

**TOWNSHIP OF MOUNT OLIVE  
PLANNING BOARD**

Public Meeting  
Thursday, February 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 February 11, 2021, commenced at 7:00 pm.

**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. Schaechter, Mr. Forlenza, Ms. Mott, Mr. Mania, Mr. Nelsen, Mr. Batsch, Mr. Ouimet (arrived at 7:36 pm), Mr. Weiss

Excused: Ms. Natafalusy, Mr. Ottavinia

**Board Professionals** in attendance were:

Present: Chuck McGroarty, PP/AICP, Board Planner  
Michael Vreeland, PE, Board Engineer  
Walter Lublanecki, PE, Board Traffic Engineering Consultant  
Dr. Jeffrey Keller, PH. D, Environnemental Consultant  
Susan Crawford, Esq., Board Attorney  
Edward Buzak, Esq., Board Attorney  
Mary Strain, Board Secretary

Audio and video technology and platform.

**Committee Reports**

Mr. Weiss: We are going to move past the Committee Reports unless anybody has anything they want to bring to our attention tonight? John? Ken? Kim?

All: Nothing.

**Resolutions**

PB 20-19 Shelly & Sean Collins, 18 Rolling Hills Drive, Block 4111, Lot 11

Mr. Weiss: We have two Resolutions. I do believe the first one we are going to pull...  
Chuck is that still accurate?

Mr. McGroarty: I guess the question was, Mr. Chairman, there was a question about whether the Board imposed a requirement to have a fence beyond what the code requires for an in-ground pool, which is a four foot high fence. I don't know if Ed or Susan wants to comment on that?

Mr. Buzak: I'll start because I was the culprit and put that condition in the Resolution. What started a whole chain of discussion. As you will recall, I believe the applicants testified and their plans showed that they were going to have a perimeter fence around their property. Not just around the pool but around the rear yard so to speak, and then it was going to connect into the house on each side to form a complete square or rectangle. We included that as a condition. Specifically, saying that they would install a fence. We referenced in that condition that it was for the purposes or was justified among other things on the basis of screening the activity from the neighbors and so forth. Which then raised an implication that, well if you're talking about screening now you're starting to get into what type of fence it is because obviously a picket fence doesn't provide much screening. A solid fence or a board on board fence will provide more screening. So that's what sort of started the debate. I put it in because we also have...in every Resolution that this Board adopts, and in every Resolution that we do for any of our Boards, is an omnibus provision just before the effective date of it and the memorialization that says the applicant is bound by all of the representations made before the Board and their applications by their experts and so forth as if those were conditions of approval. We do that because we want to hold, I think the Boards want to hold, applicants and experts who testify, to their word. If they say A B and C, they're bound by that. The fact that we don't necessarily mention that in the Resolution body or in the conditions doesn't mean that they can ignore that. So, we have that omnibus provision just to remind everybody that whatever you say, you are going to be bound by. Whatever you presented you're going to be bound by. So, in any case, I think even without the condition articulated as we did, the applicant has to provide a fence. I think that's just clear and the Board should hold to that for the reasons that I gave. As to whether the type of fence, the height of the fence, whether it's a solid fence, a board on board fence, some other kind of fence, a code compliant fence only, those are, I think, issues and they really ought to be articulated in the Resolution. Because, if we don't put that in there, Chuck's not going to know. The Building Department is not going to know what kind of fence it is. Just a code fence? Is it a screening fence? So on and so forth. I summary, I think it ought to be in there, but it ought to be more specific about height and about type. Thank you, Mr. Chairman.

Mr. Weiss: Okay. So, either way I guess do we need to hold off on this?

Mr. McGroarty: Here is what I would suggest, Mr. Chairman. Unless the Board remembers imposing a condition that it be a solid fence for the purpose of screening, I suggest we pull it from the agenda for tonight. Do it next week. Let me talk to the Collins family because if we...we'll make...it could have a difference with respect to what they want to do. They are going to have to put a fence around the pool anyway. That's a code requirement. The type of fence is a cost issue and maybe an aesthetic issue. So, I suggest we pull it for tonight.

Mr. Weiss: Okay. I think that's sound advice because it'll take just one or two phone calls and we'll get it resolved rather than potentially costing them something that we don't need to make them do. So let's do that. We are going to pull the Resolution for PB 20-19 for Shelly and Sean Collins off the agenda until next week.

PB 20-16 Muthulakshmanan Murali, 62 Elias Drive, Block 4407, Lot 49

Mr. Weiss: That brings us to the second Resolution PB 20-16, that was Mr. Murali, 62 Elias Drive, Block 4407, Lot 49. We all have received a copy of that Resolution. Had a chance to review it. So, if someone would please make a motion to adopt this Resolution?

Mr. Mania: I move that we approve PB 20-16.

Mr. Schaechter: Second.

Mr. Weiss: Thank you, John and thank you, Brian. Is there any other conversation?  
Seeing none, roll call.

Roll Call:	Brian Schaechter	Yes
	Ken Forlenza	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	John Batsch	Yes
	Howie Weiss	Yes

### **Development Applications**

PB 20-13 Saxton Falls Sand & Gravel Co. LLC, 66 Waterloo Valley Road, Block 700, Lots 2, 3, 4, 5 & 8; Block 701, Lots 4 & 6; Block 800, Lot 40

Mr. Weiss: Thank you. At this point let's get right into our developmental applications and the first one on the agenda is 20-13 Saxton Falls Sand & Gravel here for an updated operational, interim restoration and final reclamation plan at Waterloo Valley Road, Block 700, Lots 2, 3, 4, 5 and 8. Block 701, Lots 4 & 6 and Block 800 Lot 40.

Mr. McGroarty: Mr. Schindelar and Mr. Rodgers and Mr. Houston are being promoted.

Mr. Weiss: Okay. Thank you so much.

Inaudible

Mr. Weiss: Welcome Mr. Rodgers. We're carrying this application from December. Just so we review and I'll turn it over to you, we have a few exhibits that were presented. Mary, thanks for organizing this. It prevents me from having to go through all my notes. We last left off on A-7 so any other exhibits we'd start with A-8. I know there's been some new reports presented, so let me turn it over to Mr. Rodgers and you can discuss where you'd like to go from here.

Mr. Rodgers: Thank you, Mr. Chairman. First of all it's our understanding that the public hearing...the public meeting was closed last week. The last meeting and so we don't really have any additional testimony to present except that Mr. Schindelar, the President and Mr. Houston the engineer and myself are available to answer questions. We're hoping that the Board will...we've submitted... As requested by the Planning Board, we submitted a report that summarized the testimony and responded to all the comments from both of your professionals so we're hoping that response and any comments that the professionals have as a result of that and the Boards recollections from the last meeting, will enable you to deliberate. But we are here to answer any questions if there are any. In terms of new documents, I guess the only new documents would be, we revised some of the existing plans that were submitted in accordance with your experts' comments. If you would like us to identify those, Mr. Buzak, let us know. I think that the...they're the same plans but they've been updated.

Mr. Weiss: And revised. I saw that.

Mr. Rodgers: We'll be guided by the Board in terms of how you would like us... what you'd like us to do.

Mr. Weiss: Okay. Well, Mr. Buzak, Ed...do you think that...I see the changes. I see the report. Should we create a record and have the applicant testify as to what the changes are made?

Mr. Buzak: Well, yes. I think, Mr. Chairman, we have exhibits A-1 through A-7 as you pointed out. And there are the various sheets of essentially the plans that have been submitted. They are all dated... is that 6/1/01? That's what it says on this sheet.

Ms. Strain: Yes. It says 2001.

Mr. Buzak: Okay. I know the ones that we just received were...the latest revisions were 2/3...February 3, 2021.

Mr. Weiss: Right.

Mr. Buzak: So, is it fair to say that all of the sheets, A-1 through A-7, have been updated? Or have only some of those sheets been updated?

Mr. Rodgers: Mr. Houston, you would know.

Mr. Houston: Yes. All of the plans, the entire set have revision Number 2 as Mr. Buzak just indicated, dated revised February 3, 2021. We only had to revise Sheets 1 thru 6. But we showed the revision date on the balance as well. So, in addressing Mr. McGroarty's and Mr. Vreeland's original letters and their subsequent letters, we've...revision Number 2 reflects all the changes and comments that they've asked for. As late as last Friday, Ms. Strain received those revised plans. My cover letter, if you will that was addressed to Mr. McGroarty and we indicated in that letter where and how we revised the plans included Revision 2. Mr. Vreeland's latest review letter of February 3 same day as we made the revisions. So, the plans before you, revision two dated 2/3/21, reflect everything the Board has asked for. Everything Mr. McGroarty has asked for and everything Mr. Vreeland has asked for as a summary from the transactions, thus far.

Mr. Weiss: Okay. And Mike, you've had a chance to review the resubmissions?

Mr. Vreeland: Yes, and I had the opportunity to go through my February 3 review correspondence with the applicant's engineer and he clarified a couple of the points as he indicated in his transmittal letter. Reviewed the revised set of plans and it does address all the previous comments that we had presented.

Mr. Weiss: Perfect. And can you confirm the same, Chuck, with the comments relating to your reports?

Mr. McGroarty: Yes. Mr. Houston went through those in detail in the letter that he referenced, and I'm satisfied that he's addressed all of the concerns.

Mr. Weiss: Okay. I don't recall...and maybe just to be certain, if we opened it up to the public after the testimony from I suppose it was Mr. Houston right when we closed back in December?

Mr. Buzak: We did, Mr. Chairman, open it to the public. We had public participation. There was actually some exhibits that were put up on the screen, or an outline that aided in the presentation that the individuals made. I just noted that those are not part of the record because they could not be identified. They were collated, there were newspaper articles and some other things that were not verified. But the Board did review all of that. I believe that the public portion was closed at the conclusion. There was no one else. We asked and there was no one else and I think you closed the public hearing. But I can't swear to it. My notes are not...

Mr. Weiss: Yes. I usually give the public the opportunity if we are going to carry a meeting, so that they don't have to wait for their questions. So, I'm going to agree with that summation. If the applicant has nothing further to present, then I will open it back to the public for anybody that has any comments or questions including anything that maybe we are incorrect on. We'll give them the opportunity to speak. Is that okay with you, Mr. Buzak?

Mr. Rodgers: Mr. Chairman, I just want to say that I looked at the video of the last meeting and the public hearing was closed. I'm quite certain of it just from recalling having watched the video. So, what we are hoping to limit, the public hearing and not...we're hoping to maybe limit it, at least, to new material.

Mr. Weiss: Well, you know, and Mr. Rodgers, usually what happens, we close...I don't think I opened it to the public for any comments and general questions. I'm sure I allowed the public just to ask questions of the expert, which is pretty common fare. And then I give you the opportunity to sum it up. You made some presentations. The public will then have an opportunity to give us their comments and their inputs. No need for the applicant to respond if you don't feel it's important to respond but that's the way we run pretty much any application. So, you're probably right. We closed it to the public, based on the questioning for your engineer and if you're done, I would usually, will and will now open it to the public. If anybody has any comments, general comments, questions, ideas or opinions, that they are entitled to share with us, and at that point when it's over, then we'll close it to the public. We'll ask for Planning Board comments and then take a vote.

Mr. Buzak: Mr. Chairman, before you go open it to the public, I just had one question because I want to try to get the exhibits straight. I understand from Mr. Houston, the sheets that were revised. I understood Sheets 1 through 6 were revised as of 2/3/21. Sheets 7 and 8 were of the exhibits, were not revised but they may bear a new date but there's been actually no substantive revision to those sheets. Is that right Mr. Houston?

Mr. Houston: That is correct.

Mr. Buzak: Okay. What I'd like to do then...and secondly, let me do this. What I'd like to do is take the exhibit list that we have, which shows all of the sheets dated 6/1/01...

Mr. Weiss: Right.

Mr. Buzak: ...And include, now, the latest revision of 2/3/21 on all of them but the Record will reflect that Sheets 7 and 8 have not actually been substantively revised.

Mr. Houston: No. Mr. Buzak, that's 7, 8, 9 and 10.

Mr. Buzak: Okay. We only marked 7 and 8. We didn't mark 9 and 10 but that's fine. I will note that for the record as well. And the second thing is, Mike Vreeland had mentioned that he spoke to the applicant's engineer. I believe today, and I thought he said that they revised, or made some revisions that were consistent with the discussion that they had today. I'm wondering how we reflect that in the record. Have those...if they've been submitted? If it was just clarifications of what they had? Or so forth because if there was some other revision made as of today, I haven't seen it. Not that I necessarily have to see it but...

Mr. Houston: Mr. Buzak? What was being referred to is, Mr. Vreeland had, let's say, 10 Comment. We addressed let's say 7 and 8 of them. On the plan two of them we discussed and it was a matter of clarification and it was no need to make a revision as a result.

Mr. Buzak: Okay. That's perfect. All right.

Mr. Rodgers: That's correct.

Mr. Buzak: Okay. Thank you. I apologize for interrupting you, Mr. Chairman, but I just wanted to get the record clear, here.

Mr. Weiss: No that's fine. Let's make sure that we are all correct. So, at this point I'm going to open it to the public. If anybody from the public has any comments, questions, well maybe not questions. Comments, things you'd like us to know, now would be a great time to press the button to raise your hand. We will be searching for it. I'm not seeing anything.

Mr. McGroarty: I'm not seeing anyone.

Mr. Weiss: I'll continue to look just for another second, if folks are trying to figure out the system but I'm not seeing anybody either. One more scroll down. Okay, I see nobody from the public so I'm going to close it to the public. At this point I'll turn it back over to you, Mr. Rodgers. Make your final comments. Then I'll see if the Planning Board has any concerns and issues and we'll go from there.

Mr. Rodgers: Thank you, Mr. Chairman. So, this is really summarizing what we've already said and what is in our report. So I'm going to just be very brief. We presented testimony that addressed every element of the ordinance that we are required to meet. In order to get a favorable recommendation from the Board. And all of those issues virtually the entire ordinance was set forth in Mr. McGroarty's review of the plans. So, we responded to everyone. Then we also responded to the additional comments from Mr. Vreeland. Now, all of that was done in testimony at the last meeting. But at the Board's request, we also submitted a written summary of this testimony and you all have copies of it. The summary was essentially in the form of a response to each element of the ordinance and a response to each element of Mr. Vreeland's comments. So, the summary of what our report shows is that we have addressed all of the questions from the Board, all of the comments from the Board's professionals, and we believe we've shown that we comply with the ordinance. We would like to have the Board now recommend to the Council that we be permitted to continue to operate and that we be issued a license to be permitted to continue to operate. A description of what we do

is set forth in a written report if the Board wants to write that up it's already set out for you. There are two deviations. We've explained what they are and why we are seeking those. I won't belabor it right now because it's all in the written report. Just in a capsule, we're seeking a different slope 2:1 instead of 3:1 and we're seeking that we be permitted to use, instead of a 20 acre limit for operations that we be given the one third of the total area limit. The reason for that is basically that we just have a dredge floating around on a large pond. So we're not really disturbing anything very much. We need the 80 acres in order to draw materials from the different parts of the site, depending on what type of material we are producing at the moment. So we're hoping that the Board would consider that...consider their professional's comments and recommend to the Council that we be permitted to continue.

Mr. Weiss: Thank you, Mr. Rodgers. Does anybody on the Planning Board have any comments?

Mr. Scapicchio: Howie, the only comment I have is when we make this recommendation to the Council, my understanding is that there has not been a renewal of the license year after year or yearly inspections from previous meetings? Is that true?

Mr. McGroarty: That's correct.

Mr. Scapicchio: So, I'd like to make part of this recommendation, that the Council understands that and recommend that they put in place the procedure to license every year. And whatever inspections are required.

Mr. Weiss: Okay.

Ms. Mott: I agree with that as well.

Mr. Schaechter: Me, as well.

Mr. Weiss: Anybody else?

Mr. Mania: It's well noted, David, that it'll take place.

Mr. Scapicchio: Thanks, John.

Mr. Weiss: Okay. So, Ed? I have a...just a procedural question. Based on what Mr. Rodgers was requesting. He's requesting that this Planning Board send a message to Council to allow them to continue to operate. I'm paraphrasing. Is that what we are going to as the Planning Board to do to approve the message to be delivered? Or are we going to approve this application which gives them the ability to move forward?

Mr. Buzak: I think it is the former, Mr. Chairman. You know, I have not been involved in this before. I'm not sure any members of the Board have been involved in this because the last time it happened was a couple of decades ago. When I read the ordinance under which we're operating, it refers to Section 26B of the Land Use Law, which says that the Township Council, the governing body, can refer any matters they want to the Planning Board by ordinance and seek their recommendations. So, I think this is different from our usual Resolutions of approval and that kind

of thing. Because we're not approving it. We're looking at what's been submitted and we're making the recommendation. So, my suggestion to the Board would be...if the Board is going to favorably consider a recommendation, to make a favorable recommendation to the governing body, that the Board consider making the following motion that would be seconded, discussed, and voted upon. Then transformed into a letter of recommendation to the governing body. The motion would be to recommend a granting of the annual license...or in annual license to the applicant subject to the following conditions: Number one, that the Board recommends that the permitted slope be changed from...be allowed to be 2:1 as opposed to 3:1 as set forth in the ordinance. Number two, that the applicant be able to disturb 80 acres, one third of the aggregate site as opposed to the 20 acre limit that's in the ordinance. That the applicant received...make application to and receive approval from the Morris County Soil Conservation District. That the applicant submit and receive approval from the NJDEP for a sand and gravel, stormwater general permit. That the Council include any approval, a requirement for the annual licenses set forth in the ordinance and be required that the applicant make that application in advance of the expiration of the annual license, if they so grant it. And that all of the requisite inspections required under the ordinance be undertaken by the Township.

Mr. Weiss: Okay. So, Mr. Buzak made a motion...he didn't make the motion, I'm sorry. He kind of outlined a motion and let me summarize that Ed, just to make sure we all understand. That this motion would be to grant the annual license subject to the following conditions. One, the Board recommends that the slope...that we allow the applicant to go to a slope from 2:1 vs the 3:1. That the applicant can disturb one third or 80 acres of the current parcel versus the 20 acres. That the applicant get approval from the Morris County Soil Conservation for the NJDEP for sand and gravel general permits. In such approval, the approval must include an annual license in advance of the expiration of the previous license and all inspections be undertaken by the Township. I think I generally reviewed what you said to the Planning Board. If that's so, then I would ask somebody from the Planning Board to make such motion?

Mr. Buzak: I have one other item, Mr. Chairman. That you stated it accurately but in light of the time I took with regard to the plans with regard to the time the Board took with regard to the plans, indicate that this is based on the applicant complying with the plans that have been submitted which consists of 10 Sheets latest revision date on the package of 2/3/2021.

Mr. Weiss: Okay. And of course, that as well. And so without having to repeat it, if somebody from the Planning Board please make that motion?

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

Mr. Weiss: Thank you, Brian.

Mr. Scapicchio: Second.

Mr. Weiss: Thank you, David. Second. Any comments? Any further conversation? I see none. Mary, roll call, please.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes



John Mania	Yes
Dan Nelsen	Yes
John Batsch	Yes
Howie Weiss	Yes

Mr. Weiss: Gentleman, thank you very much for your time. Appreciate the...working with our professionals. At this point I'll suppose you'll wait for the Council to address this matter on your behalf.

Mr. Houston: Thank you very much.

Mr. Buzak: And we'll see you next year.

Mr. Houston: Exactly. We'll see you next year.

Mr. Rodgers: Gentlemen, thank you all very much.

Mr. Houston: Thank you very much. Have a good evening.

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

Mr. Weiss: Let us now, bring up our next applicant which is PB 20-10, Budd Lake Storage LLC, here for combined preliminary and final site plan for their property located at 89 Route 46, which is Block 4100, Lot 85. This is a continuation of our hearing. I'm just going to get my notes out to get the dates.

Mr. McGroarty: Mr. Chairman, while you are doing that. I'm going to ask Matt... I see Mr. Capizzi is here. Anyone else from your side? We have Mr. Moronski and Mr. Welch.

Mr. Capizzi: Is there a Scott Daniel also, for this evening?

Mr. McGroarty: Got it.

Mr. Capizzi: Those are my witnesses Mr. McGroarty.

Mr. Weiss: Okay. So, as I was saying, this is a continuation of a hearing that we had in November 19, 2020. When we had that hearing, boy there is a lot of paper for this one...hold on. Bear with me. I just want to make sure we are on the same page. For exhibits during the hearing on November...

Mr. Capizzi: Actually we had two hearings, Mr. Chairman. Last hearing was January 21<sup>st</sup>.

Mr. Weiss: You're correct and I see January 21<sup>st</sup>. Thank you for that. Between the two hearings we've ended up with exhibit A-15 which was a presentation of the water tower. So, any exhibit that you present will be A-16. It looks like on the 21<sup>st</sup>, we ended with the evening with testimony from your architect, Mr. Daniel. I know we had a couple of changes. We were going back and forth with things that we'd like to see and I am fully aware that there's been some very positive

communication. Mr. Capizzi, let me turn it over to you and you can bring us up to speed. Where we've been and what's happened since we last met.

Mr. Capizzi: Sure. Thank you, Mr. Chairman. Again, Matthew Capizzi on behalf of the applicant. This is the...hearing on this matter. Our first was November 19<sup>th</sup>, 2020. Our second was January 21<sup>st</sup>, 2021. January we had testimony from Matthew Welch from Langan, our civil engineer and Scott Daniel, our architect. Both of those professionals talked about revised plans that they had submitted in advance of that meeting. They were questioned by members of the Board as well as members of the public. As a result of some additional issues raised during the January meeting, we've, again, produced some revised plans. We didn't have an opportunity to prepare an entirely amended plan set just because of time constraints but we did revise those plan sheets that we thought were most important. Namely from a civil engineering standpoint we have a revised landscaping plan to discuss this evening. Which we had the opportunity to further discuss with your Board's professionals this morning. So, we'll also be presenting an exhibit in addition to the plan that was filed on February 1, 2021. Mr. Welch will be presenting an exhibit to go...that's in response to the conversations we had this morning. Scott Daniel, from Ware Malcomb, our architect, he filed revised plans as well. Mainly a revised elevation that shows a certainly much more substantial earth tone muted color scheme and the front façade portion of the building where we were proposing a predominately grey metal panel building. He also has some details relative to how we are screening the HVAC units. This team discussed how we can potentially address some concerns relative to the water tank that was discussed in January. We have since amended our plans. It may not be actually on the engineering plans yet but it's our intention to have that water tank be underground so that will no longer be a visible concern for anyone traveling along the roadway or at the nearby properties. So it's our intention to have Mr. Welch speak to his revised plans. Mr. Daniel do the same and then have Mr. Moronski go through the planning criteria for us, this evening. If the Board is prepared to and in position presumably take a vote on the application.

Mr. Weiss: Again, just before we get into that, Mary, just for the record I just want to note that Joe Ouimet has joined us.

Ms. Strain: Thank you. Joe, welcome. Joe is here. So, okay, that being said, Mr. Capizzi, you can bring up whichever one you'd like. If you want to start with Mr. Welch, that's fine. Or Mr. Daniel. Whatever you'd like. We'll follow your lead.

Mr. Capizzi: Thank you, Mr. Chairman. If we could start with Mr. Welch please?

Mr. Weiss: Sure. Mr. Welch, I just want to remind you, you're still under oath. As you were last time and welcome back.

Mr. Welch: Thank you. First and foremost, can everybody hear me this evening? I know there was some issues last hearing.

Inaudible

Mr. Weiss: Sounds good, thank you.

Mr. Welch: Thank you.

Mr. Capizzi: So, Matt, why don't you just take us through? I know you had filed a revised plan in February. Probably most expeditious is to bring up the exhibit that you prepared in response to our conversation this morning, which I think covers part of your February submission? If that's correct?

Mr. Welch: Correct and I'll bring it up. So, I guess we're on exhibit A-14?

Mr. Weiss: A-16.

Mr. Welch: A-16, I apologize. This is exhibit A-16. I've titled it landscape revisions to address comments dated February 11<sup>th</sup>, 2021. Essentially, as Mr. Capizzi alluded to, we did submit revised landscape and lighting plans dated January 27<sup>th</sup>, 2021. The purpose of it was really to show a reconfigured basin, that redirected the spillway instead of to the west to the onsite pavement area. The second was to provide additional landscaping in response to Dr. Keller's initial review letter. Following the submission of those plans we did receive an updated review letter from Dr. Keller dated February 8, 2021. We had an opportunity to discuss that letter with him this morning along with a mark-up of our anticipated revisions in response to that letter. To sum it in general, our goal is to comply with all of the recommendations in that February 8 letter. Most of all seeding and types of trees but I...I don't really want to take the Board's...too much time on that...but one thing I do want to address is based on the feedback on that letter is to have an evergreen screen that goes along the entire length...well not the entire length...but along most of the western and southern sides of the development. You can see it on this exhibit, they are the green dots. Essentially, it's a double staggered row of evergreens. Planting height will be six to seven feet and they will mature from there. That's to create, again, that vegetative screening in addition to the fence and the existing deciduous trees to help provide a visual buffer at least at ground level from the site to the residences, to the south and west. Also not shown on our submitted plans, but I have included on this mark-up, to have coordinated with the applicant, with the MEP designer and we've identified an underground water tank that we can use in lieu of the above ground tank that was presented at the last hearing. Its approximate 40,000 gallon tank. We do have room to the east of Building A to accommodate that tank underground without impacts to the existing draining or utility design. We had a lot of testimony, last hearing on where the tank was located? How big? Can you see it? Now, it will be located underground, so completely hidden from view. The last thing I will note is, having this double row of evergreens, particularly on the west side, may require the removal of some of the existing trees. Probably approximately five trees around there. One thing we agreed to do following our discussion with Dr. Keller, this morning, is prior to the removal of any trees, walk the site with him. Review where the new evergreens screen is going to go. Review the existing trees and determine whether or not it makes sense to keep some of those trees and have a gap in the screening or some of those trees really aren't providing any value and it makes sense to take that down. So, condition of approval, we will agree to walk the site with him prior to any existing trees being removed.

Mr. Weiss: Okay.

Mr. Capizzi: Thank you, Mr. Welch. Anything else to touch upon as a result of our conversation this morning? Or does that sum it up?

Mr. Welch: That's the highlights. Again, our intent is to comply with all the comments. We went through the comments, in obviously much more detail than I've gone through this evening. Our goal is to satisfy Dr. Keller as well as the planner and the engineer as well.

Mr. Capizzi: Thank you, Mr. Welch. I don't have any further questions for him, Mr. Chairman.

Mr. Weiss: Very nice. As a matter of fact, Mr. Welch, when I was looking at my notes and I had highlighted a lot of the issues that I thought we needed to address, I was checking them off as fast as you were speaking, so it does look like a lot of the open items that we were concerned about have been addressed. I just want to make sure, if you can take the screen down...Mike Vreeland, I know you were in part of the conversation...are you satisfied that they have addressed the issues that we were concerned about as we left the January meeting?

Mr. Vreeland: Yes. And because there was a slight modification to the detention basin, during our conversation this morning, the applicant agreed to prepare and submit an updated stormwater design report, which isn't uncommon. We're comfortable that we can review that report as a condition of approval, should the Board approve the application.

Mr. Weiss: Dr. Keller? Same with you? You're satisfied that they've addressed the issues that were outstanding from our...inaudible.

Dr. Keller: Yes. Yes. I do have one question for Matt. I've neglected to ask this. It went through my mind and out, earlier. I'm assuming there is a stormwater maintenance manual that you have to prepare? I don't know that I've seen that and I would appreciate the opportunity to take a look at that. There may be some things in there with regard to managing the installed meadow mixes and so forth, that I think I might be able to...if they're not...if they are based on some prior, older types of specifications, a slight change in those might be warranted to get the best result.

Mr. Welch: Yes. What I can do is...we did submit a maintenance manual with our initial application. Before we make a formal resubmission, resolving all comments, I'll make sure you get a copy of that. That way you can provide any additional feedback and we can incorporate those comments into the final report.

Dr. Keller: Much appreciated, thank you.

Mr. Welch: Thank you.

Mr. Weiss: So it sounds like, Matt, you've addressed almost all of the concerns that I'm showing in my notes. I don't really think we had...Walt? You didn't really have anything that was outstanding on this application? Did you? I know your report was...we reviewed it and I don't think there was anything. I know we talked about maybe some emergency access signs?

Mr. Lublanecki: That was about it, Howie. Yes. That was about it, Mr. Chairman. This, perhaps some type of sign by the emergency access, maybe even a do not enter or something, so people coming in wouldn't get confused and line up by that emergency access gate. That was my...that was about the only outstanding comment that I had.

Mr. Weiss: And you also talked to us to, Walt, last time about the breakaway gates?

Mr. Lublanecki: That's correct, yes.

Mr. Weiss: All the same thing, not to restrict access, with some detail. Matt? Is that something we are going to make sure we add?

Mr. Capizzi: Absolutely. We just didn't have an opportunity, Mr. Chairman, to get it into this most recent submission. But it's certainly our intention to have all those comments addressed and reflected on the plan set.

Mr. Weiss: All right, well that's excellent. So far it's real good. It looks like there's some more positive testimony coming through but before we jump to that, let me see if anybody else on the Planning Board has any issues or questions for Matt. Go ahead, Dan.

Mr. Nelsen: Matt, I wanted to ask, on the evergreens that are on the west and southerly part of the property, how far apart are they spaced?

Mr. Welch: They will be 12 feet on center.

Mr. Nelsen: Okay.

Mr. Welch: And that follows the recommendations by Dr. Keller.

Mr. Nelsen: Okay. I just was just concerned that it might be a little to close, therefore, kind of choking each other out but Dr. Keller has looked at that, I guess?

Mr. Weiss: Good Pick-up Dan. Thank you very much.

Dr. Keller: Yes. Just to clarify that, Dan. The original spacing was six feet or eight feet on center. I had the same concern that you raised and suggested 12 feet. So, they are 12 feet on center, within each row, and there are two rows and they are staggered. So, if you are standing on the ground looking at them, it looks like every six feet, but they are staggered to allow for the growth that you suggested.

Mr. Nelsen: Okay. Does that have to be revisited every so often, so they don't do that, choke each other out?

Dr. Keller: No. This spacing should allow a fair amount of room. Most of these conifers are kind of conical in growth form, although the white pine isn't necessarily. So that's not an unreasonable amount and it should avoid as they get older it should avoid shading out the lower branches which would then allow you to look underneath and see the buildings from ground level. So, hopefully the spacing is at a distance that allows the full complement of foliage, from ground up.

Mr. Nelsen: Thank you.

Mr. Welch: Just one thing to remember too is we are going to have a solid fence behind those evergreens for obviously additional screening if there are any gaps at ground level.

Mr. Weiss: Okay. Anybody else from the Planning Board? So, what I'll do is...let me open it to the public. If anybody from the public has any questions for the testimony that Matt Welch

just delivered, you can hit the raise your hand button and we can address your question. I'm not seeing anything. If someone put their hand up, it's not there anymore.

Mr. Schaechter: It was Hal Simoff, Howie.

Mr. Weiss: Hal Simoff. Let's bring up Mr. Simoff, Chuck.

Mr. McGroarty: All right.

Inaudible

Mr. Weiss: Just for the record, you'll state your name and address and certainly ask your question for Matt.

Mr. Simoff: Sure. My name is Hal Simoff. I'm a partner in the ownership in the adjacent parcel and last time I asked Matt if he was aware of the elevations of the townhomes behind. He said that he had seen the plan but he...I don't want to paraphrase but...have you looked at the plan for the townhomes since the last meeting?

Mr. Welch: I have.

Mr. Simoff: What is the...can you tell the Board what the elevation of those finished floors are?

Mr. Welch: I assume the concern is the units that are just south of the site? The ones just off of the southeast corner of the site start at approximately the same elevation as the site itself. The units directly south of the site the ground floor is a little bit higher than the site itself.

Mr. Simoff: Well, let's talk about building...if you have those plans?

Mr. Welch: I don't think I have...hold on a second.

Mr. Simoff: It's on the west...the southwest corner.

Mr. Welch: I am...For the record I guess we should mark this as an exhibit? This is a grading plan prepared by Mr. Simoff. Last revised, 4/25/2017. It's Sheet 8 of 35.

Mr. Weiss: Hold on a second. Matt, you're presenting something that Mr. Simoff gave you? I'm not sure...inaudible.

Mr. Welch: I received it from the town. This is the grading plan he is referring to, so I thought would be helpful to show it to the Board.

Mr. Weiss: Okay. That's different. Okay.

Inaudible

Mr. Welch: Mr. Simoff, this is the...just want to make sure I'm referring to the right plan...

Mr. Simoff: No, the next sheet, Sheet 9.

Mr. Welch: Give me a moment.

Mr. Buzak: This does say Sheet 9. Oh no, Matt's...inaudible...Sheet 9.

Mr. Simoff: If I could just state my concerns?

Mr. Weiss: No, not yet.

Inaudible

Mr. Welch: This is Sheet 9 of the same plan set.

Mr. Simoff: Yes. Where it says building...

Mr. Welch: Yes. So those elevations, the finished floor vary from 995 to 997.

Mr. Simoff: And what is the elevation of the development?

Mr. Welch: The peak elevation is around 979, 980.

Mr. Simoff: So, these units are approximately 20 feet higher?

Mr. Welch: Fifteen feet, approximately, yes.

Mr. Simoff: So, and what is the buffering between...what is the distance of buffering?

Mr. Welch: So, I believe the closest units are approximately 100 feet from the property line. And I guess which units in particular...the section...

Mr. Simoff: Let's talk first about the units. So, they're at 9...well the finished floor...

Mr. Welch: Nine ninety-five to 997.

Mr. Simoff: Nine ninety-five and so these units, the finished floor, the first floor unit is about 20 feet higher, 15 - 20 feet higher, than the site on your side. So, my concern is the buffering.

Mr. Weiss: Okay, so is there a question about the buffering, Hal?

Mr. Simoff: Well...so, what is the elevation of the buffer? What is the top of the trees at the buffer?

Mr. Welch: The evergreens are six to seven feet when planted and they'll mature from there.

Mr. Simoff: No, but what my question is...

Mr. Welch: So, for instance, to answer your question, I think the top of a six foot high evergreen tree, planted at elevation 98 would be 986.

Mr. Simoff: So, it's 986 and the first floor elevation of these units are 995. Yes?

Mr. Welch: Correct.

Mr. Simoff: So, the top of the evergreen, the first floor elevation, or the top of the evergreen is still ten feet below the first floor elevation of the units.

Mr. Welch: At planting and evergreen planted at elevation nine-eighty, the top of the evergreen will be below the first floor of the unit.

Mr. Simoff: Have you considered putting in twelve to fourteen foot evergreens?

Mr. Welch: No.

Mr. Simoff: And why is that?

Mr. Welch: Six to seven feet planting is pretty typical to plant them at that height and allow them to mature from there.

Mr. Simoff: What if they were...

Mr. Welch: I will also add you do have...sorry what was the question?

Mr. Simoff: What if they were planted at 12 feet?

Mr. Welch: I believe they would still be below the first floor of the unit.

Mr. Simoff: But they would have it much larger head start, in starting their growth, yes?

Mr. Welch: If a 12 foot tree would be higher at planting than a six foot tree?

Mr. Simoff: So, you know what size evergreens we were required to put in?

Mr. Welch: I do not.

Mr. Weiss: Matt, you can take down the screen if you'd like.

Mr. Buzak: Excuse me, Mr. Chairman. We are going to mark that as A-17. I recognize that this is not a plan for this project but it was put up on the screen as an exhibit. So, this was Sheet 9, if I have it correctly, of...

Mr. Weiss: Grading plan, I think Matt said.

Mr. Simoff: Yes. I have another question about the garbage dumpster...



Mr. Weiss: Sure.

Mr. Simoff: ...That was talked about at the last hearing. What percentage of the building or the development was in Building A?

Mr. Welch: What percentage of the...what percentage of the units?

Mr. Simoff: Yes. Of the floor area.

Mr. Welch: So the total floor area in Building A, which has...which is three stories, would be 18,000 square foot footprint, is 54,000 square feet. The total floor area for the entire site is, 95,220 square feet. Check my math so I think we are about 58 percent in Building A.

Mr. Simoff: I have it about 60 percent so it's about the same. And then how far is it to go from Building A to the trash enclosure.

Mr. Welch: I believe we went over this at the last hearing.

Mr. Simoff: Yes. My recollection...

Mr. Welch: The total distance?

Mr. Simoff: Was about 600 feet?

Mr. Welch: I'll take your word for it.

Mr. Simoff: So, you have 600 feet in each direction to get from the building to the trash enclosure for 60 percent of the units is that true?

Mr. Welch: So like we said, that trash enclosure is not for individual tenants. It's just for internal purposes. Tenants do not have access to that trash enclosure.

Mr. Simoff: So where so the tenants dispose of their trash?

Mr. Welch: They are required to take any trash out with them.

Mr. Simoff: And what happens...so what goes in that trash enclosure? Enlighten us.

Mr. Welch: Just general refuse from the office and staff of the building.

Mr. Simoff: So how far is it from the office to the trash enclosure? Its even further...

Mr. Welch: The office is internal to Building A, but I believe we just talked about the 600 feet.

Mr. Simoff: The 600...well I counted...I measured...I thought I confirmed your number. It was 600 from the back of the building. But if you go from the front of the building isn't it further?

Mr. Weiss: Hal? I got a question. If it's 600...if its 605 feet versus 600...are you getting to a point? What does it matter?

Mr. Simoff: I'm checking location of the dumpster. I think the dumpster should be located closer to Building A, where you have 60 percent of the units.

Mr. Weiss: Okay. So, what I think...we have to be satisfied that it's about 600 feet. I don't want to be...Inaudible.

Mr. Simoff: I'm not arguing about the distance. I'm just saying that you have 60 percent of the floor area in Building A and you've got to go 600 feet to the dumpster.

Mr. Capizzi: There is a golf cart on site. Which we talked about. You'll have intermittent trips to that dumpster, maybe go there once every two days. It's for the bathroom and the office. Its nominal light trash that's generated from this complex. There's no need to get...when there's a need to go about the site, including the dumpster, there's an electric golf card that will be onsite for use by the employees to traverse around the property.

Mr. Simoff: And there's no trash cans or any trash within the building?

Mr. Capizzi: No.

Mr. Schaechter: I have a question.

Mr. Weiss: Go ahead, Brian.

Mr. Schaechter: How big is the dumpster? How many cubes?

Mr. Capizzi: I think last time we said it was four cubic yards, something like that? It was relatively small.

Mr. Schaechter: It is a small dumpster. It's not going to matter.

Mr. Capizzi: And I think that the...the landscaping will be taller than the fence enclosure for the dumpster.

Mr. Welch: Correct. Four cubic yards.

Mr. Simoff: Well maybe...maybe my points will be better made by my presentation rather than asking questions.

Mr. Weiss: Fair enough.

Mr. Simoff: I'll wait for that time.

Mr. Weiss: Okay. Thank you, Mr. Simoff. Let me see if there is anybody else from the public that has any questions for Mr. Welch based on the testimony that Mr. Welch delivered this evening. I'm not seeing any.

Mr. Schaechter: I have another question, sorry.

Mr. Weiss: Go ahead, Brian.

Mr. Schaechter: How long does it take for an evergreen to go from six foot to 12 foot and grow? Dr. Keller, can you answer that?

Dr. Keller: That depends. It varies by species. A white pine, probably three years, four years. They grow one and a half to two feet in a year, sometimes. The spruce might be a little slower. Might take five years.

Mr. Schaechter: Thank you.

Mr. Weiss: All right. I don't see anybody else from the public. Chuck? Is that correct?

Mr. McGroarty: I don't, Mr. Chairman. No.

Mr. Weiss: All right. So, I'm going to close it to the public. Matt, I'm going to turn it over to you. I know you wanted to have Scott Daniel testify a little bit, to some of his changes.

Mr. Capizzi: Thank you, Mr. Chairman. So, Scott, you were previously testifying, at least in the January meeting. At that time you were sworn and you remain sworn. I had made a reference in the opening statement about some revised plans from your office that were filed by my office on February 1. Can you bring up those plans and let's mark them prior to your discussion of the relevant plan sheet?

Mr. Daniel: Yes I can. Hopefully you can see my screen now. Mr. Chairman, Members of the Board, we...one of the questions was, or the points that was brought up was the color of the façade of the building which has been addressed. This revised sheet shows the new color scheme of the façade. It is much more muted in the color tones. The bright blue has changed to an earth tone grey and the other muted blue, as you see, has remained. With the dark grey on the bottom as the podium. The middle part...

Mr. Weiss: Just real quick, do we mark this as A-18.

Mr. Buzak: Yes.

Inaudible

Mr. Weiss: I'm sorry.

Mr. Buzak: And what's the date on that, Mr. Daniel?

Mr. Daniel: It was submitted by the attorney on 2/10 I believe, or 2/9, but the date is 1/29/2021.

Mr. Buzak: Very good. Thank you.

Mr. Daniel: You're welcome.

Mr. Capizzi: So, Scott, when I'm looking at the center of the page, that's the front elevation, correct?

Mr. Daniel: No.

Mr. Capizzi: Oh, I'm sorry, the top of the page.

Mr. Daniel: Right, the north elevation is the elevation that faces Route 46.

Mr. Capizzi: Okay and clearly the rear elevation is at the center of the page?

Mr. Daniel: That's correct.

Mr. Capizzi: Okay, great. As far as the screening of the HVAC units, do you have a detail that shows how you are going to accomplish that?

Mr. Daniel: Yes. I do. This is a general elevation of the rooftop HVAC unit. It'll be...

Mr. Capizzi: What you just described...so we're going to mark that A-19.

Mr. Daniel: A-19.

Mr. Capizzi: And if you have a title on it? If you could read off the title for me please?

Mr. Daniel: Yes its called Rooftop Mechanical Unit Screen and its dated February 11, 2021.

Mr. Capizzi: Okay, great. I'm sorry.

Mr. Daniel: Okay. What this shows is what the screen will look like. Its going to be a perforated metal panel that will surround the whole rooftop unit HVAC system. It'll be painted to match the grey color of the elevation. It'll be constructed of metal posts that will be...and the screen will be bolted to the metal posts. I also have a section of that if you'd like to see it?

Mr. Capizzi: Sure.

Mr. Daniel: Okay. This would be...I guess 20?

Mr. Buzak: Yes. A-20.

Mr. Daniel: A-20. It's titled Rooftop Mechanical Unit Screen and it is dated February 11, 2021. What this shows is the construction of the screen. It'll have steel metal posts with horizontal

reinforcing and diagonal post that will be tied to the roof structure. On the surrounding area this is the exterior that faces the parapet. This is a broken line but it's going to vary between 20 feet and 35 feet from the parapet since the rooftop units are set back into the middle of the roof of the building. This will set back...the rooftop unit will sit on the diagram, right hand side, in back of the supporting structure. This will all be painted to match the grey, earth tone of the façade.

Mr. Capizzi: So that will exceed the height of the HVAC unit correct?

Mr. Daniel: That's correct. I'll exceed the height of the HVAC unit by a minimum of a foot.

Mr. Capizzi: Okay, thank you.

Mr. Daniel: You're welcome.

Mr. Capizzi: So, this is going to be applied on all the HVAC units for buildings A, B and C?

Mr. Daniel: That's correct.

Mr. Capizzi: Okay, great. We also updated the rendering to match the updated façade?

Mr. Daniel: Yes. Okay. Here is the updated rendering which shows from the street view...

Mr. Capizzi: We're going to mark this A-21.

Mr. Daniel: Yes. I'm sorry. A-21. Has a date of 6/17 even though it was revised.

Mr. Weiss: Wait a second, hold on a second. I must have missed A-20.

Mr. Daniel: Okay. A-20 was the section of the rooftop screen.

Mr. Weiss: Okay. Sorry about that. And then A-21 is...go ahead. Go back to where you were.

Mr. Daniel: Is the rendering.

Mr. Weiss: Okay.

Mr. Capizzi: So this mimics, again, the grey metal panel along the front elevation that we just discussed.

Mr. Daniel: That's correct. This would be the grey metal panel. If you can see my cursor? This would be the muted blue that we are keeping the identity of the building. And the block pedestal that it sits on.

Mr. Capizzi: The building itself is accurately depicting some of the site conditions are not 100 percent as depicted on the site. We are just using this exhibit, just to illustrate to the Board

predominately, the look of the building with the updated façade. All right Scott, anything else as far as updates to your plans? I think that covers all of the updates in your recent submissions, correct?

Mr. Daniel: That's correct.

Mr. Capizzi: Thank you, Mr. Chairman. I don't have anything further for Scott.

Mr. Weiss: Thank you, Scott. If you can pull that down?

Mr. Daniel: Sure can.

Inaudible

Mr. Weiss: Let me open it to the Planning Board. Does anybody from the Planning Board have any comments or questions for the testimony that Scott just gave us? Brian?

Mr. Schaechter: I thought the instruction was no blue at all? Not muted blue. It was...stick with an earth tone, a grey or beige, to go with the rest of the neighborhood?

Mr. Capizzi: We were hopeful that it was really just the bright blue aspect of that façade we presented the plan in January which has been replaced by the grey. The darker blue, we thought was acceptable, it was a brighter teal colored blue that was the main portion of the façade which has been replaced by the grey.

Mr. Schaechter: Inaudible...the blue?

Mr. Weiss: Say that again Brian. You were breaking up.

Mr. Schaechter: From my recollection of our conversation and Howie, your instructions, it was stay away from blue. Stick with earth tone. Beige, grey something along those lines and you can keep the sign branding the tenant might have. I thought that was the instructions.

Mr. Weiss: I can chime in a little bit Brian. My notes, clear, muted earth tones, light grey. Even in this conversation that we are having tonight, you keep on talking about earth tones, grey color and then blue pops up. I thought I was pretty clear and I'm only speaking for one person, that a three hundred foot building along the highway, blue just doesn't work for me. Again, I'm just one person here but I thought we came to an agreement that we were going to go for the muted earth tone, light grey and I'm reading right off from my notes. Does anybody else from the Planning Board have the recollection of that conversation?

Mr. Mania: Yes. You're correct Mr. Chairman. You are correct.

Mr. Weiss: And I understand that your potential tenant likes the blue and that's why the concession was the sign would reflect their imagery, their logo, their identity. But there is no way that this Planning Board member is going to have good warm fuzzies about a 300 foot building with blue on it.

Mr. Capizzi: All right, Mr. Chairman, let me have a discussion with my clients about that. If there... If I can impose upon the Board, just whatever other questions there may be for Mr. Daniel, we can perhaps work through those. In the meantime, my clients are online and they can send me a note with their thoughts while Mr. Daniel is continuing on with any other questions.

Mr. Weiss: Fair enough. Does anybody else from the Planning Board have any other questions? John Batsch?

Mr. Batsch: Yes Sir. On the surrounding screens for the air conditioning units, will that be on all four sides? Or just on the front façade?

Mr. Daniel: Yes, Sir. It will be on all four sides. So, it will encapsulate the entire rooftop unit.

Mr. Batsch: Thank you.

Mr. Daniel: You're welcome.

Mr. Weiss: Does anybody else from the Planning Board have any questions?

Mr. Nelsen: Those screening units, will they have any sound attenuation properties?

Mr. Daniel: Yes. Inherently, with the perforated metal, it'll have some sound attenuation properties with that.

Mr. Nelsen: I think it's my understanding, with those, if you were to have any sound attenuation, there is usually some kind of fibrous material behind the perforations. Not just perforations by themselves. Could your engineers speak to that? Or yourself?

Mr. Daniel: You can put sound attenuation behind it. If you need... certainly if you need the sound attenuation. However, we would be within the ordinance as far as decibel level.

Mr. Capizzi: Scott, let me ask you a couple of questions so we can move it along. Did you talk to the mechanical engineer about the decibel level at the exhaust of the HVAC unit?

Mr. Daniel: Yes, I did.

Mr. Capizzi: Do you know what that number is?

Mr. Daniel: Yes. It's 75.

Mr. Capizzi: And at what point and time does it get to the acceptable level? I think the acceptable level is 50 or 55.

Mr. Daniel: I believe its 55 and at the property line. We get to that 50 feet away from the actual rooftop unit.

Mr. Capizzi: Okay. So, if we are at Building A for example, and we add 50 feet to the HVAC unit, where do we sit in relationship to the property line?

Mr. Daniel: Approximately, another 50 feet 35 to 50 feet.

Mr. Capizzi: So, no issues with complying with the noise regulations?

Mr. Daniel: No. Not at all. And with the added...even if we don't use the sound attenuation blanket system or whatever, just the metal screen itself, with the perforated metal will also bring down the decibel level.

Mr. Capizzi: The testimony is based upon not using any sound attenuation, correct?

Mr. Daniel: Yes. That's correct.

Mr. Capizzi: Building D doesn't have any HVAC unit at all?

Mr. Daniel: No. It does not.

Mr. Capizzi: Okay.

Mr. Nelsen: That was my concern. The buildings in the rear of the property, near Mr. Simoff's project, so there are no AC units on that...those building back there?

Mr. Daniel: It's not cooled, no.

Mr. Capizzi: On the building most proximate to Mr. Simoff's project there are...that building is not cooled or heated. There is no HVAC system there.

Mr. Weiss: All right. Thank you, Brian.

Mr. Schaechter: No, that was Dan, but thank you. I'll take it. Scott, you just talked about the decibel levels. Obviously they don't augment the highway noise. I mean Route 46 is a pretty noisy highway and there is plenty of sound from there. We're not adding another 75 decibels. Its already loud. You probably wouldn't hear it over the highway but I don't think we are going to have a sound engineer come out and deal with this because it is on the road.

Mr. Daniel: That's correct.

Mr. Weiss: Anybody else? Okay. I see nothing from the Planning Board. Let me just check...

Mr. Capizzi: Before we go to the public, Mr. Chairman, we're going to move away from the blue.

Mr. Weiss: Okay. Much appreciated. I suppose just a general earth tone and grey color is satisfactory to me. Just to make sure we are on the same page, that blue is not an earth color. It's a sky color, we'll call it.



Mr. Capizzi: There is a dark green...does a green, somewhere in the green spectrum fall into earth tone?

Mr. Weiss: I think the greens work. I think ultimately before you go forward, you can certainly present your final color choice to us. I think I mentioned it last time. We certainly have the means to go about it. Ed, I don't want to open up a can of worms, but I think that we can leave it as such with a final approval either by myself or Chuck or Mike. Just to give the thumbs up on that based on the flavor of the Planning Board.

Mr. Capizzi: That's fine.

Mr. Buzak: I think we can do that Mr. Chairman. I just thought that neon green is probably not in the earth tone category.

Mr. Weiss: I know that's a little bit of a joke but I tend to agree. What my opinion of earth tone or green might not be that of the applicant. So, I think when you determine a color you can make a submission to the Planning Office and we'll make an administrative approval on that one. It does seem like most of the Planning Board is in favor of an earth tone, grey combination. So, thank you for that Matt. Let me then... let me see what we have from the public. If anybody has any questions for Scott, Mr. Daniel, on his testimony? Chuck, I don't see anything.

Inaudible

Mr. Weiss: Okay. There you go, Hal. So, you have a question for Scott?

Mr. Simoff: What is the material on the south side of the buildings?

Mr. Daniel: The south side of the buildings is a metal panel. It's a metal panel system.

Mr. Simoff: And does that reflect sound.

Mr. Daniel: Well, metal inherently will reflect sound, yes. But not any more than any other material. Not to much more than any other material.

Mr. Simoff: Okay. That's my question.

Mr. Weiss: Thank you. Let's see if there is anybody else from the public.

Inaudible

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

Mr. Weiss: Let me close it to the public. I suppose if there's any questions from our professionals otherwise we'll dismiss. Scott, thank you for your testimony. I know that...Matt you had another expert testimony that you wanted to bring up.

Mr. Capizzi: Yes. Our Planner, Sean Moronski.

Mr. Weiss: Okay. Let's bring up Sean. I think Sean's up already. Here you are.

Mr. Moronski: Yes.

Mr. Weiss: Welcome.

Mr. Moronski: Thank you.

Mr. Weiss: Now, you haven't testified yet, right?

Mr. Moronski: I have not.

Mr. Weiss: So, Ed, let's swear in, Sean.

Sean Moronski was sworn in, for the Record.

Mr. Moronski: It's Sean S E A N, Moronski M O R O N S K I, I'm with Langan Engineering and Environmental Services, 300 Kimble Drive, Parsippany, New Jersey.

Mr. Buzak: Thank you, sir. Mr. Capizzi?

Mr. Capizzi: Thank you, Mr. Buzak. Mr. Moronski, can you give the Board your educational and professional experience please?

Mr. Moronski: Yes. I have a masters in planning from New York University. I've been a New Jersey licensed Professional Planner since the year of 2000. A member of the American Institute of Certified Planners. I have been qualified as a professional planner in over 100 municipalities throughout New Jersey.

Mr. Capizzi: Thank you very much. Your license is still in good standing.

Mr. Moronski: My license is current.

Mr. Weiss: Have you appeared in front of Mount Olive before? Mount Olive Planning Board, before?

Mr. Moronski: Not... if I did, it was a while ago. Not recently, if I did. I don't believe so.

Mr. Weiss: I have no issues. Chuck, do you have any questions for Sean about his qualifications?

Inaudible

Mr. Weiss: Mr. Moronski is the expert planner for the applicant. Welcome. And we refer it back over to you, Matt.

Mr. Capizzi: Thank you. So, Mr. Moronski, can you tell the Board your affiliation with the application?

Mr. Moronski: Yes. I've been engaged as the professional planning consultant to review the plans, the site and the relevant zoning and planning documents to make a determination as to whether we meet these criteria for the requested relief.

Mr. Capizzi: Thank you. So, can you take us through your testimony, please?

Mr. Moronski: Sure. I think its worth noting that a lot of the questions and concerns about the operations of this use, that we are in the commercial light industrial zone, at this site. That the proposed self-storage use is very much a low intensity use. Especially relative to the potential permitted uses that are available at this site. You have office uses, retail uses, medical offices, there is a whole list in the ordinance. The testimony to this point has shown how the self-storage use is of a low intensity nature. I'm going to start off with the variances that we're requesting. We're requesting two variances and I believe both can be granted under the C2 criteria, where the benefits of the overall project outweigh any potential perceived detriment from granting the variance of which I don't believe there are any for these variances. The first is, we need one for the minimum front yard setback and it has to do with canopy that is going to be at the front entrance of our building. We are required to have 100 feet and the canopy extends into the setback by half a foot. So, our setback is 99.5 feet. This is de minimus in terms of the impact. It's not perceptible from any distance. Certainly not from Route 46 which our site is set higher than the roadway or even on the interior driveway. But the canopy provides an aesthetic improvement to clearly identify the entrance. The building, itself, the closest that it is to the front lot line is 100.2 feet. That setback variance request is relatively minor in scale. The other variance that was identified, had to do with the ten percent of the building area designed as walkways, plazas. In Chuck's planning review letter, he noted and I agree, that that's intended for shopping centers and plazas of which this is not that type of commercial business. So, it's not really appropriate in terms of the type of design elements that they talk about. As we've heard through previous testimony there is substantial landscaping being provided around the site and particularly around the perimeters near the residential lot lines. With regards to the...what purposes and Municipal Land Use Law these variances further believe that we promote public health safety and general welfare which is purpose A, as well as purpose G, provides sufficient space and appropriate locations for a variety of unit of uses. The zone permits a proposed use and through discussions with your professionals and in the interaction of the Board, it's been designed to address concerns that the Board has had. Whether is has to do with buffers, aesthetics of the building and the site, meeting regulations regarding storm water, bearing the water tank underground, certainly these are all consistent with advancing those purposes of the land use law. We have to address the negative criteria. That there's no substantial detriment to the public good. As I mentioned the requested variances are either de minimus or they are not really applicable to the type of use here. Many of the concerns have been addressed. The improved buffer area, particularly, near the residential lot lines to minimize potential aesthetic impacts, both on the ground and also on the rooftops as well, where necessary of the screening of rooftop equipment from an aesthetic standpoint and also to address any potential acoustic concerns. This is a low intensity use. It involves short visits. It's very passive compared to other commercial uses that are as of right, at this location. There is no substantial detriment to the intent and purpose of the zone plan or zoning ordinance. The use is permitted in the commercial light industrial zone. We further the Master Plan goal of 2003, goal Number 7, this has been reaffirmed in subsequent reexamination reports to encourage commercial development in appropriate areas along Route 46 to serve the needs of Mount Olive residents and regional travelers with sufficient design

control to assure minimal interruption to traffic flows. This is a low intensity use along Route 46 addressing self-storage demand and needs with minimal traffic generation. So, I do believe that you could grant each of those requested variances under the c2 criteria. Chuck's letter also outlined several exceptions, that we're requesting, from the site plan ordinance and as noted in his review letter these exceptions have to be reasonable and within the general purpose and intent. The provisions for site plan review...the idea that if these exceptions were to be granted that it's not going to have any substantial impact on the operation of the site, on surrounding neighbors, in terms of the operations and so forth. The first exception has to do with no site disturbance structure impervious coverage permitted within critical slope areas except for driveways and roads. As the plans have noted and in previous testimony that Matt has provided, there are scattered critical slope areas which deals with at least 25 percent grade. Some areas of the parking, the drive isle and the retention basin are in there. The existing development, there are stairs that are located in the critical area. Those are going to be removed. But these areas are scattered. They primarily located near the frontage where along 46, as you know, it's very clear that you have a substantial grade change from coming off 46 onto the site. The disturbances are minimal. They assist in facilitating the development of the storm water basin, the parking spaces and the overall development. We are also requesting an exception for your minimum parking requirement. It is also noted in the planning memo, it was suggested that the warehouse standard, which is one per 5,000 square feet, be considered as opposed to the much higher retail standard of one per one fifty, which would generate hundreds of spaces. Using the warehouse standard, at 95,250 square feet of floor area, we would require 20 spaces. We are requesting 13. We believe those spaces are sufficient. We would have one or two employees, maximum, on the site as is been previously mentioned in testimony. Self storage is a minimal trip generator. People come, they drop off their stuff and pick up their stuff, they leave. It's not someplace you're staying long term. Nor is it where you get a large, massive crowd on a consistent basis. The trips are periodic and the parking spaces as they are provided are sufficient to address, for lack of a better term, I'll call it peak or higher demand times of which, they're relative to other uses, are low. There is also an exception with regard to the location of parking and loading areas. No off-street loading or maneuvering areas located in any front yard. Nor require any part of the street. Our office is located closer to the front yard. Also on the planning memo it talked about, if you were thinking about this in terms of as a retail type use, that allows parking up closer than 25 feet to any public right of way, over than 15 feet of any interior traveled way. We're set back 30 feet from the front lot line but because our parking spaces are off the drive isle, interior, there is concern about circulation. We have a drive isle that's 35 feet wide. Next to most of the spaces, 25 feet for the rest. Earlier in the testimony there was concern about parking at the front unit doors. It was mentioned that signage will be used to prohibit perpendicular parking in front of those units to address circulation concerns. We are also requesting an exception with regards to lighting at the 90 degree angle required. This provides an option to tilt the fixture if glare concerns arise so that we are able to address lighting concerns as they come along. Finally, the updated plans provide for a gravel driveway to the telecommunications tower where there is currently grass. Having a paved tower would bring up the potential concern of exceeding impervious coverage. The gravel driveway does address the Fire Marshal's concerns about access to the equipment compound. The gravel driveway also provides a clearly defined driveway while not adding impervious surface. So, those are the exceptions as outlined in Chuck's planner's memo. That's my testimony, Mr. Chairman. Thank you.

Mr. Capizzi: Sean, let me just ask you a quick couple of follow up questions. So, as far as the parking waiver is concerned, a majority of these units are drive up units, correct?

Mr. Moronski: Correct.

Mr. Capizzi: Right. So, if we really...the parking is really designed to accommodate building A? Would that be a fair statement?

Mr. Moronski: Yes. That is correct.

Mr. Capizzi: Then building A contains about 54,000 square feet. So that would translate to about 11 spaces, correct?

Mr. Moronski: Yes, using a one per 5,000 standard, yes.

Mr. Capizzi: So, we have enough parking stalls that should there be a high demand to use building A, there would be an ability for people to park proximate to that and walk into building A, correct?

Mr. Moronski: Yes.

Mr. Capizzi: And the balance of the site going to B, C or D? I would just drive my vehicle to my unit door load, unload and then exit the site?

Mr. Moronski: Yes.

Mr. Capizzi: As far the balance and the bulk table, all the buildings are conforming with all the applicable setback requirements?

Mr. Moronski: They conform with all the applicable bulk and setback requirements, yes. And height as well.

Mr. Capizzi: All the heights are conforming? All the setbacks conforming, correct?

Mr. Moronski: Yes.

Mr. Capizzi: Building and impervious coverage is conforming?

Mr. Moronski: Yes.

Mr. Capizzi: Buffer requirements? Those are all conforming?

Mr. Moronski: The buffer requirements are conforming, yes.

Mr. Capizzi: As far as the site plan considerations are concerned, you had touched upon, I believe two or three waivers but the balance of the site plan requirements are all in conformance, correct?

Mr. Moronski: Yes, but for the exceptions that were mentioned.

Mr. Capizzi: Right. All right and you certainly heard testimony from Mr. Welch and Mr. Daniel throughout the course of these proceedings, correct?

Mr. Moronski: I did.

Mr. Capizzi: They've all agreed to address any of the comments from the various Board professionals? And I gather that is supportive of some of the positions taken in your testimony, this evening?

Mr. Moronski: That's correct.

Mr. Capizzi: All right. Thank you, Mr. Chairman. I don't have anything further from Mr. Moronski.

Mr. Weiss: Thank you. Chuck, let me turn it to you before we open up to the Planning Board. Did you have any comments? Did you have anything for Mr. Moronski based on what he spoke about today?

Mr. McGroarty: No, Mr. Chairman. I don't have any...I take no issue with his testimony. I think he addressed everything quite thoroughly and competently.

Mr. Weiss: Chuck, and I got to give it to you too, you gave us very good guidance in your report and I appreciate that. You put it in perspective. Does anybody from the Planning Board have any questions for, Mr. Moronski, based on his testimony? I don't see anybody from the Planning Board. Let me go to the public to see if anybody from the public has any questions? I don't see anybody.

Mr. McGroarty: I don't see anyone Mr. Chairman.

Mr. Weiss: Okay. So let me close it to the public. Sean, thank you for your testimony tonight.

Mr. Moronski: Thank you, Mr. Chairman.

Mr. Weiss: My pleasure. Matt, I'm going to go back over to you. I think based on what you told us earlier. I think you're done, but I don't want to make any assumptions.

Mr. Capizzi: That's correct, Mr. Chairman. We don't have any further witnesses at this time.

Mr. Weiss: Okay. So, let's do this, then. I want to at this point, open it to the public for anybody who has any comments, concerns, issues, something they want to share. An opinion with the Planning Board. We'll give you an opportunity to speak. Give an opinion. We have one hand raised. That's Mr. Simoff. I do see that, so let's bring up Mr. Simoff.

Inaudible

Mr. Weiss: What we are going to do now, Mr. Simoff, for the record you'll state your name...

Mr. Simoff: My name is Hal Simoff. My business address is 2 Shunpike Road, Madison, New Jersey.

Mr. Weiss: Okay. So, you know the way these meetings run. This is your opportunity to state your opinion. Don't have to ask a question. Tell us what's on your mind. State your case. So, I'm all ears.

Mr. Buzak: Excuse me, Mr. Chairman. Did we... Mr. Simoff did we swear you in earlier?

Mr. Simoff: No...inaudible...just stand in.

Mr. Buzak: Okay. Well then let's cure that.

Hal Simoff was sworn in for the record.

Mr. Buzak: You already stated your name and business address for the Record, so please proceed.

Mr. Simoff: Yes. My concern, I'm not concerned about the use. I'm concerned about the impacts to the residences behind it and to the south, to the east and to the west. Because of the grading, because of the required buffers, I just don't want this Board or any of us, the applicant, my client or the Board to have any misgivings about some of the issues that are being considered. Because when we have 215 occupied units, in the surrounding property, we just want to have a development that works with each other. I think, I would suggest or ask, that any lighting be looked at, as Mr. Moronski talked about, so that it...and many towns have a provision where one year or six months after the installation of the lighting that they be reviewed and adjusted based on field conditions. Which I think is a good addition because what you put on paper always doesn't come out in the field as planned. The other concern that I have is the buffer and the building treatment to the south side of all the buildings. If I can bring up my screen? What I've done, is I've combined the two developments on a plan. So, I took the latest plan that was posted on the Planning Board website, that shows the buildings. Then on the right side, what I did, is I took the elevation of the townhomes, they might not be the most artistic depiction, but they are two story townhomes, the second floor would look into the, as one can see, they look over the tops of the buildings B, C and D. The residents would be looking straight at building A, because it's three stories. And you can see, in the middle of the plan, the six foot evergreens, their impact. So I'm concerned about the buffer.

Mr. Buzak: Excuse me, Mr. Simoff. Excuse me. Two things. Let's mark this Exhibit O-1. Is there a date, Mr. Simoff, on that? I can't read it if there is.

Mr. Simoff: Yes. It's dated 02/08/21.

Mr. Buzak: Okay. And the second thing...

Mr. Simoff: I can supply hard copies of this.

Mr. Buzak: Okay. The second thing I would ask you, at least for my benefit and perhaps to the Board members benefit, is if you could enlarge the area you are talking about. I see you have a

grid on the right hand side that you were referring to the different elevations. I have to tell you I couldn't see...I saw lines and it looked like the economy graph, so...

Mr. Simoff: Okay.

Mr. Buzak: Perhaps you can go over your testimony, at least for me since I have to write Resolutions and so whatever extent the Board may be assisted in doing that, that's great.

Mr. Simoff: All right. So, what I did is I took building X, which is in the middle of the rear of the property, and the finished floor is, let me blow it up a little bit more, the finished floor is 988. And I show the second floor, somebody standing on the second floor looking north. I show the property line. I have the townhouse project has a detention basin which is between the property line and the buildings. I show the six to seven foot high evergreens. The elevation of building D which is approximately 12 feet high. Building C, the light fixtures and then building A which has an elevation, roof elevation of approximately 1,000 feet. So, the concern that I have is that the rear of the buildings, the physical architectural treatment so when somebody looks out...with a 300 foot wide building, somebody is looking north towards Route 46, you are going to see the back of building A. Which is a steel, as stated by the architect, just a steel clad building. So, concern is, number one, we're going to start constructing these units in the back probably this summer and I was just concerned about the new residents looking at this and the addition of the residence, some sort of treatment to lessen the impact. The applicant has proposed changes to the front of the building but nothing to the rear of the building. So those are my concerns. The lighting, the buffer and the viewing of the back of the building.

Mr. Weiss: You can pull that down now.

Mr. Simoff: Okay.

Mr. Schaechter: I have a question for Mr. Simoff.

Mr. Simoff: Sure.

Mr. Schaechter: Mr. Simoff, the proposed, the building that's there today, the Board of Ed building, the old Board of Ed building. How tall is that?

Mr. Simoff: It's...I think its two stories.

Mr. Schaechter: So, your folks would have to look at the back of that, too. Which is...inaudible...100 year old building.

Mr. Simoff: That's 185 feet wide. The new building is 300 feet.

Mr. Schaechter: I'm aware of that. I mean, it's their property. They can put what they want on it. Are you proposing they put a mural up there so people could look out their back doors?

Mr. Simoff: No, I'm proposing...I'm asking that there be something other than just sheet metal in back of the building. That there be something more aesthetic. The Board had a lot of



concerns about the front of the building but there is no statement as to how the treatment of the rear of the building being considered.

Mr. Schaechter: No. I think we look at the building as a whole. And what it's use is.

Mr. Simoff: I'm not arguing about the use.

Mr. Schaechter: Yes. You are arguing about what you feel is the treatment of the building, that the developer's proposed. What I'm saying. Look at the building as a whole. Could be really worse. Could be something really bright blue if we didn't care about the whole building.

Mr. Simoff: As I said...

Mr. Weiss: I have a question and I don't mean to downplay your concern. Hal, I understand your testimony here is, you're obviously concerned about how the impact of this development will have on your future sales of the units to be built and that's...nothing wrong with that. You're trying to protect your investment. This property was vacant for a very long time. Did you ever consider buying this?

Mr. Simoff: Yes. We did make an offer to the Board of Ed.

Mr. Weiss: Okay. Because obviously you're...

Mr. Simoff: About 200,000 dollars more than they were asking.

Mr. Weiss: I was just curious.

Mr. Simoff: No. We did make the overtures to buy the property.

Mr. Weiss: Obviously if that was all part of your development then we wouldn't have the conversation but I do understand. I understand what you are telling us and why you're telling us. I think we have to look at this application is a stand alone. Lessen the impact on the entire community and I think the Planning Board has done a pretty good job and the applicant has worked very well with the Planning Board. Unless the applicant wants to chime in...they're hearing you. I'm not seeing any kind of response and as you know there is no obligation for them to make any response.

Mr. McGroarty: Chairman?

Mr. Weiss: Yes, Chuck?

Mr. McGroarty: I would ask, maybe, the architect and Mr. Capizzi, would it be possible...well I suppose it's possible but...would it be much of a challenge to add, on the rear of the building, the rear façade of building A, that simulated window or gate treatment? I don't know exactly how you would describe it, you know, the sort of...elements that you put on the front of the façade to break up the mass of that building? Would that be possible to do one or two or perhaps three locations on the back?

Mr. Capizzi: Well, let me just...Give me one second, Mr. McGroarty. Let me make an inquiry.

Inaudible

Mr. Capizzi: Mr. McGroarty, certainly we appreciate where Mr. Simoff is coming from but the façade as depicted, and as to be amended by discussions relative to the color, that's where we are prepared to go with it. We certainly have gone...we've made great strides within enhancing the buffer beyond our original proposal in aware to provide visual buffer between our site and Mr. Simoff's site. So, I would say really the obligation to protect Mr. Simoff's site can't rest solely with the applicant. If Mr. Simoff has certain concerns relative to inaudible...etc., his site is under development he can share in that obligation.

Mr. Weiss: All right. Thanks for the input. Hal, do you have anything else?

Mr. Simoff: As I said, I just think that to be a good neighbor, Chuck will chime in, but where my townhomes, but single family residential, I left a 100 foot undisturbed buffer and then I planted on the inside of that buffer with 12 to 14 foot trees. These are six to seven foot trees, you know, which are much below the existing elevation of the townhomes, and the townhomes are going to see these units. I just think that the back treatment of these buildings should be embellished.

Mr. Weiss: Okay. Clearly, I think they're hearing you. Anything else?

Mr. Simoff: No, that's it.

Mr. Weiss: Okay does anybody else from the public have any comments? I see none. Chuck can you confirm?

Mr. McGroarty: I confirm that.

Mr. Weiss: Okay. So, I'm going to close it to the public. Okay we've had three different sessions on this application. I think the Planning Board, with our professionals have made great progress to address the concerns that the Planning Board has expressed the concessions from the applicant are very much appreciated by the Chairman. And for the fact that we moved this in a very positive way is very much appreciated. I think if anybody else from the Planning Board has anything to say? If not, I will look for a member of the Planning Board to make a motion on this application PB 20-10.

Mr. Buzak: Mr. Chairman, before we do that. I'll briefly go over what the relief is that's being sought. And I would ask that Mr. McGroarty add anything to what I may have here. I will also ask Mr. Capizzi, as well, in case I miss something, since this has been, now, three different hearings with a variety of different plans. I will agree the applicant is seeking, or the motion would be to grant preliminary and final site plan approval for the facility to grant the two variances, the front yard setback variance. Which is a variance to address the canopy. A provision related to a section in the ordinance requiring ten percent of the building area be common open space on the basis that this type of use does not lend itself to that kind of requirement. In addition there are I believe four exceptions. First exception related to the minimum parking requirement. The applicant is proposing 13 parking spaces. Whereas if you use the warehouse standard, 20 parking spaced would be required. Number two, a

disturbance of critical slope in excess of 25 percent to allow access to the building from Route 46 to cross that area, to access the building. Number three, a gravel driveway to deal with the communications tower. I think we require a paved driveway as opposed to a gravel driveway. The last one is a lighting exception although I have to defer to Chuck because I don't...I didn't get the detail of that lighting exception that they are seeking.

Mr. McGroarty: No. Not a lighting...I don't think they have a lighting exception. They have a location of the parking. They have a number of parking spaces and location of parking.

Mr. Buzak: I'm sorry. Was that the perpendicular spaces vs the parallel spaces?

Mr. McGroarty: Yes. It's because of the proximity to the interior traffic isle. Yes.

Mr. Vreeland: I think there was one issue with the light, Chuck, too. You had mentioned that the ordinance requires the head of the light to be 90 degrees to the pole fixture. They're proposing an adjustable head allowed to be tilted away from the residential property.

Mr. McGroarty: Are they are still going with the tilted head?

Mr. Vreeland: Yes.

Mr. Buzak: Okay.

Mr. Capizzi: Matt Welch, is that corrected...is that still reflected on your plan?

Mr. Welch: Correct. So, what we proposed on our plan, is a flexible mount. The light itself is still proposed at 90 degree but it has the option to tilt up if, post construction, there are concerns.

Mr. McGroarty: I don't see that detail on your plan. Am I missing that?

Mr. Welch: Yes. It's the mount. I can...

Mr. McGroarty: All right. Assuming it's there, then I stand corrected. It's another exception.

Mr. Buzak: Okay. So, we have those five exceptions. There are a number of conditions and again, these have sort of morphed over the hearing so I'll have to be a little bit more careful, will be careful when we draft the Resolution, so going backwards to those most recently discussed. The color of the building, in addition to the grey that has been proposed, what was proposed in blue will be transformed into an earth tone subject to the approval of the Planner. The sign will continue to be blue, if I understood that correctly. Before the removal of any trees along the property line where the enhanced buffer was proposed tonight, there will be a site walk with Dr. Keller, to determine what trees should be removed and what trees can remain which would then impact on the buffer itself, because there may be places where the natural existing trees will take the place of the proposed buffer trees that are going to be proposed.

Mr. McGroarty: Mr. Buzak, on that...excuse me, that will be with all of us. With Mike, myself and Kevin.

Mr. Buzak: Okay. Thank you. There'll be an updated stormwater management report submitted, related to the revised design of the drainage basin. The drainage basin maintenance manual will be submitted to Dr. Keller for review and approval. There'll be signage to avoid regular access to emergency access. There will be a solid fence, I believe, behind the enhanced buffer around the perimeter of the lot, not the front of the lot but the sides and rear of the lot. The applicant will comply with the final reports of the Planning Board's experts, to the extent that they're not covered in any of these conditions nor covered in revised plans that they submitted. There will be no access to the rear of the building behind building A, from ten pm to six am.

Mr. Weiss: I have one and actually Ed, while you're looking...

Mr. Buzak: Yes.

Mr. Weiss: Inaudible...maybe change one of the things we said regarding the sign. And you said the sign will be blue. And I think what we can do, to better work with the applicant, is to basically maybe leave the language a little more vague to say the sign will be able to be the color that reflects the identity of the operator.

Mr. Buzak: Okay.

Mr. Weiss: If we say blue, and they find a tenant and I'm not sure where they're going but maybe their color is pewter, the Resolution would say blue and we'd have to come back and re-address it. So...if its blue, its okay. I think the sign should represent the trademark, the logo, the identity of the operator. I had another one. I still have one, and I don't know if this was addressed? Walt, maybe you can chime in? I have a condition that there was to be a full review by the Fire Marshal regarding ladder trucks' turning radius and size of trucks. And I know that there was an exhibit sent in but I want to make sure...

Mr. McGroarty: They've done that, Mr. Chairman.

Mr. Weiss: They did? Okay. That's what I'm saying. I wanted to make sure. Okay, and had the Fire Marshal reviewed that?

Mr. McGroarty: He has.

Mr. Weiss: Okay, perfect. Then I take that back. Then I don't see anything else. I know I'm trying to give you a little more time. Everything else, that I had, seems to be...there was something about revision dates of the plans, but based on the testimony, it sounds like everything that was open has been fixed? So...

Mr. McGroarty: We'll need...that architectural plans will have to be re-done. That's what you were speaking about, Mr. Chairman. They didn't have the revised dates on them.

Mr. Weiss: Okay. This actually goes back to the last meeting so, I'm sure whatever revisions needed to be done have been done and now we're left with whatever was spoken about tonight.

Mr. Buzak: Yes. And we'll have a condition, a generic condition, that the final plans will be revised to reflect the conditions and concessions and agreements that the applicant had based upon the testimony. And then there will be a variety of our standard conditions and there may be others, Mr. Chairman, as I go through here, but that's what I can come up with at this time.

Mr. Weiss: Okay...inaudible...Matt, are you...inaudible.

Mr. Buzak: Mr. Batch had something, I believe.

Mr. Weiss: Okay, go ahead. I missed that, John. Sorry about that.

Mr. Batch: Just a quick question, I don't know if it will be included in the drawings or not the way inaudible testified in screening the equipment on the roof?

Mr. McGroarty: It will be on the architectural plans.

Mr. Batsch: Okay.

Mr. McGroarty: It should be.

Mr. Batsch: Thank you.

Mr. Weiss: Mr. Capizzi, everything that we talked about seems to be satisfactory?

Mr. Capizzi: That's all acceptable. Thank you.

Mr. Weiss: Perfect. Okay. So, Ed? Did you wrap up, do you think?

Mr. Buzak: I did.

Mr. Weiss: You did, okay.

Mr. Buzak: Yes.

Mr. Weiss: Okay. So, with those conditions as noted and reviewed by Mr. Buzak, I will entertain a motion for this application based on those conditions that we ratified.

Mr. Schaechter: I'll move PB 20-10 Budd Lake Storage, LLC.

Mr. Nelsen: Second.

Mr. Weiss: Brian, thank you and second by Dan. Any comments, questions, concerns? I see none. Mary, roll call, please.

Roll Call:	Brian Schaechter	Yes
	Ken Forlenza	Yes
	John Mania	Yes
	Dan Nelsen	Yes

John Batsch                      Yes  
Howie Weiss                      Yes

Mr. Weiss:                      Gentleman, thank you very much. I appreciate the...working with our professionals during and between meetings. You know the routine. About a month from now, we'll have the Resolution and we'll go from there.

Mr. Capizzi:                      Sure. My pleasure. Thank you for everybody's input and Chuck, Jeff, everybody. Pleasure working with everybody. Thank you for your input.

Mr. Weiss:                      I want to do this. It's four minutes after. We still have a couple more things. Let's take a six minute break. We'll come back at ten after nine.

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

Mr. Weiss:                      I think everyone is back. So, let us get back in session. We are going to introduce application PB 21-02 Stephen and Anna Panas, here for a certification on an existing two-family dwelling, for their property located at 44 Indian Spring Road, Block 2100, Lot 1. We don't often do these, but certainly many of us have been part of these applications and it's a formality. I read the letter. You put together a very nice presentation, Mr. and Mrs. Panas. Made it very clear what you are trying to do and you gave us some nice history. I want you to tell us, as we create a record, what happened that brought us to this point? Apparently, you were looking to sell your property and the buyer was looking for some certification? I don't want to take your time but tell us what's happened that brought you here, tonight.

Mr. Panas:                      Well, we want...we found a buyer for our property and part of their due diligence, he wanted a recertification, not a recertification but verification that it's a two-family house. Now, we possessed a letter from Mr. Ferguson, when we were purchasing the property, because we had the same question. We wanted to know whether it was a valid two-family home. That is exhibit...

Mr. Weiss:                      It was exhibit F, what I am looking at.

Mr. Panas:                      F. We brought it down to the Planning Board. We didn't have...not the Planning Board...Zoning Office. We thought we wouldn't have a problem and Chuck said it wasn't valid because they had no record of it. He said that Ferguson never followed procedure by bring it to the Planning Board, to certify it. We knew nothing about that. We had the letter sitting here. It's on Mount Olive stationary, it's signed as by the Director of Planning, so we thought that we were good to go.

Mr. Weiss:                      Okay.

Mr. Panas:                      That's what brings us here because of the sale, he wants verification as a two-family house. We put together the documentation, the letter and that's why we're here.

Mr. Weiss:                      Let's see if we can make this kind of simple. Chuck, where do you think the obstacles are in this particular case? So, what is the obligation, outside of what they have already presented to us?

Mr. McGroarty: I don't know if it's outside of that, Mr. Chairman, what they have presented. I've worked now, with Mr. Panas since he first brought it to our attention. I want to make it clear, I did not insist that he do this. This is something he is doing and doing to satisfy the concerns of the buyer. So, its not like the township is taking an adversarial position here. We're not taking the position that it's an unauthorized two-family. So, what Mr. Panas has done, is put together a number of documents to support, in addition to the Ferguson letter, which he is correct. It's easy to say these things in hindsight but the letter from Mr. Ferguson, back then, really, he should have brought it to the Zoning Board of Adjustment at the time, for verification. So, what Mr. Panas has shown you in these other documents is that there are various pieces of correspondence from the township and other parties, including some tax records which, as I reviewed them, all refer to the property in question, as being two-family. I provided, to Mr. Panas, the zoning I believe was in effect at the time we think the house was built. Which was...I don't remember exactly between Mr. Panas and myself...when we thought that was the case. What I did find was zoning that was in place, what was known as the A zone. Mr. Panas, you'll have to help us with the testimony, but I think it was somewhere in the early 60s or there about, when the house was built.

Mr. Panas: There is a building permit that was issued to the owner, which is exhibit B.

Mr. Buzak: Exhibit B.

Mr. Panas: Exhibit B.

Mr. McGroarty: What was that date?

Mr. Panas: It was a re-issue, actually. It's a re-issue building permit as dated September 8, 1960.

Mr. McGroarty: 1960, right. So, at the time, having gone back to the zoning that was in place, at the time, 1960 there about, this property was located in what was known as the A zone. That zone allowed a number of different permitted uses including dwellings for not more than four families. So, it appears that, subject to the other documents that have been submitted here including just referenced building permit, that the house was lawfully constructed. In the sense that the zoning would allow dwellings up to four families. This is a two family. A question of whether the building was lawfully created in the first place, I would submit that it appears that it was. There is a lot of other documents here which we can have Mr. Panas, go through, if you wish but...

Mr. Weiss: Yes, I don't think that's necessary. Chuck just a quick question for you. Does the property have to maintain it's use as a multi-family home throughout the years to maintain that status?

Mr. McGroarty: I would say so, Mr. Chairman. I take to the position...there was another one within the last year that was a two-family home that sat vacant for a number of...some time...I don't know how many years. Unoccupied, vacant and clearly in my judgement, abandoned. Not this property. And in that case, I took the position that the two-family use had been abandoned. The owner chose not to appeal that. This house...I've never been in the house...but from the street there is no indication that there is any question of abandonment. It's in good condition. The property is well maintained.

Mr. Weiss: Mr. and Mrs. Panas, was the property being used as a two-family home for a while?

Mrs. Panas: Yes.

Mr. Panas: Yes.

Mr. Weiss: Okay.

Mr. Panas: It's always been.

Mr. Weiss: Good. Okay. So, it looks like we can go back to 1960. Where is was a two-family house and it's never really been anything but a two-family house. So, I'm not really sure exactly what we need to do. I don't know if anybody from the Planning Board has any objection to that but to my untrained eye, it certainly looks like this is a two-family house. Always was and had never stopped being such.

Mr. Buzak: Mr. Chairman, if I might and I don't mean to pre-empt any member of the Planning Board. I have a question for Chuck. To just close the loop and then I will explain what the law is which has been illuded to by Mr. McGroarty and by you. Chuck, do you know when the zoning ordinance changed to make this a non-conforming use? When it became a different zone that no longer allowed, at that time four-family homes? I assume it now allows only single family homes?

Mr. McGroarty: No. I don't. If I were on the witness stand, I would end there and say no.

Mr. Buzak: And I would say thank you very much Mr. McGroarty, no further questions.

Mr. McGroarty: There was a Master Plan, the first major Master Plan. There were a number of Master Plans over the years. There was a Master Plan in 1974 and it was shortly thereafter that I believe the R-4 zone came into effect. And some of the other zones. So, don't have a good answer for you but it would be in that time frame, as I see it. Somewhere in the mid-seventies.

Mr. Buzak: Okay. The R-4 zone does not allow two-family homes. Is that correct?

Mr. McGroarty: None of our zoning does. I'm not sure if this property, now, is in the R-4 zone, I could check that but I'm not sure. It was definitely in the A zone at the time it was built. I didn't think to check the chronology after that.

Mr. Buzak: That's fine and I just looked that the proofs so I didn't have a chance to talk to you in advance. I apologize for that. Mr. Chairman, as you can tell from Mr. McGroarty's presentation, the standards by which you need to examine this request, is that the use was lawful at the time it was first used for these purposes. The record demonstrates of, that Mr. and Mrs. Panas have put together at least as far as I'm concerned as well, that this use for at least a two-family home was a legal use at that time and condoned and consistent with...condoned in the zoning ordinance and consistent with the zoning ordinance when it was originally built. That's a critical aspect because you can't have someone who is having an illegal use, just because it's now been 40 years later or 50 years later, it doesn't get legitimized as a result of that. But this was, as far as I can tell from the documentation, a legal use. The second point, I think, again was raised by you Mr. Chairman and by



Chuck, regarding abandonment. Once it became a non-conforming use, if the owner or an owner of a property abandons that use, which is a somewhat subjective term, then they do not have the ability to go back and use it even though had they maintained the use consistently throughout they'd still be able to use it. That does not seem to be the case here and the testimony of Mr. and Mrs. Panas is that it is currently and has been utilized as a two-family home. Those, Mr. Chairman, are essentially the standards. If they meet those standards, then they are entitled to a certification from this Board, in this case, that it is a legal nonconforming use and that certificate can be issued. Before I conclude, I just also want to compliment the Panas' for someone of who's not to knowing what this process whatsoever, this package was one of the best ones that I've seen in terms of following a sequence and understanding what they had to do and doing it and giving documentation to the Board to do it. So I compliment you on that. Mr. and Mrs. Panas. I will ask you that all of the exhibits, to make this simple, you had a package that you submitted with your letter and the letter looks like its not dated. It was received by the Planning Board on January 19, 2021. You put forth in that letter what you were seeking, you signed that letter, is that correct? That's your signature at the bottom of that letter?

Mr. Panas: Correct.

Mr. Buzak: And did you attach exhibits A through J? A couple of those have sub exhibits A-1, A-2 and B-1, B-2? Were all of those exhibits obtained by you from either yourself getting them or having them furnished by Mr. McGroarty or some official of the Township?

Mr. Panas: Correct.

Mr. Buzak: Those documents that you have attached, have not been altered by you and are all, except for putting the exhibit numbers on and or highlighting aspects of that, is that correct?

Mr. Panas: Correct.

Mr. Buzak: All right. I have no further questions, Mr. Chairman, of Mr. and Mrs. Panas.

Mr. Weiss: I think this is a pretty...inaudible...this is exactly what Mr. Buzak said and I think the Planning Board is certainly within its reason to offer and the Panas' are entitled to a certification for a legal nonconforming use. And the property should get a certification of a two-family dwelling. So, the motion, Mr. Buzak, would be to approve the issuance of a certification of a two-family dwelling?

Mr. Buzak: That's correct. And I guess, Chuck, it would be to direct the Zoning Officer to issue that? Or is it the Board? I'm really not sure what you would look for as the Zoning Officer.

Mr. McGroarty: Yes. I would prefer and Mr. Chairman, I would note there is a member of the public with their hand raised. I would ask if whatever the Board's decision that the Board do it by Resolution so that...I think that's more appropriate and I think that will be best for all concerned.

Mr. Weiss: Okay. So, let me do this before we move it any further. We do see Mr. Stephen Jones has his hand raised as does Michael Porter. So, let's bring up Mr. Jones first and then we will bring up Mr. Porter. They both have questions. Let's do the process.

Mr. McGroarty: All right.

Mr. Weiss: Okay. At this point...what I'm going to do is...I'll open it up for any comments, questions. So, what we're going to do is...I'm going to have you state your name and address for the record and I guess Mr. Buzak will swear them in?

Ms. Blais: My name is Kimberly Blais and I live at 47 Indian Spring Road in Budd Lake. It's across the street from 44.

Mr. Jones: Stephen Jones. Living at 47 Indian Spring Road, living across the street.

Ms. Blais was sworn in for the record.

Mr. Jones was sworn in for the record.

Mr. Weiss: Thank you for staying for this hour. I guess you have something on your mind you'd like to share with the Planning Board?

Ms. Blais: Yes. We live in the house right across the street. We look into 44 Indian Spring Road, so we are literally right across the street and that house has not been used as a multi-family since 1999 when we lived here. It's only been...they've only lived there and in fact it hasn't been lived in in many years. At least several...seven, eight years. They come back and mow the outside of the lawn, but nobody has even occupied the inside of the house since that time period. When we received this notice, saying that is...was a preexisting multi-family house, we were pretty surprised because when we first moved into our house in 1999 right before we bought it, we went down to the town because across the street from us there is a lot of woods, that weren't part of the development, that they were building for us. And we wanted to understand what that use could be, for the woods across the street from us, and we were told by the Planning Department that was a single-family home and that they own extra land around their house. So, I mean I specifically went to the town before we purchased this house and I was told that house was a single family home. And at the same time that it went to talk about that house, there is a house a couple...house down that has a horses in the back and we just wanted to make sure that wasn't a business and it wasn't. That was also a single-family home with the horses in the back.

Mr. Weiss: Well its very possible that the information you were told could have been an opinion. I think what we are trying to do is determine the type of home that it's been since it's been built. I have a question for the Panas'. The members of the public have stated that your house has been vacant and not used. Do you have any kind of answer to us about that accusation?

Mr. Panas: Well, it's not vacant. It hasn't been vacant. We used it as a two-family home. We were renting it out and then my mother...we brought my mother over because she was ill. So, she used the upstairs apartment. It still is a two-family home but she was upstairs. After that, after my mother passed away, my sons used it as an apartment. But we've always had it as a two-family home. And we did move away about a year and a half ago, and we have maintained it.

Ms. Blais: They moved away many years ago. It was at least five, six years ago. They do come back. You take beautiful care of the property. I'm not...they are taking beautiful care of the outside of the property, and they leave their garbage there. They come back, where ever they live, they leave their garbage...inaudible. But nobody actually lives inside of that house for many years now.

Mrs. Panas: How can you tell how...that we live or we don't live inside this house? I don't know if you live in your house.

Inaudible

Mr. Weiss: Rather than having a debate, I think that...

Ms. Blais: Yes. It doesn't matter...Inaudible.

Mrs. Panas: Yes, it does matter...

Mr. Weiss: No, I think ultimately the question is going to come back to you, Mr. and Mrs. Panas, you testified under oath that the house has been occupied, that someone has lived there consistently. Is that...that is your testimony?

Mr. Panas: Correct.

Mrs. Panas: And we get mail there. Our mail is delivered there.

Inaudible

Ms. Blais: You drive by and pick it up. Nobody's lived inside the house. For many years.

Mrs. Panas: How do I know that you live in your house?

Inaudible

Mr. Weiss: What's with the noise? Chuck, go ahead.

Mr. McGroarty: What's your point? So, we're getting some feedback somewhere, I don't know where, Mr. Chairman, but I would have a question to Mr. and Mrs. Panas, if I may?

Mr. Weiss: Sure.

Mr. McGroarty: Have you been paying taxes on the property?

Mrs. Panas: Yes.

Mr. McGroarty: Are the taxes current?

Mrs. Panas: They are current.

Inaudible

Mr. Weiss: One of the things we...Chuck mentioned and earlier, maybe it was Ed, that the word abandonment is kind of a hard word to wrap our heads around. Its...abandonment doesn't

necessarily mean physically being in the home. Abandonment...is it's use is a home, taxes are paid, Ed am I going down a good path here?

Mr. Buzak: Yes you are, Mr. Chairman. I think your point is well made, please continue.

Mr. Weiss: So, anyway, so it might appear to be a vacant home. It's a home that's being maintained from the township's perspective. No property maintenance issues. We have property taxes being up to date. I don't have any indication in front of me that the taxes ever went into arrears. That's kind of the testimony that we need to determine. If the house had been maintained and not been vacated, again, I can't doubt and I'm not going to be a judge to determine if you lived there or if you didn't. I know you folks feel that no one lived there but the house was still maintained, taxes were paid...it wasn't abandoned because we've seen abandonment where people walk away. The house falls into disrepair and the taxes aren't paid and it's a mess. That doesn't necessarily apply to this house.

Inaudible

Mr. Buzak: Mr. Chairman, If I may...

Ms. Blais: Inaudible...this hasn't been used as a multi-family home since 1999. That's totally false that they said that.

Mr. McGroarty: No, No...

Mr. Buzak: Let me interrupt here, Mr. Chairman, If I might. The Chairman had pointed out that the issue of abandonment is subjective. I had mentioned that initially. Just for everyone's information, these issues typically come up with non-residential properties. It'll have a non-residential use and it will be vacant for some time. Either, because they can't sell the property, It's on the market. There may be no interest in it. But the courts have looked at that issue in terms of maintaining the pre-existing non-conforming use as what it intent. If the property owner intending to abandon that use, then the use is abandoned and the prior nonconforming status is eliminated. Many times, as I said, it has to do with market conditions and so forth but the courts have generally speaking, come down on the side of maintaining the prior non-conformity as opposed to eliminating the prior non-conformity. So, the evidence has to be clear and convincing that there has been an intent to abandon that type of use, whatever it may be. Residential or non-residential. So, again, the fact that the property may or may not, and I'm not evaluating the testimony of either the members of the public or the applicant but the fact that it may not have been used for those purposes does not translate automatically into an abandonment. The abandonment is an intent issue, not a direct physical issue. Thank you, Mr. Chairman.

Ms. Blais: So when they said it was used as a multi-family home, consistently, it has not been since 1999 when we moved in. So, and I did say they take very good care of the property so if that's not considered...you know...I'm not going to take the bearing...inaudible...outside of the house.

Mr. Weiss: I don't know if I can give you a real life example but let me try my best. In this case there is a home, single family, multifamily as you are both testifying. It's not like the Panas' ever turned around and made this home a nail salon. I know that would never happen but it's not like

they vacated the use of their home to a different use and now are coming back and saying I want to go back to the way it was. That would cause a whole different situation. In this case they maintain their home. They pay their taxes. Whether they physically live there is grey area. It sounds to me like whether you agree or not the use of the home was never vacated. That was deemed a lawful multi-family house at the time it was built, that intention was never vacated. And now, they are...it seems to be deserving of the certificate that it is still a multi-family house.

Mr. Jones: They weren't maintaining it as a multi-family house.

Mr. Buzak: Well, let me ask the Panas' a question, if I might, to just follow up on what the Chairman said and what Mr. Jones said. Has the house been modified internally to eliminate its two-family characteristics? In other words, I'm assuming...Well let me ask the question. How does one access each of the units? Does each unit have a separate entrance?

Mr. Panas: Yes, it does.

Mrs. Panas: It's a common entrance.

Mr. Panas: From the front door, but it's a...

Inaudible

Mr. Buzak: From the front door and then you have...go ahead.

Mr. Panas: Into the apartments, it's a separate entrance in each apartment.

Mr. Buzak: Okay. So, if...

Mr. Panas: So, can refer to exhibit E, which is the original listing of the house when we purchased it. You'll see that I highlighted first floor and second floor. And it's never changed.

Mr. Buzak: My exhibit E is a little blurry, but is that front door the common entrance and then you go in there and you can go up the stairs to go to the upstairs...?

Inaudible

Mr. Panas: Correct. You go up the stairs into an apartment that has a door. Or you make a left hand turn into the first-floor apartment.

Mr. Buzak: Okay. Has any of that...

Mr. Panas: You have to go through the door.

Mr. Buzak: Right. Has any of that been modified, by you, to make it into a single-family?

Mr. Panas: No, it has not. The way we purchased it is the way it's stayed.

Mr. Buzak: Okay, and from the documents that you submitted, is there a separate kitchen and bathroom and bedroom facilities. . . .

Mr. Panas: Yes. It's on exhibit A. You'll have. . . I'll read from it. First Floor, living room with fireplace, large modern kitchen, dining area, full bath, 2 large bedrooms. Second Floor, living room, large modern kitchen, dining room, full bath two large bedrooms. It's on exhibit A. Its highlighted.

Mr. Buzak: And it's also on a property record card, I believe, that you had furnished. And that remains today, is that correct, in that configuration?

Mr. Panas: Correct.

Mrs. Panas: Yes.

Mr. Buzak: Okay. Thank you, Mr. Chairman. I don't have any further questions.

Mr. Weiss: Well, that's actually a better example, Mr. Buzak. So, rather than my silly nail salon example, here it is a two-family house, two separate identities, two separate kitchens, two separate homes, has never been vacated. Whether they lived in there or not, I suppose doesn't necessarily make it an abandonment. The way the home was built is the way the home still is, which is a two-family home.

Ms. Blais: Inaudible. . . when we went and asked the houses near up in 1999, they said it was a single-family home as well as all the homes that were pre-existing in the neighborhood.

Mr. Weiss: Well, I suppose everyone has an opinion and it depends who you spoke to, unfortunately we are down to the Planning Board is the one that's going to make that final decision and it's the Planning Board who's opinions will matter. I understand the frustration because you've spoken to people and you can ask three people and ask two people and get three answers.

Ms. Blais: But it was the Planning Board. I didn't go to a random person. I went to. . . inaudible. . . the Planning Board.

Mr. Weiss: This is the Planning Board, so who did you go to? It was whoever. . . I don't know. . . Chuck was it you back then in 1999? It might have been Chuck, I don't know who was in the Planning Board back then. It was a man. And there was a woman that was like the receptionist lady or the woman that greeted me.

Mr. Weiss: I don't think it matters. The bottom line is that without doing its due diligence, no one would know from just looking at it without doing a tremendous amount of research. How the house is. . .

Ms. Blais: I know they had a builder there for at least four weeks doing work to it. So, I don't know what they were doing inside.

Mr. McGroarty: We've checked on that. There's no permits issued and the builder is just doing some clean-up work inside. We've checked on that.

Ms. Blais: Okay.

Mr. Weiss: All right. So, I don't think it's the answer that you wanted from the Planning Board but I think after, if we are going to do our due diligence and base our opinions on the information that we have to base it on, it appears that, and again just my opinion, is that the home has remained a two family house. Do you have any other questions?

Ms. Blais: No.

Mr. Weiss: Okay. Well, thank you for your input. Let's bring up, now, Michael Porter?

Mr. McGroarty: Right.

Mr. Weiss: Welcome, Mr. Porter. So what you'll do is you'll state your name and address for the Record, Spelling your last name and then we'll swear you in.

Mr. Porter: My name is Michael Porter and this is my wife, Vicki Porter. Last name spelled P O R T E R. We live at 49 Indian Spring Road, Budd Lake.

Michael Porter was sworn in for the record.

Vicki Porter was sworn in for the record.

Mr. Buzak: You are under oath now, Mr. and Mrs. Porter. Mr. Chairman.

Mr. Weiss: So tell us what's on your mind, Mr. and Mrs. Porter.

Mr. Porter: Yes, we heard about the request to for nonconformance continued use. We were quite surprised mainly because we have lived there since 2001 and...across the street from the Panas'...and at that time, they lived at the house. There was a younger man that I assumed was their son that also lived at the house. They had some dogs at some time run around the neighborhood but they took very good care of their property and were very good neighbors. Never occurred to me that they lived in a two-family home. I would suppose if the place was used, continued to be used, nonconforming to where we're at, you can't have a piece of property less than an acre and put a house on it. And our homes have to be quite a ways from the lot lines and there's reason for that. So, you know, we live there for that reason. We like the space. We like to have a neighborhood that's not too crowded. So, you know, now that we find out what appeared to be a single-family home might have been constructed to look like or work like a multi-family, inside. We've never been in the home. If...I guess my question is...if a home when it was originally built, over or close to 50 years ago, conformed to the zoning, but in the last 30 years wasn't used as a multi-family home...I would suspect that it has not continued to be used as their asking for a variance, so therefore I suppose it could continue to be used as a single-family home which I think, for the last 30 years, it has been. I'm rather surprised. There is one mailbox. You know, when you have both homes that different families live in usually have different mailboxes because, you know, addresses so that they can receive their mail. I don't know if the Panas' have rented the upper apartment to their mother or their son or their other family member. I don't know that that makes it a multi-family home. So...

Ms. Panas: Excuse me. Did you notice there were two meters? Did you notice that? You didn't notice the mailbox...inaudible. The two electric meters did you notice that? Two different parking lots, did you notice that?

Mr. Porter: Yes, I do...yes there are two different parking areas. I am aware of that.

Mrs. Porter: Excuses.

Mrs. Panas: Two garbage cans?

Mrs. Porter: Has anybody ever lived there other than a relative?

Mrs. Panas: Yes.

Inaudible

Mrs. Panas: But relatives are very important. And my mother-in-law was very important to me and she had two relatives.

Mr. Weiss: Listen let's not get on a tangent as to who lived there because relation has nothing to do with it. I understand from the street that it's hard to determine what it is but you know Mrs. Panas makes a point. Two meters, two parking lots I mean those are all kind of indications that the Planning Board is trying to determine is has this been a two-family home.

Mrs. Porter: There are also no other two-family homes in the area. It's all single-family homes. The whole street. That would be very unusual.

Mrs. Panas: We have been there since 1976. You're the new guys. We've been there.

Mr. Porter: Well now you've moved out to Warren County, and you just want to sell it to developers who want to build on it.

Mr. Panas: Build what?

Mrs. Panas: Build what?

Mr. Weiss: I suppose that if that is to happen and any building or any change to the property would certainly come in front of the Planning Board if it changed anything that wasn't in line with the bulk standards that exist, today. It's just a very interesting conversation to have because what appears to be a single-family house might technically be a multi-family house and the Planning Board is going to have to make that determination. Again, the word vacated, was it abandoned, vacated, very, very tough to determine and define at what point. Again, the tax records show that the taxes have been paid. The home has been maintained. There have been no property maintenance issues. Makes it an interesting decision.

Mr. Buzak: Mr. Chairman. One other item. I believe that the tax record card, and I'm not sure...inaudible...do we have a current tax record card, Chuck? Or Mr. and Mrs. Panas that was submitted? I know there was a property record card.



Inaudible

Mr. Buzak: Mr. Panas, you have an exhibit marked exhibit D-2. You talk about this is the 1973 tax card block and lot, owners Sugalski then Panas two-family dwelling. So, this, I guess, is the 1973 property record card marked D-2.

Mr. Panas: If you look at D1, inaudible...was added to that card in '76.

Mr. Buzak: Do we have...inaudible.

Mr. Panas: From '76 actually.

Mr. Buzak: Do you have a current tax...do you have a current tax record card which would indicate how the property is being taxed? As a single-family or two-family? I believe that may show up on your tax bill but I can't swear to it that it shows.

Mr. Panas: It does...it doesn't show up on a tax bill or else I would have it there. It's on the tax card.

Mr. Buzak: If you don't have the tax record card, that's fine. I just...that's something most people have in their files because it's a township record, not a...

Mr. Panas: This card...this card was from the Tax Assessor.

Mr. Buzak: Yes. Thank you, Mr. Chairman. I'm sorry. I have no other questions. I just, again, go back to what that structure is and I think, Mr. Chairman, your comments are well taken, in the sense of buildings being different inside than what they appear outside. For example, in the affordable housing field...inaudible...up in some of the more affluent communities when they satisfy their affordable housing obligations, the building itself looks like a very large mansion. And it turns out that there's eight units within that building for affordable units but from the outside it looks like a single-family home because the home is very large in that...inaudible...community. So, appearances may be deceiving. I think when you look at whether those two units have been maintained as two units, as you pointed out, whether relatives lived there, whether they pay rent or they don't pay rent, the issue is whether it's been maintained as a two-family house. Not necessarily income producing or even rented out. The testimony is and I dare say, undisputed, that the structure, itself, continues to have two separate units and two separate kitchens and bathrooms and bedrooms and that it remain maintained that way, to date. Thank you, Mr. Chairman.

Mr. Weiss: Okay, Brian?

Mr. Schaechter: I have a quick question for you. Let's say the house gets torn down or renovated in the future...expanded. Do they have to come back to the Planning Board at that point to get a recertification of the two family?

Mr. Buzak: Yes. Two questions, you asked. If there is any expansion of the nonconforming structure or use, they have to come back before...it would be a Board of Adjustment but here is the Planning Board for approvals to expand a nonconforming use because the law is that

they can maintain what they have, but they need to get variances if they...if they're going to expand that use. Secondly, if the structure is destroyed, they would have to come back and obtain, I'm sorry, come back and comply with the existing zoning that's on the property or, seek a variance to put a two-family, a three-family, a four-family or apartment building there. Whatever they may want. They would have to come back before the Board and meet the proof. I dare say that given the situations that we have, that would be highly unlikely.

Mr. Schaechter: Thank you.

Mr. Weiss: Mr. and Mrs. Porter do you have anything else?

Mr. Porter: I have nothing else.

Mrs. Porter: No.

Mr. Weiss: All right, thank you.

Mrs. Porter: Can I ask a question?

Mr. Weiss: Sure, while we in the open forum, sure.

Mrs. Porter: Yes. So, they also own other lots. I mean that single family home they own also have different lots associated with it. They own more land around that. I have a feeling that if this guy is going to buy this house, It's going to be...now...inaudible...multi-family, and then the other lots, the other two lots, that they still have to sell, he's going to come back and say now I want to have...

Mr. Weiss: One lot has nothing to do with the other lot. If they want to merge their lots, they have to come in front of the Planning Board. If they want to do a lot line adjustment, that would need the Planning Board approval. So, the fact that they own one lot or a 100 other lots has got no bearing on this particular property.

Mrs. Porter: Okay. So...inaudible.

Mr. Weiss: Inaudible...adjacent lots, they can't just merge them and say, let's build a big old house. The standards are...pertain to their lot and there are standards that pertain to the next lot and the next lot and the next lot. You can't merge them, combine them or make them all become one big happy...

Mr. Buzak: Well, Mr. Chairman...

Mr. McGroarty: They can merge the lots. But they can't build a...and we keep saying multi-family and just to be clear, multi-family means something different than two-family, which is different. They can merge lots but they can't build a new two-family. I don't think that anyone is interested in merging the lots because they came in for a minor subdivision that create those two lots some years ago. But the lots can be merged. Again, it would have to be a conforming use of that, that would be developed on. Ed, is that what you were thinking.

Mr. Buzak: Yes, it was and if they merge the lots then there is only one principal structure, I believe, permitted on a lot. If they merge the lots then they, or whoever else owns the lot would lose the ability to construct a conforming structure on that other lot. So, I...

Mr. McGroarty: It's unlikely they'll merge.

Inaudible

Mrs. Porter: I don't understand the zoning topic, I'm sorry. So, you're saying if they sell the two lots next to them then the developer can't say I'm building two different two-family homes because in one, that is put is now a two-family home?

Mr. McGroarty: No.

Mr. Weiss: Those two-family homes are not allowed in the zone.

Mr. McGroarty: This one existed back from 50 years ago when the zoning was very different. If they want to build new homes, today, they have to build under the current zone.

Mrs. Porter: So, we're going to have two 600 square foot apartments across the street from out house? Is basically...

Mr. McGroarty: I have no idea what square footage it is.

Mrs. Porter: It's 1,700 square foot, the total house. So, each apartment, if you split it in half, just say it's 50 each.

Mr. McGroarty: It is whatever it is.

Mr. Weiss: Okay. Did anybody else have any other questions?

Mrs. Porter: Thank you. Thank you everyone.

Mr. Weiss: So, let me close it to the public. I don't want to keep this going any longer unless anybody from the Planning Board has any kind of comment or input. Let's put a motion out there whether we'd like to...

Mr. Scapicchio: Mr. Chairman, I have one question.

Mr. Weiss: Go ahead, David.

Mr. Scapicchio: Mr. Panas, is this property withing the Budd Lake sewer service area?

Mr. Panas: No sewer, no.

Mr. Scapicchio: Septic?

Mr. Panas: Septic, yes.

Mr. Scapicchio: Okay, thank you.

Mr. Panas: It has a water line, city, or township water line but it has no sewer. Just septic.

Mr. McGroarty: Dave, I was thinking about that, when I first was asked about this, if there were two EDUs but... it's septic.

Mr. Scapicchio: Right. Okay, thank you.

Mr. Weiss: All right. Let me see if somebody on the Planning Board would like to make a motion to entitle the Panas' to get a certification will allow the Planning Board to draw a Resolution that would allow the Zoning Officer to deliver a certificate of confirmation of a two-family home.

Mr. McGroarty: That would be the Board, Mr. Chairman. The statute says that the Zoning Officer can do it, if they want, for one year which is why Ferguson should not have done it. So, I would ask that the...if you are making that motion, that is come from the Board.

Mr. Weiss: That the Board is granting the direction of the Zoning Officer to grant the approval. Or the Board is going to grant the approval?

Inaudible

Mr. McGroarty: The Board is going...if you vote favorably, the Board is issuing a certification as a preexisting, nonconforming two-family house.

Mr. Weiss: Okay.

Mr. Nelsen: I'll make that motion.

Mr. Weiss: Thank you, Dan.

Mr. Mania: I'll second it.

Mr. Weiss: Thank you, John. Anybody have any comments? Mary, roll call.

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

Mr. Weiss: You know, before I say anything, I didn't want to make a comment before we voted but real briefly, somebody from the public before said I don't understand land use and planning

and maybe that applied to everybody. It's a very difficult and complicated science, if you will. In this case when it looks like a duck and quacks like a duck and sounds like a duck, it's just not a duck. In this case I don't know if I necessarily agree with the fact that this was a continuous use of the home. But my decision has to be based on the law and how we interpret it. And because of the fact that the tax records show that it's a two-family house, it was developed as a two-family house, it's never been altered as a two-family house, we've heard that there is two gas meters coming in, there's two driveways, there's two kitchens, it's a two-family house. Whether it's been used or not, I'm not so sure, with all due respect Mr. and Mrs. Panas. I'm not doubting your testimony but I'm just not sure but because of the way the law reads I'm going to vote, yes and authorize the Planning Board to issue a certificate of conforming...that it's a two-family house. I thank everyone for their time, this evening. Chuck, I guess that'll happen next month? We'll do a Resolution. It'll happen next month, Mr. and Mrs. Panas. You can check back in with the Planning Office sometime in March.

Mr. Panas: Thank you very much.

Mrs. Panas: Thank you very much. Yes. Good night.

Mr. Weiss: Good Night. Let's go on.

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

Mr. Weiss: We have one more application for this evening. It is PB-20-18 Michael and Lynnae Failla, here for a variance for an addition at 174 Flanders-Drakestown Road, Block 7100, Lot 56. We'll give Chuck a second. We'll bring up Mr. Failla. If I'm saying it wrong I apologize in advance. Welcome. Thank you so much for staying in there. I know it's late and I didn't want to push this any further. I know you've been in there all night long. I'm sure you're enjoying the entertainment. So, let's get right to it. You're here for a variance as I announced. So why don't you...let's swear you in and then you'll state your name, your address for the Record. Mr. Buzak will swear you in.

Michael Failla was sworn in for the record.

Lynnae Failla was sworn in for the record.

Mrs. Failla: My name is Lynnae Failla. L Y N N A E and the last name is F A I L L A.

Mr. Failla: My name is Michael Failla and we live at 174 Flanders Drakestown Road.

Mr. Buzak: Thank you, sir. Mr. Chairman.

Mr. Weiss: Well, thank you so much. Again, we're going to create a record as to why you are here. I want you to tell us about your property. What you want to do. What the hold up is and what you're requesting tonight. So, let me turn it over to you, Michael or Lynnae. One of you can just tell us what's going on over at the property.

Mr. Failla: We applied for a front and side variance to comply with the addition we'd like to put on the home which is pretty much over a deck that we have and part of the driveway. So, impervious coverage.

Mr. Weiss: Okay. Maybe we can expedite this a little bit. Chuck, why don't you, just for the record, why don't you tell us what the variance is they're requesting? Let's just make sure we get it on the record.

Mr. McGroarty: Right. So, they're asking to do an addition of front end property, the addition just so we make this clear, it will be a two...the addition will consist of a new two car garage. They will also put a front porch on the house and they will put a second story on the house which will extend over to the garage. The second story is not an issue here. The variances are, there are two. It encroached...the addition would encroach into the front yard setback. The zone district required a setback of 75 feet. The existing house has a setback of 48 feet. So it's a preexisting nonconforming house or structure. With the proposed porch, the front setback would be 43 feet. It will also encroach into the side yard. So, the existing side yard is approximately 34 feet. It's not that...information was not provided on the plan so I had to do a little arithmetic to sort of figure this out, but that side yard will be reduced down to 11.3 feet and the minimum setback in the zone is 50 feet. So, the front yard setback and side yard setback. There is no coverage issue here. I think Mr. Failla mentioned coverage, but coverage is not a concern. I will also mention and we did provide, Mary, you provided to the applicant, there was a memo from the Health Department and they do have a concern but we'll get to that when the time comes. It has to do with the septic system.

Mr. Weiss: Okay. So, Chuck has gone ahead and explained what the variances are. Again, Chuck, just want to make sure the side yard setback going from 34 to 11? Approximately?

Mr. McGroarty: Yes. That's correct.

Mr. Weiss: That's a fairly large encroachment. Let's talk about the addition itself. Have you looked at any possible way to put this addition on without having such a large encroachment into the setbacks?

Mrs. Failla: No.

Mr. Failla: There's not much more we can move...where the field...we have a narrow lot but we have a fair amount of property. I know that those setbacks are basically by five acre zoning so I just kind of like the area we're in and we're just trying to comply as much as we can.

Mr. Weiss: Tell me a little bit, what is on the side of your house?

Mr. Failla: On the side that we're proposing the work, is just a driveway which is really the only thing we'd be building over.

Mr. Weiss: What's next to the driveway?

Inaudible

Mrs. Failla: Can Bob Katchen speak? He is our neighbor that lives on our...

Mr. Weiss: Not yet. That's okay. No, not yet. So, the question is, so do you have your driveway on the side of the house and then right next to the driveway is what? Another home?

Mr. Failla: A large hill.

Mrs. Failla: A large hill and then his house is on top of the hill.

Mr. Weiss: Okay, so your neighbor's property starts right where your driveway ends or there about?

Mr. Failla: Yes, it's down the hill.

Mr. Weiss: Chuck?

Mr. McGroarty: Yes. Again, Mr. Chairman, it's not shown...that was a comment that we had on the plans...but the property boundary from the driveway over is probably, I don't want to guess. I can't tell from here. There is a driveway and then there is a grass area and the elevation changes slightly and it rises up. So, the neighboring house, where there is a driveway and then the house. I should point out, as I said in the report, the zoning has changed in this area. Well, it changed some time ago, but it's now in the five acre zone. But this house and a number of the other homes along this street here, this county road from the township municipal building on Flanders-Drakestown Road, these homes pre-date that zoning. So, the standards that are placed when these homes were build were certainly not the five acre zoning.

Mr. Weiss: And the bulk standards were also changed when they defined five acre zoning, Chuck?

Mr. McGroarty: Yes, Mr. Chairman, that's correct. So that's why that 75 feet front yard setback, 50 feet side yard, that applies to a five acre lot. Not lots of this nature.

Mr. Weiss: RR-AA was the former zoning, correct?

Mr. McGroarty: That's the current zoning which is five acres.

Mr. Weiss: Okay. So, I'm sorry, so prior to that do you recall what it was?

Mr. McGroarty: No, I don't know if I have that information. I don't know what it was.

Mr. Weiss: Because what I'm going towards is would you...without knowing the specifics, do you think that the prior zoning provided for a shorter setback? A less...smaller setback?

Mr. McGroarty: I think it's fair to say...I think it answered your question, Mr. Chairman, yes. The RR-AA has the most restrictive setbacks. Yes.

Mr. Weiss: So, what we're trying to do is come up with...trying help get you some of the criteria that you need to help justify the variance. When we look at the two of them, the front yard setback from 48 to 43, kind of nominal if we start to think of the fact that this is based on five acre zone. Your home is less than five acres. That's of no fault of yours. Your home is a preexisting nonconforming. Your addition doesn't seem to be outrageous, in my opinion and again my concern when I look at it just in black and white is that your setback is extreme. The reduction is extreme but then again it might not be if we knew what the standards were prior. As Chuck just said, in the RR-

AA zone, it is the most restrictive. So, you're kind of being penalized for the fact that the zone has changed and your home is pre-existing. Let me jump in... something a little simpler, you're putting in a garage and an addition over the garage, is that correct? Is that what I heard you say?

Mr. Failla: So, what's going to be over the garage, is just open space, but half of it is proposed to have just a small hallway for a walk in closet for the bedroom upstairs.

Mr. Weiss: It's really not the upstairs that's going to cause the variance. It's just the garage, right? The structure of the garage is going... and it's contents inside are going to cause you to go over the setbacks? Would you... I'm going to ask you a question... building a garage, you're having a... would you say it's a two car garage that you are going to build?

Mr. Failla: Yes.

Mr. Weiss: And currently do you have a garage?

Mr. Failla: Yes.

Mr. Weiss: Okay, so are there other homes in the neighborhood that have two car garages?

Mr. Failla: You mean on this road?

Mrs. Failla: Yes.

Mr. Weiss: In your neighborhood. In your general surrounding area.

Mr. Failla: There are some, yes.

Mrs. Failla: Yes.

Mr. Weiss: So, this addition that you're proposing, do you think it will have any kind of negative impact on the neighborhood? Will it take from the zone plan? Obviously the zone plan is a residential neighborhood. Now, five acres but maybe prior, some of the older homes were not. Would you suggest that building this addition will have any negative affect on the neighborhood?

Mr. & Mrs. Failla: No.

Mr. Weiss: I don't disagree with you. I'm not sure... now you did say that your property is very narrow.

Mr. Failla: In relation to the amount that we have, yes.

Mr. Weiss: Okay. And your property did go through a zoning change and your preexisting nonconforming... I'm trying, Mr. Buzak, I'm trying to try to help us develop some positive criteria that will help us...

Mr. McGroarty: Mr. Chairman?



Mr. Weiss: Yes?

Mr. McGroarty: I think this is one of those cases that...and the applicant can, has had the opportunity to look at the criteria, although sometimes if you're not familiar with it, it doesn't necessarily make a lot of sense perhaps, but in the c-1 type c variance, and I list these in the report every time as the Board...inaudible... through this. This was a lawfully created house. Whether the situation is extraordinary and exceptional, that's for the Board to decide and for the applicant to establish. It is a narrow frontage. It is a very deep lot. I will note also, as I did in the report, Turkey Brook actually traverses the back of the property so adding an addition to the rear of the house would be not necessarily problematic but...well the septic is back there...but at a certain point you have to keep the distance from Turkey Brook. I think the question is, the character, not only of this house but of the homes on that side of Flanders-Drakestown Road, would this house be out of character with the homes on that side. I think that would be a question.

Mr. Weiss: So, there is a question from Mr. McGroarty, would you say that it's out of character for homes on your side of the road?

Mr. Failla: I mean, I don't think so.

Mrs. Failla: No.

Mr. Failla: Just based off of the nature of how some of the houses were built. Especially to our left, we have I think about two feet from the house of the left of us, our neighbor, to our property...inaudible.

Mr. Weiss: I think, sometimes when we go through this, we try to come up with a solution that maybe...is there a way to move the addition? Is it...to put it in a different part of the house and I ask that question earlier, you said no and I can understand certainly with Mr. McGroarty's comment about septic and other problems that would happen even if you were to say, okay, I'll put it in the back, it might not work. It might not be...going from one problem to another. I don't know if there is a simple solution. I don't know if there is a simple fix that you can give me that says, I can come up with a better solution. I don't know how much more we can really talk about this.

Mr. Buzak: Mr. Chairman, If I might, to add to what Mr. McGroarty had said, if you look at the configuration of the lot, it is a somewhat oddly shaped lot. Not only does it have a narrow front, but it's got five sides, if I counted right,

Mr. Weiss: Yes. You're right.

Mr. Buzak: It's an odd, very oddly shaped lot. No offense to the applicants, here. That added to what Mr. McGroarty said in terms of Turkey Brook running in the rear, and just the configuration of the lot doesn't leave a lot of options, as you pointed out, for the applicants. Again, it's the second floor of the addition, is not an issue. That's over what is already there. I do have a question. Where is the...I'm looking at your plans that you submitted with your application on the first page. There is a reproduction of the survey and drawn on that reproduction, is your proposed addition. I see that it's crosshatched to the left and then there is the deck. Where is the existing garage? I was having trouble trying to find on that...where the garage is?

Mr. Failla: It's right in front of...it's back on the roadside.

Mr. McGroarty: It's in the pictures in the report. You can see it...see the driveway, the garage is right there.

Mr. Buzak: Oh, okay. All right. I got it. And is there a side entrance to the garage?

Mrs. Failla: Yes.

Mr. Failla: Yes.

Mr. Buzak: Okay. That's what was throwing me off. Okay. I got it. Now I understand. Thank you. Nothing further, Mr. Chairman.

Mr. Weiss: I know that the process seems a bit...what we try to do is determine if there is a hardship. And then if you prove that there is a hardship, then we do it by this process of determining the negative and positive criteria and it might be Latin to you but by asking a bunch of questions that seem to be coming out of nowhere, it sounds like we determined that you have a lot that's kind of odd shaped, narrow at times, irregular shaped, you're kind of...been caught up in a zone change, your house is preexisting nonconforming, therefore you're forced to live with bulk standards that you really can't...can't really meet those because you don't have the property that those bulk standards are designed for. What, when we talked about negative criteria, we asked about the impact on the neighborhood. First, I asked...in the community and then Mr. McGroarty asked it as it pertains to the homes on your side of the road. In your testimony was that it won't have any negative impact because you're simply putting a garage on a home and a garage on a home seems to be kind of residential, if you will. It's not like you are putting a clock tower on the house, which would...might be a little out of sorts. You're putting a garage on the house and I tend to agree with you that those are things that are found in a residential neighborhood. So, my feeling is that both the negative and positive criteria have been met by this applicant. If anybody disagrees, certainly chime in. I don't think we need to...inaudible...it's clearly a little bit confusing but we certainly have worked with more difficult things. If anybody has any comments, questions? I don't see any, Chuck?

Mr. McGroarty: As I said, Mr. Chairman, depending on what the Board...if the Board were to act favorably on this...there should be a condition that they will have to satisfy the Health Department concern about number of bedrooms and the septic.

Mr. Failla: Do you have...that was...there was a mistake on the preliminary drawings. They left a door...

Mrs. Failla: We're turning one of the bedrooms into an office.

Mr. McGroarty: Regardless. It doesn't matter. I would also say that the plans should be...again if it's approved...I would ask that the plans be corrected per the comments that I had in my report.

Mr. Weiss: Fair enough. So obviously we're asking that you would have the blessing and get the approval of the Health Department to resolve that issue. It sounds like there was an error. It's not for this Planning Board to determine their error. We want to make sure that you have approval from the Board of Health regarding the septic system. The plans to be changed as it says in Mr.

McGroarty's report. And before we go to much further. Let me see if anybody from the public has any kind of comment, question? I see nobody from the public. So, let me close it to the public. Does anybody else have any kind of comment? Any questions? I see nothing, so if somebody from the Planning Board please move PB 20-18?

Mr. Schaechter: I'll move PB 20-18.

Mr. Mania: I'll second it.

Mr. Weiss: Okay, Brian, thank you. You're moving PB 20-18. And John Mania, you're going to second that. Are there any comments?

Inaudible

Mr. Weiss: Now I will ask for a vote. Mary, roll call please.

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

Mr. Weiss: And so, this process is new to you. Here is what's going to happen. We are going to memorialize this in a Resolution. The Resolution will be prepared and be available to you probably in a month. I would look somewhere middle of March. You can contact Mary or Chuck in the Planning Office. Once you have that Resolution then you can move forward with your permits. At the same time, you can update your maps as Chuck spoke about. Be in touch with the Health Department and at that point you can move forward with your project. We wish you a lot of luck and thank you for your patience this evening.

Mr. Failla: Thank you very much. We appreciate your time.

Mr. Weiss: You're welcome. All right Planning Board, I thank you all very much. It's very late. We knocked a bunch of issues off of our schedule and that makes it...life a lot easier for all of us. I know between Chuck and Mary and myself we're constantly battling how to keep these things moving. So, we wiped four of them off the agenda, for futures. That's big. That's a lot of nice work tonight. So, we meet again next Thursday. Unless anybody has anything else you want to add? I will entertain that motion to adjourn.

Inaudible

Mr. McGroarty: Just a reminder, and Dane has helped put something together. I'll send that out next week. Again, we're going to have the executive session so there will be...we'll go on hold

here and you'll have a phone number to call in, just like a conference call but we'll get you all that information next week.

Ms. Mott: Sounds good.

Mr. Weiss: Dane...anything else you want to add to that one, Dane?

Mr. Westdyk: I'm sorry...are we going to do the executive session?

Mr. McGroarty: Next Thursday. Next week.

Mr. Westdyk: I will be ready for that.

Mr. Weiss: All right. Thanks for the help. Everybody...inaudible...no, no. I don't think we made that motion. No one's made a motion to adjourn.

Mr. Schaechter: I'll make a motion to adjourn.

Mr. Weiss: Thank you, Brian. Second?

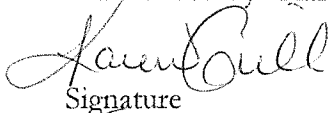
Ms. Mott: I'll second it.

Mr. Weiss: All in Favor?

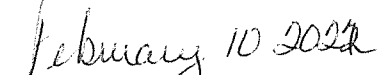
All: Aye.

Meeting Adjourned at 10:23 pm

Transcribed By: Karen Grill



Signature



Planning Board Meeting Date Approved