wait, hold on. I think what we'll do is we'll mark the grain. We have two bags of grain. We'll mark that A-3.

MR. SELVAGGI: You want to mark them both A-3?

MRS. NATAFALUSY: Both A-3?

MR. WEISS: Yeah because it's just grains in various forms.

MR. SELVAGGI: Ok. Alright, so we'll mark that A-3. So A-4.

MR. AARON: This was the letter that Fire Marshall Detoro sent to me after reviewing all of the documents that I provided him on the equipment and the environment in the brewery.

MR. SELVAGGI: And he addressed it to the Board. I don't know....did you guys receive that?

MR. BUCZYNSKI: Yeah.

MR. SELVAGGI: The thrust of the Fire Marshall's investigation was, if you could just read the last two sentences?

MR. AARON: This office has worked with Charles Aaron to eliminate any risk of a dust explosion. This office is confident that this operation will not create a hazardous condition.

MR. SELVAGGI: Ok. I'm waiting. Again, Mr. Buzak (inaudible) I don't know if you want to mark it as an exhibit.

MR. BUZAK: It's already been submitted to the Board.

MRS. NATAFALUSY: So we don't have to mark it?

MR. BUZAK: Correct.

MRS. NATAFALUSY: Ok.

MR. SELVAGGI: So we're still on A-4. Now,

MR. WEISS: You know, let's jump back a little bit. Let's jump back a little bit. We had a conversation with the Fire Marshall and when I got the letter I was just a little confused because I would think, Mike, we've done enough of these applications that, as a Board, we don't know what information was given to the Fire Marshall and I certainly, I can't question Fred Detoro because he has a heck of a lot more expertise on this stuff but I'm just getting concerned that the applicant has gone to Fred and had a conversation that we're unaware of and all I get is, at the end of the day a result of the report.

MR. SELVAGGI: We know we have a limited amount of time. We have the materials that were given to the Fire Marshall.

MR. AARON: This is copies of all the communications via email with the Fire Marshall....all the documents that I've provided to him on the equipment....the use manual (inaudible).

MR. SELVAGGI: Let's mark this A-4 and what is A-4?

MR. AARON: This was the instruction manual provided by the manufacturer from China, describing the machine, the safety protocols, all of the models numbers, the environment that should be used...

MR. FLEISCHNER: Could I ask a...could I interrupt?

MR. WEISS: Go ahead, Joe.

MR. FLEISCHNER: I have a question and it relates to this. In doing my homework, I was advised, the Milwaukee Brewing Company, are you familiar with them? They state that an electrical, a licensed electrical engineer has to sign off on the equipment before it's used. Are you going to get a licensed, electrical engineer to sign off on that equipment for milling? Cause that's what they were told, that's, they had to do....now granted it's another state but they said that they the only way their authorities would accept that the equipment was safe. It's sort of like when Gene voiced concern about the walls coming up Route 80 and his statement was that a licensed engineer signed off on the statement and it's their license, in effect. My concern is, you have the Fire Marshall but he works for the Town. He can accept the (inaudible) but my question to you is, and I'm not taking a position either way, I'm just going by what I'm told from a number of places that I've spoken with that you need a licensed engineer. ...in this case they said electrical. I'm not saying you have to have the expert on explosions because there's maybe 2 or 3 on the entire East Coast....one happens to live in town...but that's beside the point.

MR. SELVAGGI: What we are prepared to do is obviously whatever the construction code would require of us. There's no suggestion that an electrical engineer would have to sign off on it to the extent that one might be required by your Building Department we would certainly comply with that.

MR. WEISS: Frank?

MR. SCHAECHTER: You know, we had a case not too long ago that Mr. Selvaggi was arguing for and we had two police officers that came in and testified and I believe the argument was that they're not experts in the field so are we taking Fire Marshall Detoro's letter as he's being an expert in the field or I mean....It seems like it's the same argument but now it's on the other side so it's ok.

MR. SELVAGGI: It's so contrary because your police officers were not; they're not hired by you to be traffic engineers for the Town. Do they have some knowledge about traffic? Yes. The question that was posed to us was whether this operation would create a fire hazard. That falls right within the wheelhouse of your Fire Marshall. And if he's not qualified to make that determination, he should be fired. I mean....(inaudible) want from him.

MR. WEISS: I don't disagree with that and I wonder if the question is not so much fire but explosiveness. I don't want to sit here and publicly question Freddie's qualifications, but I don't think the question is fire. I think the issue here is the explosive nature of equipment.

MR. SCHAECHTER: Is it the equipment or the process? Because for me it's both.

MR. FLEISCHNER: It could be both.

Mr. SCHAECHTER: The equipment, outside of doing anything is probably not an explosion risk because it's just big paper weights. But it's when it's active and working and the environment that it's in that could cause explosion risk...but I'm just...asking if....I've never had our own employees come in as experts.

MR. MCGROARTY: Could we have Ed's take on this?

MR. WEISS: Ed, please go ahead if you...

MR. BUZAK: Well, we, the Township employees, the number of professionals, we have 2 of them here tonight. The engineer and the planner. I guess we have 3 of them here tonight and a number of other officials whose function it is to examine, among other things, applications and submissions to them. If they are, if they feel that they do not have the competency or the credentials or the background or the knowledge to make a determination on something, based upon what's been presented to them or they

question the credibility of what's said to them or they question the reliability of the information that's presented, the written information, you know, they have an obligation to pursue that and I believe that this Board can rely upon the position of its, the Township's various officials and in this case the Fire Marshall's letter says what it says. His conclusion is that this office is confident that this operation will not create a hazardous condition and he was referring earlier in the letter, in the first couple of sentences to the possibility of dust explosions due to dust being created during the process. Unless there is information to the contrary that is presented in a competent way by objectors or by other professionals, I think the Board has to rely upon that.

MR. FLEISCHNER: Mr. Buzak, I have a question....when we have an applicant before us and they present an expert we have to either accept or deny their credentials. The case you're describing is, we're taking for granted. I'd like to ask Mr. Detoro what is his expertise. Has he ever been certified as an explosion expert because there happens to be courses that you take for explosions? So, for my standpoint, unless I have that documentation, I don't accept him as an expert. I'm just using that as an example...because then why do we have, why should any applicant go out of their way to hire an expert? Cause you can get anything off the internet, bring it and say "This is what it is. Please read it". But how do I know that, not to insult any of our people that work for the Town but I don't, I can ask Gene because he's sitting here, Gene what do you know about this or Chuck, etc. but these other individuals, I don't have an opportunity to cross-examine them.

MR. BUZAK: Well there are two parts to your question or your issue. One is, the reliability and the credibility of the information that's being presented to the official and the second one is whether the official to whom it's presented has the credentials or the background in order to form an opinion based upon the information that's presented. And those are two separate questions. The information that's presented may well be reliable, competent information but if the person to whom it's being presented does not have the ability to interpret that or to form conclusions based upon that information, then the opinion that's issued is suspect. And the same goes, in the opposite way, if the individual is competent but the information is not reliable then the opinion that's issued by that official is also suspect. In the later case, the official should be the one who's judging the reliability of the information and if, as you point out, correctly, if somebody walks in with information from the internet and says "Here's all the information." And the official looks at that and doesn't question it, feels that that's competent evidence and has the expertise then I think I'm right. We do have to accept it. If that information, as presented to him, is not reliable or simply pulled off the internet without any explanation by perhaps an expert, somebody who understands this then that official should be saying "I can't accept that. We on the Board can't control what every official in this municipality does in terms of what is being provided to them. That is well outside our role. They should be asking the same kinds of questions you're asking and be concerned about the same kinds of things you're concerned about. I would hope that they are. I have no information to leave me to believe otherwise but that's certainly a fair question. When you talk about the ability of the official to make the determination, this Board certainly has the right to ask Fire Marshall to be here...to come to the meeting. That's an issue and you're concerned about it and you feel strongly about it. We have the right to have that Fire Official come to a meeting, be put under oath and be questioned by the Board about the basis for his determination and what he relied upon and then you can form an opinion as to the reliability of the opinion he has given.

MR. FLEISCHNER: And I raised that, not from the standpoint of just this applicant. I raise it from the standpoint of past applicants over the last 9 ½ years who have brought experts, present their documents to the appropriate person within Mount Olive Township and then whether it be the Fire Marshall, the engineer, the planner, etc. they in turn, write a letter stating that the material that was submitted was acceptable. In this case, please correct me, I don't mean to single anybody out, I don't know what your credentials are with regard to...are you an explosive expert, are you a fire expert, cause you're testifying to it.

MR. SELVAGGI: What we will do is go, there were a series of emails that were exchanged with Mr. Detoro. We will go through each one and we will present the information that was given to him. And that's, this was not a decision that was based on the information verbally given by Mr. Aaron but there were manuals, there were certifications from the manufacturer that would indicate that the risk of an explosion was non-existent so...

MR. FLEISCHNER: The only reason, Mr. Selvaggi, I mean the easiest way would have been, in my opinion, to have a licensed individual present the information and say this is based on my license. It's like me with a pharmacy license going in and filling prescriptions without a license. Saying, but I know how to do this so I don't need a license so will you trust me to fill your prescriptions? I wouldn't trust me if I didn't have a license. The same thing applies in this case. It's not only Mr. Aaron; it's anyone else who comes before this Board. We look for qualified individuals to present the information. I believe

you have the hydrologist here. He is a licensed individual and I've read his report and not to put the cart before the horse, I'm very impressed with his report. But he's licensed and he's putting his license on the line.

MR. BUCZYNSKI: Just (inaudible) regarding the testimony, the Board has a right, I think to feel comfortable that they received satisfactory information pertaining to certain issues and one is the explosion issue. Now I know you have an architect here this evening? The architect's done some improvements, proposed some improvements to the building, I think when he gets up maybe he's going to address whether there is a need to address explosion proof. If there isn't, why isn't there a need? I think he should give some testimony on that. He's the expert that designed the building...the improvements to the building.

MR. FLEISCHNER: I'm fine with that.

MR. SELVAGGI: But ultimately, the explosion, the alleged explosion risk would come from the grinding and the operation of the machine which arguably could create a spark that would ignite the materials. I think that's where it comes from. I don't think it has anything to necessarily do with the layout of the building.

MR. BUCZYNSKI: Don't you think the architect should be concerned about the equipment that's being in there to make sure he has the proper....

MR. SELVAGGI: Well he will and he'll, you know, he'll design this area, Charles I don't want to testify; the grinding machine will actually be set aside in a separate room, correct?

MR. AARON: That's right.

MR. SELVAGGI: Ok and the architect can talk about....

MR. BUCZYNSKI: Yeah but I'm just saying, before I got interrupted, that if he's, if certain equipment is being used and there's a possibility of explosion, I would think the walls would have to be designed to support it to address that issue. If that's not the case I'm sure he reviewed the equipment that's being used and the architect must have some opinion that based on his review also that there's no need to address anything relative to explosion.

MR. SELVAGGI: Well here's what we had done. On May 29th, which was a Friday we got the letter, the email. On June 2nd you spoke with Fred and Gary Lindsay, correct?

MR. AARON: I did.

MR. SELVAGGI: And did you send them an email?

MR. AARON: I did.

MR. SELVAGGI: We'll circulate this. We'll mark this; I forget where we are now.

MR. WEISS: A-5.

MR. SELVAGGI: A-5. And what is A-5?

MR. AARON: So this was, this was a confirmation...

MR. WEISS: Hold on one second.

MRS. NATAFALUSY: What's A-4?

MR. WEISS: A-4 was the instruction manual with safety protocol.

MR. SELVAGGI: Here's what we'll do. Let's mark this A-4 cause this is an exhibit that was part of the emails that were exchanged. So, this will be A-4.

MR. WEISS: Let me just divide that which is...

MR. SELVAGGI: The June 2nd email to Fred and Gary.

MR. AARON: So I, this was after the conversation we had had here face to face and what I said to him was the machine itself, the pictures of the machine, I sent the instruction manual as he requested from the manufacturer which includes the specifications on the machine, safety of the machine operation environment that the machine should operate in and I sent him also the fermenting cad drawings from the fermenting tanks and the bright tanks that we'll be using on the site from the manufacturer.

MR. SELVAGGI: Ok. So this is A-4. Following the submission, transmission of this information to Gary and Fred, what happened next?

MR. AARON: So I sent him the information, I did a follow up with him on that and there was a subsequent email, well I stopped back in last Wednesday to follow up on the initial information that I submitted and his question was with regards to just following up on the bright tank and the fermenting tank that they would follow UL standards which weren't on the original CAD drawings so, I made sure that the manufacturer was actually UL certified and they sent updated CAD, that information.

MR. SELVAGGI: So this A-5 is the June 4th email from Mr. Aaron to Mr. Detoro. Then after Mr. Detoro got that, then what happened.

MR. AARON: Then on June 5th I received additional information from the manufacturer and the question was on certification of the motor itself that's in the grinder because our conversation was he wanted to be sure the UL labels that were referenced on the CADs would be on the tanks and he also sent the information for certification, the motor, the description of the motor and the certifications for the manufacturer (inaudible).

MR. SELVAGGI: And this is A-6.

MR. BUZAK: A-6.

MR. SELVAGGI: Yeah, A-6.

MR. BUZAK: And what's the date on that?

MR. SELVAGGI: June 5, 2015. And the motor on the grinder, what's the actual title of the motor on the grinder?

MR. AARON: Series Explosion Safe Prephase (inaudible).

MR. FLEISCHNER: Is that Class 2 or Class 1 explosion proof?

MR. AARON: It explains in the copy of the environment (inaudible).

MR. SELVAGGI: YB2 Explosion Safe Prephase motor....it doesn't say. Oh, it's....yeah, I'm not sure what's.....that's A-6 and then following that is when you got the letter from Mr. Detoro indicating...

MR. AARON: Indicating that all the information that I had provided in the emails and communications and the documentation was satisfactory to him that we didn't pose a risk in our operation.

MR. SCHAECHTER: Did Mr. Detoro make any recommendations?

MR. AARON: He did. The recommendation was on the outlet that we put in, that the equipment plugs in to...that we go with a higher grade explosion proof outlet in the room just to match up what the motor is.

MR. WEISS: I have a general question for you. During last month's hearing, you referenced a local microbrewery, River Dog.

MR. AARON: River Horse?

MR. WEISS: River Horse. Correct. Sorry. Have you ever been there?

MR. AARON: I've not been to River Horse but I've been to Angry Erik's, Cricket Hill....

MR. WEISS: Ok, my question is kind of general, Chuck so, I was there. I went to see what a brewery looks like. While on that tour they talked the about the explosive-proof walls and so maybe if you can tell us, just in a summary, what is going to be the difference between what you're going to do versus maybe what's out there with a place that's explosive-proof walls?

MR. AARON: I've not been to their environment, if I could comment on their equipment, I don't know what milling machine, I don't know if their milling machines are standard.

MR. WEISS: And I understand that but maybe the question is those breweries that you have, that you're familiar with how do they handle it? Do you know if they, how they handle it with explosive-proof walls or...

MR. AARON: Cricket Hill has theirs right next to the brew house no walls. They have a big silo outside that holds I think 30,000 pounds of malt and they bring it in through a PVC pipe and mill it and then convey it straight up in. There's no walls, there's nothing there. Same thing when we went to a couple breweries, we've forgotten Boardwalk, we've gone to Carton Brewing, we've been to Magnify which just opened up in Fairfield and it's all those environments. Most of them, what they've done is very similar to ours, they've put up walls, not for explosion-proofing but rather for retaining of the environment because we're going to be milling in that area...

MR. WEISS: What I'm trying to do is move this along because I think we have to generally say that there's multiple ways to address the explosiveness. So your architect's going to tell us but I think your limited expertise in this and I think I can be satisfied for you to explain to me that there are various ways to handle it. If I saw an explosive-proof cinder block wall and I didn't know anything about the (inaudible) and you just said to me that you saw an outdoor silo and now you're going to present a 3rd option then I think the Board has to sit back and wait for the professional to tell us that and I think that way we could kind of get out of this conversation. I don't think there's any more Michael, unless you have...

MR. SELVAGGI: Yeah, no, we're done.

MR. WEISS: I think because we could sit here and discuss...

MR. WILPERT: This is a Building Department matter in my mind. I mean it should be handled through the Building Department, through the licensed professionals. They have the code books, they follow the code books for whatever needs to be done within any building aspect of it and we're dragging this out.

MR. WEISS: But no, Frank, I don't agree with you.

MR. WILPERT: Ok.

MR. WEISS: I think the fact that, what Joe's comment really struck a chord is that every applicant brings their expert testimony to us or brings it to our experts for review and in this case the applicant has gone to our folks and asked them to testify essentially and that's just a little bit backwards. And so that's really the issue, not, I don't want to go on the record and I don't want to say that we can't trust Fred and quite frankly, I don't want to bring Fred in because if he's not qualified then he shouldn't be in that job so I think we have to have confidence that Fred Detoro is qualified to give his opinion. The process is annoying and that's really I think the only issue. So we're kind of agreeing but there's a bigger point. I'm not doubting that it's....

MR. WILPERT: We've drug this out as a Board, talking about this. This is probably hour 2 on explosion proof. I'm just saying. It's a matter that gets handled with the Building Department not with the Board. That's all that I'm going to say and I'm done saying it.

MR. SELVAGGI: And the only reason why we took this, what may appear to be a more circuitous route on this particular issue was often times the applicant's experts or consultants are the hired guns and on this issue because it's a new use, it's, you know, the microbrewery itself, we actually felt that it would be best to convince the individual who the Town hires to oversee this type of issue that what we were doing was appropriate. It wasn't to kind of go around anybody. We figured look, if this gentleman says its ok that's probably the best evidence that it....

MR. FLEISCHNER: Well I'm not going to be....I'm going to interrupt you because I'm not going to be as kind as Howie is. When you go to a doctor, if you've got cancer, do you go to a GP? No, you go to an oncologist. When you've got a liver problem, you go to a liver doctor. What I'm saying is I think it's

great to be jack-of-all-trades and to maybe make it even similar, if you're going to be tried for murder you're going to go to the best criminal attorney you can get. You're not going to an attorney that handles traffic summons. So what I'm trying to say is and I have nothing against this, that's all I'm saying is, it would have been nice if we had an expert present his credentials and say this is the equipment that the applicant is going to use and this is why it is safe....not getting something by traveling around to 5 different locations or what have you and going to the Fire Marshall or to the Engineer and say here's all the paperwork you tell me that this stuff is good. That's not how you do it. That's how, as long as people have been on this Planning Board and I wish John Mania was here tonight cause he would tell you that's how it works too, it would have made life a lot simpler. That's the problem that I have, Mr. Sel.... I don't have a problem with the applicant. I mean the applicant wants to put his business in town. That would be great. My job sitting here is to make sure that there are no other ramifications and I'm happy when a licensed professional comes before this Board, like your planner, who is a licensed planner, is going to present her information. The architect is a licensed architect and that is for then our engineer, our attorney and members of this Board to review. That's what I'm saying. I would like, I personally would ask, Mr....our Fire Marshall what is his expertise in the area of dust explosions, of electrical explosions and he may absolutely be qualified to do that but I can't read between the lines and that's why I raise this....so I agree with Howie....let's move on, let's hear your....

MR. SELVAGGI: That's all I have for Mr. Aaron at this time.

MR. WEISS: Ok, I just, and I do apologize, I did review the tape but (inaudible) and so my question, it's actually going back to you Michael, Mr. Aaron testified last time talked a little bit about obviously, the procedure. He talked about the water, which I think is going to be replaced with testimony and he talked about sewer. Is the sewer going to be readdressed or are we just, are we done with that?

MR. SELVAGGI: We did, again, last month there was the Health Department had issued a report....

MR. WEISS: Mike, I was just generalizing. I was just, I just wanted to make sure that, cause I want to move forward with this. I want to move the pace a little quicker to help you out. The question was general. If there's any other testimony that you were going to bring to finish up what Mr. Aaron talked about?

MR. SELVAGGI: On the sewer, the Health Department had issued a report in April which talked about available allocation. The bigger concern was there's still vacant space in there. We had discussed the matter with the landlord so I know, I think we have a copy of it....I think it was also part of the record, he had written, the Health Department report was made available to him and he acknowledges that report. He acknowledged what the limitations are with regards to any future uses. Right now there's capacity to handle the anticipated waste that would go into the septic. However, it's, there's not a lot of allocation left and it hurts the landlord, obviously, if he's going to lease that remaining vacant space. The landlord submitted this, acknowledged it and I mean I feel there's no evidence that we're going to exceed the capacity. The next guy in might, so he's going to have to find somebody that wants 10,000 space and works by himself.

MR. WEISS: Let's do this then...

MR. BUCZYNSKI: Just one, just one quick thing.... You didn't address, Mr. Aaron didn't address the fact that he revised his report. His report on the project because there was some changes relative to who prepared the calculations. I think it should go on the record because originally the report just said "we" designed and he revised that. It should go on the record.

MR. AARON: I did. I revised and submitted an updated report. At the top of the second page, I recollect (inaudible) from memory it said "we" (inaudible) at the top of page two it said "the septic system we designed" again it was collectively. It wasn't "we" that was wording that was taken verbatim from Nick Warner's message to me. He was saying "we" as in "I, Nick Warner" had done it. I had pasted it in here and I, but it wasn't me and myself and Nick Warner who designed the septic system. It was Nick Warner who designed the septic system back in the original construction and that's modified and that's the newly submitted version of that document at the top of the page.

MR. WEISS: I appreciate that explanation cause looking at last month's meeting, somewhere in the nine o'clock hour, you said the same thing, "we did a calculation" and I had a question on who is "we".

MR. SELVAGGI: Mr. Warner is a licensed engineer. I think he was the engineer who appeared on behalf of Pierson Realty in 2000 when this property got its original approval....and that was part of the original submission.

MR. WEISS: Ok, so then go back to Gene's question and the revision, Chuck, of the reports. Just you changed the flow?

MR. BUCZYNSKI: The process has changed, you updated the process. You might just want to go on record with what the changes were.

MR. AARON: So the process now aligns to the agreement with the DEP which states that at the end of the cleaning process the material is taken out of the final tank and put into a tote for storage. And all of the processes are modified. I've actually added an additional process which describes, the first process describes if we don't have material in a tote and we have to start fresh. The second process, same process but drawing from the tote and reusing the material which we can do several times. In conclusion (inaudible) that it goes in to a tote and not into the septic system...and that's what we agreed to.

MR. FASTERT: At the end of your multiple uses, it's disposed of. It's trucked off. The tote is picked up.

MR. AARON: We have a septic company come and haul the toted material away, pump it out.

MR. WEISS: I had just one question about, just about the septic. It was after the hearing that you had a meeting with our professionals about, I think Gene told me that the question was asked about French drains and you confirmed that there are French drains in the floor?

MR. AARON: I can have the architect testify.

MR. BUCZYNSKI: Yeah, cause it's on the architectural plans. The architect can testify.

MR. WEISS: My only question is, going back to those French drains; did you calculate the flow, whatever is going in there, whether it's a cup or a gallon or 50 gallons? Is that calculated or not an issue?

MR. AARON: It is calculated. It's calculated in the material that's going to be going into the septic system which is greatly reduced now that we're toting off the (inaudible) material.

MR. WEISS: Ok.

MR. AARON: And just to explain, generally what goes into that French drain that we'll add to the floor, will be when we rinse the outside of a tank to clean it, just for the purposes, (inaudible).

MR. WEISS: I actually raised the question to Gene because I saw it at the River Horse. The fermenting tanks which are pressure, there's a release when the yeast is mixing with the CO2 and...

MR. AARON: Yes, it's part of the fermenting process. The yeast goes into the beer and that's what converts the...

MR. WEISS: And those tanks get some pressure and this is an emergency release pipe was going into the French drains from what I saw.

MR. AARON: So this is part of what we provided to Fred as part of his evaluation. Our tanks are, I'm not sure what they're tank configuration...ours has a dual pressure release on ours. We have a primary release and a backup release because there, there is a pressure build up within the tanks. The first one is, it comes off the top, it releases CO2. So if the pressure builds up in the tank as the CO2 is being emitted through the process, it drains down into a large bucket. It's a catch basin.

MR. WEISS: (inaudible)

MR. AARON: Now secondary to that, that's in the CAD drawing that was submitted as part of the testimony with Mr. Detoro is there's a second pressure release on the top of the tank. So if the primary, for whatever reason, were to get clogged or wasn't able to emit the pop pressure release with give and the pressure will relieve out of the tank. So we have redundancy to open our tanks. I'm not sure if River Horse has that but we designed to avoid (inaudible). So sometimes yeast will come out of that.

MR. WEISS: There was a foaming product, Chuck. It was a....didn't look like a lot, I just wanted to make sure that whatever it is was (inaudible) in your estimation on the septic.

MR. AARON: That was calculated in and it's....

MR. WEISS: Ok. So Mike you had said you're done with Mr. Aaron.

MR. SELVAGGI: Yeah, except for any questions....

MR. WEISS: Does anybody from the Planning Board have any other questions for Mr. Aaron based on the testimony from May 21st or this evening because I noticed we never opened it to the public on May 21st. Being none. Let's open it to the public. If anybody has any questions on the testimony given tonight by Mr. Aaron....tonight or on May 21st. You can come up and speak. Seeing none, I'll close it to the public.

MR. SELVAGGI: Since we're kind of in this vein, we'll call Mr. O'Brien who's our architect.

(RAYMOND D. O'BRIEN IS SWORN IN FOR THE RECORD)

MR. O'BRIEN: President and Principle of the firm O'Brien Architects, located in Blairstown, New Jersey. Registered architect in the State of New Jersey for the last 23 years. I've testified in front of many Boards. I've been a member, a 7 year member of Blairstown Planning Board in the past and we've testified in front of Warren County, Sussex County, Hunterdon County, Morris County and Essex County.

MR. WEISS: Ok, does anybody have any questions for Mr. O'Brien based on his qualifications? You've never been in front of Mount Olive Planning Board have you, Mr. O'Brien?

MR. O'BRIEN: I have not.

MR. WEISS: Welcome and we'll accept you as a....

MR. BUZAK: I have a question.

MR. WEISS: I'm sorry I'm not welcoming you yet.

MR. BUZAK: Mr. O'Brien, have you been involved in design work for microbreweries at all or is this the first one?

MR. O'BRIEN: This is my third one, actually.

MR. BUZAK: Third one. Ok and where were the other two located?

MR. O'BRIEN: The other two, one is in Hackettstown, it's called Man Skirt Breweries. They're about to be opening their doors in about 2 months and the other microbrewery that I'm working on now is Buck Hill Inn. It was the old Forge Restaurant in Blairstown, New Jersey. We're starting construction on that in about a month.

MR. BUZAK: Now were both of those fit ups or were they new buildings or....?

MR. O'BRIEN: The Forge was actually a unique project. It was an existing restaurant and now the owner is making it a brew pub so we're putting an addition on as a brewery and we're running it as the existing restaurant.

MR. BUZAK: And how about the other one?

MR. O'BRIEN: The other one actually was a bank building and he's putting in a brewery system in that facility present.

MR. BUZAK: I have no further questions.

MR. WEISS: Well, we'll certainly accept Mr. O'Brien as an expert architect.

MR. SELVAGGI: Let's kind of cut to the chase cause you've been in the room and you heard the concerns expressed about explosion or fire-proof. Assuming we're taking all precautions and that the equipment as the materials we received from manufacturers suggested, is explosion-safe. What's the applicant proposing even though above and beyond that with regards to the grinding process?

MR. O'BRIEN: Only in the grinding process would be the area that would be of concern of a possible explosion based on dust particles and the presence of any electrical unit. As we spoke before and I'm looking at the pump now....the pump there is rated as an explosion-proof pump. I'm going to go back on what Mr. Wilpert commented on, is that, I don't usually get into this amount of detail for a Planning Board. I usually have all of that in my documentation that goes in front of the Building Official and with their review, plumbing, fire, safety, hvac, electrical, architectural and structural, I usually get feedbacks from them and we massage the drawing as necessary and make the minor changes that need to be. So here I'm a little premature because my drawings don't show exactly what we're going to do but I'll respond to the question that Mike just mentioned. When it comes to explosion-proof, the comment before was what class rating is some of that equipment? I believe in what Mr. Aaron had sent me before, I believe I had see that it was a Class 2 rating. I need to probably check that documentation just once again....but I believe that was the classification that I'm working with. I have not received any information from the manufacturer that has expressed an intense need of an explosion-type facility needed in the grinding area. However, in the past two projects that I have worked on, we've provided very simple relief valves if you want to call it that. Right now we located the grinding and the milling area against the outside wall which just happens to be against the wall that has 3 sets of windows and this is just a regular hollow metal frame, aluminum frame window. Our intent in that is to take out 2 of the panels and put in a louver-type system that is thermally protected, that isn't open to the air and that allows the securement of it, the installment of it, relies and allows us to have the explosion outwardly. What we try not to do is put it against a masonry wall. We need some type of venting just in case of that facility having a problem. You'll notice on the drawings too the double doors that we have that feed into the milling are expanding out. They're not swinging in. If they were swinging in there would be more of a deterrent. We plan on putting a ceiling over the top of that and that steel ceiling in this type of a building, which in the IBC code is dealt with as a 3B building. Certain classifications of buildings allow me to do certain things in those buildings. This tenant's space is 10,000 square feet. If I started getting above 12,000 square feet, I would probably have to fire-suppress this type of tank or any other type of tank but right now the way the entire complex was built it's a 30,000 square foot building divided into pods. No pod is over 10,000 square feet and the world between this tenant and the adjacent tenant is a, I believe is a 3-hour rated wall so I can't attest to the wall when it comes to explosion-proof but it's a 12 inch block wall, solid and it's considered in the code as a firewall. What that means is that if there's a fire on one side, one tenant, that structure is designed in such a way that it collapses on itself and not on the adjacent tenant. The actual masonry wall goes up through the roof and divides the roof in half so there's a separate structure for Tenant A, a separate structure for Tenant B and that's what's in our world, classified as a fire wall. The building itself and I was kind of questioning Mike a couple days ago....for me to attest that the building is fire-proof. I don't think I can do that. The code isn't requiring me to make this fire-proof specifically for this tenant. This tenant is considered in the IBC Code which is 2009; we're waiting for the 2012 to be adopted. It's the New Jersey addition. It's considered as a factory-industrial F2 low hazard occupancy. And what that allows me to do; it has listings of different types of products that can actually be fabricated, a foundry, glass products, gypsum, ice, metal products. One of them is beverages, up to and including 16 percent alcohol content....and we fall within that realm. If we were above the 16 percent alcohol content, we would be an F1 considered in my code and that would allow me to do or require me to do a few different things. It may give me a smaller area that I have to work with, different ratings on the materials I'm using but to simply get back because I know time is of the essence here, our intent is once I review the explosion classification of the equipment, if there is any, I will follow suit in my working drawings that go in front of the Building Department for the permit and show that we will have some time of explosion relief and like I said, we're anticipating a thermal panel, a panel that's insulated. I don't want the walls on the inside to sweat and the outside zero degrees and with the application of how that's installed the release clips are on the external so it will push itself out. I don't want, and again, even if the doors blow themselves in to the space, all I'm looking for is some type of a release so the explosion is not 100% coming into the facility, or going vertical or going sideways, but maybe like 25%. I provided this relief and that's our intent when we decide to put our drawings (inaudible).

MR. FLEISCHNER: You mention, you don't want the walls to sweat. Is there some kind of design in there to prevent mildew? (Inaudible) mold generation?

MR. O'BRIEN: Sure. What we usually do, and again this structure is a 12" block wall. I'm under the impression and I haven't inspected the site but I'm under the impression that the inside pores of the block are not insulated so usually in the area where we're dealing with something other than fabrication, if I'm dealing with an office space, say the front portion per se where they're going to have that little gathering area, those walls would have a metal channel or a metal stud applied to the outside wall. Could be wood because I'm allowed wood in a 3B building and then on top of that we would have drywall which would be water-resistant drywall and that would be insulated for thermal capacity. And

again, I have to provide in my working drawings an energy code analysis for this building that goes in front of the Town too.

MR. FLEISCHNER: Would you say that, let me rephrase my mind here....that you mentioned that there's a new code that was 2012 that has not been approved?

MR. O'BRIEN: New Jersey has not adopted that yet.

MR. FLEISCHNER: Yet, ok. Are you familiar what's in that and how would this comply?

MR. O'BRIEN: What we do as part of our continuing education is go for code reviewing and code compliance. Since that has not been made available to us at yet, I haven't dived into that at all. I can't say, and again with New Jersey, now again it's 2009 and they're ready to adopt 2012 but its 2015 and it's going to be 2016 before they even adopt 2012. So, to think that we're going to think ahead and try to go under the basis of future code, that doesn't help me in the permit process. When I submit my drawings I have to state that it's 2009 code I'm following.

MR. FLEISCHNER: And would you also state that if the applicant were to get approval and wishes to expand then that changes everything because now they're over 12,000.

MR. O'BRIEN: Going back to Mr. Wilpert's comment in the beginning was there checks and balances and the code compliance of what I have to provide my clients with and in order to provide drawings to the Town for permit have to be passed and approved. All of that is checks and balances based on the code I'm required to use. Now if they decide to expand to the adjacent tenant 5 years from now whatever code is enforced at that time they will have to abide by but not for the existing facility that they have today. If they're not making any changes to that facility and New Jersey code which is much different, and I'm PA registered as well, New Jersey has their special code and they allow a rehab section in the UCC code and that gives me a little relief for my tenants. So I don't have to bring this area up to code but this area that I'm moving in to has to be up to code. But if I decided to take all toilets out of here and throw them away I have to fulfill the new plumbing code for putting anything back in that location.

MR. FLEISCHNER: I just wanted it on the record. I knew what the answer was. Thank you.

MR. SELVAGGI: I don't have anything further for Mr. O'Brien. Obviously he (inaudible).

MR. WEISS: I just have one. Again I was taking notes off the tape. It sounded like early on in Mr. Aaron's testimony he talked about the ceiling. There was not going to be a ceiling originally but just a netting? Has that changed?

MR. O'BRIEN: And again, these drawings were done about a month and a half ago so we're still in the process of doing our working drawings, our construction documents. The client intended that to be a netting. That was before we started getting involved with the explosion relief. If I can keep that surface on the roof exposed and open and cover it with netting for whatever reason, dust or particles so forth. If that provides me vertical relief, I'll be happy with that as well but right now I'm going on the basis that I have a ceiling. If I do have a ceiling, worst case scenario my doors swing out and I take availability of the outside wall (inaudible).

MR. WEISS: I have another question brought up at the end of the meeting. Chuck brought it up. Is the boiler vented through the roof?

MR. O'BRIEN: The new boilers. If they are propane rated, yet there will be venting through the roof. I'm not sure if on the location of where they are if I can pass that by through the side wall. That's something I have to work with with the mechanical engineer.

MR. WEISS: And is it proper to direct the question to you, what about any odor or noise or anything coming through that venting. Is there a byproduct that we need to be aware of? I only say that because, and I know we're not going to compare what going to here to Budweiser but we've all driven by the airport and it stinks and maybe that's because there's a gazillion barrels of beer but just I wanted to hear from somebody, is there going to be odor control? Is there going to be odor produced?

MR. O'BRIEN: Ok. When you mentioned venting, what venting were you talking about?

MR. WEISS: I don't know, I'm not sure if I'm being very specific except there was a question raised at the end of last meeting that if the boiler is vented through the roof we need to....Chuck it came from you, you might want to help me here.

MR. MCGROARTY: No that's exactly right.

MR. O'BRIEN: If the boilers are vented through the roof then the boilers are exhausting only the fuel requirement. The exposed fuel. The fuel that's been used. That's the only thing that's vented through the roof as far as I know.

MR. WEISS: Is there any venting of odors, of (inaudible).

MR. O'BRIEN: As far as I know the mechanical engineer they have does not have the need to bring in fresh, outside air to the fabricating facility itself. From what I understand, the only thing that we have are the heating elements to provide us with a tempered air.

MR. WEISS: So maybe I should have asked Mr. Aaron....is there an odor? Is there an odor byproduct?

MR. AARON: The hops have a natural odor or smell to them.

MRS. NATAFALUSY: Could you come up to the mic?

MR. WEISS: Chuck you might need to come forward. I'm sorry to bring you back up, I just....

MR. AARON: I was just looking for a letter because I talked to the Health Department about this issue and they recommended to call the Morris County department that I had spoken with earlier about septic and about hauling material away. I spoke to Scott there. The only thing with the boiler that's vented out, if it goes over a million btu's we have to get a, an air permit from the State. If our boiler's under a million btu's we don't have to get that permit. I explained the rest of the process to him as well and he said there was no further issue or permitting required by the State.

MR. WEISS: I'm just going to make a suggestion that I'm real satisfied with your architect telling me this, no disrespect but my question is simple, is there an odor....

MR. AARON: No.

MR. WEISS: In beer processing?

MR. AARON: No.

MR. WEISS: Good. Ok. I asked. Let's leave that up to.... I'm real happy with Mr. O'Brien telling me what he's told me. Chuck that's no disrespect. I just, I'm very happy with Mr. O'Brien telling me this stuff. We can move forward. Ok. That was the end of my questions. Chuck did that kind of satisfy your concern at the end of the meeting?

MR. MCGROARTY: Yeah, I was told Mr. Chairman the response last time was that it's a steam boiler and it's on the architectural plans and that was the question, is it going to, will there be odors coming out? The answer we're told is no.

MR. WEISS: Ok. I don't have any other questions. Does anybody else have any questions for Mr. O'Brien?

MR. BUZAK: I don't mean to belabor this point. Is that your testimony Mr. O'Brien or is that Mr. Aaron's testimony?

MR. O'BRIEN: I think that's my testimony.

MR. BUZAK: Ok.

MR. WEISS: Perfect. That's, good answer. Anybody from the Planning Board have any other questions for Mr. O'Brien? Seeing none from the Planning Board, does anybody from the public have any questions for Mr. O'Brien? Based on the testimony delivered this evening, Chuck?

MR. MCGROARTY: I'm sorry, Mr. Chairman, I do just want to....Mr. O'Brien, are there any other, will there be any mechanical, any mechanical equipment on the roof? HVAC or anything else that is not there now that you would need to put on for this facility?

MR. O'BRIEN: As I'm led to believe now and again we haven't finished our working drawings yet, as I'm led to believe now the facility that is on the roof that will be supporting the gathering area or what I would call the assembly area, the public area is sufficient enough for that use for that square footage area....and also for the volume because remember the building I think is almost 19' high, (inaudible) but in the gathering area our ceilings are like this, pretty much like this, and they're set at 9, 9 1/2 feet. So the volume is much less and everything is ducted. There's no plenum return above the ceilings, some offices or some facilities have that so everything is ducted, return ducted supply. But as far as I know, no, we're not putting any new equipment on that roof for the assembly area.

MR. WEISS: How do we handle the situation if something changes? And I can respect...your answer's satisfactory but if it changes do we handle that as a field design change? Gene? What do we do?

MR. O'BRIEN: Usually when I go through and provide my drawings, if during the course of the construction process if, and I've had it happen before where a client got a much larger unit at a better price so he figures, "ok I'm going to get the bigger unit" and I had to change some of the structure to support that site. That was done for me through the Construction Department as a change order. And I have to facilitate to them, documentation of, from my structural engineer to say that it was appropriate, mechanical engineer to say it was appropriate for the need of what we're doing so I think in that checks and balances I don't think a change simply there in the part of the construction comes back to this Board. It usually goes back to the Building Official.

MR. WEISS: Is that....do we agree with that?

MR. BUZAK: Well, I think that as far as it goes and as far as the testimony was that's correct. I think that this Board has always been concerned about roof-mounted mechanical and screening and that kind of thing and I think Chuck's question was going more toward that, I would assume. And the answer is, maybe the proper question sir, is that are you familiar with the, no offense Chuck. I didn't mean it that way...the proper question. Are you familiar with the mechanicals that are on the roof?

MR. O'BRIEN: Yes. The (inaudible) are there and if you're looking at it from a screening standpoint, I haven't seen anything that's obtrusive...that needs screening around it because those units are existing. However, if we were going to put a new system on, a much bigger one, toward the front of the building, we would have to address that from an aesthetic standpoint, absolutely.

MR. MCGROARTY: Right. Not necessarily under the construction code departments but....

MR. O'BRIEN: Correct.

MR. BUZAK: And that's the problem.

MR. O'BRIEN: From the aesthetic standpoint. Yes, that would then come back to this Board.

MR. WEISS: Fair enough. Ok, so...

MR. BUZAK: But sir if you were going to put additional mechanicals on there and they would not be any larger than the ones there or in a location such that you'd be able to see them differently than what's already up there. I would assume that you would not have to come back here.

MR. O'BRIEN: Correct and yet that would trigger a letter going to the Construction Department which then may be passed on to the Planning Board as well. (Inaudible) that process but I know any changes we make to our drawings have to be signed, sealed and delivered and copied back to the town for their final approval. We won't get a CO unless (inaudible).

MR. BUZAK: Thank you sir.

MR. O'BRIEN: You're welcome.

MR. WEISS: Make that a condition?

MR. BUZAK: We may put a condition on in the event.

MR. SELVAGGI: We have no objection to that.

MR. WEISS: Anybody else from the public have a question for Mr. O'Brien? Sir, you have a question for Mr. O'Brien? You can come to the podium. What you'll do is you'll state your name and address for the record.

MR. BUCKLEY: Hi, I'm Sam Buckley. I live at 11 Park Place in Flanders. Just a real quick question. Are you contemplating Jersey Brewing Company giving discounts to Mt. Olive residents?

MR. WEISS: Hold on, I got to just stop that question. This is not a question for the architect. So...

MR. O'BRIEN: I better get a discount. That's all I'm saying....

MR. BUCKLEY: Just curious.

MR. WEISS: Ok, good question. We can bring that up at the end of the meeting, Sam, but that's a question for somebody other than the architect.

MR. WEISS: Probably for the owner which we'll have another opportunity. Ok, anybody else from the public? Seeing none. Michael?

MR. SELVAGGI: Yes, I'd like to now call Robert Zellely.

(MR. ZELLELY IS SWORN IN FOR THE RECORD)

MR. ZELLELY: Bob Zellely, with Maser Consulting out of Clinton, NJ. The address is 53 Frontage Road, Suite 120, Clinton, NJ 08809.

MR. BUZAK: Thank you, sir. And is it Robert or Bob?

MR. ZELLELY: Robert.

MR. BUZAK: Formal name is Robert?

MR. ZELLELY: Yes.

MR. BUZAK: I've had people say Larry and I saw Lawrence and he said no, it's Larry, so that's why I asked the question. It's Robert.

MR. SELVAGGI: Mr. Zellely, if you can, could you give the Board your educational, professional background?

MR. WEISS: We might be able to skip that process. I think we've all seen Mr. Zellely. You've been, you've appeared in front of this Board before.

MR. ZELLELY: Yes, going back 20 years.

MR. WEISS: I think we can accept Mr. Zellely as a.... Just to confirm, you're here as an expert in hydrogeology tonight?

MR. ZELLELY: I'm a licensed geologist in the Commonwealth of Pennsylvania. I'm a licensed LSRP in the State of New Jersey.

MR. WEISS: And your function with this application is as a...?

MR. ZELLELY: As a geologist/hydro geologist.

MR. WEISS: Perfect. Fair enough.

MR. SELVAGGI: Mr. Zellely, within the last several weeks you've been advised that, by the applicant and myself that there was an issue concerning perhaps, drawdown and I guess in layman's terms because you guys spoke a whole different lingo than I, that we're taking, there's a concern that this operation

may take more water out of the ground and create a deficit; not only for this property but the surrounding lands, correct?

MR. ZELLEY: Correct.

MR. SELVAGGI: You did an analysis and what did you find? I mean, what was your study or investigation?

MR. ZELLEY: When I was....it was my understanding that the Zoning Board wanted to clarify if there was a possibility that there was going to be an adverse effect of the operation of this facility and I was asked to take a look at the operation, the consumption of ground water, the data of the existing well and the site, the site geology, how many barrels. The deduction we used in this report 3 scenarios, start at about a thousand barrels a year, there's 31 gallons in a barrel and then 15,000 barrels a year, which represents to my knowledge the largest on-going operational brewery of this type in the State of New Jersey. The State permit allows up to 50,000 barrels a year so we also looked at that also. The existing well on site, on the side of the building, it's about 200 feet deep, about 52 feet in to bedrock. It's 198 feet deep. There is a short-term pumping test done in 2001 by the well driller who was pumped for 4 hours at 30 gallons a minute and had about 77 feet of drawdown. The water to my knowledge didn't adversely affect any other wells. It was, this is under the 100,000 gallons a day so a water allocation permit is not required. This area is in the Highlands Council District so when one is going for a water allocation permit over the 100,000 gallons then the Highlands looks at it but anything below that, they wouldn't have any concern cause it's such a small amount. We looked at the recharge in the area. The (inaudible) the water is going to run off into the existing storm water feature. There's the roof and in the parking lot, which is a large amount of impervious surface and I go through the numbers in here, and the bottom line is....even at the 50,000 barrels a year there's still adequate water. The recharge from the features that were designed back in 2001, because when you have new development the recharge has to be compensating, one can't have ground water or surface water removed from the site and lost opportunity for recharge. So right now the site is designed, constructed in a fashion that there's adequate recharge and if you look at the numbers it's not a lot of water. A thousand barrels a year, which is what he's going to start off with, that's about what...3 kegs a day. That's not measurable. It's 0.06 gallons per minute. If they reach a threshold equaling the largest microbrewery in the State it would be less than a gallon a minute. A hose is 5 gallons a minute, just to understand the magnitude...which is very small. But that's why I was asked to look it cause is this going to be a concern or not? And in my professional judgment it is not going to be a concern. It will not, based on the data, based on site conditions as they are now, will not result in any adverse affect to the aquifer or available recharge and that is my conclusion.

MR. WEISS: Go ahead.

MR. BUZAK: Sir, you've given the testimony with regards to gallons per minute and if you produce a thousand barrels a year and you produce that thousand barrels at 31 gallons a barrel...call a conversion...you'll need 31,000 gallons. Is that right so far?

MR. ZELLEY: Yeah. It's just math. Right. And there's 1,000

MR. BUZAK: And you say, ok well it's going to take, if you produce those thousand barrels over the course of a year you need 600th of a gallon per minute but...

MR. ZELLEY: That's correct that's how we do it cause it's over...

MR. BUZAK: I understand that but...I understand that but....if you produced a 1,000 barrels in a day you need 31,000 gallons in that day.

MR. ZELLEY: That would be a different question. That's not....that wasn't the question.

MR. BUZAK: Ok, so my question to you is do you know the period of time over which this thousand barrels....

MR. ZELLEY: A year.

MR. BUZAK: Ok and do you know that they are going to be produced on an even basis during that year? So are you going to produce 240 days in a year of working days that the thousand barrels...you're going to produce 3 barrels a day?

MR. ZELLEY: It's not going to change much, it's not going to change the results because the way the aquifer will respond over a long period of time it'll reach a new equilibrium. So you can't take a snapshot. So when we're looking at, especially in bedrock situations, it will reach a new equilibrium. In this case, it looks like the recharge is going to be equal to the production even at 50,000 drums a year....because of the way the system....now if this was designed differently, counselor, if this site was designed at all the storm water from the roofs and the parking lot and it all went into some stream, it went somewhere else, my answer might be different because then you have a change of conditions. But the conditions as they are now and even at 15,000 barrels, it's less than a gallon a minute and it's, and if they were, you can say a given week if they did most of it in the first 4 days it's not going to....there would be no consequence. You won't be able to measure the difference cause there's an equilibrium.

MR. BUZAK: Ok so is it your testimony, sir, that if you produce the maximum amount of gallon age that's permitted or the maximum amount of barrels that's permitted in the shortest period of time that there would be no detrimental effect on the aquifer?

MR. ZELLEY: Well, I don't know what the shortest period of time is... That hasn't been defined but I think that's going to be based on the mechanics and the operation and I'm familiar with....my friend I went to high school with actually is the one who opened the River Horse in Lambertville. Bobby Burks, we went to Pembroke High School together and they're limited to how much production they can do and the production....I've seen the drawings and from what I understand is they don't have the capability to front load. Say if you were trying to get 50,000 barrels in two weeks or a month, even, I don't believe they have the capability to do that.

MR. BUZAK: If they did have the capability?

MR. ZELLEY: If they had the capability to do what number of...?

MR. BUZAK: Well that's my question to you, sir! It seems to me that if you're going to give opinions on the affect, you're making certain assumptions and I guess we don't have the testimony in the record unless I missed it....and I may have....as to whether those assumptions are valid.

MR. ZELLEY: (Inaudible)

MR. BUZAK: Let me just finish and whether those assumptions will remain during the course of this operation. You don't come back before this Board because you're going to produce a thousand barrels now and then you're going to produce 50,000 barrels at some other point. You're not going to come back before us unless there's some other change that is being done...so I'm trying to get to the maximum number that can be done here and in the shortest period of time to determine what indeed the impact would be.

MR. SELVAGGI: Here's what we can do. Mr. Aaron has already been sworn in. Mr. Aaron, you've heard Mr. Buzak's question. To help put it into context, what's the maximum amount that you can brew in a day?

MR. AARON: Ninety barrels.

MR. SELVAGGI: Alright.

MR. AARON: We have a 30 barrel system and we can cycle through and do what's known as back-to-back brewing. Given there's 24 hours in a day; our constriction is we can only do 3 a day.

MR. ZELLEY: That's it?

MR. AARON: You just can't make beer faster than that.

MR. ZELLEY: Ninety barrels in a day?

MR. AARON: Ninety barrels in a day.

MR. ZELLEY: Ok. That's...yeah that's like 2 gallons a minute. That's nothing.

MR. BUZAK: So is it your testimony, sir, that producing the 90 barrels a day would not have an effect, a detrimental effect on the aquifer?

MR. ZELLEY: There's 1,440 minutes in a day. So, two times that 2,880 and that's about the same amount of gallon of his maximum of 90 barrels in a day. So that results in about 2 gallons a minute which would result in just a couple feet fall down the well which would have no adverse effect to the aquifer or the surrounding. As long as conditions don't change and you have the recharge and you have a parking lot and the way the storm water is designed. Counselor if he's taking 1.94 gallons a minute out for a day to do the maximum that means that there are going to be other days that's he's not pumping any. That's why as a geologist we look at both short-term, like I just did and at long-term like I discussed in the report because it's an unknown, his frequency and his output in production. So the best that one can do is take, what is the permit limit? What does the State allow him to do? And even if he does his maximum, from 90 barrels, that's less than 2 gallons a minute. A hose is 5 gallons a minute...so my conclusion is just more verified that....I even believe stronger now that even at the maximum production per day....and once again that means there's another day or two or more that there'll be no pumping cause he has to have the average of whatever the average is 50,000 barrels a year.

MR. BUCZYNSKI: I think the counselor's concern is the instantaneous taking out...if you're going to take a lot in a small period of time what effect that would be?

MR. ZELLEY: It would be just a few feet of drawdown on the well.

MR. BUZAK: And therefore no detrimental effect?

MR. ZELLEY: No discernable detrimental effect.

MR. BUZAK: Thank you.

MR. SELVAGGI: Just to put it in further context, Mr. Zellely, again, simple math. If Jersey Girl did the maximum it could do it would be 90 gallons, I mean 90 barrels a day and did that every day of the year....

MR. ZELLEY: They would run out....for their limit because how many days until they get 50,000?

MR. SELVAGGI: Well, that's what I'm asking you.... It's 90 barrels times 360.

MR. ZELLEY: You said 90?

MR. SELVAGGI: Yeah 90 barrels a day times 360....

MR. BUZAK: It's under 50,000.

MR. SELVAGGI: So in your analysis, it said at 50,000 barrels it would still be no negative consequence.

MR. ZELLEY: Yeah, the 50,000 is more than the 90.

MR. BUZAK: That wasn't Mr. Selvaggi's question. Mr. Selvaggi's question was whether there would be a detrimental effect.

MR. ZELLEY: There will not be.

MR. BUZAK: Ok.

MR. SELVAGGI: Cause you did the analysis at 50,000 barrels?

MR. ZELLEY: Right and 90,000 is less than 50,000.

MR. SELVAGGI: Right or 32,400 which would be the max that....

MR. ZELLEY: It comes out to....the drawdown in the well will be several feet. I would expect to have several feet of drawdown. Again, during rain season it could be actually higher than it is now even with production. And the key is, the site was designed properly to accommodate recharge via the basin in the front. Remember also, there's no exportation of source. I didn't really get in to that but your engineer understands, so do you counselor, that all the source onsite there go to the septic in the front so all of that treated water goes back and the published documents we say 80% that goes in the septic you can count on for recharge at 80%. So to be conservative, that also would add to the recharge.

MR. BUZAK: Thank you, sir.

MR. WEISS: Yes, thank you for that. I would imagine that next year, Mr. Aaron would be very happy with doing 90 barrels a day for 365 days....far exceeding his proposed business plan as he said last month...so good to know that if you got there the water would be there for you. Ok, do you have any other testimony, Mr. Zellely?

MR. SELVAGGI: I don't know if members of the public or anybody....

MR. BUCZYNSKI: Just one question, it's a memo from the Health Department. They mention that the water system, the well system have to be reclassified as a Public Non-Community Water Supply System. Do you agree with that?

MR. ZELLEY: I wasn't asked to look at that. It's the first I've heard of that question.

MR. BUCZYNSKI: Too bad your attorney didn't give you that information.

MR. SELVAGGI: We would agree to comply with...to the extent we can.

MR. BUCZYNSKI: If you have to. I just wanted to know his opinion.

MR. ZELLEY: It sounds like that's probably (inaudible).

MR. BUCZYNSKI: I think they look at the fact there's more than 25 people.

MR. SELVAGGI: Yeah. It's 25 people because this came up with Dr. Mark and it's based on.....

MR. BUCZYNSKI: So basically, you'll comply with whatever the State requires?

MR. SELVAGGI: Because I think it may be that our retail people filtering in now are going to put you over that 25....not the actual number of employees.

MR. BUCZYNSKI: Right. Understood.

MR. WEISS: Does anybody else from the Planning Board have any questions for Mr. Zellely? At this point let me open it to the public. If anybody from the public has any questions for Mr. Zellely based on the testimony given this evening now would be the time. And I don't think Mr. Zellely could talk about a discount either. Nothing else from the public? Ok. Michael, I think what we need to do as we approach that 8:30 hour is let's try to come up with a date where we can perhaps finish this application. We cannot stay an extra half an hour tonight. And we did promise the next applicant that they would come on at 8:30 and we're in agreement that we'd go an hour and a half. We have a little bit of a scheduling issue in that Chuck is not here on July 16th.

MRS. NATAFALUSY: And Gene's not here on August 13th so....

MR. WEISS: So Catherine just informed me that if you're available on July 9th we will work you in to the schedule.

MR. SELVAGGI: That's next week isn't it?

MR. BUCZYNSKI: No, July. He said July 9th.

MR. SELVAGGI: We have a meeting on June 18th.

MR. WEISS: We have a meeting on June 18th, let's see...

MRS. NATAFALUSY: Next week I have a tree replacement, a preliminary/final site plan and then we have a use variance for a second dwelling unit.

MR. MCGROARTY: Well this application just, I think the last witness, if I'm not mistaken is their planner.

MR. SELVAGGI: Yeah, Jessica.

MRS. NATAFALUSY: I just told them I would put them on first on the 9th. I don't know....

MR. MCGROARTY: You could probably get it on the agenda next week if you wanted to.

MR. WEISS: We could do it next week?

MRS. NATAFALUSY: Well we could put it first on the agenda and push everything back.

MR. WEISS: Ok, that's fair enough.

MR. SELVAGGI: I think we have....I think our office has the....

MRS. NATAFALUSY: Mr. Stutz.

MR. SELVAGGI: Yeah, Mr. Stutz. So I think I was going to be covering that for Mr. Lavery.

MR. WEISS: Those are fairly simple (inaudible)

MR. SELVAGGI: Yeah, I think Stutz should be pretty...

MR. WEISS: Ok, so let's do that.

MR. MCGROARTY: Stutz is not going to be simple but....

MR. SELVAGGI: Oh wait a minute, I'm getting confused, that's another....that's the mother-daughter

MR. WEISS: Well I think we made good progress and scheduling next week if you don't have an objection is probably very smart.

MRS. NATAFALUSY: We can put it first next week and then everything else.....

MR. WEISS: Michael, is that ok?

MR. SELVAGGI: Yeah, I just wanted to make sure that Jess was available.

MR. WEISS: That would be helpful, especially since she's on the docket.

MR. SELVAGGI: Alright, so, we'll meet you next week.

MR. WEISS: This application will be carried with no further notice until June 18th which is next Thursday. Carried and you will be put them first on the agenda?

MRS. NATAFALUSY: Yes.

MR. WEISS: First on the agenda.

MR. WEISS: Ok, let's switch gears. Let's take 5 minutes.

MR. WEISS: There are technically 3 applications. I'm going to introduce all 3. Is that appropriate Mr. Buzak?

MR. BUZAK: Well, you can and I think that's the first question we have to ask the applicant because we need to know how they plan to proceed....is it 3 separate applications, there are 3 different site, 3 different lots, 3 different variances.

MR. WEISS: Ok, before I formally introduce them, Mr. Dwyer maybe you'll help me (inaudible).

MR. DWYER: Thank you Mr. Chairman, Pat Dwyer from the law firm of Nusbaum Stein on behalf of Phyllis Shelton and the Shelton Family, LLC. We're here this evening on these three applications which are submitted and we're hoping the Board would allow us to present all of them at once because they're very similar (inaudible).

MR. WEISS: You know this is not the first time we've done this where we've introduced them separately but we've taken the general testimony and allowed it to be carried from application to application. It might be easier for record keeping to do it that way so unless you have an objection, I'll introduce the

first one as PB14-21 and then when we introduce 14-22 it will be totally acceptable to me and I'm sure my friend here will agree that we will just carry over the testimony because unless there's some distinct difference.

MR. MCGROARTY: Mr. Chairman, when you say carry over, there are variances that are distinct to each of the 3 lots so you're expecting specific testimony on....

MR. WEISS: They're 100% Chuck. Maybe I was too vague. I think the general tone of...

MR. MCGROARTY: You just meant that you're not going to stop and swear him in again and all that?

MR. WEISS: That is correct. I mean, we've done it before so maybe I'm not explaining for the record what we've done which is the concept of each application is similar and that you're seeking relief for similar issues but quite different variance requests. So keeping them separate would be better for the record, I believe, and I'm getting a

MR. BUZAK: Yes and I think the reason is you're going to give testimony about Lot 29. It's going to be site specific and you're going to give him all that and then when you talk about Lot 30 you're not talking about Lot 29 anymore.

MR. WEISS: And so where appropriate, we will accept testimony previously given if it's the same. So I will introduce PB 14-21, Phyllis R. Shelton requesting a use variance on two dwellings, units on one lot at 9 Park Place, Block 5800, Lot 29. Mr. Dwyer, it's all yours.

MR. DWYER: Thank you Mr. Chairman. I had intended to, in my opening remarks, to address all three applications if I may do that I would request, of course, permission to a one minute summary about why we are here. We're seeking tonight a use and bulk variance relief for these three properties. They're located at 9, 11 and 15 Park Place in Flanders. The properties in question are already improved with structures. There are no new structures in this proposal. Each of these three lots has two separate structures so that there are a total of six. It's been estimated that, at the outset of these structures there was one that was a principal building, used for residential purposes and that there was another that was an accessory structure. Although we do not know the exact date of when the accessory structures were converted to residential, certainly today we do know that those accessory structures are being used for residential purposes. We also know that they've been used in this fashion for a number of years and what we would submit has been without any apparent detriment or harm. We're here this evening for these 3 building lots to legalize what are the existing uses today. And with me this evening we have Jeff Careaga our engineer and we also planned for (inaudible) Zimmerman as our Planner and of course, Phyllis Shelton is here as our owner. So to begin with if I may, Mr. Chair, I call as our first witness, Jeff Careaga who I believe is known to the Board.

MR. WEISS: We will swear Mr. Careaga in.

(JEFFREY CAREAGA IS SWORN IN FOR THE RECORD)

MR. WEISS: We can speed this up as well; Mr. Careaga has been here many times. You've appeared in front of this Board numerous times as well Jeff and if anybody has any questions I have no problem accepting Jeff as an expert Engineer. Gene?

MR. BUCZYNSKI: No problem.

MR. WEISS: Ed?

MR. BUZAK: No, sir.

MR. WEISS: Ok.

MR. DWYER: So if I understand the Board's request, we're going to ask right now only questions regarding Lot 29, correct?

MR. WEISS: I think we want to give the testimony specific to Lot 29.

MR. DWYER: Ok. Alright, we'll start with that, Jeff.

MR. WEISS: It would probably be inappropriate to ask questions about something that we haven't discussed yet so, let's keep the testimony from the engineering specific to 29.

MR. DWYER: Jeff can you please go over the site conditions for Lot 29?

MR. CAREAGA: Sure. Lot 29 is in the CR-3 Zone. The zoning chart on our plan was had some incorrect information since there is no public sewer so just to put in on the record. The minimum lot area in the zone without sewer is 1 acre; we have 123,122 square feet. Minimum lot width of 200 feet; we have 577.4. Minimum lot depth of 150 feet; we have approximately 230 feet. Minimum front yard of 75 feet; we have 83.6. Side yard of 25 feet; we 10.2 which is an existing, non-conforming. Maximum building height is 30 feet and one of our buildings is 41.9 feet....the mill which is an existing, non-conformity. And the other building is 28.8 feet. Maximum building coverage is 30% and we have 2.7%. Maximum lot coverage is 55% and we have 11.7%. For accessory buildings, front lot line requires 100 feet; we have 17.5. Other lot line, 15 feet; we have 56.9 and principal building 10 feet and we have 20.8.

MR. BUCZYNSKI: Jeff, that's not the same requirements that you show on your plan.

MR. CAREAGA: Well, I know that's why, that's exactly what I just said. Our zoning chart is different and I want to put on the record what...

MR. BUCZYNSKI: Even for maximum building coverage and lot coverage too? I didn't realize that.

MR. MCGROARTY: Did you see my chart in my report?

MR. CAREAGA: I don't have it in front of me.

MR. MCGROARTY: You don't have my report?

MR. CAREAGA: I can look it up.

MR. MCGROARTY: What is it CO3? I put the standards in. I'll check them to see if it's right. Excuse me Mr. Chairman. I think you'd want to look at the chart that I have in my report on page 3. Those are the standards that apply in the CR3 Zone where there are no sewers based on a one acre lot size and so the lot depth which otherwise doesn't apply and is not shown on the plans is required, etc. The figures that I have in here are correct. I'm checking the ordinance now just to make sure that I got it correct. No, actually, I'm incorrect. You said lot coverage is 55% and you are correct. Building coverage is 30% and lot coverage is 55% so my report is wrong on that.

MR. WEISS: Chuck, come again. Building coverage is, as Jeff just said, building coverage is 30%, not 20% as I said and it's 55% not 30.

MR. FLEISCHNER: The lot coverage?

MR. MCGROARTY: The lot coverage. So Jeff, the information you just gave is correct on those two. I think the others....do we agree on the others?

MR. CAREAGA: Yeah, I think the others are ok. So I apologize. My mistake on that.

MR. WEISS: Hold on. The lot coverage on...

MR. MCGROARTY: They're well under. It's not a variance on either one but the building coverage should be 30% and the total lot coverage should be 55%.

MR. WEISS: So it's wrong on this.

MR. MCGROARTY: It's wrong in my report.

MR. CAREAGA: It's wrong on both.

MR. WEISS: So that's fine.

MR. CAREAGA: So we are here for variances. Essentially we have the existing non-conformities of the maximum building height for the mill, the accessory building to the front lot line is 17.50 feet as opposed to 100 and minimum side yard we have 10.2 feet instead of 25. We have more than one

principal building on the lot which is also a variance and impervious coverage within 50 feet of a water course. We also do have impervious within 50 feet so (inaudible). Along with the D5 variance for (inaudible).

MR. BUZAK: So can I ask you a question? I usually do not interrupt this early on....

MR. CAREAGA: That's ok.

MR. BUZAK: Because we have two principal buildings, is the testimony going to relate to variances based upon each building being considered a principal building and therefore having to comply with the principal building requirements as opposed to the accessory building requirements?

MR. CAREAGA: I think that's more of our planning testimony than our engineering testimony.

MR. BUZAK: Ok, well in your chart when you talk about accessory building and you show Lot 29 with accessory building existing, what are you referring to?

MR. CAREAGA: Lot 29 is the large lot (inaudible) accessory buildings on the lot. Sheds on the lot itself. (Inaudible) accessory buildings that you're talking about?

MR. BUZAK: Well let me ask you this sir, I don't mean to, that was you were answering my question, I apologize. It wasn't focused enough. Of the two residential buildings that are on the lot, are each of those, for the purposes of this chart, considered principal buildings?

MR. CAREAGA: Yes, two principal buildings.

MR. BUZAK: Ok. And the accessory buildings are those other structures that may be on the lot that you're talking about that you show.

MR. CAREAGA: Correct.

MR. BUZAK: Thank you. That was my question.

MR. CAREAGA: So this, Lot 29 is constrained quite a bit by water. There's water everywhere. The one on Park Place there is essentially a pond up front. It's got a rear overflow that flows down to the stream to the pond in the back. There's a separate stream that flows pretty much through the existing pasture area with horses. So, essentially the whole lot is covered within 300 foot buffer. This is a Class 1 stream...this is all considered so....this entire property and all of them for all practical purposes are within the buffer for 300 foot flood hazard area so any work as proposed in Lot 29 or any of the other properties are subject to Flood Hazard Area regulations. We did have our consultant, the wetlands, Wade Wander, go out to the site. He did walk the property and walk across the stream to the adjacent properties within 150 feet. He said that essentially Lot 29, which is farther away, does have wetlands on it. It's not anywhere near our property so he basically indicated to us that there is no wetlands constraints on Lots 29, 30 and 31. So essentially, any work, that we're going to propose out here is replacement of septic systems, ultimately, is going to have to meet the Flood Hazard Area regulations and Wetlands regulations, which we anticipate (inaudible).

MR. NELSEN: Excuse me, Jeff. Did you say that there was wetlands on 29 or was not?

MR. CAREAGA: Lot 28 in the back which is also owned by Phyllis Shelton. Let me just show you another....

MR. BUZAK: Sir, before you jump to the next exhibit, let's mark the first one A-1 and is that your....

MR. CAREAGA: A-1 is sheet number 2 of 3 it is the revision dated 4/7.

MRS. NATAFALUSY: Sheet 2 of 3?

MR. CAREAGA: (Inaudible).

MR. BUZAK: Yes and that's 11/4/14 latest revision 4/7?

MR. CAREAGA: Correct.

MR. BUZAK: Thank you.

MR. CAREAGA: This one, call this exhibit number 2.

MR. BUZAK: Yes.

MR. CAREAGA: This is really just the polarized version of the tax maps. So we are talking right now about Lot 29 which is around right over here. Lot 28 is also owned by Mrs. Shelton and Lot 34 is also owned by Phyllis Shelton. Lots 30, 31, 32 is (inaudible). There is wetlands back on Lot 28 and (inaudible) stream area. It's far away from Lot 29, 30 and 31 so, (inaudible) so there was no buffer, (inaudible) wetlands buffers or wetlands on any of the lots that are affected. Of course there is the stream, being a Class 1 stream it's subject to 300 foot buffer so any disturbance of the (inaudible). (Inaudible) septic system (inaudible).

MR. BUZAK: Sir, I'm sorry. You need to keep your voice up because it's hard for me to hear and I'm not sure it's picking up.

MRS. NATAFALUSY: It's picking up but he has to...

MR. WEISS: Yeah, just move the microphone over to your end of the table....that will work.

MR. BUZAK: What you're saying that, I didn't get what was the permit by rule versus the....

MR. CAREAGA: When you actually have an area that's disturbed already, meaning somebody planted shrubs, grass...something that's non-native, it's been....driveways, patios, anything... that is an existing disturbed area. So if you have an existing disturbed area that was there prior to 2007 when the current Flood Hazard Area regulations went into effect, you can rebuild in that in area without having to go for a Flood Hazard Area individual permit which typically takes about 90 days to get. Whenever you're working in these existing disturbed areas it's called a permit by rule and essentially you have to give the DEP 14 days notice that you're going to be working in that area that you're allowed to commence work. It's really, pretty much, just an email notification and we do it virtually daily for septic systems around here.

MR. BUZAK: Thank you.

MR. CAREAGA: Exhibit number 3 is going to be Water and Septic plan that was in your plan set. Again dated 11/14/14, revised April 7th of this year. Septic system regulations require that you're not supposed to put any kind of disposal fuel within 50 feet of a waterway....regardless of the Flood Hazard Area. Regulations 10 feet to the property line, 25 feet to a house with a basement, 15 feet to a house with a crawl space. So Sheet #3 of 3 has dark black lines which essentially illustrate the different buffers. This is the buffer off of the water. We have water up here so we have to keep 50 feet from here. We have water coming up through in between the houses so 50 feet from there. All of the different pond arrangements essentially have to keep 50 feet away from every day. Every septic system has to be 50 feet away from neighboring septic systems so on the plans that you have there's cross-hatching area for each of the lots. We're talking about 29 right now, that illustrate where a septic could go, strictly from a setback perspective. So we have a total of 3,369 square feet available for septic system on Lot 29. The actual, 29. Thank you. For Lot 29 essentially we have the 4 bedroom principal dwelling which is the mill and the number 9 A and B are two one-bedroom apartments or studios. I'm not sure if they're studios or one bedroom. So, essentially, looking at septic system regulations for 650 gallons a day for 4 bedroom house and 350 gallons per day for each of the dwelling units you have a total of 1,350 square feet available gallons per day that will be generated on the lot.

MR. BUZAK: I'm sorry, 1,350 square feet or 1,350 gallons per day?

MR. CAREAGA: Gallons per day. We have 3,369 square feet available so, we basically have about three times the area available for an advanced treatment septic. The actual multiplier is .996 gallons per day or square feet per gallon per day. So if you've got 1,350 gallons per day you have about 1,350 square feet that's needed for an advanced treatment septic. So essentially we actually have plenty of room for a septic over here but it gets a little more complicated when you try to put septic on the neighboring lots so I kind of double-cross hatched this just for the Board just to show you that there is enough room on Lot 29 for an advanced treatment disposal area and 1 next door if for whatever reason if we couldn't put it in this exact location we kind of flip it and put this septic up here and this septic further away so....there is enough room on the lot to actually put a septic without much of a problem.

MR. MCGROARTY: I just apologize. I think I'm a little lost over here. My sheet looks a little different than yours. This should be, this is Sheet 3?

MR. CAREAGA: Yes.

MR. MCGROARTY: It just that the adjacent lot, I might be looking at the wrong plan...

MR. CAREAGA: I did darken the cross hatching, Chuck.

MR. MCGROARTY: Ok. I got ya. I see it now. Thank you.

MR. CAREAGA: I was just trying to illustrate the fact this is the only area that's really needed for a septic and we actually have options here on what we can do.

MR. MCGROARTY: Thank you. Ok.

MR. CAREAGA: I kind of defaulted to talking about advanced treatment septic systems but I believe it's going to be necessary for really two reasons. Number one, in the area available for septic there's driveways; the water table is very shallow in the EIS that we submitted. If you read through it, the actual soils type on the site illustrates that in this type of soil in this location the water table is between 6 to 16 inches down. We were asked to dig soil logs out there. I have been out there with my hand probe, probing around different areas trying to actually find the septic system and it's wet. I mean, there's really no question about it. The water table's going to be high there and no matter what we're going a water table that's higher than typical for a septic so, in those situations, the DEP absolutely has to approve the septic system. I don't believe it's going to be approvable by the Health Department because we're not going to meet all the regulations for the septic system installations so whenever you can't meet all of the regulations the only way to get approval for a septic is to go to the DEP.

MR. BUCZYNSKI: You're talking in the future, if these systems fail, correct?

MR. CAREAGA: Correct. Or again, if at the end of this whole process, approval process, if we are obligated to put the new septic systems in at that point it's going to be a DEP approval. We'd go out there soil logs at some point but we really wanted to get feedback from the Board before we did that because really, soil logs on this property is destroying the driveways, it's going to be a lot of damage to the property that again, if we don't get approved and we don't go forward, there's no need to actually destroy where we're going to destroy.

MR. MCGROARTY: If you need that front area are you allowed to put a driveway, if you had to take the driveway out, put the septic in, are you allowed to put a driveway back on top of the septic field?

MR. CAREAGA: Well you are if you get treating works approval for it. The DEP does allow you to do that. As a matter of fact, I got three of them approved in the last month. But the Health Department can't approve it. Any septic system is supposed to just have grass on top of it per the current septic system regulations. When you can't meet the septic system regulations, you have to get the treatment works approval and the DEP does approve it but they require a much higher level of treatment than a regular septic. They require advanced treatment. They require sometimes ultraviolet light disinfection. What comes out of these units is clear. It doesn't smell. You have to maintain them. There's a maintenance contract required to make sure that they work so....

MR. BUCZYNSKI: You're confident you have room on that lot?

MR. CAREAGA: There's definitely room. There's plenty of room on all three of the lots just from an area standpoint...but again, it's underneath driveways.

MR. MCGROARTY: And on that, I imagine Mr. Zimmerman will address it later too, that you may or may not, and I raise the question about these shared driveways and not to get ahead of your testimony but you can probably eliminate that driveway and it wouldn't affect....I mean it could operate, the lots could operate independently because they have a separate driveway.

MR. CAREAGA: This lot in particular, yes I agree. We can make this lot work by itself without putting a driveway on it.

MR. MCGROARTY: Because it has the driveway...

MR. CAREAGA: Yeah but we are going to have a water table issue. I probed over by the road, down on either side of it; the water table is (inaudible).

MR. BUCZYNSKI: I'm more concerned about the (inaudible) lot.

MR. CAREAGA: Right.

MR. WEISS: Mr. Buzak.

MR. BUZAK: Sir, based on the fact that you have not taken soil, done any soil testing, done any logs, the fact that there's a high water table, are you able to give us any opinion with some reasonable certainty as to whether DEP would approve a septic system or whether you could design a septic system that would be approved by the DEP or let me...

MR. CAREAGA: Wait, I believe I can. Quite frankly I wouldn't be here talking about it if I didn't think I could get it approved. And we do treatment works approvals all the time. Literally, I probably have 5 or 6 of them down at the DEP...as we speak right now. So it's (inaudible), we do a lot of septic systems in our office and we have done new construction septic. In Chester Borough, this was a year and a half ago we put a whole, it was new construction for a restaurant and apartments on the upstairs and we put it under a parking lot in the back yard.

MR. BUZAK: Is there any condition that you can conceive of that would exist there that would prevent you from being able to design and obtain an approval from the DEP of a septic system in the area that you're talking about?

MR. CAREAGA: No, I don't see any problem whatsoever. Again the soil survey is I believe accurate in this particular case. It's well-drained soil. It's not the best soil in the world but it does drain. There's no hydraulic restrictive zone so I don't see any problem at all getting a septic approved here.

MR. BUZAK: Thank you.

MR. BUCZYNSKI: I guess the concern I have is that's where the existing disposal bed is, right?

MR. CAREAGA: Yes.

MR. BUCZYNSKI: So, if you're going to put a new system there, you going to remove that disposal bed?

MR. CAREAGA: Probably. I mean we would actually go down into it and see what kind of condition it is but it has to meet, you know, the current codes.

MR. BUCZYNSKI: And in between the construction, how would they service the house?

MR. CAREAGA: Oh, you're only talking about a week. It's just a matter of pumping out the tank a couple of times during the week. Not a big deal.

MR. BUZAK: And there would be 1 septic system for the two principal structures that are on the lot, is that correct?

MR. CAREAGA: That is correct.

MR. CAREAGA: So everything is serviced by public water. We don't have to worry about relocation of the water line on this property. And really that's the only improvements that we would be proposing on the property...is just the septic system upgrade eventually.

MR. WEISS: I think it probably best then to just, I'd rather that we not get in to Lot 30. Are you going to move on to...? Well actually, let me back up, Jeff, do you have any other testimony about Lot 29?

MR. CAREAGA: I don't think so. I certainly would entertain any questions the Board might have on it.

MR. WEISS: Gene, do you want to address any issues on Lot 29?

MR. BUCZYNSKI: No, my biggest concern was just address the fact they're going to have to go for a Flood Hazard approval and he discussed in detail pretty much about having to go to the DEP for a septic system approval when that happens.

MR. WEISS: Ok, so...

MR. BUCZYNSKI: Just regarding all this stuff too, it was in my report; I don't want to go all around in circles here but how about a DEP letter interpretation?

MR. CAREAGA: That's something again we can certainly get. We have our opinion from Wade Wander and it's up to the Town whether or not you want us to go through with the full LOI but we can certainly do that.

MR. BUCZYNSKI: I think it should be a condition. I don't think it's something that would hold up any potential approval but I think it should be a condition of approval.

MR. WEISS: Is that ok?

MR. CAREAGA: Yes.

MR. WEISS: Ok.

MR. WEISS: Gene, anything else?

MR. CAREAGA: Before we move on to any of the other lots, I think it might be, I think it's really important just to go over with Chuck a couple of the issues that he brought up in general. Chuck, you had mentioned a potential subdivision to make lots more conforming. I just want to verify which lot; I mean I don't know if Lot 29 would be involved; if it's just 30 and 34. I mean, which ones were you thinking about?

MR. MCGROARTY: Right. Well, I guess I, because Mr. Zimmerman and I spoke today. This is jumping around a little bit. It actually involves, I said it this way and perhaps it didn't come across that way but, I'm only talking about Lot 31 at this time. You might want to wait till we get to there.

MR. CAREAGA: So basically, Lot 31; Lot 34 behind it would be a potential addition to Lot 31 which would be very easy to do. That's a very simple thing. I just, before we finished up on Lot 29 I didn't know if we were going to be rearranging all of these lot lines or if....

MR. MCGROARTY: Let me, what I, at least two of these lots are nonconforming. They're substandard. Lot 29 itself is actually over 2 acres but it has two principal dwellings. And I was tempted actually to get into a discussion of because Mrs. Shelton or the family arrangement, I'm not sure what it is, owns adjacent, contiguous properties to the rear that are undeveloped.

MR. CAREAGA: Which are the pink ones that I show here. These are owned also in addition to Lots 30 and 31 which are the yellow.

MR. BUCZYNSKI: So is Lot 28, right?

MR. CAREAGA: 28 correct. The big one.

MR. MCGROARTY: And so it raises the question that we would often ask is have you made an effort to acquire additional property to bring your property into conformance? And that's a question that can still be asked and again, Mr. Zimmerman may or may not want to get into that. I only suggested in my report, with respect to Lot 31 that they consider a lot line adjustment or minor subdivision to add to it because the house itself extends over the property boundary and that clearly, this Board I couldn't imagine ever approving....

MR. CAREAGA: Actually, it's the deck. It's the deck only I believe that goes over.

MR. MCGROARTY: Well the deck is part of the house. So they either remove the deck but if the deck stays it's part of the principal structure and it extends off the property onto the whatever that rear lot is, 34 or whatever. You can't...I don't know how the Board can ever approve a house that extends onto someone else's property, even if it's the same party. So, to Jeff's point though, the Board can have this conversation if you think it's worthwhile. I don't know if it accomplishes anything to acquire land, I guess to the east, to bring the other two properties into full conformance with respect to lot area because we're going to still have two principal dwellings if this goes forward as it's shown so there's other variances that are going on that are probably more important to deal with than the lot area.

MR. WEISS: The (inaudible) is not an issue on 29.

MR. MCGROARTY: I don't think it is, no.

MR. WEISS: I guess the question is do we hear Mr. Zimmerman's testimony to the variance on 29 or do we do them all at one time? What would be better?

MR. MCGROARTY: I have no preference, Mr. Chairman. I think, maybe, I don't know if Ed could give us direction on whether we should finish up on each lot before we move ahead.

MR. WEISS: And do the engineering?

MR. BUZAK: I think we need to look at each lot because certainly the variance issues are site specific. Each lot's going to have different, not only bulk, will have different bulk variances and even the use variance in terms of size, multiple lot and in terms of the structures, are different. So, we can't just, I don't think we can lump them all together. While it may be somewhat repetitive and maybe as we get down the road we can see where we don't need testimony again but, let's focus on 29 and maybe go through that and we can see how much of that winds up when we get to 30 we can deal with that at that point.

MR. WEISS: In regards to 29 we just did. We just did.

MR. BUZAK: We just did the engineering testimony.

MR. WEISS: Are you suggesting that we didn't talk engineering for 30?

MR. BUZAK: No. I think we may be better off to address each lot as if it were a separate application.

MR. WEISS: So bring up Mr. Zimmerman for 29....

MR. BUZAK: Or whoever else. Unless Mr.

MR. DWYER: (inaudible) if we have a preference (inaudible) go through the engineering testimony lot by lot (inaudible) Board's request, 29, 30, 31 and then do the planning testimony at the end for all of the lots. We think that the lot (inaudible) in regard to the variances is going to be, you're right, lot specific and different from each lot but one of the reasons that we're (inaudible) not sure yet based on (inaudible) changed the (inaudible) lot size which will change (inaudible) change the testimony.

MR. WEISS: And that would change your planning testimony on the lot that's...

MR. BUZAK: Ok, so you prefer doing the engineering on each of the lots then?

MR. WEISS: So then I should, probably for the record, introduce the remaining two.

MR. BUZAK: Yes, for the purposes of the record, that's right.

MR. WEISS: And we'll just allow Jeff to continue in this manner giving us testimony about engineering on then Lot 30 then 31. So, for the record, go ahead Brian.

MR. SCHAECHTER: Yeah, but 30, 31, 32 are owned by the LLC. Thirty four is owned personally.

MR. MCGROARTY: We're not there yet. We're just dealing with what we're going to have to deal with.

MR. BUZAK: We're going to have to deal with that but not yet.

MR. WEISS: I told you it was complicated.

MR. MCGROARTY: And whether they can do it, that's something that you have to tell us because if the ownership arrangement is different and impedes them from doing it they need to tell us that. But we're not there yet.

MR. WEISS: Ok so just for the record then we're going to introduce PB14-22 Phyllis R. Shelton also a use variance, two dwelling units on one lot on 11 Park Place, Block 5800, Lot 30 as well as PB14-23 Phyllis R.

Shelton use variance, two dwelling units on one lot at 15 Park Place, Block 5800, Lot 31 so let's continue in the same fashion we've been going. We agree that we, you're done with the testimony on Lot 29.

MR. CAREAGA: Correct.

MR. WEISS: So let's now move to Lot 30. Chuck, we're ok with that?

MR. MCGROARTY: Oh, yeah. Sure. And just, I'll note, and Mr. Careaga can go through the bulk standards, the mistake that I pointed out originally on building coverage and lot coverage, that correction applies to the remaining two lots. So each lot, the standard for building coverage is 30% and the...

MR. WEISS: Fifty five percent maximum lot coverage

MR. MCGROARTY: Correct.

MR. WEISS: Ok.

MR. MCGROARTY: That's what it should read in my report and Mr. Careaga's plans will be changed anyway for other stuff.

MR. WEISS: Duly noted.

MR. MCGROARTY: And then of course, on Lot 30, again, we'll get to that later but that eliminates the variance for lot coverage.

MR. WEISS: That's Lot 31, you mean?

MR. MCGROARTY: Probably both. I'm sorry; I'm probably making this more complicated. We'll let Jeff go.

MR. WEISS: Yeah, the nature of the application, to be expected. Jeff, let me (inaudible) Lot 30.

MR. CAREAGA: Ok, Lot 30. Again same zone requirements as the last one. Lot 30 is a total of 17,835 square feet which is non-conforming. It's supposed to be an acre. Minimum lot width of 91.5 which is non-conforming, it should be 200 feet. Minimum lot depth, we have approximately 220 feet which is conforming to the 150 requirement.

MR. MCGROARTY: What is it Jeff?

MR. CAREAGA: The depth is 220, I have.

MR. MCGROARTY: Ok, you'll show that on your revised plan?

MR. CAREAGA: Yes.

MR. MCGROARTY: Ok.

MR. CAREAGA: Principal building, minimum front yard is supposed to be 75; we have 28 so that's existing, non-conformity. Minimum side yard 25, we have 5.1, another non-conformity. Minimum rear yard is 20 feet, we have 39.7 so we make it there and our maximum building height is 25.1 for A and 24.2 for B which is within the 30 foot requirements. Building coverage is 1.9%, 30% is allowed. Maximum lot coverage is 41.7%, 55% is allowed. Accessory building we have 144.5 with 100 foot minimum so we're conforming there. We are 15 feet, other lot line; we're 4.3 over so that's an existing non-conformity. And principal building is supposed to be 10 feet, for accessory principal and we are 5.8, existing non-conformity.

MR. WEISS: It says 15.

MR. CAREAGA: Ten. It's 10. It was changed.

MR. MCGROARTY: Wait a minute; what are we doing?

MR. BUCYZNSKI: Principal building, accessory structure.

MRS. NATAFALUSY: Ten.

MR. MCGROARTY: Ten feet. So that needs to be changed in my report as well.

MR. NELSEN: Excuse me, but the accessory structure, is that the shed we're talking about?

MR. CAREAGA: Yes.

MR. NELSEN: And that's right on the property line?

MR. CAREAGA: It's over the property line.

MR. NELSEN: It's over the property line. Alright. Ok.

MR. CAREAGA: So on Lot 30 we have Building 11A. It is a 3- bedroom house. We have 11B which is a 1- bedroom apartment upstairs and a studio downstairs. From a septic perspective, that totals 1,200 gallons a day. Again, the cross-hatched area on the maps that we submitted show the total available area which is 2,579 square feet. We need 1,200 square feet for an advanced treatment system so we have over double the area.

MR. WEISS: Jeff, for the record, you're looking at A-3.

MR. CAREAGA: Yes.

MR. WEISS: Ok.

MR. BUCZYNSKI: Under that, all that area is existing gravel driveway, right?

MR. CAREAGA: Correct. It's pretty much all underneath the driveway here. So this is the one instance where I believe, in order to make this site work and have adequate turn around and parking for everybody onsite, I think the septic system is going to have to go under a driveway area. If there's any way to avoid that we would certainly do that but I certainly don't see a way to avoid it when you have to actually turn cars around.

MR. BUZAK: Sir, you're going to have to speak up.

MR. BUCZYNSKI: We can't hear you.

MR. BUZAK: We can't hear you at all.

MR. CAREAGA: Is this working Catherine?

MRS. NATAFALUSY: Yeah.

MR. CAREAGA: So again, the septic system on Lot 30 there's plenty of room to be 50 feet away from the neighboring septic and all of the other setback requirements from the houses and crawlspaces and basements. So we do have an area here again, same soils type that we had next door. This is a very shallow water table. I probed down found water at about a foot and a half. In the area, there's existing two septic systems on the property. There are essentially two cesspools. 11A has a cesspool behind the building; 11B has a black water cesspool in front of the building and a gray water cesspool in the back on the side so any new septic system on the property will have to be abandoning these cesspools and putting in advanced treatment in somewhere around the area we show around here. Again, the final design of the septic would be based on the soil logs and whether we put the septic up in the back or in the front. We just have to work out the details when we do Lot 29 and 30.

MR. BUCZYNSKI: How about access during that time, even though it's temporary....a week or two. How about access to those, the rear building?

MR. CAREAGA: There are certainly walk ways from, around each of these sites so I don't think that will really be a problem, Gene.

MR. BUCZYNSKI: (inaudible) where they'll park their cars?

MR. CAREAGA: What's that?

MR. BUCZYNSKI: Where are they going to park their cars? Just asking....

MR. CAREAGA: Adjacent lots. I mean there's lots of parking over here that isn't used on a regular basis. So but there is plenty of room. We certainly wouldn't want to do all three at the same time and not have any parking spaces for any of the tenants. So we do have two principal buildings on this property also. So that is variances, and again, Mr. Zimmerman will get in to the details of the planning testimony and the variances. I don't really think there's any other particular testimony necessary from me on this lot unless anybody has any questions.

MR. BUZAK: I have the same question with regard to the septic system. Is it your opinion that based upon your expertise that you would be able to design a septic, an advanced treatment septic system that would be approved by the NJDEP for Lot 30?

MR. CAREAGA: Yes, yes I do. Again, it will be a NJDEP approval. The local Health Department would not be able to approve anything underneath a driveway. And again, if there was a way to do this...if we could figure out a way to get the required parking and maneuverability without having to put it under the driveway, we will but I don't think that's going to be possible. I think we're just going to have to put the parking right back on top of it. And the DEP does allow that; they require aeration systems. The problem with putting a septic system underneath the driveway and why you typically want grass is because the disposal bed has aerobic bacteria that live in it and they essentially have to breathe. As soon as you put a parking lot on top of it, the aerobic bacteria can no longer breathe. So they require air to be added in to the system in the treatment tank and/or in the field and that's pretty much the only way to keep septic systems under parking lot alive for a long time. Again, I do a lot of septic system designs and under a parking lot, unless you add air to it, it usually has about half the life of a standard septic that has grass on top of it. The sludge just builds up very quickly inside and it just doesn't last long unless you add the air.

MR. WEISS: Ok. So Gene did you have any other comments about Lot 30?

MR. BUCZYNSKI: No.

MR. WEISS: Ok. Anybody on the Planning Board have any questions for Jeff about Lot 30? Ok. So let's move on then to Lot 31.

MR. BUZAK: And that's 14-23. Application 14-23.

MR. WEISS: I introduced that.

MR. BUZAK: Yes.

MR. WEISS: Yes, it's Application 14-23 which is Lot 31.

MR. CAREAGA: Lot 31 is shown as Lot 31 and 32 on the Tax Map. They have been combined so it's now just commonly referred to as 31. There is no more 32. Again, the corrections for the zoning charts that were on the plans...minimum lot area is an acre. We have 23,459 so it's an existing non-conformity. Minimum lot width 116.5 non-conforming, 200 is required. Minimum lot depth we have approximately 200 feet and 150 is required so we do conform. Minimum front yard 11.5 as an existing non-conformity, 75 feet required. Side yard 1.1 foot, an existing non-conformity, 25 feet is required. Rear yard...

MR. MCGROARTY: Jeff, could I just stop you though, please? For a second. I apologize but just to Mr. Buzak's question earlier, I also have that the side yard for 15C is non-conforming. So, there's a side yard setback, cause I think on your plans you only show the non-conforming setback for the Building 15A/B but 15C I have a, if I read the plans correctly, I read it to have a 10-foot side yard setback and 25 feet is required so you need a variance there too.

MR. CAREAGA: Ok.

MR. MCGROARTY: This is because you had raised that earlier and if we're treating each of these as principal structures, each one per lot, we're holding them to the principal structure setbacks. Ok. Thank you. And the same would apply to 15C with the deck but don't you have that? The rear yard that is....

MR. CAREAGA: Yes, I think that's the 7.5 foot over on our chart. Twenty foot setback is required. We're over the line by 7 ½ feet. A maximum building height, we're ok with both of the buildings. Maximum building coverage, we have 12% where 30% is allowed. So we do conform. Lot coverage we have 42.9, where 55 is allowed so we do conform there. And I think other than the, we're .2 over with the accessory building where a 15 foot side setback is required. Lot 31 has a lot of area available for a septic, over 7,000 square feet when you take all the setbacks into consideration so we do have quite a few options with regard to where to put it. We may be able to do this septic without having to go under the parking lot if the parking lot is reconfigured. (inaudible) where the existing grass we could put gravel and keep the septic in the grass area so this particular site with the exception of the shallow water table, I think we will be able to meet all the typical requirements for the septic system. And to answer Mr. Buzak's next question, I don't see any reason why I can't get approval for this particular lot from the DEP for the septic also.

MR. BUZAK: And sir, can you go through, and perhaps I missed it, the configuration of the structures and the number of gallons, the number of feet as you did for the other two lots?

MR. CAREAGA: Yes, so for Lot 31, Front Building A & B, 15A is a two-bedroom apartment which is 350 gallons a day, 15B is a 3-bedroom apartment, 500 gallons per day, 15C, otherwise known as the River House is two bedroom and that's 350 so that's a total 1,200 gallons per day of flow rate from a septic perspective. On the site we need 1,200 square feet plus or minus for the disposal bed and we do have 7,000 square feet available so....

MR. BUZAK: Seven

MR. CAREAGA: Thousand. So we do have quite a few options of different areas to....There happens to be better soil somewhere on the site, might now have to go to the DEP on this one.

MR. BUZAK: So are you saying that this treatment system may not have to be an advanced treatment system?

MR. CAREAGA: I think we'll probably end up with an advanced system because when you have a really shallow water table, the DEP regulations, to put it simply, the final grade of the ground on a regular septic system is going to be about 6 ½ feet above the water table, so if you have a water table of a foot and a half, you're going to have a very large mound in the property and that's the height on the high side of the bay so sometimes you have mounds that 6, 7 feet tall on sloped properties. This is all pretty level but it does have a slope over on the side over here so from a cost standpoint the advanced system may actually be cheaper on something like this and you don't have to essentially ruin the yard with a big mound so many of our clients are opting for the advanced systems even though they don't have to just to avoid to have the big bump in the yard.

MR. WEISS: So I guess it's going to be during planning testimony that we're going to address the need to acquire more land for this lot? Is that accurate?

MR. CAREAGA: Well, I can certainly start the discussion here.

MR. WEISS: This is the lot that has the building that's over the line.

MR. CAREAGA: That's correct. And the building over the line is a deck and I think we might want to talk about whether or not it would be better off cutting the deck off the house or subdividing but essentially Lot 31, 32 we have a sort of a land-locked lot behind it, Lot 34 that could certainly be added to Lot 31 to actually increase, probably triple the size of the lot. I'm not sure if that will make it conforming. It will be close. Yes, Lot 34 added to 31 will be approximately an acre so it's going to be very close to a conforming lot at that point. And again, we do have lots 28, lot 28 available also which also is a vacant lot so any combination of subdivision arrangements and we could add area to Lots 30 and 31 or just 31.

MR. BUCZYSNKI: So you're going to be looking in to that, revised plans, that's the (inaudible).

MR. CAREAGA: Yes and again, that's one of the reasons we weren't sure we wanted to give full testimony tonight because it's going to change all of our numbers, quite frankly.

MR. MCGROARTY: May I, Mr. Chairman?

MR. WEISS: Sure, Chuck.

MR. MCGROARTY: You know, again, my primary concern, the reason I raised initially was because the structure goes over the lot line and, as Jeff just said, that's a choice that the applicant can make. If they want to take that deck off, then they still have a variance but it'll be because it's too close to the rear lot line as opposed to going over it. And that's something that, I'm not sure it accomplishes anything to acquire additional acreage for all of these lots to call it a conforming lot of one acre cause it's still a non-conforming lot cause each one is going to have two principal dwellings on it.

MR. WEISS: Yeah.

MR. MCGROARTY: So, I think, what's more important in this situation, apart from what I just said about the deck going over the property line, is if you're otherwise looking at the possibility of approving this but obviously you have to hear more testimony, is can they function? And if the lot area, according to Mr. Careaga's testimony now and Gene can tell us if he disagrees and it sounds like you don't, but that there's enough lot area, enough area on each of the existing parcels to put a new septic in, if it came to that. So, right, exactly so I'm not saying anything is gained by acquiring more land to the south or to the east cause you can't use it anyway cause the stream is there.

MR. CAREAGA: It's a flood plain too, Chuck.

MR. MCGROARTY: But I am saying on Lot 31, I think they have a choice to make. Either they acquire some additional property to the back, whether it's all Lot 34 or some of it or take the deck off. But I don't think this Board can ever approve a structure that crosses over a property line.....it just doesn't....I can't conceive of that....so that's your...

MR. WEISS: I don't think there's any disagreement so, the two options should be thrown back to the applicant, I would think.

MR. BUZAK: Yes.

MR. WEISS: And so, that's where we are. It's your call.

MR. DWYER: (Inaudible) letter from the Board to the applicant. It was a completeness letter that actually we had received had to do with whether or not the applicant would (inaudible) because of the more than one principal use on the lot both of them residential so with that in mind we thought we hadn't yet decided whether or not that would work. But for my mind, Mr. McGroarty's review letter (inaudible) by adding on lots when it's owned by the same applicant, perhaps that was a good idea and we would consider that but it hasn't been fully vetted by (inaudible) and we were hoping (inaudible) also a good idea.

MR. MCGROARTY: When I was thinking about that I mentioned the density question in my report. I'm deferring to Mr. Buzak to give you guidance to whether or not it applies. In my own opinion, in the scheme of things, the D-1 variance is more, is significant is the right word or a larger challenge to get for the two principal buildings for each of these 3 lots. If they accomplish that, I'm not sure that trying to deal with a density variance really matters, frankly. I guess what I'm trying to say is, I see the D-1 variance as the important issue here. Two houses on each lot. Has to be addressed and they're starting to do that with the septic testimony (inaudible). The density, if they acquire some additional land to the east or to the rear of this, it's still going to be two houses per lot. And again, the question about the density will be, and I'm sure Mr. Zimmerman will address this too, is can these, even with the increased densities that are here, and there's also apartments which the ordinance doesn't permit in this zone but, you know, can they function? That's a primary question.....forget about the zoning stuff for the moment. Can they be served by water in this public water, can they be served for waste water and we're being told there's enough room to put septic in if it has to come to that. So I don't know if that's guidance but I don't see any real need to start subdividing the track in the rear to start creating one acre parcels when there's still going to be non-conforming with respect to two homes per lot.

MR. CAREAGA: Chuck, also since all the lots I believe are constrained, does that lot area even count when you're looking at a subdivision with the ordinance the way it's written?

MR. MCGROARTY: I think it does, Jeff. I don't think we have an ordinance, we've talked about over the years and I'm just trying to remember. Gene, help me.

MR. BUZAK: I think you're right.

MR. MCGROARTY: We don't deduct out as some towns do. It's a good question but we don't do that. But really you're just going to be acquiring the land to move lines around because you're never going to be able to do anything in the back because of the stream so...

MR. BUZAK: And if I understand it correctly, let me ask this question.... In terms of the available contiguous land that's owned by this applicant or some entity which the applicant controls, is there a way in which land could be appended to any of these lots that would legitimate ties the density issue? In other words, if the density is one unit per acre and we're talking about two units so we need two acres in the aggregate. Is there, just on a very broad basis, without detailed maps....

MR. CAREAGA: As long as you don't mind hourglass or very strange-shaped lots, yes there is lot area available to do that but again as Chuck was saying, it's not usable. They really can't use it for anything so...

MR. MCGROARTY: And as you say, the configuration of the lot, you'll need design waivers because, you won't even be able to follow them in the field. You'll have to put markers every corner or something.

MR. CAREAGA: In particular, on Lot 30 for instance, which is undersized, it's got a little bit of frontage on Lot 28 and a little bit of frontage on Lot 34. If you wanted to have one acre lots, if you wanted everything to be one acre, we can certainly just slice off a piece....

MR. MCGROARTY: It would actually be two acre, Jeff.

MR. CAREAGA: Two acres right. But then you've got 9.8 acres back here so there's plenty of room just lapping up both of these lots to get a gross acreage but is it really going to do anything for (inaudible)?

MR. BUZAK: Well I think the other question is that I have and I can't....my eyes are not as good as they used to be...but the Lot 34 is that small land locked piece, is that correct?

MR. CAREAGA: That is correct.

MR. BUZAK: It may make some, and that is the one on which the deck encroaches, it may make some sense to eliminate that lot because that lot is already land locked and now this will give you the opportunity to eliminate that.

MR. CAREAGA: Let me just ask a quick question here also between Chuck and

MR. BUZAK: Wow is that what it said?

MR. CAREAGA: Now, typically when we put these Zs on here doesn't that mean that these lots are essentially combined together?

MR. BUCZYNSKI: That's what it's supposed to be.

MR. CAREAGA: That's what they did here with 31 and 32 and this is only one lot. (Inaudible) all owned by Phyllis Shelton.

MR. BUCZYNSKI: Is it all owned by the same person though?

MR. BUZAK: I didn't get that. I got different entities from what I saw. Some was owned individually, some was owned by a trust.

MR. CAREAGA: But they are conforming lot size so maybe that's why they didn't do it because these are each over.

MRS. NATAFALUSY: That's not (inaudible).

MR. MCGROARTY: But they're listed separately so I thought....but that's where you folks tell us...

MR. CAREAGA: From a (inaudible) perspective there's plenty of area to make everything (inaudible) lots cause it's not going to make any sense.

MR. BUZAK: No I understand but I think the point is eliminating 34 in some way whether you append it to 28 and eliminate those two lot lines so that now you don't have a land locked piece of property or you add it to 31. You know it would seem that...

MR. MCGROARTY: You can leave the deck on the house.

MR. BUZAK: Right you can leave the deck on the house and that would at least eliminate that issue, eliminate a land locked piece of property....

MR. BUCZYNSKI: How many acres is 34?

MRS. NATAFALUSY: It's like 42,700 square feet.

MR. BUCZYNSKI: It's almost an acre.

MR. WEISS: So wouldn't you resolve a lot of problems by combining 31 with 34?

MR. MCGROARTY: You would resolve the problem of the structure extending past the boundary.

MR. BUZAK: Which is an important issue because you're not going to grant a variance for that.

MR. WEISS: Yeah I think that's probably the thing to do. I tend to agree that if we were even to go as far as making each of those two acre lots it's creating another problem to fix one problem.

MR. BUCZYNSKI: It's kind of a useless lot the way it is, 34. It's....

MR. WEISS: That's why 34 should be merged with 31.

MR. BUCZYNSKI: I agree.

MR. MCGROARTY: But for the purposes of, and I don't know if the rest of the Board is concerned one way or another but for the purposes of trying to create 3 two-acre parcels out there, I don't think it accomplishes it.

MR. WEISS: I agree with you, Chuck. We're going to create other problems.

MR. BUCZYNSKI: Thirty one and 32 are basically one lot, right?

MR. CAREAGA: That's correct.

MR. BUCZYNSKI: It wouldn't really look too bad if you...

MR. CAREAGA: This would be easy

MR. WEISS: Thirty-one and 20 and 34.

MR. MCGROARTY: Yeah, 34, 31 and 30.

MR. BUCZYNSKI: No, 31, 32 and 34.

MR. WEISS: I'm sorry. Thirty one, 32 with 34.

MR. MCGROARTY: I'm sorry, now we're talking about 32.

MR. BUZAK: How did 32 get involved here?

MR. CAREAGA: Thirty two is actually 31. Thirty two and 31 are one lot.

MR. MCGROARTY: We're calling it...

MR. BUZAK: Properly just calling it 31. Yes.

MR. MCGROARTY: Just stay (inaudible).

MR. WEISS: So let's make sure that the applicant is ok with that. The recommendation from the Planning Board is to merge Lot 31 with Lot 34.

MR. DWYER: My client is indicating that she is willing to make the lot line adjustments with respect to property zoning under different names if necessary.

MR. WEISS: And that would be between Lot 31 and 34?

MR. MCGROARTY: That's all we're talking about.

MR. BUCZYNSKI: That's all we're talking about. That's all we want.

MR. WEISS: I just want to make sure the question is asked properly.

MR. DWYER: May I just go over it with her briefly?

MR. WEISS: Please.

MR. DWYER: To make sure she understands...

MR. WEISS: Ok, let's do this... Mr. Dwyer, I'm going to go back to you. I know you spoke to your client, the applicant. They are willing to merge Lot 31 with Lot 34, I think?

MR. DWYER: Yes.

MR. WEISS: ok, so that's obviously going to change Mr. Zimmerman's testimony. And that will change some of the variances that were needed. And so, I'm not sure if Jeff has any more testimony to give on Lot 31. Does anybody have any questions for Jeff on Lot 31? Go ahead, Jeff.

MR. MCGROARTY: Just as a procedural matter, then if they're going to do the minor subdivision/lot line adjustment. This application is amended on the record to do that, is that correct?

MR. BUZAK: Yes and I guess they'd have to submit an amended application for Catherine and pay a fee. I mean, I assume it's a different fee. I don't know that.

MR. MCGROARTY: I think at this point, their fees, they've got. I don't know if they need....

MR. BUZAK: Ok.

MR. MCGROARTY: They don't have to...for the purp....it acknowledges as part of the record that they're going to do that and so next hearing or whatever they will have that plan revised...

MR. BUZAK: Correct, they'll need a revised plan that has to be submitted here.

MR. MCGROARTY: Administrative stuff Catherine will take care of which I assume you're ok with....what they're doing on the record and just proceeding on that basis....

MR. BUZAK: Yes.

MR. MCGROARTY: Ok.

MRS. NATAFALUSY: Do they have to renote since they're amending the application and merging? I'm just....

MR. BUCZYNSKI: I would think so.

MR. BUZAK: Yeah, well. Would this not be considered a minor?

MR. MCGROARTY: It would.

MR. BUZAK: Do we still need notice for minors?

MR. MCGROARTY: No, I don't think we require notice for minors.

MR. BUCZYNSKI: It's only going to involve 31 and 34. We're doing nothing to 29 and 30.

MR. MCGROARTY: Only thing is, does it trigger, since it's now involving 34, does it trigger a different 200' boundary list?

MR. BUZAK: That's true.

MR. WEISS: That diagram was on one of the

MR. MCGROARTY: I guess, Jeff, the question is will 200' extend past...

MR. CAREAGA: Yes, yes it's going to trigger a couple extra lots.

MR. BUZAK: Ok, so then there has to be a renote.

MR. WEISS: Renote everyone or just the new lots that are affected?

MR. BUZAK: If they wouldn't need notice in the first place for a minor subdivision, right? Why would this trigger....

MR. BUCZYNSKI: They would just have to get a new property owner list, that's all.

MRS. NATAFALUSY: Because of the variance?

MR. WEISS: Because there's new property owners that were now possibly affected.

MR. BUCZYNSKI: Yeah, but they don't have to notice it though. They would have to put notice to a property owner.

MR. BUZAK: Yeah, I guess that's true.

MR. MCGROARTY: But if they're only doing a minor they wouldn't notice normally.

MR. BUZAK: Period.

MR. MCGROARTY: We don't require that on a minor.

MR. BUZAK: We're going to have to look into whether you need....

MR. DWYER: We will notice the additional members (inaudible).

MR. WEISS: You might not have to...

MR. DWYER: Just to document it...

MR. MCGROARTY: Just to be cautious...

MR. CAREAGA: It's only Lot 36.

MR. BUZAK: Why don't we do it at least that way...if you notice just the additional property owners that are now going to come into the picture? And I guess your actual notice, you should modify it to include reference to the minor subdivision even though normally you would not have to do that since that's what's triggering this additional notice.

MR. WEISS: Ok, so, obviously that'll take you a little bit of time.

MRS. NATAFALUSY: Can we talk about that?

MR. WEISS: What's that?

MRS. NATAFALUSY: The notice. Can we talk about that tomorrow?

MR. MCGROARTY: Sure.

MR. WEISS: Ok, so, we'll let Mr. Buzak, Mr. Dwyer, Mr. Buzak will confirm all that with you and we'll come up with whatever the decision is that's agreed upon.

MR. BUZAK: Yes and before we, are we going to do something else with this application?

MR. WEISS: No.

MR. BUZAK: Ok. I had this request, or this question. Mr. Dwyer, do you intend to present any testimony regarding how these existing accessory structures were converted into principal structures?

MR. DWYER: We have some limited information about that Mr. Buzak. Unfortunately, we don't have a great deal of information about it. And we can explain that more when we offer it.

MR. BUZAK: Ok. And we will have testimony for that. I know you gave us some introduction to it but you're not under oath and you're really not qualified to testify on it. And I think that that's an important factor here because when the Board looks at this application at the end of the day, you need to look at it as if they were coming in here requesting your approval to convert accessory structures to principal structures on this property. They don't get any privileged position because these were all converted without permits and then come in and say "well look, these are all now principal structures"; approve them because they're already there. That's not what you're being asked to do. You need to look at it as if they were not already converted....or else you'd have everybody converting these without permits and then coming in and saying "oh look, they're already there".

MR. WEISS: Forgiveness vs. permission.

MR. BUZAK: Exactly. So you need to keep that in mind and I think that it's critical for the applicant through testimony to provide you with that information on the record so you have a basis upon which to make your decision.

MR. WEISS: Who makes that testimony?

MR. BUZAK: Mr. Dwyer has indicated that "they" have limited, obviously, something happened here and I think it behooves the applicant to generate the best case they can as to how that happened because it's not going to go away.

MR. WEISS: Ok, so let's look at our schedule then because of the late hour, we're not going to get to planning testimony. Any other questions for Mr. Careaga? So at this point, let me open it to the public, if anybody from the public has any questions on the testimony delivered by the engineer. I see none. I'll close it to the public and at that point, let's wrap up our hearing for the evening, Mr. Dwyer. We'll take a look at our schedule. I believe based on what I'm hearing, Mr. Zimmerman will be called back and that will be the balance of your testimony as well as the explanation of the situation. Will there be any other?

MR. DWYER: We don't plan any other

MR. WEISS: Ok, so Catherine's going to help us now as we look to find a date that we agree and you're going to have some work to do with notice so, it certainly can't be....

MR. WEISS: So August 20th is the first available date.

MR. BUCZYNSKI: So Jeff has plenty of time to get the plans revised.

MR. WEISS: August 20th?

MR. DWYER: August 20th is fine.

MR. WEISS: How is the schedule looking? Is it open, Catherine?

MRS. NATAFALUSY: Yes, I have other matters that we have to place but I'll....

MR. WEISS: Well, let's put this one first.

MRS. NATAFALUSY: Ok.

MR. WEISS: So we'll get you in first. Ok, that being said, we carry this meeting with no further notice till August 20th.

MRS. NATAFALUSY: Well, the notice situation.....

MR. WEISS: Oh right. Of course. There will be additional notice based on what we discussed.

MR. BUZAK: Well but there may not be notice to everyone , so we'll announce it and there may be notice but people who were here should be aware of that.

MR. WEISS: There's nobody here (inaudible). So there will be no further notice as we (inaudible) but there will potentially be notice for some new folks that haven't been noticed prior....specifically those that are near Lot 34...which is really just one lot. Ok. We're on the record so I would say not. That being said, do we have any other business? I know in our folder we had an item we were going to push. Catherine, we'll put that on the agenda for discussion matter early in the meeting. Ed's going to review the letter from Lum, Drasco & Positan.

MRS. NATAFALUSY: Ok. So when do you want to put it on?

MR. WEISS: We're going to talk about it next meeting.

MRS. NATAFALUSY: Tiena will be here next meeting.

MR. BUZAK: Yeah, that's fine. We'll get it done.

MR. WEISS: Just a quick. It won't take more than a couple minutes. Ok?

MRS. NATAFALUSY: So discussion of the Prism proposal.

MR. WEISS: Yeah, whatever they're called. And at this point, I'll make a motion to adjourn.

MR. SCHAECHTER: I will second it.

MR. WEISS: No, no. I will ask for a motion. Make that motion. Second. All in favor?

BOARD: Aye.

(MEETING ADJOURNED AT 9:59 P.M.)

Transcribed by:
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