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

ROLL CALL:
Members Present: Joe Fleischner, Brian Schaechter, Nelson Russell, John Batsch, Howie Weiss

Members Excused: David Koptyra, Henry Fastert, John Mania, Dan Nelsen, Scott Van Ness, Kim Mott

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

Professionals Excused: Edward Buzak, Esq.

APPROVAL OF MINUTES

MR. WEISS: We have some minutes to approve. We've all been sent copies of these minutes. We will take them one by one. The first one is October 15, 2015 Public Meeting. Will someone please make a motion to accept the minutes?

MR. SCHAECHTER: I'll make a motion to accept October 15, 2015 Public Meeting Minutes.

MR. FLEISCHNER: I'll second.

MR. WEISS: Thank you, Brian. Thank you, Joe, for the second. Any questions or comments? Seeing none, Catherine, roll call.

ROLL CALL:
Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
Howie Weiss - yes

MR. WEISS: November 12, 2015 Public Meeting. Will someone please make a motion to approve the minutes?

MR. FLESCHNER: I'll move to approve the meeting of November 12th.

MR. RUSSELL: I'll second it.

MR. WEISS: Thank you Joe, and thank you Nelson. And comments, questions? Seeing none, roll call, Catherine.

ROLL CALL:
Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
Howie Weiss - yes

MR. WEISS: Next set of minutes is the January 14, 2016 Reorganization Meeting. Someone please make a motion to accept these minutes.

MR. SCHAECHTER: I will make a motion to accept the January 14, 2016 Reorganization Meeting Minutes.

MR. RUSSELL: I'll second it.

MR. WEISS: Thank you, Brian. And thank you, Nelson. Any questions or comments? Seeing none, roll call please.

ROLL CALL:
Joe Fleischner - yes
Brian Schaechter - yes

Nelson Russell - yes
John Batsch - yes
Howie Weiss - yes

MR. WEISS: Final set of minutes for approval this evening, January 14, 2016 Public Meeting. Someone please make a motion to accept those.

MR. FLEISCHNER: I'll move we approve the minutes for January 14, 2016.

MR. WEISS: Thank you, Joe.

MR. BATSCH: I'll second.

MR. WEISS: John, thank you very much for the second. Any comments, questions? Seeing none, roll call.

ROLL CALL:
Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
John Batsch - yes
Howie Weiss - yes

APPROVAL OF RESOLUTION

PB 15-30 Katherine & Philip Errico

MR. WEISS: We have two resolutions tonight for memorialization. We have PB 15-30 Katherine and Phillip Errico. Question, Tiena?

MS. COFONI: Just one comment…just noted for the record that the Section Number in Condition D. Catherine pointed out the Code Book was re-codified and it's been changed to Section 550-24. I had the old section number in there. So those have been changed on both of the resolutions.

MR. WEISS: Ok. Just for the record. That was D like dog.

MS. COFONI: Correct.

MR. WEISS: It sounded like you said T but I'm looking at D like dog.

MS. COFONI: Yes.

MR. WEISS: The copy I have in front of me is corrected to show 550-24. So if we approve this, the correction is noted here in my version. That being said as Tiena noted, will someone please move this resolution.

MR. RUSSELL: I'll move the PB 15-30 be approved.

MR. SCHAECHTER: I'll second it.

MR. WEISS: Nelson, thank you. Brian, thank you for the second. Any comments? Seeing none, roll call.

ROLL CALL:
Joe Fleischner - yes
Brian Schaechter - yes
Nelson Russell - yes
John Batsch - yes
Howie Weiss - yes

PB 15-33 Jeffrey & Amy Guenzel

MR. WEISS: Second resolution for this evening is PB 15-33 Jeffrey and Amy Guenzel. Tiena, no comments, no concerns, no changes?

MS. COFONI: Only the same change to this one in…I believe…is Condition D as well, but let me just make sure.

MR. WEISS: It is. I'm looking at it.

MS. COFONI: Yes. It is Condition D again, the re-codification so it's 550-24.

MR. WEISS: Right. So that would be D like dog on Page 3 and the copy that I have in front of me is noted with that correction. So if someone would please make a motion.

MR. RUSSELL: I'll move that PB 15-33 be approved as corrected.

MR. WEISS: Thank you, Nelson.

MR. FLEISCHNER: I'll second it.

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

ROLL CALL:

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

COMMITTEE REPORTS

MR. WEISS: We have Committee Reports tonight. Mayor is not here. Nelson?

MR. RUSSELL: Nothing.

MR. WEISS: John Mania is not here for Council. Joe, Environmental Commission?

MR. FLEISCHNER: Henry asked me to report as he is not here this evening. The Environmental Committee put together a list of priorities for which they feel are important for the year. And I met with Laura Harris, the Business Administrator, to discuss those. And I will be reporting back to the EC Committee, our meeting which is the first Wednesday of March.

MR. WEISS: Joe, thank you. We had a conversation off line and I will repeat it when Henry is here. But I would like the Environmental Commission to send a written summary…a report…to the Planning Board going forward if you would. I know some of the things that you talk about are…I'm sure everything you talk about is important…there are certain things that should be memorialized in writing then if it applies to an upcoming application we should have it in writing and forward it over to the application. And I'll make sure that…that Henry gets that note as well.

MR. FLEISCHNER: Absolutely.

MR. WEISS: Ordinance Committee, Joe, anything?

MR. FLEISCHNER: No, not at this time.

MR. WEISS: I have nothing from Street Naming Committee. Kim is not here from Open Space. And if we notice I am adding a Board of Education Report.

MR. SCHAECHTER: We exist.

MR. WEISS: Brian…

MR. SCHAECHTER: Yes, we do. We did get an offer on the old Board of Ed building on Route 46 so we are waiting for them to come in front of the Planning Board for whatever plans they might have. And we are probably going out either for a special election for full day kindergarten or handle that in the November election but we will need a resolution for that…

MR. WEISS: Yes, that has been all over the news.

MR. SCHAECHTER: Yes, that's it.

MR. WEISS: Catherine, do we have an application pending?

MR. NATAFALUSY: Not yet. But we did meet with the perspective buyers a couple of weeks ago and I heard from their contractor a couple days ago and they should be filing soon.

MR. WEISS: Brian, is that a contract purchase? Did they…

MS. NATAFALUSY: Are they going to be coming in purchaser under contract?

MR. SCHAECHTER: Yes.

MS. NATAFALUSY: Ok.

MR. WEISS: So their contract is contingent upon their…

MR. SCHAECHTER: Upon their…so like if we gave them ten bucks.

MR. WEISS: Ok. Well I'm glad to see that they've already contacted Catherine.

MS. NATAFALUSY: Just so the board knows we do have like four new applications that came in last week and we expect about another two or three…we keep getting phone calls about new applications coming in…

MR. WEISS: Well that's all good news.

MS. NATAFALUSY: Yes.

MR. WEISS: Alright. Anybody else have anything to add? Chuck?

MR. MCGROARTY: Nope

MR. WEISS: We'll hear from Chuck a little bit later, I'm sure.

APPLICATION PB 15-35 – AL COLLIOUD – BLOCK 4500, LOTS 1 & 2

MR. WEISS: This evening we have one developmental matter which is PB 15-35, Al Collioud…

MR. COLLIOUD : Collioud

MR. WEISS: Colliou?

MR. COLLIOUD: Collioud

MR. WEISS: Collioud. I'm sorry.

MR. SPOSARO: Good Evening. My name is Anthony Sposaro with the applicant this is an application for Amended Site Plan Approval with some waivers. I know you don't want to hear from me. I will…with your permission…there he is…call my engineer, James Glasson as my first witness, and hopefully my only witness. I believe Mr. Glasson has appeared before this court on many occasions…I know he needs to be qualified as a Professional Engineer.

MR. WEISS: Well I think we'll swear him in and at that point I'm sure we will waive any…

(JAMES GLASSEN SWORN IN FOR THE RECORD)

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

MR. GLASSON: James Glasson G L A S S O N, Civil Engineering Incorporated, 1 Cove Street, Budd Lake, New Jersey.

MS. COFONI: Thank you.

MR. SPOSARO: Jim, why don't you take us through this project if you will.

MR. WEISS: Before we begin that way, I just want to make sure we've all known Jim…Jim Glasson and I don't believe we need to go through any process. We will accept Jim as the licensed expert engineer for the application. Jim, sorry for the interruption.

MR. GLASSON: Thank you.

MR. WEISS: Let's roll.

MR. GLASSON: Ok. This is my sheet 2 of 5 only thing different on here is that the…inaudible…

MS. NATAFALUSY: Can you move back so we can pick you up? Thanks, Jim. Perfect.

MS. COFONI: Since you have some changes to that, why don't we go ahead and mark that Exhibit A-1 with today's date. And you said that was sheet…I'm sorry…

MR. GLASSON: That's sheet 2 of 4… Ok. The property is made up of two lots. Lots 1 and 2, Block 4500. Combination of the two lots is 5.1 acres. It's located in C-LI, Commercial Light Industrial Zone. Property is actually located at the intersection of Gold Mine Road and as it shows on the north side of the road here and …inaudible…small cul-de-sac off Gold Mine. Eight-hundred feet to the east here is Route 206, it sits at this location. The property has 588 feet of frontage on Gold Mine, it has another 326 feet of frontage along Eden Lane. It actually falls along the Roxbury – Mount Olive border. The east most property line is actually the borderline between the two towns. So across Eden Lane are lots that are located in Roxbury. The C-LI Zone requires a minimum of lot size of 5 acres. This slightly exceeds it at 5.1 with a combination of the two lots. Lot 1 being 2.52, Lot 2 being 2.49. It meets your lot width requirement of 250 feet. Lot width, in this case, is measured in two directions. Measured along Gold Mine Road it's 605. Measured along Eden Lane it's 357. Because it is a corner lot, it technically doesn't have a lot depth requirement. Floor area ratio in that zone is .4. There is a small structure on the property. I won't go into that but the structure on has an only has floor area ratio of .027 so it's well under the allowable floor area ratio. The front setback requirement in that zone is 100 feet. Again, this lot is double frontage lot so it would require a front set back here and here and then it would have two sides. This would be a side and this westerly would be a side. This particular property has a single building on it. The building has an overall footprint of 5,896 square feet. The front portion of the building that fronts on Gold Mine has about 838 feet…an appendage that sticks out of the building and that's just straight office space. The rear portion of the building the larger portion if you look to the right hand side of that drawing, you will see an existing building detail. The rear portion of the building is a warehouse area and that's 4,058 square feet. So the combination of the 1,838 and the 4,058 is a 5,896 square foot footprint. Again, the front portion office, the rear portion warehouse for ETGI which is an environmental transportation company that basically hauls waste products. It's really a trucking terminal for ETGI. That's what's consistent in this property. Right now, there's multiple accesses onto Gold Mine Road. There is not currently an access off Eden Lane. The eastern most access creates a two-way in ingress/egress to the parking lot which is really the parking area for the office space. The one story portion of the building that's in front. The rear portion and everything that you see in gray in my plan represents pavement. The rear portion is an area where the trucks maneuver and park and off load into the rear into the warehouse building. Warehouse structure really is more for service for these trucks than anything. I'll get into why we are requesting an amended site plan while we are adding to the building. But that…that area of…parking in the rear for the trucks also then loops around and exits back out on Gold Mine in to another direction. On either side of this paved area is a large gravel area. The gravel on the property makes up about 40,000 square feet. The pavement on the entire property is about 85,000 square feet. The combination of everything is slightly over the impervious coverage allowable in that zone is 60 percent, I believe. Right now we are at 63.88 percent so it slightly exceeds

the impervious coverage allowed in the C-LI Zone for the present condition. There also is another separate parking area located where the septic two way ingress/egress off Gold Mine. So that leaves three separate accesses off Gold Mine and that's to a single parking lot located in this area with 15 spaces. Based on your ordinance, with 4.5 spaces per office, with and the warehouse area, technically this thing needs only 10 parking spaces because of the 1,838 square feet divided by 1,000 being the…being…keeping it down to about 8 spaces and then the 4,058 square feet of warehouse at 1 per 5,000 that only needs a single space. The original plan was approved…previously approved site plan noted 47…standard spaces and 1 handicapped space. What I've done on this plan is I've noted the spaces although when you are out there right now they're not striped. So, part of what we're going to do besides what we are going to talk about our addition, what not with the building is. We are going to fix the striping and the handicapped parking signs and whatnot on the site because they really don't presently exist. It's served by an unmarked well for water supply located in the back of the structure and has an on lot septic system located in front of the structure. There are 2 separate drainage systems. Lot 1 which was approved prior to the acquisition of Lot 2…Lot 1 has the building and the structure of the building on it and that has a separate drainage system that ties directly to Gold Mine Road. The second lot, Lot 2, has a detention basin located on it with drainage that leads from an inlet into that basin and that also outlets to Gold Mine Road. The combination of those both eventually get to Gold Mind Road. Around us to our south, is…I hope I'm pronouncing this right…Veolia….and that's on Lot 37, Block 4500, that's a 6 acre lot also in the CLI Zone. And they are also involved in the waste business. Whether it be…office space for another…waste company where they…I believe…Consolidated Waste and he deals with them as one of his clients. To our westerly side is an office warehouse on Lot 3.02, that actually brought to the board a number of years ago owned by the Morrison Senatore Group and that is multiple uses in office warehouse space, also in the CLI. Across to the north, is the Hoover Trucking Company in the CLI on Lot 17, and that's on a 3 acre lot. And then again to the east, technically in Roxbury, but the same type of use is GRW an office warehouse on Lot 1, Block 9001, in Roxbury. That kind of gives you an idea of what's going on with the existing site. Now if I could, I'd like to go to my Sheet 3 or 4 which is my Site Layout Plan in your…is that A2?

MR. COFONI: Yes, please.

MR. WEISS: That Sheet 3 or 4?

MR. GLASSON: This is my Sheet 3 or 4. Yes.

MR. WEISS: Colorized version of your…

MR. GLASSON: Yes, a colorized version of what I had for myself. Yellow that you see hear represents the existing building. The existing building is presently non-conforming and a front set-back of 77 feet off of Gold Mine Road. The front setback off of Eden Lane is conforming as it is 143…100 is required for both of the front setbacks. The side setback that presently exists from the existing building is 204 which is well in excess of the 50 foot required and the side setback is well in excess on the west side of the 50 foot required. The green that you see on the plan represents the new proposed edition. The addition is 1,600 square feet, it's 32 x 50, it's a one-story metal warehouse addition. It will fall entirely within an area that's already existing in impervious coverage. On the previous plan that area behind the building is a paved area and that addition is going to go entirely within that paved area. What that addition does is eliminates one of previous three garage doors that were on the back building and move that garage door further out to be located on this new addition. Twenty-four foot wide door, same as these doors. So there will still would remain three doors. It would just lengthen this bay and add this larger 1,600 square foot addition to the back of the building. The loading space that was previously shown in this area would just be shifted over in front of one of the other doors. This still maintains the required side setbacks now as opposed to the 204. Our new side setback on this side is 154.4 and our westerly side setback is 371.4 both of those far exceed the 50 foot requirement. This does not add any impervious coverage because it is over existing coverage. The floor area ratio actually only goes from .027 to .035. And .4 is allowed so it's not anywhere near the allowable floor area ratio. It's well under that. This is going to be strictly for service on the trucks. It does not add additional employees to the building, it's not anticipated for any type of increase in employee hiring or anything like that. It's strictly for service on the trucks. We have more space for that…that really kind of sums up what they are looking to do. The only things I believe we asked for…

MR. FLEISCHNER: What are the waivers?

MR. GLASSON: We asked for a waiver for an environmental statement. And we also asked for a waiver for topography of the entire site and within 50 feet. What I did show is the topography in the area around the addition. It's completely a flat area. There's no…really no slope out there, other than

some pavement slope to get drainage to move but it's a very flat condition so I did do typography around the building so I can see the location…there really was not a lot going on in regard to slopes. And the only other thing is on this plan I have noted now all the striping that would be re-introduced because the striping is faded and the handicapped signage and the handicapped isle ways would be re-introduced because they…they are kind of gone…or missing. So that would be done as part of the public proposal…

MR. SPOSARO: For Highlands Exemption for this property?

MR. GLASSON: Umm…yes we do have one from…it was done through Gene Buczynski at Van Cleef, yes.

MR. SPOSARO: It's dated November 2, 2015. Indicates that…the property is…

MR. GLASSON: Under Exemption 4, this would be a simple exemption because the coverage is going where…we are not increasing the coverage. Technically, we could increase up to 125 percent although we exceed the town's zoning…

MR. SPOSARO And that's what Gene's letter says that it qualifies for the…we've satisfied the requirements for granting a Highlands Exemption Number 4. Anything else you'd like to add?

MR. FLEISCHNER: If I could ask a question, for the record, what is your reason for asking for a waiver from the environmental impact?

MR. GLASSON: Because there is no additional use generated on the site. The site has been there. Has…I guess…been a…how long have you been on that site?

MR. COLLIOUD: Thirty-five years.

MR. GLASSON: Thirty-five years. It's operating the same exact same fashion. All we are asking for is some additional space to work on trucks that already exist on the space so we are not introducing a different type of use or a different type of function of the site…anything we are doing falls exactly in an area that's already covered…we are not effecting any environmental concerns.

MR. FLEISCHNER: Ok. I just want that on the record

MR. BUCZYNSKI: And no increase in impervious coverage.

MR. GLASSON: Right, no increase at all.

MR. WEISS: Jim, did you say that were once stripes there but they were worn off?

MR. GLASSON: Yes, the stripes in the employee area over here and the handicapped stripping is basically…

MR. COLLIOUD: Actually, excuse me….inaudible.

MR. WEISS: No, that's ok. I just want to comment about the parking it looks like you currently have one handicapped space, you are going to increase that to two?

MR. GLASSON: Correct.

MR. WEISS: Okay.

MR. GLASSON: It worked out spacing wise that we could do that.

MR. WEISS: I was originally going to ask you if one is enough. But, then I turned and I see your new…two is there…

MR. GLASSON: Right. It worked out better to re-strip that way.

MR. WEISS: Sure. Ok. Tony.

MR. SPOSARO: Received a report from Mr. Buczynski.

MR. GLASSON: Yes.

MR. SPOSARO: In your testimony, have you addressed all the issues raised in this report?

MR. GLASSON: I believe I have.

MR. SPOSARO Gene, do you have anything else?

MR. BUCZYNSKI: He basically addressed everything in his comments today. So, I have no other questions.

MR. WEISS: Tony, you don't even have to be here.

MR. SPOSARO: I like to ask those questions. Tiena.

MS. COFONI: I'm not sure why no one else is pointing this out?

MR. MCGROARTY: Two lots?

MS. COFONI: Yes. It was just really glaring to me and I was…am I missing something?

MR. MCGROARY: Why is that?

MS. COFONI: Two lots.

MR. MCGROARTY: I was going to do a report on this and then I thought, this will be easier. Tiena is absolutely right that there are two lots. Why aren't they merged to one to be the full 5 acres? Back in 1992, actually though when this was first here or at least it was here in '92 I don't know if it was the first time. That issue came up and the board at the time agreed to treat the two lots as one parcel but allowed them to remain separately. And they acknowledge that and there was some language in the resolution which indicated Mr. Sposaro may or may not need to amplify on this. But there was some agreement to put a memorandum and it was going to be at the Clerk's Office, the County Clerk's Office, acceptable to the Planning Board Attorney at that time. Limiting the uses on the adjacent lot. And in fact, that has been the case. Essentially the lot to the left is where the trucks…many of the trucks park. It's accessory to the property we are looking at but it's really treated as one site. And because the Board did that back in '92, I didn't feel like…you know…it seemed to be a settled issue. I didn't raise it again. But that's up to you…anyway… because it's treated…the 5 acre combined the 5 acre plus satisfies the CL-I Zone – FAR - all the other criteria that Joe mentioned but…

MS. COFONI: I'll be honest, I don't know how you do that without merging. Is there an objection to the merger of the lots? I mean, they have been used as one lot for 35 years. I understand it was done in 92. I just don't know legally how you do that when it's in fact 2 lots. In which case all of Jim's calculations are about to be split in half.

MR. GLASSON: I literally just asked him how is this 2 lots before…when we came in because I didn't understand how it didn't automatically happen.

MS. COFONI: Oh right.

MR. GLASSON: Automatically.

MS. COFONI: Probably because of the Planning Board Approval.

MR. GLASSON: That's probably it.

MR. MCGROARTY Well the ownership, I think, is slightly different between the two lots…

MS. NATAFALUSY: Right.

MS. COFONI: Oh is it? Oh…

MR. BUCZYNSKI; Right.

MS. COFONI: Oh. That's how it didn't happen. So, the question is…is the applicant amenable to merging the two lots?

MR. SPOSARO: I don't know the answer to that question.

MS. COFONI: Ok. We can give you two minutes, if it's ok…

MR. FLEISCHNER: Can they be two different owners?

MS. COFONI: Well, no, they would have to be one owner.

MR. WEISS: Well…

MR. FLEISCHNER: Can they be sold separately…

MS. COFONI: My guess would be it's probably the same people.

MR. GLASSON: In that resolution does one need the other?

MR. MCGROARTY: What Jim?

MR. GLASSON: I'm asking can…could they be sold separately or does one need the other? I don't know what does the resolution says?

MR. COFONI: No. They could be sold separately at this point. And it's really…

MR. MCGROARTY: Well, yes, but either one would be substandard if it…but mean…I have the resolution.

MR. SPOSARO: Chuck, you have a better memory than I. I don't…

MS. COFONI: I just have a hard time…It's kind of like you can't have it both ways. So, you want 2 lots, then ok we will treat it as 2 lots. Or you want it to be 1 lot then mark it as 1.

MS. NATAFALUSY: Tiena, 4500/1 is under Collioud Enterprises, 1, LLC and 4500/2 is under Collioud Enterprises, 2, LLC.

MS. COFONI: So they are not under the same ownership. Which is fine, I mean it's fine…

MR. SPOSARO: That ownership…that remains a representative of the company is here this evening but…

MR. GLASSON: All my testimony has to be to the side setback to the lot line for lot 1.

MR. MCGROARTY: I mean the other thing is, if someone were to come in and say to us I don't know which one on the left, say the lot on the left

MR. GLASSON: Lot 2.

MR. MCGROARTY: Lot 2?

MR. GLASSON: Yes.

MR. MCGROARTY: They would be facing a number of variances clearly from this board and some of them might even trigger a FAR Variance if they were to use it separately so they could be used as one parcel with separate two lots…

MR. GLASSON: Should I then be seeking…should I then be testifying to a different side setback is my question? You know what I mean? I'm giving you a side setback to the other property line.

MR. MCGROARTY: I mean…my reaction to it was the board treated it as one parcel in 92 and it was ok for the board then. I wasn't going…but…you know…I'll defer to Tiena.

MS. COFONI: Where did you see that? I'm looking at the '92 resolution right now.

MR. MCGROARTY: On Page…on the bottom of Page 3 it starts to talk about…the station between the two…and then on Page 4 at the top it addresses the usage and lot.

MS. COFONI: Was there a…memorandum discussed recorded? In this…I don't expect you to remember from 1992. But it says that there should be a memorandum…hold on…the appropriate memorandum limiting the use of Lot 2 in the Morris County Clerk's Office needs to be recorded.

MR. SPOSARO: I don't know the answer. I was the Board Attorney at the time, I prepared the resolutions. So, I don't know if it was complied with.

MS. COFONI: Umm…

MR. FLEISCHNER: My question is…does the law require us to change what the board accepted in '92? If it does not, then why should we change it, regardless of the current circumstance and why not just leave it? The gentleman has been here for 35 years. It's not changed. Do we really need…that's my question. I'm saying, if the law is clear and says no, this is unacceptable, you have to change it. Fine. If the law is not clear to change it and the board in '92 said this is acceptable, then I think we have to defer to the Planning Board for their decision. And the Planning Board attorney must have researched this at the time.

MR. SPOSARO: Perhaps, middle ground might be a condition if the board is inclined to approve this is that the properties…one of these parcels cannot be sold separately without Planning Board approval. That way they could remain in common ownership. But at the same time, they wouldn't be merged.

MS. COFONI: They are not in common ownership. They are owned by two difference entities.

MR. SPOSARO: Exactly.

MS. COFONI: And then you have the Planning Board controlling the sale of property…which is not its jurisdiction at all. Its jurisdiction is…I understand they…I don't know why or how they did it in '92, I would not advise that you could do that and the applicant is now back and forth for modifications. And if they don't want to merge it, then I would say ok fine then you got to re-evaluate all your variances and everything you need.

MS. COFONI: I just don't know how you have it both ways. That you have all your…you satisfy all the standards of the zone using both lots but technically there are two. I just don't…

MR. WEISS: …I guess the question is…

MS. COFONI: I don't know how you legally do that…

MR. WEISS: What would be the impact on your frontage on Gold Mine as well as your side yard…side yard…

MR. MCGROARTY: If I may. Before you answer that question, the CLI Zone requires minimum lot size of five acres. So before you even get to the setbacks, if you were to treat them as individual lots, it would be a substandard lot. And then you would have to go from there. And then deal with the floor area ratio and then with coverage issues and then setbacks. I think in that order of magnitude if in fact you're going to look at them separate.

MR. SPOSARO: Really asking the board to look it as it did 24 years ago and consider them together even though they are in separate ownership.

MS. COFONI: Well, if for some reason the board wanted to go in that direction I would and I am not necessary in favor of that, but if for some reason the board wanted to do that at the very least, you would need that that memorandum that was required in 92 was awarded. Because that was…I mean in 92 they were willing to look at this, but they at the very least wanted that memorandum to be recorded and if the board is going to decide to continue to treat it that way...

MR. WEISS: We could make that a condition of this approval that such would be presented to the township

MS. COFONI: And if it's not, want it to be recorded?

MR. SPOSARO: If it hasn't been then I can prepare it and we can record it. I can provide it to your attorney.

MR. WEISS: Does it make any difference…would it make it better…if we started like Chuck said and have the applicant request a variance for lot size.

MR. MCGROARTY: Well I'm not suggesting that. I'm just saying if you…but if you…if you start to look at them as separate lots, I think in the order of magnitude you start at the lot area first.

MR. WEISS: And that's not my question. Does that make it any better if we were to ask the applicant to request a variance for lot size?

MS. COFONI: Well you also probably got one lot without principle structure on it.

MR. BUCZYNSKI : Right.

MS. COFONI: Accessory…I mean there's a lot issues if you start to look at it, it's 2 lots which is why my initial suggestion was that they merge them.

MR. MCGROARTY: That was one of the issues that did come up in 92. You know, having the trucks on the other lot was really an accessory use without the principle use of the board that was in the resolution that articulates that they treated it as…it was actually unified parcel.

MS. COFONI: I just can't for the life of me figure why they didn't require it to be merged. I mean I just don't understand that. But if…if the board is inclined to go forward, like I said I would at the very least suggest that we confirm that the memorandum was recorded and if not have one be recorded.

MR. WEISS: And there's no other condition we can put on Lot 2. The lot to the left. Yes, Lot 2.

MS. COFONI: Well that's the memorandum. The memorandum is…

MR. MCGROARTY: limiting the use of Lot 2…

MS. COFONI: Yes.

MR. GLASSON: what does it say it is limiting to?

MS. COFONI: It says the applicant testified and stipulated that the use of Lot 2 would be limited to its use in conjunction with Lot 1. The applicant has acknowledged that is does not gain any non-conforming use status should this application be approved. That's interesting as well.

MR. GLASSON: So, it has to be used with Lot 1 so it has to be sold with Lot 1.

MS. COFONI: No. That would testify and stipulate that the use of Lot 2 would be limited to its use and conjunction with Lot 1. The applicant has acknowledged that it does not need any non-conforming use status should this application be approved. That Lot 2 can only be used as an accessory to and in conjunction with Lot 1 and has agreed to record the appropriate memorandum limiting the use of Lot 2 in the Morris County Clerk's Office and a form acceptable to the Planning Board Attorney.

MR. GLASSON: Doesn't that mean it has to be sold together? It can only be used as an accessory to that lot.

MS. COFONI: But it's not owned together now. It's owned by two ententes'. I understand there's…

MR. GLASSON: Sold, I'm saying sold…

MS. COFONI: No, they can come in for a variance. They can come in for all the variances we're talking about. I mean it's got a common use now with two different owners. It could have a common use with two different owners in the future.

MR. WEISS: So just help me understand what was the objection to the applicant about merging the two lots?

MR. SPOSARO: They were in different ownership then and they remain in different ownership and for whatever reason the owner wanted to…owners wanted to keep that in separate ownership.

MS. COFONI: I mean listen it's no…it's no secret obviously owning two lots is better than owning one. And there is nothing wrong with that concept. It makes perfect sense. It's just if you are using it and have been using it for 35 years and are looking to proceed with an application as if it's one lot, it's just…

MR. SPOSARO: I guess the only potential advantage to the property owners would have down the road is, 50 years from now these buildings become obsolete this business is no longer operating here they might want to remove all the improvements and if they remain in separate ownership and the owners can go on their separate way and deal with the property separately. They would be substandard in size and they…

MS. COFONI: They would have to come in for approvals.

MR. SPOSARO: Sure they would. And who knows what the zoning will be at that point.

MR. WEISS: We won't be here.

MR. SPOSARO: No. No, that's a pretty good bet.

MR. SCHAECHTER: They'll be laughing going 2016 Planning Board changes…inaudible.

MR. WEISS: I would imagine that the memorandum…the final memorandum probably covers township and anything we that might be concerned about.

MS. COFONI: I mean, its… even the memorandum - its just a strange thing. You're going to file a memorandum so it's going to be recorded, so it's reported to affect some sort of future ownership so you're saying that the uses have to be in conjunction with one another but there can be two separate owners.

MR. SPOSARO: Correct. As a practical matter these…this operation could not continue without it being located on both lots.

MS. COFONI: Agreed.

MR. SPOSARO: And as long as this operation continued one of these lots could not be sold and used for a separate purpose.

MS. COFONI: Ok.

MR. SPOSARO: With those protections in place, I understand where you are coming from…I didn't vote…I just drafted the resolution.

MS. COFONI: I just…I don't know…you know…it's all over the place…I mean it's just…it's not at all consistent…you know…and like I said at the very least, if for some reason the board is inclined to continue what was done in 1992, I would recommend at least that the memorandum be prepared and…either confirm that it was already recorded or that it be recorded. But my first suggestion would be…merge the lots…I mean if that had happened over time, which perhaps it had because one lot was purchased first and…that's fine…but once you come to the Planning Board, that's part of this board's jurisdiction is to correct those types of situations…

MR. MCGROARTY: side setbacks; lot area

MS. COFONI: Everything…I mean there would be a ton…

MS. NATAFALUSY: …of variances.

MS. COFONI: A ton of variances. I mean starting with an accessory use, on a lot without a principle use, undersized lot, setbacks…

MR. GLASSON: Right, I would still meet the side setback with that lot. I'm just checking. I would still meet the FAR because the far is way under, but we would not have a lot without principle structure. We would now have probably impervious coverage variance…in excess of what I testified to…because…

MS. COFONI: Yes, for the one lot.

MR. GLASSON: The coverage of this lot is definitely in excess of 63 percent.

MS. COFONI: Yes.

MR. WEISS: What are our options? If nothing gets done and the Planning Board rejects this application, then the applicant can go back doing what he's been doing for 35 years. So what did we gain? Applicant doesn't get over 1,600 square foot, a little extension, we are spending more time…I understand we want to do it right, but I would imagine that this filing of the memorandum is a pretty good band aid over this problem that hasn't really caused any problems for 35 years.

MS. COFONI: The solution is the merger of the lots. I guess…

MR. SCHAECHTER: Solution would be merging the lots?

MS. COFONI: Apparently, yes. The…if you want to do the memorandum…

MR. SCHAECHTER: We still have not heard from the owner.

MS. COFONI: His attorney said…

MR. WEISS: We heard from his attorney.

MS. COFONI: Like I said if the board want to go forward, at lease the memorandum should be filed.

MR. WEISS: I agree. I think that makes sense.

MR. FLEISCHNER: Or we need to verify that it could be there.

MS. COFONI: Yes, I mean it could be.

MR. FLEISCHNER: I don't see why it wouldn't be. If the board instructed the applicant to do it, I'm going to assume and that's a great assumption but just like any other applicant when we tell them to do something they do it. Cause the board is supposed to check upon them.

MS. COFONI: And I would certainly in the resolution, as a basis for proceeding this way so it's abundantly clear, it would be because of the way it was handled in '92 because I would not advise you to ever initiate something like this. So…

MR. GLASSON: I had pulled all the deeds on it but we didn't do a…we didn't have a title search so…it may very well be…but I have all the deeds and I couldn't find it in anything I had. I pulled all the deeds…it wouldn't necessarily be…it would probably be in my search if I did a title search. So it may be done but I don't know.

MR. WEISS: I'm not really sure how to proceed. It seems we are at a stalemate. Where the applicant…the applicant has presented his case…he's not willing to make two lots. The engineer…

MS. COFONI: One lot…

MR. WEISS; I'm sorry, doesn't…no interest in merging into one lot. The engineer made it very clear what the situation is when you look at it as two lots as it currently exists back from 1992, I think it's been said. We could have been here all night long but…

MR. FLEISCHNER: And therefore I would like to make a motion.

MR. WEISS: I don't…I would hold off just one second before we do that, because I agree with you, Joe, but I'm not sure what else there is to talk about.

MR. FLEISCHNER: I don't know.

MR. BATSCH: I have a question. If in fact, the memorandum was not written, could one be written now and made retroactive?

MS. COFONI: I don't even know if it has to be retroactive…because it is a recorded document making it retroactive does nothing but what they were trying to prevent…it's been in the same ownership for 35 years so there's nothing that's changed so recording it now, it has the same effects just because nothing has changed

MR. SPOSARO: And we are more than willing to do that. It should have been done, if it wasn't, we'll do it.

MR. WEISS: Ok. Tony, do you have anything else?

MR. SPOSARO: No.

MR. WEISS: I guess for the record let me open it to the public. If anybody from the public has any comments or questions for the testimony delivered today by Mr. Glasson and of course with no body from the public here, I see no body from the public, therefore, I'll let you finish if you have anything else.

MR. GLASSON: That's our case.

MR. WEISS: That's your case. Anything…Gene, I did…I know we interrupted you. I heard you say that you had no questions on the report. They have all been addressed on your report.

MR. BUCZYNSKI: Correct. As long as the board is agreeing to grant the two waivers to checklist items which I think they are…that's it.

MR. WEISS: And we certainly heard Tiena's position…let me go to you, Tiena. If we make a motion then a motion would include certain conditions, certain items. Why don't you tell us what you would…

MS. COFONI: Well the only one I had written down was the merged lots 1 and 2. I think instead of that one, there could be a condition that the memorandum as discussed in the 1992 approval be there provided to the board or recorded.

MR. WEISS: Ok, and what about the waiver of the EIS that's part of…

MS. COFONI: Yes, that's part of that.

MR. WEISS: Ok. Inaudible. Do we have…is there one variance request here today with the…with the impervious coverage…

MR. SPOSARO: There is no change in impervious coverage.

MR. WEISS: No change. Ok. So it's still…

MR. GLASSON: No variances.

MR. WEISS: 3 percent.

MR. GLASSON: 3. percent

MR. WEISS: That didn't change. Alright…

MR. BUCZYNSKI: Not for me…it's…

MR. WEISS: Tiena listed the condition…we've heard for that memorandum. That will be added or will be showed to the township that will be condition of approval. We've heard it. Does anybody like to make a motion?

MR. FLEISCHNER: I will move for the approval of PB 15-35 with the stipulation that the approval relies on the fact that the memorandum was recorded. And if it was not recorded, the memorandum to the effect as stated here previously should be filed with the Morris County.

MR. RUSSELL: I'll second it.

MR. WEISS: Ok. A motion was made by Joe. Seconded by Nelson. Do we have any comments? I only have one comment, and for those of us who sit up here who come in to these meetings think this is going to be a quick one. Those days are over. Just over, there's no real clean application anymore ever as we proved here tonight. So with that being said, Catherine if you would, roll call.

ROLL CALL:

Joe Fleischner	- yes
Brian Schaechter	- yes
Nelson Russell	- yes
John Batsch	- yes
Howie Weiss	- no

MR. WEISS: Well I think before I answer because I tend to do this all the time and we've been here long enough that it doesn't matter because right now it's four to zero, but the point I'm going to make is that to repair the situation is very simple, merge it into 1 lot. Tiena said it very good, very, very good, very well, thank you. She said it very well. Our job on the Planning Board is to right things that are not right. And sometimes when we have so little property that we can develop and we can listen to and hear and approve, I think it's our job to do it properly and being that the applicant is not willing to merge then I'm not willing to say yes and therefore I will say no.

MS. NATAFALUSY: You said no?

MR. WEISS: I said no. With that congratulations.

MR. SPOSARO: Thank you very much.

MR. WEISS: And have a good evening.

MR. SPOSARO: You too.

MR. WEISS: Nice to see you all.

MR. WEISS: Catherine had given us all in our packet a resolution of ……for the Planning Board……Annual Report so what you have in your packet is 2 pages of ……essentially lists the c-variances that we have reviewed whether we have approved or denied them as well as the Use Variances that were approved. What I'd like you all to do is review it. If you have any objections, if you disagree with anything, you don't have to do it this moment…if you find there is any recommendations, please let Catherine know and if she doesn't hear anything let's go one week?

MS. NATAFALUSY: Well by the next meeting…yes…

MR. WEISS: But the next meeting is not till March…

MS. NATAFALUSY: Yes…by the first of March if you can let me know if you have any recommendations and then I will…

MR. WEISS: Let's go by the last day of February.

MS. NATAFALUSY: Yes, because I want to put it on the March 10th agenda.

MR. WEISS: Ok. So if you find anything that stands out of the ordinary please tell Catherine. Otherwise Catherine, I'm going to go ahead and give you the approval that what you are telling us is accurate.

MS. NATALAFUSY: And then just make some recommendations

MR. WEISS: If you don't hear anything, I will…that put the owness on the Planning Board members to get back to you. Rather than you running after the Planning Board…

MS. NATAFALUSY: Ok.

MR. WEISS: So we have to go with the assumption that Catherine is simply stating the record and the summary form but again if there is any kind of discrepancy, please let her know by the end of the month.

MR. FLEISCHNER: Is Road Ranger a d-variance?

MS. NATAFALUSY: Yes.

MR. FLEISCHNER: Am I missing it here?

MS. COFONI: It's the third one down I think.

MR. FLEISCHNER: Yes, yes, yes…it is. I'm sorry.

MR. WEISS: That's ok.

MR. FLEISCHNER: I'm sorry. I'm just…

MS. NATAFALUSY: Well this is just basically for the town for the Planning Board to make a recommendation to the governing body should we change an ordinance that maybe we had too many of a certain type of applications before the board.

MR. FLEISCHNER: Ok.

MS. NATAFALUSY: You know, and we are talking about making some changes you know when you have a through lot, like we had with the one application, we had a through lot and their shed was in the back front yard and you know in circumstances like that to see if we can help people…so…

MR. RUSSELL: Catherine, I'm still upset by the…what we did with the BP Station and the requirements for a gas station should be addressed if it's not 2 acres then let's not make it 2 acres.

MS. NATAFALUSY: Well right now a service station has a minimum lot size of 2 acres but you can get a variance.

MS. COFONI: You'll always be able to request a variance.

MS. NATAFALUSY: It's a Conditional Use so…you know if you can't meet the conditions that's when it goes to a D-Variance. So it's up to the board to make a decision on whether we want to approve something like that.

MR. FLEISCHNER: I think what Nelson is also saying is how many variances were on that? I wasn't there for the final vote, but I think that…that side had 9 variances…

MS. NATAFALUSY: But that's up to the board.

MR. FLEISCHNER: And I understand that.

MS. NATAFALUSY: You know what I mean?

MR. FLEISCHNER: I understand that, but that's a lot of variances.

MS. NATAFALUSY: So is there…something that you are recommending that we look at…change?

MR. RUSSELL: Well, I don't think we have a gas station in town that's not two acres.

MS. NATAFALUSY: I've been here a very long time, and I can tell you there are a number of gas stations that were before the Zoning Board of Adjustment years ago too, Mobil Station down on 206, you know there's a lot of gas stations here…

MR. WEISS: No gas station in the world is on two acres.

MS. COFONI: Yes, I was thinking the same thing.

MR. FLEISCHNER: So maybe that needs to be changed.

MR. WEISS: Change the world…

MS. NATAFALUSY: The Shell in the Trade Zone might just be about two acres. Because they were before the Zoning Board…or was it the Planning Board?

MR. WEISS: Planning Board.

MS. NATAFALUSY: Ok.

MR. WEISS: We will…we need to adjourn to Executive Session. Someone please make a motion understanding that when we return there will be no more business conducted.

MR. RUSSELL: So moved.

MR. WEISS: Nelson, seconded by…Brian?

MR. SCHAECHTER: Brian…I'll second.

MR. WEISS: Do we have to read anything else into the record? That's it?

ADJOURNED TO EXECUTIVE SESSION

MS. COFONI: Affordable Housing Litigation Matters.

MR. WEISS: Nelson, that what your motion to me adjourn to in the Executive Session to discuss affordable housing. Brian, you second that?

MR. SCHAECHTER: Yes.

MR. WEISS: All in favor.

AYE

RECONVENED AT 8:18.47

MS. NATAFALUSY: We are back into…record.

MR. WEISS: We are back in record.

MR. COFONI: We just opened the door…in case there is someone out there.

MR. FLEISCHNER: Well Elijah might want to come in.

MR. WEISS: No, he goes to the window.

MR. FLEISCHNER: No, Elijah comes to the front door.

MR. SCHAECHTER: In my house he comes to the window.

MR. FLEISCHNER: The door.

MS. COFONI: See they couldn't come in if they wanted to.

MR. FLEISCHNER: And then he drinks the glass of wine.

MR. WEISS: Right.

INAUDIABLE

MR. WEISS: Doors are open and we are back in Public Session. And with nothing else to discuss, if anybody has anything…

MR. SCHAECHTER: I'd like to make a motion to adjourn.

MR. WEISS: Motion to adjourn by Brian.

MR. RUSSELL Second.

MR. WEISS: Second by Nelson. All in favor.

AYE

(MEETING ADJOURNED AT 8:19.24 PM)

Transcribed by:
Mary Strain, Secretary
Planning Department