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

ROLL CALL:
Members Present: Joe Fleischner, Robert Greenbaum, David Koptyra, Frank Wilpert, Jr., Kim Mott, Henry Fastert, Howie Weiss

Members Excused: John Mania

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. We have one resolution tonight. It's PB 15-21, Segal Realty Association of New Jersey, LLC. We all have a copy of it. If anybody has any questions or concerns or comments. Now would be the time to discuss it. Tiena?

MS. COFONI: I do. There was an issue raised after the last hearing with regard to the requirement; I'll tell you which requirement that is in one second. With the easements that are required. Is that H? And I'll read it just for the record. It says, "If one doesn't already exist the applicant shall record with the County Clerk's office an easement to the Township of Mount Olive over the public water facilities located on the property. Said easement shall be reviewed and approved by the Township Engineer and Township Attorney prior to recording. Said easement shall be recorded prior to recording of the subdivision deeds." Am I looking at the wrong one?

MR. BUCZYNSKI: I don't think that's it. That's the water. Storm sewer.

MS. COFONI: Oh, it's the sewer? Oh is it one before that?

MR. BUCZYNSKI: Yes.

MS. COFONI: G?

MR. BUCZYNSKI: G, I'm sorry.

MS. COFONI: Yeah, ok. G.

MR. WEISS: For the record, Brian is here. Welcome Brian.

MS. COFONI: Ok, I'm sorry it's G.

MR. WEISS: You're looking at G on page 3.

MS. COFONI: Yeah. "The applicant shall record with the County Clerk's office a cross easement between the three lots for the shared storm water management facilities, sewer facilities and any other shared utilities. Said easement shall be reviewed and approved by the Township Engineer and Board Attorney prior to recording. Said easement shall be recorded simultaneously with the subdivision deeds." That's the existing condition and Gene if you could just explain because I can't…to be honest. I'm not…

MR. BUCZYNSKI: I think the concern is the fact that those two utilities are private utilities and it'll be on individual lots that what would easements be if the Town shouldn't get the easements? Why should it be cross easements? The owners of those respective lots would take care of the portion of utilities on their lot.

MS. COFONI: My question is, so my understanding was that the storm water management facilities, sewer, and any other shared utilities we were talking about ones that would cross over the new lot boundaries.

MR. BUCZYNSKI: And what do think there could happen? We could have the applicants here. If it crosses over the boundary up to the boundary line wherever, if there's a break in the line, it's whoever it is they have to repair it.

MS. COFONI: So it's really going to stick with…

MR. BUCZYNSKI: I think. I mean I don't know if anybody has a difference of opinion on it.

MR. WEISS: Mayor?

MAYOR GREENBAUM: I'm the one who raised the issue originally. Since then I've had an opportunity to understand Gene's concern. I know that you had a conversation with Jim Glasson concerning this particular issue and I'm satisfied that the resolution once it was explained to me after you looked at it that common the ownership of the portion of the sanitary sewer and the storm water management systems will be owned by the property owners on the lots themselves.

MR. BUCZYNSKI: Correct.

MAYOR GREENBAUM: So that it would be, after it was explained to me, that it would be unusual to allow an adjoining property owner to go onto someone else's property and fix the sewer systems. Whoever is going to have the majority of either of the two systems is going to be responsible for the maintenance of that system so there's no reason to have a cross easement. That's basically what I understood.

MR. BUCYZNKSI: I agree.

MS. COFONI: Ok. Alright. So we can delete….

MAYOR GREENBAUM: And you're ok with that?

MR. BUCZYNSKI: Yes.

MAYOR GREENBAUM: Ok.

MS. COFONI: So that's deleting Condition G in its entirety?

MR. BUCZYNSKI: Uh huh.

MS. COFONI: Ok. Ok.

MR. WEISS: Do we need to hear from the applicant at all?

MS. COFONI: I think they're in favor of that so I think we're ok. I know they're in favor of it I should say.

MR. WEISS: Ok. So sounds like we have no other conversation. We're going to delete Condition G. I just want to maybe give the applicant a second to review that with his engineer. So we'll just give them that courtesy.

MRS. NATAFALUSY: Mr. Chairman, Mr. Nelsen walked in.

MR. WEISS: Yes, for the record, Nelson Russell is here. We're ok with that? We're going to delete Section G.

MS. COFONI: Condition G. Yup.

MR. WEISS: Condition G on page 3. I'll sign a revised version during the week and we'll have that but before we do that….

MR. WILPERT: I'll make a motion to approve PB15-21.

MR. WEISS: Thank you, Frank.

MR. FLEISCHNER: I'll second it.

MR. WEISS: Joe, thank you very much. Any more comments? Seeing none. Catherine, roll call.

Roll Call:

Joe Fleischner	- yes
Brian Schaechter	- yes
Mayor Greenbaum	- yes
Nelson Russell	- yes
Frank Wilpert	- yes
Kim Mott	- yes
Henry Fastert	- yes
Howie Weiss	- yes

MR. WEISS: Now it would be more appropriate for me to say that I will sign that as soon as it's available. Let's jump into some Committee reports.

COMMITTEE REPORTS

MR. WEISS: Mayor do you have anything?

MAYOR GREENBAUM: Only that there are a number of development applications which are in the very preliminary stages which are very exciting and ultimately may go a long way in terms of fulfilling our COAH obligation whatever that obligation may ultimately be determined to be based upon the most recent court decisions. Hopefully within the very near future we're going to see their concept plans or we're going to see applications related to what's in the works currently.

MR. WEISS: Last week, Mayor, I reported on your behalf that you were away on Township business. Would you say your Township business was successful?

MAYOR GREENBAUM: The Township business was successful in terms of moving a development project forward with respect to the BASF building and property so hopefully that particular project will come to fruition which would be a great benefit to the Township.

MR. WEISS: Perfect. Thank you very much. Note, Mr. Mania is not here. No Council report. Nelson, any Environmental Commission report?

MR. RUSSELL: Nope.

MR. WEISS: No report there. Joe, Ordinance Committee?

MR. FLEISCHNER: No report.

MR. WEISS: I have nothing from Street Naming. Kim anything from Open Space?

MS. MOTT: No. Nothing.

MR. WEISS: Alright. So let's just jump right into our developmental matter. We're moving forward with PB15-14, Motion. It's a request for waiver from submission of the EIS, Preliminary and Final Site Plan with variances located 3 Harris Lane, Block 8200, Lot 10. This is a carried application from…I don't have the date that it was carried….

MRS. NATAFALUSY: It was June 18th and Mr. Chairman just for the record, the Board did vote that night on granting the waiver from the EIS so I probably should have taken that off.

MR. WEISS: Ok, so then that's not really an item for conversation. We move forward. Mr. Heymann, good evening.

MR. HEYMANN: Good evening, everybody. I'm Ron Heymann of Heymann & Fletcher on behalf of Motion Lincoln Mercury. It's been about three months since we saw each other and so I just wanted to give you a pretty basic overview of what we're here for and what we discussed the last time we were here. Mr. Dellamo of Motion who is seated to my right was sworn in and he testified. He would like to

erect, 3 Harris Lane location, Block 8200, Lot 10 two story auto showroom, sales area and eight service bays about 12,080 square feet. He testified last time with regard to that matter as well as so did our engineer, Mr. Glasson, Civil Engineering who is sitting out here and who has got a nice picture up there. I'm not going to put Mr. Glasson back on unless somebody has questions. I think he's (inaudible) present his testimony. Any questions asked of him by both the Board as well as by some of the citizens but I do want to put Mr. Dellamo back on because there were certain questions that came up last time both from you as well as from the public that these last couple months have given us an opportunity to discuss and hopefully resolve. I also…

MR. BUCZYNSKI: I'm not sure now's the time but one item for your engineer….just to ask him one question. Jim, we got a report from the police department. Did you get that?

MR. GLASSON: Yes.

MR. BUCZYNSKI: I imagine it's very minor items regarding (inaudible). You're going to agree to do all those things he asked for?

MR. GLASSON: Striping, (inaudible). Yeah.

MR. BUCZYNSKI: Ok.

MR. MCGROARTY: I just have a question for Mr. Glasson. Can you bring him back later?

MR. HEYMANN: I'll bring him back now.

MR. WEISS: Can he do that? Well let me just also state for the record as we've left off from the June 18th meeting. We had two exhibits, A-1 which was Sheet 3 of 4, The Existing Conditions, colorized version. I suppose that's where that is Jim?

MR. GLASSON: This is A-2, actually. A-1 is on (inaudible).

MR. WEISS: A-2 is Sheet 4 of 14 which is a Site Layout Plan, colorized version. So any other exhibits today we'll start with A-3.

MR. HEYMANN: Thank you. And then I have our planner here and she will testify, Ms. Caldwell who is sitting in the audience and we will put her up to talk about the variances and a couple other items.

MRS. NATAFALUSY: Just one more thing. The Mayor has listened to the tape from that meeting and has signed a certification.

MR. WEISS: And also for the record, Dan Nelsen has arrived so everybody's here. And so let me turn it back over to you, Ron and you can take it from there.

MR. MCGROARTY: Jim, the…I'm looking back at my notes and I can't find it but I had a comment about the landscape buffer at the top of the property. Did your side respond to that or what..?

MR. GLASSON: I'm going to let Mr. Dellamo talk a little bit about that but our response to that is we're going to do some fencing, enhance that buffer but I didn't submit the revised plans because we weren't all the way through our discussion.

MR. MCGROARTY: Oh ok. Thank you.

MR. HEYMANN: So, Mr. Dellamo, the last time we were here we had some conversations. One of the conversations we had on the record was whether or not we had made any attempt to purchase the property that adjoins your property. And I believe we had a response…you had a verbal conversation with the owner?

MR. DELLAMO: I had a verbal conversation with Adam Barrish of Rt. 46 Chevy also sent a letter through your office to a real estate holding company.

MR. HEYMANN: And that's Barnacle Realty, correct?

MR. WEISS: Mr. Heymann, I don't want to interrupt you; I just want to confirm that Mr. Dellamo was sworn in. We're not showing that he was.

MR. GLASSON: He testified, didn't he?

MR. BUCYZNSKI: Yeah.

MR. MCGROARTY: Yeah, I have him.

MS. COFONI: I didn't have him down in my notes so maybe I was just….

MRS. NATAFALUSY: I have him down.

MS. COFONI: You do?

MRS. NATAFALUSY: I do.

MS. COFONI: Ok, I might have been slacking on my note taking.

MR. WEISS: Ok.

MS. COFONI: If you could just state your full name, spelling your last name just for the record.

MR. DELLAMO: Ben Dellamo, D-E-L-L-A-M-O.

MS. COFONI: Thank you.

MR. HEYMANN: So Mr. Dellamo I showed which I'm going to present to (inaudible) A-3 which is a letter July 23, 2015 and that's to the adjoining property owner, correct?

MR. DELLAMO: That's correct.

MR. HEYMANN: And we didn't get a response to that letter. We made inquiries (inaudible) interest in selling property, correct?

MR. DELLAMO: Correct.

MR. HEYMANN: Now, the public was here. Some of the people living in the area and they had some concerns. Let's address that if we can. So, first I want you to talk a little bit about how the industry works. You know, is it like the old days where everybody would drive into the lot start looking for a car or is the internet made sort of a significant impact on that?

MR. DELLAMO: The industry has changed where you don't have the volume of customer coming to shop and back and forth as many times. The internet, 90% of all people now go to the internet to buy a car. And they do come through us for road testing and delivery. We do operate in this area. I have been in business a long time and we have changed the way we do business. We don't need the huge stores any longer. One of the most successful stores actually is in this area is on a back road in Newton, New Jersey….an old greenhouse. So you don't need the highway, giant box stores as you did in the past.

MR. HEYMANN: Tell me a little about the delivery. First, let's talk about the vehicles that are delivered. How are they delivered? When are they delivered? What's the time? How long does it take to do all that?

MR. DELLAMO: An average delivery takes about a half hour. A customer will come in to the store, purchase the car then the sales person will go out. Depending on the weather and the climate you can do it inside or outside in the staging area and review the car. With all the technology today it takes some time.

MR. HEYMANN: Tell me about the delivery of the new vehicles. What kind of trailers bring those in?

MR. DELLAMO: New vehicles come in on a car carrier. They take probably about 15 minutes to unload a car and they're gone.

MR. HEYMANN: When do they come…time-wise?

MR. DELLAMO: They come during the whole span of the day.

MR. HEYMANN: Is there a chance because of some maybe concerns of the citizens you can limit that or is that not possible to do?

MR. DELLAMO: It's not possible to control it 100% but you can control when your inventory comes.

MR. HEYMANN: What about the parts? What type of traffic do you have?

MR. WEISS: Sure. Hold on one second.

MR. FLEISCHNER: Excuse me. When they deliver the automobiles, the new automobiles, will the car carrier turn into your lot, unload the cars in the lot or will they unload them on the street?

MR. DELLAMO: They will only load in the lot.

MR. GLASSON: I testified last time that we can accommodate that car carrier (inaudible).

MR. WEISS: Why don't you take a minute, Jim if you would, and maybe just remind the Board of the circulation plan that you have for the larger trucks.

MR. GLASSON: For the larger trucks we have a large radius coming in, in this area. The closest this being 46 down here and what will happen is the car carrier would pull in here and basically a car carrier could stop anywhere along here and off-load because these are display spaces and it's 25 foot wide aisle way and that car carrier would just come back around and take a left hand back out to 46 so it's a pretty simple maneuver and it's shown on the plans and schematics, WB50 turning movements which is the largest vehicle you can have.

MR. WEISS: Tiena, do you have a question?

MS. COFONI: I was just wondering how often you would expect the new vehicle deliveries…the car carrier?

MR. HEYMANN: Hopefully every day but I don't think that's going to happen.

MR. DELLAMO: A car delivery, a fully loaded car carrier holds 13 cars. So, if you had five deliveries a month that's five deliveries a month, you would exceed what dealers are selling in new car inventory in our area.

MS. COFONI: Ok, so you would expect no more than five a month?

MR. DELLAMO: I can't answer that. I can tell you what would happen or what I would expect and what happens in time…I don't know.

MR. WEISS: Roughly it's about one a week. A little more than one a week.

MR. DELLAMO: It's one a week.

MR. SCHAECHTER: You can't control the time the truck comes but can you mandate that they not idle and they shut the truck down when they're off-loading?

MR. DELLAMO: They need to keep their truck running because it works off hydraulics; however, the trucks do not make a lot of noise. They're not loud (inaudible) diesels.

MR. SCHAECHTER: And for the most part they're going to be unloading on the far on the side closest to 46?

MR. DELLAMO: Down in the lower, down in the lower part here. Yes.

MR. HEYMANN: Mr. Dellamo you're also asking for a shop where you're going to do your service area, correct?

MR. DELLAMO: Correct.

MR. HEYMANN: And so parts are delivered. Those are just little, what's that little vans that deliver parts? How do they come in? And how frequently?

MR. DELLAMO: Some come in a…they do come in a box truck. They come in once a day. They pull in, unload and leave. It's not a lot. It's usually seven in the morning, eight in the morning, it's usually before ten. Any time after seven and before ten.

MR. HEYMANN: Mr. Glasson mentioned, I think a question came up about some landscaping so and again that was a concern I think from some of the people that were here last time so do you have a proposal or did you and Mr. Glasson worked out an idea with regard to that?

MR. DELLAMO: I heard concerns of the people in the back and with respect to them I understand it. However, there is a very wooded area there that acts as a buffer, a good buffer and I hate to see that leave but I would be willing to add to it with a stagnated fence and shrubbery in between all of it.

MR. HEYMANN: Or just to increase the buffer.

MR. DELLAMO: Correct.

MR. HEYMANN: Now the big issue that we heard from the residents was light. I guess the rear portion of where your parking your vehicles, buffers adjoin some of the residential area, am I correct?

MR. DELLAMO: That's correct.

MR. HEYMANN: Alright so, after that we had an opportunity…you and Mr. Glasson, Ms. Caldwell…we all discussed that…what are you thinking about with regard to that issue?

MR. DELLAMO: Well, our light pattern does not illuminate into their area at all. As such, with some of the older businesses that are there do. Ours will not affect it at all…doing to the topographic area that the building in the lower lot is that much lower. What we could do is turn the back lights down at closing so they would not be on.

MR. HEYMANN: I'm sure for the Board, because I don't remember….what were the hours? What are you normally?

MR. DELLAMO: We're normally there 7:30 to 9, 7:30 to 10 if it's the end of the month.

MR. HEYMANN: So you'd be willing at least to accommodate those people who had some concerns about the lights make sure that the lights in the back are turned off other than those you need for security and safety.

MR. DELLAMO: Security and safety would be all that would be on in the back.

MR. HEYMANN: Ok. I think I've covered…

MR. WEISS: Wait, go back. Is there a time that you want to shut those lights off?

MR. DELLAMO: I would shut them off at ten.

MR. WEISS: Ok.

MR. DELLAMO: Other than security lights.

MR. WEISS: Now also Mr. Dellamo you made a comment before, I just wrote down. Your light pattern will not affect it. What is "it"?

MR. DELLAMO: Mr. Glasson has a light pattern of the illumination the way it draws. It does not go backwards towards the houses.

MR. WEISS: Ok, so I just want to make sure for the record you said your light pattern will not affect it. What is "it"?

MR. DELLAMO: The neighboring houses.

MR. WEISS: I just wanted to make sure…your testifying that your light pattern will not affect the neighboring houses?

MR. DELLAMO: Our illuminating pattern does not go backwards.

MR. HEYMANN: Mr. Weiss I don't have any further questions. I think Mr. Dellamo spoke a pretty good amount of time last time but he's obviously free to answer any questions that you may have. I wanted to address those issues or concerns that were made known to us by the people who spoke last time.

MR. WEISS: Ok, I think…does…

MR. MCGROARTY: I have a question.

MR. WEISS: Sure. Go ahead.

MR. MCGROARTY: I'll start with the lighting. Just for members of the Board in my recollection recent car dealerships, Subaru being the last, the Board has asked for all lighting to….except minimum site lighting for security so that….existing car dealers that have been in place for many years typically have much of their lighting on throughout the night and I know I just heard about the backlighting but frankly the effort has been to dim all but what's absolutely essential for security lighting. And so that's a concern. The other issue about the landscaping, I believe it has to be addressed by either Mr. Glasson or the planner because there's a….as I indicate in the report….there's a landscape buffer requirement in the ordinance and I don't think the site plan addresses it as they'll be reducing some of the wooded area adjacent to the residential property and I again don't think it meets the standards in the ordinance. A fence and a few shrubs and whatever I don't is going to be as effective as is anticipated by ordinance standards.

MR. HEYMANN: I'll have Mr. Glasson address that.

MR. DELLAMO: Can I ask a question? Is that ordinance in an Industrial Zone?

MR. MCGROARTY: No, it's the buffer requirements. It's in the 400-37. It's in the ordinance.

MR. WEISS: 57?

MR. DELLAMO: A residential zone.

MR. MCGROARTY: 37. No, it's a landscape buffer requirement for site plans. I raised it in my report.

MS. COFONI: I think your report says 57….unless I'm looking in the wrong section.

MR. MCGROARTY: No. Page 3.

MS. COFONI: Oh, ok. I was looking at the previous page. Ok. Gotcha.

MR. MCGROARTY: There is the issue of stacked parking but I guess that will be addressed as the waiver. It's not uncommon, obviously to car dealerships.

MS. COFONI: Yeah, that's why I was looking at your landscaping.

MR. WEISS: Chuck, are you done?

MR. MCGROARTY: I am. Thank you.

MR. WEISS: Joe, go ahead.

MR. FLEISCHNER: One of the concerns…

MR. WEISS: Wait, I'm sorry, Joe.

MS. COFONI: Before we go on can we just the answer with regard to the lighting? I'd like to know if….because I have….so far we're talking about real lights turn off at closing at 10 p.m. but is the

applicant willing to do what we've done with other applicants and have all lighting except for security lighting turned off at 10 p.m.?

MR. DELLAMO: Dimmed…dimmed but not turned off.

MS. COFONI: No, it's….I think it's been off.

MR. MCGROARTY: No, we've had…

MS. COFONI: Well it's the overall site that's dimmed because all those other lights are turned off. I don't know that it's dimmed.

MR. MCGROARTY: The effort has been over the years and this is expressed in the Town's Master Plan and the EIS is to prevent night glow. And the idea being, some lighting of course is necessary for security but the amount of lighting has traditionally been left on at car dealerships is…the Board has taken the position in recent applications to have that reduced. Not dimmed but off.

MR. FLEISCHNER: That's what I was going to comment….because you drive down Wolf Road in the evening before ten and after ten and you can see the light in the sky from where the car dealerships are.

MR. WEISS: It's almost an interesting thing because there's a tremendous amount of light coming off of the former Kevil Chevrolet property and so if we're not going to…. We can't go back and ask them to dim their lights.

MR. MCGROARTY: No, because they predate the efforts more recently to do this.

MR. GLASSON: Can I ask a question? When it comes to that do you have the right to ask them to direct their lights in a downward fashion?

MR. MCGROARTY: Who Kevil?

MR. GLASSON: Yeah.

MR. MCGROARTY: That would have to….the ordinance….

MR. GLASSON: Is that the ordinance that they would have to go by? I was out there on the site two days ago and the lights from that are actually tilted up and facing the site.

MR. MCGROARTY: Chances are that they shouldn't be. It would depend on how they're approved, Jim.

MR. GLASSON: I can't imagine that is good for the people who are saying they're getting glare because it's…

MR. MCGROARTY: I'm sure it's not. I think the Town would have to look into that. That predates my time so I don't even know….

MR. GLASSON: I just didn't know if you guys have jurisdiction to ask them. They're not downward directed. They're actually facing up in that angle.

MR. MCGROARTY: Which is not consistent with ordinance standards, so if their site plan, unless it was some 35 years ago, whatever it was that allowed that I would say they're not supposed to do that. And I'm shocked that anybody do that.

MR. GLASSON: I just looked at the lights that abut our side are directed up.

MR. MCGROARTY: Yeah.

MR. FLEISCHNER: For the record, let's not refer to it as Kevil. It's not Kevil.

MR. WEISS: (Inaudible) the former Kevil.

MS. COFONI: Ok, so I guess (inaudible). I'm getting a sense that…

MR. HEYMANN: We're going to give you an answer.

MS. COFONI: Oh, ok.

MR. DELLAMO: I will turn them down and put security lights on. I can't turn the lights off. There's an awful lot of inventory and things at a car dealership that to have it black would be crazy.

MS. COFONI: Right. So what I anticipate would be lights turned off at closing except for security lighting. So whatever you deem necessary for security lighting you'll keep on, everything else will be off.

MR. MCGROARTY: Well, I think, I think if that's what you…

MR. DELLAMO: I like the way you worded that.

MR. MCGROARTY: The Board's going to want to know what they deem….otherwise it's really….

MR. DELLAMO: Is there another car dealer in the area that turns their lights off at night?

MR. MCGROARTY: They're supposed to. Subaru was approved that way. Your dealership might have been.

MR. DELLAMO: It wasn't.

MR. MCGROARTY: You sure?

MR. DELLAMO: Yeah.

MR. MCGROARTY: Ok. Because the dealership had originally had lights on telephone poles.

MR. DELLAMO: They were removed for the height. They were removed for height only.

MR. MCGROARTY: I don't want to argue with you sir. They were not consistent with ordinance standards for directing downward either. But the answer's yes, Subaru and the other one next to Subaru. There were two next door and they shared a sign. One of which just came back recently (inaudible).

MR. DELLAMO: I will turn them off with just security lights.

MR. MCGROARTY: The ones in the back?

MS. COFONI: And I would think that we could have a plan that would show which ones would be on for security lighting.

MR. DELLAMO: Correct.

MS. COFONI: I mean, just add that to one of the plans, right?

MR. GLASSON: If it were to be security lighting it would have to be the building not the lights because the others are the pole-mounted lights in the parking lot so it would have to be the building not (inaudible) whatever the building-mounted security lighting. I don't have security lighting on the poles. Those are just the regular pole-mounted lighting.

MR. FLEISCHNER: Let me ask that question then because in all fairness to the applicant, I can understand…the way people are today you don't want someone showing up in your lot doing whatever it is. Is there a way to on those pole lights also to install security lights? So I can understand the applicant saying he needs X lighting for the lot but maybe there's a way to have a dual purpose light that you can also have security so it would be lesser light but still sufficient light to make the area visible so that….

MR. DELLAMO: That's what I'm suggesting also.

MR. GLASSON: He's saying he's turning the lights….dim the lights so he would have something from…if he turned off the upper lights completely and dimmed the lower lights he would still have security over these cars. If I only left on security lighting on the building you're not going to illuminate this area.

MR. FLEISCHNER: Right. I understand that so….

MR. FASTERT: So you can reduce the number of lumens coming from the pole lights?

MR. FLEISCHNER: Or you have to have a separate light.

MR. DELLAMO: Correct. No, you can control the light.

MR. FLEISCHNER: Ok. Just for the record.

MR. WEISS: Sounds like the applicant has said that he's willing to dim the lights to maintain security on the front lot.

MR. HEYMANN: Right. The back lights (inaudible) will turn off and just use security because that's where the most lighting is…effects the residences but the front where the cars are for the most part you would dim them and keep the security on the building. We agree to candle level to go to?

MR. WEISS: Chuck is that acceptable?

MR. MCGROARTY: I would say if the Board if that's what you want then I think Mr. Heymann is right. You have to agree to a certain standard and at least leave the foot candle or intensity so that it can be checked if need be at some point. Otherwise you'll never know.

MR. SCHAECHTER: But there's already lighting pollution coming from another site. How are you going to look at candle (inaudible).

MR. WEISS: You got to start somewhere. You got to start somewhere.

MR. MCGROARTY: It's your call. You've done it with two other sites so that's why I'm saying.

MR. WEISS: I think with the applicant willing to…

MR. FASTERT: You could do it by a percentage reduction.

MR. MCGROARTY: Correct.

MR. FASTERT: The lights will be dimmed 50 percent off the maximum setting or whatever is appropriate for….

MR. MCGROARTY: The chances are no one's going to…

MR. GLASSON: Right. The light traces are .5 or whatever take that and half it or whatever you want to do.

MR. FASTERT: We could memorialize a percentage reduction.

MR. HEYMANN: I don't know if there are any other questions of….I know Mr. Glasson needs to answer a question regarding landscape. I don't know if anybody else had any more questions of Mr. Dellamo?

MR. WEISS: Ok, I think we're there but let's make sure we understand each other because I get that look and I don't like the look. I just want to make sure we understand what the language is going to be that the applicant is willing to reduce the lighting by a certain percentage. We should talk about what that percentage is…. Mayor?

MAYOR GREENBAUM: I think that ultimately what we should do since Chuck may be the right person to ultimately negotiate the actual reduction in terms of lighting if this is going to be approved, make it a condition of approval, that there will be as we do on other applications that there will be a meeting between the professionals and Chuck will on behalf of the Board make the appropriate decision as to the appropriate lighting.

MR. MCGROARTY: Well Mayor I appreciate that but probably Gene is more qualified….there's no probable…Gene is more qualified than any so…

MR. WEISS: Ok, so either way….

MS. COFONI: Here's a condition that I have already written down. This is what I was envisioning…worded better than this but….the rear lights will be turned off at closing except for security lighting. The rest of the lights will be dimmed for security. A plan shall be prepared to show the specific lights to be dimmed and turned off which shall be reviewed and approved by the Township Engineer and Township Planner.

MR. BUCZYNSKI: I think if this is such a serious concern of the Board's also we should have something there regarding light metering once the lights are installed.

MR. WEISS: I'm not sure that there's such a tremendous concern from the Board. I think that the fact that the applicant is willing to dim the lights; we just want to make sure that dim has a more substantial name to it.

MR. BUCZYNSKI: So they're going to provide us some isoflex curves for reduced lighting?

MR. DELLAMO: Right.

MR. WEISS: If it works that sounds technical enough. Dan?

MR. NELSEN: Mr. Chair, in conjunction with the lighting, we're talking about the lighting, can we go back over the plantings that were suggested. Will they be evergreens?

MR. HEYMANN: We're going to address that. Mr. Glasson is going to address that. I know Mr. McGroarty…

MR. NELSEN: Ok. Because I think that goes hand in hand with the lighting as far as…

MR. HEYMANN: We'll definitely address that.

MR. WEISS: Henry?

MR. FASTERT: One more question for the applicant's engineer. What is reasonable to dim the lights and still maintain sufficient light so you don't have to worry about vandalism? If you had to guess could you reduce it by fifty percent?

MS. NATAFALUSY: Jim, could you? Thank you.

MR. GLASSON: Right now we try to maintain a .5 foot candle trace. My guess would be if we reduced fifty percent…I don't know the….

MR. FASTERT: Would that be sufficient to….

MR. GLASSON: I don't know. I would have to talk to Mr. Buczynski and try to work something out and figure out…

MR. WEISS: It sounds like the professionals have an agreement as far as whatever measure they're going to use and if we're willing to accept that negotiation I think we satisfied it. Anybody else on the Planning Board have a question for the applicant? Before we go to Jim and the landscape because I know you were done with Mr. Dellamo, let me open it to the public. If anybody in the public has any questions for the testimony given by Mr. Dellamo please if you would come to the podium. You'll state your name and address and if you're here to ask a question based on the testimony, go ahead.

MR. HILL: My name is Christopher Hill. I live on 5 Harris Lane….the adjacent lot next to the proposed dealership. So my first question has to do again with the lighting that you spoke about. We talked about some concessions that we might do or different enforcement mechanisms. When we talk about dimming the lights where does that enforcement come from? What's to say that half a year from now…a year from now where's the mechanism to follow up with that?

MR. WEISS: I can give the answer, perhaps.

MR.WILPERT: That one's for zoning.

MR. HEYMANN: We already answered it. It's the right answer too.

MR. HILL: Yeah but I mean say a year from now the lights aren't dimming at night and who do the residents report to?

MRS. NATAFALUSY: The Zoning Officer.

MS. COFONI: The Zoning Officer.

MR. HILL: Ok, my second question now comes from the actual size of the building and the shape…the everything. Right now you're proposing eight service bays facing directly at our house. If you do the math it's less than 100 feet away from our front door. My first question is do we look at different sized buildings? I mean is this the minimum sized building that's possible for a car dealership?

MR. DELLAMO: That is the minimum required.

MR. HILL: It is the minimum?

MR. DELLAMO: It is the minimum standard.

MR. HILL: The minimum standard is to have eight service bays?

MR. DELLAMO: Correct.

MR. HILL: So what is your mitigation for….we talked a little bit about sound when it comes to fences and trees. How do we mitigate that even more? We're concerned with on a Saturday afternoon when we go outside that we're going to hear air guns all day.

MR. HEYMANN: What time you open to on a Saturday?

MR. DELLAMO: Three o'clock for service.

MR. HILL: So it's all day. It's our big concern so is there a way to mitigate that? Is there a way to…what is your procedure during the day? Do you keep your guys to have their shut when it's a nice day out so that way the air guns don't go off? Is there….

MR. DELLAMO: Typically we don't. I will tell you that I have been around shops my whole life and I don't hear our shop in my showroom which is a cinder block wall away. I do hear hammering all day from the guys building sheds which make a lot more noise than I would.

MR. HILL: Yeah but I can say we hear….there are other dealerships nearby. We can hear the air guns so I know we can hear it. My big concern is we looked at….say that the building is the smallest that's possible or legally or viable. Is there different orientations you can do? Is there a different way you can orient the building so that the service bays are not facing the….

MR. DELLAMO: We had looked at….you can't stack cars for service. They need to come in and out.

MR. HILL: Well, did you, I mean that's looking for your minimum sized cars. Is there a different way you can do it where you would actually get be able to not have the optimal business amount but enough that you could actually function?

MR. DELLAMO: This is it (inaudible).

MR. HILL: So my last question has to do with the traffic. We kind of touched on it a little bit. Our road it sees an extraordinary heavy amount of traffic for a small side street but it also has the four ton weight limit so trucks are already not supposed to go down there. We've, if you look at the Town laws, since the last meeting we've reported several trucks going down the road. Nothing has really happened too much. Our concern is, I know you spoke that the trucks will turn left off of 46 but we're still concerned with test drives, if the truck driver doesn't listen he goes down our street….that's another one. And this is sort of a question for maybe more open floor….is there an option to….we're remodeling the road….is there a way to close off the road and separate the two sections? Right now there's two access points to Sand Shore Road, a tenth of a mile either way so does our road really need to be open between the two that's connecting the heavy commercial section and this residential neighborhood?

MR. WEISS: I'm asking for a legal opinion. That might be a question for the governing body. The Planning Board certainly can't start opening and closing roads. I would imagine that, although not impossible, I don't think that's for this Board to make that decision. Although, what you say to me makes sense. You suggest basically end the road shortly after the dealership starts.

MR. HILL: Right.

MR. WEISS: Your home is contiguous? You're Lot #11, I believe.

MR. HILL: We're right next door so it would be in between our two lots.

MR. WEISS: Your suggestion is to close the road. To me it makes sense but this Board is not the Board that would….

MR. BUCZYNSKI: The only concern I may have in that is emergency service vehicles and what do you mean by closing the road? Putting a gate with a lock? I'm not sure…

MR. HILL: Sure.

MR. WEISS: I think this is not an issue for us.

MR. HILL: There are several roads around town that have already done that when there's been a new industry come in. ITC on Gold Mine Road.

MR. WEISS: I really don't want to spend too much time on that.

MR. HILL: I'm sorry I didn't realize this wasn't the Board to talk about this.

MR. WEISS: It's not impossible. It's just not this Board.

MR. HILL: And which Board would it be to…?

MR. WEISS: I would speak to Council.

MR. HILL: Town Council?

MAYOR GREENBAUM: I would suggest there's a meeting on the 22nd of September which is this Tuesday night. The governing body is the seven members of the Town Council and they would be able to at least start to undertake your concerns.

MR. HILL: Ok. Thank you.

MR. WEISS: Thank you, Mr. Hill. Anybody else from the public have any questions for Mr. Dellamo based on the testimony given tonight? Seeing none. I'll close it to the public. Ben, thank you very much.

MR. HEYMANN: Let me address with Mr. Glasson Mr. McGroarty's concerns. Jim you have to use the mic (inaudible) on the landscaping issue. We'll get Ms. Caldwell up here. Talking about the buffering, the landscaping, I think Mr. McGroarty has it on his, on page 3 of his report. He talked about (inaudible) residential use on Lot 11 and he indicated it does not appear to be sufficient.

MAYOR GREENBAUM: Can I interrupt for a second? Catherine can you please send a memo to the police department and the fire departments and the Town Clerk with respect to Mr. Hill's comment with respect to closing off the road. To get back feedback from those entities in terms of whether or not it's feasible and what issues would be created by closing the road. And if there are no issues, I would suggest that you contact Mr. Canning to get an ordinance together to make the appropriate road closure.

MR. WEISS: I also might want to add, unfortunately for Mr. Nicastro who just walked in, Mr. Hill, Council President Nicastro is in the room. You might want to introduce him to your concern before he leaves. Mr. Nicastro walked in. He's over there towards the other room. Maybe that's luck, unluck, I don't know but it might be a good time to explain to Mr. Nicastro who will be the person you're contacting. Jim, go ahead.

MR. GLASSON: First of all, I apologize, I should have in this interim waiting for this, come back with that buffer. I didn't do it only because I didn't want to revise the plans. What can be done along this side is, I was trying to maintain the growth that's here; although it's more green growth than conifer growth or evergreens along that side. I was trying to maintain that growth. You can see there some growth onto the neighbor. Your name was?

MR. HEYMANN: Mr. Hill.

MR. GLASSON: Mr. Hill's property. He has some growth on his property as well as growth on our adjacent property so I was trying to maintain that. We can take down that growth, possibly lose one or two of these display spaces here; enhance that buffer 25 feet. What I would propose to do would be take a fence and actually run a fence in a zig zag pattern. I just did this on a gas station in Chester and it was really effective. Run a fence in a zig zag pattern to separate us and Lot 11 and then plant on both sides of the fence. It worked very effectively because it creates not only the fencing but it also creates growth on both sides. So they don't look at a fence, we don't look at a fence and it creates a pretty good….

MR. NELSEN: What kind of fence?

MR. GLASSON: It can be six foot stockade. Six foot vinyl, whatever.

MR. NELSEN: Solid?

MR. GLASSON: We did a white vinyl fence at another gas station. You don't see it after a couple years. I would propose to plant conifers or something on either side in a staggered fashion on either side…basically zig zagging the fence the whole way. It's a pretty effective buffer. That would be my idea. In time that would really grow….at least give you….but I would have to take down one of the trees along our boundary that right now provides some buffer at the present time in order to do that.

MR. WEISS: Four trees you said Jim?

MR. GLASSON: I don't know how many but right now there's….it's not anything large…it kind of like large brush. That extends all the way to the back here. It grows larger as it gets to the back of the neighbor's property also but between us there's a buffer of I'm going to say about 30 feet right now.

MR. NELSEN: Jim, given the topography there what would be the size of those evergreens you'd plant?

MR. GLASSON: It's flat in that area. That portion of the property's flat; flat to our neighbor and flat to us. The property doesn't have any type of drop in grade other than by the building. So, if we planted six or eight foot high trees there….I don't know what you're looking for but I put a six foot fence first of all and I stagger a six foot fence. I don't know that that's what you want to do because we would take down more trees, more growth to do it, but it would provide an effective buffer for the future.

MR. WEISS: Henry?

MR. FASTERT: What's the….from the property line between you and the concerned citizen and the parking lot behind? What's the delta in height?

MR. GLASSON: His property for example, the corner of his house, the elevation at the closest corner of his house is at 1,061.5 and our building elevation is….lower elevation is 1,044; upper elevation is 1,058 so we are three feet lower than him with our floor elevation of this building.

MR. FASTERT: Just three feet?

MR. GLASSON: Three feet, right.

MR. FASTERT: You're not going to get much sound deadening from the topography itself.

MR. GLASSON: No, the topography, like I said, once you get to that upper area this whole area is relatively flat. The change in grade happens between the building. You enter this building from the upper area and you enter this lower portion from (inaudible).

MR. SCHAECHTER: They also have a garage that separates the ….

MR. WILPERT: It's closest to the garage.

MR. GLASSON: They have a garage there. Right. They have a garage there. That what I'm talking about is the garage. The closest structure is a garage. Just to be clear it not the house that closest….

MR. SCHAECHTER: And it's a stand-alone garage.

MR. GLASSON: It's a stand-along garage that's the closest structure. That's (inaudible) on the corner there.

MR. WEISS: Chuck? Oh sorry. Go ahead.

MR. FASTERT: Is a wood fence….I assume a wood fence is more sound-absorbant than a vinyl or metal fence.

MR. GLASSON: Ummm.

MR. WEISS: You have a maintenance issue, Henry when you start putting up a wooden fence.

MR. MCGROARTY: Can I ask a question, Mr. Chairman?

MR. WEISS: Sure, go ahead.

MR. MCGROARTY: So the ordinance requires a minimum depth of 25 feet for half the length of it. This happens to be if I'm scaling it correctly, Jim, 25 feet from the edge of your rear parking spaces to the property line. Is there a reason why, is it because the reserve septic bed is shown there? Is that the reason why you can't do additional plantings?

MR. GLASSON: Oh no I will do additional planting on the reserve bed.

MR. MCGROARTY: Ok.

MR. GLASSON: I will still do that. I can do planting on the reserve bed now.

MR. BUCZYNSKI: You just have to come down later (inaudible).

MR. MCGROARTY: That's one concern that if, I take it these are rather rare situations when you have a reserve bed you have to activate.

MR. GLASSON: To be honest with you, Mt. Olive has reserve septic beds. The State code has changed. There's no reason for reserve septic bed at this point.

MR. MCGROARTY: So, with the likelihood that it won't be disturbed, why can't you leave the existing vegetation along the property line where it is and supplement it with more, with a more dense planting scheme and rather than just rely on the fence?

MR. GLASSON: We absolutely could. We absolutely could have.

MR. MCGROARTY: OK. Because….

MR. GLASSON: We could beef up that whole area here.
'

MR. MCGROARTY: I'm sorry, Jim. I just wanted to say because again, just try to be consistent with what…. I think if ever a buffer standard. The ordinance buffer standard makes sense. It makes sense at this kind of an application. You're a permitted use but it would be nice to shield to the maximum extent and so maybe the zig zag fence wouldn't work as well here. It's more intense and dense buffer plan and maybe we need to work that out later but that's what I would suggest.

MR. HEYMANN: We have no problem doing that.

MR. WEISS: You're basically saying you'll do whatever it takes to conform to the ordinance.

MR. HEYMANN: Correct.

MR. WEISS: And we can make a condition of approval that such a plan would be approved by Gene and Chuck so that we are showing conformity to 400-37?

MR. HEYMANN: I have no problem with that.

MR. WEISS: And it looked like the recommendation from Chuck was that a more intense buffer planning might be smarter than a zig zag fencing as you first said so I'm going to scratch out the notes about a zig zag planting on both sides and we're going to go to a general term for tonight for intense buffer planning to conform with 400-37.

MR. HEYMANN: That's fine and we can work between the professionals on what type of planning should be in there as we can proceed.

MR. WEISS: That would be a condition of approval that it's approved to meet the ordinance. Henry?

MR. FASTERT: Question for Chuck and/or Gene. Other sound-deadening techniques we can employ here other than planting? Other sound deadening things we can erect to absorb sound there?

MR. BUCZYNSKI: We talked about the fence and we're going away from the fence.

MR. FASTERT: I'm not sure the Hill's would want a giant wall. That might not be what they had in mind.

MR. MCGROARTY: Henry I will tell you, at the risk of what the lawyers will tell you, is in that opinion because I'm not an expert, but in an application I was involved with another situation the sound expert that we had on our side as it were told us, made it clear, landscaping doesn't really provide any acoustical barrier and fencing rarely does either. So unless you start to get to really industrial type of sound buffering it's really not going to prevent the noise. But I think here again given the change in elevation, I think with a more, and perhaps the residents will disagree and maybe Mr. Hill would prefer the fence and you guys decide but I think it will help to buffer it to some extent. We don't have an acoustical expert on either side of the table tonight to testify to this but I think it will at least help.

MR. WILPERT: The concern sounds like, especially when the shop is in operation repairing cars. Now what are the hours of operation going to be for that? We're not looking to be hammering on cars at 9:00 at night and typically it's from 7 to about 4.

MR. DELLAMO: It's from 8 to 5.

MR. WILPERT: Eight to five. Ok.

MR. HEYMANN: You heard Saturday was till 3.

MR. WILPERT: Three. Ok. Alright. I think that's important for the residents to know. It's not into the night….9:00 at night that they're still working on cars. Basically, the regular working hours, people get home it's more or less quiet atmosphere as far as sales and people coming home from work going shopping for cars.

MR. FASTERT: Look, the concern I heard from the Hills was Saturday. You're open you said from 9 to…

MR. HEYMANN: To three.

MR. FASTERT: Is it reasonable for us to request that at least on Saturday you keep the shop doors closed…..except to move cars in and out obviously.

MR. WEISS: I don't think that would be proper for the Board to tell someone how to set their working conditions.

MR. DELLAMO: They didn't do it for the Chevy dealer did they?

MR. FLEISCHNER: We set hours for other businesses.

MR. WEISS: We have set hours. I think that's a restriction. We're saying close the doors if it's a hundred degrees out. I can't imagine….

MR. FASTERT: Shops are usually air conditioned now.

MR. WEISS: Ok. Chuck go ahead.

MR. MCGROARTY: Two things. One, we'll just recall this is a permitted use so where it's a use variance we may, the Board may have more latitude in terms of those kind of conditions. And I think the answer to the next question is obvious but just for the record, there will be no outside work on vehicles, correct?

MR. HEYMANN: Mr. Dellamo?

MR. DELLAMO: That's correct.

MR. WEISS: Ok.

MR. NELSEN: Mr. Chair?

MR. WEISS: Go ahead, Dan.

MR. NELSEN: I'm not sure if this is for Jim or the applicant but are there any sound attenuation panels that could be used in the facility that would help absorb some of the sound?

MR. DELLAMO: Not that I'm aware of.

MRS. NATAFALUSY: If he's going to…he needs to….

MR. HEYMANN: Yeah, you got to come up here for this. You can answer that. His answer is "Not that I'm aware of" but I don't want to…

MR. DELLAMO: Not that I'm aware of.

MR. NELSEN: Would your planner?

MR. MCGROARTY: There is a town ordinance for noise and it may apply if it becomes a problem.

MS. COFONI: Yeah, right.

MR. SCHAECHTER: But the town ordinance is for noise is 10:00 at night and 8:30 in the morning so.

MR. MCGROARTY: I don't know what the hours….there are state standards as well which preempt and there are decibel levels for daylight hours and evening hours as well. So, obviously they're higher during the day and evening. I doubt, well I shouldn't say I'm not in a position to know but, it would be, we have not seen this problem or issue come up with the other car dealers. I don't know if, it may not really become a problem at all but there is the ordinance in place and state standards do apply.

MR. WEISS: I would imagine whether the applicant knows it or not he has agreed to conform to our noise ordinances and any violation or deviation from that….the public has every right to follow the procedures by going to the code inspectors. So, it's simple. I don't think we need to note that, that the applicant is agreeing to conform to the standards because he doesn't have a choice.

MAYOR GREENBAUM: The noise ordinance is actually either enforced by the Health Department or the Police Department.

MR. HEYMANN: We're ok with that. It's not an issue in bringing it up.

MR. WEISS: Don't have much of a choice now do you?

MR. HEYMANN: Exactly.

MR. WEISS: Chuck, if you want to just finish up your report. I know there's a couple more comments under Section 6.

MR. MCGROARTY: Oh, right. We talked about free standing signs. Is there any information at this time? I think you gave us a detail on that. Any details on the sign itself yet?

MR. HEYMANN: Jim, any sign details?

MR. DELLAMO: No, because we don't have a user yet.

MR. GLASSON: We're not sure exactly who our user is. We would come in (inaudible).

MR. MCGROARTY: Lighting….would be internally illuminated is it?

MR. GLASSON: Internally illuminated.

MR. MCGROARTY: And will that stay on all night?

MR. HEYMANN: The inside? You're talking about internal that stays on?

MR. GLASSON: No, they're talking about the (inaudible).

MR. DELLAMO: (Inaudible)

MR. MCGROARTY: The sign. Free standing sign. Internal illumination. Do you intend to leave it lit all night?

MR. DELLAMO: It will probably go off at 12. The lights now go off at 12 at night.

MR. MCGROARTY: The Board, maybe it would be good to put a condition that to get a zoning permit so that at least….

MR. WEISS: I made that note Chuck. Thank you. That the sign details are submitted and approved.

MS. COFONI: I'm sorry, Chuck. Can you say what you just said again? I was writing something else. Zoning permit?

MR. MCGROARTY: Zoning permit, yes, for when they're ready to come in for the applicant's sign. Catherine does that make sense? So they will submit a zoning permit for Catherine's review or the zoning officer's review.

MR. WEISS: Go ahead. I'm sorry.

MR. MCGROARTY: Thank you, Mr. Chairman. Just two other things. The roof mount. Where do you have roof mounted equipment?

MR. HEYMANN: Jim, is the roof mount HVAC?

MR. GLASSON: Yes.

MR. WEISS: That answer was "yes" by the applicant.

MR. MCGROARTY: And is there any designs showing that it will be screened visually?

MR. HEYMANN: Jim, we'll screen that…on the roof-mounted?

MR. GLASSON: (Inaudible).

MR. MCGROARTY: What would be good is if…

MR. DELLAMO: We did not show anything about it but it will be screened.

MR. MCGROARTY: So we would get, with the Board considering that as a condition that revised architecturals will be provided showing those details.

MR. HEYMANN: Not a problem.

MR. MCGROARTY: Dumpster pad, Jim, would the dumpster pad that you have or Mr. Dellamo, whomever, enough room for both recycling and trash? It's 8 by 10.

MR. GLASSON: Yeah. How big is the (inaudible)?

MR. DELLAMO: We don't generate a tremendous amount of trash.

MR. MCGROARTY: But you'll have a dumpster I take it in there?

MR. DELLAMO: Yes.

MR. MCGROARTY: So will there be room within the enclosure for whatever recycling you have as well?

MR. DELLAMO: Yes.

MR. MCGROARTY: Alright so the condition will be and for the site plan will be designed as such in the future any recycling and trash will all be contained within the enclosure.

MR. HEYMANN: Yes.

MR. DELLAMO: Correct.

MR. MCGROARTY: So, if it's not, it's an enforceable issue.

MR. DELLAMO: Correct.

MR. MCGROARTY: Thank you. Thank you, Mr. Chair.

MR. WEISS: Ok, if there's anybody else have any questions for (inaudible)? Go ahead, Joe.

MR. FLEISCHNER: Let's go back to this free standing sign. This sign's going to face the music store. Am I correct? Jim? The free standing sign faces the music store?

MR. DELLAMO: Correct.

MR. FLEISCHNER: So technically unless someone knows where they're going to your dealership; they're not going to see the sign?

MR. DELLAMO: Well, they'll see the building. The building with the elevation shows the sign. You got a clear view from 46.

MR. GLASSON: You will also see the sign traveling in an eastbound direction on 46. You drive down 46 now you can look all the way into this lot.

MR. FLEISCHNER: Oh, I know.

MR. GLASSON: Yeah, so you will see that sign. That sign is located on this corner.

MR. FLEISCHNER: Gotcha. Just in front of the basically right behind the house that's not there. But that is there but shouldn't be there.

MR. GLASSON: Correct.

MR. FLEISCHNER: But you won't see it coming the other way.

MR. GLASSON: You will not see it coming the other way. Right now with the tree density that they have on that lot next door you will not see it the other way. You only see it traveling in the eastbound direction.

MR. FLEISCHNER: And that light will stay on the sign (inaudible) you're saying?

MR. GLASSON: Twelve.

MR. FLEISCHNER: Twelve. Ok. Thank you.

MR. DELLAMO: They're not intrusive signs.

MR. WEISS: Joe, did you have a second question?

MR. FLEISCHNER: Nope that's it.

MR. WEISS: Brian did you have something? Ok, so are there any other questions? At this point let me, did we open it to the public for?

MRS. NATAFALUSY: (Inaudible).

MR. WEISS: We did? Ok. So then let us then move to…we had further testimony so does anybody from the public have any further questions for Mr. Dellamo or Mr. Glasson in their most recent?

MRS. HILL: Hello, I'm Mrs. Hill. Mrs. Mary Hill. I live on 5 Harris Lane. So, we talked a lot about sound. We talked a lot about lighting. Retrospect, you have eight bays pointing directly at our house, correct? Correct. So, right now where the Chevy dealership is, mind you that is not within twenty feet of our house, we do hear all the air guns. We hear all the functioning. I was out there with John from the Music Den who owns the Music Den and we were listening to them as they go in the middle of the day. So, my concern is that bushes or whatever it may be is not going to be….

MR. WEISS: Mrs. (inaudible) I don't want to interrupt you but is there a question?

MRS. HILL: Yes. I'm leading up to my question. Thank you. ….is not going to be enough so, Mr. Glasson, are you aware of any walls or noise barriers other than trees and such that could be more beneficial to the residents of Harris Lane?

MR. GLASSON: (Inaudible).

MRS. HILL: You're not aware of the walls on Route 80?

MR. GLASSON: This is a permitted use so as long as their sound emitted from their site is within the guidelines, it's a permitted use. They're in the zone for this use.

MRS. HILL: And this is where I'm going to put it to the Board. I understand that this is a permitted use but as a citizen of Mount Olive since the day I was born, my retrospect is that you would be there to protect us. In retrospect that we've been….the houses have been there way before this became a zoning, correct? So because of that why would you not grandfather us in the same respect besides Mr. Dellamo's whatever you're putting his courtesy?

MR. WEISS: (Inaudible) interestly because perhaps the houses were there but I've done a little research and the homes on Harris Lane, almost all of them have been closed upon since the zone has been commercial. So that's not a good argument. That's not a good argument from your point.

MRS. HILL: So you're saying because we closed on our house in 2012….

MR. WEISS: I'm following up on your point. You said the houses were there before this plan.

MRS. HILL: Yes.

MR. WEISS: I'm simply saying the zone was in place before you bought your home.

MRS. HILL: That's right. That's what I was clarifying. So you're saying because I bought my house in 2012 we, my husband and I, are no longer grandfathered in as being there before the dealership is planned to be built?

MR. WEISS: I don't know if that's an accurate comment. That's not what I'm saying. There's no "grandfathering". If the applicant has the same rights that you have…we have in the Township we have certain ordinances that will protect the residents. We've addressed a few of them tonight. We have buffers. We have sound ordinance. We have light ordinances. Those are designed to protect the homeowners. We don't have the right to force a permitted use applicant to change drastically if he doesn't feel that he can do it successfully.

MRS. HILL: I agree with you. However, I think most of us would say this is special type of circumstances where these houses are here being put directly next to a dealership. I guess once the planner comes up and talks about how she might be planning this towards or how she's compensating for the houses. I

think this is a special circumstance where eight bays….eight mechanical bays are pointing directly at a household…within twenty feet. I mean, I agree there are sound barriers and I agree there are other issues but this is twenty feet within a house.

MR. MCGROARTY: They're not ma'am. They're not twenty feet. They're one hundred feet.

MRS. HILL: A hundred feet. Either way. The Chevy dealership is farther away and we hear it. You're putting something one hundred feet from us. By the way, the shrubbery that is there now, currently, is deciduous. When those trees shed their leaves any piece of light comes into our household. The Chevy dealership as far away as it is…the light comes into our house. So, I'm sorry but no matter…even if you put evergreen trees that's not going to be (inaudible) that light. A lot of it's deciduous. I just want to bring this up to you because we live there. We know the area and what's coming towards us.

MAYOR GREENBAUM: I hear your argument and I understand it but you also have to understand the law. In terms of what this….let me finish please. What this Board is not responsible to do but is mandated by law to do. You're argument makes absolute sense in the situation where the applicant is coming for a use variance. In other words, they're putting a use on the property which is not consistent with the current zoning. However we got there, that's where we are and that's what he's entitled to. Let's assume that we as a Board decided to say to hell with the law and we're going to decline the application because we don't like the fact and I don't like the fact that he's got those bays pointing at your house. But let's assume that we all as a Board said, you know what, we're not going to vote for this because we don't like the fact that it's pointing at your house even though he's a permitted use. Ultimately, it would go down to the county court on a prerogative writ action. The town would spend a lot of money. We would have then not undertaken our responsibility with the oath that we take. I can tell you many of the same arguments that you're making were made when Siemens expanded. When they put the lights up at Flanders Park. When we expanded Turkey Brook Park and all of sudden the people heard and I recognize that some of those noises are much different than the noises that you're going to have to deal with. I recognize that. It's an excellent argument in a use variance case. This is not a use variance case. This is a permitted use case. The variances which he seeks are minor in nature. The Board's obligation really is to minimize as best we can within the scope of the law the impacts to the property. So you hear Chuck talking about how we have the obligation to put up the trees or the fences or whatever's going to work. It's really a massage of the application. We can't force him to orient his building differently. And as I said it's an excellent argument that you make and I'm sure that every single person up here understands and has compassion for the argument that you make but ultimately we're bound by the law in terms of our obligation.

MRS. HILL: All I would say is for you to consider the fact and especially for Mr. Dellamo. Mr. Dellamo if you were in deed willing as a new comer to the neighborhood to recognize that there is a neighborhood next to your dealership and propose to put up these walls that would protect us from the sound. So when I am having a two-year-old birthday party on my yard we are not hearing the shot guns of the air rifles and all that stuff that's mechanical.

MR. DELLAMO: I am not putting walls up. I am going to do the shrubbery.

MRS. HILL: And what about the lights? Currently they are at 18 feet. That's another thing I would like to say. Eighteen feet would…

MR. DELLAMO: You keep confusing me with Chevy. I'm not currently there (inaudible).

MRS. HILL: I'm saying your proposed dealership right now has eighteen foot lights. Your plan has eighteen feet lights. That brings it up directly to my household and right into my living space. There are possibilities to bring that light source down so that it's not shining directly into our bedroom.

MR. WEISS: Catherine, can you pick up Mr. Dellamo? Maybe move the microphone. I know you tried to address Mrs. Hill.

MR. DELLAMO: Mrs. Hill we testified to that. It's not going to shine into your bedroom.

MRS. HILL: You've testified that you're going to dim the lights and I agree to that and it's going to be shining down. However, I can tell you those lights are still going to be coming into our bedroom. You testified to it but I just want to make sure the Board knows that that height is still going to be accessible to our living space.

MR. WEISS: Mr. Glasson can security be accomplished by lowering those lights to a 12 foot mark for example?

MR. GLASSON: We're going to have to put more of them. I don't know if my trace is going to cover your light pattern. I may have to enhance the amount of lights if we do that.

MR. BUCZYNSKI: You'll definitely have to add more lights.

MR. WEISS: And so it's kind of you got to be careful what you ask for because we might be able to ask the applicant to lower the light but then he's going to have to put lights out because he has an obligation to meet the standards that the town sets.

MR. BUCZYNSKI: If you put more lights you'll probably have higher intensity within that parking lot too. Just so you know that.

MAYOR GREENBAUM: If I may.

MRS. HILL: The two in the back.

MAYOR GREENBAUM: Mr. Glasson.

MRS. HILL: So you're saying the other three around the area will still…those will be the ones dimmed?

MR. GLASSON: The two that are on the back, if you look at my plan…

MRS. HILL: Yup the two on the back.

MR. GLASSON: The two on the back are up at your elevation right here. These other lights are…these other pole-mounted lights are down in elevation by…this is down almost ten feet in elevation. So this is only from you eight feet higher. These are the two lights that are adjacent to you. Those two lights will be (inaudible).

MRS. HILL: So those will be the three that you will dim to 50 percent?

MR. GLASSON: No.

MRS. HILL: No, no, no. I understand. These two are off and these three you will be dimming down to 50 percent? Can I also ask the question what are security lights? Specifically what are you deeming security lights?

MR. GLASSON: Security lights are typically a light over a door. Say you had an access door right here, it would like your door, your light out of….a residential light….like out of your living space.

MRS. HILL: Is there also a sign on the building itself with the logo? Motion? Now will that be lit all night?

MR. DELLAMO: That won't face your house at all.

MR. GLASSON: That faces the opposite direction.

MRS. HILL: That faces towards the music…

MR. GLASSON: On this side.

MRS. HILL: On that side. Ok.

MAYOR GREENBAUM: If I may, one second. Mr. Glasson you testified I believe that there won't be any spillover onto any other properties.

MR. GLASSON: Right. My light patterns and they have to be directed downward, there's shielding, there's no spillover on my light pattern onto their property.

MAYOR GREENBAUM: We have in the past as a municipality gone back and made applicants rework their lighting to the extent that it affects you in any fashion. He's testified that it's not going to affect your property and if it does then we will address it as a Township.

MRS. HILL: Ok, so who should I contact just in case with the lights?

MAYOR GREENBAUM: You can contact the zoning officer or if you don't get any help there you can contact my office directly.

MRS. HILL: Ok. Again, I'd just like to point out I have someone to go for the lights. I know for traffic I've talked to Sergeant Pocquat already several times. Unfortunately, the traffic has not changed. I will be contacting him again. This goes from the milk truck to massive tractor trailers. I counted in the last two weeks that I visited here or that we were here, I counted 20 trucks. I have called each time. With that I'd just like to point out the fact of to keep that in mind when it comes to when you discuss their traffic patterns because if you tell someone to turn left I can guarantee you no one's going to be turning….not everyone's going to be turning left. The road up near us is very slim. There are children on our road so to take that into consideration. Also to make a left onto Route 46 I already know Route 46. My father-in-law's a ex-fire chief…

MR. WEISS: Mrs. Hill we have to ask a question.

MRS. HILL: Ok, my question then to you is, is your plan for direction of your traffic to make everyone turn left? If you're planning to turn everyone left then are you planning on having your trucks turn left on 46?

MR. GLASSON: We can't….

MRS. HILL: Left or right but they're going to have to make….

MR. GLASSON: They're going to have to get out on 46. We can't put signs on that intersection. We don't have the right to do that.

MRS. HILL: I understand that but for the Board to take that into consideration….the accidents that will be occurring on Route 46 because of that. I can tell you making everyone turn left out of the dealership, the amount of traffic coming from there so then the people who want to turn left….you're looking at another scenario of what's down by the lake. The (inaudible) and I just want to state this I in fact don't even turn that way anymore.

MR. WEISS: Mr. Glasson answered your question in the same way we can. We don't have the right to tell anybody to make a right or a left. If it becomes a dangerous situation it's the job of the police/public safety to address it and to take it to the State DOT if necessary but it's not this Planning Board.

MRS. HILL: So right now the Planning..the Planning Board then can only say ok it's ok you widened the road enough so that the trucks can go in and out? That is your only obligation here currently?

MR. FLEISCHNER: (Inaudible) because my understanding was it was this Planning Board that made Dr. Sandu's gas station post a "no left turn" sign on 46.

MS. COFONI: Not…on Route 46 or on his property?

MR. FLEISCHNER: It was on his property but the sign says "no left turn".

MR. BUCZYNSKI: We've done that before. If you look at what used to be Perkins and it's now Adam's there's a "no left turn" sign at that driveway going to 46. I think also across the street at the commercial center there's also a sign that says "no left turn".

MR. FLEISCHNER: There could be a sign but unfortunately this applicant doesn't own that piece of property where the sign would have to go.

MR. MCGROARTY: Correct.

MS. COFONI: Jim, could you just point on the plan for me where were talk…I'm having a little trouble.

MR. GLASSON: Go to the cover page.

MS. COFONI: Alright. Yeah. Ok.

MR. GLASSON: When you come down…

MS. COFONI: Oh, I see.

MR. GLASSON: When you come down Harris Lane to 46 we cannot put a….First of all, we can't put a sign on an intersection that's not even part of our site to say "no left hand turn" out of Harris Lane onto 46. We just can't do it.

MR. BUCZYNSKI: What if you put it within the right of way of Harris Lane? On Harris Lane, within the right of way of Harris Lane. It's a municipal right of way.

MS. COFONI: Ok, I guess I'm missing it. Isn't the point, I don't think you care which way people go once they're on 46?

MR. BUCZYNSKI: (Inaudible) safety.

MRS. HILL: No, no. But my….

MS. COFONI: Ok, I understand that but from her perspective, she's talking about coming out of the dealership and going right on Harris Lane.

MR. GLASSON: No, no she's talking about we're going to make everybody come out of the dealership and go left on Harris Lane and because of that they're going to go down to 46 and she's saying they're going to have trouble pulling out onto 46 making a left.

MR. SCHAECHTER: That's the way it is today.

MR. GLASSON: I know. I know.

MS. COFONI: They are going to come out of the dealership and turn left on Harris Lane.

MR. HEYMANN: That one we agreed to. We can't do anything about 46.

MS. COFONI: Right. Ok, I understand.

MR. GLASSON: Nothing is stopping them right now from right or left onto 46.

MS. COFONI: But you're going to have signage for the dealership directing people left onto Harris Lane?

MR. GLASSON: Yes but her concern is the intersection at 46.

MRS. HILL: My concern is both.

MR. HEYMANN: (Inaudible) we're not making a right hand turn out of the dealership.

MS. COFONI: But is that for trucks? I have it that it's only for trucks or is that all traffic out of the dealership?

MR. DELLAMO: We have it for trucks.

MS. COFONI: Just trucks.

MR. HEYMANN: If a car comes down and they live over there I can't make them….that's how they would go home so I mean….

MS. COFONI: I'm just making the record clear. So, it's truck traffic will be directed to the left to Route 46 instead of (inaudible).

MRS. HILL: My concern is also your increase in the amount of traffic. They're going to be test drives. They're going to be doing all that stuff. You're increasing the amount of traffic on Harris Lane…that's already filled with tractor trailers that already shouldn't be there.

MR. WILPERT: It's a public road.

MRS. HILL: No, I agree with the…

MR. SCHAECHTER: Mr. Dellamo could you have your sales people have a test route that makes them go left out of your parking lot instead of right and then right on 46?

MR. WILPERT: It's irrelevant. It's a public road for public use. If they're going to test drive….

MR. SCHAECHTER: (Inaudible) I mean you can't stop it but you can certainly for your sales group on the test drives…plan a route that takes them the other way. You can't mandate it but you can't stop it.

MR. WEISS: Dan?

MR. NELSEN: Mrs. Hill, you mentioned something to Mr. Dellamo regarding perhaps putting up a wall.

MRS. HILL: Yes.

MR. NELSEN: And I would imagine, I'm not a sound engineer but I would imagine, that there are some concrete or block walls that would have more of a sound attenuation effect regarding your property. I'm not saying we have the authority to require Mr. Dellamo to do that but are you sure you would rather have…be looking at a six or eight foot block wall?

MRS. HILL: If he was to put that on his side and our shrubbery still remains on our side, yes. And the reason being is that those trees are deciduous and no matter how much greenage or bushes or whatever it may be you have eight bays pointing directly at us. In my opinion I would rather have a party in my back yard with limited amount of noise and look at a wall and have my own shrubbery on my side than have a couple bushes or whatever it may be on his side that blocks nothing.

MR. NELSEN: Mr. Dellamo, the thought of putting up a wall, I guess price is a consideration. Is there that much difference in putting up a six or eight foot block wall with those…?

MR. DELLAMO: Considerably.

MR. NELSEN: Pardon me?

MR. DELLAMO: Considerably.

MR. NELSEN: It is considerably more than the landscaping?

MR. DELLAMO: It's not landscaping. It's constructive. You're asking (inaudible).

MR. NELSEN: No, no. I'm saying…

MR. HEYMANN: Versus landscaping.

MR. NELSEN: Versus the landscaping.

MR. DELLAMO: Yeah, considerably.

MR. WEISS: My only concern is that the applicant has no choice but to abide by the sound ordinances, the noise ordinances. If they're violated constantly then the applicant faces a shutdown of his business. If that's the case then he would have no choice but to take it to another level. I don't believe the Planning Board can force that on him.

MR. NELSEN: I don't believe you can force it on him.

MRS. HILL: So I'm supposed to call the zoning officer, complain about noise every Saturday because it is….

MRS. NATAFALUSY: No it's not….the police department or the health office.

MRS. HILL: The police department or the health department…complain about the noise on Saturdays. Monday through Friday you're saying 7 to 5, correct?

MRS. NATAFALUSY: The can operate on Saturdays. It's at night when the noise ordinance comes in to play.

MR. MCGROARTY: There are standards for decibel levels.

MR. BUCZYNSKI: Yeah, during the day.

MR. MCGROARTY: And they're lower for night hours.

MAYOR GREENBAUM: I would suggest that the noise that's coming off the property, even in it's worse scenario, which I'm saying I understand you're saying is bad probably does not violate the State standard. Otherwise every single dealership probably would be violating the State standard. So, I think that during the day whatever noise is coming off the site is coming off the site. I'm not sure as we sit here whether or not, Dan, if he put up a brick wall it would make any difference in terms of the sound attenuation. I don't know. I'm not an expert and I agree with Howie, Mr. Weiss, in that we don't have that ability as a Planning Board to require the applicant to do that….which I thought you understood. You just looking for the applicant to make a concession?

MR. NELSEN: I wanted to see if the applicant would entertain…

MAYOR GREENBAUM: I understand.

MR. NELSEN: If it was a reasonable….

MAYOR GREENBAUM: I don't know that it would make any difference anyway as we sit here.

MRS. HILL: I think there's a reason why they put them up on Route 80 next to households.

MAYOR GREENBAUM: They're 30 feet high.

MR. FASTERT: They're huge.

MRS. HILL: I agree but there are some…there's a reason why those are there.

MAYOR GREENBAUM: I don't disagree with you.

MR. BUCZYNSKI: They're there because of the amount of traffic that travels through 80 and the noise from the traffic on Route 80. You're talking about thousands and thousands of vehicles.

MRS. HILL: Yes, I agree but you're talking about eight car bays. I can hear the Chevy dealership bays. If they're a hundred feet from my house and there's eight of them working at a time, you're talking about an air rifle gun or an air gun going off every five minutes.

MR. WEISS: Mrs. Hill, I don't mean to be rude. We've addressed it. We've heard your concern. Henry, go ahead.

MR. FASTERT: One of the reasons they're 30 feet high is that sound is not terribly directional. And so if he were to erect a six or an eight foot wall you'll probably still hear it. And so I'm pretty sure, I know he's not going to build a 30 foot wall.

MRS. HILL: I'm not saying 30 foot wall but these bays are pointed directly at our house. There is directional sound value.

MR. WEISS: We can't (inaudible) this to a dead horse. We heard your questions. We've heard the answers. There's nothing else that we can do. We understand how many bays are there. I just want to keep it moving. If there's more questions, feel free.

MRS. HILL: No, there's no more questions. Thank you.

MR. WEISS: Does anybody else from the public…

MR. BUCZYNSKI: Just one thing…I'm going to go back to the signage. Regarding left turns at that intersection. I think it could be a liability. I think they should at least look and see if there's a possibility that they could put a "no left turn trucks", "no left turn" near that intersection and maybe get comments from the police department on it. I'm very concerned with the large trailers coming out of there making a left turn and having an accident and then coming back to the Board later on…to the Town later on. I mean just have them look at it. See if he's (inaudible) putting a sign up.

MS. COFONI: You mean at the corner of 46 and Harris Lane?

MR. BUCZYNSKI: 46 and Harris Lane.

MS. LORBER: Jessica Lorber, 28 Harris Lane. And I just have a quick question regarding the sign on the building. Exactly where is it going to be positioned? I know it's going to be facing the Music Den…the music store.

MR. HEYMANN: Route 46.

MS. LORBER: It's going to be facing 46? Ok. I just couldn't see the plans. So I just wanted to see.

MAYOR GREENBAUM: There's a difference between the free standing sign which is…

MS. LORBER: The one on the building.

MAYOR GREENBAUM: The one on the building is going to be facing Route 46.

MS. LORBER: That's what I wanted to make sure. We couldn't see from back there. Ok.

MR. WEISS: Thank you. Anybody else from the public have any questions? Seeing none. I'm going to close it to the public. Chuck, you have…

MR. MCGROARTY: Just a question. I realize it's late in the game for this but to Mr. Dellamo or to Jim Glasson, did you investigate the possibility of reorienting the building and having the bays face the Chevy dealership to the east?

MR. DELLAMO: Yes, we did.

MR. GLASSON: Yes. Absolutely.

MR. DELLAMO: Makes no sense.

MR. GLASSON: If you went out there and looked at the topography you'd see that it's really set up for upper and lower level.

MR. MCGROARTY: Yeah, I've been on the site. I understand.

MR. GLASSON: I'm just saying it's set up right for upper and lower level so if you were to do and face the other dealership with the rear of the building it would basically be traversing the biggest grade difference.

MR. MCGROARTY: And so you have to cut into that grade elevation towards the back.

MR. GLASSON: One way or another, correct.

MR. MCGROARTY: So, in…I guess that was one of those preordained questions. So if by doing that and then if you cut into the higher…to the area in the back you're actually….you're taking the advantage away of having that sort of higher elevation as a buffer.

MR. GLASSON: And you almost take away the circulation around the building. You almost make it impossible to get around the building.

MR. WEISS: Ok, so let's move it along.

MR. HEYMANN: (Inaudible) quite brief because we just have the variance.

MR. WEISS: We have three variances requested so I see you brought Jessica. So let's swear her in.

(MS. JESSICA CALDWELL IS SWORN IN FOR THE RECORD)

MS. CALDWELL: Jessica Caldwell, C-A-L-D-W-E-L-L, 122 Main Street, Suite 104, Newton, NJ.

MS. COFONI: Thank you.

MR. WEISS: She's not from Flemington, huh Chuck?

MR. HEYMANN: Ms. Caldwell you are a licensed planner in the state of New Jersey?

MS. CALDWELL: Yes, I am. I am a licensed professional planner in the state of New Jersey. I am certified by the American Institute of Certified Planners.

MR. WEISS: Mr. Heymann, I can speed this process up. We've seen Ms. Caldwell. If anybody has any questions for Ms. Caldwell, otherwise we will accept Ms. Caldwell as an expert planner.

MR. HEYMANN: Ms. Caldwell, you were retained by our joint client to review the project as well as the report of Mr. McGroarty.

MS. CALDWELL: Yes, I was.

MR. HEYMANN: I'm just going to let you freewheel and go ahead through the report and address the variances.

MS. CALDWELL: I just wanted to provide a little bit of perspective but I think as has been discussed we do have minimal variances. We are in the C-2 Zone. We're a permitted use in the zone. We have three variances required. One is for insufficient lot area. We have 1.476 acres after a roadway dedication on Harris Lane where two acres is required. We have a lot depth of 220.61 feet where 250 feet is required. And then we have an insufficient front yard setback where we're proposing 52.3 feet and 90 feet as required. In terms of the lot area and the lot depth, those are preexisting conditions. We did testify to the fact that we tried to purchase more property and were unsuccessful at doing that. So both of those fall pretty squarely under the C-1 variance which is given for existing lot size, area, width, depth where you have a preexisting condition and you're still permitted by law to develop the site provided you minimize impacts to the area and you aren't completely contrary to the zoning plan; which we are compliant with the C-2 Zone. The Master Plan, I did review, was reexamined in 2003 and 2010. No major changes were made to this zone. In terms of the front yard setback, it does fall within that C-1 criteria I believe because we are insufficient on the lot depth; so it directly correlates to that….the fact that we're missing some of the lot depth we ended up with an insufficient front yard. It really correlates. It makes sense. In order to meet the rear yard setback at 50 feet, we're right up against that and we've got the largest front yard that we can supply which is also in the C-1. We have spoken quite a bit about trying to minimize impacts to preexisting, non-conforming residential within the neighborhood. I think that we at least been compliant with buffers and in terms of the light being directed directly on the property. I know it's difficult sometimes to imagine but if you go to some of the newer properties that have been constructed, like if you go to a brand new Quick Check, the light really just shines absolutely straight down onto the property. It doesn't overflow onto exterior properties. So that's the situation that we have here where we're minimizing the light….turning it off in the evenings to the extent that we can while keeping it a secure property. Directing truck traffic away from the adjoining residences and to the greatest extent possible minimizing any imnpacts on the neighbors. So I believe we meet the C-1 criteria for those three variances. We have one design waiver, I think for staff parking. And that's typical for a dealership. Obviously they're not moving the cars every day. They like to try to maximize the amount of cars they have in a specific area so they don't meet your standard parking standards but they're able to move those around and it's really just the car dealership using those. And the criteria really for design waivers is that it's a reasonable request and I think that it is given the type of use that we have on the property.

MR. HEYMANN: (Inaudible) permitted use in the zone, correct?

MS. CALDWELL: Yes, it is.

MR. HEYMANN: (Inaudible)

MR. WEISS: Chuck, do you have anything to respond to Ms. Caldwell?

MR. MCGROARTY: I do not. Thank you.

MR. WEISS: Anybody from the Planning Board have any comments for Ms. Caldwell? Let me open to the public. If anybody from the public has any questions for the testimony delivered by Ms. Caldwell? I see none so let me close it to the public. Ms. Caldwell, thank you very much for being very thorough.

MR. HEYMANN: And that concludes our application. We've heard your concerns and we agreed to improve any of those (inaudible). Some of those have to be resolved at the site or at least in a construction meeting with regard to the landscaping and the lighting but we're ok with that. So (inaudible) clearly aware of the neighbors. I think when they spoke to us last time we're going to make every effort to make sure that we're good neighbors with them and we can allay most of their concerns.

MR. WEISS: I think what we'll do is we will at the end of this we will summarize all those conditions that you referenced and make sure that we have a clean record of it. I know there's lot of notes. Before we go to that motion-making, let me open to the public.

MR. MCGROARTY: Mr. Chairman?

MR. WEISS: Yes sir.

MR. MCGROARTY: Let me (inaudible) one thing. Gene just pointed out to me, I have a mistake in my report. I don't think it has any bearing on the testimony. Insufficient lot depth is actually 250 feet not 200 in this zone. It was my mistake. I must have picked up a different zone.

MR. HEYMANN: I know just a typo we thought it was so don't be so hard on yourself. (Inaudible).

MR. MCGROARTY: It was a typo, yes. Exactly right. I did it to see if anybody was paying attention. But I think the testimony it does address it.

MR. WEISS: Gene, your report has been thoroughly reviewed, correct?

MR. BUCZYNSKI: Correct. It was at the last meeting. There are several items that have to be addressed and Jim had agreed at the last meeting they'd be addressed with the revised plans.

MR. WEISS: We will go over those as we review the conditions. So I'm going to open it to the public. At this point anybody who feels they have a comment, concern, a question, anything that's on your mind that you feel the Planning Board needs to hear; now would be a good time. And it looks like we have Mrs. Hill coming back up.

MRS. HILL: I'm back.

MS. COFONI: I'm going to swear her. Since you're going to be making comments, I'll swear you in.

(MRS. MARY HILL IS SWORN IN FOR THE RECORD)

MRS. HILL: Again I have been a resident of Mount Olive since I've been born. I was born here. I was raised here. I moved here. I bought my house here. My expectation is that I hope the Board will take whatever these negotiations are planned out that we recognize that there are houses next door. Specifically, when will we hear what the plans will be for these sound buffers? How will we as the neighbors get this information and by when?

MR. WEISS: By when?

MR. HEYMANN: (Inaudible) sound buffers.

MRS. HILL: The sound buffers.

MR. BUCZYNSKI: They'll put landscape buffers.

MR. WEISS: Timing-wise….

MR. GLASSON: I will revise the plans and get them to Mr. McGroarty to look at. He will then comment to me.

MRS. HILL: I just want to make sure that we get the information so that I don't have…

MAYOR GREENBAUM: What I suggest you do is that you leave your name and telephone number with Catherine and Catherine will contact you when the revised plans come in so that you will have an opportunity to come in and review them. And that's the best way to do it.

MRS. HILL: So I will be able to get all the finalized plans, rules, regulations that we've instilled now at this meeting? For instance, the lighting and the dimming and all that stuff?

MAYOR GREENBAUM: If you ask Catherine to contact you any time anything comes in about this application, I'm directing Catherine to give you a call so that you can come in and see whatever it is that's been submitted.

MRS. HILL: Ok.

MAYOR GREENBAUM: Alright. And then if you would be so kind as to contact any of the other interested people so that Catherine is….so that way everyone will be on-board in terms of what's been submitted on the application.

MR. WEISS: You asked about timing. The timing is really up to the applicant.

MRS. HILL: Up to them. That's fine. As long as….

MR. WEISS: Nothing's going to move until we get what we asked.

MRS. HILL: Ok.

MR. SCHAECHTER: Mr. Chairman, this will also be memorialized in the resolution….and that's public.

MS. COFONI: That was going to be my comment. Really, what you're going to be looking at is the resolution of the Planning Board which will have all the conditions in it. And that will be something that will be approved by the Planning Board next month so that's something that you can get a copy of and then the plans whenever they're revised by the applicant. So it's really those two documents….the plans and then the resolution.

MRS. NATAFALUSY: As long as the plans aren't copyrighted. We can't reproduce them if they're copyrighted.

MS. COFONI: But she can come in and look at them.

MRS. NATAFALUSY: She can come in and look at them.

MRS. HILL: Ok.

MR. FLEISCHNER: Can I ask a question? What happens when there's a construction meeting and there's a change at the construction meeting? Because we've had those issues in the past but then the Board never knows what was changed. Things can go out there and then all of a sudden it's different because at a meeting somebody changed it.

MR. BUCZYNSKI: We don't change things at preconstruction meetings. We don't.

MR. WEISS: Is it fair to say that changes are usually minor and more technical?

MR. BUCZYNSKI: If there's a field construction change it's done in the field. It's something we discuss in-house and make sure it's not something that we felt needs to go back to the Planning Board.

MR. FLEISCHNER: And the Mayor is to be commended, because I think as long as the residents are fully aware of what's taking place then ultimately hopefully everyone will be happy.

MR. MCGROARTY: If the Board wishes, once we get the revised plans with the landscaping, Gene and I can go out on the site, probably with Mr. Glasson, and if the residents want to come out, we can talk.

MRS. HILL: I'd be more than happy to. I'm home currently.

MAYOR GREENBAUM: I think that's an excellent idea.

MR. MCGROARTY: Ok.

MR. BUCZYNSKI: We've done that before too so that's fine.

MR. WEISS: Yeah, we have (inaudible).

MR. SCHAECHTER: Just keep in mind that's it's not a negotiation.

MR. MCGROARTY: You get to see what we're doing.

MR. WEISS: Yeah, that's a good point, Mr. Schaechter brings. It's not a negotiation at that point.

MS. COFONI: It's informative.

MR. WEISS: It would be for your information. Just as long as you understand that.

MRS. HILL: Whatever they decide upon. Yes, I understand.

MR. WEISS: We're leaving it in the hands of our experts who are from the Township's perspective here to protect you essentially.

MRS. HILL: That's what I'm hoping.

MR. WEISS: Ok.

MAYOR GREENBAUM: Mr. Dellamo, if I may, if this gets approved, I would hope that you would do everything within your power, fiscally responsible to minimize the impact of the site on the homeowners.

MR. DELLAMO: I would.

MAYOR GREENBAUM: Thank you.

MRS. HILL: Ok, so I will contact Catherine and Mr. Mayor I will also be contacting you if there's any issues.

MAYOR GREENBAUM: You know what….I constantly monitor my Facebook page to the extent….in-bound message me. You will get a response as soon as I see it.

MRS. HILL: Ok. Thank you.

MR. WEISS: Anybody else from the public have any comments…questions or concerns? Seeing none. I'm going to close it to the public. At this point I'm going to turn to Tiena and we'll certainly if anybody have any notes that would add to Tiena's conditions. If we were to approve this application, this application would include the following conditions….

MS. COFONI: Truck traffic will be directed through signage; left out of the site back toward Route 46 instead of right out of the site of Harris Lane. The applicant will comply with the police report dated June 10, 2015. There will be no work on vehicles outside of the building. The rear lights will be turned off at closing, 10 p.m. except for security lighting. Rest of the lights will be dimmed and the plan to show the specific lighting. Isolux diagrams will be submitted for review and approval by the Township Engineer and Township Planner. The applicant will provide additional plantings. I have intense and dense with no fence to conform with Ordiance 400-37 subject to review and approval by the Township Planner.

MR. FLEISCHNER: We said no but what happens if a fence is deemed… May be it should be written so that there is an option for a fence or no fence.

MR. WEISS: I think it would be accurate if she just takes out the word "no fence". Just an intense…because I have the same notes….an intense and dense buffer planting to be put together by planner/engineer.

MS. COFONI: Ok, I just crossed it off. Zoning permit shall be obtained when seeking approval for the freestanding sign. Applicant shall look into "no left turn" signage at Harris Lane and Route 46 which is off-site. I apologize. Some of these are from previous meetings and I just want to make sure. The freestanding sign will be turned off at 12 p.m. We already talked about the turning off of all lighting. HVAC equipment will be screened and the applicant will provide revised architectural plans to be reviewed and approved by the Township Engineer and Township Planner. All recycling and trash shall be contained within the dumpster enclosure. Deed descriptions for the dedication along Harris Lane for Township road widening purposes shall be reviewed and approved by the Township Engineer and Township Attorney. New on-site well and subsurface disposal system are subject to review and approval of the Township Health Department. Ok, the three pavement details on Sheet 11 of 14 shall be revised to only have one pavement detail for the road widening and the on-site parking lots and then it goes into the specifics with regard to two inches of hot mix asphalt surface, etc. Gene, I'm looking at your Number 7. I'm wondering if that changes?

MR. BUCZYNSKI: That's addressed I think with the landscaping buffer.

MS. COFONI: Ok, that shouldn't be specific like that I guess.

MR. BUCZYNSKI: Number 9 just a note that all proposed utility services will be installed underground.

MS. COFONI: Yep and then I have Number 10…certification required for Morris County Soil Conservation District and that's all my conditions.

MR. MCGROARTY: One other…no outside maintenance on vehicles.

MS. COFONI: Yes, I did have that.

MR. WEISS: One other thing, I don't know how we're going to address it, we're just going to look into "no left turn" onto Route 46.

MS. COFONI: Yep, I have that down.

MR. GLASSON: I'll approach the police department with that.

MR. HEYMANN: Yes.

MS. COFONI: I just said they'll look into it.

MR. WEISS: It might not happen but we'll look into it. Hardly a condition but something that we want to know more or less. Ok, so those conditions as noted. Chuck, Gene anything else?

MR. MCGROARTY: No.

MR. BUCZYNSKI: I think that's it.

MR. WEISS: Anybody from the Planning Board? Nelson?

MR. RUSSELL: Question. In your description of operations you said the maximum number of employees will be nine which includes sales and service. Theoretically, parts department too. Eight bays, nine employees?

MR. DELLAMO: Every tech works on more than one car (inaudible) productive. There's no shop that has one bay for one tech. Every tech works on three cars.

MR. RUSSELL: Ok. Thank you.

MR. WEISS: Ok, any other conditions that anybody on the Planning Board had in their notes? Ok.

MAYOR GREENBAUM: Can Tiena reread the conditions…

MR. WEISS: That being said, I would look for someone to please make a motion for this application.

MR. SCHAECHTER: Mr. Chairman, I'll make the motion to pass PB15-14, Motion with the conditions that were read.

MR. WEISS: Thank you, Brian.

MR. WILPERT: I'll second it.

MR. WEISS: Frank, thank you very much. Is there any comment? Questions? Seeing none. Catherine, roll call please.

MRS. NATAFALUSY: Joe Fleischner.

MR. FLEISCHNER: Before I vote I do want to make a comment. Again, as I said before, I think the Mayor has instructed the neighbors giving you some good latitude of what you need to do. However, I know we stated the law says XYZ. In the back of my mind, I think of the 1935 Nuremburg Laws. I don't care what the law says. I don't think this….the lot is too small, we've got a neighborhood next to it and there's too many questions that still have not been answered. There's too many things left. We're going to look at this….we're going to look at that….we're going to discuss XYZ. And for that reason I have to vote no.

Roll Call:

Joe Fleischner	- no
Brian Schaechter	- yes
Mayor Greenbaum	- yes
David Koptyra	- yes
Dan Nelsen	- yes
Nelson Russell	- yes
Frank Wilpert	- yes
Kim Mott	- yes
Howie Weiss	- yes

MR. HEYMANN: Thank you, everybody. Appreciate your time.

MR. WEISS: We have one more developmental matter. It is now 8:40. In ten minutes we're going to start. It's 8:40. Hold on. It's 8:39. At 8:50 we're going to start.

MR. WEISS: I've just been advised by Tiena that it's a use variance. If we start without Nelson it becomes a problem.

MRS. NATAFALUSY: Ok.

MR. WEISS: Can anybody go find him?

MS. COFONI: Ok, here we go.

MR WEISS: Ok, meeting is back in session. We will introduce PB15-02, Waterloo Road Development Co., LLC. Here for request of waiver from submission of an EIS, soil logs, perc test for septic systems, minor subdivision. It's a D-1 variance here for preliminary and final site plan with variances and waivers. 20 Continental Drive, Block 106, Lot 1; Block 7, Lot 1. This meeting has been carried from July 9th. Is that correct, Mr. Dunne? Is that the date?

MR. DUNNE: That seems correct to me.

MR. WEISS: And I will let you review where we are but I did see a note to myself that we are on Exhibit A-6.

MR. DUNNE: I believe that is correct. It was the colorized….

MR. WEISS: We started with A-6 and I don't think anything was introduced. A-6 was a Preliminary and Final Phase 1 Colorized Sheet 5 of 7. Overlay of existing exhibits color-coded and that was the only one

that we did so we'll start with A-7. If there's any new exhibits we'll start with A-7. Mr. Dunne, if you would….

MR. DUNNE: Just to bring you up to date a little bit I think….we have already heard the testimony of a planning expert, Mr. Nelson who has completed testimony. We've already heard the testimony of Mr. Neuffer who's our environmental expert who did not complete his testimony but did testify to the issues regarding the impacts of the proposed uses on the Stanhope wells which is basically the rationale for our coming in for a use variance because of your well head protection use restriction ordinance which was adopted subsequent to these uses being approved on this property initially. He's here again tonight to talk a little bit more about and summarize what he said before so we're all clear and to answer any questions. It's the sense I had from you at the last hearing was that you wanted to talk more to him. There are no other environmental impacts that we're aware of on this property. There was some question concerning whether there was a noise or dust from this site. He will testify (inaudible) are familiar with the site and (inaudible) is no impact by dust or noise of any significant nature coming from this site. So, we'll produce testimony tonight along those lines but there will not be environmental testimony. There will not be a noise expert. We don't think that's necessary in this case. So we're going to proceed with that. The plan has changed to expand Phase 1 to include a small building to the far north of the site. I noticed just the other day that the plan that was submitted…it's updated through August 18, 2015…refers to it as future Phase 2. That's not correct. The small building to the far north near the border of Stanhope well system, I believe, is actually to be a continuation of Phase 1. The building that is to the east near Waterloo Road…that's to be Phase 2. There will only be two phases. So we intend to include that small building to the far north as part of Phase 1. So that's going to be a technical correction that was made in preparation of that August 18, 2015 plan. Alright. Everybody clear on that?

MR. MCGROARTY: Mr. Dunne, just so I'm clear on that. So what were three phases will now be just two.

MR. DUNNE: It's two phases. We tried to make that clear last time but there were no maps submitted. You have the updated map. The August 18, 2015 updated map. In that map the phase line has been misdrawn by mistake and it's going to be changed subject to submission. If you look at the phase line that runs the proposed Lot 1.02….that phase line is incorrect.

MR. MCGROARTY: Which sheet is that? This one?

MR. DUNNE: If you look at it on Sheet 4 of 8. I'm sorry. It's not 4 of 8. It is Sheet 5 of 7. That should be 5 of 8.

MR. BUCZYNSKI: That's ok. It's Sheet 5.

MR. DUNNE: Anyway, you'll see where it says future Phase 2 to the left. That should be…that phase line should be eliminated. (Inaudible). Ok?

MR. MCGROARTY: So the plans won't change?

MR. DUNNE: We're just going to eliminate that and get rid of the phase line. (Inaudible) the office building in the upper right hand corner of the map that little steel and masonry office building. That's going to be Phase 2.

MR. WEISS: Mr. Dunne, if you don't mind, I want to just maybe take a different direction. I did speak to you out in the hallway that we're going to extend the meeting till 10:30 tonight to give you hopefully enough time to finish. So I don't want to take too much time but I have an issue that I really would like to discuss with Mr. Kaplan about previous stuff.

MR. DUNNE: Well Chairman, I really appreciate that and (inaudible) but I was saving Mr. Kaplan's testimony…Mr. Kaplan and Mr. Allen. Yes, I'm going to put him on to testify if you'd like to ask him a question of course.

MR. WEISS: I do. I have a couple questions so if we can start with Mr. Kaplan.

MR. DUNNE: Ken come on up. He's still under oath.

MR. WEISS: We have had numerous conversations since first met a while ago and it seems like there's a concern between the Planning Board and you and we sometimes don't agree on the use of the property.

We've discussed it openly. We've had disagreements if you will about what is allowed to be stored outside and what is not. If you recall I had a concern about the repo business. It seems to be a personal thing of mine where we pulled the permit. All that action is supposed to be inside the fence. We identified it. We spoke about it. I believe you said you were going to correct it. It's not corrected. There's still vehicles outside the fence.

MR. KAPLAN: The vehicles outside the fence when he has to take some of the vehicles out and wait for….He doesn't leave them out overnight….ever.

MR. WEISS: All I can tell you is that the permit says that that business must operate within the fence and I go back to the school bus. I was there today. I even have photographs that we can submit as evidence. I certainly have no problem doing that. The same things that were there back then of my personal concern are still there. We talked about when you turn around the building….your main building….I can point out on the map but you have an old truck by you…bent up frame….we kind of went back and forth in a very nice way that you tell us that you think it should be allowed to store it outside. Our position that it's garbage. It's bent. It needs to be removed and it's still there.

MR. KAPLAN: Are you talking about the one when you come around the turn and it's right on your left?

MR. WEISS: Correct.

MR. KAPLAN: No, those aren't bent. Those are good frames.

MR. WEISS: I thought we agreed last time that it was bent and needed to be removed? I'll give you that. I can tell you that we had numerous conversations about the repo business and it's not changed and there's more things out there. I don't know about if it has to move in and out because that school bus has been there since I've been visiting your site. I'm concerned. I want you to tell me something. I saw something new there today. Tell me who is HN Tree Care? Because that's a new thing that I've never seen before.

MR. KAPLAN: He's actually going to be removing some trees for us. I have two large trees that are coming down.

MR. WEISS: How do I handle this?

MR. MCGROARTY: Is that on the plan to show tree removal? Are they dead or diseased?

MR. KAPLAN: No. What we're doing is we're taking…according to what you had asked from me last time. You said it would be better if we put the repo guy in the large fenced-in area that way you wouldn't have any of these cars outside the fence. So, I wanted to start removing trees.

MR. WEISS: Tiena, how do I submit this as B?

MS. COFONI: You can submit that as B-1 and then you can put those….

MR. WEISS: B-1, B-2 and B-3.

MS. COFONI: Ok and you've got a…

MR. WEISS: Dated 9/17. I took these pictures today. I want you to take a look at this Mr. Kaplan. Again, I only bring it up. I don't want to put you on the spot but we talk about and I know Chuck has spoken about it for a long time about…please take a look at these if you would.

MS. COFONI: Photos

MR. WEISS: These are photos and it clearly shows a use…a business of what did I say? H&N Tree Service. That appears to be more than a couple of trees.

MS. COFONI: Can you explain where you took those? Where on the property that is?

MR. WEISS: That is what was once the Dynapack parking lot. It's…I don't know how else to describe it. It's on the map.

MR. SCHAECHTER: Future Phase 2?

MS. COFONI: Back right?

MR. WEISS: It's Phase 1.

MS. COFONI: Right behind the building?

MR. WEISS: It's outdoor storage area. Acres repair and patch broken pavement areas. It's Phase 1 on the plan. It was many years ago the main parking lot for Dynapack and it's happening in the upper corner closest to the well head and that's the only reason that I bring it up. So, this to me seemed like a new business operating there and I've heard Chuck speak about it at length that we want to have a little better control over what goes on on the property and then I see this. So, tell me again what this is.

MR. KAPLAN: Well, that's the guys who is going to be removing my trees. Actually he had said to me…would you mind if I put these trees….he was going to give them to Kirk to….because Kirk uses them cut up…trees. Which I guess he's allowed to do that on his property and he asked me if I wanted any wood for my fireplaces at home and I said no. That's an awful lot of firewood when I saw it come in. I've certainly asked him to take it out of there.

MS. COFONI: So are those your trees?

MR. KAPLAN: He said he was going to take it out of there.

MR. MCGROARTY: Are those trees from your property then, Mr. Kaplan?

MR. KAPLAN: No. They're not. No.

MS. COFONI: Because I was concerned about tree removal.

MR. KAPLAN: I had brought him in and I said look…eventually we want to have….once this meeting was done we want to remove all of these trees and there's two trees by my building that are too close to the building. They'll go on the plan.

MR. MCGROARTY: But I guess that's…not the Chairman's point about what these….

MS. COFONI: No, different issue.

MR. MCGROARTY: Different issue but before we lose sight of it….why wouldn't you show the tree removal on the plans now consistent with the ordinance requirements?

MR. KAPLAN: Well actually it doesn't really show the trees on the plan right now.

MR. MCGROARTY: But it should if you're removing them. Under Section 400-75 you need to identify trees of certain size, caliper to be removed and the replacement requirements. But maybe you can come back with that if you're not ready to do that tonight. At another time or whenever you're ready to do it. It doesn't have to necessarily be part of the site plan but it would have been easier. But that's separate from the issue of a separate use.

MS. COFONI: So tree removal requires, I'd like to put that as a condition, tree removal requires…

MR. WEISS: In fairness to Mr. Kaplan, he clearly said they're not his trees. They're not from his property.

MR. MCGROARTY: But he said he will be….

MS. COFONI: That's the purpose of this guy. He's going to be removing trees.

MR. WEISS: My complaint, my concern today is that there's another business operating on this property at a time when we've clearly discussed our concern for a runaway operation where we've kind of gone back and forth and said we'd like to know what's going on and I drive in today and see this. I just was asking what is this all about? This application.

MR. KAPLAN: I said to this guy I'm going to need tree removal.

MR. WEISS: I heard you. I don't mean to…but that's every bit of 20 trees. Like is there….

MR. KAPLAN: That is new. Ok. And I did say something to him about it. He said he was going to get rid of it right away. He said I'm going to see if Kirk wants it. Otherwise I don't know what he was doing with it.

MR. FLEISCHNER: Can I ask where his business is? Where's he located?

MR. KAPLAN: I don't know exactly where he's located.

MR. FLEISCHNER: I think the easy way to answer this is…it's not his….he just needs to get rid of them. Notify him tomorrow he needs to move the trees. Move it off there. His business you're saying is not located on your property. Ask him to take it and if somebody has a question. Come back two or three days later. Let this Board know, let the Zoning Officer know when are the trees going to be….when are they being moved? They're not trees from his property. Just tell him to get them out of there.

MR. KAPLAN: I'll tell him to move them tomorrow.

MR. FLEISCHNER: Solves the problem.

MR. SCHAECHTER: I'm having a hard time with the whole testimony. We've got an applicant that says "I've hired someone to take some trees down". The trees aren't identified. Ok. The guy I hired is just going to store a couple of logs here before he does my work.

MR. KAPLAN: Honestly he never asked me about that and I just saw them there and I said "What are these trees doing here?"

MR. SCHAECHTER: He's got equipment stored there too. He's got a root machine. He's got the cap from a truck. Listen….your testimony is your testimony. I'm having a hard time with it because it's all over the place. It's almost hard to believe. But, it's your testimony. I'm going there. You have 20 logs that are….you could build a cabin with those. Those are just not...Mr. Allen's going to chop up a couple cords of wood and I'm going to put it in my fireplace. That's enough wood….

MR. WEISS: I was concerned at the size of those logs. Don't look like they're easily moved.

MR. SCHAECHTER: Just big.

MR. FLEISCHNER: Just tell them to move them. That's it. They're not allowed there.

MR. DUNNE: We'll commit to get rid of whatever it is that's there.

MR. WEISS: But I understand. I just want to make sure that we….because I kind of appreciate Mr. Kaplan that we don't necessarily agree with each other but there's a give and take and that's good. But there seems to be a disconnect between us about what you think you can do and what we think you should be doing….which is totally normal. I don't have a problem with that. But this to me when I….this is another use at a time when I clearly heard the back and forth between our planner and your side about you don't think you should have to tell the town. I'm paraphrasing and I apologize. You've said that whether it's you or Mr. Dunne or somebody else on your side that didn't agree with us that you needed to come and tell the town every time there's a new use over there. And so, I've taken Chuck's side in agreement. I think we should be notified and then here's another use that just popped up. I will respect your answer that this was somebody who's there temporarily. I have trouble with it, Mr. Kaplan. You've always been honest with me. So, I'm going to say I'll accept that. But that's got to be gone because that's not anything to do with this plan. I'm not going to beat on it. We heard each other. One last concern is that we constantly talk about stuff that's being stored outside. As soon as I pulled into the property today and I'm looking at the Cross Fit. I see that they're now storing tires and mats outside.

MR. KAPLAN: Well the tires, they're not storage tires. They're part of the cross fit thing.

MR. WEISS: I figured that was the case. So, just stored on the outside of the building? Is that an appropriate use? Didn't we agree that we're not going to do that? The goal is to clean up the site. And to my naked eye, there are trailer tires now up against the side of your building.

MR. KAPLAN: I can ask them to put them inside overnight.

MR. WEISS: We've had this conversation and I know you're the property owner and I know that you don't control each one but there has to be an obligation by you. I know we spoke that earlier about you made it very clear that you were unaware that Mr. Allen had moved his goods within the side yard setback…the front yard setback. I can respect that. You can't possibly know day to day but ultimately you're the property owner and somebody has to be responsible for all these small violations because ultimately this Planning Board wants to clean this up and I think you and I are and this Planning Board are on the same page. I worked with you at the site you told me plans to paint it and I think a fresh coat of paint and cleaning it up…

MR. KAPLAN: We are painting. We are…..

MR. WEISS: I noticed but I can tell you and I said it to Mr. Fleischner….

MR. KAPLAN: Did you see it being painted?

MR. WEISS: I saw some green…

MR. KAPLAN: That's the primer.

MR. WEISS: But I can tell you and a credit to you since the first time I visited your sight over a year ago from what it looked like today….tremendous improvement. But there's a couple of setbacks and I don't want to see setbacks and so if I don't tell you in this forum…. It's very important to this Board that we clean this property up. And part of cleaning it up is making sure that the Township is aware of all of the uses that are going on there. So, it's important.

MR. SCHAECHTER: Howie, I wasn't at the site today but has the retaining wall been fixed?

MR. KAPLAN: No, we're painting right now. I have all my crew on painting. They power washed the building. They primed the one building and the guy now is spraying the final coat. He's actually on the back side. He's finished the one back side of that long skinny building.

MR. WEISS: Yeah, that's the one that was green….

MR. KAPLAN: So, that's be done…well he's actually taking off tomorrow because it's his birthday but he'll resume on Monday and hopefully he'll finish that long skinny building on Monday….Tuesday at the latest.

MR. WEISS: Ok, I had my say. You hear me loud and clear and we can continue to disagree….that's ok but I think you hear us loud and clear. As a resident, as Chairman of this Planning Board, I don't like to go there and find surprises. I was surprised by the tree business and I certainly don't like to see those tractor tires along the side of the building because to the naked eye they are tractor tires that don't need to be there. If that applicant needs a storage facility have them come to the Zoning Office and request a shed….but to have that stuff stored outside is not acceptable.

MR. KAPLAN: I'll take care of it.

MR. WEISS: I trust that you will. Ok. I don't have anything else. You heard me. Everybody else on the Planning Board have any comments to those exhibits? Otherwise I'll turn it back over to you, Mr. Dunne. I thank you for that little detour.

MR. DUNNE: Thank you, Chairman.

MR. WEISS: If you would send those pictures back down here we need them for Catherine.

MR. DUNNE: We call Mr. Neuffer back to the stand please. This is Christopher Neuffer. He's been qualified as an expert environmentalist and already testified. He's still under oath in this matter. Mr. Neuffer is here for a limited purpose only. As I said at the opening I got the sense that the Board had different questions for him as an environmental expert. I want him to summarize what he already testified to here because it's been months since we started this application. His principal purpose of being here had to do with the use variance which was being requested to permit the existence of some yard waste recycling on his property, the storage of landscape material and landscape equipment and construction equipment which all proposed for this site and is a use that's prohibited under your well head protection act and his testimony has to do with the lack of impact, possible impact, of these uses

on the wells in Stanhope. So, Mr. Neuffer, I'd like you, by the way he's already submitted a report to the Board dated July 1, 2015 which is part of the record in this matter. It represents what the testimony in detail will be. The Board has that report. But I'd like Mr. Neuffer just to summarize for us briefly the issues regarding the well head, these particular uses and why it is that in his opinion these uses cannot possibly impact the Stanhope wells.

MR. MCGROARTY: Mr. Dunne, I'm sorry. Can I just ask? I have a report from this gentleman, April 15, 2015….

MR. DUNNE: Oh, April 15th.

MS. COFONI: I was just going to ask the same question. Ok.

MR. DUNNE: Mr. Neuffer, can you just, for Board purposes take a step back (inaudible) testimony on the first hearing which was many months ago and outline again for the Board the rationale for your conclusion that it will not affect these wells.

MR. NEUFFER: Mr. Allen's looking to do mulching of trees and leaves and yard waste which are not typically associated with any types of contaminants. Even if there were contaminants associated with this material it wouldn't impact the well located. The closest well is Well 5 which is located about 900 feet east on the other side of the Musconetcong River. In order for anything to impact that well, it would have to first impact the ground water at the site which is approximately 30 feet below the ground surface. The contaminant would have to be heavier, denser than water so that it would migrate vertically and it would have to travel 900 feet and get on the other side of the river. Typically ground water is going to be…especially coming from a higher elevation….the ground water is going to be discharging into the river. It will be (inaudible) river where the ground water's going to be going into the river. So with the types of materials….wood and grass and leaf clippings that will be used to mulch materials…there's no types of contaminants associated with that that could potentially migrate to 900 feet and impact that well. We also identified that there was Wells 4 and 3 that are located north of the property and there's known contamination on the north end of the property from prior operations that, even though there's a fairly extensive ground-water contamination area that they still have not impacted those wells because of their depth. So, basically, Well #5 which is to the east is 225 feet deep. The operations of using the yard waste and things like that….there's just no way that anything from that could impact that well.

MR. DUNNE: Now you know that Mr. Allen also stores on his property certain landscape materials such as soil, stone, mulch and these types of materials. Also has landscape equipment including trucks and some heavy construction equipment like loaders or backhoes. Does the existence of these items on this property in any way affect your opinion that his use will not in any way affect any of the surrounding wells you've identified?

MR. NEUFFER: No, those…that equipment and those…that type of material would still not impact the well.

MR. DUNNE: You're familiar with the property that has the parking area up to the other side of the property. Are you familiar with that site?

MR. NEUFFER: Yes.

MR. DUNNE: And the plan is to have quarry processed or crushed stone, gravel as the surface there as opposed to macadam and the purpose of the use there or the use proposed there is for storage of truck vehicles and (inaudible) equipment in that location. Do you foresee any problem with the….from the ground water that it affects these wells by the storage of that equipment on that site if it's surfaced with gravel as opposed to macadam?

MR. NEUFFER: No. There wouldn't be any significant discharge that could potentially impact the wells.

MR. DUNNE: Can you base that on the same factors you were to testify to with regards to the location of the Kirk Allen part of the property?

MR. NEUFFER: Yes, it's similar situations…depth to ground water, distance to the well and depth of the well. The well head.

MR. DUNNE: Anything else you'd like to add for the Board's edification in this matter regarding the ground water issues and the well.

MR. NEUFFER: No, just that the type of operations there that there's no foreseeable way that it would impact the municipal wells.

MR. DUNNE: Alright, I have no other questions for the witness…if the Board has any questions.

MR. WEISS: Chuck, go ahead.

MR. MCGROARTY: Mr. Neuffer, last meeting we went over the list in the Well Head Protection Ordinance of prohibited uses and I think as I recall the applicant agreed or Mr. Dunne has represented that whatever's on that list of prohibited uses would not be stored back in that area that you were just describing with the gravel cover. Is there anything other than that in your expert opinion that should not be located there, especially if you're going to have gravel surface versus some impervious cover due to the proximity of the well. I mean is there one or a list of things that occur to you that it would say it just definitely should not be back there?

MR. NEUFFER: The only thing that would come to mind and it's not proposed to be back there would be significantly large tanks holding hazardous materials which I don't think is being proposed there. As far as the equipment and materials – it was testified that possibly construction materials or things like that or wood no none of those materials (inaudible).

MR. MCGROARTY: I don't know if you heard the testimony if you were here. I don't remember but you don't see any reason why if the Board takes the position that the items on that list…they're not permitted back there. You would have no reason to object to that condition?

MR. DUNNE: Mr. McGroarty, you mean other that the things you've already testified to? He's seen the items on the list are things we've already testified to such as the existence of the landscape materials and the trucks, equipment…

MR. MCGROARTY: Well, the reason I ask is because I recall…I thought I recalled a discussion of trucks that might be like fuel tankers in there and they may or may not be full and I don't know if they were going to be back there. I don't remember and I don't know if that would influence your opinion at all.

MR. DUNNE: First of all I don't know that there's any plan to park any and I don't think you can park a full fuel oil tank anywhere but in this case as far as I know there's no plan to (inaudible) a fuel oil tank in the back of that property. We don't want that.

MRS. NATAFALUSY: He's going to have to come up to the microphone.

MR. DUNNE: I guess the question…

MR. KAPLAN: For my own information would that pose a problem if there was…say a guy had an oil tank (inaudible) Region Oil or something like that. Region Oil wouldn't park there but I mean oil companies would that be a problem if there was a tank or like that there.

MR. DUNNE: Are you proposing that you'd want to possibly include that as (inaudible)?

MR. KAPLAN: No, I was just kind of curious.

MR. DUNNE: Well, let's not be curious. Let's just decide what we're going to do.

MR. MCGROARTY: Well I thought that came up as a possibility last time which is why I

MR. KAPLAN: No I don't have a problem or if he has a problem with it.

MR. DUNNE: Chris, your concern is and I suppose if there was a fuel oil tanker parked on site – it was full and the tank broke or ruptured that would be a problem right.

MR. NEUFFER: Yes.

MR. DUNNE: But it would be a problem that – let me ask you this – you really think that would ever reach these wells?

MR. NEUFFER: I still don't think it would reach the wells.

MR. DUNNE: Something you wouldn't want, certainly anywhere. But it's not going to reach the wells, its going to be cleaned up on the surface before it goes anywhere. This is a site that's always occupied. People would see an oil spill like that on the site. It would sit on the surface and it would be cleaned up. I don't think there is any proposal with regard to it but I don't think there's any need to make a restriction.

MR. WEISS: Gene wanted to..

MR. BUCZYNSKI: If Chuck's finished.

MR. MCGROARTY: I am thank you

MR. BUCZYNSKI: Just to reiterate one thing we spent a lot of time last meeting on and bring it up again, and I think the Board was going to make a condition that all the areas of storage materials are going to be paved and not just QP.

MS. COFONI: I have that its all trucks I think Gene. Any areas where vehicles are stored must be paved.

MR. BUCZYNSKI: right

MS. COFONI: Oh, no no your right. All storage areas must be paved. No your right.

MR. BUCYZNSKI: That was discussion and the Board agreed to it at the time.

MR. DUNNE: I think that was only as to back lot it wasn't as where we put equipment or things.

MR. BUCZYNSKI: I don't believe so.

MR. DUNNE: That's my recollection of it.

MR. BUCZYNSKI: that your position that's not my position.

MR. DUNNE: Gene we were going to just store equipment and not trucks in that across the street and the idea there was that could still not be a paved area.

MR. BUCZYNSKI: where??

MR. DUNNE: Across the street – closer to the NY folding box building. Not in the back where you – I think you were talking about the back area.

MR. BUCZYNSKI: We talked about the back and then we talked later on – and I mentioned that I think all the areas should be paved because of conditions on that site – clean the site up – I think it makes more sense to have the areas paved. I thought the Board agreed but if the Board wants to reconsider that that's fine too.

MS. COFONI: I do have that as a condition.

MR. DUNNE: Everything?

MS. COFONI: Yeah, all storage areas must be paved.

MR. BUCZYNSKI: You can always listen to the tapes.

MR. DUNNE: Well that's ok. we don't want to pave as much as we cannot pave. It's very expensive to pave so we are trying to avoid that but we will comply with what the Board's requirements are – of course we have no choice.

MR. WEISS: We are referring to – according to this A-6 exhibit – you listed sixteen areas for storage and equipment. And I believe that all sixteen areas where subject to the paving.

MR. BUCZYNSKI: I believe so.

MR. DUNNE: Are there any other questions for Mr. Neufer?

MR. WEISS: Anybody else – anybody from the Planning Board have any questions for Mr. Neufer.

MR. BUCZYNSKI: You know to make it – a little bit of compromise – but the areas of Phase – you got Phase I you got Phase II. And the Phase I certain areas are going to be storage areas and the Phase II won't be used as storage areas.

MR. DUNNE: Maybe the phases are getting confused – because the map is – I'm not sure what you mean. Phase II is where that rear building is now. We are not – we've changed that- if you recall.

MR. BUCZYNSKI: In the back.

MR. DUNNE: In the back. that's going to be Phase II.

MR. BUCZYNSKI: is that run all the way. Ok that green is what phase II is going to be – just that one building then.

MR. DUNNE: Yes.

MR. BUCZYNSKI: ok. all right. So all the storage area is in phase I.

MR. DUNNE: yes everything is in phase I.

MR. BUCZYNSKI: ok. that won't work. Ok.

MR. DUNNE: nice try – thank you.

MR. SCHAECHTER: I have a question.

MR. WEISS: go ahead Brian.

MR. SCHAECHTER: when you are making mulch and you are the dyeing the mulch a color. Is the dyes or the stains that you use would that steep through.

MR. NEUFER: My understanding is all those dyes are non toxic. But I don't know if Mr. Allen's plan on dyeing.

MR. ALLEN: I am not dyeing on site.

MR. WEISS: hold on Mr. Allen has not been sworn in so maybe Mr. Neufer you can answer that question.

MR. NEUFER: My understanding is that he wasn't planning on dyeing.

MR. DUNNE: materials.

MR. NEUFER: materials.

MR. WEISS: any other questions of Mr. Neufer. Chuck?

MR. MCGROARTY: no thank you.

MR. WEISS: Tiena?

MS. COFONI: Yes. beyond the distance factor with regard to the wells, are there any other reasons that would support the fact that any potential contaminants wouldn't reach those wells? Because to me it seems like the distance isn't an issue because the ground water – what was the protection area called? Ground water – wellhead protection area? Has already been determined. So the fact that its however far from the wells that's already been determined by someone other than us. So that's kind of off the table as far as a reason why the wells wouldn't be affected. Because it's already been determined that for whatever reason this area is a concern for those wells. So is there another reason beyond that as to why any contamination on site wouldn't affect those wells.

MR. NEUFER: Yes. well one would be the proposed use materials equipment would not have an impact that would be anticipated to even impact the immediate ground water which would be 30 feet below grade. So you're talking not only the distance but discount the distance you still have the vertical distance between the soil surface and the ground water. So you have 30 feet that contaminants would have to travel down and then they would have to – once they hit the ground water they would still need to migrate vertically within the ground water because the wells are 225 – the closest well is 225 feet deep so its pulling water from below 200 feet. So you got potential contaminants if there were any hitting the ground water – take a lot to go down 30 feet – and then typical contaminants are not heavier than water so they don't migrate vertically down to 220 feet. So it would have to go – would have to vertically migrate within the ground water 170 feet down.

MS. COFONI: You said they were not heavier?

MR. NEUFER: right. Typically gasolines, oils they are all lighter than water and they stay on the surface.

MS. COFONI: ok.

MR. WEISS: OK. so I will open it to the public. If anybody from the public has any questions for Mr. Neufer based on the testimony delivered tonight. Mr. Selvaggi…

MR. SELVAGGI: Good evening. I'll make this quick because I know Mr. Dunne wants to try to finish tonight. Is Kirk Allen's operation a Class B recycling center?

MR. NEUFER: No he is going to be exempt from – it will not be operated as a Class B.

MR. SELVAGGI: Why – what's the rationale for the statute that prohibits Class B recycling centers from operating in a well head protection area.

MR. NEUFER: I don't know.

MR. SELVAGGI: Have you had an experience both in private practice and I know when you were – my notes indicate I guess you work with the DEP with operations in well head protection areas.

MR. NEUFER: Yes

MR. SELVAGGI: OK. with recycling centers or no, if you recall.

MR. NEUFER: I've done a number of recycling centers. I don't know if they were in a protection area.

MR. SELVAGGI: Do you know what qualifies as a Class B recycling center.

MR. NEUFER: Yea, it's a certain quantity I believe of materials that are processed.

MR. SELVAGGI: Now Mr. Allen's operation is exempt because it doesn't have the quantity. Correct.

MR. NEUFER: I believe that's going to be the case, yes.

MR. SELVAGGI: Now is it the quantity then that triggers the concern about a well head protection area issue or is it the products that are being recycled.

MR. DUNNE: I'm going to have to object to that – that calls for a conclusion as to the legality and determination of the language of the law – it's a legal question.

MR. SELVAGGI: Well your expert indicated that he is familiar with this and as prior (inaudible) were for the DEP – I mean I'll leave it to the Board attorney.

MS. COFONI: what do you me to interpret I can't answer the question.

MR. DUNNE: a legal conclusion.

MR. SELVAGGI: the objection is that this calls for some type of a legal conclusion. My question was when the statute prohibits Class B recycling centers is it based on – the quantity of the material solely or is it the types of materials that are being used. And maybe he can't answer it.

MR. DUNNE: you talking about the ordinance.

MR. SELVAGGI: No the statute and the ordinance is based on the statute.

MR. DUNNE: the ordinance identifies materials independently and talks about Class B recycling – so it seems to be both.

MR. SELVAGGI; ok – is that your answer Mr. Neufer or is that Mr. Dunne's.

MR. DUNNE: I'm a lawyer – I read it so I know what it says.

MR. SELVAGGI: ok. so and here to stop playing these word games – if in a recycling center does it really matter if its classified as recycling center B or not – because it ultimately the material that we are worried about impacting the well head protection area.

MR. NEUFER: Well I don't know why a Class B is not permitted in the well head protection area or those uses because the material that is going to be there is not going to impact the ground water. So

MR. SELVAGGI: regardless of the quantity?

MR. NEUFER: Regardless of the quantity.

MR. SELVAGGI: ok. that was – kind of – I wasn't even trying to be adversarial because listening to his testimony it seems that no matter what he is doing there – regardless of the quantity – your opinion is that it's not going to impact the well head protection.

MR. NEUFER: correct.

MR. SELVAGGI: All right – that's all I needed. Thank you

MR. WEISS: Thank you Michael.

MR. MCGROARTY: Mr. Chairman, I did have one other question. Mr. Neufer just on your report, I forgot to ask sorry. The April 15, 2015 report you indicated that Kirk Allen Trucking proposes to accept asphalt and concrete pieces for staging on site prior to trucking – off site for recycling. '

MR. DUNNE: That's withdrawn. We are not doing that.

MR. MCGROARTY: that's what I was going to ask.

MS. COFONI: ok. where is that.

MR. MCGROARTY: So in the report that indicates that's modified to that extent. So on page one of Mr. Neufer's report where it talks about asphalt, concrete pieces. So there will be none

MR. DUNNE: nothing in asphalt or concrete.

Mr. MCGROARTY: Are there any – is there any on there today – do you know.

MR. NEUFER: I haven't been there recently. When I was there last time there was none.

MR. MCGROARTY: ok. thank you Mr. Chairman

MR. WEISS: I don't know if I completely understand this Class B and maybe it doesn't matter. You said its not a Class B. correct.

MR. DUNNE: Yes. because it's exempt they have limited amounts that they take on site over time. It's exempt from being Class B – if it goes over that it's a Class B recycling facility – which means a lot more regulation than an exempt – so the limitations on use will be applied to this site. And he already has been in contact with the County to get this permission. But he can't go to the County to get the exemption until he gets a site plan approval. So we are here to get a site plan approval so we can apply to the County. He doesn't bring this recycling fill on site – he can't – no there at all.

MS.COFONI: So, you are not seeking a use variance from the well head protection area?

MR. DUNNE: Of course we are, the materials are independently listed under the Tier 1

MS. COFONI: Oh, ok. sorry. I lost sight of that.

MR. DUNNE: (inaudible)

MS. COFONI: oh, ok. I thought there was a reason we were still looking for a use variance from that.

MR. MCGROARTY: Well, that, and also the ordinance amended

MS. COFONI: a regular use variance.

MR. DUNNE: The ordinance specifies yard waste as one of those materials that are in the well head protection prohibition area for some reason that I don't understand.

MS. COFONI: ok. I think I have it.

MR. WEISS: This is confusing.

MR. DUNNE: It is but if you look at the administrative code it breaks out the quantities that you are allowed to have

MR. WEISS: So its really based on quantity more so than the type of material that's there.

MR. DUNNE: Yeah

MS. COFONI: No its both. You're saying it's the type of material that requires the use variance from the well head protection area.

MR. DUNNE: And the quantity.

MS. COFONI: Yeah right but you are not seeking quantity because you're not going to be a Class B.

MR. DUNNE: We are going to be under that number.

MR. SCHAECHTER: What's that number?

MR. DUNNE: I'll have Mr. Allen testify to that. I have the numbers – 7,500 cubic yards of unprocessed material and 7,500 cubic yards of processed material to be kept on site for up to a year and (inaudible) yard trimmings exceeding 10,000 cubic yards per year. That's my understanding of NJ Administrative Code 7:26A-1.4.

MR. MCGROARTY: May I Mr. Chairman.

MR. WEISS: Sure Chuck.

MR. MCGROARTY: Mr. Dunne, if Mr. Allen will testify then that's fine. I was looking at that too and the material storage shall not exceed one year and then there's the cubic yard limit. Do they go together?

MR. DUNNE: Yea. Well I mean they are top on each other. Ones processed and ones not processed.

MR. MCGROARTY: Right, so the material that has been on the site, has been there for, has it been there for more than a year.

MR. DUNNE: That's not processed material. That's not the recycling material. That's just dirt. It's different then recycling material. That dirt comes from soil sites.

MR. BUCZYNSKI: Talking about the embankments.

MR. DUNNE: comes in and is brought in to be screened and sold as soil. That's different then compost.

MR. WEISS: Well, I had it open to the public. I see no one else from the public. Mr. Neufer. I'll close it to the public.

MR. DUNNE: All right Mr. Ploussas. Chris, thank you very much. Greg, I'm going to bring the map up here.
MS. COFONI: Mr. Ploussas you already testified in April I have that down, right?

MR. PLOUSSAS: Yes.

MR. WEISS: Yes, the 16th

MR. DUNNE: Mr. Ploussas is still under oath and his qualifications have been accepted by the Board many times. Mr. Ploussas is basically here to testify to the changes that have been made to the site since he last testified, since he modified the site, the phasing and add that little building to the north near the Stanhope water. Mr. Ploussas I'm going to turn this over to you initially to give a narrative respecting the changes that you have made to the plans since you last testified.

MR. PLOUSSAS: I think the easiest way if the Board could open up the revised site plan, revised August 18, 2015 and turn to Page 5 and basically the existing building was called (inaudible) building number three on the north end of the project at eleven feet off the property line and that's the Stanhope wells.

MR. WEISS: Is this a new exhibit?

MR. DUNNE: It's been submitted as part of the record.

MS. COFONI: There is no changes to it from what we have? The plans that's been submitted.

MR. DUNNE: The August 18 is revised.

MS. COFONI: Ok. just reference the plan and the sheet then.

MR. PLOUSSAS: Let's start with page 6. The existing steel building in the corner there to the north. Part of there existing variances to the rear yard and side yard. They were testified to before, but in any event that building is 5,656 square feet. And as Mr. Dunne said there is an error on the plan, that is now Phase 1 and what we have done in order to include this building now is we've shown the existing two parking spaces that are out there now in front of the building, he is actually striping them, the pavement exists and we are also noting the paved loading area that exists to the south of the building and the existing concrete loading dock and QP driveway that serves it. Those are all existing. But on the previous plan they weren't noted. So nobody could see them. So only thing new there is the striping. In addition to that we are now proposing to connect this building into the existing septic system via a 300 foot long sewer lateral which is shown on the plans which is of course subject to Board of Health approval.

MR. BUCZYNSKI: Can I just interrupt you Greg. I'm sorry. Regarding that I know you met with Board of Health yesterday. Did they tell you about any concerns they had regarding that connection - 300 feet - adding a tank within that line because that's what they told us the other day.

MR. PLOUSSAS: No, their only comment was that when the time comes we have to provide them with calculations that the system has enough capacity – tank and the fields.

MR. BUCZYNSKI; ok. Because Mr. Stalhut mentioned to us there is concern between foot distance and they are going to have to discharge into tank before it goes towards the septic system. But that subject to.

MR. PLOUSSAS: that will work out with them. If they want another septic.

MR. BUCZYNSKI: I just wanted to see if they had mentioned it to you or not.

MR. PLOUSSAS: No, no. their only concern in our meeting was to make sure that the system, which is a new system, was put in about two years ago, had the capacity – I don't know if the board remembers or even cares, we are switching around the septic system. What lot is being served by what system and is part of the subdivision which of course is subject to Board of Health approval. So those are the changes on page six which are minor. Go back to page five just to make it complete, shows the remainder of the sewer lateral tying into the existing sewer lateral. Now if as Gene indicates another septic tank is required we will put in another septic tank. I also believe that this can be done by gravity but honestly

we don't have all the grades figured out yet, if we need a small ejector we will put an ejector. We are talking about a small building with – based on 95 percent warehouse which is about 5,376 square feet which you might have two employees tops – one more than likely. And a small office 280 square feet – another employee. So you are talking possibly two or three employees. So the sewerage flows are minimal and I did one calculations to give to the Board of Health which at this point they have not reviewed that that's system can handle this system with everything else that is proposed. The next change.

MS. NATAFALUSY: What's this building? Is it the NY Folding Box building you are talking about or the small building.

MR. PLOUSSAS: The small 5,000 square foot building. In addition, we added another sheet – sheet number eight and showed some additional lighting to get down to this accessory building – we are adding three additional lights along the driveway and two building mounted lights. I believe the board had asked that question.

MR. DUNNE: There are regular utility service in that building too. Water lines..

MR. PLOUSSAS: Yes. After the last meeting, the Planning Board Engineer went out and visited the site. I believe it was July 10, I had a report from Gene dated July 10. In that letter after consultation with Sheila Hall of the MCSCD he indicated that we should consider installing super silt fence around the perimeter of the soil area and also additional erosion control at the inlets. There is three inlets that are adjacent to the soil stockpile and we were only showing hay bale silt protection. They wanted us also to add what's called an inlet filters. Which is filter fabric over the grate. So we are having double protection. And we agreed to do that and its shown on the plans. Those are the changes to the site plan since we were here last. There is also a minor subdivision map that is up there – we are asking the Board to consider subdividing the property into three lots with certain variances which we went over last month and unless the Board wants to go over again but as part of the subdivision application we are asking for a waiver of the requirements to do soil borings and test pits now. Your ordinance has a checklist requirement requiring soil borings and test pits. We are asking you that for that two reasons, one we are not sure how the Board is going to act on this application, number two there have been soil recent soil borings done on the site. I'd like to pass around to the Board a copy of – about two years ago soil logs and borings were done by Nick Wunner which was submitted to the Board of Health as part of the septic.

MR. WEISS: We are going to mark this A-7.

MR. PLOUSSAS: At the same time let me pass out, I downloaded the MCSCD soils maps.

MR. WEISS: Mark this A-8.

MR. PLOUSSAS: The board can see.

MS. NATAFALUSY: Did you say this was from two years ago?

MR. PLOUSSAS: Approximately two years yeah.

MS. NATAFALUSY: Mr. Chairman, this is A-8?

MR. WEISS: Yes, the soil map from Morris County – the photograph is A-8. Morris County Soil Survey is A-8. Your soil log is A-7. Okay tell us about these.

MR. PLOUSSAS: Okay. There were three soil logs taken – I was going to say roughly in the middle of the site where the new septic system is installed. The logs went down ten feet – all three of them – and what's important is A. there was no bedrock, there was no seepage of ground water and there was not modeling of ground water. Okay those are three things that are very important in septic design. In addition, the type of material, and I'll read only the first log, the first twelve inches of top soil, the next twelve to 66 inches, is dark brown sandy loam with 15 percent gravel and ten percent cobble. It's structure is granual – then from 66 inches to 78 loamy sand 15 percent gravel, five percent cobble, then 78 to 120 (inaudible) sand – 10 percent gravel. These soils are ideal for septic system. Matter of fact its so ideal that a soil sample was sent out to a lab to do a permability test and it came back K4. Now if the Board believes nothing K4's but K1 is the worst soil and K4 is the best soil. Okay from the soils view point at that location the soils were great. The next exhibit A-8 is the Morris county Soil map, and the majority of the site is either urban land which on the map is UR or rockaway sandy loam – on the map is

ROBCD – and why is this urban land? Well its classified as urban land because it was disturbed many years ago. But you can see from all these soil types around it that the urban land is going to be – is really underneath is the rockaway soils. And I'm just supplying this to the Board to show them that the soils basically in the areas of subdivision and septic are uniform so that we very strongly believe that we will get the same results. So what we are asking for a waiver with some knowledge of the site that we do know the site will be able to handle a individual subsurface disposal system.

MR. DUNNE: In other words, we would like to ask that to be a condition of any grant – if there is a grant.

MR. PLOUSSAS: If the Board wants like to grant it subject to us doing soil logs absolutely (inaudible).

MR. BUCZYNSKI: If I could just add, the Health Department had serious concerns regarding the Board granting approval without soil logs on each of the lots to prove that you could install an acceptable septic system. They met with them and there is the report, I'm sure you will be getting to it, September 16 had a couple of conditions from the Health Department. I'm not sure if the Board all has a copy of it, but I think those two conditions if they were acceptable to the applicant, then I think I'd have no problem with the Board waiving the percolation tests at this time – the soil logs at this time.

MS. COFONI: Just one clarification, at least in my opinion, oh well they say prior to issuance of final subdivision approval. This would be a little different. I wrote down as a note, prior to perfection of the subdivision or issuance of the first building permit.

MR.BUCZYNSKI : We talked today too. The fact that its not a final subdivision – it's only one approval it's a minor subdivision.

MS. COFONI: so those would have to be done and approved by the Health Department prior to perfecting the subdivision and/or issuance – because there is going to be building permits issued here too right?

MR. BUCZYNSKI; No.

MS. COFONI: Because they are all existing buildings.

MR. BUCZYNSKI: The only building permit would be when they do the next building.

MR. WEISS: Phase 2

MS. COFONI: Phase 2 – so they would need it before that. Could do that phase 2 building.

MR. BUCZYNSKI: Is that Phase 2 – that's not Phase 2 the other building –

MS. COFONI: all right. So I'm going to leave in prior to first building permit then.

MR. DUNNE: that's fine.

MR. BUCZYNSKI: Are you in agreement with those two items, as far as installing the septic system too.

MR. DUNNE: Well we were a little bit resistant to the installation aspect of it but according to our client they intend to do that right away anyway, so we can agree on that.

MR. BUCZYNSKI: So based on that I have no concerns for the Board waiving that requirement, subject to those conditions.

MR. WEISS: conditions are noted on the September 16 board of health

MR. BUCZYNSKI: report from the Board of Health.

MR. WEISS: There is two conditions. This September 16 report will supersede those recommendations from August 26?

MR. BUCZYNSKI: Yes.

MR. WEISS: okay. So the recommendation from August 26

MR. BUCZYNSKI: recommendations from the Health Department

MR. WEISS; Yes.

MR. BUCZYNSKI: yes, this will supersede that.

MR. WEISS: perfect.

MR. DUNNE: All right now. I want to know if there are any other questions for Mr. Ploussas before I ask him to step down. Particularly from Mr. Buczynski or Mr. McGroarty or any member of the Board.

MR. MCGROARTY: None from me thankyou.

MR. WEISS: Anything from the board. At this point let me open to the public. If anyone from the public has any questions for Mr. Ploussas based on testimony given tonight now will be the time to ask. And I'm seeing none from the public. Greg thank you very much have a good night.

MR. DUNNE: Mr. Allen you want to come up please. I don't know if you've been sworn in.

MR. ALLEN: I don't believe I have.

MS. COFONI: Do you swear the testimony you give will the truth and nothing but the truth so help you God.

MR. ALLEN: I do.

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

MR. ALLEN: Kirk Allen, business address is 20 Continental Drive, Stanhope, NJ.

MR. DUNNE: All right, Mr. Allen you are the owner of Kirk Allen trucking is that correct.

MR. ALLEN: Yes.

MR. DUNNE: And the location of Kirk Allen trucking is shown on the map which is identified on the wall there as the proposed site plane. Can you point out to the Board what area of this site you lease from Waterloo Road Development co. Step up there and point it out to him so everybody understands.

MR. ALLEN: This area here is where my stockyard is.

MR. DUNNE: Indicating the lower right hand quadrant of the map from the extent of the south side of the building to the setback lines on Waterloo Road and the setback lines on Continental Drive. That be an adequate.

MR. WEISS: Yes, southwest section of the property.

MR. DUNNE: Want to come on back. How long have you been operating there.

MR. ALLEN: I've been on site now for a little over six years.

MR. DUNNE; And this was the object a search you made for some time to find a relocation for your building. Is that right?

MR. ALLEN: Yes it was. Matter of fact about six years ago I came to see Catherine and we laid out a map of all the different industrial zones that we thought would be suitable for my business and Kaplan's area was one of the few, there were very few industrial areas in Mt. Olive.

MR. DUNNE: And what is the. You have approval for a business in that location already right.

MR. ALLEN: I do.

MR. DUNNE: and what is that you have approval for that you now do there.

MR. ALLEN: I have approval for storing landscape materials, processing landscape materials, such as soils, and distribution and intake of the product.

MR. DUNNE: So, on that site, you had equipment?

MR. ALLEN: I do. I have a top soil screener, I've got two loaders and I've got nine dump trucks.

MR. DUNNE: Now there is some disagreement about whether the soil separator is part of your approval or not – has it been there the entire time since you started this operation?

MR. ALLEN: It was brought there as of day one. It was moved from another site to this site. It was discussed but briefly in my very first approval. I think it was almost like a side note at the very end of our approval. They asked me how I was going to screen or sort the materials. I think sort was the word that they used which we usually use screening so that stood out.

MR. DUNNE: Well regardless of whether or not it's part of the approval, it doesn't actually appear in the resolution of approval. Are you asking for permission to keep that there now if it wasn't approved before?

MR. ALLEN: If it was not approved, I would like to get approval on that as well.

MR. DUNNE: And that is located between the large soil pile along Waterloo Road and the other materials stored to the north, is that correct?

MR. ALLEN: That is correct?

MR. DUNNE: All right now. You are proposing to add what to this site?

MR. ALLEN: I would like to add a Morris County approved exempt recycling facility. It's going to be low in stature. I know there is some questions about Class B – Class B is a huge undertaking. It would require a lot more space than I have and it would require a lot of money to do, and quite frankly, I'm not looking to become a major recycling company. It is a need that my clients have and they need a place to dispose of wood products, leaves and grass. And its getting harder and harder for them. There no places around and the reason the Counties allow for this to happen, excuse me for going on a little bit, is because the fact of the matter is with the exemption you are only allowed to bring in a certain amount so the County wants all these different areas, so more and more product can be taken and recycled under County guidelines. Class B recycling facility no one wants to put the kind of money it takes to put them out and have that property. It just isn't feasible.

MR. DUNNE: Are you encouraged by representatives of Morris County Solid Waste disposal agency to do this operation?

MR. ALLEN: I am. I did start doing this thinking I was doing the right thing. I stayed within the county guidelines. Unfortunately I wasn't approved. So they came to me and I was fined. I was fined by the County, the County basically told me that they would require me to go out and get the exemption. They felt that my company was already in a process of doing what we are doing as far as the recycling. They felt we were a good candidate for it. So we went for the exemption. Once the exemption came to the town, the town then said you are not approved to do this type of work here. So that brings us here.

MR. DUNNE: And what exactly, what products exactly are you intending to add to your site to recycle.

MR. ALLEN: We would like to recycle brush and wood parts, no stumps, pretty much from the stump up, leaves and grass.

MR. DUNNE: And how do you process that.

MR. ALLEN: The brush and wood parts would be ground down to a mulch and the leafs and grass would be composted into a screen top soil.

MR. DUNNE: So what is the time period over which that generally takes place and how does it take place?

MR. ALLEN: The grinding pretty much we would have to have at least 1,000 to 1,500 yards worth of grindable materials to make it worthwhile so it would be cost effective for us.

MR. DUNNE: You mean to bring in a grinder.

MR. ALLEN: To bring in a grinder, yes.

MR. DUNNE: Because you lease a grinder, right and bring it in.

MR. ALLEN: I lease a grinder that comes in for about two days and it will grind me down roughly 1,500 to 2,000 yards of mulch.

MR. DUNNE: And how often do you have to do that during the busiest time of year.

MR. ALLEN: With the county guidelines I'm only allowed to grind four times a year.

MR. DUNNE: okay. So you would be limited to 4 times a year – for two days at time or three days. Or is it not limited.

MR. ALLEN: It doesn't give you a limitation on how long you can grind but obviously you can only grind what I have there. I can only grind 7500 yards is the maximum material I can have at one time. So that would be the limitations that I can grind four times a year.

MR. WILPERT: Is that exclusive of dirt or stockpiled dirt and the ground material or is it separate.

MR. ALLEN: no wood product alone is 7500 yards. The compost is 10,000 yards per year. Now, there is a grey area here. And I will be straight up with you. There is a grey area here. 10,000 yards in the lot at one time. If I can process 100,000 yards and only keep it limited to having 10,000 at one time, I can do that. Under the county guidelines. As long as I don't have over 10,000 yards.

MR. DUNNE: Well whatever you do there is supervised by the county in any event is that correct.

MR. ALLEN: yes it is supervised.

MR. DUNNE: And you have to act within your exemption pursuant to the Administrative code.

MR. ALLEN: Yes.

MR. DUNNE: All right. And you are not planning on having asphalt and your name planning on having concrete.

MR. ALLEN: No we have decided against it.

MR. DUNNE: And where is this tub grinder going to be operated. What part of the site would it be on when you bring it in or is it always within a certain area.

MR. ALLEN: Well, if I may. Our thoughts were with the approvals of another variance we are looking to do is this back – this front corner here we would like to bring in and store brush and the composted soil. As I said before, you have all had an opportunity to visit my yard. You probably saw remnants of where compost had been at one time and where some wood chips and brush had been at one time which has all been cleaned up by the way.

MR. WILPERT: mr. Chairman.

MR. WEISS: yes, Frank.

MR. WILPERT: I have another question. Have you guys given thought to moving the operation towards the back section of the property where Mr. Kaplan wants to have storage – it's a larger area – its 1.48 acres compared to you are just under and acre currently for your yard. Have you any thought about moving?

MR. ALLEN: Well, it isn't available for one.

MR. WILPERT: It's not available.

MR. ALLEN: Not to me no.

MR. WILPERT: Why is it not available?

MR. ALLEN: I think probably because I'm already settled in. I've been there for six years and Frank you probably know as well as anybody I've moved my yard four times in the last sixteen years. It's a huge undertaking. And with the money I have invested right now just to try to for this undertaking we are going, I might as well have moved the yard. So right now I am way behind the eight ball with what I've (inaudible) into this. This is our fourth meeting on and this is the first time I got to actually talk to you. So I've been chomping at the bit just wanted to get a couple of.

MR. WILPERT: My take is - is now we are seeking a variance for a tub grinder whatever, where we may be able to relocate your operation, where you will eliminate the use for a variance.

MR. DUNNE: But his lease site is limited to area that he has a lease on. He is not permitted to go outside his lease area.

MR. WILPERT: I understand but.

MR. ALLEN: If I may. The tub grinder is a temporary to grind. It's not going to be there all the time, so it only comes in when it's time to grind. So when I get to a certain point, where I feel its feasible, to produce a certain amount. Obviously it doesn't make sense for me and this may be a good reason to keep me in an area like I am because I can only get so big. I can only carry so much product within the space I'm in. I'm happy with the space.

MR. WILPERT: but you have expanded and gone above and beyond with your stockpile.

MR.A LLEN: Yes.

MR. WILPERT: Right.

MR. ALLEN: And I would like to discuss that too. After when we get to that. But that will be another point of limitation with the size of the lot. And as I said the grinder comes in for a few days, grinds up whatever I have, and my space is reopened for more product to come in.

MR. DUNNE: All right. Do you have an estimate of the open space available currently between the existing stockpile of soil which is now parallel to Waterloo Road and the other soils which are between that and the building.

MR. ALLEN: The space between the fill pile

MR. DUNNE: the operating space that you have for your soil separator and this tub grinder.

MR. ALLEN: the operating space right now is 180 feet from the edge of the fill pile to the edge of my boundary line.

MR. DUNNE: And you have your soil separator in the middle of that?

MR. ALLEN: Yes, the soil separator is in the middle.

MR. DUNNE: okay. How do trucks come and go into that site.

MR. ALLEN: I have – I've got three entrances into the site. Basically, it can get tight in there. So the trucks will come in one way. It will get loaded up and then we will pull out the other. So, we kind of have a little bit of a loop in – loop out. Kind of like a drive thru so to speak.

MR.DUNNE: Well, if soil comes in to be used by the soil separator, to be processed if you will, through the soil separator, how does it get from the street to the soil separator. What path does it..

MR. ALLEN: How does it get from the street?

MR. DUNNE; Yea, you are bringing it in by truck right.

MR. ALLEN: Yes, it comes in by truck. We have stockpiles for fill. We have stock piles for raw topsoil. And then we will screen it to screen fill, or I'm sorry, screen top soil and we also screen out some track pad stone with whatever comes out.

MR. DUNNE: So it gets dumped into piles on the site and then moved by a loader into the soil separator.

MR. ALLEN: yes. loader puts it into the soil separator.

MR. DUNNE: All right. How many employees do you have on site?

MR. ALLEN: On site at

MR. DUNNE: Maximum time frame. When there is the most employees.

MR. ALLEN: The most employees will be eleven employees at one time.

MR. DUNNE: But they are not usually on the site, are they?

MR. ALLEN: Its rare – that would be the max - that's when all trucks are in the yard, and that's usually in the a.m. when we are all meeting to get going to get our first loads out. Once the trucks come back, they are in spotty. So you know they come in. They start to stagger after that. You know its rare to have all eleven pieces going at one time other than the very first part of the morning. It's like a beehive in the morning.

MR. DUNNE: What are your normal hours of operation.

MR. ALLEN: Our start time is 7:30 the trucks start up and we could go until about 6 or 6:30 – that would be on a busy day.

MR. DUNNE: and how many trucks on a busy day would come and go from the site on a given day.

MR. ALLEN: I would say between 30 and 40.

MR. DUNNE: over the course of that whole day time frame.

MR. ALLEN: Yea, and that might be – there are the same trucks coming in and out. So I mean yea

MR. DUNNE: Now there has been some anxed by the municipality concerning the fact that that soil pile is encroaching into what was the approved 100 foot setback along Waterloo Road. You are aware of that right?

MR. ALLEN: I am aware of that.

MR. DUNNE: would you like to tell the Board how that came to be – that it was there.

MR. ALLEN: Well, when I first moved there, I made a mistake of thinking that Waterloo Road was a side section of the property. I thought that was a side road, so I went specifically off 50 feet off the side of the property, 100 feet off the front of the property. I came to realize when I went to go for this variance for the recycling that that was a 100 foot so it was a surprise to me, there was some talk I may have to move that back 50 feet. It's a major chunk of my space. I measured it out and it would be a third of the rental space that I would be having to lose if I have to.

MR. DUNNE: So how is it that you measured the distance from that 50 feet setback yourself.

MR. ALLEN: I measured.

MR. DUNNE: when you thought it was 50 feet.

MR. ALLEN: I thought it was 50 feet. I measured 50 feet from the edge of the road on the side of Waterloo Road, I measured 100 feet from the Continental Drive.

MR. DUNNE: Now you realize of course that the 50 feet is not from the pavement, its from the setback (inaudible).

MR. ALLEN: I did not have any kind of paperwork. I basically. This what was told to me where the setbacks. No not setbacks, this was my boundary lines.

MR. WILPERT: Who told you the boundary lines?

MR. DUNNE: I was informed by the landlord.

MR. MCGROARTY: Mr. Chairman, may I ask just a question.

MR. WEISS: Chuck go ahead.

MR. MCGROARTY: Mr. Allen, did you have the plan that was approved for you in 2010 by this Board prepared by Mr. Ploussas. Did you have the site plan?

MR. ALLEN: I may have gotten it after.

MR. MCGROARTY: It was your site plan, it was your site.

MR. ALLEN: Yea, I didn't come in for that approval. I was here for that approval, that was done by my landlord.

MR. MCGROARTY: Well you did. It was for Kirk Allen trucking.

MR. ALLEN: Yes, that's correct.

MR. MCGROARTY: And the resolution was adopted in January of 2010 and the site plan shows your boundaries.

MR. ALLEN: yes.

MR. MCGROARTY: and so it's your testimony that you had no knowledge of that site plan or you didn't have it around.

MR. ALLEN: I didn't have it in hand. You know it wasn't part of my property. It was the landlord's paperwork, it was the landlord's paperwork – it was not my paperwork. I was a tenant at the time. I think I'm going way over and beyond a tenant's responsibility at this point to get these variances through. I mean I'm making changes to.

MR. MCGROARTY: Well that's not what I asked you Mr. Allen. I just asked you – you said you had no information – the board approved the site plan – your testimony is you didn't have the site plan or you had no – or you didn't use it when you laid out your site.

MR. ALLEN: I asked for the information and the information as told to me verbally.

MR. MCGROARTY: Thank you

MR. DUNNE: Anyway, you now realize since that came to your attention that you are in that 50 foot setback.

MR. ALLEN: I do realize that now yes. I am in the 50 foot setback.

MR. DUNNE: In fact,

MR. ALLEN: excuse me. I am in the 100 foot setback by 50 feet.

MR. DUNNE: Now, you are asking the Board to grant you permission to keep that or put a soil pile within that 50 feet –

MR. BUCZYNSKI: well it's more than 50 feet.

MR.D UNNE: I'm sorry

MR. BUCZYNSKI: It's less than 50 feet setback. Per the plan, he as close as 35 feet.

MR. ALLEN: With the Board's approval, I would like to ask for a 50 foot setback.

MR. DUNNE: And the rationale, the way you are going to monitor that – is what is your proposal to monitor that by way of boulders - whatever.

MR. ALLEN: Well, we would like to put a row of boulders across the back of the pile at 50 - actually I will probably do it at 52 feet so the boulders will be on my side and there would be silt fence in there. To be honest with you I really would hate to disturb the area. It's within Morris County Soils guidelines. I've done what Sheila Hall has asked me to do to keep the soil tight with growth. We've hayed and seeded more than once. It's if you go by there now, you wouldn't even know that I'm there. It's well follished.

MR. DUNNE: Now you took some photographs at my request and they didn't get to be 8 by 10 but they got to be computer.

MR. ALLEN: yea, it's pretty tough to take photographs and get them quickly. So I did take a few pictures.

MR. DUNNE: I'd like to mark these – I'll mark these with Counsel's permission as A number 9 and then I'd like to mark subnumbers.

MS. COFONI: We can just say how many sheets there are if they are all together.

MR. DUNNE: ok. there are six photographs. And I only have one set.

MS. COFONI: One photo on each sheet?

MR. DUNNE: One photo on each sheet.

MR. WEISS: These are photos taken by Mr. Allen?

MR. ALLEN: they were.

MR. WEISS: when were they taken?

MR. ALLEN: They were taken yesterday.

MR. DUNNE: All right. I'm going to have him describe each one. Though there is a description handwritten on each photograph as well. I apologize for the size of these photographs but they are the best I have to offer. I'm going to have him do in bulk so he can tell you what you are looking at and I think you will also be able to reference at bottom of the page as we pass these around to the Board members what you are seeing in each picture. So why don't you start with page one and just identify it by page number as you go through and tell the Board what it is you are seeing.

MR. ALLEN: would you like me to bring it up there?

MR. DUNNE: I don't know if you can show the Board these little pictures.

MR. ALLEN: Would you like to see the pictures.

MR. FLEISCHNER: I would like to see one at least.

MR. DUNNE: why don't you just pass it around.

MR. ALLEN: I'll bring it to the Chairman – obviously – I'll just let you look through them. I wrote on what you are looking at.

MR. DUNNE: You have to testify to what they are yourself.

MR. ALLEN: The first picture is on the bank looking down into the yard. The second picture is on the bank looking down towards Waterloo Road and you will see its foliage cover. The third picture is in the yard looking out to Continental Boulevard you will see there is foliage there as well. The fourth picture is on Continental Boulevard looking into the yard – fully foliaged – you would not see any product or any equipment. The - page five is in the yard looking out to Waterloo Road. You can see that I took the bank down by at least 45 percent of when you where last visited. Not for any other reason than the

product does sell. It's a stockpile for me. And the last picture is on Waterloo Road looking into the yard. And again, you will see it's strictly foliage - you won't see any fill dirt any equipment.

MR. WEISS: Anybody need to see them – most of us have been to the site.

MR. MCGROARTY: I would like to see them.

MR. ALLEN: I can tell you that when Morris County sent me my fine, the pictures were smaller than that. That size of picture is not unusual.

MR. DUNNE: All right. You are familiar with the area around your uses is that correct.

MR. ALLEN: Oh, yes.

MR. DUNNE: Can you tell us what is across Continental Drive from your site.

MR. ALLEN: Across Continental Drive is the – I've got the Stanhope Cemetary. There is 10,000 residents there – not one of them complained yet. My other neighbor is a trucking company. And He is on corner of Continental Drive and Waterloo Road.

MR. DUNNE: And then the other uses going I guess would be east on Continental Drive – what's up the street.

MR. ALLEN: We have more trucking companies there and storage facilities.

MR. DUNNE: Is there an airport there?

MR. ALLEN: We do have a helicopter the medivac helicopter airport is there. That's exciting we get to see those helicopters a few times a day.

MR. DUNNE: How many times a day you think the helicopter – that's ambulance helicopter is that right?

MR. ALLEN: There – medivacs – that happens to be the main area for the mechanical facility so depending on what they are doing there has been days where we have seen them go over twenty times or so. They will test a helicopter out and get the helicopter working in recognition – they have to test drive it. I can tell you there has been a lot of times it's scared the living hell out of me. It really does come up on you quick.

MR. DUNNE: And what about the uses that would be to the north of your site. You familiar with those uses?

MR. ALLEN: We have the water –

MR. DUNNE: Stanhope wells

MR. ALLEN: Stanhope wells and further down we also have some hotels, and we also have the Musconetcong Sewerage facility.

MR. DUNNE: All right. Now there was some concern offered by someone about the possibility of dust and noise coming from your site. Can you describe if you are aware of any noise coming from your site. Let me put it this way. You have been there six years?

MR. ALLEN: Yeah.

MR. DUNNE: You have been operating the soil separator for six years.

MR. ALLEN: I have.

MR. DUNNE: Have you had a single complaint from anybody, about any noise or dust coming from your site?

MR. ALLEN: No. Not in the time I have been there.

MR. DUNNE: You have a street sweeper, I guess, as part of your operation. You own a street sweeper.

MR. ALLEN: I do have a street sweeping company also.

MR. DUNNE: Have you ever had to take your street sweeper out on to Continental Drive or Waterloo Road to clean up dust that has blown from your site across any of those roads?

MR. ALLEN: I have not.

MR. DUNNE: Is there any way that dust can, in your mind, absent a hurricane or tornado go from your site through the woods to get to Continental Drive?

MR. ALLEN: I don't believe so. I haven't had that occurrence.

MR. DUNNE: And you haven't seen any dust blowing across Waterloo Road from your site either have you?

MR. ALLEN: No I have not.

MR. DUNNE: All right. Have you had any complaints from NY Folding Box concerning noise or vibrations or dust of any kind?

MR. ALLEN: No.

MR. DUNNE: Do you expect your new operation – the recycling operation to create any additional noise or dust or vibrations that could affect any neighboring property whatsoever?

MR. ALLEN: I don't believe the noises will be any louder than my soil separator. You know I have done some grinds there in the past, it might be a little bit noisier but I don't think it will exceed the levels of where is would bother anybody.

MR. DUNNE: And you are aware that you are surrounded by industrial zones on the – all around your property – is that correct.

MR. ALLEN: That is correct.

MR. DUNNE: And even in Netcong which is across Waterloo Road, that's an industrial property isn't that.

MR. ALLEN: I believe so.

MR. DUNNE: Now you have been in communication with soil erosion sediment control people throughout your operation is that correct?

MR. ALLEN: Yes.

MR. DUNNE: And the County soil sediment control representative has been to your site many times?

MR. ALLEN: More than one occasion. To help me out with getting the soils set the way she would like and she has been by to inspect it to make sure that I follow through with the questions that she asked me – things that she wanted me to do.

MR. DUNNE: and what has she wanted you to do that you have done?

MR. ALLEN: she was really you know when I first heard about soil conservation, my first thought was they don't want me to move dirt from here to there. It had nothing to do with that. They basically don't want the dirt that's on that property to move around. So basically she asked that my fill soil does not encroach into the areas that are not being used by me. So she asked for me to hay and seed the back of any of my piles that were not going to be immediately used so we've complied with that and she has been very happy and pleased with what she sees, so, if there any other things she needs I'm always at her beckon call. Soil is my business and without it I don't work.

MR. BUCZYNSKI: Excuse me. I'm not here to defend Mr. Allen, but I have spoken to Sheila on various occasions recently and she really has no immediate concerns regarding the soil conditions on site.

MR. DUNNE: Mr. Allen, if you are required to move the encroaching soil pile back to the 100 foot setback, would you be able to operate your soil separator adequately in your opinion and/or do the recycling operation that you are proposing to do adequately?

MR. ALLEN: Not adequately.

MR. DUNNE: It's possible. But how would it affect you.

MR. ALLEN: It would make it very difficult.

MR. DUNNE: How many feet would that cause you to lose by virtue of the relocation of that soil?

MR. ALLEN: If I had to relocate the soil pile in existing size that it is right now, I would lose another 50 feet of my yard space which would be a third of my yard. Which would basically if you have been to the yard and saw where my screener was the fill pile would be on the opposite side of the screener. The screener would basically be buried in dirt which would really limit me to the activities that I could do there. I'm not looking to go backwards. I'd like to grow as a business and grow in this town. I've been here for – I was born and raised in this town – I went to Mt. Olive High School I learned how to compost in some of the classes that we took in the high school and that was some of the things that I learned and it was some of the things that I thought was great for this community and for our County and for our State is to recycle and that's what I'm looking to do.

MR. WEISS: Tiena has a question for you.

MS. COFONI: Could you reduce the size of the pile in order to comply with the setback requirement, I genuinely don't know the answer.

MR. ALLEN: It would be difficult on the scope of how much product we have come inbound and outbound. Fill dirt is a funny animal. It's kind – its one of the situations where when people need it no ones got it and when you don't want it no one can take it. So my operation stores it, so when the time is for the companies that need it, it's available to them. Some of the projects can go as big as 2,000 yards, so that's why I stock the amount that I have there. I know when you see it you are like, wow, what's this guy need this huge mountain for. I mean I have a swimming pool I got to fill in. It's only going to take 200 yards, well there are projects that are filling in huge amount of areas. Roads are to be built, they need to be raised, they need to be lowered. When they are lowered, the filler has to come out and someone needs to take that fill. We make sure all the fill comes from Morris County and we also make sure that all the fill that comes in is certified fill.

MR. WEISS: Let me ask you a question Mr. Allen. When were you first notified that your dirt stock pile was encroaching on the setback.

MR. ALLEN: When I came in to get the variance for the recycling.

MR. WEISS: Which was when?

MR. ALLEN: I believe it was somewhere – March 12.

MR. WEISS: Of this year?

MR. ALLEN: 2013 – oh no, I'm sorry – excuse me 2015.
]
MR. WEISS: ok. So in March of this year you where notified you were encroaching in the setback. And at that point, you.

MS. NATAFALUSY: Was it last year?

MR. DUNNE: I think it was November 2014.

MR. SCHAECHTER: Let's say it was nine months to a year.

MR. WEISS: ok. my point it.

MR. ALLEN: It was less than a year. I don't think we've been trying to get my variance passed –

MR.W EISS: Ok. Since that time you were notified, have you done anything to lessen the encroachment.

MR. ALLEN: Yes, I have, I sold, again, I sold over 55 percent of that pile.

MR. WEISS: Does any of that come from the back end that's encroaching.

MR. ALLEN: No and there is a good reason for it. If I take from the back end, it will expose soil that would have to be seeded and hayed and we are talking about a big undertaking.

MR. WEISS: And since that time that you were notified, have you added to your dirt stockpile?

MR. ALLEN: I have had some inbound. In the back you mean or in the front?

MR. WEISS: General question, if you knew in the back of your head that this dirt pile potentially needed to be diminished.

MR. ALLEN: I think I got it down to about 45 percent. And one of the projects was a project where we bring the soil in and then the soil goes back to the project but the project doesn't have the space to house the material. They are building a home so when they dug out the foundation we brought the soil in,

MR. WEISS: So essentially, the answer to the question is yes you have added to the dirt pile since you have been notified that you've encroaching on the setback.

MR. DUNNE: He also filed a variance.

MR. ALLEN: No, you want to know something. I'm going to say no to that question because the fact is I did not add to existing pile. I have added to the 45 percent but I had 100 percent of the soil that you saw there when you all came in I am still 50 percent less than what you had seen.

MR. WEISS: But not 50 percent less from the side that is encroaching.

MR. ALLEN: 50 percent of the pile.

MS. COFONI: but not – you didn't take from the side 50 percent?

MR. ALLEN: I didn't - I got to work in from the inside in out – yea.

MR. FLEISCHNER: Physics doesn't allow that to happen.

MR. ALLEN: I could do that but again, Morris County Soil's will have to come in and inspect because I will be taking.

MR. WEISS: I understand the inside out concept. I just wonder if there was ever a better way to do this, like start on the corner and move that. Eat up that corner and then move that back where it belongs.

MR. ALLEN: To give you an idea, the pile has been removed 50 percent not all from the front. Some of the height of the pile has been taken down. I took the height of the pile down to I think it was about 30 feet maybe 32 feet. I got the height of the pile down to about 18 feet now. So what we've been doing.

MR. BUCZYNSKI: ok I'm sorry to interrupt.

MR. ALLEN: what we've been doing is as we pull the material from the back we are able to back lead the material to not let any of the soil fallback over my foliage. So I pull the soil back and I take it away. So yes in a way some of the material has been taken from the back of the pile, but from the back top of the pile.

MR. DUNNE: You can't go to the bottom first obviously.

MR. BUCZYNSKI: Ok but if the Board considers approval of the 50 foot setback, of course, you are going to have to go from the back of the pile to bring it to 50 feet.

MR. ALLEN: Well, if I do get the variance and I get the approval, I will be able to take the material away. Obviously, I don't need to make myself some kind of entrance to get behind there. You know we got winter coming. It's going to be tough for me to keep that foliage down and keep that soil from eroding and running off. I'd like to do it as we go. I can take it out in spring where I can get material to grow back on it. It's going to take some time. It is a lot of material. It's not. It's only as fast as I can sell it. Sometimes I hit the big home run and I sell a thousand yards. Sometimes I sell ten yards.

MR. BUCZYNSKI: So probably if the Board gets to the point to consider approving the 50 foot setback, we probably would have to put some type of schedule timing that it has to be done within the next months or whatever, move it back to 50 feet.

MR. SCHAECHTER: He said he was going to put boulders there.

MR. BUCZYNSKI: I know but he has to move it back before he put the boulders. He won't be able to do it for several months.

MR. DUNNE: The staging on that is what you are looking for.

MR. MCGROARTY: Well, I guess I'll wait until Mr. Allen's testimony is done, I have some thoughts.

MR. WEISS: I think we need to be concerned about the time Mr. Dunne its 10:30.

MR. DUNNE: The staging of this would take some time, is that what you are saying Kirk.

MR. ALLEN: Yeah, its going to take a little time. I would like to put a rock row in there between 50 and 52 feet so I don't go beyond the boundary. I mean the boundary has gotten encroached. It started out at 50 feet, and as we were building the pile up material does fall over, before you know it we got to 38 feet. It did happen. But I didn't have the boulders back there at the time. So now if I do these boulders it will have something that I can see and we know not to go beyond that point.

MR. WEISS: Chuck, I think now you can.

MR. MCGROARTY: I have some thoughts but I'll wait till you're finished. I guess you're done.

MR. DUNNE: I think that's about all we are going to say for now.

MR. MCGROARTY: I would say to the Board. I appreciate the spot that Mr. Allen's in but it's of his own making. He got a site plan approval in 2010, either he had the plan or the landlord, Mr. Ken Kaplan, had the plan. And I realize that's done. We had testimony from the Planner last time and I think all the variances that they testified to. I see no objections to them except for this. I don't see the criteria under a c-1 variance or a c-2 variance to put the stockpile closer than 100 feet. You have a very large tract of land as Mr. Wilpert asked earlier why not locate some of this in the back and its not the Board's problem that it may be costly to move the material. You didn't create the problem in the first place. I don't think there's any hardship, I don't think there's anything under the c-1 criteria that supports the variance. As far as c-2 variances go, I think as matter of fact, it doesn't advance the purposes of planning. There area that was described earlier as being industrial zoning that's the FTZ-4 district at least in Mt. Olive. And Netcong is Netcong. And there are plans for development in the FTZ-4 district and they are not industrial and that zone allows for many uses, not just industrial. Now you haven't had the advantage nor has Mr. Allen the advantage of seeing it yet but none the less the zoning itself. That's really the office complex area of the Foreign Trade zone and it may in fact be a mixed use concept at some point in the near future. Even if there's nothing there, I don't see how there is any justification for relaxing the 100 foot setback on a tract of land as large as this when there is opportunity to put it elsewhere and Mr. Kaplan is here to get approvals to do multiple uses on the property, which he is entitled to seek that use certainly. I just don't see any justification. I'm sorry that the Mr. Allen didn't understand he had the required setback but he does. And I would say further no matter what setback is imposed when this is done, boulders and silt fencing, quite frankly I think is ridiculous and I don't mean that to be sarcastic. You are talking about 30 feet of stockpile out there. It's now apparently around 18.

MR. ALLEN: No, no sir.

MR. MCGROARTY: Well whatever it is, as I suggest in here some kind of permanent fence, some kind of marking because boulders on the ground, or two or eight feet off the ground, that's going to be, I just don't see that as being a real way of delineating the area in terms of what is going on. I would just add one other thing. I haven't heard any suggestion by the applicant or his professionals. Why the outside

storage bins that were part of the original approval, can't be moved. Move the bins and you open up more area for your storage there. Or eliminate some of the bins if you have to or you could relocate you could reorient them. You could still maintain 100 foot setback. Because I think that the appearance, particularly from Waterloo Valley Road, and having that material closer to the road is not in my judgment is not good planning and it's not in the interest of the Township.

MR. DUNNE: All right, well we appreciate your comments. Are there any other questions of…

MR. WEISS: Nelson.

MR. RUSSELL: Mr. Allen, how long would it take you to sell the dirt that you currently have?

MR. ALLEN: If I stopped all inbound product, I could probably have it gone six months. I mean I got the winter coming in so I'm not going to be selling as much in the wintertime. So, I'm going to have to – I'll take the winter factor out of it – six active months – so nine months to actually have it done to grade. It would hurt me.

MR. RUSSELL: Well , if you put the inbound material somewhere else.

MR. SCHAECHTER: Split your operations.

MR. WILPERT: move your operation. Get rid of it and move to the back of the property cause you are looking to expand to about an acre and half. With your expansion – you are expecting to go to about 17,500 from what you are at.

MR. ALLEN: Right, no, right now with what I have now. With where the fill pile is with the 50 foot I would be looking at an area of 7,500 square feet, basically. If we went back, we would take away 1,700 square feet which would leave me with about 5,900 square feet which would be taking about a third of the stock yard. I would lose (inaudible) the stock yard as what I have had for the last six years. I've only known how the run the business the way it's been. I mean I do, I apologize for allowing that to happen. It was a mistake on my part. I probably should have been a little more diligent on going after the plans. I thought the information I was getting was the right information. I didn't expect Waterloo Road to be a main road. It certainly didn't seem like a main road, it seems like a side road to me. I mean it didn't seem unnatural to build 50 feet from the road. I mean there is a building across the street from me that's 45 feet off the road. The cemetery is 30 feet off the road. I mean it didn't seem.

MR. MCGROARTY: He has a site plan Joe.

MR. FLEISCHNER: I understand that.

MR. MCGROARTY: Otherwise why approve site plans.

MR. FLEISCHNER: I understand that, I understand where you are coming from Chuck. But the reality is there is competing factors in this area and I know there are other people want to build other things that are going to be so glamorous and they want Waterloo Road. But I have a gentlemen here, who is a resident of this township, grew up in this township, put a business here, and maybe I look at Master Plan and I'm just as guilty there a lot of errors in our Master Plan. A lot of errors.

MR. MCGROARTY: You are the planning board you can correct them.

MR. FLEISCHNER: Right and that's what we need to do because the previous application, we've got residents living in a commercial zone. And that should have been corrected the last time, it should have been corrected right from the beginning. We've got a situation here. I think Mr. Allen realizes he screwed up. I'm not talking about Mr. Kaplan, that's a whole separate issue. I'm talking about Kirk Allen. We've got an issue do we want to, and I'm going to say this on the record, do we want to destroy this man's business or don't we. I don't want to. I think 50 feet is not the worst the in the world from the road, I've been down that road many, many – literally driven down that road. Most people don't even know what's there. They do know there is a trucking company across the street. They know there is a cemetery across the street. But for people who drive down there I think we have granted other variances. We granted variances early this evening on a substandard lot. We said that was fine. We did we say ok but we approved it. Well it never should have happened but it did happen. Anyway, I'm saying I think 50 feet with some strict limitations to make sure is doesn't go over that and we need some real enforcement in this town for a change, and I'm not taking.

MR. WILPERT: I'm not enforcement anymore.

MR. FLEISCHNER: There is one or two people and that's it to make sure these things don't get snowballed. That's a problem. I mean I just.

MR. SCHAECHTER: I have to take a little offense to what Joe is saying, when you say, some of its true, but when you say we are going to ruin someone's business. I'm looking at an applicant who owns nine dump trucks, who has enough heavy equipment that if he wants to move piles of dirt because that's what his business is, he could move thousands of cubic yards of piles of dirt and do it relatively efficiently. We are not saying that they have to do it tomorrow. But there is options on that site where you can put that operation where its where it wouldn't be encumbering on any setback.

MR. ALLEN: Brian, I didn't wake up with nine dump trucks. I've been working my butt off for sixteen years.

MR. SCHAECHTER: I get it but you own them. They are not going away tomorrow either.

MR. ALLEN: They may be owned or not. But there is still payments on everything.

MS. COFONI: His point isn't financial = his point is you can use the dump trucks to move the dirt.

MR.ALLEN: He basically based my financial status on whether or not.

MS. COFONI: No, no. He is saying you can use.

MR. SCHAECHTER: I'm saying you have the ability to move them. You don't have to move them overnight.

MR. DUNNE: Let's what a second here.

MR. SCHAECHTER: There's plenty of room on that lot. We've all walked the lot.

MR. DUNNE: Do you all know what's just to the east of where his site is, where you would like him to move – you know what's there. It's full forest. It's a full forest.

MR. WILPERT: No it's not.

MR. DUNNE: You want to tear down all those trees.

MR. SCHAECHTER: No, no. you have a parking lot that has trees on it.

MR. ALLEN: I'd like not to have to move the property if its all possible. I don't really want to get closer to the river to be quite honest with you. I've been close to a river before. You think setbacks are tough. Wetlands encroachment is even worse. I was across the river 14 years ago and I have to tell you 300 feet from a river its difficult and I'm going to tell you something,. We had hurricane Floyd come in I watched my entire yard go into that river and I lost everything. I'm going to tell you now, this business isn't an easy business. Coming up with nine dump trucks sounds great and fine and dandy, but Ic an tell you one of the dump trucks is a 1988. I mean I am putting engines in trucks to keep these trucks running. I don't have brand new equipment that I could just all of a sudden – I'll get rid of that. Every time this town has helped me move by yard, "helped me" by fining me or telling me I had to leave an area, it cost me about $25,000. Now that's $100,000 over the sixteen years I've been in business I've had to pay to move my yard in approved areas no less. I was behind a Walmart in the Flanders asphalt – one of the areas is an I-5 zone I got kicked out of that area because my landlord didn't want to comply and make it a rental property. He pulled me out of an I-5.

MS. NATAFALUSY: You have to understand you were not there with permission either so that's why. You have to have better conversations with your landlords then.

MR. ALLEN: I'm only as good as the landlords tell me. I was young in business at the time, I've learned a lot. And this is why I'm sitting in front of you now, I've learned a lot over the years.

MS. NATAFALUSY: So you have gone from Gold Mine Road to Doug Williams property and then you finally find this but that's not the Township's problem. You're the one that went to different places without permission, without site plan approval.

MR. ALLEN: That's why I came to you Catherine to find out where the best place is.

MS. NATAFALUSY: But I'm saying don't accuse the Township of pushing you from one place to another when you for years never went..

MR. ALLEN: I understand.

MR. WEISS: I think when you look at from Planning Board's prospective you come to us with a request to expand upon your business with this device that you talk about.

MS. COFONI: Soil separator?

MR. WEISS: The soil separator. It seems like you are pinned a corner that's a little small and if you were to operate your business by conforming to the setbacks you don't have a lot of property.

MR. ALLEN: I don't.

MR. WEISS: And so we are not here to ruin your business we are here to say I understand there is a cost of doing business sometimes you need to step backwards but why don't you consider just getting out of this corner. Just getting out the corner, moving it. I'm not the one to tell you where to go, but move it somewhere.

MR. ALLEN: Well, um, yes, I agree. We could make it easier on the soil separator and move the fill dirt back. But it would be very difficult to do…

MR. WEISS: Have you considered taking the soil separator operation of the business and starting up this new business venture somewhere else on the property.

MR. ALLEN: I'll be honest with you. If I have to move one more time (inaudible).

MR. WEISS: No you are not moving. You are starting a new business correct? Soil separator.

MR. DUNNE: No.

MR. ALLEN: The soil separator has been going since day one.

MS. COFONI: You mean the recycling.

MR. WEISS: The recycling business. Ok. that business is brand new operation for you if you get your approval, correct.

MR. ALLEN: yes.

MR. WEISS: so why wouldn't you take that and put it somewhere else.

MR. ALLEN: Well, to be honest with you. The reason I want it where I in my spot now is, basically I have trucks coming in with brush on them. Now you have an empty truck because its in your yard. What better than put mulch in it and go out with a load – load in load out.

MR. WEISS: this property isn't that big you couldn't find another spot and have this empty truck go 100 yards somewhere else on the property and fill it up.

MR. MCGROARTY: Can I suggest – just a thought- cause it is late and I know.

MR. WEISS: I know and I did want to stop at 10:30.

MR. MCGROARTY: I've already made my feelings known and obviously there are members of the Board that feel differently, but I wonder if there is – if the material were to be moved say for 50 feet back, are you in a position, Mr. Allen, to plant trees, new trees, to create a new buffer along the Waterloo Road side that would enhance the aesthetic appearance and maybe hide, I don't know how high, and that's another question we hadn't discussed, how high these piles should go or not go but a continuous row and that too may provide a natural barrier. I mean I know the material you have already pushed into

the trees. But in the future I would imagine now that you are fully aware of what's required, whatever happens there won't be anymore mistakes.

MR. WEISS: How high, you are talking about a tree that's 8 to 10 feet.

MR. MCGROARTY: Yea, 8 to 10 feet.

MR. WEISS: not much better than a boulder.

MR. MCGROARTY: I know but that's the planting height. See the 8 to 10 feet is the planting height and presumably over a certain period of time you will have a nice screen there. And it may actually screen the building too.

MR. ALLEN: Are one of your concerns the aesthetics of the hill.

MR. MCGROARTY: Well that's one of them. But it also would. You know, look, you are in a 100 foot setback, you are not supposed to be. There is also as you saw in the reports, if saw them, there are buffer requirements in the ordinance too that are obliterated by putting the material out there. So I am trying to suggest maybe there is a compromise here but the compromise is that you put some kind of permanent landscape barrier there that would accomplish a couple of things.

MR. ALLEN: I'm not opposed to that.

MR. BUCZYNSKI: My only concern I would have is where you are going to put it. How close you going to put it to the 50 foot setback line. You are going to have dirt there I'm afraid those trees are going to die.

MR. ALLEN: I would have the boulders there.

MR. KAPLAN: (inaudible)

MS. NATAFALUSY: you are going to step. we are not picking them up

MR. BUCZYNSKI: I don't know if he wants to put in street - along Waterloo road.

MR. DUNNE: along the right of way.

MR. BUCZYNSKI: I thought Chuck was looking for something to use as a boundary for the 50 foot setback.

MR. MCGROARTY: Yea, I was.

MS. NATAFALUSY: You can't – you need to be by the microphone.

MR. BUCZYNSKI: That's why I'm saying you put him at 50 feet boundary.

MR. WEISS: Mr. Kaplan, we are not going to pick you up so if you want to speak.

MR. BUCZYNSKI: My only concern was you put at 50 foot boundary, I think eventually they would die because the lack of air and light – you are going to have the pile on one side you are going to have the existing tree from the other side. I'm not sure that would work. I mean I'm not a landscaper but I don't think its going to work.

MR. MCGROARTY: Well, I think Gene's point is well taken and maybe and again, they are looking for the variance. I wonder if as I said earlier a fence to provide the barrier and then beyond the fence subject to persons that are qualified.

MR. ALLEN: We do already have a fence on the property. But its about 12 feet from the edge. So we are not having anybody coming in. I know you want t boundary. I'd like to rock idea only because God forbid a rock or something does roll off the back of the pile.

MR. MCGROARTY: No, I think you are missing our point – my point anyway – I would suggest, one consideration if there is anything less than the 100 feet there be a permanent barrier, be it a fence, I don't think boulders are effective, the fence is a solid line and then between the fence and Waterloo Road somewhere in there a new landscaping plan to supplement the trees that are there and the ones

that were destroyed by your piles of materials. And I take Gene's point you don't want the trees at the edge of the piles, you have to have adequate room for root systems and the like.

MR. BUCZYNSKI: Plus if you are into the 50 foot setback, your soil of pile isn't going right up to the 50 feet its going to be going back toward you site. Right.

MR. ALLEN: Yes, it wouldn't be a straight line of 50 feet.

MR. BUCZYNSKI: No you are going to have a pretty good angle.

MR. ALLEN: It would probably be – the embankment would probably be about 15-18 feet from the where the beginning of the pile would be up to the top of the heap.

MR. MCGROARTY: And how high are your piles going to go, 30 feet again.

MR. ALLEN: Well, that's something we can discuss.

MR. MCGROARTY: Well, we can discuss a lot of things.

MR. ALLEN: I don't know what the building codes, I know I didn't go any higher than the building.

MR. WEISS: I think what we need to do is adjourn this meeting. Come up with another date and we can continue and maybe come back.

MS. NATAFALUSY: We need an extension from the applicant.

MR. PLOUSSAS: Let me just add something Mr. Weiss, if you don't mind. At the suggestion of the Morris County Soil and Gene, the applicant has agreed to put in what is called super silt fence. I don't know if the Board knows what that means, okay, but that means the normal silt fence is put up along a chain link fence. So we have agreed to install a chain link fence 30 inches high with silt fence attached to it in front of it. So Chuck, asked for a fence, in essence we have agreed to put in a fence, and it will be 30 inches high.

MR. BUCZYNSKI: Where is that going to be relative to the boulders.

MR. PLOUSSAS: it will be in front of the boulders.

MR. BUCZYNSKI: In front of the boulders, the front being (inaudible) the front being his site.

MR. PLOUSSAS: His site. Between the dirt stockpile and Waterloo Road at whatever setback the Board approves.

MS. COFONI: So it will be soil pile, boulders then.

MR. PLOUSSAS: No, soil pile, silt fence and maybe we don't want the boulders. I mean as Chuck says they may not be worth anything as long as we have a permanent fence there we will have a chain link fence.

MR. MCGROARTY: and the idea.

MR. PLOUSSAS: And we can plan on the outside of the chain link fence.

MR. MCGROARTY: And the chain link fence is super silt fence thirty inches high. Greg my problem with is its not very high and what I say out there before, it gets buried. So how, but the Chairman is suggesting maybe cleaning up some of these details, if the Board wants to go this direction.

MR. BUCZYNSKI: Yea, I think you need the fence with the boulders if you are going to do that or maybe between now and the next meeting,

MR. DUNNE: We are willing to do the fence.

MR. BUCZYNSKI: between now and the next meeting, why don't you come up with

MR. ALLEN: Well, we have it the plans. On the new plans, we have

MR. BUCYZNSKI: I know you do but its not going to get approved tonight. I think he's ready to adjourn for the evening. Why don't you think about anything else besides the boulders and the fence that you might want to do along that line.

MR. WILPERT: Block, big block.

MR. ALLEN: I'm not sure if that's what you want to see there. Cause right now I have a natural

MR. WILPERT: You are not going to see it the stockpile is going to be up against it.

MR. BUCZYNSKI: How about concrete barriers?

MR. ALLEN: Is that what you want to see on Waterloo Road? That's the question. I think now everything you see if natural.

MR. MCGROARTY: Well, what I was suggesting. First of all I'm sort of carving out my spaces for maybe the lone person arguing for no variance. But if the relief is granted, I would say all the – whatever the engineering is required to maintain a strong boundary between the stock pile. I still would argue that there should be some landscaping installed and that's what the public would see from Waterloo.

MR. ALLEN: right. Ok.

MR. WILPERT: You've been to Tomco. How he has his bins.

MR. WEISS: I think what we need to do is

(inaudible – various people talking)

MR. WEISS: this evening – I want to set up a date to carry this application. So we need to first find out if you are going to sign an extension.

MR. DUNNE: We are very close to the end of this.

MR. WEISS: It's ten minutes to eleven, this Planning board ends at 10 oclock I offered to go until 10:30, its ten minutes to eleven. We are done. So we need to come up with a date.

MR. FLEISCHNER: Let me ask Mr. Chairman, I'm sorry. We can't end this ten minutes.

MR. WEISS: No we are ending this. This Planning Board is checked out. We are here since 7 o'clock.

MR. FLEISCHNER: So what.

MR. WEISS: We are not going four hours.

MR. FLEISCHNER: so what,

MR. WEISS: I just made a decision its final, come up with

MR. FLEISCHNER: Well I think it's a stupid decision and that's on the record.

MR. WEISS: Well we don't have to agree. We need to come up with a date. Are you willing to give us an extension.

MR. DUNNE: what date do you have in mind for us. We need get this over with if he is going to have any chance of participating this season.

MR. FLEISCHNER: Pole the board.

MR. WEISS: I made a decision. What dates do we have.

MR. ALLEN: If possible, I would like to get a dates that before the fall season, this will be the third Fall I will miss out on and being able to do the recycling.

MR. MCGROARTY: Well, you are not stopped from doing what you are doing.

MR. ALLEN: Yes, sir I am, I need your approval for me to be able to do the recycling.

MS. NATAFALUSY: The recycling, you are still operating your business.

MR. ALLEN: I can operate my business but I am operating for the last three – since this has come up for the last two years I've been going in the minus.

MS. NATAFALUSY: October 8 we have Ms. Shelton's three applications. October 15 we have Petillo and two variance applications.

MR. MCGROARTY: Well , if the Board wanted to, Phyliss Shelton has been going onf or a while, they went first, if they have half hour.

MR. DUNNE: this can't take much time.

MR. WEISS: No we are willing to do it on October 8.

MR. DUNNE: We would propose our engineer will talk to Gene and chuck about coming up with something acceptable that would be demarcating this line, and satisfying the aesthetics of the view from Waterloo Road in a way that they are acceptable subject to the Board's approval.

MR.W EISS: that would be fine.

MR. ALLEN: Can I ask you a question please, is it possible is the Board willing the recycling to happen. Is it possible to approve that and work on the fill pile for the next meeting. Because again, once we go in for the next, I got such a short amount of time to get in with the County to see if I can do this recycling. I mean this is only one approval for the recycling. Is it possible to approve the recycling and work on the fill pile next after that.

MR. COFONI: That would just be.

MR. DUNNE: The use variance for the recycling.

MS. COFONI: But that would be two use variances from well head protection and the ordinances. So you would be voting on the two use variances.

MR. DUNNE: what's the other use variance.

MS. COFONI: From our general ordinance provisions because its not a permitted use.

MR. MCGROARTY: It's the well head protection because that made it preexisting nonconforming use.

MR. DUNNE: The processing of materials is permitted in the zone.

MR. MCGROARTY: No it's the fact that the ordinance, came in subsequent to Mr. Allen, it's the same thing, because of the well head protection ordinance.

MR. DUNNE: But the uses themselves are permitted in the ordinance, this overlay wellhead ordinance that you have prohibits those particular things.

MR. ALLEN; Is that a possibility?

MR. DUNNE: So what he is looking for is a way to do that business and take the recycling materials in with an approval as to that aspect so that he can start this process in the Fall.

MR. WEISS: What happens if the Planning Board does not grant a waiver from the 100 foot setback and Mr. Allen is going to have to take 35 feet of that pile and move it, you are going to lose, your words, 50 percent, are you going to be able to recycle.

MR. ALLEN: it would be difficult, but I've been put in difficult situations before.

MR. MCGROARTY: You almost undercut your variance application.

MS. COFONI: Is it possible to break out the use variance, yes. Whether or not the Board wants to do that is up to the Board and that's one issue that the Board needs to consider.

MR. WEISS: We have availability on October 8?

MS. COFONI: If you want to put it first.

MR. WEISS: Two weeks correct, three weeks.

(inaudible) won't have resolutions until November.

MS. COFONI: but he would have his approval.

MR. WEISS: let me open to the public about the testimony given by Mr. Allen.

MS. COFONI: sure.

MR. WEISS: anybody from the public.

MR. SELVAGGI: Mr. Allen, real quick, the tub grinder. Have you operated that on this site yet.

MR. ALLEN: yes, it's been operated one time before.

MR. SELVAGGI: And that would operate four times a year?

MR. ALLEN: with the exemption yes.

MR. SELVAGGI: And then for how long a period would (inaudible) four times.

MR. ALLEN: that is not a – well up to 7,500 yards worth. That's the maximum material I can have at one time.

MR. SELVAGGI: and how long would it take

MR. ALLEN: 7,500 yards – approximately ten days.

MR. SELVAGGI: The regulations, and I'm not trying to play gotcha, allow you two weeks.

MR. ALLEN: I'm sorry.

MR. SELVAGGI: The regulations allow you two weeks.

MR. ALLEN: two weeks, we have ten days –two weeks that's five business days.

MR. SELVAGGI: and how does a tub grinder work?

MR. ALLEN: How does the tub grinder work. It grinds wood. It's got hammers in it.

MR. SELVAGGI: What do you use with it.

MR. ALLEN: I'm sorry.

MR. SELVAGGI: What's used is it dry is it water.

MR. ALLEN: No it's a grinder that basically you put the wood in and it chops it up to small pieces. You use a loader to load it and it makes a pile. The wood already has moisture in it – the moisture content is already there, so it's not a dusty project.

MR. SELVAGGI: And where is that water coming from.

MR. ALLEN: what water.

MR. SELVAGGI: The water from the by product.

MR. ALLEN: The moist in the tree.

MR. SELVAGGI: No where does it go in the process, does it go anywhere, is there any run off.

MR. ALLEN: No its in the wood, there is no run off.

MR. SELVAGGI: in comparison to the tub grinders and to the separator is it louder.

MR. ALLEN: I would say it's a few decibels louder, not terribly. Maybe about the size of a dump truck, the noise of a dump truck

MR. SELVAGGI: And in this discussion, you can bring in 7,500 yards, correct and grind that up.

MR. ALLEN: 7,500 yards is my capacity.

MR SELVAGGI: And is that for the whole year or is that four times a year you can grind up to that amount.

MR. ALLEN: I can grind up to that amount four times a year.

MR. SELVAGGI: So that means you could technically have thirty.

MR. ALLEN: I can't have thirty at one time. I can only have 7,500 yards at one time.

MR. SELVAGGI: Not but over a course of a year, you could end up with 30,000.

MR. ALLEN: yes, that's possible.

MR. SELVAGGI: And you will bring that in irregardless the demand to take it out, correct.

MR. ALLEN: repeat your question.

MR. SELVAGGI: You can take in in a course of the year, 30,000 cubic yards

MR. ALLEN: that's correct.

MR. SELVAGGI: You will take that in even though you may not have a buyer for the 30,000.

MR. ALLEN: I can't store that much on site but no.

MR. SELVAGGI: My question is how are you going to regulate that.

MR. ALLEN: Well I sell the product.

MR. SELVAGGI: Well lets assume in my example, you start in January, you bring in7,500 cubic yards and then you grind it up, you don't sell any of it.

MR. ALLEN: I don't have 7,500 yards now that its been ground. It's about 50 percent of what the product was before I grind it so now I'll have roughly 3,000 yards.

MR. SELVAGGI: So after you grind its. My point is though you can keep taking this in without having to get rid of it.

MR. ALLEN: Well, no, I have to sell it, I have to move it. I can't. After 30,000 I'm done. Or whatever 7,500 times four is I'm done. I can't bring that in any longer after that. I can't have more than 7,500 yards at a time.

MR. SELVAGGI: at a time, I understand but that's bringing it in. Storing it.

MR. ALLEN: could I have 30,000 yards of mulch, is that what you are asking.

MR. SELVAGGI: you could store more than 7,500 though right.

MR. ALLEN: No.

MR. SELVAGGI: Why not.

MR. ALLEN: Based on my space, it would - No I guess I probably could.

MR. SELVAGGI: because you haven't so far in four years done anything to control the amount the products you have there.

MR. ALLEN: inbound.

MR. SELVAGGI: inbound and storage, I mean that's the reason why you are coming in to ask for the variance, correct.

MR. ALLEN: There is some controls, sure. I basically have supply and demand. So I need supply to meet the demand. I don't know when the demand is going to be there, but if I don't have the product when the demand is there then what good am I in business.

MR. SELVAGGI: so you will continue to take in up to 7,500 yards four times a year.

MR. ALLEN: four times a year yes.

MR. SELVAGGI: regardless of what the demand is for the product – the byproduct afterwards.

MR. ALLEN: Yes, but I do have the limitation of the 7,500 per year.

MR. SELVAGGI: I understand that but I'm saying as you grind it up and you store it on site.

MR. ALLEN: I can have as much mulch as I would like there. I could have 100,000 yards of mulch there, I'm not required not to have that much or that little. When we came in for my first approval, we made sure that if I did have a project that would require a lot of mulch I was able to bring in as much mulch as I'd like. So I'm trying to basically cut costs by basically making my own mulch and that's why I'm going for the exemption.

MR. SELVAGGI: So the only what you would really be able to control it, would be following setbacks, correct.

MR. ALLEN: no, not necessarily.

MR. SELVAGGI: Well what controls are you proposing on this operation so that it doesn't expand.

MR. ALLEN: I'm controlled by the Morris county exemption. I have to be annually inspected.

MR. SELVAGGI: I understand that but I'm saying in terms of this thing just encroaching further on to the property.

MR. ALLEN: I would have to get a Class B license is that were the case.

MR. SELVAGGI: The Class B license only regulates what you are taking in, not what you are storing. I don't think – look from my clients prospective, we don't care what you are bringing in, it's what you do with it and what happens to it after you bring it in and it's processed.

MR. ALLEN; Oh, I'm selling it, of course. That's my business right now.

MR. SELVAGGI: But it's a not a one for one though. You can bring in a lot more than you are selling at a particular time period. Correct.

MR. ALLEN; I can only have 7,500 yards of brush at a time, I can never have more exceed that number. As far as the mulch goes, I sell over 40,000 yards of mulch a year, so I think the numbers speak for themselves. If I'm making 30,000 a year of mulch and I sell 40,000 I'm still going to have to buy outsource 10,000 yards.

MR. SELVAGGI: But if that was true you wouldn't be coming in here looking for a variance for encroaching into the setbacks.

MR. ALLEN: The only reason I'm looking for the variance on the setback, is because I made a mistake and put fill dirt where it didn't belong. And I need the room for the fill that's there. It has nothing to do with the recycling license, it's strictly to do with the fill that I have there now. My business works in a lot of different ways. I sell a lot of different products, and you know I have a big cart and I need to make sure I have all the products for a customer that needs it at the time they need it.

MR. SELVAGGI: all right, that's all thank you.

MR.W EISS: I'm going to close it to thepublic. I think this planning board is going to make a decision that we are not going to bifurcate this application. We are looking at a date of October 8 if that satisfactory Mr. Dunne, I will need you sign an extension with Catherine. Other than that we are going to carry the meeting to October 8. Is that acceptable.

MR.DUNNE: Yes.

MS. COFONI: We are going to carry public notice, no further notice will be made so anyone interested in the application, October 8, 7 p.m.

MR. DUNNE: Well, I don't intend to bring back anybody except Mr. Allen at that time and any plan that's been agreed upon by the experts.

MR.W EISS: fair enough.

MS. COFONI: So Mr. Ploussas.

MR. DUNNE: Yes, if I need him. Mr. Kaplan will not be here, he will not be available.

MR. WEISS: I don't think we need Mr. Kaplan. Catherine please schedule this application first.

MR. ALLEN: I'd also like to thank you for staying late. I do appreciate it, means a lot to me.

(inaudible).

MR. WEISS: I hear motion to adjourn.

MR. FLEISCHNER: I move we adjourn.

MR. WEISS: Thank you Joe, second.

MR. SCHAECHTER: I second.

MR. WEISS: Brian all in favor.

ALL: Aye.

Meeting adjourned at 11:03 p.m.