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

**ROLL CALL**:
**Members Present**: Brian Schaechter, David Koptyra, John Mania, Dan Nelsen, Henry Fastert, Nelson Russell, Howie Weiss**,** Frank Wilpert, Jr.

**Members Excused:** Joe Fleischner, Robert Greenbaum, Kim Mott

**Members Absent:**

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

**Professionals Excused**: Edward Buzak, Esq.,

MR. WEISS: Thank you, Catherine. We have one resolution tonight. It's PB 14-26, John Stutz. We've all gotten a copy of it. If anybody has any questions or comments we can discuss it. I see none. So would someone please make a motion to accept the resolution?

MR. FASTERT: I'll move to (inaudible) the resolution.

MR. WEISS: Thanks Henry.

MR. WILPERT: I'll second it.

MR. WEISS: Thank you, Frank. The motion has been made and seconded. Are there any comments? Seeing none. Catherine, roll call.

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**Roll Call:**

| | |
|---|---|
| David Koptyra | - yes |
| Frank Wilpert | - yes |
| Henry Fastert | - yes |
| Howie Weiss | - yes |

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MR. WEISS: I told you that was going to be quick. Ok, we have Committee Reports. I did speak to the Mayor who as we heard is not here tonight. But he did want me to advise the Planning Board that he is away tonight on some Township business. He's visiting….on some official business looking at some potential development. We are going to have a conversation slightly at the end of our meeting. I'm not sure which version of the agenda you have but we did have a discussion matter. We'll talk about that in a discussion matter but the Mayor wanted to let everyone know that he is away tonight on some Township business. John, Council report?

MR. MANIA: Yeah we're in the process of hiring a new Business Administrator. So we're going through and we've selected one and hopefully it will work out.

MR. WEISS: What's the process on that John? Is it just Council? Council doesn't approve that.

MR. MANIA: No, no. They're interviewed by the Mayor and by our present Business Administrator and they're recommendation is to us…is given to us.

MR. WEISS: Perfect. I've heard good things about the candidate too.

MR. MANIA: Yes, I've heard many good things.

MR. WEISS: Thank you. Anything else, John?

MR. MANIA: That's it.

MR. WEISS: Environmental Commission. Nelson?

MR. RUSSELL: No report.

MR. WEISS: Ok. Ordinance Committee. Joe's not here and there's no Ordinance Committee report. I'm on that committee as well but we will bring some information into our discussion matter later. I have nothing from the Street Naming Committee. Open Space…Kim…she's not here so we'll move any report that she has till next week. We have three development matters tonight on the agenda. The first one is PB 15-22, Gail Mauer and John Neves, requesting variances from a front yard setback for their home located at 17 St. James Road, Block 2403, Lot 2. Folks, if you would, what you'll do is you'll come to the podium and our attorney will swear you in and we'll go forward.

(MR. SWANSON AND JOHN NEVES ARE SWORN IN FOR THE RECORD)

MR. SWANSON: My name is Mark Swanson. I live at 27 Lakeside Drive in Boonton. S-W-A-N-S-O-N

MR. NEVES: John Neves, 17 St. James Road, Budd Lake. N-E-V-E-S

MR. WEISS: Mr. Swanson are you?

MR. SWANSON: I'm a contractor.

MR. WEISS: You're the contractor. Ok, thank you. I suppose what we would probably prefer to do until something gets more technical, hear from Mr. Neves. Ok, so, Mr. Neves, we are here tonight because you're looking to build a three- season room with an attached deck approximately. The property we have the specs in front of us….the approximately 16,240 square feet. And this construction project of yours is going to require a waiver because you're going to be encroaching into the front yard setback which is 35 feet and your proposal will bring you 22 feet.

MR. NEVES: Yes.

MR. WEISS: So, what we should do is perhaps…why don't you tell us a little bit about the project that you're going to propose. We do have some plans so we'll follow along with you. You'll state some proofs for the record and I will certainly guide you with some questions that we might need to fill it out. So why don't you take it from here and just explain to the Planning Board what you want to do or the current conditions of the property and take it from there.

MR. NEVES: Because we have roads on both sides, the front that's stated is actually our back yard but it's considered a front. The deck is going to go beyond even if it was a back setback. But there's no place else. There's the existing deck right there and the sliders are there and we want to put the three seasons room on top of it.

MR. WEISS: Ok. You made a very interesting point that you have two, essentially because of the corner lot you have two front yards and that works kind of a hardship for you in theory.

MRS. NATAFALUSY: It's not a corner lot it's a through lot.

MR. WEISS: I meant to say that he's got two front yards.

MRS. NATAFALUSY: He's bordered by two streets.

MR. WEISS: By two streets.

MS. COFONI: These I think were included in the package but they're very informative if you want to….I don't know if everybody has these.

MR. WEISS: We should have them. Does anybody need to have the photographs.

MR. MANIA: Yeah, I haven't seen them.

MR. NEVES: My wife puts everything out. She (inaudible).

MS. COFONI: Yeah those were very helpful.

MR. WEISS: Ok, so you're running into a problem because of the fact that you have two front yards. Your home is bordered by two roads. One of the things we try to do is we try to eliminate deviances from our zoning. And so my question to you is have you proposed or looked at the plan and see if you can move your three season room anywhere else on the property?

MR. NEVES: No, the bedrooms are on the end that would actually give me any distance. And the garage is on the other side.

MR. WEISS: So putting a three season room off of a bedroom is not something….

MR. NEVES: No.

MR. WEISS: Ok, that sounds…

MR. FASTERT: You mentioned that you're going to build a three season room on top of an existing deck?

MR. NEVES: Yes, it's non-permitted but I have applied for a permit for the deck.

MR. FASTERT: But there is an existing deck and so the deck's in place and this thing is just going to sit literally on top.

MR. SWANSON: Can I say something? The deck, I have a survey showing the deck has been there since at least 1983 and though we are beefing up the deck to support the sunroom, it's not going to change its size. It's 12x16. They also live in a fully developed neighborhood so there's no way of buying any adjacent property anywhere to alleviate this problem.

MR. WEISS: Ok. So actually making the deck a little…the three season room a little smaller doesn't make sense because of what you just said. The fact that the deck is already there. And so we're talking about…looking at 13 feet that's kind of would be that would make your three season room very small. Would it not….if we were to take 13 feet off of it?

MR. NEVES: Yes, it would.

MR. SWANSON: The deck is 12x16 so it's 192 square feet. It would be smaller than a dog house so that kind of …

MR. WEISS: Impossible.

MR. SWANSON: Impossible. Thank you.

MR. SCHAECHTER: Not practical.

MR. WEISS: Not practical. Correct. Ok, so let's talk about…we talked about the condition of the property. You told us that there's two roads giving you two front yards. We talked about the fact that by moving it somewhere else on the property it wouldn't be practical for two reasons. Number one, having a three season room off of the bedroom doesn't make any sense and shortening it to conform with the zone would make it a very unusable piece of construction. So, we've heard that. Let's talk about the neighborhood. Tell me about your neighbors. Tell us about the construction of the homes in the area.

MR. NEVES: We are on a hill and the road, St. John's, behind us is stepped up. It's probably I would say six feet or better higher than our lowest point on the house and there's bushes between from the road to probably about eight foot of bushes. So you can't see the road and you can't see the sunroom or anything from the road. It's all overgrown.

MR. WEISS: Do other homes in your neighborhood have additions put on them? Are there other homes that have similar three season rooms?

MR. NEVES: Across the street has a three season room in the back.

MR. WEISS: The construction of the three season room, would you say that would have any kind of negative impact on the area? Would it have any detriment to the neighborhood?

MR. NEVES: No.

MR. WEISS: It would not make your home stand out to be vastly different than any other home in the neighborhood?

MR. NEVES: Maybe better. No, it actually would blend with the house. The house is off-white and…

MR. WEISS: Your answer's acceptable actually. You're improving your home is ok. Sometimes granting relief to improve is kind of a goal of the Planning Board as well. Ok, so you've just testified to us that there's really no…you don't see any negative detriment to the neighborhood and I would say, Tiena that would probably satisfy the negative criteria?

MS. COFONI: I just have one question just to make sure I'm thinking of this right. Gene, they couldn't reduce the size of the three season room to comply, right?

MR. BUCZYNSKI: No.

MS. COFONI: I mean because it's 13 feet into the rear yard and the three season room is only 12 feet deep, right?

MR. BUCZYNSKI: Yeah.

MR. WEISS: It's impossible.

MS. COFONI: Yeah, ok.

MRS. NATAFALUSY: You can't…the house is 35 feet from the rear lot line. So there's no way they can….

MR. WEISS: There's a zero building envelope.

MS. COFONI: Right. Ok.

MR. WEISS: That certainly helps your case for the positive criteria I would say. Would you agree with that Tiena?

MS. COFONI: Yes.

MR. WEISS: I don't really have any other questions. Anybody on the Planning Board have any questions? Obviously there's construction and the way you're doing it is not under our authority. The Building Department will handle that…all permits if this is granted will still go through that office and we'll make no commentary as to how it's being built or why it's being built in the manner that you're building it.

MRS. NATAFALUSY: Mr. Chairman, there is one thing that we have to address. The shed that sits in the front yard setback.

MR. WEISS: Yes. I was just going to get to that. I had it highlighted.

MS. COFONI: Before we move on to the shed, actually, and I apologize because I was writing notes, just one thing I want to state for the record and the reason why I wanted to make sure everyone had the photographs is the difference in elevation from your yard to the road, I guess it's technically your front yard but it's really your rear yard, is pretty significant and also there's a tremendous amount of bushes, trees….

MR. NEVES: Almost eight feet or more depending on what (inaudible) and it narrows down.

MS. COFONI: You said eight feet?

MR. NEVES: Well from the shed it's probably I think it's nine feet. It's on the plans.

MRS. NATAFALUSY: The shed is located about nine and a half feet from the rear lot line, so….

MR. NEVES: And most of that about eight foot of that is almost all bushes.

MS. COFONI: Because the one picture shows from St. John's Road…the only thing you can see and I presume the only thing you're going to be able to see even after the sunroom is the very top of your roof.

MR. NEVES: Right.

MS. COFONI: Ok.

MR. SWANSON: By the way, the sunroom roof is lower by probably four or five feet than the house roof.

MS. COFONI: Ok.

MR. WEISS: Is there going to be a separate roof line or will it?

MR. SWANSON: It's a reverse gable. The gable of the sunroom goes into a gable of a house.

MR. WEISS: Understood. Ok. So you're not going to do anything to the roof for the house…ok. As we address the shed, as you know there's a shed on your property that there's no record of a shed being approved by the Planning Office. So, I guess the question Catherine I need to ask you is…is the shed where it sits now, is it conforming as far as its placement?

MRS. NATAFALUSY: No. Because of the front yard, an accessory structure has to be fifty feet from the front setback.

MR. WEISS: Fifty?

MRS. NATAFALUSY: Fifty feet and I measured it today. There is no way that he could conform because if he goes fifty feet he's in the middle of the property from fifty feet from St. John's puts it right in the middle.

MS. COFONI: And he couldn't comply with both?

MRS. NATAFALUSY: He couldn't comply with either.

MR. NEVES: The property is only a hundred feet deep.

MR. WEISS: Ok, so I think what we're going to try to do then is… let us….

MS. COFONI: How…yeah….

MR. SCHAECHTER: How long has the shed been there?

MR. NEVES: At least twenty years.

MRS. NATAFALUSY: I discussed with Tiena today about amending the application because the notice did say any and other variances that come up during the process to include a variance for the shed so he can maintain the shed.

MR. WEISS: How long have you owned the house for?

MR. NEVES: Actually my wife has owned it for 33 years.

MR. WEISS: Ok. So the variances that we're going….we're going to amend the application to include variances for front yard setback and side yard setback?

MRS. NATAFALUSY: No, side yard is fine. It's the front.

MS. COFONI: Front yard for both.

MR. WEISS: Just front for both.

MS. COFONI: Do we have the dimensions of that shed? Catherine, do you happen to know that?

MR. NEVES: It's 12 by 16 ½.

MR. WEISS: Ok. So the application's going to be amended to include a variance for…we're going to discuss this…a variance was requested for the shed as it currently sits about under 10 feet from the property…from the front yard and according to what Catherine is explaining needs to be fifty feet. It's impossible based on what we have and it's impossible because of the fact that you have two front yards because of the fact you have two roads on your property. Two roads that border your property. Again, the same type of questions. Are there other sheds in the neighborhood? Do the other homes have sheds in their yard?

MR. NEVES: Everybody has a shed.

MR. WEISS: Ok, so granting the relief for this shed wouldn't make your home any different than the neighbors? You obviously have a condition of the property that certainly satisfies the positive criteria Tiena, I would say. And the fact that a shed in this neighborhood would not be any detriment to the rest of the neighborhood I would say the positive criteria has certainly been met. I see no reason…if anybody has any questions. Brian?

MR. SCHAECHTER: There's two sheds on the property. Are they both non-compliant?

MR. WILPERT: Yes, the second shed is up against the house and needs a minimum distance (inaudible).

MR. NEVES: That's for my generator. That's a generator enclosure actually.

MR. WILPERT: Fine then.

MS. COFONI: I don't see it.

MRS. NATAFALUSY: It's on the side of the house.

MS. COFONI: Oh.

MR. WEISS: Oh, I see that. Ok. Is that not considered a shed then?

MR. WILPERT: No, we've done those in the past.

MR. WEISS: I'm glad you brought it up.

MS. COFONI: If it encloses a generator it's ok?

MR. WILPERT: It's fine.

MR. WEISS: Anybody else? That was probably your question as well? Ok. Well certainly as we look, the property is large enough so we're not looking at any kind of issues there. It's 10,000 square foot zoning and we have 16, 240 square feet.

MRS. NATAFALUSY: Right. Building and lot coverage are….

MR. WEISS: Building coverage, lot coverage and impervious coverage is not an issue so that being said does anybody else have any questions? I would say that the applicant has certainly testified to the positive and negative criteria. Both variance requests which are front yard, relief from front yard setback for both the three season room and the shed that's already there. I suppose the applicant's going to need to file a zoning permit for the shed?

MR. NEVES: I already have.

MR. WEISS: It's already done?

MR. NEVES: I actually applied. I got my letter. I did it the other day.

MRS. NATAFALUSY: He applied yesterday.

MR. WEISS: Ok. So that's fine. That's one less piece of paperwork you have to worry about. Tiena, anything else that we might want to discuss?

MS. COFONI: Nope.

MR. WEISS: Ok. I have nothing else and I see nothing else so…at this point let me open it to the public. If anybody from the public has any questions about anything that spoken about tonight or a question for Nr. Neves or Mr. Swanson? I see nothing from the public so I'll close it to the public. And at this point I will entertain a motion from the Planning Board to…

MR. RUSSELL: I'll make a motion PB 15-22 be approved.

MR. NELSEN: Second.

MR. WEISS: Ok, so Nelson…

MR. MANIA: These guys are fast.

MR. WEISS: And Dan seconded it.

MR. MANIA: I didn't even open my mouth.

MR. WEISS: Any conversation? Any comments? I see none. Catherine, roll call.

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**Roll Call:**

| | |
|---|---|
| Brian Schaechter | - yes |
| David Koptyra | - yes |
| John Mania | - yes |
| Dan Nelsen | - yes |
| Nelson Russell | - yes |
| Frank Wilpert | - yes |
| Henry Fastert | - yes |
| Howie Weiss | - yes |

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MR. WEISS: Gentlemen, good luck. Next month we will have a resolution. Once the resolution is memorialized you'll be able to take that and start your process going through the Building Department.

MR. NEVES: Thank you.

MR. WEISS: Ok, let's move on. Let's move on with our next matter which is PB 15-24, Eduard and Jeanne Hahn here for a certification of a preexisting non-conforming use of their property located at 30 Sand Shore Road, Block 3304, Lot 6. Mr. Selvaggi, I didn't realize that you were handling this one.

MR. SELVAGGI: Yes, I'm helping out Mr. and Mrs. Hahn. We are here looking for relief under Section 68 of the Municipal Land Use Law. Located on the property right now is a single structure that contains five apartment units. It's been that way (inaudible) for many years. In fact we have an eye witness that will testify that it was there well before Mount Olive's first zoning ordinances went into effect. What I'd like to do is have Mr. Hahn come up and testify as to what's gone on during his period of ownership and then we'll bring our next witness who will kind of fill in the gap if you will…(inaudible) until 1984. So, Mr. Hahn.

MR. WEISS: Mr. Hahn, what will happen is the attorney will swear you in so if you would place your hand on the Bible.

(MR. EDWARD HAHN IS SWORN IN FOR THE RECORD)

MR. HAHN: Eduard O. Hahn, middle initial is O, last name is spelled H-A-H-N and Edward is spelled EDUARD and I live at 10 Long Hill Road, Long Valley.

MR. WEISS: Before you start I just have a question. You can sit. Aren't these a little bit easier to prove…like don't we have a survey or a…how do we handle these things? Isn't there a record that last shows when this house was closed on or sold or…

MRS. NATAFALUSY: There isn't anything. It's a preexisting non-conforming and there isn't any certification that it existed prior to zoning so that's what he's coming in…really for protection for him and the potential buyer. So if something happens he can rebuild it.

MR. WEISS: We've done these before and I always wondered…

MS. COFONI: I'll tell you what I looked at. I took a look at the ordinance to see, sometimes at the end of the ordinance like for example, R-4 Ordinance will tell when it was adopted, this one in particular doesn't. We could probably check with the Township Clerk if we needed to determine when that was adopted.

MR. MCGROARTY: The first ordinance in Mount Olive was not the 1950.

MS. COFONI: Right, that's why I'm saying we don't necessarily need to in this case because at least according to the tax records, it looks like when I looked online, it looked like the year of construction of the structure was 1925. Now, that means there was a structure there whether or not it was used the way it is now is why we need the testimony.

MR. WEISS: Ok, so it's not just so much whether it existed or not if it was….

MS. COFONI: It depends on what the non-conformity is.

MRS. NATAFALUSY: It was like the number of people that said there used to be a store in there. There used to be a motel. I mean, the records vary on what was there. The tax records vary.

MR. SELVAGGI: If everybody wants to stipulate to…right now Mr. Hahn, how is the property being used?

MR. HAHN: It's a five family one-bedroom units.

MR. SELVAGGI: And when you purchased it…when did you purchase it?

MR. HAHN: Excuse me, it's five units. One is an efficiency and it's four units with one bedroom.

MR. WEISS: And they're separate from each other?

MR. HAHN: And they're all separate. And it's basically single people living in each one of them.

MR. SELVAGGI: And when you purchased…when did you purchase the property?

MR. HAHN: 1984.

MR. SELVAGGI: Was it used in that manner in 1984?

MR. HAHN: Yes.

MR. SELVAGGI: When the structure got hooked up for public sewer how was it hooked up by the Town?

MR. HAHN: Five family. Five units.

MR. SELVAGGI: Five units.

MR. HAHN: Says right on the sewer bill five units.

MR. SELVAGGI: Since you purchased the property in 1984 how have you been taxed on it?

MR. HAHN: Five units. It says on the tax bill five units. And also with the State inspection and the Town inspection it always states five units.

MR. SELVAGGI: Ok, so Mr. Hahn owned it and since 1984 it's been used that way. I'll make it quicker; I'll call our next witness.

MS. MARLOWE: Marlene Marlowe, M-A-R-L-O-W-E, 40 Lenape Lane, Allamuchy.

MR. SELVAGGI: Ms. Marlowe before you moved to Allamuchy, where did you live?

MS. MARLOWE: I lived on First Street. 5 First Street in Budd Lake.

MR. SELVAGGI: Ok. Alright. How long did you live there?

MS. MARLOWE: I lived there when I had my kids but before that I lived on Old Wolfe Road and before that I lived on Pine Street.

MR. SELVAGGI: Ok. So you grew up in the area?

MS. MARLOWE: I moved here when I was three years old.

MR. SELVAGGI: Alright. Are you familiar with the property that Mr. Hahn now owns?

MS. MARLOWE: Yes.

MR. SELVAGGI: Ok. Earliest memory, approximate years?

MS. MARLOWE: Well we went to the lake every day. And we swam at Budd's Pavilion and that was always a five apartment building. It's always been there.

MR. SELVAGGI: I know I shouldn't ask a lady's as pretty as you your age but…

MS. MARLOWE: I'm seventy seven.

MR. SELVAGGI: Ok. So, in your youth, before 1950, you were swimming in that lake and in that area?

MS. MARLOWE: Yes. Every day.

MR. SELVAGGI: Your recollection was it was never a bowling alley.

MS. MARLOWE: No.

MR. SELVAGGI: It was never a store.

MS. MARLOWE: No.

MR. SELVAGGI: It was always used as….

MS. MARLOWE: As apartments.

MR. SELVAGGI: Let me ask you something too because you had an interesting background. What was your job?

MS. MARLOWE: I worked in Budd Lake post office.

MR. SELVAGGI: Ok. And in your capacity as a post office employee, did you know that property to be a five unit apartment building.

MS. MARLOWE: Yes. Yes.

MR. SELVAGGI: And it's been that way up until the day you moved out?

MS. MARLOWE: I move away.

MR. SELVAGGI: Ok, when did you move to Allamuchy?

MS. MARLOWE: When I retired. I retired at the age of 60. Seventeen years ago.

MR. SELVAGGI: Alright so that would have been in 1988?

MS. MARLOWE: Yeah.

MR. SELVAGGI: Alright, so Mr. Hahn bought it in 1984 so…

MS. MARLOWE: It was apartments.

MR. SELVAGGI: Ok.

MR. WEISS: Tiena?

MS. COFONI: Just because I need to get some years down a little bit…the year of your earliest recollection of it being used as an apartment, approximately?

MS. MARLOWE: I was probably between six and seven.

MS. COFONI: Ok, so that would be…

MR. WEISS: Seventy one years ago. Let's say 70 years ago.

MR. BUCZYNSKI: Seventy years ago.

MS. COFONI: Seventy years ago, ok.

MR. SELVAGGI: 1945.

MR. WEISS: I'm keeping a tally so we'll say 70.

MS. MARLOWE: There were fourteen of kids. So we went to the lake every day. One watched the other.

MS. COFONI: And you said you worked at the post office. What were those years of when you worked?

MS. MARLOWE: I worked at the post office for 30 years and I retired when I was 60 so I was 30 when I went to the post office. Before that I worked at Economy Department Store in Stanhope.

MS. COFONI: I'm good.

MR. WEISS: So we're fine. Certainly a 70 plus year memory of the area it helps that you…

MS. MARLOWE: I could get some of my brothers and sisters here.

MR. WEISS: I think it would be a bit of overkill if we did that. Yeah I think that's exactly what we were intending to find out. I know we didn't ask if anybody on the Planning Board had any more questions for Mr. Hahn and so what I'll do if anybody has any questions for Ms. Marlowe we'll ask Ms. Marlowe those questions and seeing none let me open it to the public to both Mr. Hahn and Ms. Marlowe.

MR. MANIA: You remember me?

MS. MARLOWE: Yes, I do.

MR. MANIA: She remembers me.

MR. NELSEN: Little Johnnie Mania.

MR. SELVAGGI: I have to say what was very fascinating…all the work I've done in this Town is going back and listening to Ms. Marlowe talk about some pretty interesting stuff that went on in Budd Lake.

MS. MARLOWE: I could tell you how everything went. Like it was the apartment buildings, it was horseback rides, it was merry-go-round and Horton's. There was Budd's Pavilion and the Oasis. And we were there every day.

MR. FASTERT: A lot of history.

MR. SELVAGGI: She saw the Everly Brothers.

MS. MARLOWE: Yes at WigWam. We used to go to the WigWam all the time.

MR. FASTERT: This was a big resort back in the day.

MR. MANIA: Yeah this was quite the resort place.

MS. MARLOWE: Oh it was fun. When I grew up it was great. Now…

MR. MANIA: I used to come all the way from Paterson here.

MR. FASTERT: Jackie Gleason used to be here all the time.

MR. MANIA: Jackie Gleason, right.

MS. MARLOWE: I met Jackie Gleason.

MR. WEISS: We could reminisce all night long.

MR. FASTERT: But you want us to move on. Sorry. Sorry Howie.

MR. WEISS: Most of the folks left here tonight would love to hear it. At any point you can hold court in the cafeteria.

MR. FASTERT: You got the seniors on the Planning Board over here so we're reminiscing.

MR. WEISS: I think we accomplished what we wanted to do. Nobody from the public had any questions for Mr. Hahn or Ms. Marlowe so I'll close it to the public and ask anybody from the Planning Board if there's anything else? Before we go for a motion, is there anything else that you think we needed to address?

MS. COFONI: No, I think we're ok.

MR. WEISS: Catherine?

MRS. NATAFALUSY: Nope.

MR. WEISS: With that, John, you look like you wanted to make a motion?

MR. MANIA: I think so. I move for approval of PB 15-24, Eduard and Jeanne Hahn.

MR. NELSEN: Second.

MR. WEISS: Ok so that was motion made by John and Dan seconded. Any comments? Questions? Conversation? Seeing none. Catherine, roll call.

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**Roll Call:**

| | |
|---|---|
| Brian Schaechter | - yes |
| David Koptyra | - yes |
| John Mania | - yes |
| Dan Nelsen | - yes |
| Nelson Russell | - yes |
| Frank Wilpert | - yes |
| Henry Fastert | - yes |
| Howie Weiss | - yes |

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MR. WEISS: Ms. Marlowe, thank you for coming out. Mr. and Mrs. Hahn, thank you. I'm sure we'll see you again perhaps. Maybe not.

MR. MANIA: Mr. Chairman, I believe I need to step down on this application.

MR. WEISS: I was just going to say that, John, yes. We have a PB 15-26, Roadranger Holdings, LLC which is a D-variance which means that the Mayor, if he was here, would step down and Council representatives.

MR. FASTERT: Even though I'm eligible to hear and vote on this, I did not hear any of the testimony leading up to this.

MR. WEISS: There's a couple questions we have Henry so we'll address those in a group.

MR. FASTERT: Ok.

MR. WEISS: What we have here is what we call a whispering woods hearing which is a settlement of litigation and we don't, we haven't often had these in front of us so perhaps before we start maybe we'll have Tiena summarize what we need to do. Michael, certainly feel free to make sure…and Henry raised a very good question. Because one of my questions is how are we going to proceed? I know we spent a great deal of time on wellhead and I don't think that's going to be part of this application. Will one of you explain?

MR. SELVAGGI: I'm going to defer in terms of….we're prepared to go as detailed as you want or… Whispering woods hearing is the appellate division handled a case called Whispering Woods and it dealt with the procedures of when you have a case, an application it's denied. Litigation ensues and the parties amicably resolve the differences. And what the court says and you have to return to the Board and present the revised plans and explain more or less the basis for the settlement. It doesn't necessarily require a repeat application. It's more or less you focus in on what was the basis for the settlement. So, what some towns have done is, let's focus on what was settled and what was the matter understanding that there is a settlement agreement in place already. Other towns have sometimes the passage of time is a lot more. This case settled relatively quick but sometimes these cases go on and it's 18 months, you've lost members of the Board so you're forced to go through and almost present another hearing. Here everybody has heard this once before and what I had intended to do is have the engineer draw the comparisons, point out what was done. (Inaudible) McKenzie's here to more or less offer the justification that with these changes it still meets all of the standards for the variance relief sought and that I think our testimony's going to be that we removed a pump island and done some other things. It's a better planning alternative than what you guys had seen the first time. How much more detail do you want to get? We weren't going to go in to the wellhead protection. Quite frankly, I don't think that that was the driving force for some of the people who voted no.

MR. WEISS: I would agree with you. I think we were all in agreement to that.

MS. COFONI: If I may, I agree with everything Mr. Selvaggi said. I think, especially in this case, because it's been such a short amount of time since we heard the original application that it would be reasonable for the Board to accept just the testimony with regard to the changes so the Board can understand and actually part of what the reason for the Whispering Woods hearing is so that the public's aware also since it's a public hearing to begin with…so the public's aware of what the changes are and what the settlement's going to be. The Board makes a motion and a vote at the end of this hearing and is free to vote yes or no based on what you've heard. The environmental issues in this case….there may be cases where the Whispering Woods where that would be relevant. In this particular case it seems to me, and Gene or Chuck can disagree if they disagree, that they're reducing the number of pumps here instead of doing something else. So I don't think that testimony is needed for the revisions.

MR. WEISS: Maybe it might be helpful if we just air it out and lay it out there. Tell me if I'm wrong. I believe that the differences between the Planning Board and the applicant were the density of the project. I think overall that's what it came down to. The Planning Board voted no because they were concerned about the density.

MR. SELVAGGI: Yeah, what we've done is and to the financial detriment, if you will, of the applicant we've taken out a pump island which obviously reduces your capacity, dissuades customers from coming because it may take longer but by reducing that and Jim Glasson can go into more detail. Essentially what we've done is we've improved tremendously the internal traffic circulation so there's, as Jim will point out, there's not the K-movements that may need to be done. We should be able to, even if somebody came in and saw a couple of cars and said I don't want to wait. It'll be a lot easier for them just to exit the site. So, again, overall it's been a vast improvement. Now doing that you do reduce the size of the underground storage tanks because you're not going to carry that much product. And we are able to do some other things. I'm not saying those are going to save the day but the biggest improvement is certainly is just improving the internal traffic circulation. And in turn perhaps by having and attracting fewer customers the traffic that exits out onto Sand Shore will also be lessened because I know that was some concerns as well. And that's kind of what we were going to focus on. Jim will go

into some greater technical detail and you can see the exhibits that are waiting to be produced. There's kind of a before…what you had seen and we're going to draw a comparison to what's there.

MR. WEISS: I know that on Chuck's report we've listed the variances as they exist today and I can see Jim that you're ready to propose to us what was and what is and that's going to be very helpful. Just as we get started, Michael, are there any reduction of variances with the removal of the island?

MR. SELVAGGI: Yeah, we've reduced….one variance I think.

MR. WEISS: We'll address it at the right time. I was just curious because I know Chuck's report is very thorough and talks about what is existing. I was just curious what is the difference between what was then and what is now. So let's just bring it to one question that I have, Tiena with Henry. Henry was the Mayor's liaison and therefore didn't (inaudible) last time. So…

MS. COFONI: I think and again this would change depending on how we were going to proceed. But because in this case, if the Board agrees with what Mr. Selvaggi and I said and that we can limit our testimony to just the changes. I think it would be unfair for Mr. Fastert to have to then vote on something he's only hearing a very small piece of. I think he hasn't see the overall application and so it would really be difficult giving the limited testimony that I think the direction we're going for him to make a decision on the overall project.

MR. WEISS: Let me kind of throw a contrasting point of view on that. If we're all in agreement that those others issues are favorable between both parties and the testimony tonight is going to talk about changes. It's going to be new for all of us. Do you think that would still limit Henry's ability to handle the…

MS. COFONI: I think so because he's not hearing the full application.

MR. BUCZYNSKI: He's not hearing the problems we had with the three pumps with all the maneuvering within the site. I think that's important.

MR. FASTERT: Do you need five for a quorum tonight?

MR. SELVAGGI: No.

MR. FASTERT: I'll just abstain. That's the easiest thing.

MR. WEISS: Can he abstain or does he have to remove himself?

MS. COFONI: That's a good question. No. I think you can abstain because you don't have a conflict of interest. It's just that you're not going to…so I think you can stay up here and participate. You just abstain.

MR. WEISS: Perfect. Ok. That's fair.

MR. BUCZYNSKI: You have six, right?

MS. COFONI: Yeah.

MR. WEISS: I think it's also fair, from what I'm looking at what I'm seeing, looks like Jim is going to explain to us what was and what is so I think if you have questions Henry, certainly jump right in and ask. Ok, sounds like we got a lot of these issues out of the way. Tiena, anything else that we might want to know as the Planning Board? Michael, you're confident that our instructions are all on the same page?

MR. SELVAGGI: Yes, I agree with Tiena whole heartedly.

MR. WEISS: Tiena obviously agrees with you so let me throw it back to you. Why don't you take over with your plan tonight?

MR. SELVAGGI: Now just for the record the settlement agreement is part of this evening's record. I know you guys acted on it as well as all the other exhibits and everything else that were presented. We're not going to introduce those again are part of the record. What we'd like to do is we had

submitted revised plans and those were prepared by Mr. Glasson who was the engineer when the application was first presented so, Mr. Glasson should be sworn and he'll discuss those plans for us.

(MR. JAMES GLASSON IS SWORN IN FOR THE RECORD)

MR. GLASSON: James Glasson, G-L-A-S-S-O-N, Civil Engineering, Inc., 1 Cove Street, Budd Lake, NJ.

MS. COFONI: Thank you.

MR. SELVAGGI: Mr. Glasson, you had prepared the initial plans that were filed with the application that was first heard, correct?

MR. GLASSON: Yes.

MR. SELVAGGI: And you participated in all of the meetings. Now, what were, just kind of a summary, what was presented on the first plan and specifically what was changed from what we just recently submitted in the plans you had done in July?

MR. GLASSON: This is my last revised plan before the denial before the Board that we appeared with and it had a revised layout date of last revision of 12/5/14 as spelled out on top there.

MRS. NATAFALUSY: Excuse me, Jim could you talk…

MR. GLASSON: Sorry.

MRS. NATAFALUSY: Perfect. Thank you.

MS. COFONI: Jim, was that marked last time as an exhibit?

MR. SELVAGGI: He's got some additional drawings on it so we'll mark that.

MS. COFONI: Ok.

MR. SELVAGGI: I don't know if you want to start from the old ones or we'll just start…

MR. WEISS: The one you're referring to so let's mark that A-1.

MS. COFONI: Yeah, we can start with A-1.

MR. GLASSON: This is my Sheet 4 of 12, Site Layout Plan Renderings. It's called a rendering on here. It has a last revision date of 12/5/14. It's the plan that I brought before the Board last time that I came.

MR. WEISS: Ok, thanks.

MR. GLASSON: To give you a basic overview of what we had proposed last time, we were a gas filling station only. We had a single, one-way access off of Route 46 in the west-bound direction. We had an ingress/egress both directions off of Sand Shore Road and then we had an area of gas filling and that consisted of three pump islands, four pump positions under an overhead canopy that was 20 by 56 and those lanes underneath that canopy where there's a ten foot lane to the outside and an eleven and a half foot lane to the middle island. Another eleven and a half foot lane and then an outside lane of ten feet. It was a bypass lane around the outside of the canopy to allow customers who pulled in and didn't want to get gas to exit in that direction or a customer who came in from Sand Shore Road to pull out of the gas lane and exit in a circular direction back out onto Sand Shore. Again, there is no exit at all onto 46….only entrance. We also have a 128 square foot single story building over here. Basically that was just to encompass a bathroom and with that proposal you had proposed vending machines inside the building. We had two parking spaces….one a handicapped spot and one basically an employee spot. The intention when we came before the Board and we talked about this with the Board was only to have some vending machines and somebody was going to go to the bathroom. There'd be no sales of anything on-site. There would be no merchandise other than those vending machines. We did propose a loading space. And a loading space because we couldn't accommodate a tractor trailer delivering fuel on our site. We proposed to put a loading space in the right of way of Sand Shore Road and there was a lot discussion about that loading space and its proximity to the traveled way, size of the loading space and we did some modifications to that which I'll go over once we talk about what was proposed but that loading space is actually within the Township right of way so we wouldn't have to appear before the

Town Committee to get permission for that loading space but we're actually located approximately eight feet outside of the traveled way of Sand Shore and then we had an eight foot lane for our offloading. That was basically to accommodate the larger fuel delivery. We had three underground tanks proposed at the first application. We had an 8,000 gallon tank with kerosene. We had a 20,000 gallon tank with unleaded gas and then we had a 4,000 gallon premium tank of gasoline. That basically was the layout of our site besides our utilities, storm drainage and outside storm drainage system. We have an on-site septic system proposed to you and those didn't really change with what our proposal is. They still remain the same. We then…

MR. WEISS: Hold on one second. Henry, go ahead.

MR. FASTERT: One question, kerosene?

MR. GLASSON: Diesel. I'm sorry.

MR. FASTERT: Ok, (inaudible) to have fuel there.

MR. GLASSON: We then came back to the Board with the settlement plan or the plan that you last seen which is dated 7/20/15. And if I can just go….I highlighted things on here because they're the changes to the plan. The major change…

MR. SELVAGGI: Let's mark that A-2.

MR. GLASSON: The major change and Mr. Selvaggi has said is the island area.

MR. WEISS: Jim, before you go forward tell us what's the title of A-2?

MR. GLASSON: A-2 is Site Layout Plan, Sheet 4 of 12.

MRS. NATAFALUSY: The date?

MR. GLASSON: The date is 3/14/14; last revised 7/20/15. The major change to the whole layout of the site was the elimination of the center aisle that was in here. We took was the wider aisle and moved it off to the left. We had a kiosk at a center aisle previously in this location. We've moved that island out to the outside and eliminated one of the roughly 3x7 islands that was located internally. So, what we've done is free up a lane between these pumps down to about 26 feet whereas before we had 11 ½ foot between aisles. We freed up a large area here so there's a lot more maneuverability when you pull in. Even if I were to pull in to this pump and someone would be next to me we have a 26 foot lane between us so if a car's eight foot wide or ten foot wide if you want to get something really wide you would still have a large area between you….maneuverability for someone pulling in and out of here. That we've also, the canopy side shrunk by about three feet in length. The canopy goes from 20 x 56 to 20 x 53.1. That's the real major change because what that enables us to do is make a lot more turning maneuvers within this site. That was one of the major problems when we were last before the Board. Everybody was concerned with congestion internally in the site. Congestion….I'm not saying it would be a safe condition but you could possibly have two cars at these pumps and still have someone pull between them…you have 26 feet. We also have this bypass lane which still is around the outside but it does enable a lot more maneuverability internally with the site. It also will be less cars that can be serviced because of the way the pumps are laid out but that's a condition that he's going to deal with. The kiosk that was located centrally is now moved to this left post area and this canopy is supported by two posts directly in-line with the gas pump islands. In conjunction with those…

MR. BUCZYNSKI: Jim, excuse me for one second. When you're talking about the aisles, could you just mention, now's a good time to mention the problem with the one aisle…the west (inaudible) aisle.

MR. GLASSON: There's always going to be and we were before the Board last time, if a car pulls in off of Sand Shore Road and uses this position, unless one of these lanes is open this car would have to make this maneuver to get out. In order to make this maneuver from this position this car would have to pull forward, back up and still turn around. The only way this car would be able to come out forwards and not make any type of turning movement would be to take one of these other lanes that someone has now vacated. It may be possible if this person were to pull close enough to this pump and this person were to pull close enough to this pump that they could pull between them. As I said earlier, I don't know. I don't know how safe that would be depending on where they are but there still is the possibility that that person would have to pull forward, make a turn. So we are still signing this accordingly that we do not…it will be…the sign will actually say "No Entrance This Lane" and "Keep Right" would be signs on

the kiosk because we don't want someone pulling in off Sand Shore and taking that position. They would have the option to take this position, this position or this position but this outer-most position kind of leaves them handcuffed after they get gas if they want and they would have to exit back out onto Sand Shore. If these other lanes are full they would have to pull forward, pull over here toward the handicapped space, back up slightly and then make the maneuver to get out. We weren't able to solve that problem. That problem's going to exist no matter what because of the width of the site in this location. The property tapers down in that corner. Again, we're under Highlands restrictions. We have to put coverage where coverage was. It would have been great if we could have slid this whole thing over a little bit. We couldn't do that. So, we're kind of left with that. So that situation would still exist.

MR. SELVAGGI: But we are going to sign it as we agree to last time.

MR. GLASSON: Right. We're going to sign it like we agree to last time. I do believe you're going to have a lot more flexibility with the fact that you now freed up this whole 26 foot center aisle for this car possibly to even get through here where before there would be no chance if there were people parked in those lanes. But that situation still exists. All of our…due to the fact that we have less islands all of our sizes got smaller. We went from a….our diesel fuel went from 8,000 to 4,000, our unleaded went from 20,000 to 12,000 and our premium unleaded went from 4,000 to 3,000 so those tank sizes all got smaller.

MS. COFONI: I'm sorry, Jim. Could you say those again?

MR. GLASSON: Yes. Our diesel fuel went from 8,000 to 4,000; fifty percent smaller. Our regular unleaded gas went from 20,000 to 12,000 and our premium unleaded went from 4,000 to 3,000. Just because the demand won't be there without having that many positions. The other thing we did do and we had talked about it last time was we increased this…although it's in the Town's right of way and we do have to go before the Town Council, we increased that loading space size to ten feet wide versus eight feet wide. We pushed it two feet closer just to make a larger lane, getting further off of the traveled lane. The dark represents the traveled lane then there's a lighter shade that represents the shoulder of 8.1 feet and now we moved ten feet inside that so we provided that increased area. We did account for, as Mr. McGroarty had asked last time, we accounted for those trees that were within that right of way that we'll take down so we're adding an additional nine replacement trees and those are highlighted just as shown in blue here. Our building remains the same. The only thing that we have done is we've eliminated the vending machines. With the technology that we're putting there with regard to the instrumentation and stuff there's no reason to even have vending machines. So it would even be less of a reason for somebody to go inside other than to use the bathroom. That 128 square foot building would have a restroom and really the technology associated with the gas pumps.

MR. WEISS: Henry.

MR. FASTERT: Still just two parking spaces?

MR. GLASSON: Two parking spaces. One employee spot and one handicapped spot.

MR. FASTERT: So somebody who wants to use the restroom would have to do so while the car's…leave it at the pump.

MR. GLASSON: Correct of if you wanted to use the restroom and you were at the pump that would be it.

MR. FASTERT: Ok.

MR. GLASSON: Our other changes….we have installed a monitoring well. We talked about that at the beginning with getting a monitoring well on-site so we can talk about where we can monitor any kind of migration of… That was a real concern. We talked about our underground storage system. They've introduced a monitoring well. We've introduced a generator pit. We talked about having a generator pit for the gas station and how that (inaudible). We introduced that to the back of the existing building and we did move our sign. Our freestanding sign, I think that might be one of the variances that's eliminated.

MR. SELVAGGI: Yes.

MR. GLASSON: Our freestanding sign was proposed at 20 feet and it was proposed about 17 feet off this easterly most property line. We moved it further into the site about 29 feet and we reduced the height to 15 feet.

MR. MCGROARTY: You still need the variance for the setback from the right of way?

MR. GLASSON: Yes we still need that variance. The setback from the right of way we've eliminated the height variance. The setback from the right of way there is about nine feet from the property line to the curb line that exists. We're setting the sign back the same two feet so it would be about eleven feet but the difference if we move that back and try to conform because of the large right of way, you wouldn't see the sign with the trees here. You just wouldn't. There's a tree cluster and a vacant piece next to it. You just wouldn't have any visibility of seeing the sign. You have one single freestanding sign. That was actually at Mr. McGroarty's suggestion to locate it in this spot because it really is the most visible. I think we originally started up at this end of the site. That is really…. the major change is the pumps. Other than that we've added signage. We added some signage. We talked about trucks last time. We talked about specific trucks that could fit on this site. We've actually added a sign that says "Access for Cars and Pickup Trucks Only" so that we can try to resign all our entrances and exits in three different locations because we wanted to be very specific about what could and could not fit on the site. Although, I will say, there is some ability now for bigger vehicles to come through here because now this island has been eliminated. I wouldn't say I'd want them pulling through there with other cars there but it does have a lot more maneuverability now that there's 26 feet between those two islands.

MR. SELVAGGI: Jim we both (inaudible) the plans and there's a lot of discussion too about enhanced protection with regards to potential spills and gas or oil. We put in separators.

MR. GLASSON: We did oil separators. We did in each (inaudible) catch basins and the catch basins as well that we're putting out onto….

MR. WEISS: That was done last time too.

MR. SELVAGGI: Now they're on the plan.

MR. BUCZYNSKI: You added (inaudible) booms too.

MR. GLASSON: Yeah, we put in booms inside there too.

MR. WEISS: We had a conversation about the hours of refueling. And I know we spent a lot of time about doing it at the late hours. It was conversation about during school hours and then I know before you left Mr. Fleischner said something to me about an ordinance. A town that won't allow you to accomplish what we asked you to do. Chuck do you have any idea what Joe was talking about?

MRS. NATAFALUSY: He actually called me yesterday and I sent it to Tiena. The noise ordinance said no standing of motor vehicles between 8 p.m. and 8 a.m. within 150 feet of a residential area.

MR. GLASSON: We revised the gas delivery from 11 p.m. to 6 a.m. That was our revision on these plans that we proposed.

MS. COFONI: it's still... Are you within 150 feet of residential?

MR. GLASSON: Of a residential home or a residential zone?

MRS. NATAFALUSY: Residential area it says.

MS. COFONI: Is that what it…let me read. Hold on.

MR. GLASSON: We're not within 150 feet of a residential zone…maybe of a residential home.

MS. COFONI: It says residential area. But this says, "standing motor vehicle….

MR. WEISS: The bank is next.

MR. GLASSON: The closest would be off to our left here. With the...loading space…certainly wouldn't be within 100 foot. Where the truck…where the parking of the truck…the closest dwelling would be at this farm.

MS. COFONI: Ok so that's…yeah I think it's where the loading…

MR. GLASSON: (inaudible) well over 150 feet from the loading space. The only thing located past us is a vacant lot then the bank. And across the street is right now those are vacant. Those are vacant (inaudible).

MS. COFONI: Ok, so I think you're fine. I'm not entirely sure you'd be restricted by this to begin with because it talks about….it's basically about idling so I don't know if they could turn off the truck but they could turn off the truck (inaudible).

MR. WEISS: (Inaudible) they're not prohibited to idle now. That doesn't say they can't.

MR. SELVAGGI: They do turn the trucks off.

MS. COFONI: They do turn the trucks off? So that wouldn't have been a problem anyway but you're outside the 150 feet so it doesn't apply.

MR. SELVAGGI: Yeah.

MS. COFONI: Ok, so you're now going to be having deliveries at 6 a.m.?

MR. GLASSON: Our revised hours of gas delivery are from 11 p.m. to 6 a.m.

MR. WILPERT: What's the definition of a standing vehicle?

MR. SCHAECHTER: It was idle vehicle.

MR. WEISS: I don't think we have to worry about it. I understand…

MR. WILPERT: I was saying…

MS. COFONI: It's outside the…yeah. It's outside this area anyway so.

MR. WILPERT: Because then every gas station is basically in violation.

MS. COFONI: Yes. If they're there more than five minutes, yes.

MR. SELVAGGI: Yeah, you're right.

MR. WEISS: We keep on talking about the delivery….between 11 p.m. and 6 a.m. Is that something you guarantee if you decide to come at 9 at night? Is there a penalty for doing that?

MR. SELVAGGI: We can have the owner/operator testify to…yeah.

MR. GLASSON: He testified that he can schedule it. He can make sure that it's in those hours so.

MR. WEISS: Ok. I just. That's fine. That's fine. There's no change to….we just changed the hours slightly. Concept doesn't change. Ok, so Jim I don't know if you're done. If you want, let's move over to Gene's report and let's make sure that everything's been addressed.

MR. BUCZYNSKI: I can run through that pretty quickly. The top of page 2 just references the changes that Jim just mentioned. Item Number 2, (inaudible) the first item there has been discussed the concern with the one aisle with maneuverability. Go down to Number 4 just to submit deed descriptions for review. Regarding Number 6 as you know, just septic system being conditioned; approval from Mount Olive Health Department. Number 7 I just noted the additional landscaping that was provided. Jim under Number 8 this was came up last time too. Just to get the record straight as far as the description of operations just to make a minor revision and submit it. Number 9, they said it's changed to 6 a.m. to 11 p.m. How about the lighting plan from an architect relative to details and light traces? We ever get anything from the architect? I know Chuck had additional comments too regarding the canopy. They're going to be submitted or?

MR. SELVAGGI: We can submit those, in fact, if we're fortunate to get an approval, we'll submit them before the resolution's going to be done.

MR. BUCZYNSKI: Item 10, the approvals. What's the status if there is in regard to the DOT permit?

MR. GLASSON: Our DOT permit (inaudible) asked for an extension because we didn't know where this was going. They had revisions, I did some of the revisions (inaudible) but I put it on hold (inaudible).

MR. BUCZYNSKI: But they've seen the plan with the one way in (inaudible) Sand Shore. I know we still had that concern where they don't agree with us relative to the right of way but we're going to take the right of way still at that intersection.

MR. GLASSON: Yeah, they kind of gave me a rude comment and asked me why we were doing that. They didn't really care. We kind of cared in the beginning when I first came before this Board way back with Banish. That was the reason why we did that when we came here and we did the office. We kind of said at that time we'll round this corner.

MR. BUCZYNSKI: Just for the future, if and when, and I guess they feel they're never going to revise it.

MR. GLASSON: They said to me in their comments last time they don't care. They don't (inaudible). It's not something…

MR. BUCZYNSKI: Maybe don't want it now but I think we should get the right of way. Doesn't affect this site at all. Get us the right of way. If we have to fight them later on we'll fight them. We'll have some more accidents there at one point they'll finally do something with the light. And that's really it for me.

MR. WEISS: I think we have….we actually have an internal conversation I think we need to share. We're talking about the hours of delivery. We're sitting here amongst ourselves wondering why are we limiting you. You've made it wider by (inaudible) from eight to ten. You're losing the benefit of some lanes so I don't know if we're accomplishing anything. Frank raises a good point with Brian, I want to readdress why we're doing this and perhaps maybe we don't need to limit. I don't remember our thought process. I think it was something to do with school buses.

MR. SELVAGGI: Yeah. I think what the concern was that deliveries perhaps, particularly in the morning or in the afternoon with schools there might just present a congestion problem along Sand Shore.

MR. SCHAECHTER: You moved the loading area in….way in.

MR. GLASSON: I don't know (inaudible) present a problem. You're eight feet off the shoulder.

MR. BUCZYNSKI: You're away from the driving lanes.

MR. WEISS: I think the problem now…now you're going to ask someone to do this in the dark so why not use the benefit of sunlight? For whatever the problem is….whatever the…

MR. WILPERT: And now you're running the truck through the residential zone going down Smithtown to get out in the middle of the night.

MR. BUCZYNSKI: Just eliminate the restrictions.

MR. SCHAECHTER: Yeah, I'd be up for that.

MR. WEISS: Anybody else on the Planning Board have any thought? I think the only conversation we had was about school buses and safety and congestion. But it's now wider….two feet wider…two feet off the road and we don't have to deal with…Frank says it exactly right…a loading truck winding down the gears at two in the morning is going to be more disruptive than a school bus that….

MR. SCHAECHTER: You're talking about 15 minutes….school buses 15 minutes in the morning….15 minutes at night.

MR. GLASSON: And we won't be blocking the lane.

MR. SCHAECHTER: It's almost a non-issue.

MR. WEISS: If the Planning Board doesn't mind then let's remove that restriction to… We're willing to let you do it overnight so let's waive the restrictions and do it in the best business practice that you can (inaudible).

MR. SELVAGGI: Customarily because the owner is going to be aware of what the traffic patterns are, he'll tell them to not come during the school (inaudible). Just not because it's blocks (inaudible) cars anyways so it kind of self-regulating but Jim I think we'll be pushing that two feet in virtually eliminates. This truck…you won't even see it.

MR. WEISS: We're going to remove that.

MR. SELVAGGI: That's fine.

MR. WEISS: Ok. Anything else? Gene, we're good?

MR. BUCZYNSKI: Yeah, we're good.

MR. WEISS: Ok. Nobody else has any questions for Mr. Glasson? At this point, let me open it to the public. If anybody from the public has any questions for the testimony that Jim Glasson just presented, now will be a good time. I see none from the public so we'll close it to the public. Michael?

MR. SELVAGGI: Yes, because we needed a number of variances many of which have stayed the same I was just going to have Betsy McKenzie who is our planner testified last time at great length….more or less ask her does her testimony change in any measurable way in the face of these changes?

MS. MCKENZIE: Elizabeth C. McKenzie, M-C-K-E-N-Z-I-E and my office is located at 9 Main Street in Flemington, NJ.

MR. SELVAGGI: Betsy you had testified last time in support of this application.

MS. MCKENZIE: I did.

MR. SELVAGGI: And you also were one that participated (inaudible) one meeting you were sick, you were present at all of the meetings.

MS. MCKENZIE: I was.

MR. SELVAGGI: And last time you offered justification in support of the use variance relief that was needed, (inaudible) wellhead protection…

MS. MCKENZIE: The D-1variance for wellhead protection, the D-3 variances from your conditional use regulations and the C variances from the design standards for service stations and also from the regular requirements applicable to the zone. And I had testified about all of those at some length. I did prepare just if you want it for the record an amended outline of my testimony that if you just want to have that and enter it. I only have two copies.

MR. SELVAGGI: I have them. I know you generally…ok…so…

MS. MCKENZIE: You don't want them. Ok. I was just going to say if you wanted that it's sort of a written summary of how the application has changed and all of the variances…essentially the justification for all of the remains the same except that we now have eliminated the variance for the distance between the pumps islands has been explained to you and also I had testified at some length last time because I didn't realize your ordinance had been changed in 2012. I had testified about the issue of the proximity requirement …the distance between service stations which it turned out unbeknownst to me but thanks to Chuck he explained that in fact that was no longer a requirement in the zone. So that variance has gone away which was a variance from a conditional use.

MR. WEISS: Wait; go back, so that doesn't exist any longer?

MR. MCGROARTY: That's correct. That requirement has been eliminated.

MS. MCKENZIE: Amended out of the ordinance. That was in 2012.

MR. MCGROARTY: The ordinance 22-2014…we think that that's consistent with the (inaudible) case law.

MR. WEISS: It certainly makes it more consistent throughout the Township.

MS. MCKENZIE: But in any case, essentially what, if I could summarize, we had offered testimony on the D-1 for the wellhead protection which I think was quite extensive and it was actually my testimony really just was in support of what you had already heard from our hydro-geologist and from the applicant himself. And then as far as the D-3 variances and the C variances, almost all of those were related to the fact that we're dealing with a somewhat problematic site. It's way undersized for the zoning requirements. It's in the Highlands Preservation Area so that even though we were able to expand the size of the property, we weren't able to take advantage of the enlarged property (inaudible) relocating things further back into the site so that we had fewer setback issues. We have a site that has a negative building envelope. Its overall average depth from street to street is about 45 feet if you take that as an average. And consequently, we really aren't able to meet all the front yard setbacks requirements and all the setback requirements applicable to service stations but what I had testified to then and I still stand by this is that the…we have picked a use on a problematic site that we thought was particularly well-suited for it in part because we were able to pare down the use to fit the site. And I think the Board although the Board accepted that the Board felt that we had not gone far enough and that we needed to pare down what we were proposing a little bit more so that it worked better on the site and that was I think the basis for your denial. And as a result, and there was a lot of concern about how traffic would move on this site and that might be awkward and it could create issues. So by eliminating the one pump island, we still preserve four fueling positions because with the extra pump island we would have only been able to use four at a time. There just would have been more choices as to where a car could go. By eliminating this we eliminate the actual variance with the distance between pump islands. We're now in excess of 25 feet but we've also opened up the site more as has been testified to by Jim Glasson and it made the site even more appropriate to the limitations inherent in the site. I had provided testimony that apart from this use and perhaps a very specialized type of use that you had approved in 2008 which went away which was very specific to the person who intended to own this site there are very limited opportunities to use this site in an appropriate way. But it is a site that had been previously developed. In fact there had been a service station on this site…a repair garage. And so all of the testimony that I presented previously I think is not only still applicable but is even better supported by the Board's action in requiring us to even further reduce what we were proposing on this site and that came out of the settlement.

MR. WEISS: Ok. Chuck did you want to review your report?

MR. MCGROARTY: Just only a couple of minor things having nothing to do with the variance testimony that Ms. McKenzie's already offered. If anything there might have been some slight modifications where Mr. Glasson's plan has been modified….essentially the same and I agree. I think all the planning testimony that was offered by Ms. McKenzie before addressed everything. Just if I would…and these are real minor points I just want to get out of the way. If I could to Jim Glasson, Jim on Sheet 8, the note that says existing trees…you have ten within the property lines.

MR. GLASSON: No, I keep thinking, could you read that note and just tell me….I'd say ten total, five within property lines.

MR. MCGROARTY: Oh, I misread it. My mistake.

MR. GLASSON: I looked at it before I thought I was losing my mind but it says ten total, five within property lines.

MR. MCGROARTY: I apologize. That takes care of that. And then I have the same comment Gene does. Just the architectural plans to really for the Board's benefit just the issue of the signage and the color scheme and all that. Most importantly, the lighting in the canopy absolutely must be recessed. And in the past in some situations it wound up not getting…not you guys but…so the detail really needs to show that.

MS. MCKENZIE: To show that (inaudible) a reasonable condition to say that it must be recessed and then we would show it. I don't know whether, I think the reason that it hasn't been done yet is because the applicant wasn't sure what the outcome of this hearing would be and so it has not chosen who he's going to be working with in terms of the (inaudible). You'll be able to supply all of that information?

MR. MCGROARTY: Thank you.

MS. MCKENZIE: We understand that we owe you that.

MR. WEISS: The architectural from the last time was kind of very simple, correct?

MS. MCKENZIE: It's still going to be simple.

MR. SELVAGGI: It's still going to be very simple.

MS. MCKENZIE: It needs to be simple. When you're developing a small site like this and you're trying not to create an appearance of congestion and overcrowding you need to keep the lines of everything very simple.

MR. WEISS: A more detailed plan will be presented, is that what we just agreed upon?

MR. SELVAGGI: Yes.

MS. MCKENZIE: With respect to colors and lighting and…

MR. SELVAGGI: And absolutely it will be recessed lighting. You can include that as a condition certainly.

MR. WEISS: Chuck, I never realized Main Street in Flemington is a hot spot for planning.

MS. MCKENZIE: It really is.

MR. WEISS: Because I see that…

MS. MCKENZIE: They're among the best planners in the state.

MR. WEISS: Ms. McKenzie's right down the road and…

MR. MCGROARTY: I rarely go to the office.

MS. MCKENZIE: I run into his office all the time.

MR. WEISS: I was just noticing the coincidence.

MS. MCKENZIE: Are you in Flemington too?

MR. SCHAECHTER: We're in the outlet.

MS. MCKENZIE: Ahh.

MR. SCHAECHTER: The Roman Jewelry Building.

MS. MCKENZIE: Ahh. Cool. I didn't know that.

MR. WEISS: Ok. Does anybody on the Planning Board have any questions for Ms. McKenzie? So let me open it to the public. If anybody from the public has any questions from the testimony delivered tonight by Ms. McKenzie now is a good time to ask. Seeing none. I'll close it to the public. Thank you, Ms. McKenzie for coming back.

MS. MCKENZIE: You're always welcome, Mr. Chairman. Thank you.

MR. WEISS: Mike?

MR. SELVAGGI: Yes, Mr. Chairman, that concludes our testimony. I think what we've done is in the spirit of the settlement that was reached a couple months ago we've offered the justification for the changes in furtherance of that settlement. I think we've demonstrated that the elimination of that one pump island has had, particularly given the size of this property, a significant improvement and hopefully addresses the concerns that Board members had and we certainly take no issue with the other conditions that Mr. Buczynski and Mr. McGroarty noted in their reports as well as your other standard conditions along with any approval if we're fortunate enough to get that.

MR. WEISS: Ok, so I'll open it to the public one more time. If anybody from the public has any questions, comments or anything you'd like to say about the application now would be a good time. Seeing nobody from the public. Anybody from the Planning Board have any comments?

MR. RUSSELL: I'm not familiar with the (inaudible).

MR. WEISS: Tiena, is there anything we can summarize for Nelson?

MS. COFONI: The settlement agreement basically said that in the event that the Planning Board approves the application as revised by the applicant as set forth tonight in detail that they will dismiss the litigation. That's essentially what it said. It was actually approved by the Planning Board. I'm not sure if you were there that night but it was approved by the Planning Board…previously. I don't know the date. I don't have it in front of me.

MR. SELVAGGI: And you had in an effort to make the settlement we did have a kind of schematic drawn that was offered and I think your Board professionals commented on it prior to the settlement.

MRS. NATAFALUSY: Just for the record it was approved by the Planning Board on June 18, 2015 by a vote of six to zero. I don't know if…

MR. WEISS: Ok. Any other comments from the Planning Board? I think what's nice about this process is that it happened very quickly so you were last in front of us….I don't remember when….

MRS. NATAFALUSY: April.

MR. WEISS: Relatively quick…so the memory is still in our head and I do believe that although it was a use variance that needed a super majority the final was about four to three. It was majority if it was a simple application so; I think the Planning Board for the most part liked what you presented. Our concerns were obviously on-site density and circulation as Ms. McKenzie reminded us. So, what you've done is gone back and you've addressed those particular issues. I think from my perspective, that's all we can ask for. The issues that were the real problems for us have been addressed. They've been approved by doing so. We've eliminated a variance or two and I think the applicant's done a very fine job in working with us and I think we owe them the courtesy back to approve this application. Anybody else? That being said I would entertain a motion for PB 15-26.

MR. SCHAECHTER: I'll make a motion to move 15-26 Roadranger Holdings.

MR. WILPERT: I'll second it.

MR. WEISS: Thank you, Brian and thank you, Frank. Any comments? Seeing none. Catherine, roll call.

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**Roll Call:**

Brian Schaechter - yes
David Koptyra - yes

MR. WEISS: Wait. I'm sorry, we had some conditions.

MRS. NATAFALUSY: Oh, ok.

MR. SCHAECHTER: I make the motion to move 15-26 Roadranger Holdings with conditions…

MS. COFONI: I won't pretend that these will be all of them. There's going to be others but the one that was additional one that was raised tonight is the lighting in the canopy must be recessed which I think was also a condition from last time and then….

MR. WEISS: A couple minor ones.

MR. SELVAGGI: If I can I mean there was enhanced protections, the monitoring well; it was the oil separators….those will all be in…
MS. COFONI: All the ones previously discussed will remain. I just I can't grab them at this point. The deed descriptions for the site triangle easement must be submitted for review and approval. Septic disposal system and new on-site well subject to Health Department approval.

MR. BUCZYNSKI: Sorry, Number 8 the loading zone…has to go to Council for approval.

MS. COFONI: Loading zone to Council for approval. We're eliminating the condition with regard to the timing for deliveries and approval of the Health Department, Morris County Soil Conservation District, NJDOT.

MR. WEISS: Ok, so Brian? You made a motion?

MR. SCHAECHTER: I make a motion with those conditions.

MR. WEISS: Frank?

MR. WILPERT: I second it.

MR. WEISS: Ok, so let's start the roll call over again Catherine.

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**Roll Call:**

| | |
|---|---|
| Brian Schaechter | - yes |
| David Koptyra | - yes |
| Dan Nelsen | - yes |
| Nelson Russell | - no |
| Frank Wilpert | - yes |
| Henry Fastert | - abs |
| Howie Weiss | - yes |

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MR. SELVAGGI: Thank you very much.

MRS. NATAFALUSY: Got it.

MR. WEISS: Thank you. Ladies and gentlemen. Ok, before we adjourn, we'll let Jim clean up his… We have a discussion matter today about affordable housing.

## COAH SUMMARY

The Planning Board discussed the need to update the Housing Element/Fair Share Plan (HE/FSP) once the revised Third round obligation figures have been established. Mr. McGroarty advised the Board that pursuant to the March 2015 decision by the N.J. Supreme Court, COAH will no longer have jurisdiction with regard to municipal HE/FSP; instead jurisdiction resides with specially assigned Superior Court judges throughout the State. Judge Hansbury in Morris County has responsibility for Morris and Sussex counties.

Tentative deadlines as set by Judge Hansbury were discussed with the understanding that changes are anticipated for such deadlines.

The Planning Board raised questions as to the Township's affordable housing obligation. Mr. McGroarty explained that the issue has not yet been resolved. Mount Olive has joined with other municipalities in hiring an expert to assist in establishing the numbers based on established methodologies used by COAH for prior rounds. Mention was also made of an expert working on behalf of the NJ Builders Association and the Fair Share Housing Center who has issued an initial report with very high numbers for many municipalities including Mount Olive.

(MEETING ADJOURNED AT 8:43 P.M.)

Transcribed by:
Debbie Bonanno
Planning Department