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 Fleischner, Brian Schaechter, Mayor Greenbaum, David Koptyra, John Mania, Dan Nelsen (arrived at 7:05 pm), Nelson Russell, Kim Mott, Howie Weiss

Members Excused: Frank Wilpert Jr., Henry Fastert

Members Absent: None

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

Professionals Excused: Tiena Cofoni, Esq.

MR. WEISS: Thank you, before we get into our Agenda tonight, just a couple of items of housekeeping, please, just for the courtesy of those who might be speaking, everyone, please make sure your cell phones are on silent, vibrate. Make sure that we don't have any…thank you all very much. Our first item that we are going to discuss is approval of the Minutes, July 16, 2015, Public Meeting. We all have copies of that. Would somebody please make a motion?

MR. FLEISCHNER: I'll move to approve the Minutes of July 16th.

MR. MANIA: I'll second it.

MR. WEISS: Thank you Joe, thank you John. Do we have any questions, and comments? Seeing none. Catherine, Roll Call.

ROLL CALL:

Joe Fleischner	-yes
Brian Schaechter	-yes
John Mania	-yes
Nelson Russell	-yes
Howie Weiss	-yes

MR. WEISS: Next Minutes for approval from August 13, 2015. Someone please make a motion.

MR. MANIA: I can't.

MS. MOTT: I'll make a motion to approve the Minutes from August 13, 2015.

MR. WEISS: Kim, thank you very much.

MR. RUSSELL: I'll second it.

MR. WEISS: Nelson, thank you very much. Any questions, comments? Seeing none. Roll Call.

ROLL CALL:

Joe Fleischner	-yes
David Koptyra	-yes
Nelson Russell	-yes
Kim Mott	-yes
Howie Weiss	-yes

MR. WEISS: Final set of Minutes is approval of the Minutes from August 20, 2015. Joe, would you like to make a motion?

MR. FLEISCHNER: Sure, I move we approve the Minutes of August 20, 2015.

MR. MANIA: I'll second it.

MR. WEISS: Thank you John. Any questions, comments? Seeing none. Catherine, Roll Call.

ROLL CALL:

Joe Fleischner	-yes
Brian Schaechter	-yes
Mayor Greenbaum	-yes
John Mania	-yes
Nelson Russell	-yes
Kim Mott	-yes
Howie Weiss	-yes

MR. WEISS: We have four Resolutions on the Agenda tonight. The first one is PB 14-21. Phyllis Shelton, which was the use variance. We have copies of it. Ed, was there any further conversation, we need any last minute changes?

MR. BUZAK: Nope.

MR. WEISS: Okay, so the copy that we have is the copy that we're looking to make a motion on. Brian would you like to make…

MR. SCHAECHTER: I will certainly make that motion. PB 14-21, Phyllis Shelton.

MR. WEISS: Thank you Brian.

MR. FLEISCHNER: I'll second it.

MR. WEISS: Thank you Joe. Comments? Seeing none. Catherine, Roll Call.

ROLL CALL:

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

MR. WEISS: The next one is PB 14-22, Phyllis Shelton for the minor sub division/use variance.

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

MR. WEISS: Thank you Nelson.

MR. SCHAECHTER: I'll second it.

MR. WEISS: Thank you Brian. Comments, questions. Ed, there was no changes?

MR. BUZAK: No changes.

MR. WEISS: We'll vote based on the copy that we have in front of us. Catherine, Roll Call.

ROLL CALL:

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

MR. WEISS: For the record, Dan Nelsen has arrived. PB 14-23, Phyllis Shelton, minor sub division/use variance. Joe, would you like to move this?

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

MR. FLEISCHNER: I'll second it.

MR. WEISS: Thank you Nelson, thank you Joe. Any comments, questions? Catherine Roll Call.

MR. WEISS: We'll vote based on the copy that we have in front of us. Catherine, Roll Call.

ROLL CALL:

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

MR. WEISS: Final Resolution for adoption tonight PB 15-25.

MR. MANIA: Mr. Chairman, I move for PB.

MR. WEISS: Hold on John. I will come back to you in one second.

MR. MANIA: I'm sorry, I'm jumping the gun.

MR. WEISS: You are, PB 15-25, John and Sheila Watral, John, would you like move this?

MR. MANIA: Absolutely.

MR. WEISS: Thank you very much.

MR. MANIA: Mr. Chairman, I move for PB 15-25 John and Sheila Watral.

MR. WEISS: Thank you John.

MR. RUSSELL: I'll second it.

MR. WEISS: Thank you Nelson. Any comments, questions? Seeing none. Catherine, Roll Call.

MR. BUZAK: No changes sir.

MR. WEISS: Oh yeah, thank you Ed.

MR. BUZAK: You're welcome

ROLL CALL:

Joe Fleischner	-yes
Brian Schaechter	-yes
David Koptyra	-yes
Nelson Russell	-yes
Kim Mott	-yes
Howie Weiss	-yes
John Mania	-yes

COMMITTEE REPORTS

MR. WEISS: Okay, thank you everybody, we have some Committee Reports. First one on the Agenda, Mayor, do you have any kind of Committee Report for us?

MAYOR GREENBAUM: No.

MR. WEISS: John, anything from Council?

MR. MANIA: Nothing.

MR. WEISS: Nelson, Environmental Commission?

MR. RUSSELL: Nothing to report.

MR. WEISS: Joe, Ordinance Committee?

MR. FLEISCHNER: Chuck, Chuck?

MR. MCGROARTY: Yes.

MR. FLEISCHNER: Catherine and I spoke the other day, I know there's a lot of work to be done in January, February, but we really need to make the changes for, we talked about, we've been putting it off, on the Simoff property, and I believe there is another property on Gold Mine Road. Catherine and I spoke about it, but we really need it to get done in the first quarter.

MR. MCGROARTY: Yeah, no, there's a lot of changes actually.

MR. FLEISCHNER: I know there's that other big one you've got to do, but my feeling is we'll pay you a lot of money and we need to get it done.

MR. MCGROARTY: Even if you don't pay me a lot of money, we'll get it done.

MR. FLEISCHNER: I know that's exactly right. But we really, cause we've talked about it for a long time. We need to get it done in the first quarter, please.

MR. MCGROARTY: Yes, it's on the schedule.

MR. FLEISCHNER: Ok, thank you.

MR. WEISS: Thank you both; I have nothing from Street Naming Committee, Kim, anything from Open Space?

MS. MOTT: No, our meeting's next Monday.

MR. WEISS: Okay, thank you very much. We move into our Developmental Matters. First one PB 15-30, Phillip and Catherine Errico has been carried. Notice to the neighbors will be carried. It will be re-noticed in the newspaper and carried until January 21st, if anybody is here tonight for that application, it will not be heard tonight and it will be heard on January 21st.

MR. BUZAK: At 7:00 pm.

MR. WEISS: At 7:00 pm, thank you Mr. Buzak. So if anybody's here for that application, it will not be heard tonight. We move on to our second Developmental Matter which is PB 15-32, Michael Murr which is a certification of a pre-existing nonconforming use located at 10 Mount Olive Road, which is Block 3700 Lot 32. The applicant can come up. Sir, what you can do is the attorney will swear you in if you would raise your right hand, put your left hand on the bible.

MR. BUZAK: Do you swear that any testimony you will give tonight will be the truth, the whole truth, and nothing but the truth, so help you God?

MR. MURR: Yes.

MR. BUZAK: You may be seated, just state your name and address for the record, spelling your last name.

MR. MURR: Okay, my name is Michael Murr m-u-r-r. I live at 7 Nature's Court in Flanders.

MR. BUZAK: Thank you sir.

MR. WEISS: Mr. Murr, why don't you explain for the Planning Board what brings you here tonight.

MR. MURR: The Township had brought it to my attention that the house that I purchased back in February is a non-conforming two family house. I have records showing the history of the house going back into the early 1920s, and I brought some witnesses who can testify that the house was a two family dwelling prior to 1950 when the Ordinance took effect for non two family in Mount Olive.

MR. WEISS: Okay, Ed is there a process that we should be following…

MR. BUZAK: Well I think its two things, one Mr. Murr indicated he has some documents and perhaps sir, I don't know if you have them in some kind of sequence of order.

MR. MURR: I have some copies; I don't know if you can share, I didn't bring enough for everyone.

MR. BUZAK: You need to keep one for yourself, and if you have that…

MR. MURR: And I'll just go through the sequence of the pages.

MR. WEISS: We're going to mark that A1.

MR. BUZAK: Are there several, this package contains different documents?

MR. MURR: Yes.

MR. BUZAK: It's a full package? Okay.

MAYOR GREENBAUM: These are from the book that…

MR. MURR: There's a whole bunch of stuff in there, it's not just that…

MR. BUZAK: Why don't we mark this for the record, I guess we'll mark it A1 for now, and then maybe each page, we'll just number separately, so it will be A1-1, 2, 3,4,5.

MR. MURR: Okay so I just wanted to bring up the history of the house from as early as I can go back and actually it's in the Mount Olive historical book, I'm sure you're all familiar with these, that they do for all the towns, and a picture of the house is on page two, but it's highlighted, and back then is was called the Poplar, and it was a boarding house that would take in 25 people, and they advertised, so if you go to the following pages, you'll see…

MR. BUZAK: Excuse me, so you said 1902?

MR. MURR: No, no, I don't have the exact date of when it was built.

MR. BUZAK: Okay, I'm sorry.

MR. MURR: Right, but I can show you on the following page you'll see from the Brooklyn Daily Eagle, on Sunday, June 7, 1925, the house was advertised, The Poplar, and the following pages I have where, I blew it up, you can see a number of guests, 25, and there's a couple other ads in there from 1926 as well, showing Budd Lake, highlighting all the places to stay in Budd Lake and there's the Poplar House. So, that's just to show the history of it. If you go to the next following pages, you'll see from the Mount Olive website, there is the history of Mount Olive and they mention the house on the website itself. So, I've highlighted all along Mount Olive could be found the Poplar, Sunset Lodge and many others which are now dwellings. Then you'll see a picture of the house as it stands today, and that's this picture here. If you compare to the way it looked back in 1926 or 25, it hasn't changed a bit except for a chimney that was put in when it was turned into a two family for another furnace on the other side. I do have a letter from Mount Olive and this is the basis for my purchase of the home, because the seller provided me with this letter from the Township Tax Assessor, I'm sorry, the Zoning Officer, in which, she stated that with the assistance of Ron Dooney, the Township Tax Assessor, an inconsistency has been discovered in the tax assessing records pertaining to this property, based on this information, it is now possible to classify the dwelling located on 10 Mount Olive Road as a legal two family home representing a pre-existing non-conforming use in the R3 zone, zoning district. I also have the multiple listing for the home, shown as a three story which it is, the top floor is all framed out with rooms and it was also advertised as a large two family home.

MR. WEISS: Let's go back Mr. Murr, this multiple listing, is that a recent multiple listing?

MR. MURR: That was from back in February or so, yeah, January.

MR. WEISS: Of this year.

MR. MURR: Yeah, of this year. Yeah in the bottom right. So, when presented to, I have pictures on the last page also, which may not be easy to see, but I have two garbage cans are there, so the Town issued two garbage cans to the dwelling. So the Town recognized it as a two family. Image 3699 is a two family to the left of the house and I did a panoramic photo, showing my house to the right and the other house to the left. That house to the left of me has two addresses, its number 12 and 14. Mine is number 10. I also have pictures of the interior showing throughout where the multiple floors, its three stories from the bottom all the way up. Plus a basement. Not including the basement.

MR. WEISS: So, it's three stories and its two family?

MR. MURR: Yes. So, it was to my understanding from zoning that I have to provide a witness who can prove that prior to 1950 that this was a two family house and functioning as such. So I brought two witnesses that can testify to seeing that.

MR. WEISS: Okay, why don't we bring up your witnesses?

MR. MURR: First witness is Marlene Marlowe.

MR. BUZAK: If you would please raise your right hand, place your left hand on the bible, if you can. Thank you, do you swear that any testimony you will give tonight will be the truth, the whole truth and nothing but the truth so help you God?

MS. MARLOWE: Yes, I do.

MR. BUZAK: Can you please state your name and address and spell your name for the record.

MS. MARLOWE: My name is Marlene Marlow…Marlow is m-a-r-l-o-w-e. I live at 40 Lenape Lane, Allamuchy.

MR. BUZAK: Okay, thank you ma'am. Can you tell us what you know about the history of this house?

MS. MARLOWE: Well, my kids went to Mount Olive High School. My son is now 54, and there were two families in that house when he went to school. And it's always been two families.

MR. BUZAK: So he was in high school 36 years ago.

MS. MARLOWE: He was in the first, when it became Mount Olive, it was no longer West Morris Mount Olive, the year that it became just Mount Olive he graduated.

MR. BUZAK: So this was in the 1970s.

MS. MARLOWE: I don't know what year it was.

MR. WEISS: So, Ms. Marlowe, are you saying to the Planning Board that you, did you live in the area at the time?

MS. MARLOWE: Yes, I did. I lived on Tulip Avenue. No, no, I lived on Old Wolfe Road. And, because I lived there with my mother until my kids started school.

MR. WEISS: So, you're essentially telling the Planning Board that you lived in town and you recall that this…

MS. MARLOWE: I lived in Town my whole life until 20 years ago.

MR. BUZAK: When did you first move into town?

MS. MARLOWE: When I was three years old.

MR. BUZAK: And what year? I'm not trying to find out your age…

MS. MARLOWE: I'm 77.

MR SCHAECHTER: You knew little Johnny Mania

MR. BUZAK: But it was before 1950?

MS. MARLOWE: Oh, yes.

MR. BUCZYNSKI: 1943.

MS. MARLOWE: 1943.

MR. BUZAK: And do you, can you give us some idea of when you first remember having seen this house or being aware of the house.

MS. MARLOWE: Oh, probably when St. Jude's became, cause St. Jude's when I was a child was not there until I was about 12. And they built St. Jude's church. And, from then on, I was at church all the time, so the house is right across the street.

MR. BUZAK: Okay, and did you know whether it was occupied by more than one family.

MS. MARLOWE: It was two families.

MR. BUZAK: Always two family.

MR. WEISS: You are quickly becoming the town historian.

MS. MARLOWE: My daughter tonight was trying to figure out the names of the people that lived there, she couldn't remember them.

MR. WEISS: You should put your card in the front lobby over there. Does the Planning Board have any questions for Ms. Marlowe? I think her testimony is fairly clear, she has proven that she is going back to 1943, plus or minus, which certainly pre-exists our current zoning, or the start of our zoning. Recalls that this property was a two family house. I don't see any reason not to believe her, it is consistent with the testimony that Mr. Murr presented to us. I don't believe there's any, does anybody have any questions? Anyone from the public have any questions for Ms. Marlowe?

MR. MURR: I brought somebody else to testify, can he say something?

MR. WEISS: Sure.

MR. BUZAK: Ms. Marlow, can you just spell your first name.

MS. MARLOWE: M-a-r-l-e-n-e.

MR. WEISS: Okay, Ms. Marlowe we're satisfied, there seems to be no questions.

MS. MARLOWE: Okay, you don't want to hear from Bill?

MR. BUZAK: Yeah, we will.

MR. WEISS: Mr. Murr, your second witness.

MR. MURR: Okay, my second witness is Bill Sturn.

MR. BUZAK: Sir, please raise your right hand, place your left hand on the bible. Do you swear that any testimony you will give tonight will be the truth, the whole truth and nothing but the truth, so help you God?

MR. STURN: I do.

MR. BUZAK: Please state name and address for the record, spelling your name.

MR. STURN: William Sturn, s-t-u-r-n 136 Sandshore Road Budd Lake.

MR. BUZAK: Thank you sir, you may be seated.

MAYOR GREENBAUM: Are you the Bill Sturn?

MR. MURR: Yes, he is.

MAYOR GREENBAUM: So, also somewhat of a historian.

MR. WEISS: Nice to see you Mr. Sturn. Mr. Murr, do you have any questions you wanted to ask your witness?

MR. MURR: Well, Bill you remember the house prior to 1950 being a two family, right, I don't want to answer.

MR. STURN: Sure, well we lived on Sandshore Road and we began to come up here and play when they were digging for St. Jude's mission. One family lived the one house, they had graduated in the early 50s, like 51 or 52, and they lived in one of those houses.

MR. MURR: Okay, do you remember the person's name?

MR. STURN: Sure, Mike (inaudible) and Joanne Scott. They married from…

MR. BUZAK: They lived in the house in question?

MR. STURN: No, the one next to it but they were all two family houses here.

MR. BUZAK: When do you first recall being aware of that house?

MR. STURN: I'd say 46, 47, I was about eight, nine years old.

MR. BUZAK: Did you happen to know who lived there at the time?

MR. STURN: No, I didn't, but we played with the kids.

MR. MANIA: New York was a prairie then. Right Bill?

MR. WEISS: You don't have to answer that question. Okay, so you're basically telling us that somewhere in the year 1946-1947 your recollection was that that property was a two family home back then, also that date pre-exists our current zoning in the beginning of that zoning. Does anybody on the Planning Board have any questions for Mr. Sturn? Does anybody in the audience have any questions for the witness? Testimony that he's given.

MR. BUZAK: I have no other questions.

MR. WEISS: Mr. Murr do you have any more questions for Mr. Sturn?

MR. MURR: I just would like to make sure that this is going to be a three story two family home.

MR. WEISS: I don't know if that's the direction of the Planning Board tonight. I think what we're to do is determine what you do after the Planning Board is to certify that it's a pre-existing non conforming. There is the process, the process is obviously to take your plans to the construction officials and probably go through zoning, though this is the zoning process, you'll take your certification to the Building Department and make sure that that works with the…

MR. MURR: I have all intentions of making everything up to code obviously.

MR. WEISS: So whether you're going to build a two story or a five story, that's not what we're here to do tonight.

(Inaudible)

MR. WEISS: No, I'm just saying, my point was, if he's going to go present a five story building, it's going to come back to this Planning Board for variances. So, whatever he presents, there is a process he will be following.

MAYOR GREENBAUM: I'm not sure that that's accurate either. What you get from the Board is a confirmation that you have a two family, that's all you get. That's what you get. So anytime that you're going to expand what you have…

MR. MURR: I'm not expanding.

MAYOR GREENBAUM: I understand that. But you are going to have to go to the Town and figure out what the rest of the departments need. That's not done by this Board.

MR. MURR: Okay.

MAYOR GREENBAUM: You get a positive ruling that you are a two family, pre-existing non conforming two family. I do caution you though that anytime you look to expand, and I'm not saying that you are looking to do that now, because you are pre-existing non conforming you are going to have to come back to this Board for a d-variance, it's a d2 variance.

MR. MURR: Okay, alright.

MR. BUZAK: Catherine, have we established for the record that the zoning ordinance went into effect in, or can you establish that the zoning ordinance that prohibited two family homes or allowed only one family was in 1950 or thereabouts?

MRS. NATAFALUSY: (inaudible)

MR. BUZAK: Okay.

MRS. NATAFALUSY: Just for the record the construction code official, he needs to get approval from construction code officials because he gutted the inside of the house so now we have to bring it up to today's standards from what I understand because it is a two family.

MAYOR GREENBAUM: Right, but until he got the certificate of non conformity he couldn't get the permits.

MRS. NATAFALUSY: Right. Because Gary was holding up the…

MR. WEISS: I guess my point is we are not reviewing any plans, the Planning Board is not reviewing any of your plans. What you plan to do is being handled by a different department. It would only come back in front of the Planning Board, as the Mayor said, is if you decide to do work above and beyond what was expected. So, does anybody else have any questions? Mr. Murr, anything else?

MR. MURR: No. Thank you.

MR. WEISS: Okay, so we've heard the testimony, we've gotten a nice packet of historical data which is very impressive; the fact that you were able to pull this together is a nice amount of work. We've heard from two witnesses that both claim that they remember the property well before the 1950 date. First witness, 1943, has a recollection. Ms. Marlowe has a memory of the property being a two family home in 1943. Second witness, Mr. Sturn, recalls the property being a two family home back in late 1940s, 1946 or maybe 1947. Catherine has certified that the first zoning ordinance went into effect in 1950, so all this testimony does kind of give us the testimony that we needed that pre-dates the zoning. That being said, Ed, do you think we need anything else?

MR. BUZAK: No, I think we need a motion to prepare a resolution that would confirm that this property is a valid pre-existing non conforming two family house and whatever rights as has been expressed by the Mayor which is accurate, will flow from that resolution. And we need a resolution, because I think Mr. Murr would want to have that to be able to give to others, and we will have a record then and somebody else doesn't have to come back.

MR. WEISS: Mayor?

MAYOR GREENBAUM: Can we do it as a self memorializing resolution so that Mr. Murr can now proceed with the construction office, which is actually a matter of health and safety in terms of work that he has already done at the site. In other words, Gary was holding up any permits and reviews based upon the fact that there was no resolution confirming it as a pre-existing non conforming, and rather than wait another month, especially in this particular instance, I think it would behoove this Board to allow Mr. Murr and the Township to resolve the inspections.

MR. BUZAK: Well, two things, number one we can do that, this will be a memorializing resolution so the action that the Board takes tonight will be the actual action, and if the construction official needs a resolution, we have a meeting next week, I believe, and we'll certainly be able to get that resolution on the agenda. But I would suggest that we make the motion to approve it and make this a memorializing resolution so it takes effect today, and then whatever Mr. Murr can do, he can do. But we'll get the resolution done for next week.

MAYOR GREENBAUM: So moved.

MR. WEISS: Okay.

MR. BUZAK: We have a motion by…

MR. WEISS: We haven't had a motion.

MR. BUZAK: I though he said…

MAYOR GREENBAUM: I did, I moved it.

MR. WEISS: Okay.

MR. RUSSELL: Second.

MR. WEISS: Second Nelson. Any comments, questions? Catherine, Roll Call.

ROLL CALL:

Joe Fleischner	-yes
Brian Schaechter	-yes
Mayor Greenbaum	-yes
David Koptyra	-yes
John Mania	-yes
Dan Nelson	-yes
Nelson Russell	-yes
Kim Mott	-yes
Howie Weiss	-yes

MR. WEISS: Good luck Mr. Murr.

MR. MURR: Alright, thank you very much.

MR. WEISS: Mr. Sturn, Ms. Marlowe, thank you for coming up. Obviously the next application, PB 15-27 Petillo is a d- variance; therefore the Mayor and Councilman Mania are excused. Gentlemen, have a good night. So, let us continue, I'm going to introduce PB 15-27 Petillo, Inc. like I said earlier, it's a d-variance, preliminary and final site plan with waivers, property located at 182 Flanders-Netcong Road which is block 4400 lot 2. Tonight for the applicant we have Mr. Hopkins. Mr. Hopkins, welcome and as soon as you're set you can take over.

MR. HOPKINS: Thank you. Good evening, Christopher Hopkins from the law firm of Dave Pitney on behalf of the applicant, Petillo, Incorporated. Petillo, Incorporated you might know as a firm that's been here in Mount Olive for many years, and they're here tonight seeking a use variance relief and site plan approval to revitalize and reuse the building and property that's located at 182 Flanders-Netcong Road, it is block 4400, Lot 2. That's the property that used to contain the Flanders Fitness Center, and

it's next to the tennis club, for those of you who were aware of it. The property is included in the active recreational zone district, which the zone contains the property and the tennis club. The recreational use on the tennis club property has existed, I believe since the 70s, and subsequently the building on our subject property was constructed and operated as the Flanders Fitness Center. In 2010 the AR zone was established, which elevated the recreational uses from conditional to principal use on this property and the tennis club property. The subject property was included in the zone as it housed a fitness facility at that time. Shortly after the 2010 creation of the AR zone, the Flanders Fitness Center went out of business, and since that time the property has remained vacant and the applicant is now seeking to modify and reuse the existing building for storage and light maintenance of construction vehicles and equipment for his business that's located across the street. Tonight I have the following witnesses that I'd like to call to the Board's attention to present testimony. The first is Michael Petillo, who is the applicant and the owner of Petillo Incorporated. We have Mr. Mark Cortazzo who is the property owner. We have Rob Moschello from Gladstone Engineering who will testify as to the site plan. And Mr. David Zimmerman, who is a planner. With that, I'd like to call up Mr. Petillo.

MR. WEISS: Mr. Petillo, the attorney will swear you in.

MR. BUZAK: Sir, please raise your right hand, place your left hand on the bible. Do you swear that any testimony you will give tonight will be the truth, the whole truth, and nothing but the truth, so help you God?

MR. PETILLO: I do.

MR. BUZAK: Can you please state your name and business address for the record, spelling your last name.

MR. PETILLO: Sure, it's Michael Petillo p-e-t-i-l-l-o. My company is at 168 Flanders-Netcong Road in Flanders New Jersey.

MR. BUZAK: Thank you sir.

MR. PETILLO: Thank you.

MR. HOPKINS: Mr. Petillo, what is your title at Petillo Incorporated?

MR. PETILLO: I am the president of the company.

MR. HOPKINS: And are you a contract purchaser of the subject property of this application?

MR. PETILLO: Yes, we are under contract.

MR. HOPKINS: Can you describe to the Board your involvement with Petillo Incorporated?

MR. PETILLO: We've been in business for 25 years. We've been in Mount Olive approximately 15 years. Pretty much bought the building and revamped it, cleaned it up, made it look like it was part of the neighborhood. We get along pretty well with the Town and it's been a great 15 years in Mount Olive.

MR. BUZAK: For the record, you are referring to the building that's located on your current property?

MR. PETILLO: 167 Flanders, yes.

MR. HOPKINS: And where is that property located from the subject property of the application?

MR. PETILLO: We're diagonal, right across from the subject property, basically in between the power station but on the other side of the road.

MR. HOPKINS: Can you explain to the Board, or describe to the Board the property that you're looking to purchase?

MR. PETILLO: Basically, we're looking to gain some inside storage at the existing tennis club that's there now. We're just looking to put a garage door on the side of the building, and use it for interior storage as well as a maintenance facility for some vehicles and equipment for routine maintenance, safety

checks and as far as warehousing, just some hard good, silk fence, our daily commodities that we use in our construction company.

MR. HOPKINS: Are you aware of the use that was previously contained in the building on the property?

MR. PETILLO: Yeah, it was a racquetball club, gym, maybe some like zumba classes or whatever they had in there. But it was a while ago, I guess 2010 was the last owner.

MR. WEISS: Let me just interrupt real quick, just to make sure the record is straight, cause you had said that you were looking to take space in the tennis center, and I know that…

MR. PETILLO: It's the gym, I'm sorry; I call that whole area…

MR. WEISS: I know it was one big thing at the time. Just so the record is clear, you're not looking to take space at the tennis center, you're looking to take space at the former gym.

MR. PETILLO: The former gym, yes.

MR. HOPKINS: Thank you Mr. Weiss, I missed that. And in what was the former gym? Can you describe the current condition of that property to the Board?

MR. PETILLO: I guess the last owner went for a construction loan to revamp it, ran into some troubles, there's half finished bathrooms, you know, it's in pretty much disarray. I know the electric service was gutted out. The current owner now redid the service coming into the building which allowed for the gas, I believe the gas service to get reconnected and it was pretty much not up to code. Now the utilities are up to code and now it pretty much needs an interior demo.

MR. HOPKINS: And how about the exterior of the structure?

MR. PETILLO: The exterior is pretty overrun, there's a lot of trees and underbrush growing and it's not too pleasing to the eye. You know, we're looking to basically mimic our building down the street and fix it up and keep it well maintained. I run a pretty neat shop at 167 so, we're looking to do the same thing here.

MR. HOPKINS: Can you describe to the Board why it is, in particular that you're looking to purchase this property?

MR. PETILLO: It's varied, you know, for inside storage, the tough winters up here, there's a lot of wind up here and you know with all the snow and cold weather that my current building has a long narrow garage, where I can't really, you know, if we're waiting on parts for one machine, you can't really shuffle the things out, and as far as the storage, you know, it's tough to get that inside storage that's half a room, so we're just looking to expand. Our company has grown quite a bit in the last 15 years since we moved to Mount Olive.

MR. HOPKINS: So is it your intention that the property and the structure on the property will serve as an annex sort of as to Petillo Construction's current operations?

MR. PETILLO: Exactly, the same people that are at Petillo Incorporated, they're just basically going to move, hopefully move to the new structure.

MR. HOPKINS: And as far as the use that you're contemplating in there, approximately how many vehicles are you anticipating will be parked inside the structure at any one time?

MR. PETILLO: Probably three to four vehicles.

MR. HOPKINS: Are you contemplating any storage outside of the structure?

MR. PETILLO: No, we're basically going to be contained inside of the structure. You know we want, on our site plan, you'll see we wanted to fence in the back and that's really like the only change, everything would be stored inside.

MR. HOPKINS: So, what is the type of activities that will take place inside the structure?

MR. PETILLO: Basically storage, so there may be a warehouse guy that'll maybe send out some deliveries and then, basically splitting the shop, so one side will be storage, and the other side will be like three or four areas where we could park vehicles, go over the maintenance, the inspections, any repairs, that sort of thing.

MR. HOPKINS: Can you elaborate of the type of repairs that would be conducted in the structure?

MR. PETILLO: Basically stuff like brakes, oil changes, you know, your average mechanical repairs.

MR. HOPKINS: Would you characterize those repairs as light maintenance?

MR. PETILLO: Yeah.

MR. WEISS: It wouldn't stop you though from replacing a complete transmission if that's what you needed?

MR. PETILLO: No, it wouldn't. That would be a pretty easy thing for us. We have four mechanics in our current shop now.

MR. HOPKINS: Can you describe to the Board when the trucks and equipment will be brought in and out of the structure?

MR. PETILLO: It's basically going to be same hours we have now. 7 AM to 5 PM. There's going to be, we're proposing a door exactly like we have in our building now. I think it's 16 foot high by 14 foot wide so the door will just open on the side of the building, the vehicles will drive in, or any deliveries will drive in, we'll unload inside and then they will leave the same way.

MR. HOPKINS: Are you anticipating much traffic from the use of the property?

MR. PETILLO: Not at all, it's going to be the same exact traffic we have now. There's not going to be any increase of traffic flow in the area.

MR. HOPKINS: And I believe you might have mentioned this, but can you tell the Board the number of employees that you are anticipating at the structure?

MR. PETILLO: We have four mechanics, there's an equipment manager whose basically their boss, and there will probably be a guy just dealing with you know the warehouse type activities and just dealing with UPS and stuff like that. So, that's seven people max.

MR. HOPKINS: Are you anticipating any noise, glare, vibrations, heat or odor, water pollution that might be associated with the operations?

MR. PETILLO: Everything is going to be enclosed, outside of the structure, it's exactly the same structure I have currently, and you don't hear or smell anything.

MR. HOPKINS: And so the Board can kind of get a better understanding of your reasoning behind purchasing the property, can you explain to them why you believe that there's a need to purchase this structure and that the use can't be accommodated on the existing Petillo site across the street?

MR. PETILLO: Basically, most of our maintenance and work is done in the winter time because of the weather, our equipment and trucks and it's basically available to us. So we're looking to just have a bigger area to do these things inside, and also we do work construction in the winter and when we have stuff outside and it gets snow covered and ice covered, it's hard to use it, so having the stuff inside of a building would be much better and we just can't do, you know we have the Highlands at our current building, so we can't really add on or go for an addition, or anything there. And we also have the power lines easement that runs directly through the middle of our current building. So, we have major setbacks with that.

MR. HOPKINS: So that would prohibit you from building a structure similar to the one that's found across the street on your site.

MR. PETILLO: Yeah, we could never really expand our current facility.

MR. HOPKINS: Okay. Thank you very much, that's all I have for you Mr. Petillo, the Board may have some questions for you.

MR. WEISS: I have a couple. Mike, go back to talk about your hours of operation, 7 AM to 5 PM, Monday through Friday, Monday through Saturday?

MR. PETILLO: We're union, so we really don't like to work Saturday, so it's Monday through Friday.

MR. WEISS: Okay, well, that's going to come up, you don't project that this building at 182 is going to be open on Saturdays? Operational?

MR. PETILLO: Warily, I wouldn't, it wouldn't be an every week occurrence, if it was to happen, you know maybe if there was some bad weather or a storm and we had to some things maybe.

MR. WEISS: Can you estimate what a Saturday hour would be if you had to work on a Saturday?

MR. PETILLO: Maybe like 7 to 3, or it would probably be an earlier shift. Or early closing rather.

MR. WEISS: I'm not sure how you handle your Saturdays on the other side of the street, if it's similar, then that's the case.

MR. PETILLO: We don't do anything, I think the outside is like 9 to 5 on a Saturday, it may go, but basically we're always doing, if we're doing anything, its inside, so I'm not quite sure of the Town ordinance on that.

MR. WEISS: Yeah, I think probably best for the record, Mike, if you were to just testify what worst case scenario, what you think the hours of Saturday would be. You are throwing out 9 to 5, 7 to 3.

MR. PETILLO: I would propose 7 to 3 to be safe.

MR. WEISS: On Saturday, okay.

MR. PETILLO: Yes.

MR. HOPKINS: Just to be clear, for the record Mr. Weiss, you're not anticipating that this would be additional hours of operation, that these would be ancillary to the hours of operation.

MR. PETILLO: A rare occurrence, yeah, I mean if there was you know, something like a storm in the area, and we had to work, or a water main break or something.

MR. WEISS: Anybody else on the Planning Board have any questions? Brian.

MR. SCHAECHTER: Parking's fairly tight (inaudible)…how many vehicles do you think you would be parking outside.

MR. PETILLO: There would probably be three, I think there's 22 parking spaces, so we're going to have like three trucks, but like the commuter trucks, like an F150 or something like that. Just our company trucks.

MR. SCHAECHTER: So your employees are going to walk to work?

MR. PETILLO: What's that?

MR. SCHAECHTER: Your employees, they're going to walk to work or they're going to park there too?

MR. PETILLO: No, there will be parking at the other facility.

MR. SCHAECHTER: Park then walk.

MR. PETILLO: No, the people in that shop will park there.

MR. SCHAECHTER: So, it's three of your company vehicles, plus their personal vehicles.

MR. PETILLO: Yeah, the delivery guy is going to go to 167 pick up a truck, deal with the warehouse, so I mean there is 22 spots, for the record I will say seven spots will be taken out of the 22.

MR. HOPKINS: Just to be clear, are you anticipating that the people that will be parking in the parking lot are the personal vehicles of the employees?

MR. PETILLO: Yeah, they either have a personal vehicle or a mechanic's truck that they will pull in the building, because they are going to be working on the machines or equipment or whatever. But it's, but I'll just say the max will be seven cars in the parking lot, that's about it.

MR. HOPKINS: And we'll testify as to the parking. We have the engineer to testify as to the existing parking.

MR. SCHAECHTER: And they're not going to do any work outside?

MR. PETILLO: Absolutely not, zero work outside of the building. There's really no room, there's basically the building, the septic out front, then just the existing parking lot.

MR. WEISS: Chuck, did you have a question?

MR. MCGROARTY: Mr. Petillo, you said if I understood correctly, that you can't put a building on your existing site because of Highlands. Are you aware of the highlands exemption process, or have your professionals or engineers advised you about that?

MR. PETILLO: I really haven't looked into that. I know with our electric easement, like the power lines are running directly through our, basically through the back acreage and the setbacks.

MR. MCGROARTY: You have an eight acre parcel, do you not? Where you are existing now.

MR. PETILLO: Eight acres, yeah.

MR. MCGROARTY: And you have one building?

MR. PETILLO: Yeah.

MR. MCGROARTY: Right, so under Highlands you are entitled to …

MR. PETILLO: Actually there's two buildings. I forgot about that. There's an existing white shed, you know it's maybe a two story structure that's been there for 30 years, and then there's my main building.

MR. HOPKINS: If I may Mr. McGroarty, we are going to be presenting some testimony from the professionals with respect to the constraints on Mr. Petillo's property.

MR. MCGROARTY: That's fine but if I may though, I think the rationale is, the question is why this building versus a building on your existing property? Since the use is not a permitted use, it's a pre-existing non conforming use, where you are today. There's no doubt about that, no question about that. So if one were to expand on that property, that would be a different kind of variance, and we talked about that, in any event, I guess what I was just asking was that Mr. Petillo seemed to be under the impression that under Highlands, he wouldn't be able to build a building on his property, and I don't think that that's accurate. So, if he's been given that advice, perhaps, when the engineer testifies he can explain why that advice was given, if in fact the engineer gave it.

MR. HOPKINS: And the report I am making is I don't know that was the advice that he was given, that is just a layperson testimony, it's his beliefs of what he can do on his property.

MR. MCGROARTY: Then I think it goes to the heart of why do it? If the rationale is because this building is here and they can't put a building on my property, and if I can't put it on my property and the rationale is because of Highlands, then that puts into question…

MR. HOPKINS: I believe the testimony we will review that there are other constraints besides Highlands, that's my point.

MR. MCGROARTY: Okay, fair enough. I did have one other Mr. Chairman.

MR. WEISS: Go ahead.

MR. MCGROARTY: So, when you're in, if you were to occupy this building, there's the one door that you would add to the side or sort of facing the front to a certain extent, would that door be closed at all times?

MR. PETILLO: I believe so, yeah.

MR. MCGROARTY: So, if its operating year round, and in the summer that door would stay closed, even while there is truck maintenance going on inside the building?

MR. PETILLO: I don't recall if they had the big dormer vents on it or not, I mean, we would probably want to install them. We have them in our current shop now, but as far as ceiling fans and…

MR. MCGROARTY: Well, across the street actually are single family dwellings, correct?

MR. PETILLO: Yeah. But the door faces the side towards the substation though; it's not in the front of the building.

MR. MCGROARTY: Well, the Board has the plans, they can see it, where it is, it's sort of in a diamond shape direction as it were, facing Flanders Road, but across the road, again, is residential property. I just wanted to understand whether that door would stay closed at all times, which would be unusual I think. That's all I have Mr. Chairman, thank you.

MR. WEISS: Okay, does anybody else have any questions?

MR. NELSEN: Mr. Petillo, I had a question, you mentioned before, perhaps on a Saturday you might be called out for a water main break.

MR. PETILLO: I use that as a term. We do some emergency work, you know, I just kind of used that as a term, we do all different kinds of construction.

MR. NELSEN: Okay, do you do water main breaks in the town?

MR. PETILLO: I do pretty much, in the town, whatever the town needs me to do, I've done. I've done a lot of work at Turkey Brook and stuff, but other towns, we're approved with American Water and we do a lot, we're a pretty sizable company and we do a lot of things all over New York and New Jersey.

MR. WEISS: Ed.

MR. BUZAK: Everyone here may know, but I don't, what type of business is this? Everyone has been talking about it, I am trying to figure out exactly what it is.

MR. PETILLO: Oh, I'm sorry we do commercial site work, we do heavy highway, we do some road work, trying to think of some stuff we've done up here, we've done a lot of dirt moving, utilities, heavy excavation.

MR. BUZAK: Okay, can you tell us the equipment that we're talking about, are we talking about vehicles, equipment, what are we talking about? Backhoes are we talking about trailer trucks, we talking about bulldozers.

MR. HOPKINS: Just to be clear Mr. Buzak, are we talking about the equipment he intends to house at this subject property?

MR. BUZAK: Correct, that's correct.

MR. PETILLO: So, we would basically bring in you know, it could be a bulldozer, it could be a pickup truck, it could be a little Kubota truck we use to get around the jobs, but basically anything that would fit in the building. You're not going to have more than one piece at a time construction wise, but you may

have one bulldozer getting serviced and two pickup trucks, but it's not, my other shop has an overhead crane, so the bigger stuff could get done at my current shop.

MR. BUZAK: And that's at the 167?

MR. PETILLO: 167 Flanders, yeah.

MR. BUZAK: And is there no, is that done inside?

MR. PETILLO: Yes.

MR. BUZAK: And size wise, comparison wise, what's the …

MR. PETILLO: This is a little bigger, this is 110 by 100 by I believe somewhere around 40 foot high. My current building is about 30 by 60 by maybe 30 foot high. This is basically I think double the size of what we have now.

MR. BUZAK: How does the equipment get into the garage? I understand, obviously if it's a pickup truck, you drive it in, if it's a bulldozer, is it brought in on a trailer, is taken off the trailer in the parking lot and driven in?

MR. PETILLO: The trailer would back up inside the door, that's what we do at our current facility, and then it unloads right inside. We're not going to be unloading in the street and then bringing it inside, it wouldn't be anything like that, right now, basically, I keep my place pretty nice and I don't want the parking lot dirty or anything like that, so we basically back the trailer up to the garage door and drop it right off.

MR. BUZAK: And besides bulldozers, you have backhoes and anything else in terms of that type of equipment that we're talking about?

MR. PETILLO: We pretty much own every piece of equipment there is, so it's backhoe, bulldozers, skid steers, mini excavators.

MR. BUZAK: How many pieces of equipment in total do you own that could possibly be serviced at this facility?

MR. PETILLO: Does my company own or that we feel like we would want to service? Basically what we like to do is bring in every piece of equipment one at a time, most of the equipment stays on the job, so we cycle them out in the winter. One piece comes in, gets serviced, goes out, and then we would bring in another piece. I mean it's too expensive to mobilize everything off the jobs. The jobs we do are basically one to two years long. We have a huge job going in Monticello, New York, so to bring that equipment all the way back to New Jersey, we would only be going with like one at a time, when necessary.

MR. BUZAK: Would this be a daily operation, so to speak, in other words, there would always be some activity inside either servicing equipment that you've brought that may take several days to service or…

MR. PETILLO: It would mainly happen when there was like a break down or an overdue maintenance piece that would probably come back. A lot of the maintenance gets done on the jobs, and basically nine months out of the year, everything is happening on the job, so the three months in the winter time, to be honest, it would be a little more active than the other nine months. So, obviously the door would be shut in the winter time and the heat would be on.

MR. BUCZYNSKI: There would be some days when you wouldn't be doing maintenance?

MR. PETILLIO: Yeah, it wouldn't be, you know, we would also be storing like some survey lathe, like our normal commodities that we use and a guy would be in charge of the inventory, and it just saves a little time, and we're pretty orchestrated on the project, so somebody would call in and say I need, you know X material and then it would get shipped out.

MR. BUZAK: I asked you the number of pieces of equipment and you said, well do you mean the company or that will be on here. How many pieces of equipment do you own that could possibly be serviced here?

MR. PETILLO: Probably about 100 pieces.

MR. FLEISCHNER: But never at the same time.

MR. PETILLO: Never at the same time.

MR. WEISS: Chuck, I think you had another question.

MR. MCGROARTY: Mr. Petillo, if you know, to the point about bringing the equipment like a bulldozer or other type equipment to the site on a tractor, or trailer or whatever and backing into the building, are you going to be able to maneuver that on site, or would the truck have to stop on Flanders-Netcong Road and back in?

MR. PETILLO: Depending on which truck it was, you know if it was a single axle dump truck and a trailer, I mean you could pull in, unload the dozer and then back out, but the parking lot, depending on the driver, could probably get done inside the parking lot, you know, if a bigger truck came and was parked in there.

MR. MCGROARTY: So, it's possible that you're looking at maneuvering out on Flanders-Netcong Road to get into the site to do, to bring some of the equipment in?

MR. PETILLO: I don't know if that's fair to say it would happen all the time. Could it happen you know, once or twice, depending on which piece.

MR. MCGROARTY: I wasn't suggesting all the time, but some of the pieces might be big enough that that would necessitate that.

MR. BUCZYNSKI: Like if you have a bulldozer on a trailer, I don't think you're going to maneuver that trailer inside the parking lot, won't you be backing in off the road?

MR. WEISS: Isn't that a better question for the engineer?

MR. BUCZYNSKI: They move them.

MR. PETILLO: Basically the bigger pieces, you know, they would be working on could go to the other shop where there is an overhead crane and it's a little easier to move, the other trucks, you know, could you pull in there, unload a bulldozer and back out? I'd have to look at the exact, you know, dimensions of the parking lot. I really didn't, to be honest; I really didn't look into that too much. I know if you drove past the site going towards my building, you could easily back in.

MR. WEISS: Anything else? Mr. Petillo I just have one other question, I think the answer is pretty obvious, but you talked about what your plans are to do with the building, maintenance of your vehicles, maintenance, storage, inspection, so on and so forth, are you also going to testify that you don't have any intention of taking in work for others?

MR. PETILLO: Definitely not.

MR. WEISS: Kind of a commercial…

MR. PETILLO: Definitely not, it would be all of my company's, yeah; we don't work on anybody else's equipment or sell anything or anything like that.

MR. WEISS: Okay, I don't have any other questions. Does anybody else on the Planning Board? Seeing none from the Planning Board, I'll open it to the public. If anybody from the public has any questions for Mr. Petillo based on the testimony he gave tonight, seeing none, closed to the public. Mr. Hopkins.

MR. HOPKINS: Thank you.

MR. NELSEN: Mr. Chair, just had a question, I'm sure Catherine addressed this, this was all properly noticed and everything to the neighboring properties?

MR. WEISS: Well, I don't think we get to this point if it wasn't.

MR. NELSEN: Yeah, okay.

MR. WEISS: Yeah, that's usually the certified law before it hits the agenda.

MRS. NATAFALUSY: It was noticed, it was supposed to be heard last month, and we carried it to tonight from last month.

MR. WEISS: Thank you.

MR. HOPKINS: And just for the Board's own edification, there were some residents here at the additional meeting when it was supposed to be here and we showed them the plans, and they went over the plans and, to me they said, because it was Michael and Petillo and they know his operations, that they weren't going to come back. I don't know whether any of them have showed up again. But obviously nobody came up.

MR. WEISS: I think the best way to address that is that the Planning Board can obviously see that there's no one here from the public.

MR. HOPKINS: Right, I understand.

MR. WEISS: I don't know in your world but that is perhaps hearsay.

MR. HOPKINS: That's not testimony, it was just, I was just letting you know as far as notice, the public has seen the plans.

MR. WEISS: The public is obviously given an opportunity to speak for or against the application and the record will show that no one from the public has spoken.

MR. HOPKINS: And with that I'd like to call Mr. Mark Cortazzo, who is the current owner of the property.

MR. BUZAK: Sir, please raise your right hand, place your left hand on the bible. Do you swear that any testimony you will give tonight will be the truth, the whole truth and nothing but the truth so help you God?

MR. CORTAZZO: I do.

MR. BUZAK: Please state your name and business address for the record, spelling your last name.

MR. CORTAZZO: Mark Cortazzo, 182 Netcong-Flanders Road.

MR. BUZAK: Can you spell your last name sir?

MR. CORTAZZO: C-o-r-t-a-z-z-o.

MR. BUZAK: Thank you sir.

MR. HOPKINS: Mr. Cortazzo, how long have you owned the subject property?

MR. CORTAZZO: A little bit over one year.

MR. HOPKINS: And has the property been vacant since the time that you've owned it?

MR. CORTAZZO: Yes.

MR. HOPKINS: Do you know how long the property was vacant prior to your ownership?

MR. CORTAZZO: It was a number of years; I think it goes back to about 2010.

MR. HOPKINS: And since you've owned the property, have you tried to remarket the property for sale?

MR. CORTAZZO: I have, quite aggressively, and I have been unsuccessful.

MR. HOPKINS: Can you describe to the Board some of the efforts you've made to remarket the property?

MR. CORTAZZO: Surely, I could tell you why I originally purchased the property, are you interested in that?

MR. WEISS: Sure.

MR. CORTAZZO: My daughter jumps in a pole vaulting club that's up in different areas. It's a very esoteric event, and we had purchased this to move the club there, the gentleman who is the coach has done a lot of great things to help kids that don't have a lot of money that can't afford to jump in a club jump, so I thought I would help them out and get the building, and a few weeks after I closed the on building, he passed away. I looked for other coaches to try to have the club there and was unsuccessful and it was a very niche thing that we were trying to do with the building, and since then, I've tried to, it's been listed on the MLS, we've pursued health clubs, I sit on a board for a non-profit in Morris County with the director of the energy company next door. I asked them if there was any way we could get parking, I approached my neighbor because there was shared parking with the prior owners, and was told that it's not in their best interest to have shared parking with me. And in over a year of it being listed, I've not gotten one creditable viable offer.

MR. HOPKINS: Mr. Cortazzo, just to elaborate for the Board, you're talking about a conversation you had with the owners next door; you're talking about the tennis club?

MR. CORTAZZO: The tennis club, sorry, yes.

MR. HOPKINS: And are you referencing, you're referencing a shared parking agreement. Is that an agreement that was written, was verbal. What type of agreement are you referencing?

MR. CORTAZZO: Well, I think there's people who were at the club, who worked out at the club, as I've tried to research as much as I can on the prior uses of the building and there was a shared parking agreement because I think they were originally one ownership and property, there was a handshake or a friendship type agreement where there was allowed to have shared parking because I think there was well over 1,000 members of the gym, and obviously 25 parking spots was not going to cover that, so they were sharing that and then I, in a very positive friendly manner offered to rent spots from the neighbor, and was told it would not be in their best interest to do that.

MR. HOPKINS: So, they were not interested in entering into a shared parking arrangement with you?

MR. CORTOZZO: They were not, and there's…it has not been a cooperative or collaborative type of engagement. The deed allows for ingress and egress from the neighboring property which is now a one way, so I can't even pull into my parking spots. It was roped off by my neighbor, which is in conflict of the deed. So, I've been trying very very hard to be a friendly neighbor and get this marketed, and it's been extremely difficult. I did this out of the goodness of my heart, I have my little teenage daughter, her friends, they needed a place to do this sport, it's a sport that means a lot to me, it got me a scholarship for college, so I wanted to help out kids so maybe they could do something, and it really has been a very…a very close friend of mine passed away, and I'm stuck with a building that I really don't have any options to do anything with. I've exhausted really all personal relationships with trying to get the energy company said they would let me use spots, I can't access it because of the way the wetlands and the highlands are, and it would be temporary, that they couldn't guarantee that they could keep them for me, so I really have talked to different health clubs, Retro Fitness franchisor that was interested and we couldn't, we could not get adequate parking to…

MR. HOPKINS: Can you elaborate on your conversations with Retro Fitness, what was, did they come back to you and tell you why that ultimately they were not going to pursue?

MR. CORTAZZO: They needed anywhere from 75 to 100 spots to make it viable, to make it financially viable.

MR. HOPKINS: And you had mentioned to the Board that at some point, the tennis club was roping off spots, I have an exhibit that I'd like to mark as an exhibit.

MR. BUZAK: Why don't you bring it up sir, we'll mark it as A1.

MR. WEISS: Mr. Hopkins, why don't you explain to us what A1 is.

MR. HOPKINS: A1 is a photograph that I can have Mr. Cortazzo authenticate, but it's a photograph showing roped parking spaces, or parking spaces that are roped off from access. I think I do have some extra copies.

MR. WEISS: It is certainly large enough though.

MR. HOPKINS: I don't have many, I have one extra copy.

MR. WEISS: I've seen it, and we can certainly see what you're holding up. So, go ahead Mr. Cortazzo, why don't you explain what A1 is…

MR. HOPKINS: Did you take this photograph Mr. Cortazzo?

MR. CORTAZZO: I did.

MR. HOPKINS: And when did you take this photograph?

MR. CORTAZZO: It was a few months ago, when it was warm, so I want to say around September.

MR. WEISS: Fall of 2015.

MR. HOPKINS: Can you explain to the Board why you took this photograph?

MR. CORTAZZO: Surely, when I first moved in, we had this common area and my neighbor was going to be putting new macadam down, and he approached me to extend it, so I was trying to be a good neighbor, I said sure, paid him on time, they did the parking spots and then when I pulled up to my building to check on it because I periodically went in there because when I purchased it, it had been broken into and vandalized and used for things other than its primary purpose by teenagers, and there was a rope excluding access to my parking spots, so I documented it, removed it and asked the neighbor about the one way because my deed says ingress and egress from that spot and was told that I would have to take that up with the Board if they wanted to get anything done.

MR. WEISS: When you refer to the neighbor, you are referring to the Center Court?

MR. CORTAZZA: That is correct.

MR. HOPKINS: Now, in terms of the efforts to market the property, is it your contention that you've tried to market to several fitness facilities?

MR. CORTAZZA: I have a professional real estate agent that has this listed on the multiple listings, so anybody who is looking for commercial property in or around this area for this size it would show up on the radar and as soon as they hear about the access parking limited use, I haven't even gotten a low ball offer where someone has come to me and said I will give you a grossly inadequate number where I could say no to. I haven't even gotten an offer in over a year. And I am very very very anxious to try to get out from underneath this and have it become something productive.

MR. HOPKINS: I have no further questions for Mr. Cortazza, I don't know if the Board may have some.

MR. WEISS: Does anybody on the Planning Board have any questions for Mr. Cortazzo?

MR. NELSEN: I have a question, not sure it's relative to all this but just curious, pole vaulting, this building is about 100 feet in each direction. How many feet do you need to get up ahead of steam to pole vault?

MR. CORTAZZO: Well, middle school and high school kids probably around an 80 foot runway.

MR. NELSEN: Does that make them smash into the wall when they run?

MR. CORTAZZO: Well, you typically know your steps and you're running in the direction of the mats, so you wouldn't run back toward the runway, so you run down a runway, then there's the mats are about 12 or 14 feet deep, so there's a box that goes into the ground where you plant the pole into and then the mats are between the box and the wall.

MR. NELSEN: Okay and that differs for different age groups?

MR. CORTAZZO: When you get to world class, they probably run it like 120 or 130 foot run, it's like, the world record was broken, he runs from probably 130 feet, but that would be post collegiate, you would need that kind of, this is to get kids enthused and to get them interested. We have kids that ranked in the top three or four in the state at the Meet of Champions that jumped at the club. The gentleman who I wanted to do this with was a great man, and he really really cared about the kids, this was not something I was doing to make a profit, it was to make a difference and he literally passed away a few weeks after we closed on it and it was his dream and it was, it is a real tough reminder for me to have this. I'm sorry.

MR. MCGROARTY: Just one question, if I may. The ingress egress, if you're entitled to that sir, and you are saying they are blocking you and they said to take it up with the, did I understand you to say that they said to take it up with the Board?

MR. CORTAZZO: Apparently, it was brought up to the Board.

MR. BUZAK: This Board?

MR. CORTAZZO: Yes, when the building was in bankruptcy, prior to my purchasing it, and a modification was made that's in conflict with the deed, but, it happened because there was no one to represent the interest of the building, it was in bankruptcy, so it got passed through and so, for someone to get to these spots, they would actually have to pull in to the Center Court, drive the entire length of their property, there is no signage that would say that that's the entrance for this building, so the entrance that is adjacent to this that is supposed to allow for ingress and egress, is a one way out of the parking lot so half of my spots are unusable without coming to you, I was hoping that this use and improvement to the building would get through, and it wouldn't necessarily need to be an issue, but it was a modification that happened prior to my owning it, and it's in conflict of the deed.

MR. WEISS: Anybody else on the Planning Board have any questions for Mr. Cortazzo? Seeing nothing from the Planning Board, does anybody from the public have any questions for Mr. Cortazzo based on the testimony that he delivered this evening? Seeing no one from the public has any questions, close it to the public. Mr. Cortazzo, thank you for your testimony.

MR. CORTAZZO: Thank you very much.

MR. HOPKINS: With that, I'd like to call Mr. Moschello.

MR. BUZAK: Sir, please raise your right hand, place your left hand on the bible, do you swear that any testimony you will give tonight will be the truth, the whole truth and nothing but the truth, so help you God?

MR. MOSCHELLO: I do.

MR. BUZAK: Please state your name and business address for the record, spelling your last name.

MR. MOSCHELLO: Robert Moschello m-o-s-c-h-e-l-l-o, business address is 265 Main Street, Gladstone New Jersey.

MR. BUZAK: Thank you sir.

MR. HOPKINS: Mr. Moschello, can you just briefly describe your education, experience and qualifications with the Board?

MR. MOSCHELLO: Yes, I received a Bachelor of Science in Civil Engineering from NJIT in 1998, I received my professional engineer's license in 2004, I've been working in the field of land development and land planning since 2008, I've probably appeared before 75 or 100 Boards within the State of New Jersey testifying to matters involving land development including residential, commercial, corporate office parks, golf courses, sub divisions anywhere from two to 400 lots. Commercial applications anywhere from a couple thousand square feet to over 500,000 square feet.

MR. HOPKINS: I'd like to move Mr. Moschello as an expert before the Board.

MR. WEISS: I would say that, because I'm seeing Mr. Zimmerman behind you, that tonight you are going to bring your expertise in engineering?

MR. MOSCHELLO: Correct, only engineering.

MR. WEISS: Okay, because I know you gave us a few of your other expertise qualifications tonight. You'll be testifying on behalf, as an engineer.

MR. MOSCHELLO: That is correct.

MR. BUZAK: So you said you're licensed in New Jersey?

MR. MOSCHELLO: I am licensed in New Jersey as a professional engineer.

MR. BUZAK: Thank you.

MR. WEISS: I have no questions for Mr. Moschello, have you been in front of this Planning Board?

MR. MOSCHELLO: I've not appeared before this Board before.

MR. WEISS: Welcome tonight, anybody have any questions? Gene?

MR. BUCZYNSKI: No, not at all.

MR. WEISS: The Planning Board will accept Mr. Moschello as the expert engineer.

MR. MOSCHELLO: Thank you.

MR. HOPKINS: I think we will let you go ahead and run through the site plan.

MR. MOSCHELLO: I have a couple of exhibits I am going to enter as I go through my testimony. I will mark this A2 and date it today's date. Its entitled aerial exhibit, it's actually dated October 15, 2015. It's an aerial photograph from the state aerial photograph from 2012; I'm showing the property and the surrounding land use. I want to use this image just to orient the Board to the site, talk about some of the existing conditions in and around the property, and then we'll talk about the proposed improvements. We have Flanders-Netcong Road running in essentially a north south direction across the plan, Drakedale Road towards the east, Flanders Road going towards the west, out towards Mt. Olive Road. The property itself is outlined in yellow, Lot 2 and block 4400 approximately 1.4 acres. It's within the AR zone which is your active recreation zone, and the area is basically this property and the Center Court property right next to it and the gray dash outline on the plan basically represents that AR zone surrounded by the R1 zone to the north the west and the south, there is a small public strip of zone between Vaccaro Road and Flanders Road, and you have the R1 zone again going to the South of the property. Essentially the improvements as you can see here, this is the 2012 aerial, so the improvements that were done to the Center Court showing the bubble with the field and the pool improvements are not shown on any of this, it is prior to those improvements. But to just touch on some of the access that was talked about during Mr. Cortazzo's testimony, you'll see the building, you'll see the property outline, you'll see two driveways that enter into the parking lot. Apparently what was done was this has now become the main entrance to Center Court, and then you drive through their parking lot and this has become the main egress, so when you get to this entrance, there is a do not

enter sign there. So, unfortunately now, you can't really get to this parking lot without going through this lot to get there, so that's how it was cut off and what he was referring to in his testimony about access to this parking lot.

MR. HOPKINS: Mr. Moschello, for the benefit of the Board, can you just identify where the rest of the parking remains for the subject property?

MR. MOSCHELLO: Yes, so based upon exhibit A1, it will show that roped off area, which is generally in the vicinity of the yellow line, which is the property boundary. There are approximately six spaces that are roped off that cannot be accessed, the remaining parking is on the north side of the building, which is where we are talking about access to the existing structure, when we get into the proposed improvements. You also have the JCP&L substation to the north of the site, and then you have JCP&L right of way which runs in an east to west direction behind the property and also to point out to the Board, approximately 300 feet away, you have Mr. Petillo's yard itself with his main buildings here in his facility that takes place on his property to the northeast of the site.

MR. HOPKINS: And does that easement run across Mr. Petillo's property?

MR. MOSCHELLO: That easement does, it's a 200 foot wide JCP&L easement and essentially runs through a good portion of his property basically cutting off the southern portion of the site to development because of that easement.

MR. HOPKINS: Just to elaborate a little bit more on some of the constraints on Mr. Petillo's property across the street, can you just elaborate for the Board the ability of him to place a structure on that property.

MR. MOSCHELLO: Essentially, under the Highlands Act there's a number of exemptions that one could apply for to allow development. There's exemption number four which will allow for 125% increase in impervious coverage of floor area on the property. However, he would be considered, if to build a new building, we're not sure if he would even fall under exemption four, if he were to build a building of a size and shape that we're talking about here. As you can see from his existing development, he has his main buildings, which are close to Flanders-Netcong Road, and he was talking about in terms of their size, if you take that area of those U shaped buildings, they basically almost fit into the square that you see here for the building that he's looking to purchase, which is approximately 11,000 square feet in size. So if we were to look to place that 11,000 square foot building on his property, knowing that the easement runs through here, you're basically taking off the whole southern half of the property to development, that just leaves this northern portion here where he actually is storing equipment and vehicles and materials on his property now that he needs for his business.

MR. HOPKINS: Now, you mention Highlands exemption, did the applicant obtain a Highlands exemption for the subject property?

MR. MOSCHELLO: We obtained an exemption for this property for the development that we are proposing here. So, unless anybody has any questions on the aerial exhibit, I'd like to move on to the next one.

MR. WEISS: No, go back, I just, the six parking spaces…

MR. MOSCHELLO: Yes.

MR. WEISS: That are technically accessed from Center Court that just happens to fall on the subject property, correct? The property line goes through the parking lot, leaving subject property with six spaces and the rest, so to the naked eye; it looks like one big parking lot.

MR. MOSCHELLO: Correct, if you pull in there, you never know.

MR. WEISS: Technically, there's six spots that are on the subject property.

MR. MOSCHELLO: Correct, the rest, the remaining parking lot is on the Center Court property.

MR. HOPKINS: Mr. Moschello, maybe you could point out to the Board where the entrance is in the front of the property in relation to those six spots.

MR. MOSCHELLO: The entrance to the building?

MR. HOPKINS: Correct.

MR. MOSCHELLO: The entrance to the building is right where my pen is, which is in, I'll say the southeast corner of the building.

MR. WEISS: I believe you are talking about the front door.

MR. MOSCHELLO: The front door, the advantage is if you were going to the gym there, if you remember at the time.

MR. WEISS: I know it well. My one question, I don't know if we recall, maybe Catherine or Chuck, do you remember giving Center Court a restriction for one way in and one way out?

MR. MCGROARTY: I don't remember.

MR. BUCZYNSKI: Yes we did.

MR. FLEISCHNER: Mr. Chairman, Mr. Chairman, I sat on the Board, and I apologize, because we did, and we were wrong. We were wrong. And how they presented it at the time, they presented a little different spin on it, if you go back and check the Minutes, well, but that's another like gym type area, or whatever, so therefore the flow of traffic would be fine, and I don't remember where I leave my keys, but there's some things I do remember and this Board, if we check our Minutes, I'll betcha you'll find that we said oh it would make more sense if we just limited egress from the property, is that right, egress, out, okay, and we made it one way going out. So that people wouldn't come. That's what we said, and the way they presented it, to be honest with you, never thought of use of that building for this type of…

MR. BUCZYNSKI: There was discussions too regarding the entrance.

MR. FLEISCHNER: Yes.

MR. BUCZYNSKI: And also because of traffic, because I was concerned, I wanted the out to go in, because I wanted the in to be further away from the intersection and through discussions and the testimony, ended up going the other way.

MR. FLEISCHNER: Absolutely correct.

MRS. NATAFALUSY: I think it was also because of the neighbors, and the lights coming out of…

MR. WEISS: Right, I do recall that, the big trees…

MR. BUCZYNSKI: But at the time there was no discussion on that deed because nobody knew about it.

MR. FLEISCHNER: Nobody knew about it, absolutely correct, but that's kind of our fault, and I apologize.

MR. WEISS: So the way the building is now, ingress and egress to the subject property is towards the north. Correct?

MR. MOSCHELLO: Technically, based upon the access, that is, this being a one way out, you really have access to the property only through this parking lot here on the north side, with its driveway that comes out to Flanders-Netcong Road.

MR. WEISS: And would you say, are the six spots, virtually non accessible at all?

MR. MOSCHELLO: Technically, they're not accessible, if there's no access easement over this property to get to those spots.

MR. WEISS: Short of going through Center Court's property and driving…

MR. MOSCHELLO: Short of coming in the wrong way to the entrance….

MR. WEISS: No, no, even if you did it properly, go through the ingress…

MR. MOSCHELLO: Right, if you go this way that would be the only way to access those spaces. Come in here, drive through their parking lot, and you pull into that parking area.

MR. WEISS: Okay, I'm fine with that.

MR. HOPKINS: Mr. Moschello, maybe you could go through the site plan and reference the neighbors and maybe elaborate on some of the landscaping improvements that we're proposing.

MR. MOSCHELLO: Yes, this is entitled site plan rendering. It's dated October 15, 2015, it will be exhibit A3. It's basically a colored in version of the single feed site plan that the Board members have in front of them. I also want to use this to point out the different improvements on the property and the lay of land, as it relates to the building. So, again, Flanders-Netcong Road is on the bottom, north being up towards your right. The property itself is sort of an irregular shaped lot, we have the main portion where the building is and we have a stem that goes off towards the back, you'll see on the plan the 200 foot wide JCP&L easement just falls approximately 35-40 feet behind the building itself. The building itself is rectangular 100 by 110 in size, set back approximately 52 feet from the right away line of Flanders-Netcong Road. You have an existing entry point to the building which leads to the upper level in the front here, and you have access to the lower level by a door that's over by mechanical equipment, which is adjacent to the existing parking lot that's there today. And these are the six spaces that are in question and adjacent across from the property line. So, what we're looking to propose to do here as Mr. Petillo pointed out is to convert it to a service type warehouse space. Essentially the exterior of the building would remain as it is with some minor enhancements, the overgrown vegetation would certainly be removed and replaced in keeping with the way he keeps his property just down the street. We're looking to modify access into the building so we can get our equipment in and out by means of adding a 16 foot wide by 16 foot high roll up door on the side of the building that would provide access to the lower level of the building. That would involve removal of a couple of parking spaces in order to do that. We would probably remove three spaces, so we had access to pull into the building, and in keeping with no net increase in impervious coverage, what we're proposing to do is remove an additional two parking spaces to have that no net increase in impervious coverage. Since the building will be of limited use in terms of employees, he pointed out maybe five to seven employees in the building that would still leave us with approximately 17 parking spaces. There was 22 to start with we take away five, we have 17, however, six of those parking spaces are on the other side of the property, so that leaves us with 11 left in the main lot, which would be more than adequate to provide parking for his employees that are going to be there. In terms of landscaping, what we're looking to do is, there was a landscaped vegetative area put in for Center Court, we would just look to kind of continue that with another row of evergreens going across the front of the property just to provide some screening. We do have to keep in mind, there's a septic field there in the front, so we certainly don't want to plant on top of that, but we look to provide those evergreens along the front of the property. There would be no lighting enhancements to the parking area or things of that nature which would remain as is. On the interior improvements, there was a floor plan that was submitted just generally showing that the lower level would be maintenance and storage space with a small office area on the upper level and some restrooms, so the building itself in terms of square footage, it's an 11,000 square foot footprint. There was a 6000 square foot second level to it, and in terms of the modifications, we'd probably be left with about 2000 square foot on the second floor, so we'd be taking 4000 square feet of floor area out of the

building with these modifications. In terms of the zoning, of course, this is a use variance application, we're requesting that for the change in use, however, since the lot is oddly configured, it doesn't meet any of the major bulk standards in your ordinance for the AR zone which requires five acres of lot area and certain setback requirements for the building. As you can see here, based upon the setbacks in your ordinance, the building envelope itself is kind of irregular in shape and the building doesn't fit into that envelope, so essentially, you're dealing with a series of existing non conforming setbacks on the property. However, the lot coverage and floor area, the lot coverage does comply as well as the building coverage, but we will still be dealing with a floor area ratio variance, but that's probably most likely assumed within the use variance, but I will leave that for Mr. Zimmerman to touch on. In terms of the outside agency approvals that we need, we applied for and received the Highlands exemption for the improvements on the property; we do need Morris County Planning Board approval, which they issued an exemption letter on which we received. The overall disturbance is less than 5000 square feet, so we're pretty much exempt from soil erosion improvements, so essentially that covers the direct portion of my testimony.

MR. WEISS: Mr. Moschello, tell me about, do you have a plan for handicapped parking?

MR. MOSCHELLO: Currently, there's none showing out there today on the site. If there was no handicapped parking previously on the property, there's an existing walkway that leads to the building, I've not checked that for its ability to meet the ADA route, however, the parking lot that's adjacent to the door is flat, it doesn't exceed any ADA requirements so if we need to, we can provide a space on that lower parking lot area. However the building itself, for the upper level, is not ADA accessible.

MR. WEISS: What do you think of that? I think we should have handicapped parking. I think there should be a spot closest to the building should be noted and marked as handicapped.

MR. HOPKINS: Certainly as a business owner, I don't think Mr. Petillo would object to that.

MR. MOSCHELLO: We can add one ADA space. It would have access to the lower level of the building.

MR. WEISS: Does anybody on the Planning Board have any questions for Mr. Moschello?

MR. MCGROARTY: Mr. Moschello, did you, maybe we can go back to the aerial, to exhibit A2. Was it your position, and I don't remember how you characterized it, was it your position that you did not think that an exemption could be secured for the existing site?

MR. MOSCHELLO: Yes…

MR. HOPKINS: Just to be clear Mr. McGroarty, the existing site, you're referring to 167 Netcong Road?

MR. MCGROARTY: Yes, thank you, Mr. Petillo's existing business, thank you.

MR. MOSCHELLO: It is our position that based upon exemption four which is a 125% increase in coverage, or it could be floor area, for that matter as you apply it, looking at the floor that he has on the property today, and it's certainly less than what he has here, you just take that building footprint, we don't think there'd be the ability to construct a building of that size on that property.

MR. MCGROARTY: That's not what I asked you. I didn't ask you if you could build that size building, I asked you if it was your position that you could not get an exemption number four.

MR. MOSCHELLO: Let me rephrase the answer for you, yes, you could get an exemption four on the property, but it's our opinion that it wouldn't be able to give him enough square footage to be able to do what he needs to do with his business, in discussing those items with him.

MR. MCGROARTY: Okay, have you calculated what square footage you could get on Mr. Petillo's existing property using the building and whatever impervious coverage he has.

MR. MOSCHELLO: I have not done that calculation. I can't tell you what that is.

MR. MCGROARTY: So, if you don't know, how do you know it doesn't compare to the building he has?

MR. MOSCHELLO: Well, just based on the square footage, and looking at the different size of the buildings just from a spatial standpoint, we didn't think we could get enough square footage, and I haven't done the exact calculation for that.

MR. MCGROARTY: So, you haven't done the calculation. Could I ask you also then, you mentioned that there was storage, outside storage in proximity to the existing building; again, I am talking about Mr. Petillo's existing property. Is there a reason why that outdoor storage could not be moved under the power line easement if that were an option let's say. Is there any restrictions against having outdoor storage under a power line easement?

MR. MOSCHELLO: Again, not being completely, entirely familiar with how he operates his site, but just looking at how he has things laid out in here, I think there's the ability for circulation and things of that nature for his trucks and his equipment on his property, so I'm not sure if he could store equipment and still be able to function the way he's functioning here.

MR. MCGROARTY: Oh okay, because I thought you were suggesting that he wouldn't be able to relocate the outdoor storage by the building if he were to put a second building up there. So, I must have misunderstood.

MR. MOSCHELLO: We can't put a building on the southern portion of the property.

MR. MCGROARTY: Understood, but you're not sure if you could put the outdoor storage.

MR. MOSCHELLO: I'm not sure from his circulation standpoint how he operates his facility that he'd be able to take the stuff that he has stored up here, the equipment that he has stored out here and put it in such a way that it wouldn't have additional impact on how he's storing stuff there today.

MR. MCGROARTY: Okay, so it's an operational question, perhaps, not a restriction. One last question if I may Mr. Chairman?

MR. WEISS: Sure, go ahead.

MR. MCGROARTY: Have you analyzed and you heard I think the question that we had of Mr. Petillo, for the proposed building now, this is the in the AR zone, would there be a need to use Flanders-Netcong Road to back a truck into the site or I guess perhaps a better way of phrasing it is, all the maneuvering required to get a vehicle, to bring a bulldozer or whatever it might be into the building, can all of that be done on site? Have you had a chance to look at that?

MR. MOSCHELLO: I've only looked at just small maneuverability of vehicles in and around the parking area, you have a 60 foot wide parking area, so you can turn smaller equipment around in this parking area, depending on where you park employee vehicles, but I've not looked at the ability to take a loaded, I don't want to say tractor trailer, but a low boy if you will, or a large piece of equipment, to back that into there, I've not looked at that.

MR. MCGROARTY: Thank you, that's all I have Mr. Chairman, thank you.

MR. FLEISCHNER: And I don't know if you're the appropriate person, but I'm kind of putting on my business hat, and maybe you're not the person to answer this, and I don't want to know exact hours, I'm

not asking, but it seems to me, from a business sense, is it more feasible to buy that existing building and make to me, minor modifications, versus the cost of putting up a brand new building from scratch and everything that's involved with that.

MR. HOPKINS: I don't think Mr. Moschello is the person to ask for that.

MR. FLEISCHNER: Okay, I wasn't sure who was.

MR. HOPKINS: And if I may, Mr. Moschello, you did not review the terms of the JCP&L easement, is that correct?

MR. MOSCHELLO: No, I have not.

MR. HOPKINS: So aside from being an operational issue, it may also be a legal issue as opposed to what can be done within that easement area? I just want to point that out, he hasn't reviewed the easement.

MR. MCGROARTY: Is it the then the testimony that it might be a legal impediment, and that part of the property is not usable?

MR. HOPKINS: I think you had asked him whether or not it was an operational issue.

MR. MCGROARTY: No, I asked him if it could be moved under the power line easement and I think he suggested if I understood correctly, that it would be an operational question. That's the way I phrased it because I asked can you store material under the power line easement and I think the answer was he didn't know.

MR. HOPKINS: So my point may be that it may also be a legal issue, but I don't believe that anybody, I don't believe that Mr. Moschello or anybody reviewed the terms of that easement.

MR. MCGROARTY: Well, you're the applicant and I think the testimony had to do with…

MR. PETILLO: I pretty much know the answer from…

MR. HOPKINS: We'll have Mr. Petillo come back up and address that issue, along with the issue of Mr. Fleischner.

MR. FLEISCHNER: Okay, thank you.

MR. WEISS: I think while we're talking let's bring up Mr. Petillo now.

MR. HOPKINS: Sure.

MR. FLEISCHNER: Can I ask Gene a question?

MR. WEISS: Yeah.

MR. FLEISCHNER: Gene, do you know of any companies that store equipment under power lines?

MR. BUCZYNSKI: I don't think it's allowed.

MR. FLEISCHNER: Oh. You're our expert, so.

MR. HOPKINS: You're already sworn.

MR. WEISS: You are still under oath Mr. Petillo as you know.

MR. HOPKINS: If I may, if we could just ask him the questions again directly. Either Mr. McGroarty or Mr. Fleischner.

MR. MCGROARTY: The question was are you allowed to store any of your equipment under, within that 200 foot power line easement?

MR. PETILLO: Basically, you know, there's a 200 foot easement, so when the power and light company comes in, they basically are allowed to cut down any trees in the way, I think they did that about three years ago, they clear cut our whole front of the property, and we had asked them that question, they basically said they are allowed to move anything, run over anything, push it out of the way if anything is in their easement and I said look, you know, my father worked there for 30 years, I said between us, if I put stuff under the power lines, they said you do it at your own risk, you know, so there really is not allowed to be anything underneath the power lines, and a few times we've had a problem with the ground wire that falls down during a storm in the middle of the night, you know, the trucks come in, they do what they have to do, they camp out there and then they leave.

MR. MCGROARTY: Mr. Chairman, may I ask Mr. Petillo an unrelated question since you are back on it?

MR. WEISS: Sure, go ahead.

MR. MCGROARTY: Mr. Petillo, what size building, or have you analyzed what size building would work for you to meet the needs that you have in mind?

MR. PETILLO: In a perfect world, you know, I'd love to have an eight acre building, but you know, obviously we can't do that, we're working with what we have on the property and the building, the subject property we feel we can make work at that size, so by the time you took my current property with the 200 foot easement, the setbacks, you know the added septic, the added well, on a business sense, if I can get into that, makes absolutely no sense when across the street there's a building that looks terrible that I can fix up, you know, do what I have to do in that building, without, you know, I have a great relationship with all the neighbors on the street. I've been there 15 years; I haven't had a complaint in 15 years. So, you know, we go slow on the road, my guys really watch out for the neighborhood and my building looks immaculate, I've gotten compliments on it, we're going to do the same thing at this building, so in order to build another building on my property, that would cost me a fortune plus the septic, plus a well, and just kind of really make everything congested with that 200 foot easement when I could do it across the street, I think it makes perfect sense you know, it's been vacant for going on six years, it doesn't look like any gym, I don't look like it now, when I was younger I went to a lot of gyms and worked out a lot, but we, they're big parking lots, they're in strip malls, I mean, it's not just an isolated…

MR. MCGROARTY: Well, I just really asked if you had sort of an idea of what size building you needed, so I think you have answered that. And by the way, was it your understanding that if you were to put a second building or an addition to your existing building you would need a second septic system and a second well?

MR. PETILLO: I would think any additions with the septic that's there wouldn't be able to handle it, I mean the septic hasn't been replaced since I've been there.

MR. MCGROARTY: Well, it might have to be upgraded, but not necessarily a second unit.

MR. PETILLO: If you're adding bathrooms, you'd have to upgrade the existing unit I believe.

MR. MCGROARTY: Okay.

MR. BUCZYNSKI: Howie, can we take a break.

MR. WEISS: I was going to take a break before we brought up Mr. Zimmerman.

MR. HOPKINS: Sure.

MR. WEISS: As soon as we're finished with the engineer.

MR. BUZAK: I have a question for the engineer.

MR. WEISS: Ed go ahead.

MR. BUZAK: Sir, you mentioned that you had Highlands approval, what did you get from Highlands?

MR. BUCZYNSKI: It was local. It was exemption number four because the footprint was within that 125%, the footprint of the existing surface on the site. Improvements shall not exceed .25 acres.

MR. BUZAK: And that's for the new site?

MR. BUCZYNSKI: The new site, correct.

MR. WEISS: Okay, so I think I asked the Planning Board if there were any other questions for Mr. Moschello, I saw none. I'll open it to the public if anybody has any questions, I think I did it once before, I'll also open it to the public again for any questions for Mr. Petillo when he came back up, and I see none for either one, so I'll close it to the public. Mr. Moschello, thank you for your testimony and we are going to take a break. It is a quarter to nine, I would say at nine o'clock we will resume. Take a 15 minute break and come back in session at nine.

MR. WEISS: We are back in session. Mr. Hopkins, I will then turn it back over to you to bring in your next witness.

MR. HOPKINS: Thank you, I'd like to call Mr. David Zimmerman. Mr. Zimmerman can you please describe…

MR. BUZAK: Mr. Zimmerman, can you please raise your right hand; place your left hand on the bible, which is under those exhibits. Do you swear that any testimony you will give tonight will be the truth, the whole truth and nothing but the truth so help you God?

MR. ZIMMERMAN: Yes, I do.

MR. BUZAK: Can you please state your name and business address for the record, spelling your last name.

MR. ZIMMERMAN: P. David Zimmerman, 21 Western Avenue, Morristown New Jersey.

MR. MCGROARTY: Thank you sir.

MR. WEISS: Chuck, as we have seen Mr. Zimmerman, if anybody has any questions or concerns as to Mr. Zimmerman's expertise and background, feel free to ask, but this end of the table should be fairly satisfied.

MR. MCGROARTY: We'll qualify him as a professional planner.

MR. WEISS: A professional planner representing the applicant tonight.

MR. ZIMMERMAN: Thank you.

MR. WEISS: Welcome Mr. Zimmerman.

MR. HOPKINS: Mr. Zimmerman, with that I ask you to present your testimony.

MR. ZIMMERMAN: Well, I want to indicate for the Board that I am familiar with the site and the neighborhood. I'm well acquainted with the plan for the property, I've reviewed the master plan, I've reviewed the 2010 reexamination, the zoning ordinance and the professional reports that have been submitted by your planner and engineer. As has been described, this application is basically a use variance application for the proposed use of the building for the storage and maintenance of equipment and this property is in the AR zone. This zone was recently created subsequent to a recommendation in the 2010 Master Plan reexamination. At the present time, this zone permits health clubs, it permits swimming pools, both indoors and out, it permits facilities within an enclosed building such as training, playing of sports, tennis, basketball, baseball, softball, volleyball, handball, skateboarding and day care centers. The property was used for a fitness facility up until about five years ago. Just a little history of the property, it was bought by Cadell Properties, LLC in 2002 and they retained ownership up until 2013 when it went bankrupt and there was a Sherriff's sale of the property and the current owner purchased the property in early 2014 and has owned the property since, almost two years now. As I indicated, the property is before the Board for a D1 use variance. Typically, I describe the area but I think you know the area, we have the aerial photograph and the engineer described the area so if you don't mind, I'll move along.

MR. WEISS: Fair enough.

MR. ZIMMERMAN: I think there are a couple of important factors to consider in evaluating this application. I think one of them is can this property really be used for a fitness center. I consulted your Ordinance for example, because there have been some questions and some discussion about parking and as the engineer indicated, for all practical purposes, there are 11 parking spaces on the property. I did not see and Chuck can correct me if I'm wrong, but I didn't see in your Ordinance a parking ratio or a parking standard for a health fitness use. The closest that you're Ordinance has was for a gymnasium where the Ordinance states to be determined at site plan review, so, I don't know if that's too helpful. However, if you consult the ITE, the Institute of Transportation Engineers, they have a publication called parking generation and they do have an entry for health and fitness club of 5.9 spaces for 1000 gross of floor area. So for a building of 11,000 square feet, which is what we have here, you would need 64.9 or 65 parking spaces. I think that is very telling not only in terms of the previous testimony of the owner wherein it was indicated to him that given the limited amount of parking, it is not that saleable as a building for that type of use, and I think the facts bear that out in terms of what's the appropriate standard for parking for a facility of this nature. I also took a look at other fitness facilities in the area and I Googled health fitness and I came up with eight facilities that service the Mount Olive area. I list this as, the heading here is select list of health and fitness clubs in and near Mount Olive, because I don't know how complete it is and, I hope everyone can read this but I'll go through it.

MR. WEISS: We need to mark that Mr. Zimmerman, we'll mark that one A4 with today's date of December 10th and title of this exhibit is the Select List of Health and Fitness Clubs in and near Mount Olive.

MR. ZIMMERMAN: Correct. And I think I wanted to get some idea of what are the existing health and fitness clubs serving this area and if they are to have any characteristics that can shed some light on where I'm going actually is, how they compare with the subject property. Well, there's two Gold's gym one on Bartley-Flanders Road, that's in the business zone, it's just off Route 206. There's Gold's gym in Hackettstown and that's in and amongst other businesses. There's a 24 hour gym on Route 46 in Budd Lake, and that's in a strip mall. A Flash One Fitness Old Wolfe Road Budd Lake, that's freestanding actually. Trinity Marshall Arts on Route 46 in a strip mall, Phoenix Fitness, that's in Netcong. I called them a couple times to find out where they are and no one answered the phone, so I assume they're still in business, but maybe not. I can't answer what are the characteristics in terms of anything else in

the immediate area. Then there's Northern Elite Gym, Gold Mine Road in Flanders, it is in a building that has other uses, and then there's Benefit personal training and they are trainers that come to your home and they do, according to my telephone survey, they do have trainers that will come to a home in Mount Olive. I said, how do those facts, and you may be familiar with some of them, and maybe I left one or two out that you're familiar with, but I think there is certain characteristics in terms of where these facilities locate and where they optimally are located. Some are in strip malls, and I think there's a reason for that, in addition to the fact that they share parking space, for example, the fitness center would operate early in the morning or 7, 8 9 o'clock when some stores may not be open yet, so there is that shared parking that's available. Most strip malls are on major roadways or major highways. Some are located, I would say all of them that I looked at are located on major highways or major collective roadways and that's obviously a convenience to the patron who is going to work or coming back from work. Actually several that were on the Google list were no longer in business. I think there's a Curves for women that is no longer in business. In contrast, I think those, what I would call location attributes to the existing fitness centers don't apply to this subject site. This site is, in my opinion, in an isolated location, it's a standalone building, it's not near retail or commercial where people can combine trips. It's not on a major highway such as Route 46 or close to 206; it doesn't enjoy as a consequence what I would characterize as image advertising. A lot of times, you drive by a gym, Gold's gym in particular seems to do well in that area, and it's in your mind that that's where it is and that's a service that it offers. It's not on, in my opinion, a primary going to work or coming home from work roadway, and I think the fact that this has been vacant for five years is also witness to the fact that is really may not be an appropriate location for this type of use. With that as background, I think it's my conclusion that while obviously the property is zoned for active recreation use, this particular piece of property is no longer appropriate for that use. I didn't add in other factors such as the renovation that would have to take place as discussed by Mr. Petillo to bring it up to standard for health and fitness use. The real nuts and bolts of this application however, revolve around are there special reasons for the grant of this application. I think there are. First of all, I looked at, what are some of the purposes of the Municipal Land Use Law that would apply, because one special reason certainly can be that the grant of the application would promote a purpose of the Municipal Land Use Law. Purpose A is to encourage and guide the appropriate use and development of land. It's my conclusion that this piece of property and this building no longer are appropriate for a health and fitness club. Secondly, for the reasons I indicated, isolated location, lack of parking, it's an undersized piece of property, the Ordinance requires five acres this is only 1.4 acres, and there are other competitive fitness centers that serve the Mount Olive area. Second purpose is to provide adequate light air and open space, and even though there are infringements as the engineer talked about into some of the set back standards, the building is there, the property is the shape that it is, aside from the few modifications to the parking area and the other things that were described, it's pretty much going to exist as is, as you see it for the present time. However, as the engineer indicated, the street scape landscaping will be enhanced with the trees that are proposed in the front. Chuck was concerned about the visibility of the garage; we could also put some landscaping adjacent to the garage so that if for some reason the garage door was open, it will not be seen by the neighbors across the street. To provide sufficient space and appropriate locations and this location is particularly appropriate in the sense that it's 300 feet from the existing Petillo property, its readily accessible to his plan for the property, and it's really a very benign use, he's going to have three employees, they are going to park their employee cars there, there's only three employee cars parked in the area, and the amount of traffic, indeed if there is traffic, is, in my opinion, quite limited. Lastly, another purpose is to promote a desirable visual environment, and as Mr. Petillo indicated and the engineer indicated, they are going to fix up the building, they are going to put in the landscaping to make it attractive to the passerby and to the immediate neighborhood. Now, I want to return for a minute to the 2010 Master Plan reexamination, where that document that I assume was adopted by this Board recommended rezoning this property to the AR zone district. The question is would the grant of this variance application have a substantial impact upon the Master Plan or the reexamination or the zoning ordinance. I think we have to consider first of all, that this zone is approximately 15 acres in size and the majority of the property, actually 90% of the zone is occupied by the tennis facility, this piece of property, 1.4 acres is about 10%. Given the uniqueness of this piece of property, the fact that it's been vacant for a considerable period of time, I don't think the use of it as proposed, especially considering that anyone driving by is probably never going to know what is going on inside, and they might even

assume that there is a fitness center there or something else, but I don't think they're going to know what is going on inside, not that what's going on inside is particularly problematic. The building is there, it's going to be enhanced, it will remain in the neighborhood in better shape than it is now. The question is would it have a substantial impact on the AR zone? Aside from the fact that there is only two pieces of property in the AR zone, the overwhelming majority, 90% of the AR zone is the tennis facility and I don't see how the grant of the variance for this application would in any way shape or form impact on the AR zone. You're not going to change any of the standards; you're not going to reduce the minimum lot size from five acres to something else, so the AR zone, in my opinion is going to remain intact with the grant of this application. The second part of the items to be considered, and this was brought out in Chuck's report, is the Mediche case and the Mediche criteria. Let me just read what that case requires. This is Mediche versus BPR Company, the applicant's proof and the Board's findings that the variance will not substantially impair the intent and purposes of the zone plan and zoning ordinance, must reconcile the proposed use variance with the zoning ordinance omission of the use from those permitted in the zoning district. It would be very difficult and I would find it hard to believe that the governing body would ever consider rezoning the AR zone to allow for this type of use. So this is really a perfect use variance application, as opposed to an application for rezoning. The Mediche case continues, for example, proof that the character of a community is changed substantially since the adoption of the Master Plan Zoning Ordinance may demonstrate that a variance for a use omitted from the Ordinance is not incompatible with the intent and purpose of the governing body when the Ordinance was passed. I think after five years of a vacant building, after recognizing that there are substantial numbers of existing health and fitness clubs already in the area that serve the area, I just don't see how the grant of the variance that's before you this evening would impact or would not satisfy the negative criteria in terms of impact on the zoning ordinance and the impact upon the zone district. So, the reconciliation between what was adopted in the Master Plan and what is before you this evening is based upon the fact that we have a unique piece of property, we have unique use, there's no way that the governing body would ever zone for this use in the AR zone district. It's essentially, in my opinion, a perfect zone variance application, use variance application to come before the Board. In terms of any impact upon the public, this is, as I indicated earlier, and I think hopefully you understood from Mr. Petillo's testimony that this is a very modest use of the property in terms of number of employees, in terms of activity, in terms of any impact, which I don't think there will be any, upon the public and upon the neighbors who live across the street. So, putting it all together, I think that the criteria that we have to address with this application has been satisfied, I think that special reasons exist in this application, I think there is no, in my opinion, impact of any substantial nature on the zone plan, zoning ordinance is not going to change as a result of a grant of the variance. After five years, we recognize that the zone was created but it just doesn't work for this piece of property. We feel also that the Mediche reconciliation criteria has been satisfied given the fact that we have such a unique situation here. So, putting it all together, I think it's going to be a good use for the property, good use for the applicant, and I think it'll prove to be, and indeed Mr. Petillo's use of his eight acre piece of property, has I think proven to the neighborhood that he is a good neighbor and he does care about the neighborhood in what he does, and I think that will be reflected in the use of this building as well. So I think putting it all together, it's a good use for the property.

MR. WEISS: Chuck, I think what we will do is turn it over to you. If you wanted to bring up any points in your report that you want to have addressed, give you some time to have comments back to Mr. Zimmerman.

MR. MCGROARTY: Well, I think I'm not sure I agree with the analysis about the enhanced quality of proof which is reconciling it with the Master Plan, I mean it was not only a Re-exam report in 2010 there was an amendment that this Board adopted to a Land Use Plan to create the zone, but I think we've heard a lot of testimony tonight which I think credible testimony explained it's a tough site, limited amount of parking. There are a couple of facilities like the Red Barn up in NY Folding Box that does cross training and they have very few parking spaces because they have a limited clientele, but I suppose if there was another cross trainer out there looking for a site he would have, he or she would have contacted them by now. I have some questions, Mr. Zimmerman, I know from doing this stuff all the time, we can read the purposes of the act differently sometimes but I don't think that anything that Mr.

Zimmerman testified to certainly isn't inaccurate, and he's been doing it a lot longer than me, but I don't have any real problems with it, I would have a couple of questions to Mr. Zimmerman.

MR. WEISS: Sure, go ahead.

MR. MCGROARTY: Dave, as we know, and with each case we really have to look at that the site has to be particularly suited, and there's a long history of cases prior to that that established that, even with what we've heard tonight that the engineer hasn't really had a chance or whatever it may be, to look at truck maneuverability, and Mr. Petillo had indicated that he'd like to use this building for almost any piece of equipment that he has. Subject to the some that he would keep on his own site because of the crane, et cetera. So, if the Board is not clear yet whether truck maneuvering will take place in the street, do you feel comfortable advocating that the site is particularly suited?

MR. ZIMMERMAN: Well, I think particular suitability has several dimensions to it. The main point with, in my opinion with the particular suitability of this site and the case law says is the general welfare served because the use is particularly fitted to the particular location for which the variance is sought. So, looking at first of all the general welfare, I think to turn down this variance would be to relegate this building into continued vacancy. I don't know if that would promote the general welfare. Secondly, it is the location obviously from the point of view of the applicant is particularly suited because it's just more or less diagonally across the street from his activity, from his current piece of property. In those terms, I think that particular suitability have been satisfied. Specific to your question, I'd like to be able to answer it, but I really have not analyzed trucking movements, turning movements and what could fit in the parking lot as far as turning movements of big trucks versus small trucks and I'd have to refer to the engineer or Mr. Petillo to answer that. I'm sorry I can't do that, I didn't do truck turning points and turning movements on the property. Obviously, we don't want to have trucks on the main road and parking, which I don't think is going to happen, or even maneuvering on the main road. I think we have to, to some degree, recognize that Mr. Petillo has been a good neighbor, has taken a site and improved it over the years and I've been on this site, it's quite, for a construction site, it's really well kept, well maintained and a good neighbor. I think at some point we'll have to say okay and put some faith in Mr. Petillo to operate this thing in a way that he has shown is his style of operating as a business man who wants to be a good neighbor and aside from specific engineering issues as turning points and things like that, I can't answer that. All I would have to say is I have some faith in Mr. Petillo operating this facility in a way that will not be a detriment to the neighborhood or the safety of the road.

MR. MCGROARTY: But without having that unless there's some specific condition, which are always, especially as years goes by, difficult to monitor and enforce, one could be the best of neighbor's but if you're operating, backing trucks off a public road, it does go to the question of public safety which is one of the purposes that you sited. But let me, if I may Mr. Chairman, I just had one other question.

MR. WEISS: Sure Chuck, go ahead.

MR. MCGROARTY: This is one of those not really clear to me in the beginning sort of situations and I would ask Mr. Buzak to help as we talk about it. If Mr. Petillo were doing improvements on his own, on his existing property, we know that that would be an expansion of a preexisting non-conforming use, but that's not what's here tonight, so my question is, will this building, if he were to get the approval and occupy it, will it function in perpetuity as an accessory use to the main Petillo property or is the Board by approving what is before it, creating a situation that as some point in the future it may not be Mr. Petillo, it may be some other business and it may not be related to the property down the street, in other words, it can function independently as a truck maintenance building.

MR. ZIMMERMAN: If that were to happen, I would change my testimony to be honest about it. I think this application is tied to the Petillo Construction business. I don't know how legally that could be included in the resolution of approval, but I could very easily see a condition, if it is approved whereby this would be accessory to the operation of the existing construction business 300 feet away as opposed to operating as an independent facility.

MR. MCGROARTY: Those are my questions but I would, maybe at some point Ed you could help us on that.

MR. SCHAECHTER: Hey Chuck, since Mr. Petillo has testified that there is going to be no work done outside the building, all the maintenance all the work on the machinery is going to be within the walls within the confines of the space, could that become a condition that there should never be work outside on that property, then that would prevent a lot of folks from ever wanting to use that as a truck maintenance depot or facility.

MR. MCGROARTY: And since you directed that to me, I think that that would be if the Board were looking to approve it, one of the important conditions, but it's always difficult when you have an applicant in front of you that in this case, you have someone who is well established in the Town, and has from what we've heard without contradiction, a very good record in Town with no problems, because it may not always be Mr. Petillo there, it may be someone else and then it goes and more to the, I don't want to make this too theoretical but this building operating as accessory to the main Petillo operation, if it's not linked in that way, then we're really, I think the whole idea of the impact of the zone plan, and the impact to the public good takes on a different perspective because eventually that site could be transformed into some other kind of truck maintenance or vehicular maintenance operation. We didn't say cars can't park outside, or trucks can't park outside, so it goes to the question of the impact of the character on a residential street. That's why I was trying to see how that is going to be treated.

MR. WEISS: I guess the question is what would prevent it in the future then Chuck from becoming a commercial maintenance facility?

MR. MCGROARTY: As always Mr. Chairman, you cut to the chase and I should have said that in about five words.

MR. WEISS: That's fine. I try to simplify it in my own little mind. I'll turn it to Ed then, is it possible to put a condition on this application that this subject property will be an accessory to an existing company and that at such time, I don't know where to go.

MR. BUZAK: I had asked you before to make a comment when it was done and Mr. McGroarty's comment was really mine, and I think that that really goes to the heart of the matter here.

MR. HOPKINS: If I may, the particular…

MR. BUZAK: Can I finish answering the question here?

MR. HOPKINS: Oh, I'm sorry, go ahead.

MR. BUZAK: The fact is that we have a discreet site, the street lot and block and there's been a request for a use variance to utilize that discreet site for a use. We cannot have an accessory use on a single piece of property. An accessory use, by definition is you need a principal use on the site to in order to have an accessory use. So, everything that has been alluded to as potentially happening here in the last five minutes is absolutely correct. This has nothing to do with Mr. Petillo. It's very nice that he's explaining how he's going to use it, but Mr. Petillo can get his approval tonight and decide, you know what, I'm going to sell it to Mack Truck who's going to put a facility there and they're going to bring trucks in, and they're going to bring other equipment in and they are going to repair it inside. That's what you're approving; you're not approving an accessory to Mr. Petillo. You're approving a use, and when you look at this use, you need to look at it in that context. Not in the context of it being some accessory use that this particular person is going to be utilizing, it's a more generic use, and that's the issue that you have to deal with and Mr. Zimmerman's testimony as was pointed out by Mr. McGroarty and Mr. Zimmerman in all candor said his testimony would be different if you're talking about not

having it tied to Mr. Petillo's use, and the point is, we can't tie it to Mr. Petillo's use, and I am not questioning the veracity or the credibility of the proposal here. I think it's very clear that Mr. Petillo wants to use this and has a grand plan for this that fits into his business plan and concept and I think he's credibly set that forth. Unfortunately, that's not what is really before us, so we need to keep our eye on the ball and the ball is whether or not the proofs have justified, which is really what the question is. Whether or not the proofs are justified, changing the use of this site to a storage and maintenance facility period. Not Mr. Petillo's facility, but a maintenance and storage facility. That I think the Board needs to keep that in mind as they're evaluating this application.

MR. HOPKINS: If I may, Mr. Buzak, the tie in to the existing site across the street goes really towards the particular suitability of the site and its proximity to the existing location which goes to meet the standards that we are proposing. I agree with you that you are here to essentially create a principal use on this subject property, I also think that there are conditions that can be imposed in terms of Mr. Petillo's existing operations that would essentially not make this site particularly attractive to anybody else who was looking to come in here and utilize it for light storage and maintenance.

MR. BUZAK: Such as?

MR. HOPKINS: Well, I mean those are things that Mr. Petillo is willing to explore with the Board and potentially discuss with the Board in terms of his existing operations, but I don't think this is going to be a motor vehicle repair shop down the line from here. There are conditions and types of equipment and the types of uses and maintenance that can be done inside the facility and certainly with the restriction on interior use, I think is something that may be particularly attractive to other uses. So, while you are still looking at this at the standpoint of having to have the proposed use be a principal use on the subject property and stand alone principal use, at the same time you really can't do that in a vacuum of what it is that we're trying to do in terms of Petillo's existing operations and the suitability standards that are promoting the general welfare here because those are particularly tied to the proximity and the use of Petillo's existing operations.

MR. MCGROARTY: Well, here's what can happen, Mr. Petillo can decide that there's a 15 acre site in Netcong where he can have maybe a building that's 20,000 square feet and decide well you know what, I'm going to consolidate my operation onto that site, and he certainly has a perfect right to do that. His current site can continue to be utilized for the purposes it's being utilized as, and this site can be utilized, if the Board grants the variance, for that use as well and Mr. Petillo's not here. So, I respectfully disagree with Counsel that this is somehow tied, that you can tie particular suitability to someone else's use as a prior non conforming use on that other site. I don't accept that proposition. I don't know if anyone else does but I don't.

MR. FLEISCHNER: Can I make a comment?

MR. WEISS: Sure Joe.

MR. FLEISCHNER: See what concerns me is I think you raised very good points, but we can also look at BASF, they found another place, he just moved out, said we're done, and that property is what, been foreclosed how many times? It's sat empty, Gene, how many years has that property sat empty?

MR. BUCZYNSKI: God, over ten year's right?

MR. FLEISCHNER: Okay, yeah, Mr. Petillo could find another place to go and say I'm out of Mount Olive, you don't want to help me out, you know what I've done for the Town and I'm gone, and we have an empty piece of property, and now we have two empty pieces of property. We also have a case where we have a sports club, and maybe in there, it's recreation, and they say you know what, a gun range is recreation too, so long as it's 50 feet or whatever it is 100 feet from a house, we're going to start shooting guns.

MR. MCGROARTY: It's not permitted in the ordinance Joe. I'm telling you it's not. So if that's the example…

MR. FLEISCHNER: Well, I'm just saying you know that they can do other things there.

MR. SCHAECHTER: It doesn't have to be tennis.

MR. FLEISCHNER: Right, it doesn't have to be tennis; it doesn't have to be tennis or soccer. It could be anything else. So, I agree with what you say because it is a unique stand alone and we shouldn't look at it as, you know tied in to each other but the fact of the matter is the applicant is explaining why they want to do what they want to do. It's not somebody else coming in here and saying, because I haven't seen anybody in two years or three years or whatever come before us to say I'm going to take this building that sits empty and I'm going to do X Y and Z. I think we have an opportunity but, I believe we do have an obligation to the Township as you said, nothing should be done outside, everything must be done within the building and there are some caveats and some things that we can do to the best of our ability to hopefully make this a suitable site to do, whether Mr. Petillo does it or somebody else does it, that protects somewhat of the Township.

MR. MCGROARTY: I understand what you're saying, I think my point is only that when you're looking at permitting this use, the question is, is this storage and vehicle maintenance use a use that you want to permit on that site period. Don't look at who's going to do that.

MR. FLEISCHNER: Right. No, I agree.

MR. MCGROARTY: It's just you know whether that is the use that meets the criteria that would allow you to grant a variance for that use. That's the standard.

MR. FLEISCHNER: Or our choice is if we say we don't want to do that, we just have an empty building that just sits there.

MR. MCGROARTY: Well you have an empty building now.

MR. FLEISCHNER: Right, because nobody…

MR. MCGROARTY: But somebody else may come in and say look, you know I'd like to put an office there.

MR. FLEISCHNER: And someday I could win the lottery if I ever bought a ticket.

MR. MCGROARTY: I understand.

MR. SCHAECHTER: I'd rather tie some conditions to this, so that you know, if we do say it's okay, let's say all the maintenance, all the service and maintenance has to be done inside and maybe say you can't store anything over a certain tonnage on the outside of the building overnight.

MR. MCGROARTY: What about truck access bringing equipment into the building? We don't have any, the site plan didn't indicate turning radius' on site and we didn't have any testimony to…

MR. SCHAECHTER: To whether, they are going to have to back a trailer…

MR. BUCZYNSKI: I've been waiting for an opportunity to address that.

MR. WEISS: Hold on one second, Nelson had something to say.

MR. RUSSELL: I think they only reason that piece of property ended up in the AR zone is because that's what it was. It was active recreation when we voted on the zone, and they had a shared parking arrangement. They no longer have a shared parking arrangement, they can't make it compatible with the AR zone, they can't turn it into a bowling alley, they can't turn it into a movie theater, they just don't have the parking to make it active recreation. I think primarily that particular parcel should be rezoned by the Council. What we have is a clear span building. Can't live in it. We have to change the use because there is no parking. This is a particular use that requires very little parking. I was originally going to vote against this whole application, but as I've heard the testimony, I've turned around.

MR. WEISS: Thank you Nelson. I think if we go back Chuck, to the points that we're kind of stuck on, Gene you were talking about the turning radius. Go ahead, go right ahead.

MR. BUCZYNSKI: I've been waiting for the opportunity to address that, okay. I've had enough of years of experience I think to address the concerns regarding the parking lot, and a vehicle driving into that parking lot with a trailer. I think to make that movement and to try to get in with a trailer, you'd have to do numerous K turns, I'm not going to say it's impossible but it's going to be very difficult. I don't think, he's going to, really eliminate the possibility of backing in, I think backing in is going to happen. But when you look at that, it's not a heavily travelled road, it's limited traffic on that road to begin with, and I think the frequency of backing into that is not going to be ten times a day, it's going to be once a day and probably not every day, based on the testimony that Mr. Petillo said as far as bringing a bulldozer on a trailer, he's not going to bring ten bulldozers in in one day, so there's not going to be a big frequency of backing up, if in fact there is. I don't think you're going to have no backing up, I think it's going to be very difficult to make K turns to bring that straight in and K turns to get into that entrance, but I think you've got to look at the fact, what's the frequency and the traffic on that roadway. It's not a heavily travelled roadway, from a health and safety standpoint, I don't think that's going to be a major concern. They have to have a flagman for the limited amount of time he needs to back up that vehicle, so I don't think that's a real concern because of the frequency of having to make that turning movement.

MR. WEISS: Do you think it's sensible to even put a condition on that, that that type of activity would be prohibited during peak travel times? Say that the applicant is just not allowed…

MR. BUCZYNSKI: I think we could do that, I don't think they would have an objection, because I don't think they are going to be bringing a bulldozer in during peak travel times.

MR. SCHAECHTER: I would say during when school buses are moving.

MR. WEISS: Well, that's what I'm saying between seven and nine.

MR. SCHAECHTER: You have worst case up there.

MR. WEISS: Right, the worst thing that could happen, is to have Mr. Petillo start moving his trucks the same time school buses and people going to work.

MR. HOPKINS: We're amenable to a condition of that.

MR. WEISS: So if we were to make a condition that simply says the applicant cannot, I don't know what the right word would be, to bring a vehicle that would block the road between seven to nine and three and five, that might further restrict or at least encourage the safety issue that we're looking for.

MR. BUCZYNSKI: Would there be an objection to that because seven to nine.

MR. PETILLO: My company is all about safety and that would be completely acceptable to us.

MR. BUCZYNSKI: How often do you think you'll be bringing bulldozers in?

MR. PETILLO: It's not going to be often at all. The machine is going to go there in the winter…

MR. WEISS: You know what, I think its better addresses the fact that we said earlier, take yourself out of the equation, now we're bringing in a company that's just a big business and they want to move trucks through there. A condition like this kind of enhances the public safety that this Board is trying to promote and I think a condition doesn't affect you, you've made it very clear it doesn't affect you, but it also protects the Town, so that might be, I don't know how to properly word it, Mr. Buzak, but no movement of vehicles that block the road, I don't know if that gets it done but to meet a condition that certainly addresses that between the hours of seven and nine, and say three and five.

MRS. NATAFALUSY: Can I just ask for clarification. So, Mr. Buzak, you're basically saying that this use can be used by anybody going forward if Mr. Petillo decides to sell the property. So we've got a residential zoned district across the street, you've got single family homes, who think that this is now going to be Petillo's property according to Mr. Hopkins, but in the future, it can be somebody else totally different operating it as, so you could have trucks coming from other places…

MR. BUZAK: Oh yeah, sure.

MRS. NATAFALUSY: That's inappropriate.

MR. SCHAECHTER: But nothing (inaudible) Siemens…

MR. MCGROARTY: Well the difference is this is a use variance, Siemens is not.

MRS. NATAFALUSY: Siemens is a permitted use in the zone district. It's a light industrial zone.

MR. WEISS: My opinion is, I agree with Nelson, I think it needs to be rezoned, I think usefulness as an AR zone has passed. But, that might not be the issue at hand, it's just an opinion.

MRS. NATAFALUSY: It's just a concern because I know the people across the street, we have had, although Mr. Petillo said they've been good neighbors, they have been, but we have in the office had complaints in years past about noise coming from Petillo's site, on weekends and stuff like that. Maybe not in last two three years but maybe in the last four to five years. It's just a concern for me, for the residents in the area.

MR. SCHAECHTER: But they were all noticed and not one person came out.

MR. HOPKINS: Like I said, we did go through the plans, and this is an essentially a use that would remain in the interior structure of the building versus the number of uses that Mr. Petillo is using for his existing property.

MR. MCGROARTY: Well if I may, on that, I don't think we ever got an answer, I think Mr. Petillo wasn't sure if I remember, whether the door would always stay closed. And if the door is open while there is maintenance going on inside and Mr. Fleischner is here, and was here for the other application of where there was a permitted use where we had a car dealership adjacent to a residential area, not a zone but an area, and they were concerned about noise from the garages.

MR. FLEISCHNER: That's why I voted no.

MR. MCGROARTY: I'm not going to raise that application except to say if you're looking at conditions and again, bear in mind please, you know, conditions are fine when there're in resolutions, they have to be enforced to have any substance and it's not easy to enforce those sorts of things or catch it when it happens.

MR. FLEISCHNER: Except the car dealer keeps his doors open when they are doing tires so let's be factual. This gentleman is not doing that.

MR. MCGROARTY: Wait, Mr. Fleischner, I didn't say Mr. Petillo I don't think he answered whether he was or not and that was why I asked, because in fairness to him, he may not have given it a lot of thought, I mean we're talking about will the garage, will that door be closed during all hours of operation twelve months a year. And it begs the question, in the summer months if that door is going to be open because of the weather. We had no testimony about potential noise impacts to the residential neighborhood across the street.

MR. RUSSELL: I am wracking my brain, what other use would you consider for that.

MR. MCGROARTY: That's not the issue here tonight, because you're not here to rezone the property, you are here to consider the application in front of you, and so I don't wish to cut you off but for the record, we're not here to consider other uses, you can put on the Planning Board hat at a different meeting and look at that again to see if it merits rezoning. But if the testimony here is the zoning is inappropriate now, the solution is to rezone it, that's one solution, and I'm not arguing now against the use, I'm just raising the question about the kinds of impact that we're talking about. You can put conditions on there, bear in mind, they are going to have to be enforced to have any meat.

MR. SCHAECHTER: But we just approved a car dealership butted up against a residential area.

MR. WEISS: Let's go back, let's stay on point.

MR. SCHAECHTER: No, no, no, but the answer that we gave the public there was there's noise ordinances in Town and as long as they're operating within their set hours.

MR. MCGROARTY: And again, the difference is…

MRS. NATAFALUSY: Car dealership is permitted.

MR. MCGROARTY: That's a permitted use in that zone.

MR. FLEISCHNER: And I said it was zoned improperly.

MR. MCGROARTY: It's been zoned that way for 50 years, but if it's zoned improperly you can change it.

MR. HOPKINS: It appears as if the residents across the street already are watch dogs as turned to the noise ordinances and violations if there have been complaints with respect to Petillo's operation, so, I mean in terms of enforcement, if they're complaining one would assume that they would complain again.

MR. MCGROARTY: Well please, if we don't approve, you know we do planning and zoning, we don't do it predicated upon people complaining and filing complaints.

MR. HOPKINS: Understood.

MR. MCGROARTY: Hopefully not anyway, but that's not really in the public interest is it? So I guess the question is, if the Board is considering conditions, one is whether you are going to use the public street as part of the maneuvering of vehicles, that's a question we want to think about and then the other question is the noise. And will this door or will there be noise from this operation across the street.

MR. WEISS: Do we have an answer on the doors? Will that door remain open, closed?

MR. HOPKINS: Mr. Petillo can testify to that.

MR. PETILLO: A couple of things I just wanted to say if I can say one thing, the noise, when the Toll Brothers construction stopped, the complaints stopped, so I think maybe three four years ago I got kind of dragged into the Toll Brothers stereo, the hammering, the blasting and everything else they were doing, so it kind of made us look bad, but since that stopped, I think it's three or four years later we haven't had a complaint and we basically are almost soundless, the most thing you hear is a truck going down the street and my guys know to go 20 miles an hour and it's been pretty good. As far as the door, if the door is a deal breaker and the door has to be shut, I guess I would have to work something out, you know for some kind of vents coming out the back of the building, or air conditioning, but it's definitely doable. I would definitely go for that and as far as the traffic, I mean if a machine was coming back it can easily go into my yard get dumped off there at the safe hours of the day we could bring it in the other facility, it's not like we have nowhere to go, we can always go to my other yard, dump it off and during the right hours bring it across the street. I think that's doable.

MR. WEISS: How does the Planning Board feel about the condition of keeping the roll away doors closed at all times?

MR. SCHAECHTER: (inaudible) it could be a safety issue with smoke, you have to vent all that, all the exhaust out, and you're not exhausting a car, you're exhausting Caterpillars, you've got some big stacks in there. I don't know if I'd be okay with that.

MR. MCGROARTY: Maybe it would help if, I mean it's almost ten o'clock, but maybe it would help if there were testimony on if that's a burden I'll stop. But maybe if there were testimony on satisfying the decibel levels under the State standards and the Township standards, then maybe this is a moot issue. But we don't have that tonight. Maybe if there were some templates showing maneuverability…

MR. HOPKINS: I think the applicant is willing to concede to having the doors shut and doing what he needs to do in terms of ventilation… his testimony was that he doesn't believe there is going to be any noise that's going to be emitted from the facility.

MR. MCGROARTY: I don't think that was his testimony.

MR. HOPKINS: I believe it was.

MR. SCHAECHTER: We have noise ordinances.

MRS. NATAFALUSY: Well that was one thing I was going to bring up. I have the noise ordinance in front of me and he had mentioned that he'd probably operate if on a Saturday from seven. Noise ordinance says eight AM on a Saturday is the earliest.

MR. PETILLO: When I said that, I thought it was nine o'clock maybe.

MRS. NATAFALUSY: Right, right.

MR. PETILLO: We wouldn't be bringing in any machines that would make any noise until nine o'clock. You know you're telling me seven to nine is off limits, and three to five is off limits, but I mean if it means getting rid of Saturdays as far as bringing in any kind of equipment, I would do that as well.

MR. BUZAK: Chuck had mentioned this several times, and I think we need to be cognizant of these things, those kinds of conditions, you can only bring in equipment between seven and nine at this time, don't kid yourselves here, be realistic, those are not going to be enforced because nobody's going to be out there checking it, making sure, despite every effort that Mr. Petillo is going to make, he's a big operation, it's just not going to happen.

MR. FLEISCHNER: And in the summer, what is taking place on that property? You've got the pool, you've got kids screaming, you've got tennis people playing, you've got kids playing soccer, that's probably going to be noisier than what's going on in his building.

MR. WEISS: I agree with you. I think the only time restriction we should have is as it deals with public safety which is, and I was making a note, that basically said no usage of the public street for maneuvering of vehicles between seven to nine AM and three to five PM. I think you're right, to ask Mr. Petillo when he can move a vehicle in, we can't enforce that, we shouldn't get involved in his business. We should look at something that affects the public safety. Putting a condition that limits the usage of a public road might satisfy that.

MR. BUCZYNSKI: Regarding the ventilation of the building, maybe it makes no sense or it could be a possibility, just put another roll up door on the other side of the building, if you need it for ventilation.

MR. PETILLO: We were just talking about that, we were saying maybe a smaller roll up door in the back side of the building…

MR. BUCZYNSKI: Because further away from the residents too, Mike, it's further away from the residents.

MR. PETILLO: Exactly, it's out the back of the building, it faces the wetlands and the substation, and if there was noise or smoke it would go out the back.

MR. BUCZYNSKI: It doesn't have to be 16 foot wide; it could be eight or ten foot wide.

MR. PETILLO: Yeah exactly. Exactly. The machines are just basically coming in or the trucks coming in and they're turning it off.

MR. BUCZYNSKI: This way you could keep the front door closed at all times and you get the vent from the back door.

MR. PETILLO: I'm good with that.

MR. WEISS: I think that satisfies you're comfortable that that would satisfy any issues, any venting issues you'd have?

MR. PETILLO: Yeah, I mean in our shop now, we have fans that open up and kick out the air, but the machines aren't running for long periods of time. They're literally going to their spot then they get taken apart and maintenance is being done, after that's done it gets turned back on and leaves the building. I'm not going to be doing a ton of big stuff in there, I have a crane and everything else in my other shop, this is going to be mainly smaller things, but I understand what you're saying, if I sold to somebody else, but there must be a way where we can put some kind of limitation on it that it doesn't make it like if it was a Mack truck, you know, I couldn't sell it to Mack truck. Maybe you could put something on, you couldn't have like commercial sales or something like that, I don't know.

MR. MCGROARTY: Mr. Petillo, your floor plan, the floor plan didn't indicate, but are you proposing to put lifts in here?

MR. PETILLO: No, definitely no lifts.

MR. MCGROARTY: No lifts.

MR. WEISS: So your applicant is willing to keep the front roll away door closed at all times, and to handle the venting he would add a rear roll away door that would assist the venting.

MR. SCHAECHTER: You can't say all the time.

MR. WEISS: He needs to open them to get the vehicles in and out.

MR. SCHAECHTER: Exactly.

MR. WEISS: I think we'll have the language handled. I think we'll address it properly. Do we have any other questions, any other concerns? Anyone else on the Planning Board? Ed is there any loose ends that you wanted to…

MR. BUZAK: No, I've noted the following conditions during the course of the discussion.

MR. WEISS: Before we do that, Mr. Hopkins, do you have anything else?

MR. HOPKINS: Well it seems as if the Board is moving ahead with their discussion and the conditions and moving forward, I would just note that I think, you've heard here about throughout all the testimony the thing here is there's a change in circumstances, and I think that the Board recognizes that and recognizes what's happened to the property over time and the use that was once there that no longer is there and has difficulty thriving in that location. I mean the failure of the business that was there and the failure to find another business in the remarketing of the property I think demonstrates that the property is not reasonably adapted to the principal use that was imposed upon it as Mr. Zimmerman testified. There's a unique set of facts for a unique property, we had a hand shake agreement for parking, parking was an issue that was noted. No longer is the ability to park there easily with the conditions that have been imposed by the tennis club. I just think the summary of all of this is that granting this use variance for the property I think is not something that is going to impair zoning but I think it is sound zoning, and I think the Board recognizes that and recognizes Mr. Petillo and his time in town and that he cares for the town and the way that he operates. I do recognize that the Board has to have considerations with respect to other potential uses that may be in a property. Economic utility is really the special reason that we're here satisfying the positive criteria and I think with respect to the negative attributes that the Board has raised questions on and considering that, I think that negative criteria is to be considered with less vitality in light of the applicant showing because of the economic and utility that's been placed upon this property. I think there's always going to be some negative impacts and I think the Board recognizes that but I do think that the testimony here has presented that there should be very minimal impacts to the residents that are across the road from Mr. Petillo.

MR. RUSSELL: I think we have a commercial building that can't be commercialized because of lack of parking and this is a little use requiring very little parking. I think it's perfectly appropriate for this particular lot.

MR. WEISS: Okay Ed, with everything that was said, you had made a comment that there are some conditions that you would throw out there.

MR. BUZAK: Yeah, there'd be no outdoor storage of equipment, no maintenance performed outside, hours of operation 7:00 AM to 5:00 PM Monday to Friday, 7:00 AM to 3:00 PM on Saturdays, no Sunday operations.

MR. WEISS: Can I interrupt?

MR. BUZAK: Sure.

MR. WEISS: Did those hours changes when Catherine…

MR. BUZAK: Well Catherine said I think eight o'clock.

MRS. NATAFALUSY: Yeah, the ordinance says on weekends.

MR. BUZAK: On weekends.

MR. WEISS: So we're going to change your Saturday to 8:00.

MR. BUZAK: 8:00 to 3:00?

MR. WEISS: Yeah.

MR. BUZAK: No, and this will be worded a little bit more precisely but no delivery or removal of vehicles 7:00 to 9:00 AM or 3:00 to 5:00 PM or, and I wasn't sure where the Board was going, Mr. Chairman, you had mentioned there'd be no use of public streets for maneuvering deliveries of vehicles between 7:00 and 9:00 AM and 3:00 to 5:00 PM.

MR. WEISS: Correct.

MR. BUZAK: Mondays to Fridays, is that the one that is more acceptable than I just said no delivery or removal of vehicles or equipment.

MR. WEISS: No, I don't think that was the intent. The intent was to not block the road. Because Mr. Petillo can simply move a straight truck in, I don't think it would affect anything with the public, I think we want to make sure we don't block the roads.

MR. BUZAK: Okay, the installation of one handicapped ADA compliant parking space, and the installation of a second door in the rear of the, and I will describe that a little bit more precisely, and that the front door will remain closed except for ingress and egress of vehicles and equipment. That's all I had other than the standard one.

MR. WEISS: Catherine. Hold on one second. Catherine.

MR. SCHAECHTER: The driveway needs to be changed. It's only exit.

MR. WEISS: No, no, no. That's not true.

MR. SCHAECHTER: On the front side?

MR. MCGROARTY: That's different, that's for the parking…They have a separate entrance.

MR. WEISS: There's a separate entrance towards the back.

MR. SCHAECHTER: Right, how about in the front of the lot? The front lot.

MR. MCGROARTY: No, they have their own driveway, they have their own driveway.

MR. SCHAECHTER: Isn't it an exit only?

MR. BUCZYNSKI: No, no. It's a separate driveway.

MR. BUZAK: That was a different one.

MR. MCGROARTY: That's the link to the big parking lot.

MR. WEISS: Center Court has ingress egress, but they have their own driveway towards the back.

MR. SCHAECHTER: Yeah, I know there's a driveway towards the back, I'm talking about the parking lot in the front.

MR. MCGROARTY: Because what about if they have an employee that wants to pull to the front of the building?

MR. BUZAK: You approved it differently for the…

MR. FLEISCHNER: I know, and I'm saying we made a mistake.

MR. SCHAECHTER: Can we correct that wrong?

MR. BUZAK: You can't change, it's not before us here.

MR. HOPKINS: Just to be clear, those employees do have access, whether or not the tennis facility is roping off those spots is something else, but they do have access, they just have to drive through…

MR. FLEISCHNER: Center Court.

MR. HOPKINS: For employees it may be something that they're willing to do as opposed to somebody who is actually coming there to use it, but I don't know that you have the ability to change the approval that was given to the tennis courts.

MR. WEISS: I don't think we could tell the tennis court that they've got to allow access to Petillo.

MR. SCHAECHTER: But that's what's on the deed.

MR. FLEISCHNER: That's what's on the deed.

MR. BUZAK: It's unclear as to whether that's what's on the deed or whether it was a handshake. I'm not quite sure where that all stood.

MR. HOPKINS: Well there is ingress and egress provided for on the deed, I don't specifically know if it specifies how that ingress and egress is to be provided.

MR. FLEISCHNER: So, even if it was the handshake, that's not valid in the court of law, last I looked. If it's on the deed.

MRS. NATAFALUSY: Mr. Cortozza told me he had it on his deed.

MR. FLEISCHNER: That he could go in and out.

MR. HOPKINS: Mr. Cortozza could probably testify as to specifically what's on the deed, if need be.

MR. WEISS: No.

MR. BUZAK: That site's not before us.

MRS. NATAFALUSY: I just had a question, is there going to be any signage?

MR. HOPKINS: No proposed signage.

MRS. NATAFALUSY: No proposed signage, okay. Just want to make sure.

MR. WEISS: Good question Catherine, thank you. Okay, so we've addressed the issues the conditions Mr. Buzak reviewed. Let me turn it to the Planning Board, does anybody have any comments, questions? Nelson, I think you've made some very fine comments, I know we're having a Master Plan public hearing next week, perhaps, I don't know if there's time to make a change, but I would certainly look to entertain change of this zone.

MR. MCGROARTY: Not on that one.

MR. WEISS: Not on that one, but maybe in the future.

MR. FLEISCHNER: But that's a special interest.

MR. MCGROARTY: No, it's been noticed, you can't change it.

MR. FLEISCHNER: I didn't say it wasn't.

MR. WEISS: I understand, just something to think about.

MR. FLEISCHNER: But you know why we're only doing that one and not the other one.

MR. WEISS: Well it's just because that's the way we did it I guess, but maybe it's a future action for this Planning Board. Put that on our list of properties to review. Anybody else have any comments? Let me open it to the public, if anybody from the public has any comments on any testimony delivered tonight from any applicant and witness, any comments about any part of the application. Seeing none from the public, I will close it to the public. Okay, at this point then, I will ask for someone on the Planning Board to make a motion.

MR. RUSSELL: I move that PB 15-27 be approved with the conditions that Ed just related.

MR. NELSON: Second.

MR. WEISS: Dan, second, thank you very much. Catherine, Roll Call.

ROLL CALL:

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

MR. WEISS: You know, before I give you my vote, because I tend to do this all the time, I was obviously part of, most of us were part of the 2010 Land Use Plan Amendment and the 2010 which was the re-exam review and I think we were all very proud to make this zone what it was at the time. It's a bit bigger than what you're making it to be. I know we included the, what's the name of the Lacrosse fields.

MR. (INAUDIBLE): Blue Atlas

MRS. NATAFALUSY: Drake's Brook Park.

MR. WEISS: Yeah, the old Blue Atlas, that was included correct Chuck?

MR. MCGROARTY: Well that one just makes it public.

MR. WEISS: But our goal from our side of the table was we wanted to create a swath of land that kind of became contiguous with some other open space leading into Turkey Brook including D & H, and we just thought this was a great idea, and at the time, it was something that we were very proud to do. When Center Court came before us, personally, I would have loved to have seen them take this property and incorporate it in their project, but that's not up to me to say, so when they chose not to I think, like Nelson had said earlier, it made it a very obsolete piece of land, and our option as a Planning Board is to reject this application because we want to stand firm on our desire to make this an active recreation zone and the result of that would result in another vacant piece of property and ten years from now it would just be more overgrown and I don't think that's what we want to do, so I'm going to vote yes on this application because I think it's better than leaving the building vacant. I think the conditions that we put on it handle some of our concerns in the event that Mr. Petillo is no longer involved with the business. I don't think I need to say how we all feel about Mr. Petillo and his business that he runs now, we have to be concerned about the future and things that are unknown to this Board at this time so, there's a lot of things that happened since the 2010 re-exam report and this is a very fine way to take a piece of property that I think is obsolete. That being said, it seems to be unanimous. What is it, seven zero

MR. NATAFALUSY: Yes.

MR. WEISS: So congratulations Mr. Petillo.

MR. ZIMMERMAN: Thank you very much.

MR. WEISS: Thank you all for your time tonight. We have in our packet a list of tentative meeting dates. We don't need to address it tonight. Okay so I think what we'll do is we'll address it next week if there is a concern otherwise that will go on our reorg.

MRS. NATAFALUSY: I really just gave it to you tonight so that when we do organization, these are the dates, and I did check for holidays, religious and all.

MR. WEISS: Well I think between another five or six or seven pairs of eyes, if anybody, take it home with you and look it over we can address it. Next week is our last meeting of 2015. I also wanted to say that, if you want to make some plans…Chuck, do you think the meeting on Thursday next week will go late?

MR. MCGROARTY: Hard to say. Hard to say.

MR. WEISS: Based on public…so, let's can this…gentlemen please we are still in session. If anybody cares to or can plan, let's plan some time after this weeks' hearing, we'll go out to Corner Pub, we'll have a couple drinks together and celebrate the end of a very difficult year and the start of a good one. And it just sounds good. So, we'll do that. Ed, if you're going to be here you can join us too.

MR. BUZAK: Thank you.

MR. WEISS: That invitation goes to this side of the table too, Chuck, Gene, Catherine.

MR. RUSSELL: Howie?

MR. WEISS: Yes?

MR. RUSSELL: When are re-appointments or not coming down?

MR. WEISS: I don't know. I have not spoken to the Mayor. I know that my seat is open as well, so I think that's a conversation for the Mayor and we can talk about that with him next week.

MR. SCHAECHTER: He was just here.

MR. WEISS: We didn't ask him. So, I have no other business on the agenda, does anybody else. Do I hear a motion to adjourn?

MR. SCHAECHTER: I'll move it.

MR. WEISS: All in favor

Meeting adjourned at 10:13 p.m.