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

ROLL CALL:
Members Present: Joe Fleischner, David Koptyra, Dan Nelsen, Nelson Russell, Brian Schaechter, Kim Mott, Howie Weiss

Members Excused: Henry Fastert, John Mania, Frank Wilpert, Jr., Sandra Stotler

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

Professionals Excused: Edward Buzak, Esq.

APPROVAL OF MINUTES

December 18, 2014 Public Meeting

Motion: Joe Fleischner
Second: Nelson Russell

Roll Call:

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

APPROVAL OF RESOLUTIONS

Resolution #PB 11-31 – Ceil West Lake Properties – (Block 7702, Lot 21)

Motion: Brian Schaechter
Second: Dan Nelsen

Roll Call:

Joe Fleischner	- yes
David Koptyra	- yes
Dan Nelsen	- yes
Nelson Russell	- yes
Brian Schaechter	- yes
Howie Weiss	- yes

Resolution #PB 14-25 – Lakeview Estates – (Block 7702, Lot 16.20)

Motion: Brian Schaechter
Second: Joe Fleischner

Roll Call:

Joe Fleischner	- yes
David Koptyra	- yes
Dan Nelsen	- yes
Nelson Russell	- yes
Brian Schaechter	- yes
Howie Weiss	- yes

ANNUAL REPORT 2014

MR. WEISS: We have our review of the annual report for 2014, Catherine do you want to explain to the Planning Board what that is I know it's pretty self explanatory but . . .

MS. NATAFALUSY: It's just under the Municipal Land Use Law as the Zoning Board you would make an annual report to the Planning Board but in your capacity as that Board now you're making it to yourself. And it's just if there's any recommendations that based on the applications that were before

the Board there were any recommendations for a Master Plan or any amendments to the ordinance we would put those in there but we do not have any recommendations. We basically had eight variance relief applications and we had one "d" variance which was The After where you had the portion of the parking lot in the residential zone.

MR. WEISS: Let me interrupt the meeting real quick for anybody who is here for the Roadranger application tonight the application is going to be carried until March 12. The applicant called the planner is ill this evening so we took him off the agenda, it's last minute so I'm sorry to make you come out. But it will be carried to March 12 with no further notice. Okay so going back to the annual report we've had nine applications, it seems like we had more but I'm sure this is accurate.

MS. NATAFALUSY: Well we had site plan applications this is just involving variances.

MR. WEISS: Okay perfect. This is a document that I'm going to end up signing Catherine?

MS. NATAFALUSY: Yes and then we will send it to the governing body.

MR. WEISS: Okay so that being said I suppose we need an approval from the Planning Board Catherine?

MS. NATAFALUSY: Yes.

MR. WEISS: So would someone please make a motion to accept the resolution of the annual report?

MR. FLEISCHNER: I'll move that we approve the annual report of 2014.

MR. NELSEN: Second.

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

MS. NATAFALUSY:

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

COMMITTEE REPORTS

MR. WEISS: Okay let's move into our committee reports okay Mayor, Henry is not here so we don't have a Mayor report. Mr. Mania is not here so we don't have a Council report. Environmental commission Nelson is it next month?

MR. RUSSELL: Yeah we finally had a reorganization meeting Jim Smith is Vice Chairman, John Greco is Chairman we decided not to do well testing this year due to lack of interest last year. And we discussed the Roadranger plan for the BP gas station the general consensus was that the plot was too small.

MR. WEISS: Is there going to be a formal report given? If there is I would certainly suggest getting it to Catherine by the 12th so we can send it over to the applicant.

MR. RUSSELL: Okay.

MR. WEISS: Okay by the 12th so the applicant can get it. If there's going to be a written response I would say.

MR. RUSSELL: I'm not sure there is going to be a written response.

MR. WEISS: Well I think without any kind of written review then it's really not going to bring up . . . . you know I would say that if you have concerns or interests you should put a letter in writing.

And I'm going to recommend that, have a letter come to Catherine as quickly as possible so we can send it over to Mr. Selvaggi.

MR. RUSSELL: Okay.

MR. WEISS: Even if it's an opinion the opinion is valued as we kind of look to the environmental commission for their input on issues that would be sensitive. So without any kind of written document Nelson I'm just afraid it would be a group of guys in a room having a comment.

MR. RUSSELL: Okay will do.

MR. WEISS: If you do that, send it over so we'll forward it Tiena will make sure we know we send it over to Mr. Selvaggi for their review. I have nothing from street naming committee. David anything from open space?

MR. KOPTYRA: No the meeting was cancelled.

MR. WEISS: Okay. Joe is there anything from the ordinance committee?

MR. FLEISCHNER: Not at this time.

MR. WEISS: Thank you very much. But the ordinance committee has been active though.

MR. FLEISCHNER: Yes but not at this time with any report.

MR. WEISS: Fair enough.

DISCUSSION MATTER

SIEMENS HEALTHCARE DIAGNOSTICS – NOISE REPORT, LANDSCAPING, SITE LIGHTING

MR. WEISS: Okay we move into our discussion matter this evening we have some issues that Gene is going to bring up with us. It was important that the Planning Board be aware of some recent events that's happening over at the Siemens project and between Catherine, myself and Gene and I'm sure Tiena we thought that a conversation with the Planning Board just to bring everyone up to speed on what's going on. The applicant is not here this is not an actionable conversation it's really a conversation . . . I don't want to take Gene's thunder but the point of the conversation will be for Gene to give us an update as to recent happenings over at the Siemens project. Gene I'll turn that over to you.

MR. BUCZYNSKI: Great that's fine. I'm not you all know but as of this point the construction has been completed and during the course of construction after it was done there was a lot of concerns from some of the residents. Basically I break it down at this point to three issues, there was issues regarding landscaping, issues regarding noise and issues regarding lighting. So I'm going to briefly let you know where it stands, what's happened on these different issues. Regarding the I guess a lot of discussions were going around I've heard too regarding the landscaping so I wanted to just give a summary on where the plan evolved through over the course of construction and what Siemens has agreed to at this point regarding the landscaping plan. The original plan approved by the Board is dated 4/26/13, that plan you might recall you might not recall but it included a 12 foot high fence along the property line. There was 30 feet of open space between the curb to the retaining wall where there's going to be two staggered rows of trees and there was 34 trees that are going to be transplanted they were going to very large trees they were going to try and remove them and replant them during the course of construction. That plan was the original plan. Then there was a meeting with the residents, I think the Mayor was there too and Siemens the day before the resolution was being approved, at that point they made changes to the plans and the plans were eventually revised June 28, 2013 but at the meeting of June 20, 2013 when we read the resolution there was a lot of discussion with Siemens that they met with the property owners and there was an agreement on what was going to be done for the revised plans the plans were going to revised accordingly. That plan was revised and that plan showed the retaining wall was moved to be 25 feet from the curb, the fence was reduced in height to 6 feet and it was only 15 feet from the curb to the fence. So you reduce the area where trees could be planted on the Siemens side and still show the trees to be replanted, the large trees to be replanted. Now that plan actually did not show staggered trees along Lots 14, 15 and 19 and portions of Lots 17 and 20. The letter stated there was still going to be staggered trees in the letter regarding the changes. And the resolution also says that there was still going to be rows of staggered trees. That didn't happen and it

didn't happen because during construction they could not put two rows of trees in 15 feet. Especially the size of trees that they were going to replant, but those trees that were going to be replanted all died from the harsh winter. So I was out at the site at the time too and they said well we can put 12 foot trees down, I said well originally your testimony was your going to have 18 foot trees that were there the old trees the mature trees are going to put them back. So I said I think you really have to come back with 18 foot trees I don't think the Board would want 12 foot trees. So they had called me back about a week later and said we're going to put all 18 foot trees up but they won't be staggered. That's what they did and after that there was concerns by the residents we had several meetings on the property regarding that and it's been decided and Siemens wrote a letter to I guess to me and to the Township, they've agreed we went out there with the landscape architect, they agreed that they would stagger 26 trees on the easterly side of the fence within what was going to be that they add a 25 foot no disturb zone so they're going to plant trees and some of them were 12 to 14 feet, some are 14 to 16 feet, some are 10 to 12 feet. We went out there and looked at the grades and stuff whether they could plant . . . they're planting them different sizes. But they're basically going to stagger trees between the trees on the other side of the fence. That's what they've agreed to do. That's really the . . . I guess the finalization of what we want to do regarding the landscaping. The other item was lighting, there was concerns there was some overflow lighting that was showing onto the back of properties from Flanders Crossing and when you look at the plans the plans show zero footcandle right at the property line and your getting numbers, when they did their testing your getting numbers less than .1 they might be like .08, .04 but there's definitely some overflow lighting. What they agreed to do and we met out at the site with property owners at the time, what they agreed to do is the last row of lights the most easterly row of lights they're going to, and they're doing it right now from my understanding, they'll be shut off at 10:00 at night. They're in the process of getting shields fabricated for that row of lights and we had a makeshift shield when we were out at the site like a month ago or so to just see what that would do and it seemed like it would address the problem so those shields are going to be manufactured Siemens said back in . . . should be at the site and installed sometime in March. And you know hopefully that will resolve the concerns regarding lighting. The last thing was noise, there's some people next to the site and also a property owner I think on 5 Trevino Court concerned that the noise was excessive. To be honest with you I have not been there when the noise was excessive but they hired independent noise specialists, acoustic specialists to do a study. They submitted the report about two weeks ago and it shows you have two different regulations, I think it's during the day it's supposed to be 65 decibels and at night it's supposed to be 50 decibels. Their results they did during the day all the results were less than 50 decibels. So basically it conforms to the ordinance they did it at locations at the ground by certain lots and also they went to what would be the level of the second floor to see what noise level was at the second floor elevation. And they also did that at 5 Trevino Court and I think at another location like the next block over. That's where it stands right now, I know the governing body is talking about having their own independent noise study being done. I think they're trying to get quotes from different acoustic companies regarding getting their own test results. But the information submitted it conforms.

MR. NELSEN: Gene did those numbers 50 decibels, under 50 decibels day and night did that come from some form of remediation or was that just what it was.

MR. BUCZYNSKI: No that's what it was. I mean the 50 and 65 is ordinances and state regulations also.

MR. NELSEN: Okay.

MR. SCHAECHTER: Gene I've been out to the site a couple of times in fact I did a site visit to 5 Trevino and that whole corridor over there. I will tell you the noise isn't very loud it's not a very loud noise it's an annoying sound it's a frequency issue. So I mean it is you know it's bad.

MR. BUCZYNSKI: Well I will tell you I was . . .

MR. NELSEN: Noise from what?

MR. SCHAECHTER: It sounds like it's coming from one of the ventilation units on the roof.

MR. BUCZYNSKI: I don't think it is to be honest with you but you know they'll have to see but I'll tell you I was there one day behind the fences, behind the properties along there and you know what I was hearing more than anything? I was hearing the units in the individual homes humming. I'll tell you that's what I was hearing.

MR. SCHAECHTER: Yeah this was not coming from an individual home because you know its winter time now and all of the air conditioner units are off. I know what I heard . . .

MR. BUCZYNSKI: Well I know what I heard and it was December and they were their units, it was people's units.

MR. NELSEN: Could it be transformers on the lights?

MR. SCHAECHTER: No it's not that . . . it's hard to describe the sound.

MR. BUCZYNSKI: But if the decibels meet the state regulations I'm not sure what we can really request them to do. I think they can do some other things, they might be considering that if need be depending on what's resolved with the township if the township gets different results too.

MR. SCHAECHTER: I think it's the direction of one of the units, how it's laid on the roof. If they just swing it slightly the . . .

MR. BUCZYNSKI: The units are way off the roof though they're . .

MR. SCHAECHTER: No.

MR. BUCZYNSKI: The main units are. There's a couple of units in the individual buildings.

MR. SCHAECHTER: I don't think it's the main unit I think it's coming from the top of the new building from . . . there's either a clean roof vent there's something . . .

MR. BUCZYNSKI: There's a small vent, there's small vents up there yeah.

MR. SCHAECHTER: There's a vent that comes over. I saw it I mean listen I didn't go up to see the roof of Siemens to go yeah this is it but there's definitely a noise there.

MR. BUCZYNSKI: I can let them know.

MR. SCHAECHTER: It's like saying listen Mr. Fleischner I could do this all day it's not very hard but after a while it gets annoying.

MR. BUCZYNSKI: Yeah well although it's not in the report I know that they are looking at other things too if there is still a concern. All along they're trying to address people's concerns one by one. I think they're getting to that point but I just want to let the Board know what the issues were right now at this point. Because the job is basically done they have a CO but they're still addressing these comment.

MR. SCHAECHTER: I'll also say towards the back of the property where the parking lot ends into the kind of the (inaudible) they didn't put a whole lot of trees up there. They staggered them quite away from one another. So you see the whole view of the building. The way it looked like on the plans that was all going to be blocked.

MR. BUCZYNSKI: But you know what it would be worse if it was . . . it would have been better if they left the 12 foot high fence and they did what was originally on the approved plans. In my opinion it would have been better than what it is now. But it is what we're dealing with, I think with the extra 33 trees I think it will help the situation it will be better.

MR. SCHAECHTER: Yeah are they just going to put those in between the kind of road, where the main entryway there and along the fence?

MR. BUCZYNSKI: On the other side of the fence on the property.

MR. SCHAECHTER: Or are they going towards the northeastern side of the property.

MR. BUCZYNSKI: I'm going to say it's the east side of the fence.

MR. SCHAECHTER: 33 trees laid out how far off of that of that fence is it going to be?

MR. BUCZYNSKI: All the way up the end.

MR. SCHAECHTER: Okay.

MR. BUCZYNSKI: The reason they're doing that is because from the original plan to the new plan even though there's larger trees I told them there's 26 less trees. So I was looking for at least 26 trees and when we went out there we tried to find areas that were . . . and there's some towards the back to towards the northeast, we tried to see where we thought you still needed to put some extra trees in. They came out they put the flags down, we counted them they said 33, at first they said we're not committing to it we'll come back to you. And they met with the landscape architect and they got back to us and said they agree that they would do that.

MR. WEISS: Gene were these extra plantings, are they closer to the Trevino Road section of the property?

MR. BUCZYNSKI: I tell you I think I sent everybody a copy of it, there's some up towards that.

MR. WEISS: Which is the furthest point from the main entrance.

MR. BUCZYNSKI: Yeah, yeah there's some up in that area.

MR. WEISS: So Brian do you think that might help a little? I haven't been there to see it.

MR. SCHAECHTER: Yeah I mean towards that whole back row that side of it. That whole back side the northeast side . . . .

MR. BUCZYNSKI: There's that string of parking lot lights that is horrible and I think unfortunately during the hearings we never really addressed that. All of the renderings were adjacent to the building if you remember. All the renderings that they showed us were heights from the units facing the building. What we're talking about is behind the building in the parking lot if those rows of lights I mean it's . . . the people are always going to see them for years until the plantings really mature.

MR. NELSEN: Gene the trees the mature trees that died did they dig them out and ball them?

MR. BUCZYNSKI: Yeah they covered them up but I think the heavy winter we had that one year there . . .

MR. WEISS: Last year yeah.

MR. BUCZYNSKI: Yeah last year they died.

MR. WEISS: They had them in storage behind the first . . .

MR. BUCZYNSKI: They had them covered.

MR. WEISS: They were there.

MR. NELSEN: They had them balled and burlaped and all that and they still died?

MR. SCHAECHTER: It was a bad winter last winter.

MR. BUCZYNSKI: Yeah.

MR. WEISS: Go back to the noise testing Gene, do you know the variables that were taken? Were they taken on a work week, were they taken during business hours?

MR. BUCZYNSKI: They were taken during the day I know that it wasn't taken at night; it was taken during the day. They didn't do night . . . . my thought is they didn't do night time because the night time they basically took decibels based on the night time.

MR. WEISS: But the loading zone the night time is the lower numbers.

MR. BUCZYNSKI: Number 50 and they were lower than 50 so they didn't take additional tests at night.

MR. WEISS: I'm just concerned I know you said the governing body was considering doing their own independent test. I would hate to repeat this noise test if it's done exactly the same time the same day of the week.

MR. BUCZYNSKI: I'm not involved.

MR. WEISS: Okay.

MR. BUCZYNSKI: I'm not involved with who their trying to get or anything at this point.

MR. FLEISCHNER: Could it be because, and I'll say it no one else will, it's an election year.

MR. BUCZYNSKI: I definitely have no comment on that.

MR. FLEISCHNER: But I'll say it since I always say outrageous things. But it's an election year so if the town wants to spend money that's their job.

MR. WEISS: Okay so I don't know if it's appropriate time to bring it up but we also, I certainly got a copy of the request from Siemens to have the bond released. So does this have any bearing on that request?

MR. BUCZYNSKI: I say no and I submitted statutorily permits the Land Use Law I only have so many days to respond to a request for a bond release. And they had certain things that they mentioned that they would agree to; I'm not sure how far you want to get into this tonight.

MR. WEISS: No I don't, I don't want to get . . . .

MR. BUCZYNSKI: But I think we're okay because these things . . . they have to post a two year maintenance bond in the amount of like $688,000, and regarding the trees they agreed to have the town hold $70,000 in cash. The trees they took an estimate of $35,000 so what they usually hold for developers they hold twice the amount. So he said we agree to have the town hold a cash bond of $70,000 for the trees.

MR. WEISS: On top of the $688,000.

MR. BUCZYNSKI: Yeah that's cash the $688,000 is a performance bond. So I think there's . . and they're not going anywhere number one, and you know so I think we're covered from that end and I think they're going to address that bond release on the agenda for March 3 I believe the Council meeting.

MR. WEISS: And that's not our business I just was concerned that I saw that they requested it I saw you responded and I didn't know if this conversation was going to have any bearing on the response back.

MR. BUCZYNSKI: No because you know regarding the noise technically they did what they were supposed to do and they say they conform. I mean that's where I have to look at it.

MR. SCHAECHTER: When I did it I heard Route 206 louder, I heard the air craft flying over this was just an annoying background . . . .

MR. BUCZYNSKI: Yeah I hear you is it like a pin?

MR. SCHAECHTER: It was almost like a hum like a very loud hum. I mean you could hear it and it was worse in some places . . .

MR. BUCZYNSKI: During the day or mostly at night?

MR. SCHAECHTER: I was there during the day. I was 2:00 in the afternoon on a Sunday.

MR. BUCZYNSKI: On a Sunday wow. And you wouldn't even think their units would be running on high on a Sunday either.

MR. SCHAECHTER: They're working I mean there's people there.

MR. BUCZYNSKI: Yeah all right.

MR. WEISS: Does anybody on the Planning Board have any other questions for Gene about the situation? Here's what we're going to do tonight we have only one developmental matter. If anybody, I know Mr. Cartier is here and we will open it at the end of the meeting we have one application and after that application we'll come back to this if we can continue the conversation during the open session. With no other questions on this let's put this on hold and move forward with our application.

(DISCUSSION MATTER ON HOLD – WILL RESUME AFTER NEXT APPLICATION)

APPLICATION #PB 14-24 – LUIS GARZON – (Block 3207, Lots 8.01 & 9)

MR. WEISS: Our lone developmental matter tonight is PB 14-24 Luis Garzon seeking a minor subdivision one that was granted but looking for reapproval at 1 & & Forest Road which is Block 3207, Lots 8.01 and 9. Tonight I suppose we have Mr. Garzon?

MR. GARZON: Yes.

MR. WEISS: Whenever you're ready you can come up and we'll begin the application. Mr. Garzon I take it you're representing yourself this evening.

MR. GARZON: Yes.

MR. WEISS: Okay so what we'll do is we'll have the attorney swear you in.

(LUIS GARZON SWORN IN FOR THE RECORD)

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

MR. GARZON: Luis Garzon (G-A-R-Z-O-N) 16 Oak Street, Mt. Arlington, NJ 07856.

MR. WEISS: Okay so Mr. Garzon we've been prepared we all have reports in front of us and what I would like you to do is . . . I take it you're not a professional of any kind?

MR. GARZON: No sir.

MR. WEISS: And so your representing yourself as the applicant as the property owner you're not a planner you're not an engineer.

MR. GARZON: Correct.

MR. WEISS: And you're not an attorney.

MR. GARZON: No.

MR. WEISS: So I suppose we will treat you as such. Why don't you take a couple steps back and explain to the Planning Board for the record what brings you here today.

MR. GARZON: Basically back in 2006 I make an application for a minor site plan/subdivision to make a property line adjustment of 50 feet to make two conforming lots no variance required. Back in 2006 I was approved and some legal things the deed was never recorded by the attorney who gave him the assignment. Then that's why we're here trying to get it re-approved to move forward with the work at the property.

MR. WEISS: So what you're bringing in front of us tonight is basically a repeat of what happened in 2006 and I do remember reading that you're not asking for any variances there's nothing that's changed which is certainly very positive. I'll keep my comments to myself but why don't you go through the effort, what we'll do is whatever kind of plans you said that you had for us kind of just lead the way and we'll stop you if we need to.

MR. GARZON: Okay.

MS. COFONI: Why don't we mark those exhibit A-1 if you could write A-1 on the plan with today's date for me.

MR. GARZON: Sure.

MR. WEISS: And then what you'll do Mr. Garzon is you'll tell us what A-1 is.

MS. COFONI: What is the title of that?

MR. GARZON: This is sheet 8 Wetlands Location Plan.

MS. COFONI: And what's the date on that plan?

MR. GARZON: It's issued February 28, 2006.

MS. COFONI: Thank you. Wetlands Location Plan dated February 28, 2006.

MR. GARZON: So the property is located at the intersection of Rose Lane and Forest Road it's a corner lot it's known as Lot 9 the inner lot is lot number 8.01. Lot 8.01 is currently 30 feet by 150 feet the property line is right about here and what we're doing is basically requesting for us to move the property line 50 feet to create two conforming lots. The lot 8.01 sits on the wetlands and we are requesting to fill the wetlands to be able to have a one single dwelling on that lot. We are currently have a sanitary line hook up in the property and that's what we'll be using for a sewerage system. We will be installing a well at each location for each property. We'll be installing an infiltration system to be able to catch all of the runoff from the roof leaders and the driveway on the property. And that's about it.

MR. WEISS: Do you have any other exhibits that you were going to propose to talk about tonight?

MR. GARZON: No well that describes everything the other exhibits is the repetition of this.

MR. WEISS: Okay so let's try to keep it moving for you. I'm sure you have a copy of Mr. Buczynski's report.

MR. GARZON: Correct.

MR. WEISS: Let's address that to make sure that you are agreeing or if you have any concerns or if you wanted to answer any of the things on Mr. Buczynski's report.

MR. BUCZYNSKI: Do you want me to go through it?

MR. WEISS: Yeah Gene why don't you do that. Mr. Garzon you could even sit down and just relax and the microphone will pick you up right here.

MR. GARZON: Okay.

MR. BUCZYNSKI: As Mr. Garzon said it's basically a . . . it's not a reapproval it's a new application but it was previously approved. So what I did was first I looked through the resolution approval as far as conditions from the previous application because they didn't really change the plans. And from an engineering standpoint there was a concerns relative to the infiltration system and some design pertaining to that, they did revise the plans after that meeting to address those concerns. But there's certain conditions that I brought up in my report dated December 30th which is condition number 8 from the previous approval that he would still be subject to compliance with township Land Use Ordinance regarding contribution to the Housing Trust Fund. Condition number 9 he's subject to the applicant entering a developer's agreement to ensure proper supervision once construction commences. That's word to word from the original approval before. I think the concern at the time and now too is to make sure the infiltration of the drainage system is constructed per the approved plans. So he'd have to enter into a developer's agreement with the township. Condition number 10 it's subject to approval of payment of taxes, fees. Let me just go back again to condition number 9 I'm not sure you know basically it's the detention basin I'm not sure how the Board wants to address this now it's a new application. Do you want to still require the developer's agreement or sometimes we've treated small applications with zoning permits and they would just have to post some monies for the inspections of the drainage system

in this case? Because it's you know then you reduce quite a bit of costs for the developer's agreement that the applicant wouldn't have to pay but I think that's a decision maybe the Planning Board can address.

MS. COFONI: I think we can make a recommendation but ultimately it will be the township that will make that decision. But yeah the Planning Board (inaudible).

MR. BUCZYNSKI: Well yeah but it won't got to the township unless he goes for the developer's agreement that's the thing. I'm not sure the Planning Board has the power to . . . . we've done it in the past on small applications we treated them just like getting a zoning permit, correct Catherine?

MS.NATAFALUSY: Yes.

MR. WEISS: You don't have an issue with us doing that do you?

MR. BUCZYNSKI: I do not have an issue.

MR. WEISS: Because my comment is that we're taking a substandard lot and we're making it a conforming lot. And that's kind of our goal as a Planning Board so boy this is as simple as it gets everything is real positive and . . .

MR. BUCZYNSKI: I tell you I have no objections to doing it.

MR. WEISS: Okay and I don't either I would like for him just to do that.

MR. BUCZYNSKI: That's why I'm recommending it.

MR. WEISS: Okay so our engineer recommends that we don't need a developer's agreement that Mr. Garzon could simply go through the zoning process and make sure that permits are established and inspections are . . .

MR. BUCZYNSKI: Can we just leave it with Catherine and I can try and figure out how much they have to post and once they get to that point and we'll discuss it with them. Page two . . .

MR. WEISS: Before you go on Gene . . .

MR. BUCZYNSKI: I'm sorry.

MR. WEISS: Does anybody on the Planning Board object to that? Do we have an agreement with that? And I'm seeing a lot of affirmatives so we're going to go forward with no need for a developer's agreement.

MR. BUCZYNSKI: Okay. Item two on page two a letter of interpretation, previously one was issued but it's expired. And originally Mr. Garzon thought it was covered under the Permit Extension Act it's not because it's an environmentally sensitive area so he's going to have to reapply and submit that to the State to get a letter of interpretation again. I also discussed that with the DEP to verify that and that is the case. Item number 3 you have to recertify again Morris County Soil Conservation District so he has to go through all of that one more time. And a metes and bounds description should be resubmitted to the township and once the deeds are filed the County copy should be sent to Catherine at the Planning Department. That's the only items I have.

MR. WEISS: Mr. Garzon you understand those?

MR. GARZON: Yes.

MR. WEISS: Any problem with that?

MR. GARZON: No I'm in the process with DEP to submit the updated information and then Morris County as well.

MR. WEISS: Okay. Anybody on the Planning Board have any questions about that?

MR. SCHAECHTER: Gene he has to go to the DEP to fill in the wetlands?

MR. BUCZYNSKI: Well he had a permit before but the permit is expired.

MR. SCHAECHTER: He's not doing any work; you're not doing any work on it now?

MR. GARZON: No.

MR. BUCZYNSKI: No.

MR. SCHAECHTER: So it's all (inaudible).

MR. BUCZYNSKI: Yes he actually has to get another approval for it. And the last approval gave him permission to fill in wetlands.

MR. NELSEN: I have a question Mr. Garzon I'm not sure it has any bearing, you see on my print here it says found remains, who'd remains were those?

MR. GARZON: It's just a foundation.

MS. NATAFALUSY: Mr. Chairman just one thing to follow up with, just to clarify the metes and bounds description and the deed have to be submitted to the township so that Gene can review the metes and bounds and the attorney can review the deed before it's filed with the County.

MR. GARZON: Okay.

MR. MCGROARTY: Well the LOI would have to get done before . . .

MS. NATAFALUSY: And the LOI has to be done before we can sign the deed.

MR. BUCZYNSKI: Yeah and it's going to be delayed for that he's going to have to get those items done because they'll be conditions of approval.

MR. MCGROARTY: Mr. Garzon if I may just take the opportunity in the event that doesn't happen within six months, long before six months you should come back to get your extension so you don't go through this again.

MR. GARZON: Okay.

MR. MCGROARTY: Tiena am I correct?

MS. COFONI: Yeah.

MR. GARZON: 6 months?

MR. MCGROARTY: Well you have 6 months to file the deed assuming the Board approves this tonight as a minor, if your LOI is going to take longer than that or if it's obvious to you as three, four months pass it's taking longer you should contact Catherine about getting an extension on your approval.

MR. GARZON: Okay.

MR. MCGROARTY: Otherwise it's going to expire again and we're going to do this again.

MR. GARZON: Okay.

MR. BUCZYNSKI: Morris County is not a problem but the DEP could be a problem.

MR. WEISS: So Chuck while you have the floor I see you have a report submitted too if there's anything you want to review on that let's do that now as well.

MR. MCGROARTY: I think mine is fairly easy at this point, there was comments about the tree plan in the last application, to Mr. Garzon's benefit the ordinance has since changed and so the replacement requirement now for properties as I indicate in here like this under an acre minor subdivision is simply one for one. So whatever the number of trees are to be removed that is the number that has to be replaced and you do not have to replace trees that are deceased or dead and I think there was a letter

from a Mr. Lombardi in the previous application indicating that a number of the trees were unhealthy and potentially dangerous and you haven't heard testimony about that tonight. I can tell you that we did look at that last time and the Board found the testimony acceptable. It's up to you how you want to do it. But the long and short of it is whatever healthy trees are removed it's a one for one replacement now it's not the more onerous number. So if it's approved then sheet 8 at some point along the line should be revised.

MR. WEISS: And so I'm going to follow up on your comment 5.2 which Mr. Garzon why don't you tell us for the record how many trees you're going to remove.

MR. GARZON: Two based on the previous application it was two healthy trees.

MR. WEISS: Okay so only two trees.

MR. GARZON: Yes.

MR. MCGROARTY: Well Mr. Garzon just for the record so we're clear there will be a number of . . . there will be your plans last time indicated 14 what were called unhealthy trees.

MR. GARZON: Yes.

MR. MCGROARTY: And that remains the same correct? More or less.

MR. GARZON: Right yeah more or less.

MR. WEISS: We've accepted the fact that those 14 trees truly were unhealthy.

MR. GARZON: Yes.

MR. MCGROARTY: And there's two . . . so that that leaves two assuming nothing has changed on the site over these years but the two that you're taking down so you have a replacement requirement of two trees.

MR. WEISS: I don't want to complicate anything but if they were unhealthy in 2006 and they're still alive, are they unhealthy?

MR. GARZON: Well since then in 2010 I was called in by the town to take care of some trees that were in danger so we took down some trees with guidance from the zoning official.

MR. WEISS: Do you think any unhealthy trees still have to come down?

MR. GARZON: Yes they do.

MR. WEISS: Why?

MR. GARZON: They're in danger and the neighbor can testify to that.

MR. WEISS: Okay well I do want to hear from the neighbor actually. Only because just logic tells me it was unhealthy in 2006 and here it is 2015 and it's still alive.

MR. GARZON: Well it's getting worse things are getting worse.

MR. WEISS: But that's okay I don't know it and I will take that testimony. Okay so essentially two healthy trees need to come down.

MR. GARZON: Correct.

MR. WEISS: And they will be replaced at a rate of one to one.

MR. GARZON: Correct.

MR. WEISS: Chuck was there anything else on your report?

MR. MCGROARTY: The Board could ask for, even though it's only going to be two trees, it could ask for a revised sheet whether it's 8 or whatever sheet it is showing that plus the details. The ordinance does ask for the plan to show the detail of the replacement tree which I indicate in 5.4. And so it's only two trees at this point, whether you want to have the applicant prepare a sheet showing that I leave that to you.

MR. WEISS: I would say that it's obviously a condition of approval and if we do approve it to go through the expense to redo the plans for two trees, I'm not in favor of that, the Planning Board I'm getting the same . . . let's not . . . .

MR. MCGROARTY: So one way to handle it perhaps is perhaps along the lines of the inspection fees that will be posted for this infiltration system somehow, some way depending on what Gene is comfortable with if the applicant presents something to the town engineer and they can inspect in the field to see whatever the two trees are.

MR. WEISS: Do you have any suggestion Mr. Garzon on what you are capable of providing?

MR. BUCZYNSKI: Couldn't he revise the plan just to show where to put the trees? Could the plan at least be revised to eliminate the eight trees and just show where you're going to put the two trees?

MR. GARZON: Sure a landscaping plan basically.

MR. BUCZYNSKI: Yeah.

MR. GARZON: Yeah I can do that.

MR. MCGROARTY: Okay so they're willing to do that, that would make everybody happy.

MR. GARZON: Yes.

MR. MCGROARTY: And you do have, as Gene mentioned too, the affordable housing contribution fee continues to apply. So that's triggered at the time of a building permit and the remaining is required at the time of a CO. So that's not something that has to be done prior to the deeds being filed but obviously Tiena will want that in the resolution. That's it thank you.

MR. WEISS: Okay and Mr. Garzon you're okay with that, that's not news to you.

MR. GARZON: Yeah.

MR. WEISS: Anybody on the Planning Board have any questions for Chuck or Gene or Mr. Garzon? Let me do this let me open it to the public if anybody has any questions on anything that has been spoken tonight about this application I would like you to come to the podium and speak you'll state your name and address for the record. Wonderful thank you.

MS. BERNARDI: Good evening everybody my name is Stephanie Bernardi we own 4 Rose Lane which is directly next to the property in question. We do have several concerns about building although I would like to see the property developed because it's really in disrepair. We have concerns about the water I know Mr. Garzon has said that he's going to fill in that wetlands behind our property. It was my understanding that our property was raised in 2004 but only a few inches. So if he's raising that property behind us is that water then going to come onto our property? That's the one major concern. If he had studies done in 2006 I don't know how much the topography would change over that time that maybe they need to be redone. Hydrology studies, I'm not an engineer so I'm unsure of what could change over time.

MR. WEISS: We happen to have one here tonight we can ask him that question.

MS. BERNARDI: Do they ever expire or how much do they change over ten years?

MR. WEISS: The question is topography, does it change over . . .

MR. BUCZYNSKI: No it doesn't change unless they fill the property. You haven't done anything on your site right?

MR. GARZON: No.

MR. BUCZYNSKI: The elevations and everything would be the same.

MS. BERNARDI: Okay.

MR. WEISS: Stephanie's first question though was when Mr. Garzon fills in the wetlands do we have any kind of safety net to make sure the water doesn't get through?

MR. BUCZYNSKI: I think the grade is to go towards the roadway isn't it?

MR. GARZON: It's to go towards the back.

MR. BUCZYNSKI: He could address that with the applicant.

MR. WEISS: Yeah that's not a bad idea why don't you move that black microphone closer to you and explain to us and Ms. Bernardi exactly what you're going to do to make sure the water doesn't go off of your property into hers.

MR. GARZON: Yeah the actually the contours will be raised to push the water away from your property and my property to create that barrier.

MR. NELSEN: Can you show Ms. Bernardi that on that plat?

MR. BUCZYNSKI: Ms. Bernardi what is your lot number? You're behind him?

MS. BERNARDI: I'm next.

MR. BUCZYNSKI: So you're Lot 10.

MR. GARZON: See this is the new contour lines pushing the line out more so you're here and your elevations are (Inaudible – not speaking into microphone).

MR. BUCZYNSKI: Well isn't the contours going towards her lot though?

MR. GARZON: I'm sorry?

MR. BUCZYNSKI: Lot 10 they're going towards Lot 10 aren't they?

MR. NELSEN: Looks like it.

MR. MCGROARTY: In the back.

MR. GARZON: Well we're creating a barrier to be able to push the water out.

MR. BUCZYNSKI: Yes but if you look at the property line between the two new lots you've got a swale that goes to the back. I mean the water goes that way now though doesn't it?

MR. GARZON: Yes it goes that way we're just pushing a new contour line, pushing it out.

MR. BUCZYNSKI: What they're going to do is they're going to be an infiltration basins that takes the increase in water from the roofs and from the driveways, it won't be going your way they're collecting it and it's going to the ground and into an inlet. But there's going to be grading still that goes towards her property that used to go towards your property before.

MS. BERNARDI: Okay.

MR. BUCZYNSKI: That doesn't change.

MR. GARZON: Yeah the grading from the street keeps going that way.

MR. NELSEN: Where is the wetlands being filled in?

MR. GARZON: Right in this area.

MR. NELSEN: So that's at the 1,000 foot level?

MR. GARZON: 1,001, 1002.

MR. NELSEN: So that's being filled in.

MR. GARZON: Yes that's correct.

MR. NELSEN: Only a foot.

MR. GARZON: It's being pushed the 1001 is being pushed (inaudible).

MR. BUCZYNSKI: But if you look at the contours you also see in the front of the house some of that used to drain towards the back and it's not going to drain towards the back it's going to go to the west into the inlets, into the infiltration basin.

MR. GARZON: Yes there's an infiltration system that's going to . . here's one here and one here so that's where the drains are now going to.

MS. BERNARDI: And everything flows this way away from our home.

MR. GARZON: Correct.

MS. BERNARDI: Because this is a big puddle right now as it is you can go ice skating on that.

MR. BUCZYNSKI: But the lot itself?

MS. BERNARDI: No right out in the street here on Rose Lane in front of our house and down towards the corner.

MR. GARZON: Yeah we had that discussion last approval where if there's a tree here on the street and it's . . .

MR. BUCZYNSKI: Right on Rose Lane?

MR. GARZON: On Rose Lane.

MR. BUCZYNSKI: I wasn't here at the time but go ahead.

MR. GARZON: Oh okay and the roots actually come out and prevents the water from going to the drain that is in the corner to a catch basin that is in the street. You know the catch basin is right on the corner. So there's a big tree with roots coming out here that doesn't allow the water to go into that corner.

MR. NELSEN: Is that one of the trees to be removed?

MR. GARZON: No that's not our tree that's Mt. Olive's . . . .

MR. MCGROARTY: Wait no that was . . . yeah it's in the right-of-way but you testified you were going to remove it.

MR. BUCZYNSKI: You were going to remove that.

MR. MCGROARTY: It's in the resolution.

MR. GARZON: I can remove it but it wasn't part of the . . . .

MR. BUCZYNSKI: I wasn't here at the time but it definitely is in resolution.

MR. MCGROARTY: I was here and I remember questioning whether the ordinance requires the Council to if your removing trees within the right-of-way but the decision by the Board was the tree would be removed to facilitate the improvement that was just described.

MR. GARZON: I'll remove it I have no issue with that.

MR. MCGROARTY: In fact it's shown on sheet 8.

MS. COFONI: To be removed?

MR. MCGROARTY: Yeah.

MR. GARZON: To be removed?

MR. MCGROARTY: Yeah it's outside of your property and it's the one in the right-of-way.

MS. COFONI: In the right-of-way for what's the name of the street?

MR. BUCZYNSKI: Rose Lane.

MR. GARZON: Yeah that is correct.

MR. MCGROARTY: And they were going to tie into the basin there weren't they? Or were they going to do anything further (inaudible). Just take the (inaudible) out?

MR. BUCZYNSKI: Yeah.

MR. GARZON: This tree it doesn't allow the flow of water going back to this catch basin in the corner.

MR. WEISS: So I think we just heard some testimony that removal of the tree will allow the improvements to go in and thus maybe move out that water into the new basin. That's what I heard.

MS. BERNARDI: Yeah that's my understanding as well.

MR. NELSEN: Mr. Garzon I would imagine that removing that tree that would include the roots and all, the roots and the root ball?

MR. GARZON: Correct.

MR. NELSEN: Because that's where the problem lies.

MR. GARZON: Yeah that's the problem. Would that be included into the replacement plan as well?

MR. MCGROARTY: No, no.

MR. BUCZYNSKI: No.

MR. MCGROARTY: I mean you're not going to be penalized for it it's in the right-of-way.

MR. GARZON: Okay.

MR. MCGROARTY: I think if this Board approves the removal of that tree in the right-of-way as the Board did in 2006 I think that's sufficient. And again it's one more thing Gene will cover when they do the inspections.

MR. BUCZYNSKI: Yeah.

MR. WEISS: Ms. Bernardi do you have another question?

MS. BERNARDI: Not really so much a question as just concerns, I know it's probably pretty too late for us we've only lived there two years and (inaudible) I'm just concerned about the privacy issue the back of that house is going to be less than 12 feet from my bedroom window. So I don't know if anybody can be included in the landscaping plan to help with that privacy.

MR. MCGROARTY: Well what a perfect seg way because I was going to suggest that especially because of the grading and such Mr. Garzon the building envelope would allow as the lady just said the house conceivably to be within 12 feet of the property line. You do show both homes closer to Forest

Road, would you be comfortable if the Board put a condition that that's exactly how you will be the houses unless some unusual circumstance happens and you come back to the Board. I mean you're within the building envelope you could push it back but because of the concerns expressed about not only privacy but the grading and the drainage so you can push it back the grading may be altered too. So would that be acceptable to you?

MR. GARZON: Yes.

MR. WEISS: Chuck this isn't an application for a site approval is it?

MR. MCGROARTY: No but I mean that's why I asked I mean it's not a condition . . .

MR. WEISS: I would imagine though rather than asking him to do it at this point let's wait for him to come back with a . . .

MR. BUCZYNSKI: He won't be coming back to the Board though he'll be going for building permits.

MR. MCGROARTY: There's no variances and although he has no attorney with him tonight so we don't want to take advantage of any situation he's under no obligation to promise that. I was just, given the tightness of the properties out there we're just ask . . . . and again to acknowledge the fact that, and not only will it perhaps help the neighbor but it also gives that property owner whoever that winds up being when Mr. Garzon or whomever a little bit of a backyard. You push the house back too far you've got no backyard.

MR. NELSEN: Mr. Garzon the size of the house you intend to put there is how big?

MR. GARZON: The footprint is 1200 square feet on the first floor.

MR. NELSEN: Do you have the footprint?

MR. GARZON: Yes.

MR. WEISS: Why don't you just tell us which sheet you're referring to.

MR. GARZON: Z1.

MR. WEISS: Okay and so those plans . . .

MR. BUCZYNSKI: We don't have them.

MR. MCGROARTY: We don't have them.

MS. NATAFALUSY: He only submitted one set.

MR. WEISS: You have it okay. No reason to mark it it's Z1 of the submitted plans.

MR. NELSEN: So the footprint of the house is how big?

MR. GARZON: It's 47 feet by 39 feet.

MR. NELSEN: 47 by 39 and the building envelope is about 50 feet square right? Precisely 50 feet square.

MR. GARZON: Yeah 39 by 47.

MR. NELSEN: No that's the house the building envelope that you're allowed to put the house in.

MR. GARZON: Oh.

MR. NELSEN: Is 50 foot so you could conceivably keep it 11 feet off the back of the building of the building envelope. Keep it closer to Forest Road.

MR. GARZON: Well my rear yard setback is 12 feet minimum.

MR. NELSEN: Right but the envelope is 50 feet the house is 39 deep?

MR. GARZON: Right.

MR. NELSEN: So if you wanted to you could slide that to the front of the building envelope, the area that you can be in conformity. Do you follow what I'm saying?

MR. GARZON: Well right now the proposed structure is on the setback line.

MR. NELSEN: Oh it is okay.

MR. MCGROARTY: Yeah Dan I'm looking at sheet, for what it's worth, sheet 6 but I suppose there may be other sheets, but the house at the corner of Rose Lane and Forest that has two front yards because it's a corner lot.

MR.NELSEN: Right.

MR. MCGROARTY: The house is pushed up as best I can see almost to the front property line, the front setback line from Forest Road. And so it leaves some room in the back still within the building envelope for what it looks like a proposed deck which is a good thing because at least now he's proposing it and it still leaves 12 feet to the rear.

MR. NELSEN: Okay.

MR. MCGROARTY: It's just the suggestion is you know unless there's some reason why you can't do it keep the house, build the house as it's shown here that's really the idea.

MR. NELSEN: Right that's a good idea I'm with you I think that's a great idea. And by keeping the house to the front of the building envelope you do allow some room for a deck.

MR. WEISS: Well I see a hesitation and I understand it. Why don't you take a minute and maybe get . . . . because the questions are going to be why not? And so why don't you take a minute, I understand what you're doing and that's totally fine, get an answer and then I'm going to ask you. We'll just take a break for one second.

(FIVE MINUTE BREAK TAKEN)

(MEETING BACK TO SESSION)

MR. WEISS: Okay let me bring the meeting back to session and we broke right when Mr. Garzon was going to be asked a question. We were talking about his ability to move the perspective home far away, as far as possible from the rear lot line. And so the question is can you do it and so I'll ask you that question.

MR. MCGROARTY: And Mr. Chairman not to interrupt, the question is not so much can he do it but he shows that's the way it's shown on the plan conceptually so is there a reason why you wouldn't do it that way.

MR. GARZON: Well I would like to keep my footprint adjustable as needed. Right now that's what we're showing but I would like to keep my options of working within my construction or buildable area (inaudible).

MR. WEISS: The way that house is drawn on the plan there's no, really no obligation for the applicant to . . . as long as he's building within that building envelope is that correct Chuck?

MR. MCGROARTY: That's correct.

MR. BUCZYNSKI: I guess he could build a bigger home if he wanted to as long as it's set within that footprint.

MR. MCGROARTY: It goes back then perhaps . . . the lady from the adjacent neighbor's question about will it impact her property in terms of the drainage. I guess my question would be if the house

gets closer and the impervious coverage gets closer to adjacent Lot 10 and the drainage basins will it have an impact on drainage on their property or will it not.

MR. BUCZYNSKI: The way I look at their plan they really can't do much to the front they only can do stuff to the rear. You've got steep slopes back there already I don't see how we can move it back further. Because if you look at the grades in the back . ..

MR. MCGROARTY: Which lot are you speaking of Gene?

MR. BUCZYNSKI: I'm speaking to the lot closer to Rose Lane. If you look at right behind the building now and look at the rear of the lot there's slopes going down pretty considerable and he's got a swale going along that property. He still has to bring that house back further.

MR. MCGROARTY: This house back here?

MR. BUCZYNSKI: Yeah if he brings this house further I mean I'm looking at sheet 4 Access to Wetlands Plan that has the grading on it.

MR. MCGROARTY: Okay.

MR. BUCZYNSKI: See all the grades here plus he's got a swale coming down along here? There's not much room he can do it to push this back with these grades, contours here.

MR. MCGROARTY: Well I guess that's the question though that's the proposed grading but Mr. Garzon wants to keep his options open so if he moves the house . . .

MR. BUCZYNSKI: That's going to affect that.

MR. MCGROARTY: It changes the grading so what happens?

MR. BUCZYNSKI: It would be steeper.

MS. COFONI: Towards the residents in the back?

MR. BUCZYNSKI: I'd rather see a house where it is to be honest with you. I think you've got certain restrictions as far as in the rear of the lot you know I can deal with it a little bit more during the actual plot plan stage when it comes in and look at the grading plan but my feeling is if you're going to push the house further back to the rear property line it's going to have more of a detriment to the effect on the adjacent property owner. That's my feeling.

MS. COFONI: Where there be any steep slope disturbance that would need variances if he moves back?

MR. BUCZYNSKI: No he's basically creating steep slopes with the grading.

MS. COFONI: Oh, oh.

MR. WEISS: I think the thing to understand Ms. Bernardi is that the applicant has certain rights, the landowner has some rights he has the right to build within that building envelope. I think . . . I'd like to think that water and any of those concerns of yours would be a concern of his and we just have to trust that we don't have any ability to demand anything more than . . . .

MR. BUCZYNSKI: Well I think I do from a grading plan point, I don't have to approve a grading plan if I don't think it's acceptable. They might have to address their lot, I strongly urge them not to go too much further back on that lot if they're going to expect an approved grading plan.

MR. WEISS: So that would be your saving grace is that the further to your home that Mr. Garzon builds the more likelihood that he is to create a grading plan that would be unfavorable to our engineer. That's really the best answer I could give you.

MS. BERNARDI: Okay.

MR. BUCZYNSKI: I that's all we can really cover at this point.

MR. WEISS: That's really it, Mr. Garzon has the right to build in that building envelope but the township also can object to his grading plan if we don't find it to be favorable.

MS. BERNADI: Sure I knew coming was just to voice my opinion and concerns and ask some questions about what's going on. And the reason we bought the house is because nobody was there it was nice and private and quiet.

MR. WEISS: How much time do you have to talk about that situation.

MS. BERNARDI: So then there's only two other issues that I have. The tree situation over there is deplorable they are falling out by the root balls and some of them are leaning on our house so we'll be following up with a letter (inaudible) our rights in case anything damage wise happens. I understand it will be remedied when he starts to build and stuff but I wanted to put it on the record that there is concerns about that.

MS. COFONI: Some of the trees from his yard are leaning up against your house?

MS. BERNARDI: They're not leaning on our house but they're leaning towards it.

MS. COFONI: Oh I thought you said leaning on your house.

MS. BERNARDI: No, no there's one leaning on our shed.

MR. WEISS: Mr. Garzon are you aware of those trees that she is referring to?

MR. GARZON: I'm aware that there's some trees . . . .

MR. WEISS: And are those the trees that are going to be removed?

MR. GARZON: Yes.

MS. BERNARDI: Yeah so I just wanted to put it out there that they're dangerous. The dumping on the lot is terrible. We have removed ourselves, gone over and taken paint cans cleaned up some paint spills. There's clippings and all that kind of stuff, there's computers back there . . .

MR. WEISS: Well that's a different story now.

MS. BERNARDI: We've taken some of that out ourselves because it's disgusting and we've also had the police over to do a report too which I could get a copy of if you needed me to.

MR. WEISS: Not necessary for this Board but I can tell Mr. Garzon I'm not sure why that happens.

MS. BERNARDI: Because nobody is there to watch it.

MR. WEISS: Oh it's not your dumping.

MS. BERNARDI: No, no, no it's not no.

MR. GARZON: And for the record in 2010 I got a call from the town saying that there was things on the property and they made me clean it up which I brought a dumpster and spent my money to clean it up. And I told the police that either I . . . and I actually put up a fence, they called me back and said you've got to remove it otherwise we will give you tickets for that. So I can't protect my property, nobody else can there's nothing I can do.

MR. WEISS: Well you can I think you'd just need a permit for the fence. But I understand the problem it's an illegal activity that Mr. Garzon is a victim as well as you are.

MS. BERNARDI: Yeah.

MR. WEISS: I'm not sure there's anything we can do except continue to call the police and try to have it enforced that way.

MS. BERNARDI: Okay.

MR. WEISS: I'm not suggesting you put up a fence but if a fence was warranted by you, you could certainly have one put up.

MR. MCGROARTY: Well once he builds the houses that probably goes away.

MR. WEISS: Of course.

MR. BUCZYNSKI: Are you planning to build the homes yourself?

MR. GARZON: Yes.

MR. BUCZYNSKI: You are.

MR. GARZON: Yes I'm actually planning on moving my family to that corner lot.

MR. BUCZYNSKI: Oh.

MS. BERNARDI: My only other question was about the wells. I didn't know if there was a study done or anything to test two more houses or put on that well system in the neighborhood if it's going to support that.

MR. BUCZYNSKI: I don't know what was done on the original application. You have individual wells there's no water system there just on-site wells.

MS. BERNARDI: No but I didn't know if you know when your digging down and your tapping into the same, somebody is going to dry somebody out. So I didn't know what kind of studies were done.

MR. BUCZYNSKI: They would get a well permit from the township and they'll take the readings once they start drilling the well.

MR. WEISS: Will they check with the readings are at Ms. Bernardi's house as well?

MR. BUCZYNSKI: Probably not for an individual well.

MS. BERNARDI: Okay it was just a question I had. I didn't know if they put two more houses in there if it would run some of the water out of our area. I'm not sure how they really work.

MR. WEISS: (Inaudible) process?

MR. BUCZYNSKI: You know it's probably going to be a deep well, it probably even might not . . . it probably won't affect your well at all because . . . how old is your house, is it a old house?

MS. BERNARDI: Well we just bought it two years ago it was redone in 2007 I believe.

MR. BUCZYNSKI: You don't know how deep your well is on your side.

MS. BERNARDI: I have no idea.

MR. BUCZYNSKI: You have no idea.

MS. BERNARDI: No.

MR. BUCZYNSKI: You just get water from it.

MR. WEISS: Do you know how old the house is, do you know when it was built?

MS. BERNARDI: 1929 I think.

MR. WEISS: His well is going to go a lot deeper. Much deeper those wells . . . we're at the stage are a lot different now. I'm sure you have a very shallow well.

MR. BUCZYNSKI: I would think.

MR. WEISS: And the standards are different Mr. Garzon will be drilling a much deeper well. I'm sure he'd like to drill a well as shallow as yours but he's not going to be allowed.

MR. BUCZYNSKI: He has to get a permit from the township for drilling a well too.

MS. BERNARDI: Okay I didn't know if there was any kind of studies that were done.

MR. WEISS: That's probably a good question you would follow up with the Health Department. The Health Department could probably keep you posted onto the process of well drilling. All right thank you for your comments tonight Ms. Bernardi. Do we have anybody else from the public that has anything for Mr. Garzon for the information given tonight? Mr. Garzon do you have anything else for your application? Does anybody from the Planning Board have any questions for Mr. Garzon? Okay so what we'll do now I notice that Tiena has made a bunch of notes as far as conditions if the Planning Board was to find an approval for this application tonight. The approval would include certain conditions, Tiena why don't you enter for the record what those conditions are.

MS. COFONI: Yes removal of the tree within Rose Lane, clean up of all debris on the property, removal of two healthy trees and replacement of those two healthy trees with two new trees, submission of revised plans to show the location of the replacement trees. And condition number eight from Mr. Buczynski's report subject to the contribution to the Housing Trust Fund and subject to payment of all appropriate fees and taxes. Obtain an LOI from the DEP, obtain certification from the Morris County Soil Conservation District and submission of the minor subdivision deeds with the descriptions to the Planning Board for review and approval.

MR. MCGROARTY: And let me add to that?

MS. COFONI: Yes.

MR. MCGROARTY: That zoning permits be required for both lots that will require a grading plan and . . .

MS. COFONI: The zoning permits require a grading plan or something separate?

MR. BUCZYNSKI: Well the building permits require a plot plan.

MS. COFONI: Submission of grading plan.

MR. MCGROARTY: But the zoning permit is the process by which the inspection fees are going to be posted.

MS. COFONI: Gotcha.

MR. BUCZYNSKI: Require zoning permit and submission of plot plan.

MS. COFONI: Was there anything else Chuck?

MR. MCGROARTY: No I think that's it.

MR. WEISS: I just want to make sure that when you talk about the tree removal that you clearly reference that sheet 8 needs to be revised if you mentioned sheet 8.

MS. COFONI: I didn't mention sheet 8 I will say that.

MR. WEISS: Okay so with those conditions as noted Chuck was there anything else?

MR. MCGROARTY: Well Tiena just if you would the comment that I had in 5.4 the detail, as long as you're going to revise and put on what trees are going to be removed, some detail about what the replacement tree is going to be per the ordinance.

MS. COFONI: Yes.

MR. WEISS: If you recall Mr. Garzon if the application is approved next month we'll sign the resolution and then you can have a summary of what we just mentioned. Kind of clear cut it was just

summarized what we spoke about in the hearing. Chuck's last comment was, because you might have been writing, you'll just need to identify the tree that you're replacing.

MR. MCGROARTY: And the detail for the plantings.

MS. COFONI: Yeah.

MR. MCGROARTY: Per the comment in the report.

MR. WEISS: Okay so those being said with those conditions would somebody like to make a motion?

MR. RUSSELL: I move that PB 14-24 be approved.

Mr. NELSEN: Second.

MR. WEISS: Thank you Nelson and thank you Dan with those conditions as noted by our attorney. Is there any comments? Seeing none roll call.

MS. NATAFALUSY:

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

MR. WEISS: And like I said earlier Mr. Garzon it's always a nice thing for us to be able to rectify a substandard lot lines and lots and the fact that you're now going to have two conforming lots that don't need variances are appreciated. So good luck and we certainly hope that the building works in well to the neighborhood and everybody is happy with it. So thank you and good luck and like I said next month you'll have the resolution.

MR. GARZON: Okay thank you.

MR. WEISS: That concludes our developmental matters.

DISCUSSION MATTER (CONTINUED)

SIEMENS HEALTHCARE DIAGNOSTICS – (NOISE REPORT, LANDSCAPING, SITE LIGHTING)

MR. WEISS: As I mentioned earlier we're going to go back to our discussion matter, we spoke about Siemens and I did have a conversation with Mr. Cartier during the week and I did tell him that I would give him the floor to let's hear from a neighbor that's directly impacted by this situation. So let's hear from Mr. Cartier. Again there's not going to be an action but it might just help us understand exactly what's going on. So John I'm going to ask you to sit right here.

MR. FLEISCHNER: Mr. Chairman if I may?

MR. WEISS: Yes.

MR. FLEISCHNER: I question why we're even doing this because yes the gentleman has the right to speak but this is not an actionable item by this Planning Board. If he has concerns and questions he can bring it to the town Council, we've you know we've made our decisions on this. Our engineer presented an information report there is no discussion here.

MR. WEISS: I think that the whole point of this was a discussion. So it was a discussion from Gene to educate us and I thought it would be helpful for the conversation to hear from a different perspective.

MR. FLEISCHNER: But he's not an expert.

MR. WEISS: I think we should hear Mr. Cartier and I don't believe based on my conversation with him that he's going to give testimony I think he's just going to share the reality with us so we have an understanding.

MR. FLEISCHNER: Based on his opinion a non-professional opinion.

MR. WEISS: It's an open forum I think . . .

MR. FLEISCHNER: But we have no actionable outcome.

MR. WEISS: There's a lot of times in open forum that we don't have actionable items and people have something on their mind and in an effort to show that we're interested I invited Mr. Cartier to speak. I think he clearly understands that there's not going to be an action by the Planning Board but like any other open session Mr. Cartier certainly has the right to speak.

MR. FLEISCHNER: Right but I don't see what purpose it serves to be honest.

MR. WEISS: That's okay you're entitled. Okay John?

MR. CARTIER: Hi I thank you for the opportunity just to come and present a few words. I realize there's no actionable items here and like Howie had mentioned you know there's just some things that you know need to be brought here that I'm not sure whether they were discussed with Gene and you in detail as to what everything . . . how it actually is coming about. Siemens in some regards has been a little avoidant with regards to some of what's going on and as . . . I should let you know that I've been here through all of the original testimony, through all of the original Planning Board sessions. And now we've come 360 degrees and what I find here and you know just like to share with you a little bit is that the three points that I had mentioned in the original presentation to this Planning Board are the same three points that I'm now coming to visit again here 360 degrees later. One of those you know obviously being you know just with the noise. I am not an expert in the noise, I am not an engineer, I am not a lighting expert, I am not any of that I live it every day I see what I see I hear when I walk around the block every day. I walk three to seven miles a day I am in that neighborhood from 6:30 a.m. to all hours of the night. I had mentioned in the original testimony when they came here back in the day were there any noise studies with regards to mechanicals that were going to be on the roof. They did not present any . . . they had nothing at the time so we come back around and we visit the noise, it seems that Siemens spends more time and energy trying to be avoidant for a very, very simple solution, a very simple solution. All of the solutions I have are very simple one of them hits the municipal ordinance and that would be the lighting. The noise, before they had done their noise test we met with Siemens and I was in there and the specific test that I had mentioned is can you test load. And they said no they could not that it was only set at the one level and that load is something that you can't really tell. So at the time on January 20th at 1:30 p.m. when they came around and did the testing it might have well been a very silent day and yes there is that small hum that is always there that's a loud whine that kind of cuts through glass. So there are other times when it is exceedingly loud, last Sunday night at 11:30 p.m. I'm walking around I'm walking around the block it's exceedingly loud that day. There was one morning at 6:30 in the morning I called Mr. Hydstrom over at Siemens and I said gee Jerome I said you know we were talking about the sound it's really loud today. And he said that well they were playing with the settings or they were adjusting the settings for different variables in the HVAC system. I said but Jerome I said you have mentioned that you cannot adjust for load and that you cannot make your noise louder or quieter, I said I don't understand why it's loud today. There was no answer for that. So the testing that goes on here was done at one particular time and there is evidence that noises can be greater at certain times than others, I live it every day. There's also noises that can be done when the wind changes that's there too. But for this particular testing it was done only once, it was recommended when I had met with them that you know maybe you'll need to find some time where you can increase the load. He said it couldn't be done, obviously when I had spoken to him on that Friday something could be done. I did read all of the reports I filed for all of the paperwork that was discussed with all of you and I did read the readings and from that day at 1:30 in the afternoon on January 20th they were conformant to the numbers to be less than 50. They did not do any testing in the evening because they said well if the afternoon is 65 was the level and it was under the evening level there was no need to test anymore in the evening. Now to make the simple story out of the whole thing to reduce this whole thing was the simple solution is if there's a noise that was not a noise why is there not a noise barrier wrapped around that unit on top of the ceiling. I believe when I met with Catherine in the office I believe I saw it on the plans, I think we saw something in there when I had gone to visit her that showed that there was a sound barrier on top of that mechanical on top of the roof. Furthermore, here's a site back when the Dalton's owned the property and Siemens had the original first building and you could go by that building today, there's a sound barrier around that unit. This is on the old building, the new

buildings has these too so this was an issue someplace in the past. So what I'm just trying to say is regardless of the test, regardless of everything I need to look at this at 30,000 feet. How much is it going to cost a nine billion dollar company to take one small three sided figure with a little bit of sound barrier to redirect that noise. To me that's a very simple solution. I'm sorry.

MR. BUCZYNSKI: Go back for the barrier, there is a parapet up there it's only about 18 inches to 30 inches or so it's as per the plan as per their building permit. There is a parapet up there; there was no sound barrier per say in the approval.

MR. NELSEN: There are sound attenuation baffles that can be put in.

MR. BUCZYNSKI: I'm not saying they're not going to do that, they're waiting to get responses from the governing body.

MR. SCHAECHTER: But they were supposed to put baffles up, that was part of the plan when they came here.

MR. BUCZYNSKI: If you show us some where I don't know where. It's not on the building plans.

MR. RUSSELL: Who is responsible in the town is it the police that monitor the noise level?

MR. BUCZYNSKI: Per the ordinance it is but they got a special company, a third party company consultant to do the testing. But you read the ordinance the police department is the noise administer. Now I mentioned that to . . .

MR. RUSSELL: A third party isn't going to come out at 11:00 at night.

MR. BUCZYNSKI: No they're not. And I mentioned to them about have the police do it and the comment I got was they don't have the right equipment.

MR. CARTIER: No you know I kind of didn't want to . . . I just don't want them to stay at 30,000 feet with this and like I was saying a barrier is a very simple solution. And I don't know if there's no actionable items from this Board what happens when that bond is released and Siemens says hey we're not going to do that anymore we're released, so sorry.

MR. BUCZYNSKI: The bond is for municipal improvements technically it's not for the building.

MR. CARTIER: Oh okay.

MR. BUCZYNSKI: The bond is not for the building that bond is not covering that item.

MR. CARTIER: Okay and then just . . .

MS. COFONI: And let me just kind of frame it for you a little bit just so you understand. The Planning Board isn't an enforcing body they approve applications and then they're constructed. So this is constructed assuming, and I don't know this personally, assuming it's all constructed in accordance with the plans and there's still a problem that would be something the township and its various departments would take care of. Noise is sometimes I guess police department, in some municipalities it's health department, you know so there's different enforcement entities of the township but the Planning Board has no enforcement power. So once a Planning Board application is approved that's kind of the end of us.

MR. WEISS: I want to make sure that what Mr. Cartier said to us is that he feels that there's something on the plan that wasn't done. Gene you're telling us that it was.

MR. BUCZYNSKI: Well the parapets were constructed per the approved building plans. I'm not the building department but we did look at them.

MR. WEISS: So let's do this, John I'm going to throw a little responsibility on you if you can show us on the plans, the plans are certainly there for your review if you could find something on the plan that's not there then . . .

MS. COFONI: That would be who the Construction Official you would have to point that out to?

MR. BUCZYNSKI: You have to go meet Gary Lindsey and look at the plans with him.

MR. WEISS: Okay I think that's a positive conversation it's not us but we can give Mr. Cartier the direction to say John if you can find it then Catherine would certainly be an ally for you to provide the plans. You show what's the deficit and the building department will handle it. Because I agree with you I think if there's supposed to be some kind of baffling system and it's not there it should be there and then . . . .

MR. CARTIER: So that's me contacting the Construction . . . . okay that's fine.

MR. BUCZYNSKI: After this meeting tonight I'm going to contact Siemens to let them know if there's still concerns are because I know that they have been looking at other alternatives. Even though the tests show that they conform they haven't put this away.

MR. CARTIER: The barriers would have cost less than it cost to have a professional company come out and do that. That's how easy that was, that cost them a lot of money to have somebody come out and do those tests and as detailed as they did.

MR. BUCZYNSKI: Well and they were committed to do that as per the approval too to make sure they conform or not.

MR. CARTIER: Sure but in early discussions they needed to say hey you know we don't need a test this was recommended early on in some of the discussions.

MR. RUSSELL: Is it the air conditioning unit or . . .

MR. CARTIER: This is the air conditioning unit and you know we can move on with this I don't want to burden you with the detail of this. But just one quick side note to Mr. Schaechter had mentioned that is there really stuff that kind of hangs out over the top. There most certainly is, this is extremely big stuff.

MR. BUCZYNSKI: It does not hang over the building.

MR. CARTIER: Well not hang over the building but . . .

MR. BUCZYNSKI: Well you just said that it does.

MR. CARTIER: I'm sorry okay maybe, maybe but it's extremely visible.

MR. BUCZYNSKI: We went through this we had a meeting with them one night I mean we've gone through that whole routine.

MR. CARTIER: Understood, understood.

MR. BUCZYNSKI: In their building and we discussed it they're smaller units for a couple of individual buildings back there.

MR. CARTIER: Okay. Now the other thing that I kind of wanted to move to was the lighting. I know we had met with them and we did meet in the backyard and again where the avoidance comes from is the letter from Siemens to this Board was that no light seepage crossed over that line, no light seepage, zero. Am I right Mr. Gene?

MR. BUCZYNSKI: Yeah.

MR. CARTIER: Okay when we showed up and we looked that night was it clear?

MR. BUCZYNSKI: They took readings and the readings are you know .08 and .04 and there is overflow and you explained why the overflow is there too and it's there.

MR. CARTIER: Okay not from a planning standpoint.

MR. BUCZYNSKI: And they're going to do something about it right?

MR. CARTIER: Okay yes and from a planning standpoint right that is something that's not conforming to the plan the lighting plan clearly showed 00 at the property line, they clearly told you it was 00 but it clearly was not.

MR. BUCZYNSKI: I tell you it's negligible it's .08, .04 I mean there's some overflow it's negligible from where you're looking at.

MR. CARTIER: Oh come on it looks like day light. Let's put the numbers . . . I said I'm not an expert I did the numbers and I put them down.

MR. BUCZYNSKI: I'm not saying go by the numbers, that's all I'm saying.

MS. COFONI: If I may maybe I was not clear. It's not just with regard to the other issues this Board has no enforcement power whatsoever on any issue. So we can't require, after we have a Planning Board approval it's not this Board that would then require someone to do something else. It's the town engineer, the construction official; I don't want you to think that we then have the ability to make them do anything we just don't.

MR. BUCZYNSKI: But they're doing something though they're putting . . .

MS. COFONI: They are doing something.

MR. WEISS: And we spoke about it. John heard us that they're going to put shields on the last row of lights I'm sure that's where that light is coming from.

MR. BUCZYNSKI: Well John was with us when we went through all of these things and what they had to do.

MR. CARTIER: And you know I just wanted to go, and I wanted to mention that you know that yeah there are remedies kind of going to that but it also kind of hits the Municipal ordinance as well, lights are supposed to be shielded. In that not in the municipal ordinance?

MR. BUCZYNSKI: No there's nothing that says that it has to be shielded. They're downward lights.

MR. WEISS: So I think regardless John your point is that the light reading is higher than they promised where they're going to put shields on I think at that point if it's still yields are reading higher than that we follow the same process you go back to the building department and say there's a problem.

MR. CARTIER: Okay and another letter to the Board came February 10 that said that those lights are being turned off at 10:00 at night. Absolutely they are not being turned off at 10:00.

MS. COFONI: No I think they're going to be I don't think they were saying they were.

MR. BUCZYNSKI: No I was told that they are doing that.

MS. COFONI: Oh okay I thought it was going forward.

MR. BUCZYNSKI: No.

MR. WEISS: John you're telling us the lights are not off at 10:00?

MR. CARTIER: They're not off at 10:00 and I have a letter here from Jerome Hydstrom stating that that is definitely happening and it is definitely not.

MS. COFONI: But it is all lights Gene or is it just the one row of lights?

MR. BUCZYNSKI: Just the one row of lights and they're supposed to be off at 10:00.

MS. COFONI: Okay.

MR. BUCZYNSKI: That's easy I'll just call Jerome in the morning.

MS. COFONI: Okay.

MR. WEISS: John again it's the same thing Joe makes a good point, if after Gene . . .

MR. FLEISCHNER: I have nothing against you but like I said you're preaching to people who have no power to change this.

MR. CARTIER: And this is also a lessons learned issue here. The presentation that I sat through for testimony is maybe 30 percent accurate to what you have in the actual reality. Which means maybe you need to you know . . . maybe there's a little more depth involved when you have something of a large grand scale like that that you know needs to be considered. They came in here with lots of attorneys, they came in here with arborists, they came in here with more (inaudible) power than you really know what to do that any homeowner could be able to handle. And it's not really putting that on the homeowner to say I need to shuffle through the static and get to the points I think the Planning Board needs to be a little more . . . you know on big projects . . . .

MR. FLEISCHNER: If I may I also think the homeowner has the responsibility before they buy a house on any property that they should due diligence to see what is next to them, the surrounding property, what is permissible, what is not permissible that is a homeowner's responsibility.

MR. CARTIER: And that was my responsibility and then I had done that that property wasn't even zoned in the Master Plan the same.

MR. MCGROARTY: No that property was always light industrial where you live Flanders Crossing was light industrial and it was changed to residential. And I'll say . . . and I'm not taking position on this but I'll tell you, you remember the original site plan the second phase buildings was much closer to the Flanders Crossing development than ultimately turned out to be the case, all per the ordinance. So the Board really you know if they abide by the ordinance at least in their presentation that's what the Planning Board has to decide on.

MR. BUCZYNSKI: Just one quick question. As far as the lights, the lights that don't go off at 10:00 are they on all night or do they off at 10:30?

MR. CARTIER: They're on all night. They were on at 5:00 this evening they seem to be on a timer so you know and I really thought shielding was something that . . .

MR. BUCZYNSKI: I'm going to ride by after the meeting to see. It won't be 10:00 but . . .

MR. WEISS: I think again the bottom line though John I know that you're frustrated but I would think that reality is they're more than 30 percent of what they say is what is actually done. I think we're focusing on a couple of small points, well noted points and I just want to make sure that you have the right direction. That your 100 percent right if those lights are to be out at 10:00 and they're not Gene said he's going to work on it.

MR. BUCZYNSKI: They told me they were going to be off at 10:00 period.

MR. WEISS: So there's a disconnect and again I'm going to say the same thing, there is an ordinance there's a resolution that says their lights are out at 10:00 go to the building department show them that it's not and I think that's the . . .

MR. BUCZYNSKI: I don't think the building department is . . . .

MR. MCGROARTY: It's not in the resolution that was a subsequent agreement with the township.

MR. BUCZYNSKI: Right yeah that's a subsequent agreement that they made out in the field.

MR. WEISS: Okay.

MR. CARTIER: Are all of these changes agreements with the trees as well? Is that some written signed agreement that is defined some place? I didn't see it in any documents that I applied for and that's why . . .

MR. BUCZYNSKI: As far as having 33 trees?

MR. CARTIER: With responsibility to Siemens and making the adjustments.

MR. BUCZYNSKI: John is you get the whole file it says right in a letter from Siemens what they're going to do about the 33 trees. It's right in there. You went through Opra it's in that package you have.

MR. CARTIER: Yeah I saw the package but it doesn't say where they're going to go or how effective . . . .

MR. BUCZYNSKI: There's a plan in that package that shows you where the trees are going. You know what size they're going to be between certain lots.

MR. CARTIER: I saw a written verbal description of 33 trees, 18 feet . . .

MR. BUCZYNKI: And the plan, there's a plan and the plan shows . . .

MR. CARTIER: Okay then it didn't come across as an attachment.

MR. BUCZYNSKI: Oh it's there it's the last page.

MR. CARTIER: All right.

MS. NATAFALUSY: It also says that the row of parking lot lights closest to the neighboring lots have been programmed to turn off at 10:00 p.m. so it should have been done.

MR. BUCZYNSKI: It was supposed to be done.

MR. CARTIER: And do I address that with the town?

MR. BUCZYNSKI: I'll take care of that tomorrow morning that's not a problem.

MR. FLEISCHNER: We'll take care of it which normally you would go to the appropriate office in town and say hey it's not compliant . . .

MR. BUCZYNSKI: Or call, you know I don't drive by Flanders Crossing and Siemens every night at 10:00 so I wouldn't really know unless somebody told me quite honestly. I mean usually when you call me I try to address issues . . . .

MR. CARTIER: Yeah you've been very good about that and you know I mean like I said some of this has got to be a little bit of lesson learned with you know some of the . . . . you know I mean I don't know as I would say it's sneaky or it's whatever but the intentions are one way and it end up kind of going another way and you know the one statement was made that you know from Siemens is hey those trees are single row because you wanted to move the fence back and you wanted to go with a 6 foot fence. We were told that it was a 12 foot fence on the property line or a 6 foot fence on a 6 foot rise the net in that is zero 12 foot of elevation with some sort of tree. Now what wasn't done with that, and this is also part of your plan as you go forward, if they went ahead and made a change they should have come back before the Planning Board with another landscape design because they clearly, clearly didn't think. If I move the fence back now I don't have 50 I only have 15 feet to plant my trees. That is a planning mistake, that is like you've altered what your site was and you said . . . .

MR. BUCZYNSKI: But they've met with you people and it was decided. And then the resolution . . .

MR. CARTIER: They did not say they were going to change a single row of trees.

MR. BUCZYNSKI: The resolution stated those items that were addressed at the meeting, they said in that resolution that they would not have to come back in front of the Planning Board it was going to be reviewed by the engineer and planner.

MR. CARTIER: That is correct.

MR. BUCZYNSKI: That is what it said in the resolution.

MR. CARTIER: That is correct and that would be you. So the approval for that change came from you.

MR. BUCZYNSKI: I guess you could say that.

MR. CARTIER: So again you know have a little bit of lack of insight. You know and again that's probably lesson learned, next time somebody comes in to a site and they make a change where they're going to move a fence 25 feet or you think that no buffer zone is going to be good hey maybe you got to take a look and say what else is impacted? If I change one thing over here what else is impacted with that. Also when we got that 25 foot buffer trees were marked with red labels and blue labels and we were also told by the arborists at the time everything under six inches stays. Funny when the road kind of came in and half of those trees disappeared and I watched half of the blue trees go down I walked right over there at the same time they were cutting the blue trees down I got the site foreman, I got the guy over there the guy putting in the road said sorry I was told to clear this those trees are in the way of the road. So all of those trees in the back of Lot 15 and Lot 17 are all gone as a result of that, so the buffer zone for all intensive matters disappeared with some of the you know the casualness of putting in that roadway. And you can't blame that on anything other than the road guy comes in and says all I know is I'm putting a road from here to there and if that tree is in my way or that tree is in that 15 foot where I'm expected to plant trees than those trees come out. So the buffer thing really was not a very good choice after all. So I mean these are just lessons learned in my opinion and you know I'm kind of living with this and I'm hoping that you know Siemens is a little bit better with this and Gene maybe you could push for you know something on the roof instead of all of this. Like I said I'm not an expert but there's . . .

MR. BUCZYNSKI: I know they're looking at it with . . . although it's not in the report they gave us I know that their consultant gave them some alternatives that they could do to try to . . . . even though it conformed to the ordinance, how they could reduce it. I think they're looking at that and I will talk to Jerome a little bit more about that tomorrow.

MR. CARTIER: So then if the Planning Board is not involved with any of the decisions it's not an acting body then all of the rest of the decisions that are involved here solely rest with Gene.

MR. BUCZYNSKI: No.

MR. FLEISCHNER: No town council.

MR. BUCZYNSKI: Not at all.

MR. WEISS: It depends what kind of decision I mean obviously you're talking about various complaints, you just addressed John you'd go to the building office and there's enforcement through that. If there's something that you feel like you said they wiped out the row of trees that might be the governing body. You might want to say they didn't do what they're supposed to do and . . .

MR. BUCZYNSKI: And maybe the governing body takes up the decision to bring Siemens into a meeting.

MR. WEISS: Right and say okay listen you didn't put . . . you're going to plant trees or we're not going to release the bond or . . . I don't know if that's the right example but the governing body at this point could probably enforce more of these violations than we can.

MR. CARTIER: But a lot of them were not solidified right now right? This is all just I mean other than . . .

MS. COFONI: Yeah the subsequent stuff is not . . . I mean the governing body would probably be dealing more with stuff that's part of the Planning Board approval and in the developer's agreement. After you get a Planning Board approval then you get a developer's agreement which is an agreement with the town. But all of that is really dealing with public improvements, roadways, that type of . . . curbing, grading I don't know what else.

MR. BUCZYNSKI: Right.

MS. COFONI: Not the building stuff though we don't bond for buildings. But I think the township would be a better spot.

MR. BUCZYNSKI: I guess the building department in a way would probably get involved to a point as far as the units go. I'm not sure how far they get involved with actual noise itself you know that's . . .

MR. CARTIER: And like I said you know I mean again . . . and this will be the end of this and I will end after this is that at very high level at 30,000 feet how easy would it be for a company like that to say hey you know what you're having a light problem, how about I put some shields on for you. How hard is it to put up shields for a nine billion dollar company? Trees, okay we had a mistake here we had some problems you know what, how hard is it for me to plant 30 trees on the other side of the line. Why does it have to go . . .

MR. WEISS: I guess the good news John is they are going to do it. You wish that it happened differently but it didn't and it is what it is.

MR. CARTIER: I thank you very much for your ear, very much appreciate it thank you.

MR. WEISS: Stay on top of it John.

MR. BUCZYNSKI: Always a pleasure.

MR. WEISS: I think you'll find that there are various departments in this town that will help you.

MR. CARTIER: Great thank you very much.

MR. WEISS: Did you have anything?

MS. GIORDANO: Yeah if I could just add a few things. Cheryl Giordano 49 Crenshaw I was at the Siemens building they invited the residents before the construction to show us the plans. And I came to both Planning Board meetings and I just . . . I'm baffled by some of the things I'm hearing. Gene you had mentioned in June of 2013 there was a meeting with the residents and Siemens and the Mayor?

MR. BUCZYNSKI: June 18th.

MS. GIORDANO: How did we get invited because I was not invited to that.

MR. BUCZYNSKI: I don't know I wasn't involved in the meeting. I'll tell you who was there though.

MS. GIORDANO: That's when the plans were changed because originally up . . .

MR. BUCZYNSKI: That's when they went through all the changes that's correct.

MS. GIORDANO: Right up through my residence there was a 12 foot fence and the neighbor next to me . . .

MR. BUCZYNSKI: I can tell you why I know who was there it's based on a letter from Sweetwater to the Mayor it's dated June 20th and there was the Mayor, people from Siemens and four neighbors Fadeem and Angie Cusnatof, John Cartier and Robert Conover.

MS. GIORDANO: So it was the cul-de-sac? Just the cul-de-sac?

MR. BUCZYNSKI: I don't know who arranged for the meeting all I know is they had it.

MR. WEISS: Across from (inaudible) I think that neighbor looks at the intersection of Trevino and Crenshaw.

MS. GIORDANO: How do four neighbors have the authority to change the planning of the . . . .

MR. BUCZYNSKI: I have no idea. You can speak to the four neighbors who were there or the Mayor or Siemens I don't know. I wasn't at the meeting.

MR. WEISS: See what the Planning Board can do is we can facilitate these communications but if no one is going to show up or if people don't know . . . .

MS. GIORDANO: I know. I would have been there.

MR. BUCZYNSKI: From that meeting the resolution of approval was revised to note the items that were addressed at that meeting.

MS. GIORDANO: And who approves the resolution?

MS. COFONI: The Planning Board resolution.

MS. GIORDANO: So four residents and the Mayor you're telling me?

MR. BUCZYNSKI: This letter says the Mayor was at the meeting.

MS. GIORDANO: And we don't know who called the meeting.

MR. BUCZYNSKI: I don't know. All I know what happened was at the Planning Board meeting prior to that there was discussions with the residents and I think, I'm not sure who said it, that they would meet with the residents prior to the resolution. That's what they did. We set up the meeting, I'm not sure who set up the meeting.

MS. GIORDANO: Is that legal?

MR. BUCZYNSKI: John was at the meeting right?

MR. CARTIER: Yeah I know, I can't remember how or who got invited you know that was a little long ago. But I do remember it being you know I do remember all of this testimony and all of this being open to all the neighbors. And I know that she was at some of the early testimonies but you know there were a lot of neighbors even today with the concerns that I bring to you I mean I don't see any of these neighbors caring anything about this. And I'm not here because I care about Joe neighbor that lives on Lot 18, I'm here because I'm concerned about the site and what is you know what is right, what is not right and some considerations going forward if this is what it is today. I mean I'm just here for the overall aspect of that site on that lot and some of the, you know some of the oversights and some of the things that really kind of need to be addressed. And that's it for me it's just you know I guess at this point these are lessons learned and you know that's it. But some neighbors don't care, I know she does I don't know how you weren't invited to that I can't recall I know I've had my nose in this from the beginning. And every whisper is in my ear and you know I wouldn't go to work to meet some of these people.

MS. GIORDANO: Because I know the statement at the Planning Board meeting the two that took place with the fence it was on record that in order to remove the fence you had to have the residents and that resident and everyone going up towards I guess, I don't have the plan in front of me is that the north? The corner you know . . .

MR. CARTIER: They had done that they had honored your request though.

MS. GIORDANO: Right I had requested that the deal was you couldn't checkerboard it. The people past you had to also agree not to have it so my neighbors beyond me would also have to agree. We never signed off on any of those things I'm actually happy not to have the fence but having known that that was going to change the tree plan that would have been nice to know.

MR. SCHAECHTER: I don't think it changed the tree plan as high as they are.

MR. CARTIER: Technically where she lives there is no roadway; there is no 15 foot problem. So from a landscape standpoint she should still have the staggered trees because there is no roadway where she lives.

MS. GIORDANO: Also the trees that . . . Siemens did agree to do something in addition to the original plan which was to wrap the trees around in that back corner so you know this is the roadway and then you don't have the road right and then it wraps around. The original plan didn't have any trees on the back side which from our angle, a 45 degree angle we see the whole building we see every light it's like a Christmas tree. And you had mentioned it's going to take years for that and so they were very nice to agree to plant trees they planted 6 foot trees and I'm talking about (inaudible) you know and they're not staggered they're not . . . they're spaced out you know we're going to spend thousands of dollars this spring trying to get back our peaceful backyard and I know it's not your problem and you know if there's any additional trees that are going up I would love for any kind of pull.

MR. WEISS: Gene had said that some of the 33 are going to end up back on that corner.

MR. BUCZYNSKI: Yeah and I'll make sure . . .

MS. GIORDANO: Not on that side. You were saying?

MR. BUCZYNSKI: No on that side in the back.

MS. GIORDANO: Oh on the curve around the . . .

MR. BUCZYNSKI: I'll have to look at the plans and I don't have the large plan with me . . .

MR. SCHAECHTER: Gene when they were here they were supposed to wrap all around that parking lot so that was all shielded. That was what they agreed to.

MS. GIORDANO: They did that but there's . . .

MR. BUCZYNSKI: They did wrap around.

MR. SCHAECHTER: Yeah but you know the trees that they planted were not 12 footers I mean . .

MR. BUCZYNSKI: The resolution that was revised said minimum height of 8 feet. That's what the resolution says. I believe they're at least 8 feet.

MS. GIORDANO: I didn't want to go on their property and trespass but I can tell you if I compare them to the others they're about a third.

MR. BUCZYNSKI: I'll talk to them about the concern about that corner I think there's some trees that are going to go back in there to.

MS. GIORDANO: Oh that would be really nice only because we're raised as well so our elevation is higher so we look down and if you came in my backyard if you wanted to . . .

MR. BUCZYNSKI: Of course now I only have this drawing here and I can't read it you can enlarge it, because you got the email you can go on it and you can see it.

MS. GIORDANO: But you're welcome to come back and have a beer at our house at 10:00 if you want to look at the lights.

MR. CARTIER: One of the last lesson learned thing from this is the sight perspective was from Lot 15 which his like probably 30 feet lower than Lot 23. So at that elevation looking down she sees Emerald City.

MS. GIORDANO: My daughter's bedroom is completely bright.

MR. BUCZYNSKI: No I agree with you, we were out there . . . .

MR. CARTIER: So next time somebody comes in with a plan and they say well we did it from site spot "A" . . .

MR. BUCZYNSKI: They never did a perspective of the rear of the lot; they did perspectives going to the building.

MS. GIORDANO: I also think just from a person who is not an engineer but I have a degree in maps so I'm pretty good with a scale. Looking at the diagram that was proposed it didn't give you the true picture of the impact of what that plan was really going to look like. You know I tried to do a measurement of how far the corner of the lot would be, it looked like we were going to be safe, I was like oh we're pretty safe let's not argue too much you know let's just get our concerns out. But when everything was taken down it was a lot closer than what it looked like on a blueprint. Anyway I just want to say my piece.

MR. FLEISCHNER: I just want to say it's never too late because you do have recourse. I said it earlier and I'm going to give you some advice, go to the town council stay at the town council and stay there until election day because this is an election year and I've lived in this town for 41 years a lot of

stuff gets done in an election year that would never get done in any other year. So that will be my personal advice to you, go to the town council raise the issue because our hands are tied. Gene is trying believe me I speak very highly of Gene because let me tell you he's one of the good guys. And sometimes we make mistakes but Gene works to correct any kind of mistakes we make. But you have issues I agree with you I wouldn't want . . . my house the backyard is 40,000 Green Acres the only thing I worry about are the animals showing up. There's no lights if I had lights shining I'd be at the town council, I would be in the zoning office, I'd be in every one every single day. That's what you've got to do. Just remember it's an election year.

MR. CARTIER: Yeah okay thank you very much.

MS. GIORDANO: Thank you for your time.

MR. WEISS: Anybody else have anything else to talk about? Any motion to adjourn?

MR. SCHAECHTER: I'll make that motion.

MR. FLEISCHNER: I'll second it.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 8:51:58 P.M.)

Transcribed by:
Lauren Perkins, Secretary
Planning Department