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, David Koptyra, Henry Fastert, Dan Nelsen, Scott Van Ness, Kim Mott, John Batsch, Howie Weiss

Members Excused: John Mania

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

Professionals Excused: Edward Buzak, Esq.

COMMITTEE REPORTS

MR. WEISS: Thank you; let's move into our Committee Reports. Nelson, do you have anything from the Mayor?

MR. RUSSELL: Me? No.

MR. WEISS: Ok. John is not here. Environmental Commission, Joe?

MR. FLEISCHNER: The big item is on May 14th we will be allowing…not allowing, but requesting that members of the township come to pick up samples, pay a fee, so they can do well testing. So they can pick up their samples, pay the fee, and then come back on Monday with the actual samples of the water. And then it will be sent out an outside group which did a presentation to the Environmental Commission the other day and they will get the results of their well tests. And it goes directly back to the homeowner, not to the township. But obviously if there is an issue, we would encourage people to remediate it and notify the township.

MR. WEISS: Very good. Is this noted? It is notified to the public?

MR. FLEISCHNER: It's going to be in different places. Mr. DeCastro is putting it in his paper. The Mount Olive Chronicle will run something. It's also going to be…some signs will be throughout town and in town hall. Some posters are going up. So there should be proper notice throughout the township. We are hoping…we did not do it last year but we did it the four previous years before that. So we are hoping that people actually get their wells tested.

MR. WEISS: So we have one month before that happens.

MR. FLEISCHNER: Yes.

MR. RUSSELL: Mr. Chair?

MR. WEISS: Henry, go ahead, Dan.

MR. RUSSELL: Joe, do you know what they are testing for?

MR. FLEISCHNER: There is a whole list of different…you get to choose what you want. What's recommended is for coliforms because if someone has a septic and it's leaking, it could get into the well. Also, we are also recommending they also check for arsenic. Although arsenic is found in the soil throughout Mount Olive but there are certain levels if it goes above a certain level. But there are all sorts you could actually test for iron because if your house has old copper plumbing and you have lead solder and it's leaking into your water system and you don't have filters you might want to know. It's their choice. When they come to town hall there is a whole list with fee schedule of whatever they want to test for.

MR. RUSSELL: And does the price vary? Whether you chose for total coliform or if you…

MR. FLEISCHNER: Yes, that's the simplest. I think that's…and don't quote me. But I think that's like $60.00 or $70.00 dollars. And then if you add on other tests there is extra dollars.

MR. RUSSELL: Ok. Thank you.

MR. FLEISCHNER: But there is a whole smorgasbord of which residents can choose from.

MR. RUSSELL: Ok. Thank you.

MR. WEISS: Thanks, Joe. Henry, did you have anything to add?

MR. FASTERT: No.

MR. WEISS: Alright. Perfect. Ordinance Committee, Joe?

MR. FLEISCHNER: Nothing to report at this time.

MR. WEISS: Ok. I have nothing from the Street Naming Committee. Kim, Open Space.

MS. MOTT: Yes. We had a meeting on Monday and on April 24th at Turkey Brook in honor of Earth Day they are going to an organized hike throughout the trails at Turkey Brook. They are putting it out on their Facebook and the Mount Olive Chronicle and also they made these pretty neat Trail Maps. They are going to put out at the kiosk all around Turkey Brook and post it on their Facebook. And I believe they're going to put it on the township website as well so people better understand the trails. Also, on June 4th, they are going a Trail Day. They've come up with a couple ideas one where to install another trail but they haven't made a final decision on which one they are going to attack on the 4th. Also they are planning on as Open Space Tour and they want to open it up to obviously Town Council and the Planning Board as a first come, first serve basis. They are going to take the Senior Bus and Cathy Murphy and team are going to take everybody around Mount Olive to explore the open space and what's around and still available. I guess they did it a few years ago so they want to do that again. So they are…

MR. BUCZNSKY: Do you have a date for that?

MS. MOTT: They are waiting on the…they just have to find out when Colleen is available for the bus. The Senior Bus, I guess. Then they are looking at an early Saturday morning most likely end of May, early June.

MR. WEISS: As soon as the day is announced would you please send me a note?

MS. MOTT: Absolutely.

MR. WEISS: Then I will make sure that the Planning Board attends.

MS. MOTT: Ok.

MS. NATAFALUSY: Well as Tiena just said, if all Planning Board Members would have to notice it as a Public Meeting…

MR. WEISS: That's what I figured. Let's find out who's going to go. But let's try to do it more efficiently.

MS. MOTT: Ok. As soon as they confirm a date, I'll ask Kathy Murphy what the date is because she was working on that with Colleen.

MR. WEISS: That's a good idea. Alright. Anything else Kim?

MS. MOTT: Nope. That's all I have.

MR. WEISS: Brian, anything from the Board of Ed?

MR. SCHAECHTNER: Yes, we did accept an offer…we have an offer for the Board of Ed building on Route 46. So that seems to be going…going forward. We also are going back to the Environmental Commission, one of the kids in the Science Fair decided to test the water at Sand Shore CMS and one of

the kids said that there was lead…his results came back with lead in the water so we had all the schools tested and the beauty of the thing is, there is no lead in the water.

MS. COFONI: And he failed the class.

MR. SCHAECHTER: Exactly, that's right. Since he had a very good project, we are going to give him a lesson on good public relations, political practice, any labs, GOP, and then we'll take care of that.

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

MR. BATSCH: Question. What happens to the ball fields? Does that go along with the property or…

MR. SCHAECHTER: Ball field go along with the property. The town was actually given the opportunity to purchase the property of the ball field but they decided not to.

MR. BATSCH: Ok.

MR. VAN NESS: It wouldn't behoove the Board of Education to donate it to the township though, I guess.

MR. WEISS: I would say do we have any other reports? Tiena, anything from you?

MS. COFONI: No.

MR. WEISS: Chuck, Gene, do you want to report any news?

MR. BUCZYNSKI: Just about the Splash Pad at Turkey Brook Park. The contractor started construction this week. The intention is to have it ready for 4th of July.

MR. WEISS: Great. And you will be monitoring that?

MR. BUCZYNSKI: We have been monitoring that.

MR. WEISS: With shorts or without?

MR. BUCZYNSKI: Shorts? Not yet. Soon.

MR. WEISS: Chuck, anything else?

MR. McGROARTY: No.

MR. WEISS: Catherine?

MS. NATAFALUSY: Yes. Township Clerk's Office asked me to remind all Planning Board Members to complete their financial disclosure forms. So, I sent everybody an email the other day about it.

MR. WEISS: Mine is done.

MR. FLEISCHNER: Done.

MR. BASTCH: Catherine, I didn't get it or mine is still good.

MS. NATAFALUSY: No, you have to every year.

MR. BASTCH: I didn't get it. Would you send it to me?

MS. NATAFALUSY: Ok.

MR. NELSEN: I…it's probably somewhere in there. Can you send it again to me?

MS. NATAFALUSY: Ok.

MR. SCHAECHTNER: It looks like last Thursday or Friday.

MS. NATAFALUSY: Yes, I believe…I know I sent John his number. He can use the same one from last year. I'll send it to you, Henry.

MR. FASTERT: Ok.

MR. NELSEN: Gene, is that work to begin soon on the Splash Pad?

MR. BUCZYNSKI: It started, it just started this past week.

MR. NELSEN: Ok, thank you.

MR. BUCZYNSKI: Yes.

MR. WEISS: Alright, with no other reports, let's move on to our first Development Matter which will be:

DEVELOPMENT MATTER PB 16-07 – JEFFREY BAUSE – 54 KEVIN DRIVE – BLOCK 7101, LOT 18

MR. WEISS: PB 16-07, Jeffrey Bause, Bause?

MR. BAUSE: Yes.

MR. WEISS: Ok, sir if you would you can come to the table. You are here for a variance accessory structure for property located at 54 Kevin Drive which is Block 7101, Lot 18. Mr. Bause, Good Evening.

MR. BAUSE: Good Evening.

MR. WEISS: What we'll do is start the evening by swearing you in.

(JEFFREY BAUSE SWORN IN FOR THE RECORD)

MR. BAUSE: Sorry I don't have a lot of practice in this.

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

MR. BAUSE: Jeffrey Bause, last name B A U S E, 54 Kevin Drive, Flanders, New Jersey.

MS. COFONI: Thank you.

MR. WEISS: Ok. So Mr. Bause you're here in front of us this evening because our reports tell us you are here for construction of a garage that will require a variance for encroachment in to the side yard setback, an accessory structure, so why don't you explain to the Planning Board the situation, explain to us the existing conditions, and anything that we need to know as to why you're requesting relief.

MR. BAUSE: Correct. So I'd like to put a two car detached garage at my house. Unfortunately, the way that my house is situated on the lot when the house was originally built it was supposed to be a dead end street, Kevin Drive was, and I was the cul-de-sac, I guess when the built the house. So the house is situated a little skewed on the property. And my garage comes out the side of my house and I'd like to put a detached garage up without making too many other changes to everything else. So the garage doors would face each other, therefore, I need a certain amount of distance between the two garage doors to be able to get in and out of the garage. I have a boat and some other things that I would like to store that I currently cannot store in my garage. And I'd rather put them in a garage then leave them out on my lawn or anything like that. I've designed the garage. If you take a look at the plans, I've designed the garage to give myself as much as a buffer as possible. I mean in a perfect world, I would love to have a garage that is 23 feet all the way across but I've given myself a step so one bay is deeper than the other to try and keep that buffer as large as possible, try and keep it at least ten feet. And the 32 feet between the two garages is enough to be able to pull things in and out. So that is…basically what I am looking for.

MR. WEISS: Tell me about the property although I do have photographs. These have submitted?

MS. COFONI: These were submitted with the application from Catherine.

MR. WEISS: Ok. So, I'll pass this down. So, we do have photographs of the property. Tell us a little bit for the record about the slope, tell us about the present condition of the property.

MR. BAUSE: The way it sits right now a good portion not a majority but a good portion of the back of the garage will actually be buried into the slope because if you stand on my driveway and look up towards the woods there is a general slope there. So, we will have that also where it is positioned on the property because I guess my house was supposed to be on the cul-de-sac they took my whole house and pushed it much further back towards the back of my lot compared to most other houses around me so by doing that it…where the garage is looking to be placed is actually next to a wooded area it's not right near somebody's back yard it's pretty much up towards the woods where I live.

MR. WEISS: There's a little bit of an inconsistency with that unfortunately. I think when you move the house back, I don't know why that would affect the size yard, but…

MS. COFONI: If you are looking at the garage it's to the left going to be the next door neighbors?

MR. BAUSE: Correct.

MS. COFONI: Ok.

MR. BAUSE: What are you looking…

MR. WEISS: I'm looking at your site plan, and even if you were to move the house forward by quite a bit you still are not going to affect…the side actually dips wider as you move back on the property. I was just making a comment…

MR. BAUSE: Yes, ok, that's fine.

MR. WEISS: How the house was built, I don't know if it has any variances. Let me ask you a question. I heard you testify that you wanted the two garages to face each other. Can you explain why?

MR. BAUSE: Because otherwise I'd have to take up a lot more space on my lot with a much wider garage. Ok. Because if I put the garage where it is and have the garage coming out the front, I couldn't put it much closer because the side of my house is actually where my current garage is, that is how I get in and out of my current garage. So even if I took the other garage, and faced it towards the street, I would need to take a whole bunch of the hill away and would need to re-grade all of that and I would have to widen my garage to get into the front part of that garage. Does that make sense or…?

MR. WEISS: It doesn't actually. I'm just looking at pictures. If you were to…what would happen if the garage was built kind of right at the edge of the existing macadam? Would that…would that work?

MR. BAUSE: That's where it is.

MS. NATAFALUSY: He's got it right at the edge but he's got the width of it is facing the other garage, so if you turn it around and the width of it faces, then it's wider, it's going to encroach into the side yard setback more.

MR. FLEISCHNER: It's more than the side yard.

MS. NATAFALUSY: Right.

INAUDIBLE

MS. NATAFALUSY: If it's turned this way and you're facing it, the width will be larger, right, rather that this way.

MR. WEISS: I see, the problem is actually the fact that the exiting garage faces perpendicular to the driveway. Yes, it's a side entrance garage.

MR. VAN NESS: For him to turn it around it would require him to put a driveway in front of it.

MS. NATAFALUSY: Right, for impervious coverage.

MR. VAN NESS: For impervious coverage.

MS. COFONI: So, Catherine, is it true even with that bump out in the proposed attached garage that's not the closest point. It's really at the corner.

MS. NATAFALUSY: At the corner in the front.

MS. COFONI: Yes, ok.

MS. BAUSE: And that's kind of why I left that bay shorter to try and keep that buffer as big as I could.

MS. NATAFALUSY: I think ascetically it probably looks nice than what he's proposed.

MR. WEISS: Just to ask a question, moving it backwards doesn't do anything, does it?

MR. BAUSE: That's my septic field.

MR. WEISS: No, I see where the septic is.

MR. BAUSE: Ok, the…

MR. WEISS: You still have some distance before the septic.

MR. BAUSE: I think I probably…there is also a slope issue there. There is already a retaining wall there and that would require a bunch of retaining wall work and slope work and…

MR. WEISS: Ok, so you're saying that by moving it back, you're encountering a steep slope?

MR. BAUSE: Yes. Yes. There would be there.

INAUDIBLE

MR. WEISS: What is the, Catherine, do you have any details on impervious coverage? It's not an issue, is it? Oh, I have it here.

MS. NATAFALUSY: Well, it's on…

MR. WEISS: I see it.

MS. NATAFALUSY: …the plans.

MR. WEISS: I see it.

MS. NATAFALUSY: He is within the limits of 10 and 20 percent.

MR. WEISS: Anybody on the Planning Board have any other questions? Tiena?

MS. COFONI: No. Oh, I do have a question.

MR. BAUSE: Yes, Ma'am.

MS. COFONI: The siding and stone work and roof are you proposing that all that's going to match your existing house…

MR. BAUSE: It will match my existing house exactly the way the house is set up now including the supports for garage overhang and everything all that matches the current architect of my house.

MR. WEISS: So your testimony is you really don't have any other place on the property and if you were to try to build this garage without the use of a variance, it's pretty much impossible.

MR. BAUSE: Correct.

MR. WEISS: You have some steep slope that you mentioned to us so moving that into the rear would cause…its impossible because you have to deal with steep slope.

MR. BAUSE: Correct.

MR. WEISS: And I would imagine that's that testimony is satisfactory.

MR. FLEISCHNER: …and the septic?

MR. WEISS: The septic is heading towards the back, that's correct.

MR. BAUSE: Correct.

MR. COFONI: And I would think moving anywhere significantly would mean you would have to expand your driveway to be able to…because obviously if you're storing a boat in there you need to be able to…

MR. BAUSE: Correct. How are you going to get it in and out. That's correct.

MR. WEISS: Ok, so your home is in obviously in the Bennington Woods which is in the middle of a residential neighborhood but building this garage, a second garage, what kind of impact do you think it will have on the community, on the neighbors?

MR. BAUSE: I've spoken to my neighbor who is directly affected by it on the side there; he's ok with it because it's near his woods. He sees no issue with it whatsoever. And I think it adds…it adds value to my house at least. I mean it's…if you see my house it's architecturally pleasing it's a very very nice house. I've spent a lot of money, invested a lot of money in my house in the last couple of years making it much nicer and for me it add value, its…everything I've done is nice.

MR. WEISS: It's the objective of the Planning Board to make sure that there is no substantial detriment to the public and that granting this variance will not impair our Zoning Plan we do say that if we were to grant you such a variance it would not be impair the Zoning Plan in place.

MR. BAUSE: No, sir.

MR. WEISS: And the second garage…are there other homes that you know of that have a second garage or…

MR. BAUSE: Yes, there was…June 19, 2014 there was a Planning Board Meeting here for a gentleman that lives at 70 Kevin Drive, Mr. Dalton, I believe he used to own the unfinished furniture store down in Flanders. He was granted a variance for a…he got both a Height Variance and I believe a Setback Variance for a detached garage at this property which is right down the street.

MR. WEISS: So, I guess the answer to questions is there are other homes that have…

MR. BAUSE: Yes, sir, I'm sorry. I was…

MR. WEISS: Obviously because what happened with Mr. Dalton would certainly have no bearing on what happens here this evening.

MR. BAUSE: Ok.

MR. WEISS: The question was there are other homes in the neighborhood that have an accessory structure.

MR. BAUSE: Yes, sir.

MR. WEISS: And so your testimony is that you don't believe that if we grant such a variance it would have any negative impact on the neighborhood.

MR. BAUSE: That's correct, Sir.

MR. WEISS: I have no other questions. Does anybody else have any questions? Tiena, do you feel that the positive criteria and negative criteria has been addressed.

MS. COFONI: Yes.

MR. WEISS: I'm satisfied that the same. At this point, let me open it to the public. If anybody from the public has any questions on the testimony delivered by Mr. Bause now is the time to ask. Seeing none, I'll close it to the public. Planning Board, any comments, questions, suggestions? Motions?

MR. FLEISCHNER: I move we approve PB 16-07, Jeffrey Bause - variance for an Accessory Structure.

MR. NELSEN: Second.

MR. WEISS: That was Joe on the motion and Dan on the second. Any comments? Seeing none, Catherine, roll call.

ROLL CALL:

Joe Fleischner	- yes
Brian Schaechter	- yes
Nelson Russell	- yes
David Koptyra	- yes
Henry Fastert	- yes
Dan Nelsen	- yes
Scott Van Ness	- yes
Kim Mott	- yes
Howie Weiss	- yes

MR. WEISS: Mr. Bause, congratulations.

MR. BAUSE: Thank you.

MR. WEISS: In about a month a resolution will be prepared for you. You can pick that up, pick up your permits, and begin at that point.

MR. BAUSE: Ok. Thank you, guys. I appreciate it, thank you.

MR. WEISS: Thank you. I guess we can take a 40 minute break…

MR. WEISS: Just kidding.

DEVELOPMENT MATTER PB 16-06 – MOTION – 3 HARRIS LANE – BLOCK 8200, LOT 10

MR. WEISS: Let's bring up our second Development Matter PB 16-06, Motion, here for a Use Variance and an amended Preliminary and Final Site Plan, 3 Harris Lane, Block 8200, Lot 10. Mr. Heymann on behalf of the applicant, Good Evening.

MR. HEYMANN: Good Evening.

MR. WEISS: That is the last one of the night.

MR. RUSSELL: I can't vote on this.

MR. WEISS: That's right. You represent the Mayor. Nelson, you're excused. And one second, Joe, you have a question.

MR. FLEISCHNER: I would like the attorney first to rule on a question before we begin this full application in fairness to the applicant is an acceptable after we have approved a…we've approved construction on this site. And now the…individual is coming back for a Use Variance which is a temporary.

MS. COFONI: Yes.

MR. FLEISCHNER: So could you just for the record rule on this so we are all clear before we do our thing. Please.

MS. COFONI: The only reason I'm hesitating is I wonder if perhaps we should listen to what they are proposing before I kind of explain to you…I will tell you this…you have the ability to rule on it and considering you have several options on how you can rule, it's ultimately going to be up to the Planning Board. I don't want to put words in their mouth as to what they are proposing which is why I'm hesitating so if we want to let them at least, maybe Mr. Heymann, could at least present what they are going to do and then I can provide the board with options to keep in mind while we are going over…

MR. FLEISCHNER: My question really wasn't…are there options? My question is can you now come back to this board and say I want to Use Variance when you already have an approval to go ahead and do something.

MS. COFONI: Ok.

MR. FLEISCHNER: So that's…so that's my only question.

MS. COFONI: Alright. So I will start.

MR. FLEISCHNER: Yes, and that's for the whole board, not just me. I just want to make sure we're…everything…

MS. COFONI: I guess there's not an easy way to do this. Can they come back and ask for something else? Always. They can always come back for something different. I think the question that you're getting at is whether they can come back for something different and still preserve their right to do the original.

MR. FLEISCHNER: Correct.

MS. COFONI: And, that typically does not happen. Typically what happens is a Planning Board will grant an approval and affirmatively state you may or may not remember in resolutions we do this, state that the previous approval is rescinded and no longer valid. That means that if the Planning Board wants the opposite to occur that if you want the previous approval to remain valid and is then, therefore, available to the applicant in accordance with the law however long they would be able to normally you know have that approval. Their protection periods would be the same under the normal course. Then the Planning Board could make that affirmative ruling as well. So that's not something that's actually set in stone or statute or anything like that. That's an affirmative decision by the Planning Board. Typically we do the opposite we will set your previous approvals eliminated this…this now supersedes your previous approval. That being said, typically an applicant isn't requesting that their previous approval remain. Because this is a little bit unique because it's a temporary...

MR. FLEISCHNER: That's what I mean…

MS. COFONI: So, yes. That's clearly what they are requesting. So yes, you can do that. You can also say no. And say that when you grant the variance, you cannot revert back. But that's a decision of the Planning Board. Did that answer your question?

MR. FLEISCHNER: Sort of. I just wanted to make sure what we are doing is legal. That's all.

MS. COFONI: Yes.

MR. FLEISCHNER: Either voting, either direction, that's not my concern at this point. My concern was if someone comes before us for some kind of new thing, does that negate what they got before. That's basically…

MS. COFONI: And the answer is, if the Planning Board and their approvals says it negates the previous approvals, then it does. In this case, they are requesting that it does not, in which case Planning Board could choose whether or not (inaudible) approval. If you approve these state they still have the underlying approval.

MR. FLEISCHNER: I just want to make sure there are no other legal challenges anywhere down the road or anything like that.

MR. WEISS: Vision, as always, Joe. David, you have a question?

MR. KOPTYRA: Properly noticed?

MS. NATAFALUSY: Yes.

MR. WEISS: Wouldn't be here if it wasn't. Mr. Hayman do you agree with the comments made by Mr. McGroarty?

MR. HEYMANN: Yes, in Mr. McGroarty's report said that Ms. Caldwell, our expert, she and I had a conversation about this tonight, I'll agree Ms. Cofoni, it's probably not seen that often but it's not highly unusual, it does happen sometimes, where I've had a project in Randolph where we once put in commercial downstairs and we came back and put in residential above. We didn't…we didn't lose what we have done before and it was a misuse and it was granted without using it so we did change the use. In this case, and I'll be brief, Mr. Dellamo is only proposing to do this in a very temporary basis. He'll testify, but I can tell you the time frame because we've spoken about it, it will be no more than two years. While he puts everything together for the construction of the building that he was approved, I believe, back a year…I believe in February…February, or the year before, it was memorialized I believe in February of this year and that's really it. He'll testify very briefly, Ms. Caldwell, Mr. Glasson is going to show you the overlay of the…of the parking lot because in speaking with Ms. Natafalusy he wanted it to be a very specific on what we are proposing to do, where the cars will go, and that's really it.

MR. WEISS: So why don't we start with the…let's swear in the three expert…the three witness at the same time.

MR. HEYMANN: Yes.

MR. WEISS: If you would take the direction, Tiena.

(BEN DELLAMO IS SWORN IN FOR THE RECORD)
(JAMES GLASSON IS SWORN IN FOR THE RECORD
(JESSICA CALDWELL IS SWORN IN FOR THE RECORD)

MS. COFONI: If you want Mr. Heymann whoever you want to have testify first.

MR. HEYMANN: Mr. Dellamo is going to go first.

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

MR. DELLAMO: Ben Dellamo (D E L L A M O), 30 Church Street, Netcong 07857

MS. COFONI: Thank you.

MR. HAYMAN: Then there will be Mr. Glasson.

MS. COFONI: Ok.

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. HAYMAN: And Ms. Caldwell.

MS. CALDWELL: Jessica Caldwell (C A L D W E L L), 122 Main Street, Suite 104, Newton 07860

MS. COFONI: Thank you.

MR. HAYMAN: Just for purposes of moving this along, too, both my experts testified here before, I don't know if you want me to re-qualify them or you'll accept them both one is in the field of engineering, one from the field of planning.

MR. WEISS: Well I will encourage Planning Board to accept both your experts as…both your witnesses as experts in the field of Mr. Glasson as our expert engineer and Ms. Caldwell as our expert planner.

MR. HEYMANN: Thank you.

MR. WEISS: Any disagreement to that? I didn't think so. Ok.

MR. HEYMANN: Thanks. So, Mr. Dellamo, you are the owner of a business here in town. What is that business?

MR. DELLAMO: Motion KIA.

MR. HEYMANN: That is an automobile business? Correct?

MR. DELLAMO: Correct.

MR. HEYMANN: Dealership with Service Center?

MR. DELLAMO: Correct.

MR. HEYMANN: I know we can before this board…at least two occasions…with regard to this application on 3 Harris Lane. Correct?

MR. DELLAMO: Correct.

MR. HEYMANN: And that's property you purchased several years ago. Am I right?

MR. DELLAMO: We actually came in front of them in 04 to put the existing building up in where Lincoln Mercury is.

MR. HEYMANN: …but in the present application at 3 Harris Lane, we were here back I believe began in November, December, and we got approvals a little bit later. Correct?

MR. DELLAMO: Correct.

MR. HEYMANN: We hired the same experts and the same professionals are here tonight.

MR. DELLAMO: Correct.

MR. HEYMANN: And that was a piece of property that you purchased correct?

MR. DELLAMO: Correct.

MR. HAYMAN: And the purpose was to build a dealership there one day along with a service center. Correct?

MR DELLAMO: Correct.

MR. HEYMANN: Alright, so, what…what…just so the board is educated on what you are doing, you are in the process of putting that together?

MR. DELLAMO: Correct.

MR. HEYMANN: And what does that mean? Do you have to get finance, do you have to get your dealership, just a little more education here.

MR. DELLAMO: Well, it's basically a small business problem that I have…I have engaged in another project that I'm doing and I need to get my guys off that and come to this one. The reason for parking and clearing it all up is so that I can expand. When you are a small business, I'm sure anybody who's in business or just watches TV its tuff right now. Especially for dealerships we know we have turnover up there, we are going to have it again. We need to in today's economy have two flags. Flags are an example of KIA, Hyundai, Honda, they are considered flags. It's very hard in the state of New Jersey and very few single point flags are available. So to stay solvent and not have to sell what's going on in that area, I need to have two flags. In doing that, I need time to approach another flag, considering finance, show improvements, show plans, and market it. It's not something that happens overnight. I've been in business for 37 years this October. And it's a sign of the times.

MR. HEYMANN: How many vehicles do you…are…do you anticipate parking here?

MR. DELLAMO: No more than 62 cars. There is not that many there now. I have been parking on it. I parked last year on it. It was parking before. There are no trucks in there. The amount of people that are on that lot in the course of a week maybe five to seven total. And they all are employed by me. There's no business being done other there. The trucks…

MR. HEYMANN: That's always a safety concern. So, no…no vehicles…none of your tractor trailers are going to be parked…come there.

MR. DELLAMO: No vehicles are being delivered there.

MR. HEYMANN: You're going to come to the KIA Dealership across the road and your employees will drive them over.

MR. DELLAMO: That's correct.

MR. HEYMANN: And for the most part they will be stored there until…a spot on your lot because you are selling the vehicles. Correct?

MR. DELLAMO: Correct.

MR. HEYMANN: And…

MR. WEISS: Hold one second.

MR. HEYMANN: Sure, there is a question. Yes?

MR. FASTERT: The cars that will be parked there for the KIA Dealership…

MR. DELLAMO: Correct.

MR. FASTERT: …will all be new cars? Will there be used cars over there as well?

MR. DELLAMO: Primarily there are new right now. There are…sometimes they're what are called lease returns which are new cars going back. But, primarily they are used; or no I apologize new.

MR. FASTERT: And is this primarily for storage or would salesman show cars there?

MR. DELLAMO: No. We have no customers on that lot.

MR. FASTERT: So, it's just a holding lot.

MR. DELLAMO: It's just a holding lot so that we take them off, we bring them over, and we bring them back.

MR. HEYMANN: There will be no buildings built there, nothing at this point.

MR. DELLAMO: In the near future, there will be. But for this point, no.

MR. HEYMANN: And again, to answer the question because of what we are asking for. This is only temporary. Correct?

MR. DELLAMO: Correct.

MR. HEYMANN: You're asking this board for a time frame of no more than two years. They might limit even that to some extent but…

MR. DELLAMO: Correct.

MR. HEYMANN: …in your mind that would be enough for you to get everything lined up. I know you have another project going up in Jefferson until that's done you don't want to come down here. Correct?

MR. DELLAMO: And there's negotiations that I need to have flexibility to get the flag that's right for that area.

MR. FASTERT: Mr. Heymann?

MR. HEYMANN: Yes.

MR. FASTERT: I'm not quite finished yet. Will that parking lot be lit?

MR. DELLAMO: No. Actually there is enough light there from the Route 46 and the Chevy Dealer as people has testified. No, it will not be lit.

MR. FASTERT: So it's sufficiently secure…

MR. DELLAMO: In this parking lot has no customers in it, no one is there at night, and we are specifically using it, so…it's a convenience to the company.

MR. FASTERT: I was thinking more for security.

MR. DELLAMO: Cars have been there a long time, and I've been up there since 2002 and I've never had an issue. Cars have been there a little while.

MR. VAN NESS: So it's just a storage lot.

MR. DELLAMO: Just a storage lot. That's all it is.

MR. VAN NESS: You'll agree to a stipulation that no customers will be brought over there?

MR. DELLAMO: That's correct.

MR. VAN NESS: That's part of the resolution if you get that far

MR. FLEISCHNER: I do have a question. If I may, Mr. Chairman?

MR. WEISS: Please.

MR. FLEISCHNER: And not to be adversarial.

MR. DELLAMO: Why start now?

MR. FLEISCHNER: Right. But, cars have been there a long time.

MR. DELLAMO: A long time? That's not true.

MR. FLEISCHNER: It's arbitrary, but anyway…

MR. DELLAMO: That's not true; cars have not been there a long time.

MR. FLEISCHNER: What prompts you to come now instead of last month or month before?

MR. DELLAMO: To be honest with you, I didn't think I had to be here at all.

MR. FLEISCHNER: Oh, ok.

MR. DELLAMO: Ok. I'll tell you the truth, I didn't I have to be here at all. I thought I had the right to use my property to park cars there, I was informed, I don't believe I need a variance to do this. I think it should have been part of the original application. And I sit on a Planning Board. I think this is absolutely…

MR. FLEISCHNER: I agree with you.

MR. DELLAMO: I think this is absolutely crazy …yes…I agree with you too. I think this is crazy. This cost me about $12,000 to be here.

MR. HEYMANN: What happened was, I think Ms. Natafalusy brought it to the attention, as soon as Mr. Dellamo found out that we need to do something we filed the application and paid our fees and we are here.

MS. NATAFALUSY: And you were put on the next available agenda.

MR. HEYMANN: Yes, so I really don't have any more for Mr. Dellamo just to answer for me if you have any questions, he is not leaving…

MR. MCGROARTY: I have questions.

MR. WEISS: Chuck, go ahead.

MR. MCGROARTY: Mr. Dellamo, are you going to do any repairs on the site.

MR. DELLAMO: Nothing. Strictly storage.

MR. MCGROARTY: And in two years' time that the board granted the two years to come here, you anticipate at that point, you'll be in a position to move ahead or do you think…

MR. DELLAMO: I believe I'll be moving already by then. I think two years is ample time. I think I will already have construction permits and be gone by then.

MR. MCGROARTY: You don't anticipate it going past two years?

MR. DELLAMO: No. I do not.

MR. MCGROARTY: Alright. You already said that there was no lighting, no fencing…

MR. DELLAMO: You know, I wouldn't mind putting a fence across there, some kind of temporary fence there, but I really don't feel I need it. There's cars all other there…I mean, you don't fence in cars. We haven't had a problem.

MR. MCGROARTY: I'm just…I mean…

MR. DELLAMO: Yes.

MR. MCGROARTY: …I'm not telling you, you should, I'm just asking.

MR. DELLAMO: Yes, I thought about it. And I would do whatever the board recommends to be honest with you, I'm…it doesn't matter to me either way. It has its pros and its cons.

MR. MCGROARTY: Yes, I'm not, I'm just asking because there is a reason why you're here and I don't know if Mr. Fleischner disagrees or not we don't have to go through that but there is a reason, at least we feel there is a reason why temporary was not part of the original approval because we're here to talk about the future not what happened then. Signage, you got approvals for signage but for this temporary period…

MR. DELLAMO: Nothing.

MR. MCGROARTY: Nothing. Ok. That's all I have. Thank you.

MR. WEISS: I think we should before we end this evening we definitely to come back and readdress the time period. Although I hear Ben being real optimistic, I'm very realistic and I understand as good as the next person would, what is takes in the world of financing I think we need to come in with some provision for the time frame. I appreciate the two years. I think we need to nail that down in a better way for both of us. So we will come back to that.

MR. HEYMANN: Ok. We felt that was fair.

MR. WEISS: I agree.

MR. HEYMANN: And you're thinking it's more. I mean more fair but because I don't know…I don't want to come back to you again. But…and Mr. Dellamo thought it would be less and then he and I had a conversation. I said let's not cut ourselves short. So that's why we said two years. I mean, Mr. Dellamo he intends to do something sooner than that but I don't want to get into a situation where it doesn't happen and…

MR. WEISS: Let's make sure we address that.

MR. HEYMANN: Exactly. Ok.

MR. FLEISCHNER: The original application was two years and that's when the residents of the neighborhood were here on the original application.

INAUDIBLE: Was is two years?

MR. FLEISCHNER: To change it now…

MR. DELLAMO: That's entirely different…

INAUDIBLE: No we didn't say two years…

MR. DELLAMO: And I'm not even suggesting we change it…

MR. WEISS: I just want to make sure that there's something in place that we don't have to start this all over process again.

MR. DELLAMO: Thank you. I agree.

MR. WEISS: Like we do with every other builder for example whose building a housing development and after 18 months or 19 or 22 months come back and say I'm almost there I've just signed my financing. Whatever the scenario may be...

MR. DELLAMO: That's fine…

MR. WEISS: …we should talk about it. And not handicap either one of us.

MR. DELLAMO: Ok.

MR. WEISS: Anything else for Mr. Dellamo?

MR. DELLAMO: Ok. Then I'm going to…

MR. WEISS: I'm going to open to the public…

MR. DELLAMO: Oh. Ok.

MR. WEISS: …to see if the public has any questions for Mr. Dellamo. And of course seeing none from the public, I'll close it to the public. Ben, thank you very much.

MR. DELLAMO: Thank you.

MR. WEISS: Ron?

MR. HEYMANN: To reach Mr. Glasson do we need a mic or I don't know how?

MS. NATAFALUSY: Right there.

MR. HEYMANN: Jim, why don't you just give an overview of what we want to do? I don't think there's any reason to go over what we did. So why don't we just explain what you've drawn and what the board…

MR. GLASSON: What will do is pretty simple. It really mirrors the layout…the previous layout that we were approved for for the site plan with the building. The building sat in this location. Again the site has really two tiers to it. This is an upper area at a higher elevation, this is a lower area. Our original design has this aisle width coming in traveling up the hill area and some more parking up here with our service entrance to the rear of the building. That building sat at this location so basically what we're doing is looking at placing cars in that front area that we previously had with the site plan. We are looking for 62 vehicles and kind of cut it off. They are stacked vehicles because they are quite lengthy.

MR. WEISS: I'm sorry to interrupt. Would you please mark that one A1 with today's date?

MR. COFONI: Can you just tell me what it's dated and the title too, please.

MR. GLASSON: Site Layout for Temporary Parking Site Plan, Lot 10, Block 8200.

MR. WEISS: Which is sheet three of three?

MR. GLASSON: Sheet three of three.

MR. NELSEN: You said A1.

MR. HEYMANN: Yes. What's the date of that, Jim.

MR. GLASSON: It is dated 3/8/16. Basically, we we are proposing a gravel parking area I've darkened the area as proposed to the parking the other area is actually out here. It's already a stoned area that we had on the previous site plan so I'm kind of showing you in a lighter…lighter grey here the area that's already stoned out there this area we would replace six inches of compacted stone, a more stable stone area but we're looking for just temporary parking area with just a single isle all the way through 25 wide and we'll maintain that isle way very much the same layout that they had on the other parking plan and basically it would provide for 62 spaces. It's really that simple. Stacked spaces on the lower side adjacent to 46 this being where Route 46 is this property is about 160 feet from that intersection with 46. This dealership is only about 200 feet up Route 46 so you come out of her and hit the stop sign on Harris and take a right hand turn the dealership is on the left about 200 feet up so it's really close so for them to get there move cars over here and take cars back over to the dealership it's really short haul. Really that's all we are looking for. I've shown 9 by 18 spaces, I know your space requirements are 9 by 20 or 10 by 18 but there are going to be stacked cars. They are all quite frankly KIAs which were smaller cars and they just stack them so we didn't feel the need to define spaces.

MR. HEYMANN: Mr. Glasson, the chance to look at the report from Mr.…Buczynski right and we do need a waiver because we are asking for the gravel. Correct?

MR. GLASSON: Right.

MR. WEISS: Just to make it correct Mr. Buczynski didn't really provide a report. He had comments to Chuck's report.

MR. HEYMANN: Yes, a memo. Let's call it that.

MR. WEISS: So, if you wanted to do that, let's address…I guess we can address Gene's comments to Chuck's report we'll come back to Chuck's report when…

MR. HEYMANN: Yes, this is a memo that Mr. Buczynski sent to us on Monday, April 11, and you received a copy too both from me as well as…so that is a waiver request that he pointed out…

MR. GLASSON: Hopefully that wouldn't be required to be paved I also requested that later on…

MR. HEYMANN: I guess in Mr. McGroarty's report then there are a couple of other design waivers, I think that you already addressed the parking space dimensions. Correct? And you talked

about the maneuver; I'm on Page 2 of Mr. McGroarty's April 8th's report. Some of the other things will be addressed by Ms. Caldwell but I think these are more in line with the…mine as well talk about some of those variances, Jim, if you want even though Jessica will talk about them also.

MR. GLASSON: The two variances are the same the Inherit Variance is with the lot or insufficient lot area it's a C-2 Zone. Ultimately we'll end up with a lot after we do it…we are going to do a dedication as part of this plan also. Part of the previous plan it showed the dedication to have it on Harris Lane we will still make that dedication now with this and so that dedication…so that 2,200 or 2,100 square feet and it reestablishes that Harris Lane Right-Of-Way to give a better width and make it more concentric so the actual property size goes from 1.53 that it is presently to 1.47. Your C-2 Zone requires 2 acres so we had previously received a variance for the insufficient lot area of two acres that we now end up at 1.47 that has not changed. Nor has the insufficient lot depth requirement…

MR. WEISS: Could you hold on a second?

MR. McGROARTY: Let me say this Jim to interrupt your testimony, if I may, because I think it will speed it up. The reason why I listed all the variances and the design wear is because you came in on the site plan with as far as we knew there was no time limit.

MR. GLASSON: Ok.

MR. McGROARTY: Ok. And that's what…without laboring the point why we treated it as a Use Variance because you can't have parking without a principle use, etc. Now since we know this evening, the proposal is two years, I think a lot…then it clearly makes sense that a lot of the site plan requirements can be either relaxed, waived, or what have you because you're going to put all that buffering in now it could be…it complicates the site plan coming in so, it's the board's pleasure but I think we can cut through a lot of the testimony on the deficiencies as it were on the temporary parking…

MR. HEYMANN: That's fine.

MR. McGROARTY: …if in fact it's going to be like that two year period or some point in the near future like that

MR. HEYMANN: It will be Mr. McGroarty and Mr. Weiss that is the proposal we have…we clarified that for you today. I appreciate that. I just want to make sure the record didn't have any hiccups in it so I agree we have gone through all this previous so I don't really have…Jim, that pretty much finishes up…unless there are questions…

MR. FASTERT: Do you compact the stone, is this dust going to impact the neighbors or the adjoining properties.

MR. GLASSON: It shouldn't, …inaudible…compacted QP stone. It's a roll blend so really it's usually pretty stable.

INAUDIBLE

MR. BUCZYNSKI: Just regarding that, Mr. Glasson, I know there's a lot of cars parked there right now and some on the grass area too. There have been no problems or concerns regarding them…that area…as far as depressions? It seems pretty stable, isn't it? When I was there the other day, it seemed fine.

MR. GLASSON: There was gravel there for years, they used to park trucks there…

MR. BUCZYNSKI: I don't see a major problem with granting a design waiver especially since it's going to be temporary. I guess the Zoning Officer will review it over time to see if there is problems that could put more stone down if need be.

MR. FASTERT: I don't want them I'd create a dust ball there for the neighbors.

MR. BUCZYNSKI: No, there won't be any dust. It compacts pretty well.

MR. WEISS: Are these parking spaces be delineated anyway? Or just kind of stops?

MR. GLASSON: That's why 62. I come up with 62 that and an isle way must be maintained. Really that's the perimeter. That's the only real perimeter I can do. I'm just trying to show you the spaces. But they will have to maintain an aisle.

MR. WEISS: Scott.

MR. VAN NESS: Why just 62? Is it an arbitrary number? Is it…

MR. GLASSON: It's not so arbitrary if you take the overlay and overlay what we are doing later on. So it kind of matches us to what we are doing later on.

MR. VAN NESS: So you're saying that this area here is eventually be developed as a paved area?

MR. GLASSON: Yes, paved and curbed eventually.

MR. VAN NESS: And it will have its base in already.

MR. GLASSON: Well at lease have sometime there but I try to follow that same…you know…we came up with a number we took what we had in that area already and said that would be sufficient.

MR. VAN NESS: Is there any contingencies for the idea that it will exceed 62 cars?

MR. GLASSON: They will not exceed 62 cars.

MR. HEYMANN: We will agree as a condition.

MR. WEISS: Ok. Anybody else for Mr. Glasson? Gene, anything else, Chuck…

MR. McGROARTY: No, I don't.

MR. WEISS: Ok, so basically, Jim, you were done with Chuck's report. Any comments to address? Tiena?

MS. COFONI: I don't know maybe Mr. Glasson this might be for you. There's been talk about that there is cars stored there now. Do you know how many cars are stored there now?

MR. HEYMANN: How many cars are stored there now? Number wise, do you know?

MR. DELLAMO: The most I've had there and I did go over and look maybe one or two but I believe it will be in the 40's.

MS. COFONI: Ok.

MR. DELLAMO: High 40's.

MR. BUCZYNSKI: High 40's.

MR. DELLAMO: I don't know…

MR. WEISS: So let me give it to the public, if anyone has any questions. You are done, Jim?

MR. GLASSON: Yes.

MR. WEISS: If anybody has any questions for Mr. Glasson on the testimony that he just delivered, I see no one from the public. I'll close it to the public. Mr. Heymann?

MR. HEYMANN: Ms. Caldwell, and I think what Mr. McGroarty has stated before…what you inclined about I think we could avoid most of the variances and just go into the Use Variance.

MS. COFONI: I guess want to interrupt for a second here just because I want to make sure I understand when Chuck was saying I think that the variances are still required even though it's on a temporary basis.

MR. McGROARTY: I think so but they…

MS. COFONI: The proofs may be partly the fact that they are temporary. I mean that may go towards supporting the reason to grant the variances. But I would think that they still need those variances.

MR. McGROARTY: Well, yes, I mean I agree but I what I was trying to say is that the…all the difference components of a site plan application most of them…with the application that we heard a year or two ago that would have fully satisfied. Now, none of it is satisfied because it is temporary but tonight we are told there is a very specific time limit. So, yes, I think that we would say the board is aware of that this temporary parking arrangement doesn't satisfy really any of the standards to the Site Plan Ordinance. But, you're hearing the application with the understanding that this is not going to be in perpetuity it's just going to have a limited time frame. So if you want to go through all them, list them, we could do that or there experts can do that. I just thought…

MS. COFONI: Well they're in your report, so…

MR. McGROARTY: Well they're in my report because like I said I didn't know there was any time limit. So, in my…my understanding of it was this would last forever.

MS. COFONI: Right.

MR. McGROARTY: So, yes, I think they…maybe almost with the…almost with the Price Case with the New Jersey Supreme Court Case where if under the d-Variance as you know…inaudible…variances and bulk variances alike get recognized maybe we just have testimony on the Use Variance and the fact that it has a limited duration and maybe the rest of that makes sense. Does that make sense?

MS. COFONI: I think so.

MR. McGROARTY: Because we don't…the reason I say that is to put it in English. Is the ordinance doesn't have permission for temporary parking. If it did, we would treat it differently. So we don't. So, any use on the property has to have a principle use there first. The parking is accessory. And so Mr. Dellamo is not ready to put the dealership there yet. So there is no principle use. So you can't just park cars there. We don't have a provision in the ordinance that says you can do a parking lot. Not without the business that accompanies it. That's where all this is coming from. So, Ms. Caldwell is now going to tell us or tell you that there is a basis to grant this relief for a period of time. I would assume she is going to testify for that. Perhaps the rest of the stuff that the engineering issues fall into place in that context.

MR. HEYMANN: That's the perfect segue. Ms. Caldwell, go ahead.

MR. WEISS: Ms. Caldwell let's see what you have for us.

MS. CALDWELL: Ok. Thank you. I am testifying to our accessory use that we are proposing without a Primary Principal Use. It's a temporary storage of parking that's connected to the KIA Dealership across the street. In giving my testimony I will incorporate as Mr. McGroarty said the design waivers that were listed in his report. As well as the insufficient lot area and insufficient lot depth in terms of the reasoning for the d-1 that encompasses all of that particularly because it is a temporary use. In terms of meeting a d-1 Use Variance criteria, we have the positive and negative criteria. In order to meet the positive criteria, we look to the Municipal Master Plan to see if we are forwarding any of the goals of the Master Plan. In this case, I looked at the 2010 Master Plan Re-examination Report which has a goal relative of this area for commercial industrial uses to discourage additional strip retail development along the township's major arterials of Route 46 and Route 206 and explore alternative land uses for these areas that are more compatible with the neighboring land uses that minimizes the traffic burden. We feel this being a temporary use, being a lesser intense use than the permitted sight plan, that it does create that alternative land use and lessen vehicular traffic in the area at least temporarily. We also look if we are forwarding any of the purposes of the Municipal Land Use Law. I identified Purpose G which is to provide sufficient space in an appropriate locations for a variety of agricultural residential commercial industrial uses and also Purpose M which is to encourage the coordination of the various public and private procedures and activities shaping land development with the view of lessening the cost of such development and to the more efficient use of land. The proposal provides for an interim use of the property which the applicant is looking for mechanisms to construct an approved Site Plan. This enables for efficient use in operation of the existing KIA across the street while still providing for productive use of this property on an interim basis. In terms of the negative criteria, we look to see that there is no substantial detriment to the public good or substantial impairment to the Zone Plan. The property is zoned for commercial use and contemplates commercial

parking on this site. The temporary use is a low impact use as was testified. There will be no customers on this site, there is no tractor trailers going on this site to drop off the cars; they get dropped off by employees of the KIA and they sit there for whatever period of time until a car is sold and then they are moved across the street. There will be no other customer or vehicular traffic besides those cars being brought on and off the site. So, it is a very low impact use compared to what other types of uses could be permitted on the site, as well as, the existing approved site plan. In terms of substantial impairment to the Zone Plan on the proposal promotes one of the commercial goals of the Municipal Master Plan and is only proposed on a temporary basis as has been discussed. And the long term plan is to implement and approve site plan which also furthers the Master Plan because it is a permitted use on the site. In terms of Medici Case Law, we need to look at whether or not this site is particularly fitted to the use. I provided several findings which respect to that. The use can be conducted on the site with very minimal disturbance to the existing property as we said we are just putting 6 inches processed quarry stone on the property to provide for the parking using an existing access. The property is in close proximity to the dealership that is storing the automobiles for. The property is also approved for an auto dealership and that's the storage of cars on the site is contemplated and there's adequate circulation from Route 46 and Harris Lane to provide for the storage of the vehicles. Since I'm not really addressing the bulk variances, and I think that are incorporated into the entire idea of the temporary use and it could be conducted on the site without any substantial detriment to the neighbors or to the zone plan. I believe the board is well within their rights to grant these requested variances.

MR. HEYMANN: I don't have anything further to cover the use variance Mr. McGroarty was brought up in his report obviously because he didn't have any idea of the time frame which makes sense and we could go over the other variances which are bulk but you already granted those in the previous application. They remain the same other than we are shrinking I will send a proposed deed for the Harris Lane dedication to Catherine and whomever it goes to review, Gene, or whoever.

MR. WEISS: Chuck, do you have any comments for Ms. Caldwell?

MR. McGROARTY: Well I have comments for the board. I…you know…I don't think this application would meet the special needs test or the negative criteria test if not for the time period that they are suggesting. If this were long term, I would say there is no way that this is consistent with the purposes of the land use law and I don't think it furthers the township's ordinance. And I don't…but I appreciate the spot Ms. Caldwell is in, because it sort of makes sense for the temporary situation. So, I won't argue or debate with the logic of the presentation…you know…working with what she has I think she made a cogent. Again, I would say if there is a time limit, that's important and the key issue, again will be between Mr. Heymann and Tiena for the board's discussion. Is…a variance runs with the land so it's permanent so the applicant…if the applicant would have to agree to vacate the variance…let the variance have a sunset provision so when such time as the car dealership is built. The variance for temporary parking goes away.

MR. HEYMANN: I would just …I will agree to extinguish the variance at the expiration of that time frame. I think that's a fair request. And I think that's the only way to handle it because I do agree with you. Legally the variance run go with the land which we have no intent to do. The only question will be is what Mr. Weiss and the board agree…determines what is to be a fair amount of time. But, I think that makes it easiest that if the resolution that was granted is written in that manner to state that than that becomes a self-perpetuating issue that will go away whenever that day is.

MR. WEISS: I suppose the condition would ultimately be that the variance will expire when the permits…inaudible…

MR. McGROARTY: I would extend…from a layman's point of view, I would extent the past the time when the dealership is…you know…up and has a CO and is ready to operate.

MS. COFONI: Which is no later than two years from the date of the resolution ?

MR. McGROARTY: Don't put it just at the point of a building permit

MS. WEISS: No I don't think so. I think it can be two years before they start construction. So the question is going to be…go ahead Joe.

MR. FLEISCHNER: What I would propose is and I agree with what Howie was starting to say. I would say that a time limit of 30 months because if the applicant feels within two years he's going to start construction there needs to be an overlap period. I really believe in that and that gives an extra six months because even while the construction is going I don't know how he is going to keep cars there

anyway. And I'm still to be honest with you I don't know where in our ordinance, Chuck, that if you have a business does it necessarily say in our ordinance that the parking lot must be contiguous with the building itself?

MR. McGROARTY: Yes.

MR. FLEISCHNER: It does?

MR. McGROARTY: Not contiguous to the building itself. What is says is accessory use is only…and that's why it's call accessory use…

MR. FLEISCHNER: I understand that.

MR. McGROARTY: And that's not just an ordinance, that's Case Law, Municipal Land Use Law. If you have what is known as an Accessory Use, it has to be accessory to something and that is the Principle Use and yes, they do have to be on the same lot.

MR. FLEISCHNER: Ok. Because to me that's…across the street is almost like the same lot.

MR. McGROARTY: No.

MR. FLEISCHNER: But, I understand that…I understand that. But I mean I personally feel there should be an overlap of at least six months from the gap. I don't know how the rest of the board feels…

MR. HEYMANN: That's more than fair. I'm sorry to argue with you.

MR. FLEISCHNER: …because I don't think you can have an exact two years.

MR. SCHAECHTER: I would think the 36 months. Just in case they run into construction delay with the dealership.

MR. HEYMANN: I don't want to debate…whatever…that's more than fair…that's more than fair…whatever you guys agree, and the ladies agree, I'm ok.

MR. SCHAECHTER: We like having Motion here. We've now given them three nights. Two years from now do we want to give them another night so they can come back and say I need another six months? Let's just do the right thing and give them enough time to build the building and build his dealership.

MR. FLEISCHNER: But what did the original, and I don't recall, what the original approval of this…was

MR. MCGROARTY: There is no time. I mean the site plan…had the option to protect the site plan in and the zone change but the site plan is good.

MS. COFONI: Right.

MR. BUCZYNSKI: The only time limit is in the Developer's Agreement and they would have a Developer's Agreement for that Site Plan. Developer's Agreements normally have two years since starting improvements.

MR. FLEISCHNER: The only reason why I raise that, in 43 years of living here we've got burnt a lot of times in this township. Over things that were approved years and years and years ago. So, I think a time limit is appropriate.

MR. HEYMANN: So do we.

MR. FLEISCHNER: So, I mean I still think an extra six months is certainly reasonable in my mind.

MR. WEISS: Doesn't the applicant have the right after…after 30 months; if they are slightly behind they can come in front of us and say they need a little more time?

MS. COFONI: Yes.

MR. WEISS: So, perhaps lets…I like Joe's number…36 it doesn't really matter. Henry, you have something you'd like to add?

MR. FASTERT: I think it's important that we have an actual time limit as opposed to tying into the construction of the dealership. Because what happens if the dealership never gets built for whatever the reason is. So, I think…

MS. COFONI: Agreed.

MR. FASTERT: …I've heard both and I think we should actually have a final time.

MS. COFONI: Which I think is what's being complicated. The two time periods that have been floated out are 30 months and 36 months. And I just put from the date of the adoption of the resolution.

MR. WEISS: Well, ok, which is what? Does the Planning Board have any preference whether it's 30 months, 24 months, 36 months? We will need to come up with something. Joe?

MR. FLEISCHNER: I would make a motion that the approval…

MR. WEISS: We're not ready yet…

MR. FLEISCHNER: …I understand that but I'm just saying the motion…30 months…of an extra six months which would be 30 months. The applicant himself feels actually it will take place before two years. Hopefully, it will. But, if doesn't he still has a buffer of six months which should be more than sufficient. And if it's not…and if it's not…nothing precludes the applicant from coming back to this board which we've had applicants come back to this board and ask for an extension. We've done that many, many times. So, I think 30 months is more than reasonable amount of time.

MR. WEISS: Scott?

MR. VAN NESS: I think it should be the applicant's request. It's not…who are we to decide for them. It's their request. They want 24 months…they want to change it, let them ask for it.

MR. WEISS: Mr. Heymann, do you think the applicant can come up with a number for us?

MR. HEYMANN: Would 30 months?

MR. DELLAMO: 30 months is fine.

MR. HEYMANN: 30 months is very fair.

MR. WEISS: Thank you, Scott. So the request is 30 months. I don't see any resistance from the Planning Board. I think the conversation is sound, sensible.

MR. BATSCH: Mr. Chair?

MR. WEISS: John, go ahead.

MR. BATSCH: Question for the applicant. Will there be any additional foot traffic on Route 46? How do you get from the KIA Dealership to the lot and back? I mean, will they be driven over?

MR. DELLAMO They drive over.

MR. BATSCH: So there will be no additional crossing on Route 46.

MR. DELLAMO: They are not supposed to.

MS. NATAFALUSY: How do they get back?

MR. DELLAMO: They drive two cars. I do have a question though. Because we've talked about the fence. As Catherine knows, before I put those cars over there, I had such a dumping issue with people. Somebody dumped an old boat there a couple months ago, basketball stuff, garbage; I actually had to have dumpsters come in a couple of times to clean it up. Since I've put the cars there, I haven't

had the problem. But you can't see the cars because they are down low from where the residents are in that area there. If I were to fence it because that was a suggestion to keep people out from dumping, do I have to come back here to put a fence on the one side? Just Harris Lane. Just so people stop dropping in…since the cars have been there, they haven't dumped but it has been a problem.

MR. MCGROARTY: Let me ask a question. What kind of fence? Open fence, chain link fence,…

MR. DELLAMO: Just a chain link fence. Something to keep people from driving through there and dumping garbage off.

MR. MCGROARTY: The ordinance is a six foot limit. It doesn't allow it in the front yard for residential.

MS. NATAFALUSY: Right.

MR. MCGROARTY: Commercial. Again, if the board…because when the dealership is built, the fence would go away.

MR. DELLAMO: Correct.

MR. MCGROARTY: So, If you're inclined to getting an approval for the 30 months as opposed to…subject to review by the Zoning Officer…

MR. DELLAMO: I just don't want to have to come back because…

MR. WEISS: There is no reason you have to come back. Why don't we just include…

MR. DELLAMO: …the dumping does…

MR. WEISS: So, if the applicant decides he wants to put up a fence, that's his prerogative, won't have to come back.

MS. NATAFALUSY: He doesn't have to come back here but he can get a Zoning Permit from Scott.

MR. DELLAMO: Right. I'll get a Zoning Permit, it's just the whole thing is crazy over there.

MR. WEISS: Ok. That's at your request.

MR. DELLAMO: Thank you.

MR. WEISS: Ok. Do we have anything else? Any open issues. Mr. Heymann, I know we just heard from your experts. I opened up the testimony to Ms. Caldwell to the public. And there was no body from the public. So I closed it to the public. Anything else?

MR. HAYMAN: No. The compromise of 30 months is more than fair. We appreciate that. With the fence and the conditions that we've already agreed to about the trucks and no people, everything that you've probably taken notes down are all fair so thank you. And hopefully you'll grant this request.

MR. WEISS: Anybody from the Planning Board have any questions, comments? Let me open to the public. If anybody from the public has any comments, any portion of the testimony that was delivered tonight now is a good time to speak and being there is no one here from the public. I will…

INAUDIBLE

MR. WEISS: Mr. Heymann, any other…

MR. HEYMANN: No, thank you. Nope.

MR. WEISS: Ok. Then at this point, we have no questions, no comments. I will then ask the Planning Board, keeping in mind that this is a Use Variance, a super majority will be required which will be five…

MS. NATAFALUSY: Five out of seven.

MR. WEISS: Five yes votes will lead to be cast to approve this application. So at this point, I'll look for someone from the Planning Board to make a motion.

MR. FLEISCHNER: I'll make motion to approve applicant whatever the PB number is…whatever…

MR. WEISS: 16-06.

MR. FLEISCHNER: 16-06.

MR. NELSEN: Second.

MR. FLEISCHNER: With 30 months and I don't know do we have to put in about the fence?

MS. COFONI: I'm going to make a note of it but it's not going to be a condition. I will mention that there may be a fence erected along Harris Lane and that that would require a Zoning Permit.

MR. WEISS: Joe had made a motion, before I ask for a second, Tiena, I know there are some conditions, why don't we review those conditions, Joe I will come back to you then.

MS. COFONI: Ok. So the first one will be 30 months from…which will be May 12 when we adopt the resolution so I'll figure out that date. Parking no more than 62 cars stacked. All vehicles will be delivered to the dealership and driven over to the lot. No customers or sales activities on the lot. No lights proposed. No repairs on the lot. No signage. And then the Harris Lane Deed of Dedication to be reviewed and approved by the Township Attorney and Township Engineer.

MR. WEISS: Your one condition would it have been easier to say just no trucks, no delivery trucks.

MS. COFONI: Yes. Yes, I can do that.

MR. WEISS: Ok. Joe, those are ok?

MR. FLEISCHNER: That's fine.

MR. WEISS: Dan, you'll second?

MR. NELSEN: Second.

MR. WEISS: Dan will second with those conditions. Any comments? Seeing none, Catherine.

MS. NATAFALUSY: And we're granting the waiver? For the gravel?

MS. COFONI: The Use Variance, c-Variances, and Waivers. Yes. That's correct Joe? That's part of your motion.

MR. FLEISCHNER: Yes. Yes. Yes.

MR. WEISS: Dan, still second?

MR. NELSON: Yes.

MS. NATAFALUSY: Dan, second?

MR. WEISS: Yes. Catherine, roll call please.

ROLL CALL:

Joe Fleischner	- yes
Brian Schaechter	- yes
David Koptyra	- yes
Henry Fastert	- yes
Dan Nelsen	- yes
Scott Van Ness	- yes
Howie Weiss	- abstain

MR. WEISS: I'm going to abstain.

MR. DELLAMO: Thank you. Thank you everybody.

MR. WEISS: Congratulations. You know the process?

MR. DELLAMO: Yes.

MR. WEISS: This time next month, resolution. Thank you everybody. I have no other business scheduled on the agenda. Does anybody have anything they want to discuss?

MR. FASTERT: Motion to adjourn.

MR. WEISS: Henry, motion to adjourn, second? All in favor?

EVERYONE: AYE

MR. WEISS: Second by Joe. All in favor?

EVERYONE: AYE

(MEETING ADJOURNED AT 8:19:59 PM)

Transcribed by:
Mary Strain, Secretary
Planning Department