

**TOWNSHIP OF MOUNT OLIVE
PLANNING BOARD**

Public Meeting
Thursday, March 11, 2021 at 7:00pm
Remote/Virtual Meeting

In accordance with Township Ordinance # 26-09 the Mount Olive Planning Board is authorized pursuant to N.J.S.A. 40:55D-25(c)(2) to hear all variance applications including the six variance categories set forth in N.J.S.A. 40:55D-70d.

MINUTES

Public Meeting / Remote Virtual Meeting of the Mount Olive Planning Board of March 11, 2021, commenced at 7:00pm.

The Pledge of Allegiance was recited.

Open Public Meetings Act Statement was read into the record by Ms. Strain, PB Secretary

Roll Call

Present: Mr. Scapicchio, Mr. Forlenza, Ms. Mott, Ms. Natafalusy, Mr. Mania, Mr. Nelsen, Mr. Ottavina, Mr. Batsch, Mr. Ouimet
Excused: Mr. Schaechter, Mr. Weiss

Board Professionals in attendance were:

Present: Chuck McGroarty, PP/AICP, Board Planner
Mike Vreeland, PE, Board Engineer
Susan Crawford, Esq., Board Attorney
Edward Buzak, Esq., Board Attorney
Mary Strain, Board Secretary

Audio and video technology and platform.

Committee Reports

Mr. Scapicchio: Do we have any Committee Reports, anyone? Catherine?

Ms. Natafalusy: The Environmental Commission met last week. The one item that was brought up was the sale of the well testing kits. Its tentatively scheduled for Saturday, May 1st for pick-up and Monday, May 3rd for the sample return. Kathy is going to confirm it and we will know probably by the next meeting if it is going to be that weekend.

Mr. Scapicchio: Thank you. Anything else? Seeing none, we have meeting minutes for two meetings.

Meeting Minutes

October 8, 2020 Public Meeting

Mr. Scapicchio: One is October 8, 2020 public meeting. Can I get a motion to move that?

Mr. Mania: So moved.

Mr. Scapicchio: Second?

Ms. Mott: I'll second it.

Mr. Scapicchio: We have a motion. We have a second. Roll call please, Mary.

Roll Call:	David Scapicchio	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Joseph Ouimet	Yes

October 15, 2020 Public Meeting

Mr. Scapicchio: All right. The next meeting minutes are for October 15, 2020. Can I get a motion to move that?

Mr. Mania: So moved.

Mr. Scapicchio: Second?

Mr. Ouimet: Second.

Mr. Scapicchio: We have a motion and a second. Roll call please, Mary.

Roll Call:	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Joseph Ouimet	Yes

Resolutions

PB 20-04 ZL Construction, LLC, 33 Netcong Road, Block 3106, Lot 19

Mr. Scapicchio: Okay. We have four Resolutions on the agenda this evening. The first one is PB 20-04 ZL Construction LLC. This is a Resolution that would dismiss this application without prejudice. I believe that if the applicant is to refile by March 31, 2021, there will be...the fees will be waived. Is that correct, Chuck?

Mr. McGroarty: Yes.

Mr. Buzak: Correct.

Mr. Scapicchio: Can I get a motion to move that?

Mr. Mania: So moved.

Mr. Nelsen: Second.

Mr. Scapicchio: We have a motion and a second. Mary, roll call.

Ms. Strain: Sorry, Dan. You were excused at that meeting on January 14th.

Mr. Nelsen: Sorry.

Ms. Mott: I'll second it.

Roll Call:	David Scapicchio	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes

PB 21-02 Panas, Stephen & Anna, 44 Indian Spring Road, Block 2100, Lot 1

Mr. Scapicchio: The next on the agenda is the Resolution PB 21-02 Panas, Stephen and Anna, 44 Indian Spring Road. Can I get a motion to move this?

Mr. Nelsen: I'll move that.

Mr. Scapicchio: We have a motion to move. Do we have a second?

Mr. Ouimet: Second.

Mr. Scapicchio: We have a second. Roll call please, Mary.

Roll Call:	David Scapicchio	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	John Batsch	Yes
	Joseph Ouimet	Yes

PB 20-18 Failla, Michael & Lynna, 174 Flanders Drakestown Road, Block 7100, Lot 56

Mr. Scapicchio: The next Resolution on the agenda is PB 20-18 Failla, Michael & Lynna, 174 Flanders Drakestown Road. Do we have a motion to move that?

Mr. Mania: So moved.

Mr. Scapicchio: Do we have a second? Who is the second?

Mr. Nelsen: Second.

Mr. Scapicchio: Dan Nelsen. Roll call please, Mary.

Roll Call:	David Scapicchio	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	John Batsch	Yes
	Joseph Ouimet	Yes

PB 20-10 Budd Lake Storage, LLC, 89 Route 46, Block 4100, Lot 85

Mr. Scapicchio: Okay. The next Resolution on the agenda is PB 20-10 which is Budd Lake Storage, LLC, 89 Route 46. Do we have a motion to move that?

Mr. Mania: So moved.

Mr. Scapicchio: Second?

Mr. Nelsen: Second.

Mr. Scapicchio: Dan Nelsen, second. Mary, roll call please.

Roll Call:	Ken Forlenza	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	John Batsch	Yes

Development Applications

PB 20-20 Luthra, Gaurav, 27 Vista Drive, Block 7610, Lot 13

Mr. Scapicchio: Okay. We have three development applications on the agenda this evening. The first one is PB 20-20 Luthra, Gaurav. It's a variance for 27 Vista Drive. Is the applicant in attendance here?

Mr. McGroarty: Yes, Mr. Chairman.

Mr. Scapicchio: Do they also have an attorney or planner, Chuck, or are they on their own?

Mr. McGroarty: They have Jim Glasson, as their engineer. I don't know if there is anyone else associated with the application.

Mr. Luthra: It's just me and Jim, who is the planner. This is Gaurav here.

Inaudible

Mr. McGroarty: Mr. Chairman, can we take a five minute break?

Mr. Scapicchio: We can take a five minute break. Do we need to take a roll call on that, Ed?

Mr. Buzak: No, we can just take a five minute recess. We'll be back at 7:15.

Inaudible

Mr. Scapicchio: It is 7:17pm. Let the record show that this public meeting has reconvened. The first development application is PB 20-20 the variance for 27 Vista Drive. It's about a swimming pool, patio, and the associated improvements that go along with a back yard pool. Jim, would you like to take this out now?

Mr. Buzak: Mr. Chairman, If I might? If we can have Mr. Glasson and Mr. Luthra raise their right hands, we'll swear both of them in simultaneously and then this way we are finished with that.

James Glasson was sworn in for the record.
Gaurav Luthra was sworn in for the record.

Mr. Scapicchio: Let me back up a bit and start off with...I'd like to have the planner and our engineer review for us their reports. We all have them. We've all read them. Chuck, would you like to start, please?

Mr. McGroarty: Sure, Mr. Chairman. So, the property is located at 27 Vista Drive, and it's located in the...what is known as the RR-A zone. Jim, can you hold off doing that for a minute?

Mr. Glasson: I'm sorry. I'm sorry.

Mr. Scapicchio: Jim, can you get that off the screen?

Mr. Glasson: Okay.

Mr. McGroarty: Double R-A zone. We are applying, however, the zoning that was in place when this development was known as Wyndham Point was approved and that was under an R-1 Cluster standard. We're applying it because it's more advantageous to the applicant and he is entitled to that option under our ordinance. So, in contrast to the current zoning, which limits impervious coverage to 20 percent, prior zoning allows for coverage up to 25 percent. What the applicant has proposed is as the Chairman mentioned, an inground pool with a patio. Also, a pavilion. There are some various walls on the property and there is the equipment pad. Together, the proposed improvements, together with the existing house, driveway and such, add up to a coverage of 34.7 percent, which is 1,900 square feet over the limit. So, the limit is 5,000 square feet. They're proposing a total square footage coverage of 6,947 square feet. So, again, the limit coverage is 25 percent. What was proposed here is 34.7 percent. I just had some comments about the application itself but my comments, Mr. Chairman, I can wait until the applicant's testimony.

Mr. Scapicchio: Okay Chuck. Thank you. Our engineer, Mike.

Mr. Vreeland: Yes, Sir. The proposal is going to increase the impervious coverage on the property and the applicant's engineer has proposed a stormwater management system that includes

some yard inlets and a collection pipe and a dry well. We reviewed the calculations and didn't take any issue with the calculations included on the plans. Because it's going to be a dry well system, we are recommending that some soil testing be done to make sure that this site is suitable for that type of storm water system. We...if the Board was to approve the application and the system constructed and installed, the applicant, like other applicants, would be responsible for maintaining that system. We were a little unclear on the landscaping that may be proposed for the projects. So, we were looking to get some additional information on landscaping.

Mr. Scapicchio: Okay. Is that it, Mike?

Mr. Vreeland: Yes.

Mr. Scapicchio: All right. Let's turn it over to the applicant. The applicant or Jim?

Mr. Glasson: Mr. Luthra was going to speak first.

Mr. Scapicchio: Okay.

Mr. Luthra: I thank you all for giving me the opportunity to present my case. I've lived in this town for almost 16 years now. We were living in some other development and couple of years back...We love this town, so we wanted to move to a bigger area, and we fell in love with this place. So, we bought this place with the thought that at some point we will be extending the backyard. Given the covid situation and limited access to a lot of public places, specifically swimming pools, we were thinking it would be nice if we could enhance our backyard with a pool, so that my kids don't have to go to the public place for the pool. Given the fact that there are a lot of houses in the neighborhood and in the same community which have pool as well. I reviewed the letter presented by the Board and I was asked that I have to talk about the positive criteria and negative criteria. So, I think on the positive criteria side, I believe the lot size is a little smaller, in this community, so the 25 percent, which translates to 5,000 square foot, with the pool. These sizes of the houses, a pool and a backyard at 25 percent makes it a little bit more, a little bit difficult. I also think that my house lot is a little smaller on the size, which makes it even more difficult for something like a pool. That is why I am requesting a variance. I know that in the same community, at least, there are 10 to 12 houses which already have a pool and a similar backyard. On the negative criteria side, we have put in a variance plan. My planning engineer, Jim, is going to talk a little bit more in detail about the things that are in place. I believe we have put in enough things in place, as for the plan, which will make sure there is no damage to the restriction on the impervious coverage. So, we will take adequate steps as per my design plan. On the design...on the engineer, there were a couple of comments, so we will ensure that, you know, the plan that is put in is adequately maintained going forward. We will take responsibility of the maintenance. There was a specific question regarding the landscaping and the tree. So, we haven't finalized it, but we are planning to put at least 6 feet tall...inaudible...on the sides of the pool. I think, until the whole thing was clear, we were not sure about the actual landscaping. We will decide on the actual trees once we make progress on the construction of the other side. So, I would appreciate if I could...you know...we love this town. We rather enjoy living here. And my kids would love this. So, would really appreciate if I can be given approval for this variance. Thank you.

Mr. Scapicchio: Thank you.

Mr. Buzak: Mr. Chairman, excuse me, I was a little bit deficient here. Mr. Luthra, I don't think you stated your full name and your address for the record. I know we swore you in. We know who you are. We know all of that, but I think, I neglected to ask you that information. So can you put that on the record. Name and address for me, sir?

Mr. Luthra: Yes. Sure. My name is Guthra Luthra, and my address is 27 Vista Drive, Flanders, New Jersey, 07836.

Mr. Buzak: Thank you, Sir. There was just one other...one question I had, Mr. Chairman. Since I have Mr. Luthra, you said you were planning for landscaping, 6 foot tall...and I didn't hear what you said. I didn't know if it was a fence or bushes or if you said anything?

Mr. Luthra: So, the bush...the fence is already there, I mean as for the plan and as for the lot requirement. Along with the fence we are also planning to put trees along the fence. That's our plan.

Mr. Buzak: Okay.

Mr. Luthra: I didn't talk about the fence because I think that definitely is a requirement.

Mr. Buzak: Thank you, Sir. I'm sorry, Mr. Chairman. Thank you.

Mr. Scapicchio: That's Okay. Thank you. Jim?

Mr. Buzak: Before we do, Mr. Glasson, I'm not going to forget twice. Mr. Glasson, can you state your name and business address for the record, spelling your last name?

Mr. Glasson: Jim Glasson, G L A S S O N, Civil Engineering, Inc., 1 Cove Street, Budd Lake, New Jersey.

Mr. Buzak: Thank you, Sir.

Mr. Scapicchio: Okay, Jim. The floor is yours.

Mr. Glasson: If I can attempt to screen share with you. I would like to.

Mr. Buzak: Mr. Glasson, you're testifying as a professional engineer, is that correct?

Mr. Glasson: Yes, I am.

Mr. Buzak: And the Board is familiar with your experience? You've appeared before this Board several times. Many times, in the past. I just have a question with regard to your engineering license. Is that up to date and still in effect?

Mr. Glasson: Yes, it is.

Mr. Buzak: Thank you, Mr. Glasson. Again, sorry to interrupt you, please proceed.

Mr. Glasson: I don't know if you can see the picture that I put up on the screen?

Mr. Scapicchio: Yes.

Mr. Glasson: This is a picture of Mr. Luthra's back yard. I want you to just note, up to the left you'll see a retaining wall. That's the rear yard neighbors. This house sits down much lower than his rear yard neighbors. So, anything he does in his rear yard in this area will not be seen by his neighbors. About an 8 to 9 foot difference in elevation from the area of where his proposed pool would be, which is this green area here, and that wall, you see. Let me try to go to something else.

Mr. McGroarty: Hold on Jim, please. Are we going to mark these?

Mr. Buzak: Yes. I'm sorry. Yes. Let's mark that Exhibit A-1.

Mr. Glasson: A-1. I had another sheet here just to show you another view of it. I'll mark that A-2?

Mr. Buzak: Yes, with today's date and you can explain what that is Mr. Glasson.

Mr. Glasson: This is just another view of the back of Mr. Luthra's house with the patio. Already you can see I'm on existing conditions, but I'll just give you the magnitude of how far down from the neighbor's area up here with this...that's the elevation of their yard, again which is about 8 feet higher. Let me go to the other item here. Okay, so I am now screensharing my existing conditions of my variance plans.

Mr. Buzak: Let's mark that A-3.

Mr. Glasson: A-3. It's a colorized version of my Sheet 1 of my plans. It basically...what is does show is the brown area is his house that footprints 2,714 square feet. This grey area over here, is the driveway. That's 1,507 square foot driveway to access the side entry garage. There is a 570 square foot patio area that you had seen in that previous picture. Then there is the walls and walkways out front. The coverage that exists right now is actually slightly in excess of 25 percent. It's actually 25.8 currently. So, it's currently slightly over the allowable coverage with the air conditioner pads and whatnot on the right-hand side of the generator pad. What Mr. Luthra is planning on doing and this is...let me see if I can get you to my composed...

Mr. Buzak: Let's mark this as A-4, Mr. Glasson.

Mr. Glasson: A-4. Got it. He is proposing to remove that rear patio that was in this general location. And that landing, that's 570 square feet that he is removing and he proposing to construct a 36 by 16 inground pool in this location. That pool is 22 feet off of the rear property line, 21 feet off the right side, 58 feet off the left side and 20 feet off the rear of the home. Around that area he has a pool, patio, walls, walkway. He also has a 14 by 14 open pavilion in this area. I believe he may have a sketch or something to show you what this would look like. Then there is a patio area here, connects with a walkway to his driveway and then he connects with a walkway to his back door. We're taking a total increase in coverage, which is 1,947 square feet. And we're proposing an inground drywell system, an infiltration system in this area, consisting of two 8 foot diameter, 36 inch deep drywells and a common excavation. There is an inlet that's located in the

pool patio area, up in here, and there is piping from this pavilion roof to take that runoff to the drywell system to mitigate the runoff flow. So, basically, we've taken everything that's over 25 percent and infiltrated it into that drywell system. The entire pool area is to be fenced. And I would take it from what Mr. Luthra said, he is intending to put landscaping around this outside area, along the fence line to provide himself privacy. If he doesn't do that, he essentially is kind of in a fishbowl because he is downhill of his neighbor, in the back here, with this retaining wall that I discussed, that is about 8 to 9 feet higher. That really kind of sums things up. We feel that our mitigation of the stormwater is the most important factor here because the impervious coverage is really based upon the runoff factor. As long as we don't have any detriment to any existing neighbors, with our runoff, we feel that what we are doing is justified.

Mr. Scapicchio: Anything else, Jim?

Mr. Glasson: No. That would be it.

Mr. Scapicchio: Any Board members have any questions for Jim Glasson? Seeing none. Jim,

Mr. Nelsen: I do. Two questions. The open pavilion, I guess the four sides are open and there is a roof over the top of that?

Mr. Glasson: Yes, correct.

Mr. Nelsen: And how big is that?

Mr. Glasson: 14 by 14.

Mr. Nelsen: 14 by 14?

Mr. Glasson: It's rather small. It's almost like an outdoor kitchen area. You'll see on the one side closest to the house, you'll see the word grill/counter. So, it's almost like an open kitchen area.

Mr. Scapicchio: Okay. Jim, I'm sure you read Chuck, McGroarty's report?

Mr. Glasson: Yes.

Mr. Scapicchio: And on the second page, it talks about possibly making all of the improvements that are out there, maybe just a tad smaller, to come closer to compliance. And you're applicant looked at this?

Mr. Glasson: Yes.

Mr. Scapicchio: Are there any adjustments that can be made?

Mr. Glasson: I'll leave that up to Mr. Luthra, to discuss but we did talk about the size of things and if there was a real negative feeling about it, what he could possibly do.

Mr. Luthra: So...

Ms. Natafalusy: I'm sorry, could you put that proposed plan up, Jim, please, again? Thank you. Another question. What's the area in the back, extends out a little? Almost where your arrow is? That patio area?

Mr. Glasson: That patio right there?

Ms. Natafalusy: Yes.

Mr. Glasson: It's a piece of patio with a wall. You mean what is the reasoning behind it?

Ms. Natafalusy: Yes.

Mr. Glasson: I'll let Mr. Luthra discuss that.

Mr. Luthra: It's just a...as Jim was saying...it's...on the back there is a retaining wall and then he just made it a like a semi-circular shape just to make it a little better. Based on our discussion with our landscaping company.

Ms. Natafalusy: It's really not functional.

Mr. Luthra: No.

Ms. Natafalusy: The way that's needed. It could be reduced there if, you know, if the Board was amenable to saying could you reduce it in some way? To reduce your impervious coverage to get it closer, not closer to 25 but less than 35.

Mr. Luthra: So, I was thinking, you know maybe we can definitely look at a pavilion of 10 by 10 instead of 14 by 14. That will bring down by 96 square feet.

Mr. McGroarty: Mr. Chairman?

Mr. Scapicchio: Go ahead, Chuck.

Mr. McGroarty: Can I offer a thought? And I know that the Board still may have questions and I don't know if there is any public. I guess my question is, the lot is a 20,000 square foot lot. As I know that development, it's a pretty standard lot. And I show you on Page 1, some of the lots on Mr. Luthra's street, on the tax map. You know, I guess the fundamental question is, if an applicant comes in and increases or proposes to increase beyond the permitted impervious coverage but then designs it so that any runoff can be contained as is done here, which is a very sophisticated plan here. I mean what happens to the standard in the ordinance? Is it just...are they just there as a guide and people come in and just decide, well, it doesn't really fit my property, I want to have something bigger? I guess the question is, not that this proposal is wrong in any way, it's a very beautiful layout but what's the rationale? What's the hardship?

Mr. Scapicchio: Mr. Luthra?

Mr. Luthra: So, I think my rationale is that you know there are similar lots in the property. They have a similar or even bigger size pools, and you know, I've seen other houses, you know other districts, with even smaller lots and similar or even bigger sized pools. So, I mean, and I said like with the whole covid situation, it's becoming more and more difficult to go out to public places, and that's the reason we are asking for a variance.

Mr. McGroarty: You don't think, sir...I don't think it's the pool, I think it's all the amenities around the pool that really contribute. The pool, if my math is right, the pool is 576 square feet. The paver patio and the walkway is 1,387 square feet. So, and the pavilion is 196 square feet. So, the pool, is well within the range of the permitted coverage. But the...when you have a paver patio that's almost 1,400 square feet that's where you run into the...going over the threshold for coverage. I don't know...and frankly I don't know about any of the lots in the areas. This comes up frequently, whether they got variances? Whether they increased the amount of impervious coverage without approval, which sometimes happens?

Mr. Scapicchio: Mr. Luthra? Would you consider reducing the size of that paver patio?

Mr. Luthra: Yes, I think we can definitely look at that. I...I'll have to check with my landscaper but as I said, we'll definitely reduce the pavilion to 100 square foot and from 1,387 you know, if we can go down to 1,000 square foot of paver patio...I was just doing some calculation...that will bring down the coverage to 32.3 from 34.7. So instead of 1,387 we'll go down to 1,000 square foot of paver patio and walkway.

Mr. Glasson: And a 10 by 10 pavilion?

Mr. Luthra: Yes.

Mr. McGroarty: Mr. Chairman, again, I just want to put it out there...I mean there's a lot of back and forth in terms of what can be reduced and what can't be reduced, but I guess again, the fundamental question is...what's the purpose of having standards? Is there anything particular about this lot, other than the neighboring lots, which would cause it to meet one of the criteria under the C variances?

Mr. Scapicchio: Mr. Luthra, we're trying to...

Mr. Luthra: I understand. You know, I mean I think with the pool I understand it's the allocated percentage is 25 percent. But when, with the reduction in the paver that I said, I mean we're not putting a huge...you can see there is still a lot of green along the size of the pool, so you know based on your recommendation, I'm definitely willing to go down to 1,000 square foot which will bring down to 32. But I mean definitely that will not bring us closer to 25. So, I will need some kind of a variance and your approval and your blessings to go forward with this plan. Just the pool alone will not serve the purpose of the backyard.

Ms. Natafalusy: Why not? Why not just the pool in the backyard? Is that not sufficient for your children to enjoy their backyard?

Mr. Luthra: But we would need some kind of a sitting area along the pool and to go with it, with the whole backyard to be completed.

Mr. Buzak: Chuck, this is Ed. If rather than having porous pavers, if there were just stone back there would that still be considered impervious coverage? Or, would a stone, a river stone kind of thing or something other than a porous paver, would that be considered impervious under our ordinance?

Mr. McGroarty: Under the town ordinance, we don't count stone as impervious. However, this is in the preservation area, the Highlands, I believe.

Ms. Natafalusy: Yes.

Mr. McGroarty: And it does. Stone is considered impervious, under Highlands...inaudible.

Mr. Buzak: How about mulch or something to that effect?

Mr. McGroarty: No. I don't think mulch is. But again, see this...people don't want to put mulch around their pool. People generally are not going to put mulch around their pool or to sit on it. I think...but I take your point. I mean if it's not any hard surface, then it doesn't count towards impervious in our ordinance.

Mr. Buzak: Okay.

Mr. Batch: Mr. Chair, I have a question.

Mr. Scapicchio: Sure.

Mr. Batsch: Yes. In the past I've looked up some other types of paver issues. True Grid pavers and Geogrids, they're poured formations in the ground. They can put in either plastic or they are fiberglass and in between those there is space for growing grass. I mean that potentially might be an alternative? Chuck, I don't know if that still meets the criteria of being pervious because it isn't solid.

Mr. McGroarty: Just to be clear, I guess I shouldn't have brought in the Highlands, because this would be exempt from the Highlands...inaudible...the property. We don't have a pervious coverage standard in the ordinance. So, when you put down pavers, I know there are porous pavers etcetera. What you are describing Mr. Batsch, is often used on fire lanes and such, emergency lanes. We don't have a standard which distinguishes those types of pavers from a more traditional conventional paver. They are all impervious under our ordinance.

Mr. Batsch: I understand.

Mr. Scapicchio: Mr. Luthra, you would agree to reduce the paver patio by 387 square feet?

Mr. Luthra: Yes.

Mr. Scapicchio: And the pavilion area by 96 square feet?

Mr. Luthra: That is correct.

Mr. Scapicchio: Okay. Do you think you can find another area to reduce a little bit more of the impervious coverage? Maybe you need to talk to your engineer about that? I think the consensus is, you live in an area that does have pools. It's an upscale neighborhood. We'd like to see you get what you want, but we would also like to see applicants come closer to compliance with the Master Plan and the zoning for the area that they live in.

Mr. Luthra: I'll have to find...So, what is it that they are looking at? I mean...there is no way we would come very close to 25.

Mr. Scapicchio: Closer than what you are now, with what you proposed, but that's up to you and your engineer.

Mr. Luthra: So, we can go down to 800 square foot of paver and patio. And let me just calculate how much that would bring down. Give me one second. That's another 200, so...

Mr. McGroarty: Mr. Chairman, are we going to be doing this during the hearing with...I mean, Mr. Buzak, is this something we should be doing? I don't...

Inaudible

Mr. Scapicchio: Ed, give me some guidance.

Mr. Buzak: Well, you know, I think Chuck started the discussion and we're looking, and we've talked about this before, proofs that are necessary in order to obtain a variance. The proofs that are necessary is that there are some hardship as a result of the application of the ordinance and that either deals with the lot itself, the topography of the lot or the size or shape of the lot. Or, that the application of the zoning criteria, because of some peculiar circumstance which is a broad term, but because it's a peculiar circumstance or condition of existing structures and the lot, that applying the standard here of 25 percent, would be an undue hardship on the applicant. And I think that is what Chuck was addressing when he talked about those kind of things. What is the hardship? And that's the positive criteria. And the fact that you start out with, it's almost like buying a car. You start out with okay; I'm going to have a 1,900 square foot...and I'm not being sarcastic here, but I think I'm being realistic. You start out with...okay I need a 1,900 square foot patio and then well I can have a 1,300 square foot, then 1,000 square foot, then have an 800 square foot...I can reduce the pavilion...you know. So, effectively its fishing and no offense to Mr. Luthra, I understand the position you're in. So, my comments while they may sound sarcastic, are not intended to be sarcastic. Okay then what is the Board looking for? You know, what would be enough...what would get me over the finish line, here? Is it 800 square foot patio? Is it a 700 square foot patio? Is it a 750 square foot patio? And in fairness to Mr. Luthra, he doesn't want to come down to say well I want a 200 foot when I could have gotten 500 feet. And I think that is what Chuck is illuding to now. We're sort of horse trading here and that's really not the way these applications should go. I think, as Chuck pointed out, that we have an ordinance. The ordinance is intended to apply if there is a hardship by application of the ordinance that it needs to be articulated. And then if, despite that hardship or because of that hardship, you're entitled to a variance, the intention is to minimize the deviation from the ordinance. So, for example...and I'm not suggesting this. I'm just using it as an example because we all struggle with this. Mr. Luthra wants a pool. He has articulated personal reasons for that and that's fine. The pool as Chuck said, is under 600 square feet. I suppose around

a pool you need some kind of walkway, so you're not walking into the grass. So, maybe there is some impervious there. But then all this other, all those other amenities, they're beautiful, and they're attractive and the yard's already attractive so I have no doubt that when this is done it's going to be showcase. It's going to be very well done but the problem is the lot is not big enough for that. That's the whole purpose of the zoning requirements. So, maybe the applicant's got to rethink what they are going to do and say, what's important to me? The pool is important. Inaudible. Now maybe that's not the exact thing he would want because I look at this plan and I say, as I said earlier, it's beautiful. It seems to be designed very well. Its attractive. I'm sure when it's all built, it's going to be attractive. But all that are not standards, or criteria by which variances are granted. While that may be unfortunate, that is what it is in the law. So, maybe to Chuck's point, the applicant needs to rethink this and decide, okay, what do I really need. Not what do I really want, here. What do I really need and is it the pool? Maybe it's not the pool and...the pool and just have a patio? I don't think that's the case. I think the pool is the main thing. So, then maybe you are going to have to deal with the fact that, okay you are going to have to have grass around the pool. Maybe a little walkway around the pool. You're going to have to have grass. You are not going to have porous pavers that are next to each other. Maybe you have a walkway that has those round stepping-stones so to speak. So, you are reducing...everything else is grass and in the grass, you put the stepping-stones to get there. It certainly isn't what the applicant wants. I get that. The lot is, the lot, is the lot. So, again, I'm not advocating one way or the other. I'm just trying to establish a framework by which these things need to be looked at. It's no offense to this applicant or any other applicant but it's...if there is some particular hardship, some peculiar nature to this lot and you meet the criteria, well then, you're entitled to get a variance. But if you don't meet those criteria...you know...the ordinance is meaningless if it's not enforced. So, I don't know Mr. Chairman, if that is giving you some direction, but I do think that Chuck's point, we shouldn't be sitting here horse trading about...and no offense, Mr. Luthra or Mr. Glasson, who is representing him as his engineer...The Board is not...we don't come here and trade. Again, I don't mean that sarcastically. I understand what you are trying to do and the position you are in, but I think that perhaps the applicant should, and again, Mr. Chairman, this is up to the applicant. The Board can take a vote on what's here and vote it up or down or however they want to do it. The applicant should also be given the opportunity, in light, assuming the Board agrees with what I'm saying just generically, and please speak to that. If that's the case, then maybe the applicant should go back to the drawing board and see what they can do to come up with a revised plan. I'm finished, Mr. Chairman. Sorry for taking so long to answer your very short question.

Mr. Scapicchio: No, that's okay, Ed. Thanks for the...thanks for the advice. It's appreciated and it's well noted. All right, Mr. Luthra, you heard our attorney. What would you like to do?

Mr. Luthra: This, taking on what the attorney said, is there a guidance which Board wants to say okay, I agree we should not go back and forth as to 100 there, 200 there? I mean, I know the ordinance is 25 percent and you heard my case. I mean is there a percentage number which Board would be comfortable passing this Resolution? I mean is it 30 percent? I mean is there some guidance that you can give to me so that I can come up with a changed plan?

Mr. Scapicchio: Based on the advice from our attorney, I don't think there is any guidance that we as Board members can give you and Ed, jump in if I'm saying something inappropriate. I think it's up to you to come back to us and tell us what you really need, or what you can live with and what you want to do with the property. It's not up to us to negotiate at this public meeting.

Mr. Buzak: Mr. Chairman, that is exactly right. I think that the applicant, if he wants to carry this and not have us vote on it tonight. I think he has to come back with what he is willing to accept in terms of what he is going to build there. Put that before the Board and say look, this is what I want. I did everything I can do, within reason in my mind, in the applicant's mind, to reduce the impervious coverage but I'm still over 25 percent and this is the number I come up with. Here is what I've done as compared to what was there before. This is what I want. If I don't get it, I don't get it and there are remedies for that. If I do get it, terrific. Again, I'm assuming from the silence of the Board, there is not disagreement, generically, with what I've said because I'm not the Board, obviously. I'm simply the attorney.

Mr. Scapicchio: Any comments from Board members?

Mr. Batsch: I agree with the direction we're headed, at this point.

Mr. Scapicchio: All right. So, Mr. Luthra, I...

Mr. McGroarty: Mr. Chairman, excuse me.

Mr. Scapicchio: Yes.

Mr. McGroarty: I don't know if there is any public? There may not be, but I don't know if you want to open it?

Mr. Scapicchio: Is there any public? I don't see it on my screen, Chuck.

Mr. McGroarty: I don't see anyone raising their hand.

Mr. Scapicchio: Can you get rid of your exhibit, please?

Mr. Forlenza: Mr. Chairman?

Mr. Scapicchio: Yes, Ken?

Mr. Forlenza: Just one thing that sticks in my mind is that we're starting out already that they are not in compliance. They are already over for this coverage to start with. So, there is not much you can do with that. I think they are challenged because there is already an existing patio that obviously they didn't get a variance for. Whether it's the current owner or previous owner. Just raising that as a point. Not a question.

Mr. Scapicchio: Thank you.

Ms. Mott: There is someone raised...inaudible.

Mr. Scapicchio: Who is that? Kim?

Ms. Mott: Yes. There is someone with their hand raised.

Mr. Scapicchio: I don't see it.

Ms. Mott: Yes, Storm?

Inaudible

Mr. Scapicchio: Okay. So, it is somebody from the public that wants to speak?

Mr. McGroarty: I believe so. They appear to have their hand raised.

Mr. Luthra: Storm is my neighbor. I think he is at 25. I'm at 27.

Mr. Scapicchio: Mr. Storm?

Inaudible

Mr. Storm: Yes. I just wanted to take a second. I understand everybody's policy with the...town.

Mr. McGroarty: Wait, Mr. Storm. Just for the record, who are you please?

Mr. Storm: My name is Storm Shawl. I'm Gaurav's neighbor. I live at 25 Vista.

Mr. Buzak: Mr. Storm, if you are going to testify and give information, you need to be sworn in.

Mr. Shawl was sworn in for the record.

Mr. Buzak: You've already stated your name and address so please proceed.

Mr. Shawl: Yes. I just wanted to take a second...you know...I understand the town's policy, I get that. My question is, Gaurav was looking to make the improvement with the underground tanks. Does that make a difference to allow for the coverage...for the impervious coverage?

Mr. McGroarty: Well, the answer is, no. Not necessarily. In a strict sense, no. Under the ordinance, no. If the Board decides it does then it's up to the Board. Under the ordinance, there is no provision that says you can increase the impervious coverage, as long as you implement stormwater measures.

Mr. Storm: Okay. I understand that. I just wanted to take a second to ask that. I mean. I'm not going to speak on Gaurav's part. I think he was looking forward to get this approved. It's sad because I know they were looking forward to having a pool. I think he would like to get this resolved sooner than later. He's trying to make improvements. I understand you can't go over the limit of impervious coverage. But when you have somebody that is trying to make improvements to their house...you know...it's a shame with the tanks underground, that that wouldn't be good enough. Mr. personally if I was in his shoes, I'd like to see this get resolved tonight. It is probably going to put off getting his pool put in before summer. I understand what it's like. I used to be in the contracting business. I know that these companies are swamped right now. People are trying to

do all of these improvements. People are staying home. They are not traveling. I don't know. I don't know if you can make this happen tonight. Me, personally, on his behalf, I would like to see it get resolved so he can get it going.

Mr. Scapicchio: Anything else, Mr. Storm?

Mr. Storm: No, that's all I have to say. Thank you.

Mr. Scapicchio: Thank you, very much. All right, Mr. Luthra, how would you like to proceed?

Inaudible

Mr. Buzak: Mr. Chairman, before we go, let me just mention two things. Number one, there may be the possibility if Mr. Luthra wants to give this just a little more thought, to just adjourn this application temporarily for tonight. To recess it for tonight. Let him decide what he wants to do and put it back on, at the end of the meeting, so we can get to the next applicant, and the one after that. I think this, with all the effort that's been put into this, Mr. Luthra deserves a little bit of time, even if it's only an hour, or an hour and fifteen minutes, to think about what he wants to do. Whether he wants to go forward tonight? The second thing is, I know we have a meeting next week. We have full agendas. I really don't know what's on next week. I recognize the problems. I've had very close relatives of mine in the same situation where it's hard to get the contractors and I'm sympathetic to the fact that if these approvals are put off another month, that could well mean that you give up this whole season. If we can do it in some way that does not impact on that, I think that's certainly something that the Board can consider. So, anyway those are the two things, as opposed to putting Mr. Luthra on the spot right this second, decide now or forever hold your peace.

Inaudible

Mr. McGroarty: Mr. Chairman? Just on Mr. Buzak's point, I would ask Mary, I know next week we have...Mary do you have your schedule with you?

Ms. Strain: Yes. We have...inaudible...request. We have Albertson coming back for 36 Main Road and we have Fratelli Beretta.

Mr. McGroarty: What was the first one?

Ms. Strain: Subaru, the extension request.

Mr. McGroarty: We can fit it in next week, if the applicant needed a week, Mr. Chairman. I'm sure we can fit this in next week.

Mr. Scapicchio: Or, as Ed had suggested maybe the applicant can take an hour and we can bring him back at the end of this meeting.

Mr. Luthra: Yes. I would like to take that option. I would like to think about it, come back to you guys with a proposal, within an hour and then...I would like to...give me that option please.

Mr. Scapicchio: That's great. Thank you very much.

Mr. McGroarty: I do want to ask, Mr. Buzak, though, we talked about that last week. We're getting revised plans. We're getting them right here...well, I guess we'll deal with it when the time comes.

Mr. Buzak: I understand your point though, Chuck.

Mr. McGroarty: All right.

Ms. Natafalusy: I would really prefer the applicant continue next week. I don't know, that's personal, me personally. I just think it gives him more time to figure out what he wants to do.

Mr. Scapicchio: Well, we've given him the option already, Catherine and I hate to pull that back, so...

Ms. Natafalusy: Okay. That's fine.

Mr. Scapicchio: Mr. Luthra, you want that hour delay for this evening and you'll come back at the end of our meeting?

Mr. Luthra: Yes. Sure.

Mr. McGroarty: Mr. Chairman, I'm going to ask Dane...Dane, I don't know...can we take down the applicant, Mr. Luthra and Mr. Glasson without losing them?

Mr. Westdyk: Yes. I'll demote them back to attendees.

Mr. McGroarty: Thank you.

Mr. Scapicchio: Okay. So, we are going to carry this application, PB 20-20, to the end of the meeting this evening.

Mr. Forlenza: Mr. Chairman, It's Ken.

Mr. Forlenza: I think just from a logistics standpoint, the last application is a D-1 and John and I will have to drop off. So, if it's possible, could we...?

Mr. Mania: Yes. We can't vote on that.

Mr. Forlenza: Well, we can't vote on the last application so, we'll drop off and won't be around when he comes back. So, I don't know if it's enough time to squeeze it in between the next application and the third application.

Mr. Buzak: Good Point.

Inaudible

Mr. Scapicchio: That is an excellent point.

Mr. McGroarty: Should we bring the second one up and see what...

Mr. Scapicchio: Yes. Let's bring the second up and see where we are at and then we will decide what to do.

Mr. McGroarty: All right.

Inaudible

Ms. Mott: Chuck, Mr. Luthra has his hand up.

Inaudible

Mr. Luthra: I just wanted to check, what time do I have to come back? Is it 9:00?

Mr. Scapicchio: We don't actually know.

Mr. Luthra: Okay.

Mr. Scapicchio: We don't know the answer to that. Depends on how long the application, the next applicant takes.

Mr. Luthra: That's all right. I'll try to come between 8:30 and 8:45. I'll be on the clock.

Mr. Scapicchio: Okay.

Mr. Luthra: Thank you.

Mr. Scapicchio: Thank you.

Inaudible

PB 20-21, J2SC LLC, 26 Mount Olive Road, Block 3700, Lot 46

Mr. Scapicchio: Okay. So, we have before us, the next application is PB 20-21, it's for a variance for 26 Mount Olive Road, and we have the applicant's attorney. Is there an engineer or planner?

Mr. McGroarty: The architect is here, Mr. Chairman. Copolla, or Copa?

Mr. Scapicchio: Okay. I see him now. An architect. All right, Ed, do we want to swear the homeowners in and the architect?

Mr. Buzak: Yes.

Tammy Martini was sworn in for the record.
Frank Martini was sworn in for the record.
Mark Montalbano was sworn in for the record.

Mr. Buzak: Owners, please identify themselves now and then we'll go to the architect.
Can you identify yourself and give your name and address for the record?

Ms. Martini: Sure. My name is Tammy Martini. My residence where I live is 87
Woodbine Avenue. We're discussing 26 Mount Olive Road tonight.

Mr. Buzak: Thank you. Sir?

Mr. Martini: Name is Kevin... inaudible.

Mr. McGroarty: Mr. Martini, that...we're getting something here. It's not you? Its' like a
vacuum.

Inaudible

Mr. Buzak: Mr. Montalbano, can you state your name and business address for the
record?

Mr. Montalbano: Yes. Mark Montalbano. I'm with Coppa Montalbano Architects, located at
97 Lackawanna Avenue, Totowa, New Jersey.

Mr. Buzak: Thank you, Sir.

Mr. Scapicchio: Okay. Board members, we all received the memorandum from Chuck. And
I'd like to have Chuck...inaudible.

Inaudible

Mr. McGroarty: Okay. So, the property that we are looking at tonight is known as 26 Mount
Olive Road. At the present time it's a vacant lot. Back in 2018 the existing dwelling that was on
that property, which was in an advanced state of disrepair, was demolished. The town required it to
be demolished because it was an unsafe structure. So, it's an undeveloped lot. The proposal here is
to build a single-family home and the applicant is requesting 2 variances. One, is for lot area. The
property is in the R-3 zone which requires a minimum lot size of 15,000 sq feet. This existing
property consists of 13,742 square feet. It's a corner property on Mount Olive Road and Colonial
Road. There is a house to the rear and a house to the side and the other side so there is no other
land area to acquire. They also are looking for a front yard setback variance. There is a house, and
the proposal is a two-story residential dwelling with an attached garage which all meets the setbacks.
There is a covered entry proposed which juts out slightly into the front yard setback towards Mount
Olive Road. So that has a 36 foot setback as opposed to the 40 foot setback. Those are the two
variances. I have some comments just, if the Board were to approve this, that there would be
certain conditions attached. I know Mr...I know Mike Vreeland has some comments.

Mr. Scapicchio: Mike, you want to review your report, please?

Mr. Vreeland: Yes. The site plan that was put together by the architect referenced a survey. It's not a signed and sealed copy of the survey in the application's file. We recommend that one be provided. The township code, section 550 requires new single-family houses to install dry wells or connect to a drainage system. So that provision should be addressed along with the fact that there will be an increase in impervious coverage from the existing conditions. Generally, that's addressed through some kind of stormwater management, which goes hand in hand with that section 550 of the code. We pointed out some other agency approvals in our review report, and also, we're looking to get some testimony regarding exterior lighting, landscaping, tree removal and the appearance of the proposed dwelling.

Mr. Scapicchio: Okay. I guess with that I'll turn this meeting over to the applicant and the applicant's attorney.

Ms. Hubbard: Thank you, good evening. Thank you gave a broad overview which kind of stole my thunder as explaining the project but basically, it's an under sided lot that is a vacant property, and my clients came to purchase the property in 2018 and wish to seek approval to develop it as a single-family lot. So, with that I just want to have Frank and or Tammy Martini explain how they came to take ownership of the property and what their plans are to do with it.

Mr. Martini: We came into the property, 2 years ago. Really, by driving home, everyday passing it, seeing it falling apart. We actually became, we stopped in because my kids kept on saying there is a man living in there. I kept on saying, no there is not. There is nobody living in there. We kept on driving by, and they said yes there is. So, they made me stop one night, and we did, and he was literally living in the first floor with the second floor caving in on him. So, they know that I am a contractor and they said, dad is there any way you can help him out? So, we got him out. We actually boarded up...well we asked him if he wanted it boarded up because there was a gaping hole about 8 foot by 5, it was a monster hole in the side of the house. He said no, but there was, I noticed three or four town violations on the door saying he had to get out of the house. So, long story short, he couldn't get out of the house. He had nowhere to go. So, I told him, listen, I'll put you up in a hotel room, let me put you in a hotel room. Let me get you out of the house. My kids really were heavy on this. We did. We put him in a hotel room, and I said listen, let me take the house down for you because it is unsafe. I'll take the house down and we'll find you a place. It just happened to be where I took it down, found him a place, found him an apartment and here I am, I bought the place from him. And here I am today. So...

Mr. Scapicchio: Mr. Martini, can you give us both negative criteria and positive criteria for this application? I mean are there other homes in the area the same size, on the same size lot?

Mr. Martini: There are a few just up the street that are pretty close. As you know that area is up and down. There are a lot of different type of houses. Inaudible...There are a lot of houses that are in the area that they're not really the same at all. So, we're looking to put this house on the...We do still pass it every day and we'd like to see something nice on that property and that's one of the reasons we're doing this.

Mr. Scapicchio: And is there any negative criteria that you can think of?

Mr. Martini: No. I really can't. Everyone around it, I know, wants something there because they are looking at an eyesore. So, that's not a positive.

Mr. Scapicchio: All right. As per Chuck's report, have you secured EDU from the township for the sewer system?

Mr. Martini: We haven't taken the steps.

Ms. Hubbard: If I could just step in for a moment, but Mr. Martini, the house was previously sewer into the public system, is that correct?

Mr. Martini: Yes. Yes, it was.

Ms. Hubbard: So, if the Board would be so inclined as a condition of approval, would you work with the sewer authority to secure the appropriate EDUs to sewer this property?

Inaudible

Mr. Scapicchio: Okay. And then the last thing on Chuck's report...

Ms. Natafalusy: I didn't hear what he said, I'm sorry. Did he say he would secure the EDUs?

Inaudible

Mr. Scapicchio: I'm sorry Catherine, what?

Ms. Natafalusy: I didn't hear what he said about the EDUs.

Ms. Hubbard: She didn't hear the answer. Mr. Martini can you just speak up? Are you willing to work with the sewer authority to secure the appropriate EDUs for the house?

Mr. Martini: Yes, we are.

Mr. Scapicchio: Okay. And then can you also just address the last comment that Chuck has with regard to sharing... I guess you are sharing a well?

Ms. Hubbard: Again, this is a unique situation. I actually pulled up the prior deed which gives the adjacent owner half interest in the well, the right to run piping and draw from the well. But I guess my understanding is that the Health Department would prefer a new well on the property. We got the reports last week. We've been trying to scramble to address some of these things, but I don't think we've dealt with the Health Department as far as drilling or securing a new location for the well on site. The undersized lot is...or the adjacent lot is undersized and that might be the reason that they shared a lot back in...or it's 1969, the deed that created the shared well. I don't think that's typical today, to have a shared well.

Mr. Scapicchio: So, is the proposal to share the well or to dig your own well?

Ms. Hubbard: I think the notice from the Health Department indicated that he'd have to have a new well.

Mr. Scapicchio: Okay.

Ms. Hubbard: It's a condition of...inaudible.

Mr. Scapicchio: I wanted to make that clear.

Ms. Natafalusy: Excuse me, David?

Mr. Scapicchio: Yes, Catherine.

Ms. Natafalusy: I don't know if...I'm sorry. Chuck, do you know...I know when this gentleman was in the house, he said there was no water in that house. That he had to go to his brother's house to use the shower and stuff like that. So, I just have a concern about whatever that well, that is there. It's even...inaudible.

Mr. McGroarty: You know, the Health Department definitely wants a new well. And the existing well that serves the adjacent property, as I indicated in the report, and I actually attached a copy of an old survey on the last page, showing the well. But there ought to be some, if this is approved, there ought to be some, I think, some kind of easement identified on the plat, to avoid the inevitable problems that will come up when someone wants to do a fence or shed or something, and the future owner of this home will need to be very clear that there is a well there and its protected because it served the adjacent property. As far as...there were so many problems with the...inaudible...of that house and the house itself, I don't know whether he just wasn't getting enough water out of there and multiple problems with the structure and I think to some extent with the occupant, so...I don't know.

Mr. Martini: Excuse me. Can I say something?

Mr. Scapicchio: Yes, you can, Mr. Martini.

Mr. Martini: The water was actually shut off. For a long time. And he had to get water from a neighbor because he was having some rough times and the water was turned off for a long time, at the house.

Mr. McGroarty: It was probably failure to pay bills. Probably what it was, so...

Mr. Martini: Yes.

Mr. Scapicchio: Okay. Any Board members have any questions for Mr. or Mrs. Martini?

Ms. Hubbard: I would just say that just eyeballing the location of the well and the building envelope where the new house is proposed, I don't think an easement would be difficult, or an easement that prohibited any development in that area would be difficult. I don't think a shed...I think would actually violate a side yard setback if they put a shed where the well is. It's looks like it's just right at the property line.

Mr. McGroarty: Right along the property line.

Ms. Hubbard: Right. So, we don't have a problem, Mr. Martini, with an easement allowing access to that well?

Mr. Martini: Yes.

Ms. Natafalusy: Can somebody put up a copy of the proposed plan to show the location of the house? I don't have them.

Mr. McGroarty: I think there is an architect to testify? I would think he's an architect to testify perhaps also to the variances.

Ms. Hubbard: Yes. Yes.

Mr. Scapicchio: Okay. Ms. Hubbard?

Ms. Hubbard: Is there any other questions? I mean Mr. Martini is going to stay so he will probably be able to answer questions with regard to lighting and things like that, as we move through the application. Mr. Mar...Mark, can you give the Board an overview as we put a plan up to show them what the applicant is proposing?

Mr. Montalbano: Yes.

Mr. Buzak: Mr. Montalbano, before we do that, can we just get your credentials on the Record?

Ms. Hubbard: Sorry, Ed.

Mr. Buzak: ...And your licenses as an architect and their current status?

Mr. Montalbano: Yes. I'm a licensed architect in the State of New Jersey, in good standing. Graduated from Pratt Institute, 1996 and I've been licensed since 2003.

Mr. Buzak: And you said your licenses are in...the license is in good standing, right sir?

Mr. Montalbano: Yes.

Mr. Buzak: I don't know if the Board has any questions of Mr. Montalbano?

Mr. Scapicchio: Just his address, Ed.

Mr. Buzak: Oh yes, sorry Sir. Your address? You said it earlier but go ahead again.

Mr. Montalbano: My address is 97 Lackawanna Avenue in Totowa, New Jersey.

Mr. Buzak: Have you testified before the Mount Olive Planning Board, before?

Mr. Montalbano: I have not, but I've testified in front of numerous municipalities throughout the state.

Mr. Buzak: Okay, thank you, Sir. Mr. Chairman.

Mr. Scapicchio: Board, it seems like everything with his licenses, is up to date. Board accepts him as a professional architect?

Mr. Mania: Yes.

Mr. Montalbano: Okay. As I stated, the site is currently vacant and we're proposing a new 2 and ½ story structure. I'm going to bring up the plans now so people can see it. Can everybody see this?

Mr. Scapicchio: Yes.

Mr. Montalbano: So, we're proposing a new 2 and ½ story structure with a basement. The first floor, we're taking an open plan concept. The central entrance facing Mount Olive Road...

Mr. McGroarty: Should we mark this, Ed?

Mr. Buzak: Yes. Let's mark this A-1. Thank you, Chuck. Mark this A-1. It's the proposed single-family residence, Martini residence.

Mr. Montalbano: These are the same documents that were submitted to the Board.

Mr. Buzak: Okay.

Mr. Montalbano: Front door entrance to a living room, dining room area, open kitchen to the dining room area, what's very popular these days is a home office or study. Off of that, too, is a 2 car garage that we are proposing a driveway off onto Colonial Road for access, I believe the current driveway is off of Mount Olive Road. The side garage is on the side facing Colonial, garage doors. The basement is currently proposed as unfinished at this time. And on the second floor, going upstairs, will be 3 bedrooms. 1 master bedroom, with bath, laundry area and 2 additional bedrooms with a shared bathroom. On the exterior of the home, I'm giving it kind of a colonial look with traditional stone base, on the foundation, for aesthetic with the siding, shutters, new aluminum clad windows and an asphalt shingle roof.

Mr. McGroarty: This would be exhibit A-2?

Mr. Buzak: Yes.

Mr. Montalbano: While I'm on this I know there is some comments about the lighting on the property? I'm proposing in addition to ornamental sconces at the entry points to the home, light fixtures with motion sensors. Motion sensors will be installed in a manner that won't falsely turn on unless there is somebody in the driveway or a car passing by. On the front of the house is the covered porch that was mentioned earlier. That covered porch protrudes 4 feet into the setback line

which is identified which is one of the variances on the zoning. With regards to the setbacks, couple clarifications, brought to attention from the reports. Obviously, the lot is, the variance for an undersized lot, is something that can't be changed. It's 15,000 square feet, required and we have 13,742 square feet. The lot width, since we are a corner lot, there's 2 and this is the clarification, there's 2 setbacks for that. The first one on the Mount Olive Road, actual dimension per the ordinance definition is 126.83 feet. The second setback on Colonial Road is 93.5 feet. So, the proposed location of the new dwelling will be in conformance with the zoning.

Mr. Scapicchio: How many square feet is the footprint of the home and the garage?

Mr. Montalbano: The home and the garage is, I believe 1,700 square feet. The footprint of the home. Inaudible...

Mr. McGroarty: Can I just go back, Mr. Chairman? Can I just go back...I want to make sure I'm clear...I...sort of wasn't clear when I heard that testimony. There is no variance required, there is no nonconforming lot depth. Do you agree with that? I mean that's my take. Even though you identified it that way.

Mr. Montalbano: As far as the definition of the lot width, in feet.

Mr. McGroarty: Lot Width. I'm sorry. I should have said lot width.

Mr. Montalbano: Yes. Lot width in feet. And we're taking...we have to take...this is a corner lot, we've taken both those dimensions.

Mr. McGroarty: You don't have a lot width deviation. Your plan shows that you do.

Mr. Montalbano: That's correct. There is no lot width deviation.

Mr. McGroarty: Okay. So, your plan will be corrected?

Mr. Montalbano: Yes.

Mr. McGroarty: Very good. Thank you.

Mr. Montalbano: I have that corrected. I didn't want to confuse things, tonight, with what was already submitted.

Mr. McGroarty: Thank you.

Mr. Scapicchio: Mr. Montalbano, I noticed on the back of the house there is only a set of stairs off that rear door. No deck?

Mr. Montalbano: There is no proposed deck.

Ms. Natafalusy: I was going to ask the same question.

Mr. McGroarty: You'll see that in six months.

Mr. Scapicchio: Why haven't you proposed a deck for this house?

Mr. Montalbano: My client hasn't requested it and don't see a need for it.

Mr. Scapicchio: Okay, so you see no need for a deck?

Ms. Natafalusy: Looks like the house is sitting within the building envelope and you'd need a variance, probably, if you put a deck on the back.

Mr. Scapicchio: That's why I brought it up, Catherine.

Mr. McGroarty: Unless it's tucked in in that little triangular shape in the front, down there.

Mr. Scapicchio: Okay. Well, they don't propose a deck now, so I guess we can pass on that. Any Board members have any questions for the architect? Do we have any public? Dane or Chuck?

Mr. McGroarty: Let me see, Mr. Chairman. I don't see anyone with a hand raised.

Mr. Buzak: Why don't we open it to the public, Mr. Chairman, and this way we're allowing the public to raise their hand. Not sure we actually opened it to the public, so...

Mr. Scapicchio: Let's open this to the public, to...for the architect's testimony, Montalbano. Anyone from the public like to comment? Questions?

Mr. McGroarty: I'm not seeing anyone, Mr. Chairman.

Mr. Scapicchio: Okay. Can you drop this floor plan from our screen?

Ms. Natafalusy: What's the coverage on this property? I know there was...in Chuck's report they talked about existing, even though the house was demolished, but...

Mr. McGroarty: Yes. They have to...I'll answer that, if I may...well they should answer that but yes, the coverage that they have for existing is incorrect because the house is gone. So, there really is no building coverage. So, that has to be changed. But the land proposed is the total of building coverage of 12.6 percent and 20.5 percent total impervious and that's within, well within the standards.

Ms. Natafalusy: Okay. Thank you.

Mr. Scapicchio: Any other questions from our Board members?

Mr. Ottavinia: I do. Mr. Chairman.

Mr. Scapicchio: Yes, Sir. Paul?

Mr. Ottavinia: I guess this is for Chuck or the homeowner. Isn't there an old concrete pad still there or is that a different lot?

Mr. McGroarty: There was. So, there is...the plans do note some impervious coverage. And I assume that they were talking about that pad and remnants of the driveway, but my only point was that the house was gone so there is no building option.

Mr. Ottavinia: Got it. Just want to make sure I was thinking about the right...same location.

Mr. McGroarty: I think that that's correct, Paul. I think that the pad is still there, but the applicant can correct me...correct us if I'm wrong.

Mr. Ottavinia: I think I see a car parked on it or a truck parked on it from time to time.

Mr. McGroarty: Which we don't want to see anymore, by the way.

Mr. Martini: There is a pad left and part of a driveway. Not much of it left because most of it got taken out. And the car that you see on there are parked from the people across the street when they have people over. A number of times we've had them moved.

Mr. McGroarty: There was a truck out there, for sale, but it didn't last long, thankfully.

Mr. Martini: Oh yes, it sold quick. Thank you, yes.

Mr. McGroarty: You'll get a summons quick, next time.

Inaudible

Mr. Scapicchio: Ms. Hubbard, you have the floor.

Ms. Hubbard: So, I just wanted to go through...I mean, I think most of the testimony that we were going to present has been presented already. Going through the reports of both professionals, I think most of these can be conditions of approval that the applicant would consent to as part of the construction process. This is a single-family dwelling so not subject to site plan approval, but we understand that all of these things are necessary when developing a single home. The lot is undersized, and it does have a pitch point which I think created the front yard setback issue. I think both are de minimus in nature and kind of consistent with the neighborhood, not really creating any detriment to the surrounding area. So, unless there's other questions, I think this is a c-1a, falling under the shape of the lot, creating the hardship for the applicant.

Mr. Scapicchio: Anybody have any questions for Ms. Hubbard?

Mr. Buzak: Mr. Chairman, I just have one question for the applicant and or the architect, if I might?

Mr. Scapicchio: Yes.

Mr. Buzak: Do either of you know the size of the previous house that was demolished? The footprint of that house? Maybe the testimony, there was testimony given and I missed it? As compared to the new house, is this...

Ms. Hubbard: I have a very bad picture of the survey. But I can screenshare if that would help you to see what the lot looked like prior?

Inaudible

Mr. McGroarty: Ed, on that last page...inaudible...

Mr. Buzak: Is that on your report Chuck?

Mr. McGroarty: On the last page of my report, you'll see a reproduction of that survey and you can see the footprint of the house.

Mr. Buzak: I see it. How does that compare to the proposed footprint?

Mr. McGroarty: It's smaller but I'm not the architect or someone address that.

Mr. Montalbano: Yes. Its smaller. If I can share my screen, there's an overlay on the site plan that we referenced. We did not include any of the existing structure or pavement. Part of this with the assumption that it was all getting removed based on the new construction. If you see the dotted line, you see the old steps and the footprint of the existing house in that outline.

Mr. Buzak: Okay. I see it. Thank you.

Mr. McGroarty: That house is gone. Just so we're clear. I know you say existing house, but that house is gone.

Mr. Montalbano: The prior home. Yes. Correct.

Mr. Buzak: Thank you. That was all I had, Mr. Chairman.

Mr. Scapicchio: All right. Thank you. So, Ed I have three conditions that I heard. A new well on this property. They need to obtain EDU purchases if It's not already been purchased and an easement for the well, that's on their property, that services the neighbor's property.

Mr. Buzak: Mr. Chairman, those are the three that I have as well. The other two would be, to the extent that they are not already mentioned, compliance with the recommendations set forth in the engineer's report and the planner's report.

Mr. McGroarty: If I may, specifically, there should be a condition that they secure a zoning permit. There is a separate condition for a driveway permit. Those are 2 separate permits that they would be required to get. I know Mike had some comments on here. Soil Conservation District approval. Mr. Chairman, I actually wanted to ask another question of the applicant.

Mr. Scapicchio: Go ahead, Chuck.

Mr. McGroarty: To Mr. Martini, if you know, are you bringing soil in to regrade the property?

Mr. Martini: I guess we won't know that until, you know, once the foundation of the house is put in. I guess we'll know more then.

Mr. McGroarty: All right. Okay. So, that will be part of the zoning permit application process and the town does have an ordinance that any soil brought in has to be tested but we can deal with that on the zoning permit.

Mr. Martini: I'm aware of that, yes.

Mr. McGroarty: Okay.

Mr. Scapicchio: All right. With that, I'll entertain a motion for PB 20-21 which is 26 Mount Olive Road, with the conditions that we spoke about.

Ms. Mott: Catherine, do you have a question?

Ms. Natafalusy: Yes, for the Martini's. Is this a house you are proposing to sell or are you going to move in?

Mr. Martini: No. Probably sell. We live right up on Woodbine right across from Turkey Brook. That's where we live.

Ms. Natafalusy: Yes. I've just got a concern about that back door without a patio, I think, does...if the applicant...if the architect could explain if that back door, would you be able to put a deck off of that and still sit within the building envelope? If the future owner comes in. Because I think we are going to be creating something that is going to cause a problem in the future.

Mr. Martini: Was that for the architect or for me?

Ms. Natafalusy: Yes, for the architect, please.

Mr. Montalbano: If I can bring the plan back up?

Ms. Natafalusy: Right. Does the door coincide with the area from that triangular area where that...a deck might fit?

Mr. Montalbano: The stair is located at the corner of the...midpoint at this location. So, if my client...the future owner wanted to construct a deck, they'd have this zoning. They can connect that stair to that deck.

Ms. Natafalusy: A small deck, if anything.

Mr. Montalbano: There is also that home office and study at this portion of the house. Which can be converted to a door as well to access an outdoor deck.

Ms. Natafalusy: Okay. Thank you.

Mr. Scapicchio: All right. Pull that screen down please. Thank you. All right. Can I have a motion for PB 20-21, 26 Mount Olive Road, with the conditions as outlined?

Mr. Mania: I'll make that motion, Mr. Chairman.

Mr. Scapicchio: Do we have a second?

Mr. Ouimet: I'll second it.

Mr. Nelsen: Second.

Mr. Buzak: I assume that is a motion to grant the variances as requested, subject to the conditions that have been articulated?

Mr. Scapicchio: That is correct.

Mr. Mania: That is correct.

Mr. Scapicchio: Okay. Roll call, Mary.

Roll Call:	David Scapicchio	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Joseph Ouimet	Yes

Ms. Hubbard: Thank you very much. We really appreciate your time tonight. With regard to the survey that we sent you, we'll get you a hard copy as soon as we can...inaudible.

Mr. McGroarty: And the plans should be cleaned up and revised per the comments.

Ms. Hubbard: Absolutely.

Mr. Montalbano: I'll make those changes.

Mr. Martini: Thanks, guys.

Ms. Martini: Thank you.

Ms. Hubbard: Thank you very much. Have a great night.

Mr. Buzak: Good night.

Mr. Scapicchio: All right. Do we want to see if Mr. Luthra is ready to come back or do we want to move on with the next application? Then let's move on with the next application.

Mr. McGroarty: That'll be the D variance, where...

Mr. Scapicchio: Oh, that's right. We don't want to lose John and Ken.

PB 20-20, Luthra, Gaurav, 27 Vista Drive, Block 7610, Lot 13

Mr. McGroarty: I'll bring Mr. Luthra up again.

Mr. Scapicchio: Yes.

Mr. McGroarty: Then I guess I'll bring Jim Glasson up.

Mr. Scapicchio: Hello Mr. Luthra.

Mr. Luthra: Yes, hi.

Mr. Scapicchio: All right. Do you have any release for us?

Mr. Luthra: Yes. Is Mr. Jim on?

Mr. McGroarty: Yes, Jim is on.

Mr. Luthra: So, I had a discussion with the... Jim, and I heard both recommendations and concerns. So, you know what my proposal is that we would go work on our layout and we go down... we will reduce the patio further. We already spoke about reducing the pavilion. We will make sure that the coverage is at 30%, so we will reduce, further, the patio so that the coverage is no more than 30 percent. I believe with the plan that Jim has, which was for 35 percent, we'll keep the same plan in terms of drywell. We'll make sure all of the recommendations are done. I feel that, with this reduction and with the kind of pool we are putting, we would need some patio around it. I feel that should help in you guys deciding to give us approval. So, that is what we have come up with and I would really appreciate it if we can get this plan going. I would really, really appreciate it.

Mr. Scapicchio: Ed, if that's going to end up being acceptable to the Board, we put that coverage number in the Resolution?

Mr. Luthra: Yes, we can do that.

Mr. McGroarty: Well, Ed it...

Mr. Scapicchio: Ed, you're muted.

Mr. Luthra: Sorry, I thought you were asking me.

Mr. Buzak: I'm sorry. I didn't realize I was muted. I was moving papers. Yes, we would put that in the Resolution. The question I raise is really with Chuck and Mike. If we put it in...If the Board is willing to grant a variance to allow for 30 percent coverage...30 percent impervious coverage, is there...and not specify exactly where that is. I assume the pool is going to stay but then in terms of what the other coverage would be, I guess we would need a plan that would be submitted that would reflect not exceeding that 30 percent. I mean, I think we can't just grant a variance to say, okay, we grant 30 percent impervious coverage and you guys figure out where you are going to do it. Do it and then we'll calculate it later. I think we are going to need a new plan. That could be, I think, and I'll refer to Chuck and Mike because they are the ones that really have to deal with this. That plan could be submitted as a condition of the approval. That means you need to submit a plan that shows no more than 30 percent impervious coverage without any further variances as a result of that. Chuck, I don't know...

Mr. McGroarty: Well, yes. You know, it's a little bit different from the way things are done but yes. If that's what the Board wished to do, if you say 30 percent, we certainly would need a plan. I mean the plan that was submitted is not going to be approved tonight. So, we would need a revised plan that would have to be submitted. If the Board is inclined to approve it, sight unseen just based on that 30 percent limit, Mr. Glasson will have to prepare a new plan, coming in with no more than 30 percent coverage.

Mr. Scapicchio: Chuck, I wonder if we can do this? Can we have them prepare that new plan and is there enough time to get it in the agenda for next week? I mean the application has already been heard. We want to see the final drawing and plan. Is that something that we should do?

Mr. McGroarty: I like that idea, Mr. Chairman. I think, we'll find room on the agenda, next week. It's up to Mr. Glasson, if he can get it done.

Mr. Scapicchio: Jim, can you get it done?

Mr. McGroarty: Up to 10 days prior to the meeting, which is what the land use law requires. Ed, are we okay accepting a plan, revised? I mean the meeting is still open...Inaudible...the public is still here.

Mr. Buzak: I think, we started this hearing, we're going to carry it to next week. Based upon this, I think that the plan does not have to be in 10 days before, under those circumstances. I would ask that it be...and I know I'm putting some pressure on the applicant and his engineer, but to get that plan in as soon as possible so that at least it can be posted, and the Board can see it before time and not just try to react at the meeting, for the first time.

Mr. Scapicchio: Jim, is that time frame good for you?

Mr. Glasson: I could have two copies to Mr. McGroarty by say, Tuesday? Would that be...?

Mr. McGroarty: Yes, that works for me. Mike?

Mr. Vreeland: Yes. That's fine for me. I mean, Jim, you can e-mail me a pdf copy directly.

Mr. Glasson: Okay.

Mr. Scapicchio: All right. So, we are going to carry this application, PB 20-20, 27 Vista Drive, until next week and the applicant and his engineer will supply us with a new site plan that shows the reduction in impervious coverage from the plan that is in front of us now, to the plan we are going to get next Tuesday.

Mr. Luthra: Can I ask a question?

Mr. Scapicchio: Sure.

Mr. Luthra: So, if we are saying that, in principle, we will go down to 30 percent, and the impervious coverage will be smaller than where things are and we will keep the same drywell, does that make any change? Can we still vote based on that with the condition we will definitely submit a revised plan and get it in front of Chuck and Mr., the engineer, sorry I don't remember the name?

Mr. Scapicchio: No. I think we are going to carry this meeting until next Tuesday. This way, all of the documents and exhibits that we have are up to date and the ones that either get denied or approved.

Mr. Luthra: Okay. Sounds good.

Mr. McGroarty: Mr. Chairman...?

Mr. Buzak: Mr. Chairman, again, just for the record, it will be carried until next week. There will be no further notice, given anyone here tonight on this application. Should appear next week, 7:00 pm using the same mechanism, there will be...it will be on the township website. It will be a virtual meeting. The plans will be placed on the website shortly after we receive them, next week. Chuck, I don't know if there is anything else I have to add?

Mr. McGroarty: I was just going to say, Mr. Chairman, we will put this as the first development matter. Is that acceptable?

Mr. Scapicchio: Yes. I would think so, Chuck, right?

Mr. McGroarty: That would be good.

Mr. Luthra: Thank you so much.

Mr. Glasson: Can I ask Mary, how many copies should I deliver, Tuesday? How many copies of the revised plan?

Ms. Strain: Chuck, how many do you want, 3?

Mr. McGroarty: Does the Board want to see hard copies or are you okay with the digital copies?

Mr. Scapicchio: I'm okay with a digital copy.

Mr. McGroarty: Does anybody want a hard copy?

Inaudible

Ms. Natafalusy: No.

Mr. McGroarty: 3 copies Jim. And one to Mike directly.

Inaudible

Mr. Buzak: Oh, and Chuck, we'd like one directly but that can be sent. That doesn't have to be delivered.

Mr. McGroarty: You want a hard copy? You and Susan?

Mr. Buzak: Yes. That's just easier for us to work with.

Mr. McGroarty: Jim, you and I should talk tomorrow.

Mr. Glasson: Okay. Sounds good.

Mr. Scapicchio: All right. Thank you, Mr. Luthra. Thank you, Jim. We'll see you next week.

PB 20-11, Keinan, Yoram, 6 Bartley Chester Road, Block 6900, Lot 19

Mr. Scapicchio: The next application is PB 20-11, 6 Bartley Chester Road. This meeting has been carried from January 14, 2021, to today, and is the applicant and his attorney, professionals with us tonight?

Mr. McGroarty: Yes and Mr. Chairman, just for the Record, so this is now...the Board is acting in its capacity as the Zoning Board of Adjustment since this is a D-1 variance.

Mr. Mania: Inaudible.

Mr. McGroarty: Mr. Mania and Mr. Forlenza are going to leave the meeting.

Inaudible

Mr. Scapicchio: We'll take a 5-minute break. Return at 8:53.

Inaudible

Mr. Scapicchio: Okay. Let the record show that we are coming back to the public meeting.

Mr. McGroarty: Mr. Chairman, I just want to check with Mr. Hefe, we have the applicant here and Mr. Hefe as his attorney. Last month he had his engineer or last hearing he had his engineer. Am I missing somebody that I should be bringing up?

Inaudible

Mr. Hefe: The testimony tonight is going to be from myself and the applicant.

Inaudible

Mr. Scapicchio: Mr. Keinan, when Ed gets back, I was going to ask Chuck to just give us a brief overview of his report, since it's been a while, that we've listened to this application. Would that be okay with you?

Mr. Keinan: Yes, absolutely.

Mr. Hefe: Mr. Chairman, it's Bernd Hefe, again. We did have, yes, we have, unfortunately some issues with the applicant and his family with covid and we carried the meeting a couple of times. We appreciate the Board doing that for us. So, we are happy to be here tonight and that's the reason it was carried.

Mr. Scapicchio: You're quite welcome.

Mr. Hefe: Mr. Chairman, you let us know when you'd like us to proceed.

Mr. Scapicchio: Okay. Well, you know, Chuck, why don't you proceed with giving us an overview of your original report. Hopefully by then Ed will be back on Board. If not, we have Susan.

Mr. McGroarty: Right. All right, Mr. Chairman, this is again, this is the property known as 6 Bartley Chester Road and it is in the CR-3 zone district. The building on the property is occupied, a portion of the building is occupied by a daycare center. The rear portion of the building is occupied by the applicant in that he stores motor vehicles inside the building. There was some testimony, initially these are I guess higher end or classic type vehicles and there are some vehicles parked outside in the parking lot. There are some other improvements on the site as I indicated in my report that were done without any approvals from the town, a fence and shed and some other things. But then the reason why the applicant is here, is because we have told the applicant that warehousing, which is essentially what they are doing, storing the vehicles in this building, is not a permitted use in the CR-3 zone district. It's not a permitted use, it's not an accessory use here, and there is no conditional uses. So, for that reason it's in front of this Board seeking a d1 use variance. So, there was some testimony... Mr. Keinan had begun his testimony. I don't think his engineer and planner had gotten to that point yet for testimony. I will mention also that I was in the process of going through some photographs that I had taken of the property behind this fence which had vehicles and some other equipment and such back there. Then something happened. I guess the applicant lost cell... cell phone went out or something happened so the meeting ended. I just wanted to advise the Board I've been on the property several times since. I've gone behind the fence and that whole area has been cleaned up. So, the cars and the equipment that was behind the fence is now gone. I was out there, I think, last week. It was the last time I was out on the property. So, I felt given that there was no reason to continue going through the photographs that I took initially in terms of the conditions that were out there.

Mr. Scapicchio: Thank you, Chuck. Mr. Hefe, the floor is yours.

Mr. Hefe: Thank you and thank you Chuck, for updating the Board on what we've done out there because the applicant did go through some lengths to do that and actually took into consideration some of the comments of the Board last time around in terms of their concerns for the property and whatnot. So, with that said, Chuck's right. We have a 6,600 square foot building out there. Roughly 6,600 square feet and about one third of that up front is a daycare center. Two thirds of that building is basically warehouse in the back. So, we really have an unusual building there. The front is sort of a commercial use, and the back is basically an industrial building. That's what it's set up for. It went through approvals for that daycare center some time ago and it has 47 approved parking spaces outside. Right now we are utilizing about, I think 9 or 10 or 12 of those are striped out front. For that daycare center...you know...it's a drop off, pick-up type situation. Those spaces that are up front are the only ones that have been used out of those 47 that were previously approved.

Mr. Scapicchio: Mr. Hefe, can I interrupt you for a second?

Mr. Hefe: Yes.

Mr. Scapicchio: On Chuck's report, he says that the current site plan only shows 9 spaces.

Mr. Hefe: That's correct.

Mr. Scapicchio: Okay.

Mr. Hefe: So, the current site plan shows 9 spaces because that's basically showing what's paved and what's being utilized, right now. There was...the previous approval for the 47 spaces was actually never implemented or paved out or striped or any of that. So, basically the gravel area to the left, on the plans...and those are the September 14th, 2020, plans from Dykstra-Walker. They show those 9 spaces, up front, and basically the left area, over there, that's open and graveled. That was previously approved for the additional spaces, but they were never installed and never really utilized. The daycare center has been using those 9 spaces up front and still uses them. So, that's why we only show those 9 spaces. That's all that's improved in terms of pavement. The rest is gravel.

Mr. Scapicchio: So, they are required to have 47 parking spaces. They never build them?

Mr. Hefe: Well, they have them, but they didn't pave them and stripe them, if you will. They are there. They exist and they haven't been used.

Mr. Scapicchio: Okay.

Inaudible

Mr. Buzak: Can we clarify that, Chuck?

Mr. McGroarty: Yes. Let me clarify that. The original daycare center approval was in 2002. That had 22 parking spaces. I have this in the report, including 2 handicap designated spaces. In

2013, The owner of the daycare facility, I believe it was Amy, came in and got site plan approval for the rear portion of the building that we are talking about tonight, got approval as a gymnasium. That site plan showed 47 parking spaces and that included 2 spaces for the bus parking. So those 47 spaces were part of the site plan that was approved for this gymnasium, that was going to occupy the rest of the building.

Mr. Hefe: Chuck, is absolutely correct in terms of that. So, the daycare center was originally approved for 22, the gym increased that to 47, but the reality of it is, the only use that's ever been there is the daycare center and those 9 spaces that we show on the current site plan, are all that are ever used by that daycare center. So, that's just for the Board's verification and understanding because the daycare use is like I said, it's pick-up and drop-off. So, the approvals for the parking for this facility are substantially more than are ever utilized at that site. So, even if you take the 9 and 47 approvals, then there is an extra 38. If you take the 22 and the 47, then there is an extra of 25. But the reality of it is, there is substantially more parking, on that site, than is required for that daycare use.

Inaudible

Mr. Buzak: Mr. Hefe, I just want to get something clear, before you go on because you are talking about...there's not...if I understand what Chuck said, there are 9 spaces here. There may be room for 22 more or 22 total. There may be room for 47 total. But there are existing, paved, striped parking spaces of 9. Is that correct?

Mr. Hefe: Absolutely, Mr. Buzak.

Mr. Buzak: Okay. Now, my question I guess to Chuck, is...and maybe to the Board is...if the Board granted approval in 2002, for 22 parking spaces, there was no variance I assume, or if there was a variance, there was a variance for 22 spaces as opposed to some larger number of spaces. It appears that that site plan was never fully implemented. I guess my concern, and I don't want to go backwards, but on the other hand maybe we have to go backwards, is if the applicant is saying now, hey we only needed 9 spaces. Well, that really doesn't matter because there's no variance that has been granted. The approval required, if I understand it correctly, 22 spaces and I'm a little but concerned...and I'm not necessarily pointing a finger at this applicant but there is not 22 paved spaces on the site and that needs to be addressed. Either, if we're going to say, look, there's only 9 spaces that are associated with the daycare center, because I understand that the gymnasium was never built, which is why we have the use variance before us, in the same space for the gymnasium was supposed to be. But this is not a prior nonconforming use, I don't think...I think they came for an approval, and it was never implemented. I'm concerned about that from, again a structural point of view from the Board. Chuck, do you have any thoughts on that? I know I'm just bringing this up now, but I didn't really realize it before. If I did, it just went right over my head.

Mr. McGroarty: No, I mean, and over mine as well, I guess. The...for whatever reason those 22 spaces...I mean that was part of the approval in 2002.

Mr. Hefe: So, can I just put a word in there? Your attorney and your planner are absolutely correct on that. From a legal point of view and an approval point of view those 22 spaces were what was to be built for that daycare center, and they were not. Simple as that. So, the space

and the approval, to the left of the building on those plans...obviously the space is there. It's graveled right now. The only thing that hasn't been done, in terms of those 22 spaces is that they haven't been paved and actually identified with striping. The space for the parking, actually exists. I would agree that the improvement was not put in place. The 9 spaces that they are utilizing are more than what they need, right now. So, you're correct that those spaces should have been improved. They should be paved, and they were not. Now, that's not...this applicant did not have anything to do with that because he didn't own the property at the time. So, he's not the one that's responsible for not doing that. He actually purchased the property and should have looked at the prior approvals and said, hey look this wasn't done and this needs to be done. But the practical reality of it is, the daycare center was using those 9 spaces up front, and it was working, and he did look at the prior Resolutions and those spaces are actually missing and they...I should say he owes them to the town. So, that being said I would agree with your planner and your attorney that those spaces are owed and have not been properly put in. Okay, so, I think that addresses that. Now, I'd like to move on with the application because there is a lot of excess parking there. As a practical matter...and this was testified to last time around. We have a daycare center that's utilizing the front half of this building. Basically 2,200 square feet and we have 4,200 square feet in the back. The applicant has basically a personal car collection. It's an unusual application because who has a personal car collection with 60, 70, 80 cars? Not very many people. But he testified to the fact that this is what does. Some people invest in stocks. Some people invest in stamps, whatever they invest in. This gentleman has a car collection. His car collection is in the back end of that building. I think that the use itself, is a very, sort of de minimus use. The car as he testified to never really leave the property. They come in and out very few every now and then. He stores them inside the building. It's a very mild use of this piece of property. Now, we are in the CR-3 commercial residential zone, and the definition of the permitted used in that zone is very narrow...very narrow. So, pretty much anything you are going to come in with is going to require a use variance. This use, warehousing of cars is unusual. So, that's what triggers the use variance. Now, this commercial residential zone, per your Master Plan, it is a transitional zone. Whereby we're trying to move from residential to commercial. Now, I'm not sure his use is a transition but we're...the zone is looking for a transition to more of a commercial use. I would say that this is a very, very benign commercial use, simply because the cars are simply stored in the building, and they stay there, and they leave every now and then. So, that's basically what this application is about. Although it doesn't fit the zone, and does require a use variance there are a lot of other uses at this property that would be much more intense in terms of the neighbors the residential zone around it than him storing cars in this basically building that's half a warehouse half school. So, I think that this use in this warehouse building makes a lot of sense especially since its surrounded by a residential zone and this is a very benign use. It doesn't create any noise. It doesn't create any of the externalities that you would usually have with a commercial use. So, in terms of transitioning from residential to commercial, this is about as benign and small as you can possibly have working towards a commercial use. So, on top of it, there really are no negative impacts either to any of the neighbors simply because it's such a benign use. Now...

Ms. Natafalusy: Mr. Hefe, are you giving testimony on this? Or are you going to have a planner?

Mr. Buzak: I'm waiting for...this is all a proffer of what the testimony is going to be.

Mr. Hefe: No, Mr. Buzak. Not at all. This is just a summarization of my client's testimony the last time around. I have him on right now and he can testify to that again. I was just

summarizing this for the Board because I didn't want to have to go through this all over again. So, I was summarizing his testimony from last time around. But he is on. So, if there are any questions of the Board, I'm more than happy to have him answer those questions. But I'm also happy to move on to Mr. McGroarty's report and go through the reasons why these variances make sense. So, I leave it to the Board. If you have questions of the applicant, Mr. Keinan is on right now.

Inaudible

Mr. Scapicchio: Does anybody have any questions for the applicant himself?

Ms. Natafalusy: Well, you're going to have your planner give testimony on the variances, right?

Mr. Hefe: We're going...the variance testimony is coming from Mr. Keinan and myself.

Mr. Natafalusy: It's a use variance and you're not going to have a planner give testimony?

Mr. Hefe: That's correct.

Mr. Scapicchio: I guess that's their choice, Catherine.

Ms. Natafalusy: Okay.

Mr. Ouimet: David, can I ask a question? Mr. Chairman? It's to the applicant. I think I'm trying to remember what he said in previous testimony. You had said this is all his personal collection. I thought he'd testified and said he doesn't own all the cars. Somebody else owns some of those automobiles that were in there. He also testified...inaudible...I'll start with that.

Mr. Hefe: From what I understand, he...

Mr. Buzak: Mr. Hefe, hold on here. We let you go on and I appreciate what you are saying, and this is your understanding of Mr. Yoram said. But I have to tell you that I was looking at my notes and while I'm not the best note taker...inaudible...there were a lot of things there that I don't have any indication that was testified to because as you remember we spent a lot of time at the last hearing talking about exactly what was going on there. The actual use that was going on and whether in fact, I think Mr. Ouimet has alluded to or was going to be getting to about is this really his personal collection and so forth. So, I think that question is directed to Mr....to the applicant, I show there as Yoram, so, that's why I'm calling...inaudible.

Inaudible

Mr. Buzak: You remain under oath, sir.

Mr. Keinan: Yes. Let me just answer. Absolutely all these cars are mine and I have even all the titles New Jersey titles. So, if someone wants to come, I'll be more than happy to show you but at this point all these cars are mine. I own them. I'm not a dealer and I have titles for all these vehicles. So, I'm happy to share with the Board or anyone that just wants to go even car by car and

show that it's under my name, under my address here in Flanders, New Jersey. So, I hope that answers the question.

Mr. Ouimet: Last year, It was different than what you said, because I thought it was somebody in Connecticut that was...

Ms. Natafalusy: Exactly.

Mr. Ouimet: ...storing cars there. If I remember correctly?

Ms. Natafalusy: You said there was a gentleman named Peter, who was a partner.

Mr. Keinan: Yes. Yes. Peter does my detailing of the cars. So, it's sometimes when he drives the cars, so he has like a truck and a trailer, so once in a while he drives, he brings the car. Sometimes he has another car, but at this point, none of the cars has Peter's and even at times when he would come, it was pretty much out of the 50 plus cars there, it would be just...you know...his cars that he drives comes from Stanford and he is...I let him park there his truck and trailer because he does the shipping for me, but that's about it. As I said, I have all the New Jersey titles for the vehicles and very happy to go vehicle by vehicle and show it if necessary.

Mr. Ouimet: Right.

Mr. Keinan: I'm very meticulous about having titles for all these cars.

Mr. Ouimet: Sir, I believe you are. But like your previous testimony was that you kind of implied that Peter was a partner and partner implies a business. And then you also testified that you are selling maybe one car a month. Maybe a little more than a car a month.

Mr. Hefe: I'm not sure who the Board member is here, but I'd like to jump in because I don't want any confusion in this. So, I'd like to just steer the conversation a little bit. Okay? So, Yoram, you're under oath and you're testifying here. So, I have a question for you. So, all of these cars are owned and titled in your name? Is that correct?

Mr. Keinan: It is correct.

Mr. Hefe: Okay. Now, this guy in Connecticut, Peter, he is an employee of yours that details these cars because occasionally...you acquire cars, and you sell cars. Is that correct?

Mr. Keinan: Well, I acquire much more than I sell, although I would say that recently I sold a few more just to actually accommodate this application and to reduce the inventory. But what's really important is that, again, I don't do it as a dealer. I sell them as...it's the same as anyone that holds departments or diamonds or gold or anything. These are all my cars. I sell them and you know I buy them but pretty much not in capacity as a dealer. Just to let the Board understand this is not my livelihood. I'm an attorney. I work. So, it's a hobby. I've collected these cars all the years. I've always owned them. Once in a while, I sell. Sometimes just to clear some room but not for profit. Normally I don't make money on these sales but I...this is just a hobby. It is nothing...it's not a business. Never meant to be a business.

Mr. Hefe: Okay. Now, let me follow up on that. The person in Connecticut, Peter. He is an employee of yours that services these cars for you in terms of if you want to sell one, if you want to move them around, if you want to detail them, clean them, charge the batteries, make sure that the cars are in order. You do have 60, 70 cars. So, somebody needs to maintain these cars. And would it be fair to say that he is your maintenance man?

Mr. Keinan: Yes, but not an employee. Let's just be technical. I pay him under a 1099, so I don't have a W2 for him. He gets paid by the job he does. He detailed your car. I pay him \$150 bucks. Inaudible.

Mr. Hefe: Okay. But he has no ownership of any of the cars?

Mr. Keinan: He's there 3-4 days a week. No. No. No. At this point nothing...even the trailer is mine at this point. So, again, once in a while he will park his car when he comes too.

Inaudible

Mr. Keinan: But these cars are mine.

Ms. Natafalusy: I'm sorry, that's a contradiction of what you said last time. In December, you said he was a partner and maybe had 10 cars on the property.

Mr. Keinan: You asked me, right now. And I'm telling you right that at sometimes there were more cars there. They weren't partner, I'm sorry you're going to have to excuse me because I'm not a native English speaker. This is why I used this, but the way I see it, was Peter, Peter...you can actually have him testify as well but Peter is simply my detailer. He helps me. I consider him a good friend. So, you know, he goes like, you know, he does things for me. I can call him maybe like partner, more as a friend, but absolutely no partnership whatsoever in the business manner. Absolutely not. He has no stakes. He has no, nothing in the cars that are currently in the building.

Mr. Nelsen: Mr. Chairman?

Mr. Scapicchio: Yes.

Mr. Nelsen: I have a question of the applicant.

Mr. Scapicchio: Go ahead, Dan.

Mr. Nelsen: Just curious. How is this different from a used car lot? You buy and you sell used cars. I don't understand...

Mr. Hefe: Yoram, let me answer that please.

Mr. Buzak: No. No. Mr. Hefe, look, there is a question...

Mr. Hefe: No.

Mr. Keinan: No, that's fine. I can explain...

Mr. Buzak: You know, Mr...

Mr. Hefe: It's a legal question.

Mr. Scapicchio: Hold on guys. Mr. Buzak has the floor.

Mr. Hefe: It's a legal question.

Mr. Buzak: Well, Mr. Yoram, Mr. Keinan's...he asked that question, Mr. Keinan is ready to answer that question. If you are directing him not to answer the question, that's fine, but let's not...inaudible...as Ms. Natafalusy said, we need testimony under oath and we all know attorneys don't testify...Inaudible...

Mr. Hefe: Yoram, please let me answer the question. This is a legal question. It's very simple. Okay. The question is what is the difference between what you're doing and a used car dealership? That's the question. Okay? And the answer is very simple. Ed, a used car dealership, any car dealership requires a dealership license. Because you are dealing in cars. A license is issued through the State of New Jersey. Yoram, do you have a used car dealership license?

Mr. Keinan: No, I don't.

Mr. Hefe: Okay. Have you ever applied for one?

Mr. Keinan: No.

Mr. Hefe: Do you even know what one is?

Mr. Keinan: No.

Mr. Hefe: Okay. Thank you.

Mr. Keinan: I will say...

Inaudible

Mr. Buzak: I would follow up, Mr. Nelsen, Mr. Keinan, let me follow up on those questions, okay? If you can answer the question. Do you buy and sell vehicles from that location?

Mr. Keinan: I don't buy from this location at all. I buy from all over the place, and I don't sit there or phone. I buy vehicles when I sit at my office in New York or when I sit from home, but it's not done through the building. But I want emphasize...

Mr. Buzak: Well, let me...

Mr. Keinan: No, no, no. You got to let me finish, please.

Mr. Buzak: No, but you have to answer the question, sir. You have to answer the question. I just need you to answer the question, okay.

Mr. Keinan: I don't buy and sell from this building, cars. That's the answer.

Mr. Buzak: Do you sell vehicles from this building?

Mr. Keinan: No, no. Were the cars sold? Inaudible. Some person comes by, they pick up the car and they take it, that's it. Again, it's being picked up from there. But I don't sell. I don't have an office where I sit and buy and sell cars there.

Mr. Buzak: Where do you sell the car? Where do you buy the car? Where are you located when you buy the vehicles?

Mr. Keinan: Anywhere I want. You know today, you buy cars on E-bay. You buy them on Craigslist, online. I just looked, you know, I sit down at home when I have time. I look and browse on the internet, and I see an interesting car and I just click, I bid on it on E-bay. You know if I win it, I get the car. But it's not done from the building in any shape because there isn't even an office there. There's no really...there's nothing there to facilitate such purchases and sales.

Mr. Buzak: Okay. And where do you sell the cars from?

Mr. Keinan: From? Same thing. I put them on E-bay if I want to sell and I cost them. People bid on them and if someone wins the car, you know, that's fine. He sends me payment for pay pal or something and they come and pick up the car.

Mr. Buzak: Okay. So, you do buy and sell vehicles?

Mr. Keinan: I do buy and sell vehicles. They're from my own property.

Mr. Buzak: Okay.

Mr. Keinan: I want to remind you that a dealer...

Mr. Buzak: Sir, sir, don't remind me of anything. Just answer the question.

Mr. Keinan: No, no, you're saying I'm a dealer. Dealer sells for other people. Not for themselves. Please...you know, ladies and gentlemen I am not a dealer. Dealer sells for other people not for themselves.

Mr. Scapicchio: Mr. Keinan. Mr. Keinan. Please, order. The attorney has some questions. Let him ask the questions. If you don't want to answer the questions, don't answer the question.

Mr. Keinan: I am answering. That's fine.

Mr. Scapicchio: Ed, you have the floor.

Mr. Buzak: Thank you, Mr. Chairman. Is it fair to say, Mr. Keinan, that the vehicles you buy, and sell, are stored, repaired...are stored at this location?

Mr. Keinan: The vehicles that I buy, and sell are stored in this location, yes.

Mr. Buzak: Okay. And are their vehicles detailed at this location?

Mr. Keinan: Yes.

Mr. Buzak: Are there vehicles repaired at this location?

Mr. Keinan: Absolutely not.

Mr. Buzak: Okay. When someone buys a vehicle from you, how is it delivered to that person?

Mr. Keinan: However he chooses to do it. If they said they can send a carrier to do it, they can come and take it themselves. However they choose to do it.

Mr. Buzak: How is the title transferred to that purchaser?

Mr. Keinan: I sign the title. I put their name there, and of course after he pays me, he gets the title, and he goes and titles the vehicle under his or her name.

Mr. Buzak: When you buy a vehicle, is that the same process in reverse? You buy it? You get title and the vehicle is then delivered to that location and stored in that location?

Mr. Keinan: Yes.

Mr. Buzak: Okay. Thank you. I have no further questions, Mr. Chairman. I'm sorry Mr. Nelsen, I interrupted your questioning.

Mr. Nelsen: No. That was good. It was all in the same vein.

Mr. Hefe: I have some follow-up on Mr....

Mr. Scapicchio: Hold on Mr. Hefe. Dan, are you done?

Mr. Nelsen: I almost want to ask Mr. Keinan, why hasn't he applied for a dealership license? It almost seems like he's a dealer.

Mr. Hefe: So, that's what I wanted to follow up on.

Mr. Scapicchio: He's asking Mr. Keinan.

Mr. Hefe: If I may.

Mr. Scapicchio: He's asking Mr. Keinan the question, Mr. Hefe.

Mr. Keinan: I'll answer. Once again, dealers sell on behalf of other people. So, if any of you have vehicles that they want to dispose of, they go to a dealer, you pay commission to a dealer and the dealer sells, for you, for commission. These are my own cars. And the other thing is dealers do these things for profit. They make money. They buy and sell. They do commission for others, and they make this thing for profit. For me, some of these vehicles sit there, not there, sit, actually with me for over 10 years. I buy these things as a collection. It's a hobby. So, I never even...thought never came to my mind to be a dealer because first I have other job, and this is just a hobby. I'm not there every day. And actually, before covid, I would probably be there only during the weekends. I buy these cars to enjoy, to drive them, but absolutely never came to my mind to be a car dealer in any shape or form. I don't think that what I do fits the definition of a dealer because I don't buy and sell for anyone else. Never done that before. I only buy cars for myself and then sell...inaudible.

Mr. Nelsen: Perhaps my question is...and it's my ignorance, I'm not exactly sure the difference in a dealer or a dealership and a used car lot. Now, I'm thinking a used car lot, someone owns that used car lot. They buy and sell cars... they buy cars, and they sell cars. I'm thinking for themselves. They're buying the car and then they sell the car, for usually, I guess hopefully for a profit. That's what I'm saying. That maybe I'm not correct in saying dealership. Is there another term for a used car lot? Or is just...you need a dealership license to buy the cars? Inaudible...

Mr. Keinan: Inaudible...

Mr. Nelsen:Inaudible.

Mr. Keinan: Excuse me Mr. Nelsen, I think as Mr. Hefe said correctly and again, I never even investigated it, but used car dealerships need to have the...inaudible...the dealer that I would go an apply for a dealership license. I don't have a license. I don't intend to...inaudible...license. I don't want a license because this is not what I do. Now, yes, some dealerships, or let's put it, used car dealerships, do buy cars and sell them. But they never do it, what maybe sometimes, but most of them, and I know because sometimes I buy from dealers. They never transfer titles to their name. You all need to know, they pay taxes on it and its absolutely not efficient for any used car dealership to buy cars, put it under their name the same as I do, then sell them. Because then they would have to pay taxes. So, they get a dealership license. They never transfer ownership. And then they flip them for profit. Now, some dealerships will also do what they call consignment. They will consign sometimes. Inaudible. They'll do it to sell for them. They won't even touch the ownership. But again, it's different from what I do. I title all these cars. I have a very organized portfolio for all my titles. No dealer would do it normally because they have to pay the taxes when they do it. Then they would resell it. So, this is really the biggest difference between a dealer. I just want to emphasize this, so you understand that I never intended to be a dealer. I have other things, other sources of income. This is a hobby. This is my joy, my life. Some of these cars are with me for over 10 years. I just don't do this thing for profit. I'm not doing this thing for profit. Most of the cars probably are losing money on them. There is clearly no intent, here on my end, to even open a dealership or become a dealer.

Mr. Nelsen: Thank you.

Mr. HefeLe: I have a...I want to...Yoram, I'd like to have you add some testimony here, because I don't want there to be any misconception with the Board that we're trying to get away with something. Because that's not the case here. This is a private collection and that was this testimony. And I want to spend some more time on that because...

Ms. Mott: Can I ask a question?

Mr. HefeLe: Ma'am?

Ms. Mott: This way we can move on to the next subject. I know you have the cars titled, but are they all registered and insured?

Mr. Keinan: They absolutely...inaudible...they insured...inaudible...as collectible. I have a very large portfolio being insured with Hagerty. They have antique car insurance. Some of them are registered some of them are not registered. The ones that are pretty much, you know, are in driving condition would be registered. I have probably close to half of them registered. Many of them have the antique registration that New Jersey provides. They are absolutely all insured with Hagerty.

Ms. Mott: And then I have one more question. It's probably for Ed and your attorney. So, my back in my day I bought and sold a lot of cars. I went through those little phases, convertibles, no convertibles, and I remember my accountant saying that if, I think the limit was 4? If I bought and sold 4 cars in a year, I could be considered a dealer? Is that accurate?

Mr. Keinan: I didn't understand the question.

Mr. Buzak: I don't have the answer to that.

Inaudible

Ms. Mott: ...Inaudible, you could buy and sell throughout a year, not being considered a dealer. If you sell 5 cars, you're considered a dealer.

Mr. HefeLe: So, Yoram, that is right up your alley, because that is a tax question. Since you are a tax attorney, the question is, if you sell more than 4 cars in a year, from a tax perspective, are you considered a dealer? Now, dealership license aside, the question for the Board member is, 4 cars or more are you a dealer?

Mr. Keinan: I'm an investor. When I sell cars, I report them as capital gains. I'm absolutely not a dealer from a tax perspective. I'm a tax attorney and I'm checking. The IRS, if they ever wanted to audit me, they'll definitely not going to succeed. I'm not a dealer. These are all capital gains, capital assets in my hands. These are investments. These are my property. I would not be considered a dealer. There are some definitions of dealer, for example, they have to have volume. They have to have frequency of transactions. There are some definitions there, I clearly don't fall under. I write opinions on who is a dealer and I'm not. Not for tax purposes as well.

Mr. HefeLe: Okay, Yoram, I have an additional follow up question for you because I'm still trying to get to the issue of the Board's concern that you are a dealer verses this is your private

collection. And that's obviously a concern for this Board. They believe that you're dealing cars out of there and that's an issue for them. Now, to that end, how many cars are bought...do you sell out of there? You have a number of cars there and you buy cars for your collection, and you sell cars for your collection. So, on a monthly basis, let's just say monthly, what from that location, how many cars would leave on a sale basis?

Mr. Keinan: On a monthly basis, maybe 1. Purchases, I haven't purchased because actually, again, I'm trying to thin the heard...

Mr. Hefe: Yoram, I don't care. Stop. I don't care about all that. What I care about is how many cars are coming in and out of that location? That's important to this Board. They want to understand.

Mr. Keinan: I would say on average, maybe once a month car coming in. Once a month car coming out. No more than that.

Mr. Nelsen: Mr. Chair?

Mr. Scapicchio: Yes, Dan.

Mr. Nelsen: I'd like a question of the applicant. I'm wondering, do you have other locations where you store cars?

Mr. Keinan: No.

Mr. Nelsen: Just this one?

Mr. Keinan: Yes.

Mr. Nelsen: Thank you.

Mr. McGroarty: Mr. Chairman?

Mr. Scapicchio: Yes.

Mr. McGroarty: I know that it's the applicant's application and they will present their case as they wish, but I think the focus at least from my perspective, wasn't so much on whether it's a dealership or not.

Mr. Scapicchio: Right.

Mr. McGroarty: It's using the property as a warehouse. They didn't ask all of the questions about dealership and how many vehicles were bought or sold. The question, it seems to me, is part of the question here is, it's a use variance, to use...the property is being used part...in part, as a warehouse. So, I don't know if this back and forth about whether the cars are being sold or bought, is really getting to that, to helping the Board understand whether they've addressed the issue of the criteria for getting that variance.

Mr. Scapicchio: So, Chuck, that's the issue you have from a land perspective?

Mr. McGroarty: I think that's the issue that's in front of the Board. I don't think this Board is here as an enforcement agency, whether they buy or sell cars. I think the question is pretty straight forward. I see it as a use which is not permitted in the zone. I don't think that that's been contested. So, it seems to me the focus ought to be, and again, it's not for me to tell the applicant how to present the case but, they have to address as we all, positive and negative criteria, but also the Medici standard for...inaudible...with a d1 use variance.

Mr. Buzak: If I might, Mr. Chairman. I agree with Mr. McGroarty. I think perhaps to some extent what the Board is trying to get to is, well, what is the use that we're talking about? If you look at it as simply storing vehicles there and those vehicles are not bought and sold, are just stored there, that's one use. If the vehicles are stored there but then there is a circulation of those vehicles, they are bought, they're sold, they're bought, they're sold, now the question becomes is that warehouse to just store an item? Or is there a revolving so to speak, kind of inventory? If there is a revolving type of inventory, is the use simply storage or is the use actually the purchase and sale of vehicles from that location? Not that...I understand the transaction could be in your car. It could be at your home office. It could be on a telephone. The point being, what is the use that is being sought? The applicant, if I understand it correctly, is saying I have cars here and that's it. I think the Board is struggling with...well is it just storage of vehicles or is there more to it than just the storage? I think that's, if I'm reading the Board right, that's what they're trying to wrap their arms around.

Mr. McGroarty: I think, and I don't disagree, I just think it's difficult because...well number 1, we haven't had any planning testimony yet. So, but to me, whether it's just the storage of cars with the occasional sale of a vehicle or the storage of vehicles with never any sale or purchase going on...the use is not permitted. I agree, certainly due to the fact that...It's important to know, well what use, specifically are we talking about, but I don't even...I'm not saying we're splitting hairs but, if it were established that he's not...that this applicant is not a dealer, I still think he's in violation of the ordinance and he still needs a d1 variance.

Mr. Buzak: I agree.

Inaudible

Mr. Hefele: So, if I may step in, as usual I agree with both of your professionals. This is a use variance application. Now the reason that we've been discussing this issue of his personal collection and how many cars he sells out of there is, because exactly as Mr. Buzak said, this is sort of an important issue because if you're looking at a use variance in terms of a used car dealership, or a use variance in terms of a personal collection, those are two very different use variances for the Board to consider. So, Mr. Buzak nails that on the head. Mr. McGroarty is absolutely correct that this is an application about the use and the variance proofs for the use. So, both of your professionals are right on. Now, in terms of the use. We've testified as to what we believe it to be and what it is. So, it's a personal car collection, for Mr. Keinan. Yes, he does purchase cars and yes, obviously his collection increases. His collection decreases. But our testimony is that this is a personal car collection. So, from the Board's perspective, that's a credibility issue that you need to weigh. You either believe him or you don't. Now, if you believe him, which is where our application is going, and those are the proofs we are providing. Then the next question becomes as

your planner, Mr. McGroarty, pointed out, what about that d1 use variance and what about the proofs and does it meet that d1 use variance? That's the question. So, what do we have? Well, we have a building, we have a split building, that has a daycare center in the front and a warehouse in the back, 2/3 of this building is constructed as a warehouse in the back. Now, you know, that is a very unusual building, and I would proffer to the Board that that building is unusual and there are special reasons under the criteria for variances that would dictate special reasons this building is designed differently in this zone. It has a commercial use up front, an industrial use in the back. And I would submit that that satisfies the criteria of special reasons in terms of the variance. Now, in terms of...

Mr. Buzak: Mr. Hefe, I really hate to interrupt here but you are providing testimony here, with regard to the variances and you are not permitted to do that before a Board. You can make an argument at the end of your testimony if you're closing your case and you want to rely upon the testimony that's been put in, that's fine. If you want Mr. Keinan, I apologize for mispronouncing your name, to provide that testimony, that's fine, without you providing it and him just saying yes. He needs to provide the testimony and then if you want to refer to that testimony, that's fine. I'm not going to have this proceeding for a use variance conducted by the attorney providing that testimony. That is just out of order, sir, and I think you know that. You've been through these cases as much as I've been through them over the years. You just can't disguise the testimony by saying it's your argument when it's nothing in the record to demonstrate that.

Mr. Hefe: Mr. Buzak, I respectfully disagree that there is nothing in the record, but I'm happy to put this through Mr. Keinan's mouth. So, he is on with us, so we can go through that and let's do that. Yoram?

Mr. Keinan: So...I need to...actually, if I may...I'm sorry, I need a translation of exactly what was said. This testimony has to come from me, instead of you, Bernie? Is this really what was said? So, I'm more than happy. This is what I'm here for. You just tell me what I need to...

Mr. Hefe: Let me just ask you a few questions. Okay? For the Board, and you can just answer the questions. It's that simple. The building that you own, it's a 66,000 square foot building and there is a daycare in the front and a warehouse in the back. Is that correct?

Mr. Keinan: That's correct.

Mr. Buzak: It's 6,600, right?

Mr. Hefe: I'm sorry. 6,600.

Mr. Keinan: Yes, 6,600.

Mr. Buzak: Let's get the record clear. Onto the questions and...

Mr. Hefe: I'm sorry. Inaudible. We have a 6,600 square foot building and 2/3 of that is warehouse in the back. 1/3 is a school in the front. Right?

Mr. Keinan: That's correct, more or less, the proportions. Yes.

Mr. Hefe: That building...the warehouse in the back, is that built out specifically? Tell me about the configuration of the interior of that building. I say it's a warehouse, but for the Board's purposes, let's be more specific. What's back there?

Mr. Keinan: There are 4 walls. There is concrete, flat floors and a high ceiling. There are two entries there, two gates that are pretty much wide that also there is access for this, so you don't have to step up or down. Inaudible. I guess what I'm trying to say is that, if I were to define how a warehouse looks like, this would be my probably ideal definition. Again, there is pretty much there is nothing here. There is no structures inside that limit the space to store. Again, there are two large doors, there is access to it, so I would say, yes. It looks and feels like a perfect storage.

Mr. Hefe: Okay. Let me ask you...If I have to, does that space lend itself for any kind of retail use? Is it something where you could have a retail use and start selling out of there, or does that not make sense?

Mr. Hefe: You know, it doesn't make any sense. In fact, there is no office there. There is just a space and there are two bathrooms and pretty much there is no office. There is no phones there, there's no computer, there is nothing there that would even allow to facilitate any kind of business use there. There just...flat floor, walls, ceiling and two bathrooms. That's all. That's really what's it's all about there.

Mr. Hefe: Not to belabor the issue but could you use it for office space? It's going to require so many modifications that I don't think it will be efficient at all. There is not heating there, there is you know, the lights are all the way up in the ceiling. In order for me to actually use it as an office, I would have to pretty much build an office inside there, with you know pretty much all the facilities, all the amenities. So, I would say it's completely inefficient to even think about any office there. Or any use other than, again, it's all just walls, floor, high ceiling, and lights in the ceiling. That's really all...

Mr. Hefe: Just yes or no. It's fair to say that this is a warehouse. Built out for a warehouse, to be utilized as a warehouse, and it makes no sense to do anything else there, without a substantial financial investment to basically rebuild the entire building.

Mr. Keinan: Agreed. Absolutely.

Mr. Hefe: Okay. Fine. Your cars that you have there, they are stored inside, right?

Mr. Keinan: Most of them are stored inside. The other ones are in the parking outside, yes.

Mr. Hefe: Okay. So, you have some stored inside and some stored outside?

Mr. Keinan: Yes...inaudible

Inaudible

Mr. Hefe: Yoram, back to your cars. Your cars are inside and outside of that building. However, how many cars that you have inside located on that premises that you have, how do they leave on a monthly basis? How many cars are coming in and out of that property monthly?

Mr. Keinan: The cars inside, I would say at least, I would estimate 75 to 80 percent, some of them have been sitting there since I actually arrived there. Sometimes I slightly reorganize them to utilize more space, but I can easily count if I have to, if someone wants to see...at least out of the 30 plus cars that are inside, I would say 20 to 25, I don't think have ever moved from the inside. They are sitting there. There is no fuel, no batteries, the battery is disconnected. They're just sitting there. Some of them, I sit on them, I don't touch them, and they've been sitting there. So, I would say, maybe, I would say maybe if I say cars that have been more circulated, no more than 20, 25 percent.

Mr. Hefe: Okay. So, they are sitting in there and they are leaving very, very seldomly. While we are talking about them sitting there, I just want to put a couple of other facts on the record for the Board. So, they sit in there and you said there is no fuel in those cars. Is that correct?

Mr. Keinan: Yes. When we came in...the Fire Marshal came and said guys you've got to drain the fuel. No fuel in them. We disconnect the batteries and I want to emphasize that honestly, they can't be even started. So, if we need to roll a car out, we normally need help. This is another reason why Peter helps me. Normally we need to roll the car out. Some of them it's even hard to roll because they sit there. Yes.

Mr. Hefe: Okay. But the reason you are rolling them out is because the fire official told you that they are not to have any fuel in them and they do not. Right?

Mr. Keinan: That's correct.

Mr. Hefe: Okay. So, the fire official in the municipality has been through your facility while you've owned it?

Mr. Keinan: Several times, yes.

Mr. Hefe: You satisfied many of his requests that he's had when he came through?

Mr. Keinan: As far as I know, he was satisfied with all the disabled cars. We made the lines very clear to the exit. All the lines are 4 feet or more. The cars are well aligned. There is no fluid. Nothing ever there, so as far as I know, he's satisfied that he can...that there is access to the exits and fire system works. We also have quarterly checks on the fire systems. As far as I know I'm pretty much in compliance with all the fire restrictions, yes.

Mr. Hefe: Now, there was also a comment, because I just want to get this on the record. There was a comment from the fire official regarding the wall that separates the daycare center from the cars. He required that wall to be a fire resistant, retardant wall, in accordance with his requirements. You're prepared to do that?

Mr. Keinan: Absolutely. So, just for the Board's benefit, Bernie and I sat down. I have the building's plans. We looked at the wall and we came to the conclusion that it's not fire rated.

However, I consulted with an engineer. He said, we can build this wall and it's going to cost you X amount of money and as far as I'm concerned, yes, if I'm getting the approval, or as a precondition for the approval, we will get this wall between me and the daycare, fire rated. Yes.

Mr. Hefe: Now, the reason for the fire rating is because you have cars next door, obviously, right? That's...we have a daycare use and a car use. That's the reason. But again, there is no fuel in those cars, irrespective of the fact that you are going to put up a fire retardant wall, right?

Mr. Keinan: That's correct.

Mr. Hefe: Okay. Next in terms of the car utilization there and your cars, you're in that zone and you have neighbors. Now, you brought cars in and you brought out. Have you ever had any issues with regard to any of the neighbors complaining about your utilization of that property for your cars?

Mr. Keinan: I have never received any complaint from any neighbor, surrounding neighbor, close neighbors, nothing. As far as I know, no one ever contacted me and or asked me. I've never had any contact from local police or authorities that someone complained about these cars at all. Very, very...there isn't too much noise around here. There are many days where no one is even there. Nothing is moving there. So, I guess to answer your questions, I've never received any complaint. No.

Mr. Scapicchio: Mr. Hefe, can I interrupt you folks for a minute, please?

Mr. Hefe: Mr. Chairman, you absolutely can.

Mr. Scapicchio: Yes. You know, I'm almost to the point where I want to propose having this meeting carried until you folks can bring a professional planner for testimony. I mean, I don't know about the rest of the Board members, but I'm hearing a lot of mumbo jumbo and no professional planner has testified to this use.

Ms. Natafalusy: We are going over exactly what we went over last month. The Fire Marshal, the wall, last month...

Mr. Scapicchio: I don't want to extend this process that much longer because I think it's inappropriate to have a warehouse with vehicles in the same building as a daycare. That doesn't seem to me to be compatible use of a piece of property. So, having said that, I think I'm going to cut this meeting off and require you to bring a professional planner in for testimony. Ed, is that something that I have the authority to do?

Mr. Buzak: I think, Mr. Chairman, you've made it clear and I didn't see a lot of objection from any of the other Board members, but I think at the end of the day, it's the applicant's choice. If the applicant decides that they are willing to present their case, as they have and they don't want to use a planner, and any other professional, with regard to these issues, they have the right to do that and then the Board has to determine whether or not there have been adequate proofs provided by someone competent to provide those proofs. That the standards set forth in the ordinance have been met. Standards set forth in the statute have been met. If they haven't been met, the Board

denies the application. It's not necessarily unusual for a Board to deny an application because there...inaudible...deny an application if there are inadequate proofs granted. I'm not suggesting there are or there aren't here, but that's the basis for denying it. That the applicant has not met the burden of proof, that Mr. McGroarty set forth in his report, which is consistent with what the statute is. I don't think, with all due respect, to the Chairman, I don't think we can direct the applicant to produce an expert. I think you've encouraged that. I think you've made clear the concerns. As I said earlier, I didn't see the Board jumping up saying no, Mr. Chairman, we're fine. You're looking at this...inaudible...but in the end, I don't think we can direct the applicant to do anything. I think if the applicant to proceed on this basis, they certainly have a right to do that. When they rest, the Board can then consider that testimony and make a determination.

Mr. Scapicchio: All right. Thanks. I'm sorry for interrupting.

Inaudible

Mr. Hefe: Okay. Mr. Chairman, again, I agree with your professionals. They keep hitting the nail on the head perfectly. Mr. Buzak's right. I don't think you can direct me to get a planner, but I hear you. We would like to adjourn the application and we'll come back at the next available date.

Mr. McGroarty: Mr. Chairman?

Mr. Scapicchio: Yes, Chuck.

Mr. McGroarty: You know, I'm puzzled by this because they had an expert at the first hearing. Which, I think...

Mr. Hefe: We had an engineer.

Mr. McGroarty: Well it was an engineer, but he identified himself as a planner as well, if I recall, but perhaps I'm wrong. But it's a use variance. Their decision tonight was to present the testimony you heard without that type of professional. I only bring this up because they are already... in the property, whether it stays unchanged another couple of months, I suppose that's fine, but I will advise the Board we've already scheduled matters into May. There is really no room on the agenda for this until June. Unless we bump other applicants and people are waiting. So, I mean it was their choice to come, tonight without a professional. If you want to give them, that's your call but I just want the Board to realize that...and Mary can you tell me if I'm mistaken, but I believe we're booked from May now, at this point.

Ms. Strain: You are correct.

Mr. McGroarty: Just so you are aware.

Mr. Scapicchio: Thank you, Chuck.

Mr. Hefe: Mr. Chairman, If I may?

Mr. Scapicchio: Yes, Mr. Hefe.

Mr. Hefe: Okay. If I may, I mean, the application it was...like I said when I first started, we have unfortunately a covid delay here, and we appreciated that. I believe that this application has real merit. If the Board wants to hear from a planner, I really...I'm happy to go and get that planner and get him tuned up and get him on board and retain him, if that's what the Board wants to hear. I really didn't believe that the application required that but if the Board wants to hear from a planner, I'm happy to do that.

Mr. Scapicchio: Mr. Hefe? Like Mr. Buzak said, that's your choice, not ours.

Mr. Hefe: Nope and that's why I said...I understand Mr. Chairman what you requested and I'm happy to satisfy you in terms of that and come back with that planner. I'd like to do that. So, we would request that you give us the chance to hire that planner and come back because I believe this application has real merit. So, we will come back and if it has to be in May or June, we're happy to do that. We will come back with that planner and provide that planning testimony.

Inaudible

Mr. McGroarty: Mr. Chairman, I've been doing this a long time, as I know the others here have, I don't recall ever seeing an application for a use variance without some professional to testify. And then there is really no urgency on the part of the applicant to get in front of this Board. I'm finding it hard to understand, frankly. I didn't know...we all...those of us that do this stuff know that for a d1 variance you have to give testimony based on the Medici criteria in this situation. Who is going to provide that tonight?

Mr. Hefe: Mr. McGroarty, with all due respect, it does not require a planner to present...inaudible.

Mr. McGroarty: That's fine. So, that's fine, so put your application on tonight then...inaudible.

Mr. Scapicchio: No, that's fine Mr. Hefe.

Mr. Hefe: But the Chairman asked me to provide a planner, so I'm happy to do that if that's what the Board wants?

Mr. McGroarty: He is buying time, Mr. Chairman.

Mr. Scapicchio: The choice is yours Mr. Hefe.

Inaudible

Mr. Hefe: We didn't proceed improperly.

Inaudible.

Mr. McGroarty: No, let me be clear. I wasn't accusing you of proceeding improperly. I was surprised that you didn't bring one, as Mr. Buzak said, it's absolutely your choice. What I'm saying

to the Board is your client has no urgency to appear in front of this Board. Because he is already in the property and has been on that property. And I'm advising the Board that you won't even be back in front of this Board until June at the earliest.

Mr. Hefe: But that's a logistical issue, Mr. McGroarty. I can't change that. That's a logistical issue...

Inaudible

Mr. McGroarty: I'm saying, I think you should...inaudible.

Mr. Keinan: If I may, listen please, if I may remind everyone we are in very unusual times, these days, and yes myself and my family suffered from covid. I was in the hospital, so, Mr. McGroarty, I really understand what you are saying but no one is trying to delay or anything. If It's my choice, and again, we are not in usual times these days, so, if the Chairman suggested that we bring an expert and I'm more than happy to hire an expert. So, I'm really asking the Board, we are in usual times, and I've had very tough 2 months, and I regret we could have done it sooner. But I'll hire an expert. We'll get things moving as soon as possible. I want to present my case. You know, the Chairman suggested it and said it's my choice. I want to be able to present my case and I'll do everything I can to make it as efficient and quickly as possible. So, I just want to mention, this is more of a personal view just at this point. I want to be able to at least be able to at least get out of this process with...I was able to provide the expert report and for someone to represent me and if in the end the Board approves or doesn't approve it at least we all know that you've seen this expert. I promise to do it as soon and diligent as possible. I wish I could do it before, but I couldn't.

Mr. Buzak: Mr. Chairman...

Mr. Scapicchio: Thank you Mr. Keinan. Yes, Ed.

Mr. Buzak: Yes, a couple of things here. First of all, Chuck is correct. When we heard this application on December 10th, we had Kenneth Dykstra as one of the people who were called up as a witness for the applicant. He was identified as both an engineer and planner.

Ms. Natafalusy: I have that in my notes too.

Mr. Buzak: So, it has...as pointed out by Chuck, this applicant...there is no particular urgency from an applicant's point of view and this happens with all situations. It's not...the Board is not unique where there's been some violation and an application is made for a use variance and the applicant is permitted to continue that use until the application is disposed of. That creates...whether deliberate or inadvertently, it creates an opportunity for the application to not proceed swiftly. Now, the applicant...we were here on December 10th, 2020. We had an adjournment and the incident of covid. I get all that. The applicant was on for tonight and prepared to go forward and the statement made by the applicant and the attorney was...no we are not going to present a witness. Now, given the questioning and perhaps reconsideration, it's...well if you want a witness, we have to retain one. So, it's not we are going to use Mr. Dykstra, who we had here back in December, It's, we have to retain one. I think, Mr. Chairman, and you started to ask this question earlier about what is your call for the vote? I think my point is, given the schedule that we have, given the situations that we have, both the situation with the applicant in terms of illnesses and

coming back here tonight, I think they had an obligation to the Board to be prepared tonight, to present their application. Clearly, undoubtedly, they were not planning to have a planner. I think, Mr. McGroarty raises a good point. The applicant shouldn't be reading tea leaves here and saying okay, well obviously we need to get a planner now. That decision should have been made before. It should not have been made tonight because they listened to what's going on. Again, the statement was very clear into the record, that we are not going to use a planner. So, I think it is a little bit unfair to all the other applicants that we have...and to the Board to say now we are going to carry this for 2 or 3 months while the activity is still going on because the applicant feels based upon what he's heard at this meeting, we need a planner. That's not the way the process works. You can't do that. I think that we need to proceed and the application should rise or fall on what the testimony is and the Board can make a decision.

Mr. Scapicchio: Thank you, Ed.

Mr. Keinan: I must say that I disagree. If you're preventing me...first, it's the chairman that suggested it, and with all due respect with everyone here I fully understand it...the Chairman suggested it. I did not suggest it. No, I didn't say that I will...whether I hire Mr. Dykstra or not but if you suggested it and now you are telling me we're depriving you from the right to bring a planner, then I just don't get it. I'm sorry. Something has to be done properly. There was no ill intention or anything and as I said I was willing to get this thing done way before I suffered from covid, and I can provide proof for anyone who wants. The idea is...no one here is trying to do anything that is improper or to drag anything. I would like to get this process as...inaudible...

Mr. Buzak: Sir, sir, stop. Wait a minute. I've asked...I've made this statement to the Board. I think it's the Board's call here. Are we going to go forward tonight and complete this application or are we going to grant an extension? We're just going around and around... inaudible.

Mr. Scapicchio: Ed? Ed? We are going to go forward with this application tonight.

Mr. Buzak: Okay.

Mr. Scapicchio: Mr. Hefe? Any other testimony?

Mr. Hefe: Yes, as a matter of fact. Yoram, where we left off last time around...I'm sorry Mr. Chairman, we're going to proceed...we are going to proceed. So, Mr. Keinan, we were talking about the operation and any negative impacts on the neighborhood. I believe the testimony was that you haven't had any complaints or any negative feedback from anything that you are doing at that property?

Mr. Keinan: That's correct.

Mr. Hefe: Has any municipal official been there and cited you with any violations other than this violation that put us in front of the Zoning Board?

Mr. Keinan: Inaudible.

Mr. Hefe: The violation that put us in front of the Zoning Board, that's the only violation you've ever been cited, right?

Mr. Keinan: Yes. That's correct.

Mr. Hefe: You've been operating there for a few years? You've been operating there for what 3 or 4 years? How long have you owned the property?

Mr. Keinan: No, no, no, since...what was the purchase? October of 2018, I bought it.

Mr. Hefe: October of 2018. So, for 4 years?

Mr. Keinan: Yes. No.

Mr. Hefe: For 4 years you've been operating...

Mr. Keinan: No, sir. 2 ½ years.

Mr. Hefe: Okay. Let me just get something out. So, what's important here...so for 2 ½ you've been operating there, your personal car collection with no incident whatsoever?

Mr. Keinan: That's correct.

Mr. Hefe: Has there been any complaints from the daycare center?

Mr. Keinan: Not as far as I know, no.

Mr. Hefe: So, they have no issue with you operating there. You have no negative impacts that you are aware of or that they told you about in terms of the daycare next door?

Mr. Keinan: We have great cooperation...relationship with them. I respect they ask, all the time. I've never had any complaints with them or anything of the like, no.

Mr. Hefe: No Issues? So, no issues with the municipality? No issues with the police force? No issues with the daycare center in terms of negative impacts on the school or the children?

Mr. Keinan: Correct.

Mr. Hefe: Okay. That's all I have. So, I'm ready to sum up Mr. Chairman.

Mr. McGroarty: I have questions. This is to the applicant. Mr. Keinan, based on what your testimony was earlier with regard to the nature of the structure, is it your position that your property has been zoned into inutility?

Mr. Keinan: I don't understand the question.

Mr. McGroarty: Okay. What I'm asking is, you testified that there was no other use, no other practical use for that building other than a warehouse. That was your testimony, is that correct?

Mr. Keinan: I didn't say there was none whatsoever. I just said that I responded to say that if you think about an office or anything of the like, that it wouldn't fit. I'm sure you can find some other uses for...again as I said 4 walls and a floor and two doors. I wouldn't say nothing can be used there. I just said it seems like a perfect use for storage considering there is really no...the flat floor, the two large entrances, that there is nothing else there to facilitate any kind of other business, whatsoever. So, it just seems like this is a perfect storage situation, that's all.

Mr. McGroarty: Let me ask it a different way. What about a gymnasium?

Mr. Keinan: Well, I would say gymnasium would be still...and I understand, I learned that Amy did apply for it. A gymnasium would still require a lot of modifications there. There is no heat inside. So, what are you going to do in the winter? You've got to put heat there. You need to have an office in a gymnasium. You need to have several facilities. Also, the power there is not that...inaudible. So, not to mention gymnasium will require so many things to be installed inside. So, I'm not saying it's not possible but just the fact that it's not heated inside. I mean she would have to spend \$200,000...I know. I checked, just to get heat inside.

Mr. McGroarty: Are you aware, sir, that she not only applied for but was granted a use variance to have a gymnasium in there and that part of the testimony as I indicated in the report was that it would be a use that would be compatible with the daycare center and used by the daycare center in addition to the public. Are you aware of that?

Mr. Keinan: I learned about it later. I understand it. I'm just saying my observation you asked me. I understand that she was approved for this but if you ask me as a practical man would I send my kid to a gymnasium with no heating inside? Absolutely not.

Inaudible

Mr. McGroarty: If your testimony then, is that 2/3 of the building, because it would need some retrofitting or other infrastructure improvements has no other use other than to store some product in there, that's your testimony?

Mr. Keinan: I did not say no other use. I just said that It's a perfect use for storage considering the structure, considering what's there and what's not there.

Mr. McGroarty: Okay.

Mr. Keinan: That's all I'm saying. I don't want to tell you that nothing else can be used there.

Mr. McGroarty: All right. One other question then, Mr. Chairman, to the applicant. Since you are giving the testimony, how do you address the criteria that the Medici case established that for a d1 variance you have to show that there is an enhanced quality of proof. Not just the negative and the positive criteria. How would you address that?

Mr. Keinan: Is this a question for me?

Mr. McGroarty: Yes, sir.

Mr. Hefe: Yoram, let me ask, let me help you with that because obviously you don't know what the Medici case is. Or what the enhanced proof is.

Mr. Keinan: Okay.

Mr. Hefe: Let me bring it back in simple terms. Why does this utilization of the property make more sense than any other use?

Mr. Keinan: Because of the nature of the building and its features. Again, let me just repeat what I said earlier. So, there is a flat floor and there is an entrance into the floor. You don't need to lift up or down, so you have a clear entrance from 2 large spaces, large doors. It has nothing inside that limits the use of storage. Also, the lack of amenities such as heat, such as limited lighting, the fact that it's high ceilings as well. The fact that...again...that the building is just square. There is nothing else there so I'm not saying it as an expert. I'm just saying that the fact that all these factors I just mentioned, the flat floor, the fact that there is nothing inside. The fact that you can utilize 100 percent of the space for storage, nothing prevents from doing it. The fact that there is no office. The fact that the high ceiling...everything points into a very clear direction. This building is the best use of this building would be storage. I think it's a much better, Mr. McGroarty, just to answer your question, this is a much more...just a much better use than...inaudible...100 percent. It's a much better use than a gymnasium, in my view. Storage is the thing to do in this place.

Mr. McGroarty: Let me ask you another question about the enhanced quality or proof without seeing it...inaudible...since you are not familiar with the Medici case, I guess you can't address it. Let me ask you, because in a variance situation it is...the burden is on you to show...how do you reconcile, how do you come to terms with and persuade this Board that you should have a warehouse use in a zone which does not permit warehouse use? Particularly here, where in 2013, the Zoning Board of Adjustment granted a use variance to allow a gymnasium in this building. So, you have a situation where the owner of the property at the time already got a use variance arguing that the best use of the building would have been a gymnasium. It would have been compatible with and supporting to the daycare center. That variance was granted. The governing body of Mount Olive Township, the Township Council, has never amended its ordinance. The Planning Board has never recommended the ordinance be changed in the CR-3 zone to permit warehouses. So, the question to you is, how do you reconcile the fact that today you are still of the opinion...or you are of the opinion...that warehouse is the best use, but the township governing body has decided no it's not. The CR-3 zone stands as it stands despite the fact that majority one deviation from the ordinance approved for this property. How would you address that? How would you reconcile that?

Mr. Hefe: Yoram, before you answer, hold on a second. This is a little bit of an unusual situation here. That zone...the CR-3 zone permits certain uses and you have a warehouse use there. Now the uses that are permitted in that zone, I'm going to read them to you and then you are going to tell me why none of those uses make sense for your piece of property. Because, the CR-3 zone provides for detached dwellings, public uses, antennas for wireless telecommunications, retail sales of goods and services, which we already discussed. Restaurants and bars, offices...we already discussed those. Printing offices or shops. Those are the only uses permitted in the CR-3 zone. So, Mr. McGroarty would like you to reconcile why that doesn't work.

Inaudible

Mr. Hefe: So, of all the uses that permit, how did...why does your property not work for those uses?

Mr. Keinan: All these uses would require smaller spaces, subdivision inside. Again with access to offices, to electricity, they will require heating, again, you know we are in a cold area. They will require again subdivision inside that will significantly alter the building. In order to do any of these used that you just mentioned, pretty much you will have to build inside this unit significantly. You're probably going to have to also open different doors. I guess I would mention that the doors are right now...there are clearly doors that were built for storage. You know what I wouldn't even say...I would say car storage...are perfect for car storage. So, this building clearly would not fit any of the uses that you mentioned without substantial modification that would probably cost what the building is if not maybe close enough to it. I want to mention again to the Board, that just to put heating into this building inside this part there is heating in the school you're looking at \$200,000. I checked. You need to substantially change the electricity there. You need to open...I hope it answers...again...I'm...

Inaudible

Mr. Hefe: Okay, we understand. But is it substantially suited and works very well for your car collection?

Mr. Keinan: Absolutely.

Mr. Hefe: Okay. That's it. Thank you. And Mr. McGroarty I'm sorry it's a little winded but that's the best we can do in terms of the Medici enhanced standard.

Mr. McGroarty: No need to apologize. I just wanted to ask the questions.

Mr. Hefe: Well, there you go.

Mr. Keinan: I also wanted to answer, Mr. McGroarty, that obviously I have a disadvantage. I mean you asked about the application for the gymnasium, but I never reviewed it and never had the chance to review it, so, it's hard for me to even know what the Board said back then. I mean if I had the time to review it, I'd be more I'll be more than happy to tell you what were the considerations for approval. I can't because I don't have it in front of me. So, I was explained right now, what the Medici case and you know I'm an attorney so I can figure out what it is, but I don't have the benefit of seeing what the application was and what the decision that was made. All I can say based on...and I think I repeat myself...the use for this place as storage makes much more sense in my view than a gymnasium. I don't think a gymnasium would be practical. Maybe I'll mention also as a practical thing that she ended up not doing a gymnasium there and so maybe this really answers why gymnasium there would be impractical. That's really all I can say about it. I think the heating is the most important thing. You can't have gymnasium without heating in Flanders, New Jersey. You just can't.

Inaudible

Mr. Hefe: Okay, Yoram.

Mr. McGroarty: Mr. Chairman, I would respond. I have a number of questions but my head hurts. I can't even respond to that.

Mr. Scapicchio: Okay. Mr. Hefe, anything else to add to this application?

Mr. Hefe: Mr. Chairman, I think we're ready for a vote.

Mr. Scapicchio: Okay. Can I get a motion from one of the Board members?

Mr. McGroarty: Mr. Chairman?

Mr. Scapicchio: Yes.

Mr. McGroarty: I don't know if there is any public. Do you want to just check?

Mr. Scapicchio: Oh, I'm sorry, Chuck. Yes. I'd like to open this up to the public.

Mr. McGroarty: Appears to be no one.

Mr. Scapicchio: Nobody is raising their hand. Let the record show that I see no public with their hands up. I don't think there is any other questions from Board members are there? Seeing none...

Mr. Buzak: Mr. Chairman, If I might?

Mr. Scapicchio: Yes.

Mr. Buzak: I went through this a little but earlier. Oh, I'm sorry. Ms. Natafalusy had a question.

Mr. Scapicchio: Go ahead Catherine.

Inaudible

Ms. Natafalusy: I was going to say I had a list of questions but as Chuck said, my head is just killing me at this point. The one...going back to some of the testimony that was provided, last month 90 percent of the cars stayed in the facility. This month, 25 percent of the cars stay in the facility. One of the questions I did have going back to the beginning of this is you moved into this facility where were you before and did you not understand that you needed a certificate of occupancy to locate your...

Mr. Keinan: I'm sorry. Some of the question was cut...part of the question was cut...I'm terribly sorry...so just 2 seconds were cut.

Ms. Natafalusy: I'm asking, where were you located before you came to Flanders and did you not know that you needed a certificate of occupancy to occupy that building?

Mr. Keinan: So, you were asking where...

Inaudible

Mr. Keinan: So, if you are asking where my cars were before? They were in a storage that I hired in...I know it's called Westfield...they moved to town. There was a storage that I hired. I moved from there in October of 2018. I'm sorry, also my head hurts as well. I moved there. Now you are asking why didn't I get a certificate of occupancy, if this is the question?

Ms. Natafalusy: Well, at your previous place would you have had a certificate of occupancy, why wouldn't you think you'd need it, as an attorney, why wouldn't you think...

Mr. Keinan: No, I rented it. I rented it. I rented space. I didn't own it. I rented space.

Inaudible

Ms. Natafalusy: It doesn't matter. You occupied the space. You still need a CO.

Mr. Keinan: No, this was a hired...a storage for hire. I just paid...I buy by the units, that's all. I wasn't a renter. I just paid per car, that's all. So, nothing like this. Just to answer the question, I was not aware that I needed one of these. The previous place was just a simple storage for hire. That's all.

Ms. Natafalusy: Okay. You also said you, at the last meeting, that you do cosmetic work on cars. What...can you explain what cosmetic work means. Do you detail? Do you...

Mr. Keinan: Detailing, not even professional detailing. Rubbing the cars, cleaning them nicely, vacuuming, just things like that. Just trying to say, why don't you...shining the wheels, the tires, just to make them nice to sometimes for pictures, etc. that's all.

Ms. Natafalusy: Okay. Also, I have one other question on the engines. Last month you spoke about, you had 3 or 4 engines in a trailer. When the opportunity comes up, you put them in a car. I'm not a car expert but aren't there engines specific to each car? Can you just have an engine in a trailer and say I'm going to put that in another car? I mean I didn't understand that one.

Mr. Keinan: First thing, it's gone. But no, there is nothing there at this point. Yes. Everything is gone. There is no engine or any engine parts whatsoever. Just for your benefit, just what I mentioned, you're right. I mean engine is normally specific for car, but I sometimes buy cars that, where the engine is bad. Then I'll send it to a shop. I'm using a shop in Connecticut and a couple of other local shops here. I will send the car with the engine. I haven't done it, by the way probably the last 6 or 7 months. Right now, I completely stopped all this. I sometimes...I had these engines but it's no more there. It's all gone.

Ms. Natafalusy: Thank you. Sorry, David. Thank you.

Mr. Scapicchio: Okay. Thank you, Catherine. Can I get a motion on this application? Board Members? I mean I can make the motion if nobody else is inclined to do it.

Ms. Natafalusy: I'll make the motion to deny the application.

Mr. Scapicchio: Do we have a second?

Mr. Ottavinia: I'll second that, David.

Inaudible

Mr. Buzak: I think Mr. Ottavinia seconded it, Mr. Chairman. Is that correct?

Inaudible

Mr. Scapicchio: Okay.

Mr. Buzak: I'm assuming based upon the advice that I gave earlier, that the basis for the motion and the second is that the applicant has failed to meet the criteria set forth in the statute that needs to be met in order to obtain the variance requested. Is that generally correct? I mean based upon the record there will be a Resolution memorializing it. I just wanted to get straight...the direction of the Board?

Mr. Scapicchio: That is correct, Ed.

Ms. Natafalusy: That is correct.

Mr. Buzak: Thank you.

Mr. Scapicchio: Mary, we're ready for roll call. Yes, is for denial.

Roll Call:	David Scapicchio	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	Dan Nelsen	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Joseph Ouimet	Yes

Mr. Scapicchio: Okay, thank you everybody. There is no further business, so I will entertain a motion to adjourn.

Mr. Ottavinia: I'll make that motion.

Mr. Nelsen: Second

Mr. Scapicchio: We have a motion and a second. All in favor?

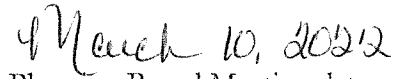
All: Aye.

Mr. Scapicchio: Good night, everybody. Thank you.

Meeting Adjourned at 10:30 pm.

Transcribed By: Karen Grill


Signature



Planning Board Meeting date approved