In compliance with the Open Public Meeting 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 Fleishner, Brian Schaechter, David Koptyra, Dan Nelsen, Nelson Russell, Frank Wilpert, Jr., Kim Mott, Henry Fastert, Howie Weiss

Members Excused: Robert Greenbaum, 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.

Roll Call:

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

MR. WEISS: Before we get into the first item which is approval of the Minutes, I just have a quick announcement. I want to start reminding everyone, please shut off your devices, your cell phones, your ringers, your buzzers, your beepers because we have a really jam-packed meeting. We have complicated detail and I don't want to interrupt anybody who is giving testimony. So, please, if you would give us that courtesy for the evening. First item on the Agenda is the approval of the Minutes for June 11, 2015. Would someone please make a motion?

MR. FLEISCHNER: I move we approve the Minutes of June 11, 2015.

MR. NELSEN: Second.

MR. WEISS: Thank you Dan, that was you that seconded? Thank you very much. Any questions, comments? Obviously we all have copies of that. Seeing no questions, Catherine, Roll Call.

Roll Call:

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

MR. WEISS: We have two resolutions, I have them both here. The first on PB 15-22 Gail Maurer and John Neves. I will look for someone to make a motion to accept this resolution.

MR. SCHAECHTER: I'll make the motion to accept PB 15-22 Gail Maurer and John Neves.

MR. WEISS: Thank you Brian.

MR. KOPTYRA: I'll second it.

MR. WEISS: Dave, thank you very much. Any questions

MRS. NATAFALUSY: Who seconded?

MR. WILPERT: Dave.

MR. WEISS: I know, it sounded like Frank.

MR. WILPERT: I'll get the next one though.

MR. WEISS: It sounded just like Frank.

MRS. NATAFALUSY: I'm not used to his voice.

MR. WEISS: I'm on it. Any questions or comments? Seeing none. Catherine, Roll Call.

Roll Call:

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

MR. WEISS: The second resolution also here in front of me is PB 15-24. Eduard & Jeanne Hahn. Frank can I ask you to…

MR. WILPERT: I will make a motion to approve PB 15-24 Eduard & Jeanne Hahn.

MR. NELSON: Second.

MR. WEISS: Thank you very much Frank, Dan thank you. Any questions, comments? Seeing none. Catherine, Roll Call.

Roll Call:

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

MR. WEISS: Okay, I am going to table the discussion matter until next week because of our busy schedule and at the same time, application of PB 15-25 which was scheduled for tonight for John & Sheila Watral has been carried till November 12, 2015. There is some further notification pending for a few of the residents, a few of the neighbors with adjoining properties. But that will be carried until November 12th if anybody is here for that application, it will not be heard tonight.

COMMITTEE REPORTS

MR. WEISS: Let us move then into committee reports. The Mayor is not here. Council's not here. I would just say, and I am certainly not speaking on behalf of Mr. Mania that I was at the Council Meeting the other night, and there was a preliminary conversation from the residents of Harris Lane. If you recall, the Mayor suggested they go to Council to see about getting the road closed. After some brief back and forth they decided they were going to bring all the experts from Fire, EMS, Police into the Council Meeting of November 10th. I found it interesting because a lot of the testimony that we heard was repeated, and it is not our Board. I'm going to go on the 10th just to make sure that the record is clear and if Council needs us to explain what we heard. So, it's going to be heard in front of the Council on November 10th. Environmental Commission?

MR. RUSSELL: The meeting was cancelled.

MR. WEISS: Ok, Joe, Ordinance Committee?

MR. FLEISCHNER: No meeting.

MR. WEISS: Nothing from me from Street Naming. Kim, Open Space?

MS. MOTT: I have a meeting Monday.

MR. WEISS: Alright perfect, let's move on then. We have our first developmental matter is PB 15-02 Waterloo Road Development Co., LLC. We have a request of the waiver from submission of an EIS and soil logs, perc tests for septic systems, Minor subdivision, d-1 variance, Preliminary and final site plan with variances and waivers, located at 20 Continental Drive, Block 106, Block 7, Lot 1 and I think that would complete half of the things we are working on, but I think we have the understanding of the application in front of us, this has been carried from our last meeting, which was carried many times after that. Mr. Dunne, welcome back.

MR. DUNNE: Yes, thank you Chairman of the Board for the hearing on behalf of the applicant in this matter. I believe at the conclusion of the last meeting we had reached a point where testimony was simply precluded. The discussion took place concerning some vacation of some possible negative impacts of the requested 50 foot setback along the road. The idea was that our engineer would discuss possible mitigation measures with Mr. Buczynski and Mr. McGroarty in order to try to come up with solutions that might tend to mitigate that issue. That has been accomplished and I believe that a map dated September 30th …in a reduced form and has been submitted to the Board.

MR. BUCZYNSKI: Before we start that, just so we're sure on what we are doing tonight. On the title sheet for the plans it says amended preliminary site plans phases one and two, amended preliminary and final site plan phase one. Is that correct? My understanding you're not looking for anything for phase two.

MR. DUNNE: We're not looking for anything for phase two.

MR. BUCZYNSKI: Okay, just to correct that and get it out of the way so we know what we are doing.

MR. PLOUSSAS: Last month we had three phases on this application. And after discussions with the Board and the professionals, we narrowed it down to two, and unfortunately, in my haste to get the plans back in, I didn't remove the upper line.

MR. WEISS: I was going to ask you that question. I did see phase three was still on the plan, but you will remove that.

MR. PLOUSSAS: No, phase three shouldn't be on the plan.

MR. BUCZYNSKI: It is on the plan, on the plan sheets.

MR. DUNNE: It's on the plan; it says the plan was previously approved by the Board or something. But in any event, if they're incorrect I will straighten them out with Mr. Buczynski and Mr. McGroarty.

MR. WEISS: Okay, just for the record as I like to do, on September 17th we, that was our last hearing, we took exhibits A7 and we ended through A9, Tiena, I don't know why, but my records don't show what A8 is.

MR DUNNE: Soil maps. Morris County soil maps.

MRS. NATAFALUSY: Howie, I put a list in your folder.

MR. WEISS: You know what, I saw that, and I didn't think that was updated. You're right, I have it right here. Ok, yeah for some reason my notes didn't show it. Catherine, thank you very much for keeping me straight there. Ok, so we left off on A9, and I believe you guys had mentioned we are now to hear testimony from Mr. Ploussas.

MR DUNNE: That is correct. I believe Mr. Ploussas is still under oath.

MR. WEISS: He is.

MR. DUNNE: And Mr. Ploussas, following last month's meeting on September 17th, you were able to discuss certain mitigation measures regarding the closed 50 foot side rail setback along Waterloo Road for the Kirk Allen Trucking operation. Were you successful in discussing these matters with Mr. McGroarty and Mr. Buczynski?

MR. PLOUSSAS: Yeah, we did have several discussions including the site reading which was in some of the revisions that were re submitted to the Planning Board.

MR. DUNNE: Alright. Would you like to please run through in summary fashion what those mitigation measures were and how they're reflected on the plans and which plan maps.

MR. PLOUSSAS: At the last hearing I believe the Chairman instructed us to get together with their professionals to see if we could propose some type of mitigation for the request of the 50 foot reduction in the front right set back on Waterloo Road. After our meeting, I contacted Gene Buczynski and Chuck McGroarty and we tried to resolve the issue over a phone conference, we were on the phone probably for about an hour. Both of us coming back and forth giving different ideas of how to mitigate it, how to demarcate the 50 foot setback line. But it was very difficult for all of us the other professionals and myself to explain this over the phone. So we decided to have the site inspection. The following week we convened a site inspection on site. Mr. Buczynski was there, Mr. McGroarty, Mr. Wilpert came; Sheila Hall from the Morris County Soil Conservation District was there. Catherine was there. Jim…

MR. BUCZYNSKI: Jim Lynch.

MR. PLOUSSAS: Jim Lynch from the Department of Public Works gave us input as to the type of plantings or landscaping that would survive in this climate up in Mount Olive. The long and short of it is we went out there, and because of the season, the trees are out in full bloom, there's a lot of leaves, and the stockpile itself has been stabilized, it is very difficult to see it. We had a difficult time seeing it but nonetheless it's there and we saw it. After walking the area, it was recommended that we come up with a landscaping plan to mitigate what we're proposing or what we're asking for. So after discussions with Mr. Lynch as well as Mr. McGroarty and the other people there we developed a landscaping plan which is sheet nine of several deciduous and several evergreen trees to buffer. So I guess we can quickly turn to sheet nine and the Board can see. We are proposing a total of 24 different varieties of deciduous and evergreen trees. We are using October Morning Glory and Pin Oaks for the shade trees , and Norway Spruce and Colorado Blue Spruce for the evergreens. Jim and as well as Sheila Hall from the Morris County Soil Conservation District thought that they had the best chance of surviving in the areas that we are putting them. Simply because a lot of the areas will not receive a lot of light. There is a lot of trees and overgrowth there now, so that we wanted to plant something that doesn't need a lot of sunlight. Anyway, on the landscaping plan you can see how we are laying these trees out and again, we do want to stress that this is approximate, I'm sure there will be field, should the Board approve this, and once the landscaping is in place, there will be field decisions made by your Planner or Engineer as to the exact location of the landscape. So, we're proposing to mitigate by number one, removing any soil that's over the 50 foot line, and then planting the 24 trees that we are proposing.

MR. BUCZYNSKI: With that too, you're also going to still do what's shown on sheet five relative to the super silk fence?

MR. PLOUSSAS: Yes, yes, we are going to get into that now.

MR BUCZYNSKI: Okay.

MR. PLOUSSAS: As part of the revisions to the plan, okay, we revised the plan to show only two phases but unfortunately we didn't do such a good job, so we had to go back and make sure it's clear that we're only looking for two phases and only amended and preliminary approval for phase one. We've added a paving detail because it was determined by the Engineer and the Board that the proposed outdoor storage area should be paved, so we've added that detail. The existing dirt stockpile, taking it from the one plan which was the existing conditions plan, and superimpose it on the site plan so that your professionals as well as the Board could see exactly how it affects the front yard set backs on both Waterloo and Continental Drive. We are demarcating the proposed 50 line on the Waterloo Road with the use of super silk fence, which we had proposed before and intermittent boulders which we decreased the spacing. After discussion with Sheila Hall as well as the Township Engineer and Planner out in the field, it was determined that the super silk fence would be adequate to alleviate any concerns for soil erosion. As a matter of fact, we do have a letter from Sheila Hall, I know I sent a copy into the Township, sent it to Gene, a letter from the Morris County Conservation District dated October 6, 2015, indicating that they had reviewed our realized plans and that the only thing we need is an updated application and a new application fee. So therefore, and I have also spoken with Sheila, that they are happy with the measures that we are proposing .

MRS. NATAFALUSY: Do you have the date of that?

MR. PLOUSSAS: Excuse me?

MR. BUCZYNSKI: It just came in.

MRS. NATAFALUSY: Oh, okay.

MR. BUCZYNSKI: I think I just got it yesterday or today.

Mr. DUNNE : We can provide another copy.

MR. PLOUSSAS: I will give her my copy.

MRS. NATAFALUSY: Just so we have it for the file cause I wasn't copied on it. Thank you.

MR. PLOUSSAS: Along the Continental Drive frontage where there is a slight encroachment into the 100 foot. We will be removing that and demarcating that with wooden markers every 25 feet as regular and will be installing regular silk fence at the toe of the existing slope. We also discussed on site some notes as far as the slope for the soil stock pile and it was determined that on the, I'm going to call it the outboard side towards Waterloo Road the slope should be approximately two to one or as instructed by the Morris County Soil Conservation District and on the inside or the active side we would go to one to one or again as determined by the Morris County Soil Conservation District. Also the current plans have clearly shown that the area of the stockpile and the area that Kirk Allen is occupying is increased slightly from I believe it was .84 acres to 1.35 acres by moving some of the dirt towards the east. That's basically it. The changes were made after consultation with your Engineer and Planner. We hope we've alleviated some of their concerns as well as the Planning Board for the mitigation that they are proposing the requested reduced front yard on Waterloo.

MR. DUNNE: The hay bale protection - silt protection. Was that also discussed with the Soil Conservation people?

MR. PLOUSSAS: Yes.

MR. DUNNE: You show a detail for that now in your plans.

MR. PLOUSSAS: Yes, we did.

MR. DUNNE: And that was satisfactory to the County Soil Conservation?

MR. PLOUSSAS: Yes.

MR. DUNNE: I have no other questions of Mr. Ploussas.

MR. WEISS: Maybe we should talk, maybe Greg you could help us. Talking about the stockpile of dirt. Are we going to cap it with a height? Is there going to be any height restrictions?

MR. PLOUSSAS: Yes, the detail, we checked, I believe for the maximum height of 25 feet.

MR. BUCZYNSKI: 25 feet. That's correct.

MR. WEISS: Where is that?

MR. BUCZYNSKI: It's on the detail.

MR. PLOUSSAS: I think it's sheet six. Let me just check. Yes. It's on sheet six up in the right hand corner of the sheet there's a detail. If you may recall we had given some testimony that the existing pile, when we did our field work was approximately 28 foot high, and since then I know that Mr. Allen has indicated that he has indicated that he has taken down about ten feet of it, so…but yes, the detail shows it being capped at 25 feet. The detail also shows in front of the boulders the landscaping that is proposed, at least conceptually.

MS. COFONI: Where would the hay bales be in relation? Cause I see that the stockpile…

MR. PLOUSSAS: There's three, if you go to sheet five, there's three existing inlets that the property drains to. The inlets capture the water…

MS. COFONI: Oh, I see.

MR. PLOUSSAS: …and take it down to the Musconetcong River, and after I believe Mr. Buczynski had made a site inspection sometime in July of this year, it was recommended that not only we put hay bales in there, but that we put a silk barrier on the top, which we have both. Basically, we have two safeguards, we have the hay bales as well as the silk barrier. And also, by the way, Mr. Buczynski's report indicated that the water coming down into the river was crystal clear.

MR. WEISS: Doesn't sound like a word Gene would use, crystal clear.

MR. PLOUSSAS: Well that was my read.

MR. BUCZYNSKI: That was his word. I said it was clear.

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

MR. BUCZYNSKI: Just one thing regarding the plans, when they show the detail for paving, but I think the plan is, if the Board decides to approve it, the plan should just be revised where those storage areas show just repair and patch broken pavement areas…

MR. PLOUSSAS: Right.

MR. BUCZYNSKI: Just we should have a note that those areas are going to be paved. If you've got a detail that shows this…

MR. DUNNE: It's on the…

MR. PLOUSSAS: It says see detail, ok, sure.

MR. BUCSYNSKI: That's fine. Okay, it says, see detail. I think just to make it clear, if somebody just pulls the plan and doesn't see a detail sheet.

MR. PLOUSSAS: Yes, not a problem, we can add it.

MR. NELSEN: And the plantings, are there plantings along Love Lane?

MR. PLOUSSAS: No, Love Lane, you really don't have any frontage on Love Lane. We have frontage on Waterloo Road.

MR. NELSEN: Continental, I'm sorry

MR. PLOUSSAS: There wasn't again, our site … revealed that there was really no room between the edge of the traveled way along Waterloo Road along the right of way. There's existing trees there now that provide a canopy as well as a fence. There's an existing chain link fence running down there, and then there's no real room to install any landscaping without disturbing what's there.

MR. NELSEN: What's there is deciduous though.

MR. PLOUSSAS: Yes.

MR. NELSEN: So there will be no blockage of site from that during the a….

MR. PLOUSSAS: Well no, the thought was that your really need to screen it up high where we can get, I want to say some bang for the bucks, but down at the bottom, there is very little that we can do along

Waterloo Road even if we had room that would shield the stockpile. It is my belief, and I hope the same with your professionals, that by putting the trees up closer to the stockpile is as they grow, will eventually be able to screen everything out. The other concern down along Waterloo Road was there is an existing tree canopy there, and during the summer there was no sun. So we were concerned that whatever we plant there would die, and Jim Lynch, I believe agrees.

MS. MOTT: What happens if the plant material doesn't survive, do you replace it, try something else. What happens if the plant material doesn't survive in the element?

MR. PLOUSSAS: Well, generally, and I think this is more for Tiena or Gene to respond to, performance bonds are posted and maintenance bonds are posted. So once the work is in, approved by the Engineer, then it's followed by a two year maintenance bond.

MS. MOTT: Okay.

MR. BUCZYNSKI: Just two more things, on the landscaping plan, and I thought we discussed this previously, says the caliper trees to be at two, two and a half.

MR. PLOUSSAS: Right.

MR. BUCZYNSKI: The Ordinance says two and a half to three.

MR. PLOUSSAS: I think I checked the Ordinance and it says two to two and a half.

MR. BUCZYNSKI: Will I see it?

MR. PLOUSSAS: Yeah, but whatever it says…

MR. BUCZYNSKI: Whatever it says, you'll do right, cause I am looking at it right now. Okay.

MS. COFONI: I didn't catch that.

MR. DUNNE: caliper of the trees.

MR. BUCZYNSKI:…comply to the Ordinance. The last item was I think we discussed it several meetings before, think the Board agreed to have a fence around the stock, not the stockpile, the storage area. Is that still what the Board desires?

MR. WILPERT: You mean in the other phase, the pavement phase on the backside of the property?

MR. BUCZYNSKI: Right. It is a large area.

MR. WILPERT: Yes.

MR. BUCZYNSKI: It talked about being fenced, correct?

MS. COFONI: Is that still…

MR. BUCZYNSKI: That's phase one.

MS. COFONI: Yeah, I think that's still phase one, right?

MR. DUNNE: Well there is a fence now running along the back of the property, okay, and I'm not exactly…

MR. BUCZYNSKI: I think what they wanted before, and I could be wrong, but I thought you wanted it along the perimeter of that storage area.

MR. WILPERT: We wanted to delineate between the storage area and the rest of the property.

MR. DUNNE: Should it be paved or not paved, won't that be a provision of elimination. I mean it's going to be dirt or pavement, so you'll know when they are off the pavement.

MR. WILPERT: I think it needs to be fenced in this situation.

MR. DUNNE: Well, just so you're clear, a fence around that whole area would be extraordinarily expensive, and if there's no other need for it, then delineation of where the vehicles would be, I would suggest that… I mean I understand for security purposes it might be helpful to have a fence. But I don't know that it's necessary for this particular location. That's the only reason

MS. COFONI: Just…there was a previous exhibit, Catherine…

MRS. NATAFALUSY: They're over there.

MS. COFONI: They're over there…that was colored, had colored and you had shaded different areas.

MR. DUNNE: We were trying to delineate for the Board different storage areas that may be where the larger vehicles will go versus the smaller vehicles.

MS. COFONI: Right, I'm just showing you this, this is A6, and I think what we were talking about was paving all of it, but we were talking about a fence around like this section, a fence around this section. Not individual inside, but, and then a fence around there. Right Gene?

MR. MCGROARTY: And the point of that was to avoid any problems that have occurred in the past, or that may have occurred in the past, whether it was some confusion about what the limits are, and so, the area would be paved but it would also be enclosed. Which might also be a benefit for the equipment in there in terms of security but that's a concern for Mr. Kaplan and whomever. But that is what the Board had, we had talked about.

MR. DUNNE: Well, would a post and wire sort of a fence be suitable to demarcate that? In other words, a post in the ground by some type of a connecting barrier to reduce the expense.

MR. PLOUSSAS: Split rail fence…

MR. BUCZYNSKI: Instead of a chain link fence.

MR. PLOUSSAS: There is a chain link fence around the entire site. Okay, it is a six foot high fence. Also on the East side of the larger storage area, right along the edge of pavement, there is a chain link fence existing, so we're talking about demarcating the, I'll call the North and South side of the larger area, I'm not sure you need the front of it. And as far as the other two smaller areas, this is the first I'm hearing of wanting those fenced. I had heard you wanted the larger area fenced, not the…

MR. BUCZYNSKI: You weren't at the original meetings so…

MS. COFONI: I have it in my notes all along that it needed to be, all the storage areas needed to be fenced, and I think Chuck's, Chuck's argument is a good one. I mean it helps to delineate where the storage areas are.

MR. WILPERT: Well, there currently is a problem on the site because they do have a repo man that has a fenced in area that he has vehicles outside the fenced in area. They're supposed to be entirely within. It wasn't corrected as of last week.

MR. DUNNE: If the Board feels a fence is necessary…

MR. WEISS: Here's my concern. We're talking about the area that was originally 14, 15, 16…the higher numbers, that originally you wanted to mark it based on what was going to be stored there and we all agreed that we were willing to do that. But then I thought we're talking about a potential future use of that property. Perhaps it might have been a conversation about truck storage or overnight parking for trucks and I don't recall exactly where we were going but, is that still part of the plan, that Mr. Kaplan is going to come back and ask for a permit to use that area for his truck parking?

MR. DUNNE: Which area are we talking about now? The rear, the far rear?

MS. COFONI: Yes.

MR. WEISS: The rear. What was once the big parking lot.

MR. SCHAECHTER: Area fourteen?

MR. WEISS: It's area ten through…

MR. DUNNE: It was always going to be truck parking back there.

MR. PLOUSSAS: As part of the current application, we're asking the Board to allow outdoor storage…

MR. WEISS: But we are talking outdoor storage of equipment and machinery versus now a totally different use which is now…to me, I'm not saying it matters, I just…

MR. DUNNE: I think that there's confusion perhaps because the area that is on the South side of the road there is limited to equipment storage. That was agreed to, originally is was going to be flex space for trucks and equipment, the Board suggested it just be equipment storage in that area, and that's what it's limited to…the area on this side. The smaller area by the building on the other side of the driveway. Across the street was always going to be truck parking.

MR. WILPERT: Here's where we are with this, the problem that I think we have here, excuse me Mr. Chairman, if I may speak.

MR. WEISS: Go ahead Frank.

MR. WILPERT: We don't want to run into the same situation that has happened to Mr. Kirk Allen, okay, whereas he thought that he was within his boundaries, and apparently, he wasn't. He was 50 feet over.

MR. DUNNE: Okay.

MR. WILPERT: So by having some type of delineation within these areas for storage I think will be beneficial to the property owner to do something in that…

MR. DUNNE: Well you may be right, but I mean, for example, could posts, just posts run along the line?

MR. WILPERT: Something, and that way for enforcement, and whoever the enforcement officer is at the time, needs to go out there to check the plans. He has something to go off of.

MR. DUNNE: In other cases where we had to demarcate large areas, we used posts with a painted yellow top or something so you can look down the line and see exactly where the line is. Which is a lot less expensive than putting a formal fence up around that area.

MR. WEISS: I'm okay with that I think that resolves the issue.

MR. DUNNE: Security is another issue…

MR. BUCZYNSKI: Are you doing posts and rail or just posts?

MR…: Just posts up that demarcate the spot, because I think that satisfies your needs. It doesn't provide security, if the owner wants to put in security, he could put in the different fence.

MR. WEISS: And that wasn't the intention of the Planning Board was to ask you to provide the security plan. I actually have a bigger issue. Now that we've kind of resolved this, is I've yet to see…perhaps we should see a circulation plan. If we are going to be bringing trucks in of X size, I'm not sure how big the trucks are going to be. How are these trucks going to access that parking lot? And I think I've heard something that I find to be unacceptable, which is they're going to use the same route that a vehicle would use today, and I don't know if that is going to be your route of…

MR. DUNNE: Well I know that Mr. Kaplan had testified to this before, when he was here, I think at the last meeting, but we can certainly have him refresh your recollection of that.

MR. WEISS: We had a conversation earlier this morning and I think that we remembered it being that the circulation plan was going to be identical to what's there today. Truck was going to come in by, in front of the red portion of it by law office by the Crossfit and drive around the front around the back by Mr. Allen's behind the back and then back around and I think that's completely unrealistic to think that we are going to move a 53 foot truck.

MR. KAPLAN: But we have many many many times.

MR. DUNNE: Let the record reflect that Mr. Kaplan is now speaking.

MRS. NATAFALUSY: You're going to have to come up to the…

MS. COFONI: Can you show us on the plan that way that you're going to have…

MR. WEISS: The map that's up too Mr. Kaplan would be…and just to remind you, you're still under oath.

MR. KAPLAN: Okay

MR. FLEISCHNER: If I may, before Mr. Kaplan goes, see, what concerns me about this whole discussion, Tuesday, I was at Walmart. There were eight tractor trailers parked in front of the garden area.

MR. WEISS: Correct.

MR. FLEISCHNER: Wednesday morning there were eight tractor trailers. Nothing delineated, where they can park, where they don't park. They come in the exact same way that every other car comes in, because one actually went down to seven. One of them actually left out through the main way where every car goes. So, my question has to be, are we going to be uniform throughout this Town? Are we going to if we say Mr. Kaplan has to do X Y and Z, are we then going to go back to the landlord and say this is what you have to do. You want tractor trailers parked overnight, you have to delineate where they go and you have to show us how they pull out of here.

MR. WEISS: The difference between a Walmart and something like this is that you have multiple business operations all going on at the same time, and I've been there during operation and I find it hard to believe that trucks can make that turn, while you have trucks over here, and you have landscaping vehicles over here, and you have some maintenance going on over here.

MR. FLEISCHNER: I find it very hard to believe that Mrs. Soccer Mom who's on her cell phone can navigate through the trucks too, and we're talking passenger cars. And there are multiple businesses there, it's not just Walmart so let's kind of, let's not pick on Mr. Kaplan too much unless we're going to pick on everybody and be uniform and say we're going to straighten it out throughout the entire Township.

MR. WEISS: I don't really look at this picking on Mr. Kaplan. Brian.

MR. SCHAECHTER: I do remember in one of the previous hearings that we talked about Walmart and we talked about the Town's violation officer going over there and doing what he needed to do. It's out of the hands of the Planning Board at this point.

MS. COFONI: It is, I mean the Planning Board is not in charge of enforcement and you know, and that gets to another level, but I think if there's going to be tractor trailers being parked on the site, it's reasonable to just want to know what the circulation plan is for it.

MR. KAPLAN: I have had many tractor trailers go through the site, you know, turn around and what not.

MS. COFONI: Mr. Kaplan, you're looking at what, was that marked?

MR. WEISS: Yes, it's A6.

MS. COFONI: A6.

MR. KAPLAN: Yeah, and you know they come through like all of them do, I mean, you know, I have tractor trailers in here and sometimes guys just come in to turn around and they come in and they realize you know, they're not turning here because something's going on so they go all the way to the back, and I mean this happened numerous times and they have absolutely no problem making the turn in this area and coming out because you have an area coming in, you have an area going out here and I mean, it's just never been a problem and they're 53 footers, I've seen it countless times.

MRS. NATAFALUSY: Well when we were out there the other day there was a truck parked right outside that building where you have that minor repair.

MR. KAPLAN: This one?

MRS. NATAFALUSY: Yes. There was a big tractor trailer truck parked there. How would a truck fit between the building and something like that?

MR. KAPLAN: There's always trucks here, whether it's Kirk's trucks or this other guy SMH truck, there's always trucks here and they still…there's no problem and there's cars parked here. There is no problem getting through, absolutely none. They just, they pull in they pull out. I've never had any time where someone says to me hey, I can't get out of your site. There has never been a question about it. I mean other than in front of the Board.

MR. PLOUSSAS: Mr. Chairman?

MR. WEISS: Greg, go ahead.

MR. PLOUSSAS: If I could add, you know there's a lot of different parts of this application that the Board has to review and look at, but, if the Board is inclined to approve this, I would ask that they put a condition on there that I provide Mr. Buczynski with a circulation plan, with truck templates on it, showing to him how the truck is going to make the moves.

MR. WEISS: I'm actually going to ask you not to do that because if we can't get a truck to properly circulate through this property, it's your problem.

MR. PLOUSSAS: I'm looking at the plan and…

MR. WEISS: The only reason I brought it up Greg…

MR. PLOUSSAS: …I'm confident, like Mr. Kaplan that we can get trucks there.

MR. WEISS: …because I remember we had a conversation about the very small concept of opening the road and you gave us the reasons why you don't want to, and that was totally acceptable. The road opened and there was a gate and we talked about why the gate is closed and that's totally acceptable to the Planning Board. My only concern, Mr. Kaplan, is not making the turn in your green shaded higher numbers up there, but my concern was navigating through the area where Kirk Allen does his business, which is contiguous to the truck repair, and you make that tight turn with that…

MR. KAPLAN: This really isn't that tight of a turn.

MR. WEISS: No, come back, come back to your right.

MR. WILPERT: The front.

MR. KAPLAN: This way?

MS. COFONI: That one.

MR. WEISS: Other way, go the other way. Go by Kirk Allen site where the truck has to make a left.

MR. PLOUSSAS: There?

MR. WEISS: Yeah and then he comes around, continue, and then you make a left, right there.

MS. COFONI: That one.

MR. WEISS: Making that left I think is a problem.

MR. KAPLAN: But it's not.

MR. WEISS: Okay.

MR. BUCZYNSKI: Cause they come all the way to the right before he makes the left turn I think.

MR. WEISS: We're saying go to the right, but…

MR. KAPLAN: It's never been a problem.

MR. WEISS: Mr. Allen is asking us to expand his operation with the Recycling Center that's going to obviously kick into that area…

MR. KAPLAN: …coming this way at all.

MR. WEISS: I'm talking about that left turn as you start to run parallel to the repair center that's back there.

MR. KAPLAN: Right, but you have, I mean over here you have almost, I think it's close to 200 feet. I mean, normally a tractor trailer just to back in, a minimum is 120.

MR. WEISS: Mr. Kaplan, I'm raising the issue that I had a concern, if you're telling me it's not a concern, it's your business, but I also think that on a busy day there's not 200 feet, I think there's trucks that are parked in, that come out into that parking lot. You have Mr. Allen's operation that's coming in towards that open 200 feet, and I don't think it's going to be 200 feet at the end of the day.

MR. BUCYZNSKI: Just a question, you had mentioned it before. If they can't get a truck in there, then they can't get it in there, but the alternate would be, can they come off of Waterloo Road still, if they can't get in this way?

MR. KAPLAN: No, I don't really want them to coming off of Waterloo Road. Eventually, you know, after we get this thing done and we put the addition on, we'll have another entrance down here, and then they'll just come right down into here…

MR. BUCYZNSKI: Okay. But for now, if they can't get a truck in there, they can't get a truck in there.

MR. WEISS: Mr. Kaplan says they can. We raised it, you addressed it.

MR. SCHAECHTER: Off of Waterloo. That turn is way too steep.

MR. BUCZYNSKI: But they can make that work.

MR. KAPLAN: A small truck can get in there, dump trucks can get in there, smaller trucks can easily get in there. But a big tractor trailer…no, they can't, it's just too…

MR. BUCZYNSKI: I think it's too sharp but if you had to sell your property, you could make it turn if you wanted to.

MR. KAPLAN: Well, I mean if we pulled back, you know, the property over here, then there's no problem.

MR. BUCZYNSKI: But we're not going that way.

MR. WEISS: Mr. Kaplan, it's acceptable to the Board that you don't want to do that. That's understood, we don't even have to talk about that, that's understandable. And if you're telling me that you can make the turn, I don't see it, you're the expert, it's your property. We addressed it, we raised it. If there is a problem, it becomes your problem.

MR. KAPLAN: Okay, one of the things that you had brought up, as far as just equipment over here, I mean, honestly there's definitely, I mean I perceive it from people who come to my site and want to rent, this is just from you know the people that have come. I would say that more than likely three quarters of the outdoor storage is really going to be trucks. That would be the minimum if not even almost all trucks. I mean occasionally you know you might get a guy that wants to take up a small area and put like a chipper or something like that, but most of it is really going to be just trucks and then for their cars when they pull out with their truck. But to cordon this off as all storage, I'll never, I mean, there's not enough business to fill up all that.

MR. WEISS: Go ahead, Tiena.

MS. COFONI: I don't remember, I could be wrong, please correct me if, but I'm looking now. I don't remember there being any restriction on where you could store, maybe I am wrong…equipment, materials and vehicles. I remember you doing that delineation, different areas, but I don't recall, and I'm looking through my list of conditions, there being a limitation on, this area can only be for equipment and materials. So, you have to stay within the storage areas, but whatever you put in there, you put in there.

MR. KAPLAN: Okay.

MS. COFONI: Cause it's all going to be paved and it's all going to be delineated, so, whatever you put in there you put in there.

MR. KAPLAN: Okay, thank you.

MS. COFONI: I mean, obviously within reason. I shouldn't say that broad of a statement.

MR. WEISS: I don't really like that comment but…

MS. COFONI: No?

MR. WEISS: Equipment, it's equipment. Not debris, not junk, not…

MS. COFONI: Oh right. And I also have a condition in there, I have that there can't be inoperable vehicles so it can't be like a junkyard.

MR. WEISS: I think we getting to, it's a relative comment, what's waste to one person is a treasure to another.

MS. COFONI: Yeah, I have operational equipment, vehicles, and I have materials, which I…

MR. MCGROARTY: Well, if I may, just to refresh everybody's memory, again, we call this is a Tier 1 well head area.

MS. COFONI: Oh that's right.

MR. MCGROARTY: We dealt with Mr. Allen's situation and we did talk about the Ordinance the Wellhead Protection Ordinance under major potential pollutant sources does identify a number of things, over a couple dozen uses that are not permitted and we went through that in a prior hearing. We can do it again tonight but site storage for maintenance of heavy construction equipment and materials, that's one of the many items that was listed and there are others. So, we did talk about that, I think it was addressed, if I recall correctly, and if Mr. Dunne will stop me and correct me if I am wrong, but I think they said we will do certain things there, and they will be itemized if the Board were to approve it, and that's covered under the d-variance. At least I think that's my recollection. Because if any of the items that are on this list which are 44 in total under major, and then there's a minor pollutant listed as well of 12 items. Anything on those lists require a d1 variance to be in that rear area because it is a tier one protection area. I know they had Planning testimony on it and again I think we talked about this list, I know we did because…

MR. BUCZYNSKI: Yes we did.

MS. COFONI: Yeah, I made notes on it too. I, again, correct me if I'm wrong, it seems to me from my notes that number 12 Site for Storage and Maintenance of Heavy Construction Equipment and Materials was one that we would be granting a variance on.

MR. MCGROARTY: I circled that one, yes.

MS. COFONI: And 16 Solid Waste Recovery.

MR. BUCZYNSKI: We went through those at the last meeting.

MS. COFONI: Eighteen and 40.

MR. MCGROARTY: I also had nine circled, but I'm not sure because that's a service center repair maintenance, and there would be no outdoor repair or maintenance, so I don't know why I circled that. But 18, yeah, compost facility.

MS. COFONI: And forty.

MR. MCGROARTY: And forty.

MS. COFONI: And then in the minor I have number six.

MR. MCGROARTY: Well, just for the Board's benefit, sight 40, is sight for storage and maintenance of the equipment and materials for landscaping, and yeah, likewise, I had six which is the septic leaching field under the minor pollutant sources.

MS. COFONI: So, anything else…

MR. MCGROARTY: So if they agree that that's the extent of what they would have.

MR. DUNNE: That's what I have.

MS. COFONI: Okay. So anything else on that list would not be permitted to be stored there.

MR. SCHAECHTER: So Chuck, if you had a tractor trailer, a trailer that had, say it was used to haul a hazardous material like gasoline; you couldn't part it back there.

MR. MCGROARTY: You know, I remember asking if they were going to have trucks with petroleum in them, and I thought the answer was no.

MR. SCHAECHTER: Any hazardous material that you wouldn't put in a wellhead area.

MS. COFONI: No.

MR. MCGROARTY: Well, I'd have to read this list again just to be sure of…

MR. DUNNE: What's the underground storage of hazardous material?

MR. MCGROARTY: It does say collection and transfer facility for hazardous wastes, solid waste that contains hazardous materials and radioactive materials. I don't know if that would apply.

MR. DUNNE: I don't know if that applies to this. I mean the storage of a tanker truck I suppose on site is not permanent. They are talking about permanent storage.

MR. MCGROARTY: The only thing perhaps close to that would be above ground storage of a treatment facility and it goes on, so again I don't think the truck would…there's one of things the that's not permitted petroleum, refinery, bulk station , but again, I don't think that applies. I'm not seeing anything that would apply to trucks, parking of trucks.

MR. DUNNE: I don't see it.

MR. WEISS: Well Brian you are asking a question making it a condition, I think the condition might be that I think maybe (inaudible) we'll talk about it in a little bit, we'll come back to discussing any condition that would apply to the rear storage area. Do we have any other conversation about this? Mr. Kaplan, thank you for the explanation.

MR. KAPLAN: You're welcome.

MR. WEISS: Does anybody else have any questions for Mr. Ploussas? Seeing none, let me open it to the public, if anybody from the public has any questions for Greg Ploussas on the testimony he gave tonight. Seeing none, I'll close it to the public. Mr. Dunne, back to you.

MR. DUNNE: Thank you Mr. Chairman, we have no further witnesses at this time. We are prepared to sum up if that's what you would like.

MR. WEISS: Mr. Dunne, that's fine, that's totally fine.

MR. DUNNE: Alright, great, thank you. First of all, I want to thank the Board for spending all this time with us, it has been a long time in regards to this application, it's complicated, complex and you've heard testimony from several experts there has been testimony the Planner, an environmental expert, the Engineer, you've heard testimony from Mr. Allen, testimony from Mr. Kaplan regarding the proposed uses, and this property has been before the Board several times. We're trying to come in with a comprehensive application that enables them to proceed with the use of the property without having to come back frequently so there is several aspects of this that are phase. This property is located in a G1 general industrial district. There is a small slice of it that is in the FTC zone which, by the way, permits all uses that are in the G1 zone in the FTC zone, are all permitted, so general industrial uses in this particular zone permits such things as lumber yards, which of course we'd have such accessories as forklifts, saws, mechanical plainers, and such things. Warehouse shipping and receiving, outside storage area, manufacturing, finishing of assembled products, and also any uses customarily associated with all these uses which are considered accessory uses. In this case, we have been impacted by the subsequent adoption of a wellhead protection act ordinance in this town, which was adopted subsequent to the approval granted in this particular case. The existing uses of the warehouse and assembly building that's operating on this site, the Kirk Allen operation storage maintenance, maintaining soil piles and the landscape products, landscape vehicles, storage of trucks on the site, repairs, service repairs of trucks on site, inside, have all previously been approved. What's now happening is we've expanded the operation, applied for a minor sub-division, the minor sub-division creates three lots, all of which are conforming to your ordinance. So all three lots conform to the bulk requirements of your ordinance. In this case, we ask for a zero lot line variance of the building along the lot line that separates the existing warehouse building from what would be a proposed lot 1.02. The reason for that was established because of a hardship that was impacting our client as a result of DEP requirements for expanded septic system that would be extraordinarily expensive, which is avoided by simply drawing a line, having two buildings as opposed to one building, and that has no negative impact because it could have been built that way anyway in accordance with the ordinance. There is no negative impact from that variance request. The issue of storage of materials within the wellhead protection act is something we had to address as a result of the adoption of that ordinance. The testimony in this case indicates that the storage of items in the, the creation of items such as the landscape materials, the composting facility that is proposed on this site which is not a class B recycling facility but it's an exempt process under the county waste management control, is an aspect of recycling that is encouraged by the county. This is something that promotes the public welfare by having such a facility to dispose of such items as this and recycle the products back to the earth by creating topsoil through the mulching and composting processes that are on site. In order to accommodate that, the soil separator and the pin for crushing and mulching up items is required to be on site. Both are portable. Space is needed to accommodate that. In this particular case, Mr. Allen inadvertently through neglect actually, encroached upon the originally approved 100 foot setback because he thought it was side yard. He is a layperson . A side yard set back in this Town are 50 yards, 50 feet, so he made a mistake, he went too far with that

thinking it was okay, he was wrong, and now he is asking that it stay that way because that's how he operates his business. Mr. Allen has been operating his business here for six years successfully. He wants to bring in the recycling operations which is a public service operation, and for that purpose, he is looking for a side yard set back variance. Under our law, you have the ability to grant this variance, the use variance is under D1 exception for a use variance. There are special reasons for granting the variance in this case which were set forth down in the municipal land use law. First, subsection 52-DG provides sufficient space and appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses in open space, public and private, according to the respective environmental requirements. Subsection H to encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities en route which result in congestion or blight - this is applicable because the focusing of the trucks in this particular area with direct access out to Route 46 avoids those vehicles going through your town and using streets that would be inappropriate for those particular towns. So its supported by this application. Number O to promote the maximum practical recovery and recycling of recycled materials from municipal solid waste through the use of planning practices designed to incorporate the state recycling plan goals and to compliment municipal recycling programs. That's dead on, this application. That's exactly what we're doing. So I suggesting that this application as far as the recycling operation is concerned, is directly supported by a specific purpose of zoning and it accomplishes that purpose, and not only that, it's encouraged by the county in order to facilitate the recycling of such items as yard waste, that otherwise ends up filling up landfills which we don't need to do unnecessarily. This case doesn't need to go beyond establishing a special reason under a D1 and a C2 variance, because the special reasons are set forth in Municipal Code law. This application in multiple ways supports the purposes of zoning and therefore special reasons are established. In connection with the Kirk Allen operation, it's particularly suitable because it's already there, it's already an approved use, it exists, it can't go anywhere else. The Board talked to him at one point in time about moving the operation, he has no right to move his operation any place else. He's located in that site, he has no right to lease any additional space and the owner of the property already has plans for the rear of the property, which had been suggested it might be moved to. It's not going to work, you can't move the operation to that site, he's not permitted to do that, so he can't make that happen. In this case the appropriate demonstration of proofs has come forth, what are the negative impacts of this? I don't see any negative impact on this except the only possible negative impact is the visibility of this site, the site impact for Waterloo Road. If you were to drive by Waterloo Road today with the grass growing on that hill, you would barely notice it's even there. If you moved it back 50 feet, it wouldn't change the view very much, you'd still see a hill there, you'd still see it from the road. In an attempt to mitigate those negative factors, we have come up with trees, boulders, and actually we have natural screening that's already there. So when you weigh that minimal impact which has already been mitigated by this proposal against the public benefit that we have established by proofs in this case that are unopposed, I think you have to find, I ask you to find that we've established proofs both through a c2 variance for that and a d1 variance for all of the conditions that we've asked for in connection with this application. And again, I thank you for your patience and time in this matter, it's been a long application and I think you've all been really good for us, so thank you.

MR. WEISS: Before I give a little bit of direction to the Planning Board, perhaps if anybody has any general comments, we can discuss them, and I should open it to the public if anybody from the public has any comments generally about the application, now would be the time to speak. Ok, so I see nothing from the public. So, as I turn to the Planning Board, we have an application that's been in front of us, I believe April 16th was the first time, we continued through June, September and here we are in October, so this application has gone for quite a long time, it's been very complicated at times, a lot of detail, a lot of different activities going on so, I kind of think that the best way that we could handle the process that we need to go through to make it understandable by everybody, I think that, when I look at it in a general sense, each one of the variances kind of stands alone, so from a negative perspective, and I hate to be negative if we were to turn one down, it doesn't mean that the others couldn't continue. And I think that we need to look at each of these requests individually and take multiple votes to give the applicant the most fair opportunity to proceed as he wants, at the same time, seeing that the Planning Board has its opportunity to have its say on specific elements of the application. So, Tiena and I

spent a lot of time talking about it, and I think what we're going to do, and certainly fill in anything I may have missed, is that I think we need to look at it, I don't want to break it down into Mr. Kaplan's request versus Mr. Allen's request, because we know that's it's not, it's really one application with lots of different requests, but my comment is more of the fact that there are certain requests or variance requests that deal with those issues that don't have to do with Mr. Allen's operation, and there are some that are very specific to Mr. Allen so what I thought we would do is we would break it down into certain votes. The first one, and in no particular order, I think the first thing we should do is take a vote of the Planning Board of the minor sub-division.

MR. FLEISCHNER: Excuse me Mr. Chairman, I'd like to know if you do that, I was not here for the road ranger application for the BP gas station. Cause there were eight variances, did we do that for that application?

MS. COFONI: The difference there, and this is unique in that most of time when you have an application, and I don't like to compare previous applications. Every application…

MR. FLEISCHNER: I don't either, I don't either.

MS. COFONI: …stands on its own, and there's vast differences between every application, especially that one and this one. But, the reason that this can proceed this way is because of exactly what the Chairman said and that is, they can proceed independent of one another, as opposed to a gas station that needed all of those things in order to operate. So if we granted one variance and denied another variance, well then they couldn't go forward.

MR. FLEISCHNER: That would've been great.

MS. COFONI: They couldn't go forward.

MR. FLEISCHNER: Right.

MS. COFONI: With their proposal, they'd have to restructure their proposal.

MR. FLEISCHNER: But that would have been our problem, would it?

MS. COFONI: But you can't do that, you can't do that. As opposed to here, where you can grant a minor sub-division, but deny a variance, they could still sub-divide the property and still take care of their septic issue. Or you can grant a variance for the recycling and deny the minor sub-division. The recycling center could still go forward. That's why it works here, that's and, it's actually to the applicant's benefit.

MR. WEISS: I agree.

MS. COFONI: And it does simplify and make things easier for the Board to understand. So, I think it's beneficial here for those reasons.

MR. WEISS: Tiena, I'm going to agree with you obviously, because I think giving the applicant as many opportunities as you can, I think that if we lump it into one vote, I think the applicant is taking a tremendous risk of perhaps getting voted down. There's a lot of different issues that…I just think it's a better way to do it, and I think to simplify it with the Planning Board, it will be a lot easier to do it that way.

MR. FLEISCHNER: I think Mr. Chairman, that we have a site here, that probably not one member of this Board had this not come to the Board, would have ever travelled down Love Lane to see this applicant. I would say 99 percent of the population of Mount Olive has never been to where this site is. Wait a

minute, wait a minute. I'm going to make that statement, cause I can, this is America last I looked. Okay, but how many of you ever drove to this site, other, obviously you…

MR. WILPERT: Okay. Many times, and I enjoy driving down to that site for the record.

MR. FLEISCHNER: Okay, but I think that we have a site that this Board has reviewed, like you said, for many many months. We've looked at this. And yeah, and you want to know something, I'm going to say it on the record cause I really don't care, there are some people on the Board that no matter what was presented, if President Obama came here and said I'm going to build a mini White House, would still vote no.

MS. COFONI: Joe, I have to really urge you not to make general statements like that. First of all, you don't know what's in everyone's mind. Second of all, that's really belittling the importance that the Planning Board's place, the Planning Board members place on the applications that come before them, the time they spent. As you know, they are all volunteers…

MR. FLEISCHNER: I understand that. But I'm also raising…

MS. COFONI: Please, let me finish. To say that they're not taking into consideration the testimony that's given and weighting it, and giving those considerations, that they're just going to make…you don't know that, A. B, it's a very strange statement to come from a Planning Board member with experience like you have. And C, it's not true. And statements like that just really paint this Board in a terrible light.

MR. FLEISCHNER: That's your opinion. That's your opinion that it's not true. That's your opinion that it's not true.

MR. WEISS: Well, we can debate it all we want, we're going to proceed.

MR. FLEISCHNER: And I can understand what you're saying, you can do it one at a time, but the reality is of the situation, I can tell you maybe what one or two votes are already, before they even vote. I can tell you what those votes are because I've heard it for months and months. And I don't think that is fair.

MR. WEISS: Well, let's wait to see how it works out Joe.

MR. FLEISCHNER: Okay, fine. Okay. I said my piece, I said my piece.

MR. KOPTYRA: Why don't you poll the, like we always do, poll the Board and see how we do.

MR. WEISS: No, I think, Dave here's why…I spent a great deal of time, I'm trying to figure out how to be the most fair, how to go about this the most fair way for the applicant. At the same time trying to break it down for this Planning Board to best able to digest what we've listened to since April. And so, we can poll the Board, but I think at the end of the day, the best route for the applicant is to do it the way we're going forward. I think Tiena summed it up beautifully. It gives the applicant the best opportunity to get what he's looking for.

MR. KOPTYRA: Well, I agree with you, but I can't say I agree with you if we're not going to poll the Board.

MR. WEISS: So, everyone is going to have an opportunity to have a comment, and again, my plan is to first vote on the minor sub-division which includes a zero lot line, with any variances and conditions that we might have. We can address those, address them, talk about them, and vote on them. I think at that point we'll then move on to the request for, we have, the building on the northern end of the property, the accessory building which was going to become a principal structure with variances and conditions. We had a request for a conversion of an office building to a warehouse building with many variances

and conditions. And of course the storage area in the back, was a request and those would have some conditions. Chuck.

MR. MCGROARTY: Mr. Chairman, I just want to make sure the office building converts to warehouse building is not on the…

MS. COFONI: Right.

MR. MCGROARTY: We thought it was, but apparently it's not.

MR. WEISS: I'm sorry, we'll take that off.

MRS. NATAFALUSY: So it's just amended preliminary and final site plan for phase one.

MR. BUCZYNSKI: Phase one, correct.

MS. COFONI: Maybe we should take them one at time, should we just stick to the minor and then move on.

MR. WEISS: Okay, let's do that.

MS. COFONI: Because now we're getting complicated again.

MR. WEISS: Yes, okay, so the first vote we are going to vote on is for an approval of the minor sub-division which included a variance request for a zero lot line. I don't believe there was any other conditions.

MS. COFONI: There was no other variances associated, just the side yard set back, right?

MR. PLOUSSAS: Are there existing variances for the side yard and the rear of the existing structure?

MS. COFONI: But those were already…

MR. PLOUSSAS: Yes,

MS. CONFONI: But now we're now doing a minor subdivision.

MR. DUNNE: Also, the small building has variances as well.

MS. COFONI: Alright, so with existing variances previously granted and I'll take a look at those because we're doing a minor subdivision and subdividing I don't know off hand if those are changing.

MR. MCGROARTY: Well, they changed, and I think we addressed that, I think that they changed because it will go from an accessory building to a principal building.

MS. COFONI: Okay, yeah.

MR. MCGROARTY: But there are existing conditions. I think we could find that if we have to find it, but yeah, it's not going to, subdivision or no subdivision, nothing's changing, because the tract boundary is not changing so that building, the setbacks are what they are. It's not going to change.

MS. COFONI: Okay.

MR. WEISS: And I think it's very clear why the applicant requested that. So I believe that our first vote is going to be on an approval or denial of the minor sub-division with the variance of the zero lot line and…

MS. COFONI: …and mention of any existing variances or existing conditions.

MR. WEISS: Okay, so that being said, I would like for someone to make a motion.

MR. SCHAECHTER: I'll make that motion.

MR. WEISS: And that is.

MR. SCHAECHTER: For the approval of the minor subdivision with the zero lot line with any existing variances and conditions.

MR. WEISS. Fine.

MR. NELSON: Second.

MR. WEISS: Second by Dan. Any conversation? Catherine, Roll Call.

ROLL CALL:

Joe Fleishner	-yes
Brian Schaechter	-yes
David Koptyra	-yes
Dan Nelson	-yes
Nelson Russell	- yes
Frank Wilpert	-no
Kim Mott	- yes
Howie Weiss	-yes

MRS. NATAFALUSY: Ok, so that one's passed.

MS. COFONI: What was the number?

MRS. NATAFALUSY: seven one.

MR. WEISS: But, Kim can't vote, right?

MRS. NATAFALUSY: Yes, you know what the difference is, if we're separating it, and it's the minor subdivision…

MS. COFONI: Yeah, that's why.

MRS. NATAFALUSY: We can do eight votes. When we go to the d1, then it's going to be five out of seven that they need.

MR. WEISS: Okay.

MRS. NATAFALUSY: Okay?

MR. WEISS: That's fine, you'll keep us in line that way please. Okay, our next item. I guess it really didn't have any…

MS. COFONI: Okay, so the next one is the preliminary and final site plan, phase one with, I think it has variances, but also, I just added a note too, that application needs to include the d1 variances for the storage of the materials, the minor and major pollutants.

MR. MCGROARTY: Correct.

MRS. NATAFALUSY: Oh, so we're including a d1 on that? So the vote is only seven people on that one.

MS. COFONI: Yeah, and there are c-variances associated with that. I know I have it, I just don't have it on summary.

MR. BUCZYNSKI: That includes Kirk Allen site too, right?

MS. COFONI: No.

MR. BUCZYNSKI: Well, you are saying phase one, he's in phase one.

MS. COFONI: Okay, I'm sorry, so that just includes the storage and modifications of buildings associated with Mr. Kaplan.

MR. DUNNE: So, you're segregating out from phase, from your final site plan the Kirk Allen operation, is that what you're doing? That's actually included in phase one.

MS. COFONI: The reason is, originally that we were doing that is because Kirk Allen needed the use variance from the wellhead protection area, and at the time we were thinking that this one did not.

MR. DUNNE: Okay.

MR. GREENBAUM: I just have a legal question, having nothing to do with the application itself. Because it's a d-variance, this Board is acting as a Board of Adjustment, that's why the Mayor and the Council members can't sit on it. So, it's my opinion, for whatever it's worth, that the same people that vote on whatever, vote throughout the whole thing as if it's one application, because it's a d-variance.

MS. COFONI: I tend to agree.

MRS. NATAFALUSY: So then we go back to just the seven and not the…

MRS. COFONI: Not the eight.

MRS. NATAFALUSY: …that's what I was going to do.

MS. COFONI: Yeah, so that means that…

MR. MCGROARTY: Even for the minor subdivision?

MS. COFONI: Yeah, I think, because you're acting on the application as a Board, as a Board of Adjustment.

MRS. NATAFALUSY: Okay.

MS. COFONI: So, what it changes, is the change of the minor subdivision vote, six to one.

MRS. NATAFALUSY: Right, and Kim would be…

MS. COFONI: Yes.

MR. WILPERT: Sorry Kim.

MS. COFONI: I agree

MS. MOTT: I'm good. I'm good.

MR. WEISS: So our next vote then Tiena is on the storage area.

MS. COFONI: Well, I think we need to give a little thought to that, because the reason, I apologize.

MR. WEISS: No, it changed as we spoke.

MS. COFONI: Yeah, I mean, when we were talking about it we were talking about the fact that it didn't need a use variance. The first part of it didn't need a use variance, but it does. Following me Chuck?

MR. MCGROARTY: I am.

MS. COFONI: So now, it seems like perhaps the rest of it can all go together.

MR. MCGROARTY: That would make sense I guess.

MRS. NATAFALUSY: Okay, so we will vote on the amended preliminary final site plan phase one with the d1 variance for…

MR. BUCZYNSKI: For all the operations, correct.

MR. MCGROARTY: d1 variances for the storage area in the back, the d1 variances for the Kirk Allen portion of tract for the…

MR. WEISS: Wellhead protection.

MR. MCGROARTY: Right, to have the exempt Class B recycling proposal back there, there's a bulk variance and Mr. Dunne has presented it as a c2 variance for the encroachment into the 100 foot setback up to Waterloo Road. I think that's it, is it?

MR. WEISS: It included the bulk variances?

MR. MCGROARTY: There's a d1 variance the storage area in the back.

MR. WEISS: Correct.

MR. MCGROARTY: That would be for any of those materials that were on the list. The Kirk Allen portion of the tract to operate an exempt Class B recycling, which is likewise not permitted in a wellhead protection area, and so those are two d-variances. Essentially, a d1 variance for those two locations, I guess it is one variance for those two locations.

MR. WEISS: Should we vote and just stop it right there on the d-variance?

MR. MCGROARTY: Let me just, and then there was the bulk variance, the set back of the materials, 50 feet versus 100 feet.

MR. WEISS: Why is that lumped in with the use variance?

MR. MCGROARTY: Well, it's part of the application. You can treat it differently, I confer to Tiena on that. I just wanted to enumerate the variances.

MS. COFONI: What I'm trying to think of is if you could have one without the other, and you can't.

MR. WEISS: You can't.

MR. MCGROARTY: Well you can permit an exempt recycling; you can decide about the buffer, can you not?

MR. DUNNE: You can act individually on the application for a d1 variance for the recycling operation. You can act separately on a application for a bulk variance with a side yard…

MS. COFONI: Yeah, the side yard, yeah. I guess you just have to do the use variance with the site plan aspect of it for the use variance.

MR. DUNNE: Exactly. You would have to grant or deny the application for variances first, if you are going to do it separately. And then your site plan approvals would be subject to those votes if you already had to say we'll give you site plan but you can't have it this way.

MR. WEISS: Ok, here's what we're going to do, I think we're going to take a vote on the d1 variance request…

MS. COFONI: Both.

MR. WEISS: Both of them.

MS. COFONI: Both use variance requests.

MR. WEISS: The both, really protection from the well head. And I think that, that's what we're going to do. Again, we're going to make a…we're going to look for a motion to approve or deny the request for the d1 variance from protection of the well head. So…

MS. COFONI: And that's for the storage of the pollutants, on the major and minor pollutants list by Kaplan in well head protection area, and then it's for the recycling center in the well head protection area. Those are the two use variances.

MR. WEISS: Correct. So, there will be conditions. Let's talk about conditions, if someone will make a motion, and I think we spoke about a couple of them. When it comes to the Class B recycling, I know that Mr. Allen was very clear to tell us that he's withdrawn some of his initial requests, example being asphalt.

MR. DUNNE: As well as concrete…

MR. WEISS: Correct. And so I think what we should have is a list of the exact operation that's going to go on. I think Mr. Allen should prepare or we should have a condition that those uses will be, or those items that will be recycled will be noted.

MR. DUNNE: In the administrative code they're described as yard wastes and tree by-products, so, that's all it is.

MR. WEISS: Okay.

MS. COFONI: I have brush and leaves, yard waste.

MR. DUNNE: In the administrative code it defines yard waste.

MR. WEISS: Yard waste is acceptable.

MS. COFONI: Okay, so the recycling would be limited to those items.

MR. DUNNE: The recycling is limited to those items.

MR. GREENBAUM: Can I make another suggestion?

MS. COFONI: Yes.

MR. GREENBAUM: And I'm looking at it from the perspective to the extent that this Board votes no, if they vote yes, it doesn't really matter. But if the Board votes no, my suggestion is that you take each of the d1 variances separately so that if and when it ever gets into the court, the judge will be able to understand exactly why the Board, what the Board decided on each particular d1 variance. I think that's the best suggestion to go in this application.

MR. WEISS: I think because they're both tied into the same well head protection.

MS. COFONI: That's why I thought they could be together. Because we're talking about prohibited activities in the well head protection area.

MR. WEISS: I think the reason I asked that question, or I certainly pointed it to Mr. Allen, is that if you go back and listen to the testimony from the expert, and you know, Tiena and I talked about it, and we agreed on one part, that the well head protection area is defined by people that are much wiser than us. They've defined the area, and the expert basically came in and talked about why he doesn't agree with it. Now, you could say, well that wasn't much testimony, at least that was my initial thought but at the end of the day when Mr. Allen is going to come here and is going to tell us exactly what he is going to do, which is simple recycling of yard waste, although I am no environmentalist, I don't see any hazard. So if we're going to use common sense, there should be no impact on the well head, my opinion. So, by having documentation of what's going to be going on there, I'm satisfied that the well head will be protected, because originally I didn't think that the expert did anything to prove how it's not going to affect the well head. If you're understanding what I'm saying, a little confusing, but common sense shows that what they are going to do there should have no impact. Henry.

MR. FASTERT: I don't want to make this any more difficult for you. But there are some issues around yard waste because it's fertilized and it has insecticide on it. And so that may or may not be an issue.

MR. WEISS: Something that the Planning Board can consider.

MR. KAPLAN: There is no way that any of that fertilizer or insecticide can ever make it through those tiers of clay and what not to get anywhere near those well heads. It would have to cross a stream, which isn't going to happen, and then there's levels of water as well.

MR. WEISS: So with that condition, being that there'll be a list.

MS. COFONI: Well, I don't think there's going to be list, I think it's going to be limited to the yard waste, brush, leaves.

MR. MCGROARTY: Exactly.

MR. WEISS: So, the request then, with that condition, no other variance besides obviously the d1 variance.

MS. COFONI: The 2d1, we're on the variances.

MR. WEISS: The 2d1 variances. I will look for a motion.

MR. WILPERT: I'll make a motion to approve…

MR. WEISS: the waiver

MS. COFONI: Yes.

MR. WILPERT: I'll make a motion to approve the waiver from the well head protection area for the d variances for the storage and for Kirk Allen Trucking.

MR. NELSEN: Second.

MR. WEISS: Ok, any comments?

MR. NELSEN: I have a comment.

MR. WEISS: Go ahead.

MR. NELSEN: I agree with you regarding yard waste and recycling, I don't see anything uncomfortable, that it shouldn't have a negative effect on the wellhead. My one concern was perhaps mulch being dyed, but Mr. Allen testified that it wasn't going to be dyed on the property. So that, I'm no longer concerned with that. So I'm good with it.

MR. WILPERT: The only, I don't know if we should have it as a condition, but for in the storage area in the back, it should be contingent upon a zoning permit issued or approved by the Zoning Department, at least so they have a record as to what is being stored there, and it conforms to the wellhead protection, so we have some type of record and we have some type of enforcement upon that. Just like you did with the trucking company…

MR. WEISS: That list is already there, right Chuck? We had that list that we were referring to.

MR. MCGROARTY: That is correct.

MS. COFONI: Double check.

MR. WILPERT: Double check and then the Zoning Department knows that…

MR. WEISS: We can reference that in the resolution.

MS. COFONI: Yeah, I just wrote it down.

MR. NELSEN: Mr. Chair, I would also like to add with the conditions that Tiena will add to it.

MRS. NATAFALUSY: Mr. Chairman, are we going to get, we discussed getting a list of whose occupying the site now, cause we got Redshed, we've got New York Folding Box.

MR. KAPLAN: Yeah, I can get a list for you.

MR. WEISS: Yeah, it wasn't for this one though Catherine, I have those notes here.

MS. COFONI: That would be for the site plan, this is just for the two use variances.

MRS. NATAFALUSY: Oh, we're not doing the preliminary final site plan, phase one on this one?

MS. COFONI: No.

MR. DUNNE: Not yet.

MRS. NATAFALUSY: Ok.

MR. WEISS: Ok, so we have a motion that's been seconded. Catherine, roll call.

ROLL CALL:

Joe Fleishner	-yes
Brian Schaechter	-yes
David Koptyra	-yes
Dan Nelson	-yes
Nelson Russell	-yes
Frank Wilpert	-yes
Howie Weiss	-yes

MR. WEISS: Ok, so now we move on, you know I scratched something off my list. Mr. Dunne, you said you didn't, this application doesn't have anything to do with the conversion of an office building to a warehouse building? What about…

MR. DUNNE: Phase two is just the way it was approved.

MR. WEISS: And the same thing with that northern building, the accessory building, to turn that into a principal building?

MR. DUNNE: No, that's part of phase one. With that part of the preliminary and final approval, asking for the building over there is to be used for indoor truck storage and servicing…

MR. WEISS: Right, we did not address that yet tonight, did we?

MS. COFONI: Correct, we did not.

MR. WEISS: So then, the last piece of the overall operation is the approval of the requested…turning the office building. I'm sorry, the northern most accessory structure into a principal building with any variances and conditions.

MR. DUNNE: They're just existing conditions.

MR, WEISS: Right, so there was no new conditions.

MS. COFONI: Well, I mean, I think it's the preliminary and final…

MR. BUCZYNSKI: Right, it's part of that.

MS. COFONI: Preliminary and final for phase one.

MR. WEISS: Okay.

MS. COFONI: Now, there is also the setback variance. c- variance.

MRS. NATAFALUSY: You still have to vote on that.

MR. WEISS: Okay.

MS. COFONI: Right. So, I don't know if the Board wants to do the preliminary and final for phase one, everything except for that c-variance for the setback.

MR. WEISS: Yes, let's finish, let's go on this path so…

MS. COFONI: Okay, so then, there will be four votes.

MR. WEISS: Yes, that'll be a good time to discuss what Catherine brought up which was a request by the Planning Board, a condition of approval that, and we'll attach it to the resolution a list of whose operating there now.

MR. KAPLAN: I wrote that on here. I'll give you a list of everybody.

MS. COFONI: You can vote separately because you're able to comply and proceed with your site plan.

MR. BUCZYNSKI: But you're not approving the site plan, how can you approve the site plan, if you're not approving the variance.

MS. COFONI: You're not approving one variance out of the site plan, in theory.

MR. BUCZYNSKI: So, basically separating Kirk Allen from the rest of the project.

MS. COFONI: No. Just the set back for that pile.

MR. WEISS: We're not addressing the bulk variance request right now.

MR. MCGROARTY: Well, you are actually.

MR. FLEISCHNER: You are.

MR. WEISS: Okay.

MR. MCGROARTY: Well, the way I see it, maybe I'm wrong, but preliminary final site plan, that a preliminary and final site plan phase one that the applicant has presented to us is the one I guess, not guess, is the one I think we need to vote on. I know this morning I was trying to sort out in my mind what the order of things were. But, preliminary and final site plan then phase one is the northerly building which is converted from accessory to principal and existing set backs are recognized, and they change for a principal building, but they are what they are and they're noted in the report. And there's the other bulk variance on the other side of the tract which happens to be the Kirk Allen portion of the tract. And then there are the pre existing conditions with respect to the building's proximity to Continental Drive et cetera. So, I think, if that's the site plan that they have presented to us, to you, the Board, then I think that's the one you vote on.

MR. WEISS: Okay.

MR. MCGROARTY: I mean, you can defer to Tiena, but I think you do.

MS. COFONI: I think that if the Board was so inclined, there have been times where, and it's hard to articulate because it's got to be in specific circumstances kind of like this one. You know, if there was a site plan that included a building, and it needed a set back, well no, you couldn't vote on the variance separately cause they have to change their building in order to comply. In this case, you are able to separate out variances, if the rest of the project and the preliminary final site plan can go forward. I think it's possible, it's certainly okay to include it. I've seen separate votes taken on variances when

Board members are inclined not to grant them but they are okay with the overall plan. And there is one part of the plan that they are requesting a variance, they don't want to approve, and as long as the rest of the site plan can go forward, and they just have to now comply, you don't get the variance you have to comply, I don't have a problem with you separating that out. But it's up to the…

MR. WEISS: Okay, this is a good opportunity then. If everyone understands the issue, the first part of the conversation was, I don't want to use the word lump, but the lump, the rest of site plan variance request into one vote versus the other theory which is to take the portion that pertains to the northern accessory building and then take a second vote on those bulk standard variances for Mr. Allen's operation.

MR. COFONI: But there's only one, am I right?

MR. MCGROARTY: For, I'm sorry, only one what?

MS. COFONI: There's only one variance related to Mr. Allen's.

MR. MCGROARTY:: That's correct.

MS. COFONI: Just the pile. So really what you're doing is, preliminary and final site plan for phase one as one vote, and whatever variances are associated with that. And then your second vote would just be on the c-variance the bulk variance for the setback for the soil pile.

MR. MCGROARTY: We also just need to keep in mind as you vote that Mr. Allen's portion of the tract they have asked to expand the area that they can work within from .83 acres to 1.35 acres. So that would be part of the site plan approval as well, right? And, it's really tied to the…

MS. COFONI: Kirk Allen has asked for an expansion of that.

MR. MCGROARTY: That's correct. The site plan, back in 2010 was, Greg help me please, 0.83 acres?

MR. BUCZYNSKI: Yeah, something like that.

MR. MCGROARTY: And now their proposal would expand the operation to a little over an acre, as is identified in the plan that was discussed earlier, and that sort of…

MS. COFONI: The expansion includes the fact that they wouldn't comply with the set back the first time.

MR. MCGROARTY: that's correct.

MS. COFONI: Okay, I understand.

MR. BUCZYNSKI: I think they're related.

MS. COFONI: I see what you're saying, I don't know if the Board…

MR. WEISS: Okay, well, I'm going to take your advice and have one vote.

MS. COFONI: Okay, one vote it is.

MR. WEISS: Chuck, Tiena, are you suggesting that it's best handled?

MS. COFONI: Because they are tied together, and I didn't understand that aspect of it.

MR. DUNNE: You could make a motion to have a site plan approved subject to a limitation that would eliminate whatever you're concerned about and the requisite changes that would take place. In this case if you, for example, were to deny the side yard variance it would revert to the formal approval which granted the use, it's already permitted there. So, that would go back to the former approval if you didn't grant this and then that part of your site plan application would be …

MR. WEISS: The concern, just speaking frankly, is that if the Planning Board doesn't like the side yard variance set back…

MS. COFONI: I think that is what Mr. Dunne is…

MR. WEISS: …then Mr. Kaplan is not going to get the approval to do the accessory structure in the northern end of the property.

MR. DUNNE: I understand that.

MS. COFONI: That's why he's suggesting that you could do it separately.

MR. DUNNE: I don't know if the Board has already discussed this or not, it seems there seems to be some preliminary discussion…

MS. COFONI: Just professionals and the chair.

MR. DUNNE: Perhaps we should poll the Board to find out whether or not this Board is actually of a mind to deny the side yard variance, even though we've established the public purpose or we couldn't get a d1 variance, so we've established public purpose and the only issue is to weigh that public purpose versus the negative effects which is basically a site issue. So, the Board has to, has to go through a weighing process to determine whether or not this minimal site issue outweighs the public purpose served by the application. So, that's really where we are.

MS. COFONI: If you want to poll the, I think everyone understood what Chuck said, I certainly understood, I didn't realize it earlier, if you want to continue to poll the Board as to whether or not you want to have one or two votes, I think that gets us to where we need to go.

MR. WEISS: Okay, let's do that, one or two votes? Show of hand or...

MS. COFONI: Well, you could just…

MR. WEISS: Let's go, start with Dan.

MR. NELSON: Two.

MR. WEISS: Two. Nelson.

MR. RUSSELL: One.

MR. WEISS: Frank.

MR. WILPERT: One

MR. WEISS: Brian.

MR. SCHAECHTER: Two.

MR. WEISS: Joe.

MR. FLEISHNER: One.

MR. WEISS: Two.

MR. BUCZYNSKI: Three to three.

MS. COFONI: That didn't work out so well.

MR. KOPTYRA: What about me?

MRS. NATAFALUSY: What about Dave?

MR. KOPTYRA: Two.

MS. COFONI: Two.

MR. WEISS: Okay, so we are going to take two votes.

MS. COFONI: Alright.

MR. WEISS: Okay, so the first vote will be the approval of the northern accessory building…

MS. COFONI: I think you need preliminary and final site plan approval for phase one, excluding the set back, c- variance for the stockpile of soil.

MR. WEISS: I won't even repeat that. Anybody want to make a motion.

MR. SCHAECHTER: I'll make that motion, just as you stated it.

MR. FLEISCHNER: Second.

MR. WEISS: Joe, second. Comments? Seeing none. Dave. I'm sorry Catherine, Roll Call.

ROLL CALL:

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

MR. WEISS: Okay, so after all this conversation, we're left with one vote. Why don't you tell us what this vote is Tiena.

MR. COFONI: This is for a c- variance for the set back for the stockpile of soil on…

MRS. NATAFALUSY: Waterloo Road.

MR. FLEISCHNER: Waterloo Road. Fifty feet.

MS. COFONI: And this is for a 50 foot set back.

MR. DUNNE: That's right. Maybe we should poll the Board to find out what their feelings are.

MR. WEISS: Nothing left to poll Mr. Dunne.

MS. COFONI: No, we're just on to the vote now.

MR. WEISS: One vote now. Well, I'd only do that…I'll listen to you to what your thought was.

MR. DUNNE: Well, I mean if we know what the Board's thinking is on it, maybe we can still talk about it.

MS. COFONI: Okay, maybe you'd like to hear a comment from the Planning Board.

MR. DUNNE: Maybe I would.

MS. COFONI: Perhaps.

MR. MCGROARTY: I have a thought.

MS. COFONI: Okay.

MR. DUNNE: Uh oh.

MR. MCGROARTY: Who said uh oh? No, I don't have a suggestion to proceed, I just have an observation. Something Mr. Dunne said made me think of this, you did vote for the d1 variance for the recycling, we'll call it recycling whether it's exempt or otherwise. Which was not part of the 2010 approval so you have tonight given the d1 variance for that, and the plan shows where the operation will occur, so it seems, that's why I had difficulty conceptually sort of separating them out because it's part and parcel of that operation it seems to me. Given where it's located on the site and given the information that's been presented.

MS. COFONI: I'll add one other thing that, and not to say, but it's just informational that I didn't know and I don't know if it's been made clear, and I actually wrote it down, maybe everyone else knows this but on the side of the soil pile adjacent to Waterloo Road, my understanding is that in order to stabilize it, or maybe part of stabilizing it, is that it's seeded. So there would be grass growing on that.

MR. DUNNE: That's correct.

MR. BUCZYNSKI: That's a Soil Conservation requirement.

MS. COFONI: So essentially, what it looks like on that side is a hill.

MR. DUNNE: It's a grassy hill.

MR. WILPERT: a grassy knoll.

MS. COFONI: So, that's something I didn't know, and I didn't know if it was made clear tonight. I was told that by…

MR. DUNNE: There was testimony, when they take soil away, they take it from the back so that the grass is not disturbed.

MR. MCGROARTY: And that was made clear to us when we were on the site with the Soil Conservation.

MR. DUNNE: So the additional mitigation factors further ameliorate the site impact which has been reduced significantly simply by the grass, existing deciduous growth and now evergreen trees being planted along there.

MS. COFONI: Okay.

MR. WEISS: Okay, anybody want to have a little more conversation? Okay so the motion has been…

MS. COFONI: No, I don't think there's been a motion, is there?

MR. FLEISCHNER: No.

MR. SCHAECHTER: No, but Joe's going to make one.

MR. FLEISCHNER: I'll make the motion.

MR. MCGROARTY: And just to be clear, for the purpose of voting, this is a c-variance.

MS. COFONI: Yes. But I think along the line as before, we're operating as a Board of Adjustment so it's still going to just be the seven votes.

MR. MCGROARTY: Right, but you don't need to seek a majority.

MR. WEISS: Correct. Okay, Joe, you were going to make a motion.

MR. FLEISCHNER: I move that we approve the c1 variance with all the c1.

MS. COFONI: Yes. Well, c.

MR. FLEISCHNER: c- variance, with all the items listed as conditions.

MR. WEISS: Will there be a second on that?

MR. WILPERT: I'll second it.

MR. WEISS: Okay. Conversation? Catherine, Roll Call.

ROLL CALL:

Joe Fleischner	-yes
Brian Schaechter	-yes
David Koptyra	-yes

MR. KOPTYRA: Can I make a comment before?

MR. WEISS: Absolutely.

MR. KOPTYRA: I'd just like to say it's, I listened to the professionals tonight and at past meetings, and I have a little doubt that that 50 foot setback, they should have known that it was 100 foot, either the property owner, or the business owner should have known that they went over the 100 and made it only 50, but if the professionals and the County and everybody agree that there's no problem with 50, then I'll vote yes, but I wasn't in favor of changing the… because then you'll just do it all over. That's how I feel.

MR. WEISS: Thank you Dave.

MRS. NATAFALUSY: So, that's a yes?

MS. COFONI: That's a yes.

Dan Nelson	-yes
Nelson Russell	-yes
Frank Wilpert	-yes
Howie Weiss	-no

MR. WEISS: So that passed as well. Joe, I think the results are a little bit different than what you thought.

MR. FLEISCHNER: : Actually I wrote it down that's the way it would go.

MR. WEISS: Okay, I just think…

MR. KOPTYRA: See now, Mr. Chairman, I think that's uncalled for. I sit up here, I don't talk to anybody and it's an insult to think that I (inaudible) my vote, and that's wrong. And I take insult to that.

MR. WEISS: I'm sorry Dave, I've lost you.

MR. KOPTYRA: Well he said he counted the votes, and he knew how everyone was going to vote. I didn't know how I was going to vote until I heard the professionals talk tonight to see. To sit here and to say repeatedly that I voted and I know how I was going to vote is totally…I take offense to it. I'm sorry.

MR. FLEISCHNER: : It was a best guess based on…

MR. KOPTYRA: Joe, you went back and you said about the other thing…

MR. FLEISCHNER: Okay.

MR. KOPTYRA: We had changes…

MR. FLEISCHNER: Fine, alright.

MR. KOPTYRA: We had changes and I voted the way the dealt with. People don't like the way I vote then, you know…Like you said, this is America, you get the right to vote.

MR. FLEISCHNER: You got it. That's right.

MR. KOPTYRA: But I don't want to sit here and say that, and think that my vote was already given because it wasn't.

MR. WEISS: Okay, David thank you. I think that we've addressed all the issues. I just have a comment. I have a comment and Mr. Kaplan, you and I haven't always agreed, we've had a very nice conversation, and I want to tell you that I was there yesterday, and I saw that the issues that I had were cleaned up. They weren't cleaned up perfectly, but I'm not going to pick on you on that. I encourage to continue with this effort that you're making to clean up the site. It's a tremendous improvement from where it was when Joe and I first went out there well over a year ago. It's not perfect, I don't expect it to be perfect, but I do encourage you to continue keeping it orderly, and I know you have plans to paint the building…

MR. KAPLAN: I'm telling you the front was all painted yesterday.

MR. WEISS: I don't think I was looking, I apologize.

MR. KAPLAN: They got down the front yesterday and the side actually.

MR. WEISS: I was looking at two things, I was looking at the repo business, I was looking at the tree splitting operation, and I asked you to move it and you did. There's still some debris, and I guess you and I could always have some fun with that, but I do encourage, and I hope that the Township, and maybe I'll direct this to the Zoning Officer whose not here, but Catherine, maybe you could hear me and share my words that, I just hope that the Township takes our lead and we clean this up. It's now all conforming, and I also, but we will keep an eye on you for a little bit, no disrespect. I certainly hope that we can make sure that the property stays in the direction that you're headed, and that tomorrow, in quotations, I don't see the bus outside the fence and an operation that doesn't exist back. I'm not saying that you're going to do that, and I think we know each other well enough to know that I'm not saying that you're going to do that, but my point is, I don't want to see it go back to where it was. We've made nice improvement, we've given you the opportunity to conform in everything that you're doing. Please stay that way and I certainly ask that the Township help you stay that way. With all due respect.

MR. KAPLAN: Okay.

MR. WEISS: Mr. Allen, good luck with your business.

MR. ALLEN: Thank you.

MR. WEISS: Thank you gentlemen, I am going to take a break until 8:40, that's five minutes. 8:45.

Reconvene:
MR. WEISS: Let me introduce the next application. We're on the record gentlemen, we're on the record. Okay, I need to introduce our next application which is PB 14-21 Phyllis Shelton, Use variances for two dwelling units one lot at 9 Park Place Block 5800, Lot 29. Are we going to hear them all at once Mr. Dwyer?

MR. DWYER: Yes Mr. Chairman.

MR. WEISS: Okay, we're going to also introduce PB 14-22 Phyllis R. Shelton Use variance for two dwelling units on one lot, minor subdivision of 11 Park Place, Block 5800, Lot 30, 28 and 34 and PB 14-23 Phyllis R. Shelton, use variance for two dwelling units on one lot a minor subdivision located at 15 Park Place Block 5800, Lot 31 and 34. This meeting has been carried from our June 10th meeting

MRS. NATAFALUSY: June 11th.

MR. WEISS: I'm sorry?

MRS. NATAFALUSY: June 11th.

MR. WEISS: I had June 10th. June 11th?

MR. COFONI: No, I have here June 11th and August 20th.

MRS. NATAFALUSY: No, we carried it from August 20th, we didn't hear it that night.

MS. COFONI: Oh, okay.

MRS. NATAFALUSY: It was June 11th, I have the transcript.

MR. WEISS: Yeah and I know we had the Minutes that said June 11th. Okay, June 11th, I had the 10th. Carried from June 11th which at that time we had three exhibits - we ended on A3. Mr. Dwyer, I will turn it over to you, you can kind of bring the Planning Board up to speed as to what was done and what is done since that time.

MR. DWYER: Thank you Mr. Chairman, Pat Dwyer from the law firm Nusbaum, Stein, on behalf of Phyllis Shelton, the applicant. As the chairman has said we were here back in June with this application which involves, primarily involves three lots, 29, 30 and 31 at Park Place, which are all owned by the applicant, and on each of those lots there are two structures, and those structures are both being used as principal buildings so we are seeking a d-variance in that regard. The planner has also identified – we have also amended our application to include a d-variance because there are two structures it doesn't meet the density requirements and there are a number of things, as you might expect set back c-variances in connection with that. The closeness of the buildings to each other and the lot line. When we were here last, Jeff Careaga went through the plans and I believe gave his testimony and the cross examination. Jeff thought there was an outstanding issue that was brought up by the Planner and the Board that was, had to do with lots there owned by the applicant behind the lots that are part of this application...Whether or not there might be a lot line adjustment - So, we have amended the application to include that as well. And to address that particular issue (inaudible)

MR. WEISS: Ok, are we talking about the merging of lot 31 with lot 34?

MR. DWYER: Correct.

MR. WEISS: Ok, and just one other bit of housekeeping, just for the record Mr. Dwyer, Henry Fastert did read the minutes and so he is eligible this evening and he has signed a certification such.

MR. DWYER: Thank you Mr. Chairman.

MR. WEISS: Welcome Jeff.

MR. CAREAGA: Yes, good evening.

MR. DWYER: So, Jeffrey is still sworn.

MR. CAREAGA: Yes, I understand. So what we've done is, ordered this minor subdivision application is we have taken a land locked lot number 34, which I believe we probably ought to add to the exhibits, I guess this would be called A4 which is up right now which is a minor subdivision, plan sheet number 1 of 4, it's the same as revision two that we submitted, I just put some colors on it to make it easier to understand. The lot number 34 is shown in red, and lot number 31 is green, lot number 30 is yellow, both lots 30 and 31 preexisting lot number 30 is 0.41 acres, so with the combination of the lot area from lot 34, lot number 30 goes up to 1.03 acres. Lot number 31 goes from .54 acres up to 1.2 acres, so now both of those lots have conforming lot size of over an acre, which is required in the zone. Other than that, all of the other non-conformities with the exception of lot number 31, there was a deck over the property line, which is no longer over the property line. So it solved that problem too. To get the full one acre we also took a piece of lot number 28 which used to be 9.81 acres, which is now reduced to 9.51 acres, and again, lot number 34 no longer exists with this minor subdivision that is proposed.

MR. BUCZYNSKI: Just one thing, I don't know if you mention the date that plan…

MR. CAREAGA: The date is revision number two dated August 5, 2015. The addition of this lot area does not help with the septic, all of that property is within the flood plain, so it's not going to be usable for any type of structures, or unfortunately for the septic system, but at least it will eliminate the variance for the lot area.

MR. DWYER: So is the correct, Jeff, saying then that variances for lot area – for (inaudible) lot 30 and 31 have been eliminated by this subdivision.

MR. CAREAGA: that's correct.

MR. DWYER: Mr. Chairman, that's all I have for this witness.

MR. WEISS: Does anybody on the Planning Board have any questions for Jeff? Anybody from the audience have any questions for Mr. Careaga based on the testimony given this evening? Seeing none. Close it to the public. Anything Chuck?

MR. MCGROARTY: Nothing Mr. Chairman.

MR. WEISS: Chuck, nothing from you right? Chuck, you're good, okay. I'm looking at Chuck, Gene.

MR. BUCZYNSKI: I'm good.

MR. WEISS: Okay, thank you.

MR. DWYER: Mr. Chairman, I'd like to call as our next witness David Zimmerman.

MR. WEISS: Welcome Mr. Zimmerman. We'll have the attorney swear you in.

MS. COFONI: I think, were you previously sworn in at a previous…

MR. ZIMMERMAN: I don't think so. I haven't testified yet.

MS. COFONI: Okay, could you raise your right hand. Do you swear the testimony you give will be the truth, the whole truth, and nothing but the truth, so help you God?

MR. ZIMMERMAN: Yes I do.

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

MR. ZIMMERMAN: P. David Zimmerman. Z –i-m-m-e-r-m-a-n. Business address 21 Western Avenue, Morristown, NJ.

MR. DWYER: Mr. Chairman, would the Board like to hear Mr. Zimmerman's qualifications?

MR. WEISS: I certainly hope not. I think the Planning Board has seen Mr. Zimmerman appear before us as a certified planner, and we'll accept him as the expert in the field of planning.

MR. DWYER: Thank you Mr. Chairman. David, have you had an opportunity to review the plans that have been prepared in connection with this application?

MR. ZIMMERMAN: Yes I have.

MR. DWYER: And have you come to an opinion as a professional planner with respect to the variance relief being sought?

MR. ZIMMERMAN: That's correct.

MR. DWYER: Could you kindly tell us what that opinion would be?

MR. ZIMMERMAN: Just as an item of background, I am familiar with the site, I've been on the site on numerous occasions, familiar with the neighborhood, and I've done some research on zoning history going back to 1950, which I understand was your first zoning ordinance and I am familiar with your Master Plan. Essentially, what is the application that is before the Board? I think both the engineer and the attorney have indicated that we're before the Board for several special reasons, variances. A d-1 use variance, two principal buildings on the property, density variance, and a couple of minor variances dealing with the set backs. However, the way we would like to present this application is to go back in time. And to hypothetically assume that what is there now, is not there, and what we are seeking approval for is to put on the property what is there now. And there's a reason that we're doing this, and essentially, we have as part of our criteria to deal with the use variances, two principal buildings on the property, and density variances, we have to come up with special reasons to justify that. We think there are two categories of special reasons attached to this application. The first is that we feel that the grant of the application would promote certain purposes that are Municipal Land Use Law. And actually as I understand the law, I'll be corrected if I misspeak, we really only have to satisfy one purpose of the Municipal Land Use Law as a special reason, but we feel we satisfy at least three. And those are one to promote the conservation of historic sites and districts. That's item J. Second, to promote a desire for visual environment through creative development techniques good civic design arrangement, that's item I, and item A to encourage municipal action to guide the appropriate use and development of all lands. We feel that the development that we propose for these properties, is the appropriate development of these properties. The second category of special reasons that we're going to put on the table for your consideration is that we feel that the location and the site are particularly suitable for the uses that we propose to occupy the sites. Now, in order to go through some exhibits, I've bundled them together in a kind of package or almost semi report form and I'd like to enter that as an exhibit. If you don't mind .

MR. WEISS: We are going to mark this A5. So, A5 is your supportive documentation for the variance request.

MR. ZIMMERMAN: That's correct. This was assembled and prepared by myself. Now, if you turn to the first page, the first page is a letter from the State Historic Preservation offices. In this letter, he essentially says, identifies, starting with the second paragraph, this letter was prompted by a request from the Flanders United Methodist Church to be identified as a historic building. The second paragraph however, I think is particularly pertinent to this application. Based on information submitted and already on file in this office the Flanders Historic District in Mount Olive Township, Morris County appears to be eligible for the New Jersey and National register of historic places. Flanders established in the late eighteenth century is a well-preserved agrarian support community, with buildings dated primarily from the 1820's to the nineteenth century. Small scale grist and saw mill operations on the north branch of the Raritan River, stores, schools, tavern, and religious institutions all affected in the importance of Flanders in the nineteenth century. The next page is the outline; it's a little faint, but basically the outline of the Flanders historic district, in this section of Mount Olive Township. You'll see more or less in the middle of the diagram or the map, Park Place and the properties that we are dealing with front Park Place on the east side or the right side. The Flanders Historic district was granted a certificate of eligibility on April 28, 2004 and there was a SHIPO opinion of eligibility on July 18, 2005, and all of this is preparatory to this historic district being placed on the State register of historic places and districts. The next page is from a document that pretty much everyone uses that's involved in historic preservation that establishes what are the standards for rehabilitation, or as is sometimes referred to re purposing historic buildings, and if you look at the section which I highlighted with yellow under the heading the standards for rehabilitation. Rehabilitation is defined as the process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historic architectural and cultural value. We're submitting to the Board that is exactly what was done to these properties. The next is an aerial photograph showing the subject properties. If you look at the larger property on the upper, in the middle is Park Place then there is a large piece of property I think it's almost three acres with the part of the property as the pond spills over into the other property. That is property number 29 and then the second property, property 30 is below that is also before you, and

property 31 is a third property that is before you this evening. And this illustration that's showing subject properties is exactly what you see on the easel that was prepared by the engineer. Again, it identifies the properties but also you can see the lots and blocks of the properties. And lastly, a little redundant perhaps but the, each of the subject lots is shown and the structures that are before you for consideration are outlined in yellow. Now, we're going to look at, individually, each one of the properties that are before you. The first one is lot 29, that's about 2.8 acres in size. This illustration entitled existing structures and properties doesn't show the entire property, but it does show the two buildings. The building on the left in yellow, is the existing mill building, identified as number nine, and the building on the right is number 9AB. In order to establish kind of a base line for the rehabilitation that I indicated, we're trying to start from zero and these are two photographs identifying both the mill and the storage barn immediately to the left of the mill. And as you can see from the top photograph, it has a date of 1858. It's been around for a while. And I don't have a date for the second photograph, but it's of similar vintage, and again, you can see the storage barn and this mill was used, it was kind of the economic center or the anchor business in this area which served to mill grain, corn, wheat, and it was those products that were stored in the barn next door. Now, I had the opportunity of interviewing Phyllis Shelton to find out how the condition of these two buildings when she purchased the property. She purchased in 1961, 1962, to the best of her recollection. These properties were vacant, they had been vacant for a long period of time. In fact she says she had to use a machete to get through the open door which was overgrown with foliage, weeds and there were bats and pigeons in the thing, and fortunately her husband, at that time was an engineer/architect and he took it under his wing to restore both of these buildings. The next photograph shows as they exist today, and hypothetically we're saying what un-restored is the application before you. What we're proposing is what is shown in these two photographs. And the last item dealing with lot 29 is a list of the variances that are pertinent to this property. I think it's important to recognize that the mill is used as a single family home. So, that essentially is a permitted use on this piece of property the variance for use pertains to the rehabilitation and to the readaptive use of the barn, which we propose to use for two apartments and a small office in the attic. So that is the d- variance, d-1, special reasons use variance that is before the Board. To use that barn as a readaptive use for the two apartments and the small attic office. Secondly, there's a special reasons variance dealing with the fact that there are two principal uses on the property, there is a single family home and the barn converted to the apartments. And thirdly, there is a third special reasons variance on the property dealing with the fact that we don't have the density that the ordinance requires for three dwelling units on this property. I am going to move on to the next page which is lot 30, and the best that we could come up with on lot 30 was a survey going back to 1966. And again, the representation and my interviewing of Mrs. Shelton was that these main buildings, the barn in the back and the two story frame house were, again, in dilapidated state when she bought the property. In fact, I think she, as I recall she indicated that there was some squatters in the barn, she didn't know how they were living there, there was no kitchen, no bathroom and one of the first things she did was to get them removed. So the next picture shows, the next illustration is existing structures on the property. We have the front property is 11A, the back property is an existing building B. And locally, the front property is referred to as The Peach House and the back property is referred to as The Garage House. And again, lastly what we're looking for is recognition that the property in front is presently used as a single family home. And so that is a permitted use on the property. Then there are two apartments in the property in the back and that is the subject of a special reasons use variance. Because two apartments are not fitted into the zone district. Secondly, there are two principal uses on the property we gave that a special reasons use variance for that, and thirdly, the three units would exceed the density that your ordinance requires for dwelling units. Lastly, is lot 31. Now, I guess I put these a little out of order but the first illustration is showing the existing structures on the property, and the property in front of building AB is, was at one time a general store, and you can see from the newspaper article, the caption under the photograph, from soup to nails, Marjorie Green and her father Charles take a moment out of stocking the shelves at the general store to smile at the camera. The photo is vintage 1950. Actually the general store, I was speaking to people who know the area pretty well goes back earlier than 1950. But at that time, and even today, zoning, commercial use is a permitted use in this zoned district. The next page shows what the general store, how it exists at the present time, and in the back is what we call The River House. And the general store actually is a two-family, it is kind of like a duplex. And there are in the River House a one unit. That's a single family. So again, and this may

require a little interpretation, I'll ask maybe Chuck to help me out here. But the issue with the general store is that this was the last building, the last piece of property that was purchased by Phyllis Shelton. When she purchased it, it was a two family. She did not convert it into a two family. Now, whether that was approved way back when, you know, when it was converted from a general store, we don't have any records of that, the Township doesn't have any records of that either. So, in any event, what we're, to be on the conservative side, we're requesting a d-1 use variance to use the general store building for a two family. The building in the back, what we call the River House, that's a single family and single family is permitted on the CR-3 zone which is the zone district we're in. As I, as I said, if I miss-state the variances I'll certainly be corrected but I think that's what we have. We have the legal single family on the property, and we have a two family in the front from which we need, to be conservative as I said a use variance. We also need a use variance because there are two principal buildings on the property, and again, we need a use variance because of excessive density. Now putting it all together and going back to the fact that I feel that what was done with these properties essentially in the 60s and 70s was to take historic properties, historic buildings, in a historic district, and rehabilitate them or repurpose them consistent with what the rules are for rehabilitation. That is to take a, returning a property into a state of utility. In this case, the properties were made into two family properties essentially, and by preserving their historic and architectural character. So, going back to the Municipal Land uses and one of the criteria for approving a special reasons variance is to promote the conservation of the historic district. That's essentially I think what has been done with these properties, and with a considerable amount of investment over the years, they have been maintained to the best that they can, maintaining their historic quality, their historic character and architecture, yet, repurposing them into a use which, frankly allows for the rehabilitation of those uses. Secondly, we feel that if you look at those properties, and walk on those properties and see what they are and see the way they have been well maintained, the way they have been rehabilitated well maintained, they, in my opinion, do exist as a desirable visual element in this historic district and in this particular neighborhood, the Park Place neighborhood, and it represents good specific design and arrangement. And lastly, we feel that what has happened here is that they have been put to appropriate uses. These apartments are very much in demand frankly, that several of the people that live there and it is really not, most of them are single occupant apartments, single person occupied apartments, except for the two families, I mean except for the single families, on lot 30 and 31. But, they are much desired, they are a beautiful setting, we have a river immediately in the back, it's quiet in the back, they are attractive, they're well maintained, and over the years they have been sought after and have been very desirable properties to occupy. The second criteria is that, we ask you to recognize that the general welfare is promoted by the use of these properties at this location, and these sites and location are particularly suitable for the proposed uses that we want to use these properties as. And, that's really a function of two things. One is the function of properties, the building, but even more than that, it's a function of how they have contributed to the aesthetics and the civic nature of Park Place and the historic area. And if you know Park Place, you know that there are other buildings in this neighborhood that are two family, three family, not the buildings that are before you tonight, but there are other buildings immediately across the street. There is a auto repair garage across the street, there is a building that is used for a barber shop, there is a building that's used for a dry cleaners, there's a building that's used for a professional office, and one end of Park Place is the Methodist church and the other end is, I think it's St. Anne's Catholic church, so, we're not putting apartments in the middle of a single family residential neighborhood, there are some single family homes in that neighborhood as well. So, given the mixed land use nature and characteristic of this neighborhood, we feel that what we're proposing fits into this neighborhood. It's not unique to the neighborhood, it's not something that detracts from the neighborhood, in fact, we feel it's an asset to the neighborhood. Lastly, we have to put on the table what is considered the negative criteria. Would this have a substantial impact upon the public good? Quite to the contrary, I think rather than use these properties for commercial use, which would be permitted, retail sales and service uses are permitted in this zoned district. We're proposing that they be used for the uses I've described, multi family uses, which I think are better use of them in this neighborhood than other uses, particularly commercial uses. They are not uses that create any detriment to the neighborhood, in fact, I think they're an asset, they're not creating any traffic, lights, fumes, odors, noise, anything of that nature. So I think they satisfy the particular criteria, I'm sorry the substantive impact criteria. And lastly, would this have a negative impact on the zoning ordinance in the Master Plan? Well I think we have before you such a

unique set of circumstances that go all the way back to the 60s and given the historic nature and given what we propose to do with these properties, I don't think that it would be setting a precedent. There's only two CR-3 zones in the municipality. They are very tightly constrained, that is the CR zone in this area is pretty much Park Place from one end to the other. There's another CR-3 zone, I forget exactly where it is, I think at one time I knew, but I don't remember it at the present time. So this is not going to create any precedent in my opinion for the CR-3 zone as defined by Park Place. And lastly, would it have a negative impact upon the zoning on the Master Plan I should say, and there is substantial reference in the Master Plan to Flanders, I'm looking at page 18, it talks about Flanders in the 1750s and talks about the Mill, the general store, things of that nature, there's discussion, there's one of the goals, and the objective is compliment historic and cultural areas with open space preservation. And it is interesting to point out, if you remember the aerial photograph that one of the, two of these properties are, one in particular is almost 10 acres, the property on, the large property shaped like an L on the far right in that illustration, that's open space, that's all wetlands and it's going to stay. The other piece of property is almost 3 acres, there's a pond. It's a beautiful piece of property; it's a wonderful property to as a gateway to this historic district. There are other sections of the Master Plan which also talk about preserving, page 89, preserving the historic countryside, and on page 90 it talks about historic preservation. So those are right on point, I think we're implementing what the goals and objectives are with the Master Plan by the rehabilitation of these for the uses that are before you this evening.

MR. WEISS: Thank you very much. Henry?

MR. FASTERT: Correct me if I'm wrong, but it sounds like all the two family uses that you describe is currently in place.

MR. ZIMMERMAN: That's correct.

MR. FASTERT: So you're not proposing changing any of the single family buildings to two families?

MR. ZIMMERMAN: No.

MR. SCHAECHTER: Just righting the wrong.

MR. ZIMMERMAN: The buildings as I've described on each property, there's a single family home and a multi-family, and two family home. Those are there today, we're not proposing we change them in any shape, form or whatever.

MR. FASTERT: Thank you.

MR. ZIMMERMAN: And they've been there for all this period of time. I may be gilding the lily here a little bit, but there is a plaque on the corner of Park Place which identifies this area as the Flanders Historic District. I don't know if you have enough of this but, would you mind handing them out, maybe they can be shared.

MR. WEISS: We have to mark that one A6.

MS. COFONI: Yes.

MR. WEISS: A6 is a photograph of the historical marker. So, while we're looking at this, Chuck, I'm going to turn to you, I think Mr. Zimmerman's summary addressed the variances that are requested and your report did the same, and I think what I would like to do is for you to confirm to see if there is anything that you disagree with and if there's any comments that you'd like to make. I've jumped way ahead on your report to section 5. Let me go back to you, you know if there's anything you want to discuss or question or raise issues on the report.

MR. MCGROARTY: No, there's nothing. I do have a comment, which is two comments I think. One is this is such an unusual area that it's almost, if we were trying to create a small historic hamlet, we would do this. It doesn't meet the sort of setbacks that modern conventional zoning has and you wouldn't expect it to because it's historic, the historic character of it. Since it's a comment, I'm editorializing a little bit; I think Mr. Zimmerman's presentation captures it perfectly. The advantage that I think they had, even though the analysis was, pretend it's not, not pretend, but assume for a moment it wasn't really there but in fact because it is there, and has existed and the beauty is in the eye of the beholder of course, but it's a very, in my opinion, a very attractive and certainly well maintained cluster down there and gives extraordinary character to that area. So, I don't disagree with any of things Mr. Zimmerman said. The one comment that I did have, and we can defer to Gene on this and Mr. Careaga addressed, if the site, or these three properties are to be particularly suited for this, for these various uses and there are various densities down there, and again, it's kind of nice in some ways to look at something which is not mimicking conventional modern zoning, it's the septics. And so, if you're comfortable with the testimony that Mr. Careaga presented, and I defer to Gene on the review of all that stuff, that would be my one concern. Are these three properties particularly suited, can they function properly with respect to treatment of wastewater. And if, that to me is the only concern, otherwise I think this is one of those extraordinary applications that is, we'd like to create it if it wasn't there.

MR. WEISS: So, do you want to spend some time on your section 5?

MR. MCGROARTY: I don't think I need to, I was looking at it earlier, the subdivision, the minor subdivision that is proposed does eliminate many of the bulk variances that we looked at so I think that really helps. I don't know if we need to, it's the Board's choice in terms of the assets of prior approvals, et cetera, that was a concern. We raised it, I think Mr. Zimmerman explained the history of it; it would have been nice if it were done differently, in terms of the procedural stuff, but we're here today.

MR. WEISS: And you know, it's interesting you say that because I think Brian, it was you just a minute ago that said, we're here to right the wrong, and so, spending time testifying as to why, I agree Chuck, it doesn't matter. We're here to fix it, make it right, and just get it going in the right direction. So, I agree, I don't think we need to hear any testimony from the applicant. I think we all know the area, I think we've seen the pictures, and Chuck you wrapped it up very nicely, it's a very unique property and the fact that it's not a cookie cutter makes it that much more unique.

MR. BUCZYNSKI: May I address the septic a bit.

MR. WEISS: Let me just make sure we're good on Planning. Brian did you have anything.

MR. SCHAECHTER: No, as far as, I pass that property every day, and I will tell you that is a gem in Morris County. What you've done since the 60s to clean it up, I've only lived here for the last, you know, 15 years, but I love passing by, I love seeing the geese and the peacocks and all the other, the horses out there. And you did a wonderful job with the property, and I wish everybody did what the Shelton's did with the property. It keeps in the theme of what's going on down there.

MR. WEISS: Okay, so then, Joe, did you have anything?

MR. FLEISCHNER: No copper heads.

MR. NELSEN: I seem to remember Mr. Careaga giving testimony last week, that septic wise, could be done, last meeting.

MR. WEISS: Okay, so, that's a good point. Let me turn it over then to Gene. Before I do that, is there anybody from the public that's got any questions from Mr. Zimmerman based on the testimony delivered? Okay, nobody from the public. Gene, let's talk about…

MR. BUCZYNSKI: Based on Mr. Careaga's previous testimony, he agreed we'd need a one million gallon treatment facility to serve anybody…only kidding…no, in all honesty, he gave a lot of detail previously relative to the septic systems and the fact that they would need advanced treatment septic systems on these lots which require the TWA permit from DEP, and also I think one of the conditions would be approval from DEP for the Letter of Interpretation. But I think his testimony shows that he has the land to design those type of systems. They're very very expensive systems, but he'll need the approval from DEP so it's really going to be finalized through DEP's jurisdiction. But I think he gave sufficient testimony that he has enough land area and the soils that he can design the required system. So I really have no problems with that and it will just be conditions of approval.

MR. WEISS: Okay, anybody, Dan, I know you brought it up.

MR. NELSEN: that's good.

MR. WEISS: Okay, Mr. Dwyer.

MR. DWYER: I have no further witnesses Mr. Chairman.

MR. WEISS: Okay, do we have anything else? Mr. Dwyer, you can summarize then if you'd like, wrap up.

MR. DWYER: Mr. Chairman, as you summarized at the top, we're here looking for d-1 and d-5 variance relief, there are some setbacks that require c-variances as well, they maybe subsumed in the d variances we believe that there are special reasons that have been shown, to grant these variances and we hope that the Board reviews the application favorably.

MR. WEISS: Is there anybody from the public that has any comment on any aspect of this application that has been presented? Mrs. Shelton, anything that you'd like to say, now would be a good time, if not, it's totally fine. Good, I'll close it to the public. I didn't even ask your son because we don't really want to hear from your son tonight. I have yet to confirm that the brewery will be giving discounts, so, we'll get back to you on that one. Okay, so let's address how we are going to approach this. Tiena, I'm going to turn to you, we have obviously three separate applications. I'll give her a second to answer how we're going to vote on this.

MS. COFONI: I'll tell you this, Mr. Buzak was at the original application on the first hearing in June, and he had anticipated that there would be three separate votes on each of the lots. And while I understand the testimony was done together and we had the hearing together, each lot is an individual application and, so that's how he anticipated handling it.

MR. WEISS: Okay, that's easy enough. That's a good enough answer. I think we'll take three separate votes. Could have been more, could have been six or seven. We'll go right in order. I think that the first item that we are going to vote on is PB 14-21, which is the use variance for two dwellings on one lot.

MR. RUSSELL: I move that PB 14-21 be approved.

MR. SCHAECHTER: I'll second that.

MR. WEISS: Dave, thank you, Nelson and Brian. Any conditions to go with that besides the fact that all of those applications will have the same condition that will require DEP approval for LOI.

MS. COFONI: DEP LOI.

MR. BUCZYNSKI: It's not just DEP LOI, it's the advanced treatment septic system approval, TWA permit, and also a Letter of Interpretation approval.

MS. COFONI: Yes. And, okay, that's that. Okay, and also, I have a condition here that reads after approval the applicant shall commence construction of the new system, advanced on-site wastewater treatment system, as approved by the NJDEP and all other government entities having jurisdiction thereof within six months from the date the permit approval has been issued by the NJDEP, and shall complete the same within six months thereafter or not more than one year after the date of the NJDEP approval. During the course of the construction of the new system, alternate arrangements approved by Mount Olive Health Department and other governmental agencies shall be put in place in order not to create any health hazards or environmental issues while transitioning into the new system.

MR. BUCZYNSKI: The only thing with that, if right now they have systems that function on the sites of all those buildings, so I think, my thought would be, it's up to the Board, but should it be the fact that they should apply and get approval for the new systems, but they don't have to construct them until the existing systems fail.

MR. SCHAECHTER; Yes.

MR. BUCZYNSKI: Because there is no need to impose them to go through that expense, unless those systems fail. As long as they're functioning properly now.

MS. COFONI: Okay, so let me modify that.

MR. CAREGA: If I could just add something also, in order to submit a treatment works application, the DEP will not accept a treatment works application until you receive a valid LOI, so when we apply for the LOI, it's going to take six months plus to get the LOI back, and then we can submit for the treatment works approvals, which will take about six months, so the whole approval process is probably going to take a year and a half.

MR. BUCZYNSKI: But I figure, they shouldn't need to be constructed…

MR. CAREAGA: As of right now, none of the septic systems are failing, she has done a very good job over the years of pumping it out to make sure that she maintains it.

MR. BUCZYNSKI: So let's just revise that.

MS. COFONI: I also have a requirement that you obtain the appropriate permits within nine months of the adoption of this memorializing resolution. Ok, so we're talking more like 18 months.

MR. BUCZYNSKI: Why don't we just make it two years.

MS. COFONI: Okay…..but no need to construct unless existing systems fail.

MR. WEISS: Chuck, I know you were looking for my attention.

MR. MCGROARTY: Yes, I was just wondering if it would be worth putting a condition in if any of the units that are there, have not already secured a CO, Certificate of Occupancy, that they do that.

MS. COFONI: Okay.

MR. MCGROARTY: They may already have them, I don't know if they all have them. But if the Board were to approve this, then I think they should proceed to get whatever permits are necessary.

MR. WEISS: Okay, and those conditions…go ahead.

MR. BUCZYNSKI; I'm sorry, I just think, we should have something in there that they should submit applications probably within six months, they will have two years to obtain approvals because of the

approval process. I think we want to at least make sure ahead with the applications in case something did fail in between; at least they have something in the process.

MR. WEISS: So, we'll make these conditions uniform for all three applications. They are going to apply to all three.

MR. BUCZYNSKI: Can you submit applications with six months.

MR. CAREAGA: Absolutely.

MR. WEISS: So, Tiena, once you're done writing, let's just read them one more time. Make sure we understand what these conditions are, and they'll be consistent with the three applications that we vote on.

MS. COFONI: Okay. Requirement to get, well, that is, Gene, that approval, the DEP approval for the LOI, it doesn't have the time restrictions that we're talking about.

MR. BUCZYNSKI: No.

MS. COFONI: Right. Any units that don't already have a CO must obtain a CO, and then the obtaining, application submitted within six months of the adoption of the resolution for approval of the advanced on site wastewater treatment system from the DEP.

MR. BUCZYNSKI: Right. That actually is tied in to the LOI cause they can't submit that unless they get the LOI.

MS. COFONI: Right. Right. And then and the approvals must be obtained within 24 months of the memorializing resolution. And then, the construction of the system does not have to happen until one or more of the systems fail.

MR. WEISS: Okay, do we understand those conditions? They will be consistent with all three applications. So, we're looking for a motion for PB 14-21.

MR. WILPERT: We already had one.

MR. WEISS: We made that, that was made by Nelson, you're accepting of the conditions to your motion and second, Brian, you're okay with that? It's been motioned and seconded, any comments? Catherine, seeing that…Roll Call.

ROLL CALL:

Joe Fleishner	-yes
Brian Schaechter	-yes
David Koptyra	-yes
Dan Nelson	-yes
Nelson Russell	-yes
Frank Wilpert	-yes
Howie Weiss	-yes

MR. WEISS: The next application PB 14-22 for the use variance for two dwelling units on one lot, minor sub division, and same conditions will apply.

MR. RUSSELL: I move that PB 14-22 be approved.

MR. WEISS: Thank you Nelson.

MR. SCHAECHTER: I'll second it.

MR. WEISS: Brian, thank you. Any conversation? Seeing none. Catherine, Roll Call.

ROLL CALL:

Joe Fleishner	-yes
Brian Schaechter	-yes
David Koptyra	-yes
Dan Nelson	-yes
Nelson Russell	-yes
Frank Wilpert	-yes
Howie Weiss	-yes

MR. WEISS: And the last is PB 14-23, a use variance for two dwelling units on one lot with a minor sub division.

MR. RUSSELL: I'll move that PB 14-23 be approved.

MR. NELSEN: Second.

MR. WEISS: Catherine?

MRS. NATAFALUSY: No, I just realized it's more than two dwelling units on one lot, some of them have…

MS. COFONI: Multi-family units.

MRS. NATAFALUSY: So we'll just have to say…

MS. COFONI: As set forth in the application.

MR. MCGROARTY: And Mr. Zimmerman addressed each one, in my report I identify each one.

MR. WEISS: So, we just did a very general introduction. We are approving the record will reflect such. It's been, motion by Nelson and seconded by Dan. Dave, I'm sorry.

MR. KOPTYRA: No Dan.

MR. NELSEN: It was me.

MR. WEISS: Dan, didn't I say that?

MS. COFONI: You did.

MRS. NATAFALUSY: Was it Dan?

MR. WEISS: It was Dan. You need to learn to stop challenging the chairman. I only look like I'm not paying attention. Catherine, Roll Call.

ROLL CALL:

Joe Fleishner	-yes
Brian Schaechter	-yes
David Koptyra	-yes
Dan Nelson	-yes

Nelson Russell	-yes
Frank Wilpert	-yes
Howie Weiss	-yes

MR. WEISS: Thank you all.

MR. BUCZYNSKI: This is a historic night. The Board approved four applications in one night.

MR. SCHAECHTER: I will make a motion to adjourn.

MR. WEISS: Anybody have anything to discuss? Anybody like to make the motion to adjourn? Brian

MR. RUSSELL: Second.

MR. WEISS: Nelson – second – all in favor.

Meeting adjourned: 9:30 p.m.

Transcription was assisted by Secretary in Clerk's office