

**TOWNSHIP OF MOUNT OLIVE
PLANNING BOARD**

Public Meeting
Thursday, February 13, 2020 at 7:00 pm
Municipal Building
204 Flanders-Drakestown Road

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 of the Mount Olive Planning Board of February 13, 2020 commenced at 7 pm in the Township Council Chambers located at 204 Flanders-Drakestown Road.

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, Ms. Mott, Ms. Natafalusy, Mr. Nelsen, Mr. Ouimet, Mr. Weiss.

Excused: Mayor Greenbaum, Mr. Mania, Mr. Ottavina, Mr. Batsch.

Board Professionals in attendance were:

Edward Buzak, Esq., Board Attorney

Chuck McGroarty, PP/AICP, Board Planner

Michael Vreeland, PE, Board Engineer

Mary Strain, Board Secretary

Mr. McGroarty: Just for the record, the second application this evening is a d variance. So the Mayor and the Council rep wouldn't be here anyway for that. Just so....just for the minutes so that it's reflected that...the Board will go into the Board of Adjustment mode at that point.

Mr. Weiss: Thanks, Chuck. Okay, we have...let's go through Committee Reports real quick.

Committee Reports

Mr. Weiss: Kim, anything on the Open Space Committee?

Ms. Mott: No.

Mr. Weiss: Okay. Environmental Commission?

Ms. Natafalusy: No.

Mr. Weiss: I have nothing from Street Naming. Board of Ed?

Mr. Schaechter: Yes, they will be keeping the dome up for the summer. So, it will be up 12 months...inaudible.

Mr. Weiss: Did they get approval for that?

Inaudible

Mr. Buzak: Maybe the Zoning Officer knows.

Mr. McGroarty: I don't go on the school property. Not allowed. I stay away from school property. There is Board of Ed piece of news also. The Board of Education released their Demographic Report for the next five years. Of course, I give them information every year about new development and such, but it comes at an interesting time. And I sent it along to the people from Rockefeller's Group. And we'll see in March, they'll start to address the 700 unit project up there and the potential impacts. And so far from school, we have a report we can distribute if the board is interested in reading it. It doesn't indicate that it's going to have an adverse impact short of it.

Mr. Weiss: Okay. We also have a Site Inspection Review Committee...we haven't met. I'm sure there's nothing to report. No Mayor's Report. No Council Report. Anything, Ed? Legal?

Mr. Buzak: No, thank you.

Mr. Weiss: Mike, anything new to report?

Mr. Vreeland: No, thank you.

Mr. McGroarty: We are trying to...I met today, actually, with a representative from Rockefeller Group. Again, we've had several meetings now about this, and they are making some plan changes. And I suggested to them that whether it's the full Board with notice or the Site Review Committee or whoever expresses interest in how that gets handled. But two of the sites, the three sites up there, the canal site is not going to be easy to walk because it's very densely wooded. The Ridge or the Knoll Site is possible. And the Crossroads Site is accessible also. So it's probably a good time to do it. The leaves are down and the tick population is probably not as big a problem at the moment. So if anybody's interested, I think that's really important to see those sites.

Mr. Weiss: I think that's a great idea. Any time we've had a big site like that, we've all walked it.

Mr. McGroarty: And this is three sites...so, yes.

Ms. Natafalusy: Are you looking to do that before the General Development Plan?

Mr. McGroarty: Well, I have been on the sites a number of times. So, I leave it up to you...the Board. But I think it would...if I were reviewing a plan over 100 acres and a 125 acres, three separate tracks, I think I really want to see. We're not going to walk every inch of those sites, of course. But, I think walking around the perimeter of the canal site by the canal and the Crossroad

Site of this is going to be...those are easier to do. The Ridge Site is pretty big. But still, you see that.

Mr. Weiss: We would have to notice that, wouldn't we?

Mr. McGroarty: If you do it as a board, I guess. Ed?

Mr. Scapicchio: That was going to be my question, Chuck. Can we do that as a group?

Mr. Buzak: It should be noticed if you are going to do it as a group.

Mr. Weiss: I also think...

Mr. Buzak: ...quorum.

Mr. Weiss: I think we should do it as a group so that everyone understands where they're going and looking at the same thing.

Mr. McGroarty: Ed, I think in the past, you've probably...inaudible...done this in recent past, probably not. But you've cautioned us not to talk about the application when we're on the site.

Mr. Buzak: Correct.

Mr. McGroarty: The merits or the...otherwise and so on...just to get familiar with the area.

Mr. Buzak: Yes. All that's correct. You know, the fact that it's a noticed meeting...you know...is good. But we have to remember there's a hearing on this application. So that's why we don't have the detailed discussion on the application itself.

Mr. Weiss: Would we get somebody from the Rockefellers group to lead the walk...

Mr. McGroarty: Yes.

Mr. Weiss: So maybe we could reach out, Chuck or Mary, and find out. We'll have some dates available giving us enough time to notice it.

Mr. McGroarty: Well, I talked to him today. They will make themselves available, so to speak. It's really the Board...you know...you don't have to do it tonight. But you can certainly follow up on that. They'll make themselves available.

Mr. Weiss: Okay. So, we have a...we meet again next week. Let's maybe come back next week with some ideas of times and availability. Brian, you have a question?

Mr. Schaechter: Yes. On that demographic report, the reason why it shows that it's neutral is because the way that the School Board does Demographic Report. If there's a development that's not out for five years...this one just missed it. It doesn't show in the report.

Mr. McGroarty: Right.

Mr. Schaechter: It's mentioned, but it doesn't really have...that's why it doesn't have an impact because it's really not there.

Mr. McGroarty: Right.

Mr. Schaechter: So...

Mr. McGroarty: But there are...there's other data in the report that suggests that the capacity of the system is...we'll be able to handle.

Mr. Schaechter: Yes. I think they're kind of neutral right now as far as...population goes.

Mr. McGroarty: Okay.

Mr. Weiss: So just one other point then, I have a concern with the Board of Ed keeping their dome up while we have private entity around the corner that's going to be told theirs must come down.

Ms. Natafalusy: Yes, but that was part of their approval, that it had to come down.

Mr. Weiss: But was that not part of the approval from the Board of Ed?

Mr. McGroarty: They didn't get an approval.

Ms. Natafalusy: They had a courtesy review.

Meeting Minutes

December 19, 2019

Mr. Weiss: Gotcha. Alright. Let's move on. First thing is approval of the minutes. We have the first one is December 19, 2019 Public Meeting. Someone please motion those for us.

Mr. Scapicchio: I'll move the minutes of December 19, 2019.

Ms. Mott: I'll second that.

Mr. Weiss: Thank you, David. Thank you, Kim. Any comments, questions? Seeing none, roll call.

Roll Call:	Ms. Scapicchio	Yes
	Ms. Mott	Yes
	Ms. Natafalusy	Yes
	Mr. Nelsen	Yes
	Mr. Ouimet	Yes

January 16, 2020

Mr. Weiss: Next one is January 16, 2020 Public Meeting. Someone please move those.

Mr. Schaechter: I'll move that.

Mr. Scapicchio: Second.

Mr. Weiss: Any comments, questions? I just have one comment. I know, Mary, you pointed out a change that was on Page 57. I know you're really busy and I don't know if we didn't make that change it would not have taken from the intent of what was going on. So I appreciate it. I don't know. I could be wrong, I don't know if it's those kinds of things. It's nice that you pointed it out. But if we miss them, I don't think it's a problem. But do you agree with the record? Record is not going to change regardless of how that comment came across. So I know verbatim it's right. But I appreciate that extra effort. I wouldn't worry about it. Unless, of course, what's written...

Mr. McGroarty: I asked Mary to do that so...

Mr. Weiss: Okay, I just I know we're really busy and I don't have a problem if the official record was off a little bit.

Mr. McGroarty: I just think when it changes that we'll take them...

Mr. Weiss: I agree. Something like that. I don't think anybody misunderstood what was trying to be said that. So that being said, roll call.

Roll Call:	Ms. Scapicchio	Yes
	Mr. Schaechter	Yes
	Ms. Natafalusy	Yes
	Mr. Ouimet	Yes
	Mr. Weiss	Yes

Resolution

PB 19-24 Amazon, 81 International Drive South, Block 4105, Lot 1.03

Mr. Weiss: We have one resolution on the agenda, which is PB 19-24, which was Amazon, which was the combined preliminary and final site plan, 81 International Drive South, Block 4105, Lot 1.03. Ed?

Mr. Buzak: Yes, Mr. Chairman. There were two questions that were raised by the attorney for the applicant that he ask we bring before the Board. One relates to the dimming or extinguishment of lighting in the area where the vans were being stored overnight, which is the area that's closer to the residential area. The discussion over the course of the meeting was that the applicant was willing to dim or extinguish those lights. In the Resolution...and that's in paragraph 15 in the Resolution. In the resolution itself and the conditions, we included a condition that the lights be extinguished as opposed to dimmed. The applicant wanted to have the ability to dim the

lights as well and ask that we bring that back before the Board. Their reasoning was, generally speaking, that they felt that there would be some security concerns having the whole fleet of vehicles there parked outside of darkness. They are willing to work with Chuck and the engineer on proper levels of light and so forth. But right now, the condition that's in the Resolution requires that they extinguish the lights in that area. So why don't we deal with that one first? What's the Board's preference?

Mr. Weiss: Any comments on whether we had the lights dimmed or totally shut off?

Mr. Schaechter: What's the shopping center? What's the shopping center doing now? Shut them off or are they just...

Mr. McGroarty: Honestly I don't know. I don't think...well Sam's Club wasn't open 24 hours, so I doubt the lights stayed on all night. But I don't know. I don't know the answer to that.

Mr. Scapicchio: Chuck, what are your thoughts?

Mr. McGroarty: I think dimming is reasonable. I was pushing...I remember at the hearing for extinguishing them, but I think dimming them, I think that makes sense. I think what constitutes dimming will need to be sorted out there. But I think we can figure out a reasonable way of doing it, because it'll be that section of the parking lot where the vans are adjacent, although they grow. I think maybe, maybe only certain lights need to be on. But I think it makes sense to have at least some lights on and if for no other reason than there'll probably be truck traffic at some point during late hours and coming back to the building and stuff. I think that's a fair way to do it.

Mr. Scapicchio: So do we leave the dimming ability of the staff to sort of work that out?

Mr. McGroarty: If you like.

Mr. Scapicchio: I'm okay with that.

Mr. Weiss: As am I. Anybody have any problem with that? I think it makes sense if there's people there working...total darkness might not be the solution. So I think the Planning Board has an agreement here, Mr. Buzak, that dimming the lights is satisfactory.

Mr. Buzak: We will make that change. The second one also relates to a condition. The condition reads that there will be no repairs of vehicles on the site or within the building. The concern was that these minor repairs, a flat tire, windshield wiper replacement and that kind of repair would likely be done on premises. And my recollection of the testimony was they would do that. When I discussed that with Chuck or through an e-mail exchange, his suggestion was that the condition be revised to say that there be...that all major repairs or repair work be done offsite. So we simply approach it from the opposite direction as opposed to saying about minor repairs and focus on the major repairs and they will be done offsite and be silent about the minor repairs. Because I don't know how you'd define that. You know, it's...so anyway, they were happy with that kind of revision. So that's one way to do it, to focus on that there will be no major repairs there, which implies that there would be minor repairs there or we can change this condition that's in there which says there will be no repairs of vehicles on site within the building. We could an exception say

except for minor repairs such as replacement of windshield wipers or flat tire fixing, that kind of thing, to do it by example, if it's six of one...half a dozen of the other...but again, I'll leave it to the Board.

Mr. Weiss: Brian?

Mr. Schaechter: I mean, by leaving it as major repair and minor repair, I think we're leaving that way too wide. What's a major repair? Right now when you have to take an engine out or changing oil? I mean, do we put a time on it? You can't repair that vehicle if it's going to be more than 15 minutes because then it's going to be a major repair? I'd be more put at ease if we actually listed it out...okay, you can...you know...change a tire on the site. You can change the windshield wiper blade. You can add windshield fluid. You know, come up with a list of what we would deem as minor repairs or repairs that they could do there. You know, putting a tail light...or you know...changing the headlight, changing the windshield. Those are minor things. But if you wouldn't do it at your house and you're not a mechanic, then they shouldn't be done out there.

Mr. McGroarty: They testified, by the way, they testified that they do all their work off the... the work on the vehicles goes off site. That was their testimony. You know...again...if they did what constitutes a minor change, I suspect they don't do oil changes or there's no emergency oil changes kind of thing on site. But if they get a flat, I don't know if they would fix it onsite or call someone to tow it out and do it or bring someone in to do it.

Mr. Weiss: Would it be best for us to have the applicant give us a list of those minor repairs that they're concerned about? Let them list for us what is a minor...

Mr. Buzak: We can do that. The difficulty with these things is you won't cover everything. As you know, when we do zoning ordinances, when we say here's what you can do and everything else that is not listed, you can't do because we can't...we will invariably miss something if we start putting in prohibitions. So with this kind of thing, if you're going to be a little bit more specific, I think we need to list the things. This is what you can do. It's clear. And everything else you can't do. And I think that may make it better. So your suggestion is...we have a meeting next week so there's no big delay. I could go back to the applicant with that...

Mr. Weiss: Joe, you have some input?

Mr. Ouimet: I was just going to say...you know, why not just list major repairs, including oil changes, because oil change can be considered minor. People change oil at home. Everything else, just include the oil change. I think they understand what minor means.

Mr. Weiss: Then we can say do we have the right facility to dispose of oil? And what about oil leaking?

Mr. Ouimet: Right. Which is why...

Mr. Weiss: What about the guy that says, well, I'm not only going to do the van, but I'm going to bring my truck and I'll change the oil there too.

Mr. Ouimet: Well, what I'm saying is, if you include that as you cannot do that on site, major plus...including oil changes.

Mr. Weiss: I think...you know...I was going to comment, Mr. Buzak, on how quickly and efficiently this Resolution was prepared. I really wasn't expecting to see it until next week anyway.

Mr. Buzak: I wasn't expecting to see until next week.

Mr. Weiss: I was quite surprised.

Mr. Buzak: I was surprised myself.

Mr. Weiss: That was very much appreciated. I thought it was great effort to get it done. So being that we're actually a week early, I would have no problem going back and maybe have them define...because Brian brings up light bulb change. That's a very minor repair. Light bulb, a windshield wiper, what might be minor to me is major to somebody and vice versa. So let them give us a list of those minor repairs that they're concerned about. And we can then incorporate that into the Resolution. I don't want to micromanage their business. They're telling us there's something wrong with the language. Let them tell us what needs to be fixed.

Mr. Buzak: And they would probably know that a new experience elsewhere as to that what they do and don't do. That's fine.

Mr. Weiss: So let's table that till next week.

Mr. Buzak: Very good.

Mr. Weiss: Alright.

Extension of Time

PB 19-17 Flanders Investment Properties, LLC, 95 Bartley Flanders Road, Block 6801, Lot 2

Mr. Weiss: We go to the next item on the agenda, which is an extension of time for PB 19-17 Flanders Investment Properties, LLC, on a use variance, preliminary and final site plan at 95 Bartley Flanders Road, Block 6801, Lot 2. Is there somebody here for that?

Mr. Buzak: No, Mr. Chairman, this is one where the applicant has requested an extension, not an extension...I'm sorry...adjournment of the hearing tonight to March 19th, 2020, with no further notice.

Mr. Weiss: Okay. I understand.

Mr. Buzak: There were some issues that the Planner and I spoke to the Attorney about. And in order to address those, he asked for an adjournment. So if the Board would allow this matter will be...you can make the announcement, Mr. Chairman.

Mr. Weiss: I will. Okay. Does anybody have any problem carrying this application? Seeing none, let me just announce that this application PB 19-17 will be carried to March 19th, 2020, 7 pm in this room and no further notice will be made. That will be March 19th, 2020 in this room this application will be carried.

Development Applications

PB 19-26 Soliman, Nadet & Mona, 14 Courtney Drive, Block 5300, Lot 55.18

Mr. Weiss: Alright, let's move on to some developmental applications. Our first one, PB 19-26 Nadet & Mona Soliman here for a variance at their home at 4 Courtney Drive, Block 5300, Lot 55.18. Mr. Soliman, welcome.

Mr. Soliman: Thank you. Good Evening.

Nadet Soliman was sworn in for the record.

Mr. Buzak: Please be seated and state your name and address for the record, spelling your last name.

Mr. Soliman: Absolutely. Good Evening. Nadet Soliman, S O L I M A N. Address is 14 Courtney Drive, Flanders, New Jersey 07836. The agenda has it as 4, but the plans have it as 14.

Mr. Buzak: Thank you, sir.

Mr. Weiss: Mr. Soliman, so we have a copy of the plan as to why you're here, so I'd like you for the record to explain to us the property, the existing conditions, tell us a little bit about the home, the area, and what you wanted to do and why we need to get it done for you.

Mr. Soliman: Sure. So as stated before, the address is 14 Courtney Drive. It's Lot 5300...Block 5300, Lot 55.18. We purchased the home back in October of 2016. So we've been there for a little over three years. The home had been...I think...vacant prior to that. Somebody had purchased it I think, revived it, flipped it, and we purchased it when we moved back to New Jersey then. So what we're looking to do with the property today is extend our kitchen to adding a dinette or an eat-in kitchen section to it to where it currently is, a covered deck. So we have a covered deck on the side of our kitchen. And so we are looking to extend that to include a dinette. We've got a family of five. The kids are getting a little older. My twins just turned 10 today. So we certainly could use a little bit of the room. The reason for the variance is currently the lot coverage on our property is over at 23 percent and per the zoning bylaws, 20 percent coverage is permitted. So we are existing non-conforming today. So any change we make obviously would require us to come before you to seek approval. The additions and the changes that we will be doing to the deck, as well as the conversion of the covered deck portion to a dinette would actually reduce the overall coverage, not by much, but to be just below 23 percent. So it will be at 22.9. So even though we are adding a section to the home, it might actually be reducing that. But obviously it's still two to three percent over the allowed for the requirement for the variance. That's in essence the summary of what we're looking to do.

Mr. Weiss: Okay, so part of the process is that I just want to make sure...Chuck, that's an accurate review? One variance is requested for lot coverage?

Mr. McGroarty: Correct.

Mr. Weiss: And that's what it says in the report. So there's certain proof, Mr. Soliman, that we ask. As far as positive and negative criteria as to why. Essentially, why you want to make sure there's...we've got to address the positive criteria. Essentially, you're talking about the topography here. Lots of different reasons. I kind of want to throw that at you to start explaining to us why you need...why there's a hardship and...kind of the basis for the relief.

Mr. Soliman: Sure. So as it sits now...the home...we're on somewhat of an incline and the way the home was designed, though, they added a pretty significant deck to maximize...I guess...the coverage or to add to that coverage. That deck is elongated. And instead of essentially leveraging the actual home themselves the previous owners or the developers...I guess... so I don't know...I don't think there were too many people who own this home for us, opted to have a kind of covered deck as opposed to leveraging that for an area. Right now our...the way our kitchen is set up because of that...because of the way the house is, we don't have much room in the kitchen itself to have an eat-in. One of the things we looked at from a negative or not negative, but an opportunity was to potentially expand in the home itself without obviously requiring. But even that would have likely caused for a variance because any change we would have made may have done that. That said, that would have taken away a room and kind of in our evaluation lowered the value of the home by subtracting addition, by subtraction. We believe both from the positive and negative side, the addition will cause a significant impact to the property itself and/or the residents to our north or south. On the south side, it's completely covered with trees so they wouldn't see it. And on the north side, the view that you have if you have the report from Mr. McGroarty, you could see that that's what it is today. And it will be similar to what it is, except that will be fully enclosed in terms of that. We feel that the benefit that it provides for us to in order to enjoy, obviously the home and providing that additional eat-in section will allow us to obviously expand and leverage an area of the home where we spend most of our time in that. And by adding that eat-in kitchen...eat-in area as well. Again, going back, we don't...based on the way the property set up, we're going to be leveraging essentially the same smaller footprint. So there is no negative impact to the lot size from that perspective. In fact, we feel that is actually improving both the coverage and the view shared of the house.

Mr. Weiss: I think just for the record, any work that you would do on the inside would not require a variance.

Mr. Soliman: Okay.

Mr. Weiss: It might require some building permits. But wouldn't have anything to do with a variance. Talk to me a little bit about...I'm looking at the covered deck in the photograph.

Inaudible

Mr. Weiss: And then off of the covered deck it appears...is that more decking?

Mr. Soliman: It's just a deck. So in that photograph in either you can see it...both in obviously the plans or in the photo itself. That is all a deck that extends pretty significantly out from the home itself today. It's narrow in scope, but obviously along from...

Mr. Weiss: So tell us the dimensions of the covered kitchen that you explained...inaudible.

Mr. Soliman: We are looking to...it's about 207 square feet is what the addition is targeted to be. And again, it will be leveraging the existing footprint of both the deck and the covered areas today.

Mr. Weiss: You have other items on the property. Tell us what else is on your property.

Mr. Soliman: So we obviously have the home. We have there...when we purchased there is a pool that is adjacent to the home and just to the also obviously adjacent to that deck area, you can't see it from the picture because it's on the other side. That's an elevated deck just because of the way the ground slopes back to the woods behind us. And just for reference, I think you guys all know, but those woods extend all the way out to Tinc so. So we have...there's nothing between us and the winding part of Tinc. Sorry. And certainly, obviously, just ...inaudible...today. But on the other side of the deck that you can't see, you should be able to see it in the plans. However, is a swimming pool. Outside of that. That's it. It's a swimming pool area. The home itself and obviously the driveway that leads into the property from Courtney Drive.

Mr. Weiss: So is it fair to say that pretty much most of the backyards is improved upon some manner or another. Between pavers, waterfalls, gazebos, swimming pools, decks...

Mr. Soliman: Improved? I'm sorry

Mr. Weiss: Yes, in the backyard as it currently sits today. Is it accurate to say most of it has been improved upon?

Mr. Soliman: No. So there is an area behind where the pool ends and where the deck is today, where it's all grass and open before you get to kind of the tree line towards the back. Our property extends into the tree line. So its grass, trees, and then a little bit further into the trees is where our property ends.

Mr. Weiss: Do you have...is this is an outdoor kitchen that you have out there?

Mr. Soliman: There is. And it's a little kitchenette that's outside by the pool. Yes.

Mr. Weiss: Have you examined the ability to reduce the size of the deck enough to conform with the standard? That's really the kind of testimony I want to hear.

Mr. Soliman: Sure.

Mr. Weiss: Is that...that's the hardship. That's where the hardship would come in is that if we'd asked you to remove or to reduce the deck substantially enough to conform with the standard. What kind of hardship does that provide?

Mr. Soliman: So when we and I'd have to go back and look at the numbers. But when we looked at completely eliminating the deck, it would not have been enough to get us below 20 percent. And even though we are reducing the deck, we are just leaving enough, obviously, to allow for exit from that kitchen area into the backyard and obviously down towards the pool. So though the plans are asking or calling for us to reduce the deck today, it's not completely eliminating it.

Mr. Weiss: Do you have numbers that tells me what is the size of the deck today?

Inaudible

Mr. Weiss: The size of the deck today? As it is now. And the size of the deck as it will appear when you are done if you were to get this approval.

Mr. Soliman: So the proposed deck will be 16 by 13 and then the existing deck today.

Mr. McGroarty: Maybe I can speed this up a little. The numbers that are on the plan are accurate because I've checked them today. Your existing deck...the covered part is 206 square feet. The rest of the deck is to 214. That's a total of 420 square feet. Your new deck will be 205 square feet. So roughly half the size of what your original deck was. And the other portion would bump out from the kitchen, the dinette.

Mr. Weiss: Ok, so here's what I am going to ask you to do then, walk me through...what I'm looking on your plans...A1.1. Walk me through. I'm looking at your proposed kitchen. You proposed dinette. Proposed deck. So when you get there...as we look at the proposed kitchen and some new windows. All right. What is right outside that window? There's no doubt quite there's that open space.

Mr. Soliman: Yeah. So it just drops directly down. Yes, there's nothing outside that.

Mr. Weiss: And then obviously, obviously the same thing from the proposed dinette as I look at the plan to the left, which is probably the western side. New windows also looking straight down.

Mr. Soliman: So towards the north side, you're saying of the properties of new windows?

Mr. Weiss: Put yourself in the proposed dinette and there's a new window. And you want to look out to the swimming pool. So when you look down, there's nothing there either.

Mr. Soliman: No, that would be a drop down to the area. Sorry. When you're in the current kitchen today...the windows...when you're looking out the windows, there is a portion of the deck that is still covered that extends down to where the steps go down towards the pool area. And that's outlined by...you can see the dotted line for where it exists.

Mr. Weiss: Okay, and so when you walk out of your proposed dinette to this new door, you're walking out to a deck that is approximately 13...

Mr. Soliman: 205 square feet.

Mr. Weiss: 13 by 16. Chuck, with your opinion and the removal of that deck or part thereof, does it have much of an impact on the overall coverage?

Mr. McGroarty: I don't think so, Mr. Chairman. I don't think it does. And I will say, I don't know if it was the current occupants...this gentleman, Mr. Soliman, or the prior owners, but they all got permits, zoning permits. And I didn't check, but they had zoning permits. I assume they went ahead and got the rest of the permits necessary. And when those zoning permits were issued in the past, the calculations...well, I didn't do them so I can say this...the calculations were a little off. And had they been a little more precise, although in fairness, I don't think the town had such nice plans as we now have. Had they...a little bit better grasp of the numbers...they might have warned the homeowner that...you know...you're getting close to your total impervious. And I say that only to just advise the Board that the owners of this property, current and past appear to do everything to cooperate or abide by the town's regulations and they were issued zoning permits for what you see on the plans today. So the fact that it was over a little bit by a couple of percentage points, it's probably understandable given again that the file doesn't contain such precise plans, as you see now. But...you know...it's an existing condition and it'll be modified to some extent. Will get exactly 20 percent? No. But I think the conditions have existed out there. And I think it becomes the character of the neighborhood, it seems to me...very consistent.

Mr. Weiss: Okay. And so would we address the two different type of conditions or the criteria, your negative criteria? I would tend to agree with you that you're actually no negative impact and actually reduction of square footage or reduction of the lot coverage from 23 to 22.9, although very insignificant is a reduction nonetheless. And I would imagine that you think fall under negative criteria.

Mr. Buzak: Yes. I think there would be no substantial impairment of the zoning laws or zoning plan because the impervious coverage issues...inaudible...and so having a slight improvement.

Mr. Weiss: Mr. Soliman, would you say that this addition would make your house stand out as a little bit out of place, out of character, or do you think it would stay in character to the neighborhood and the rest of the homes in the neighborhood?

Mr. Soliman: In my opinion, it would be in character to the rest of the homes.

Mr. Weiss: So no negative impact on the community.

Mr. Soliman: No.

Mr. Weiss: Does anybody in the Planning Board have any questions for Mr. Soliman? Any questions, any input?

Mr. Nelsen: I wanted to say it looks like he's also removed a walkway on the side which helps with the coverage. You're removing the...

Mr. Soliman: Yes, sir. That walkway leads up to another set of steps which won't exist after this because there's really no way to go up from that. So we'll be removing the walkway and obviously just extending the grass in that area.

Mr. Weiss: Anybody else have any questions? Mike?

Mr. Vreeland: Although I didn't review the plans, I did take a ride to look at the property today briefly before the hearing. And I just wanted to make note of the fact that...you know...that the property does have quite a lot of topography relief from the roadway. It slopes down quite a lot towards the rear of the property. And I think as a result of that, the house is probably set back a little bit further from the road. So you probably have a longer than normal driveway that adds to some of the coverage issues that the applicant is currently facing. I think there are probably some unique characters, the topography and the existing development on the property that contribute to this situation that's there now.

Mr. Soliman: Just for reference, in terms of the topography, when you're on the upstairs second floor, you're looking directly out at the street. You're pretty much street level when you're in any of the bedrooms.

Mr. Weiss: Mike, that's good insight. Thank you for that. Anybody else? Let me open it to the public. If anybody from the public has any questions for Mr. Soliman based on the testimony that he delivered this evening. I see none, so let me close it to the public. And if we have no other questions, Mr. Buzak, is there any input from you?

Mr. Buzak: No. I think you covered it, Mr. Chairman. Obviously the request for relief is to obtain a variance for lot coverage from...inaudible

Mr. Weiss: Would someone please make a motion on this application?

Mr. Schaechter: I make a motion to approve PB 19-26.

Mr. Nelsen: Second.

Mr. Weiss: Thank you, Brian, thank you, Dan. Thank you. Any comments? I just I have one comment. I think it's a wonderful use of your property. I think it's...I wish you lots of happy hours. I sit here and as you can tell, just I want to make sure all the I's are dotted and all the T's are crossed. Mike gave me some really good input about the longer driveway, the topography that falls under the positive criteria. But my own personal opinion, I don't know if you proved the positive criteria in my own mind. It doesn't mean I'm not for it or against it. And I just say, I have a problem with that. Your negative criteria couldn't agree more. Positive criteria, I'm not so sure. And that's all I'm saying. I'm not sure. I've had a comment. Mary, roll call.

Roll Call:	Ms. Scapicchio	Yes
	Mr. Schaechter	Yes
	Ms. Mott	Yes

Ms. Natafalusy	Yes
Mr. Nelsen	Yes
Mr. Ouimet	Yes
Mr. Weiss	No

Mr. Weiss: And I'm going to vote no for the reasons that I stated. But I do wish success and happiness in your home.

Mr. Soliman: Thank you.

Mr. Weiss: The process is pretty simple at this point. It's obviously an approval. Give the Planning Office about a month. We'll do resolution second meeting...first or second meeting in March? Then you can start. Go ahead and start your construction once you have approval from us.

Mr. McGroarty: Mr. Soliman, your architect will revise the plan as per my comments?

Mr. Soliman: Yes. Absolutely. Thank you, Chairman Weiss. Thank you, Board. Have a good evening.

PB 19-01 364 Route 46 LLC, 364 Route 46, Block 8200, Lots 5 & 6

Mr. Weiss: Let's move on. Our next application, which is PB 19-01 364 Route 46, LLC here for a use variance, amended and final site plan for Lots 5 & 6 property is located at 364 Route 46, Block 8200, Lots 5 & 6. Welcome.

Ms. Leo: Good evening. Thank you. I'm Ursula Leo from Laddey Clarke and Ryan. And as the Chairman just stated, I'm here on 364 Route 46 LLC, otherwise Route 46 Subaru on Route 46. I have with me tonight three witnesses who will be testifying in support of our application. The first is the owner, Phil Mastellone. They also have John Manilio, who is our engineer. And John McDonough, our planner in the back tonight. Mr. Chairman, would you like to swear them at the beginning?

Mr. Weiss: Whatever is easier for you. We can do them all together or one at a time.

Mr. Buzak: Why don't we do them one at a time.

Phil Mastellone was sworn in for the record.

Mr. Buzak: Please be seated, sir. State your name and address for the record, spelling your last name.

Mr. Mastellone: Phil Mastellone MASTELLONE, 484 Fairview Avenue, Cedar Grove, New Jersey, is my home address.

Mr. Buzak: I'm sorry. 4440?

Mr. Mastellone: 484 Fairview Avenue, sir.

Mr. Buzak: It's Philip? I'm sorry.

Mr. Mastellone: Yes, sir.

Mr. Weiss: Okay. Perfect. Welcome.

Mr. Mastellone: Thank you.

Ms. Leo: So we're here tonight for a use variance, bulk variance. And then we're seeking amended preliminary and final site plan approval. As you likely, this is an existing car dealership. Lot 5 and 6 are adjacent to each other, which you'll see from the engineering plans tonight. Lot 6 has an existing car dealership where we're seeking a 2,000 square foot addition and expansion essentially to the building and a slight change to the parking lot. Lot 5 next door, we're seeking temporary parking. It was approved back in 2015. You might recall for another car dealership, what we're seeking is temporary use of the parking due to existing business needs for a five year period while maintaining that hopeful new building in the future down the line. Shared access through Lot 6 so there wouldn't be any change to the access off the highway. We are within the Highlands Area and have sought and will continue to get the necessary Highland Approvals, which we've worked with Chuck and actually has to go through the township. I guess the way things have been done. The Use variance is required because parking by itself would be an accessory use for the separate lot. If it's related to the car dealership, it's fine. What we would offer is as a condition of any approval, the board would consider tonight that that parking could only exist as long as it's associated with the neighboring Lot 5 use. So it's not something separate in part, it has to be connected to the Lot 5 use. On Lot 6, we seek three C or bulk variances. All of these were previously approved for in 2015 for the car dealership. They're regarding retaining walls, lot coverage and tree replacement. And then there are some exceptions or some other waivers that are also tonight. So with that brief overview, well not so brief for me. Sorry. We'll have Mr. Mastellone explain his proposal. Can you explain your interest in 364 for Route 46, LLC?

Mr. Mastellone: I can. I am the Acting Director of Operations for Route 46 Auto Group and part owner in the company.

Ms. Leo: And how long have you owned 46 Subaru?

Mr. Mastellone: We purchased the store October 11th of 2018.

Ms. Leo: And how are things going?

Mr. Mastellone: Going pretty well.

Ms. Leo: Okay, and why are you here tonight? What is it that you're requesting?

Mr. Mastellone: Well, we have found that with purchasing of the dealership, we do need to expand our service capability as well as parking.

Ms. Leo: Is that common with the car industry or explain to us the need for parking on site for the car dealerships?

Mr. Mastellone: The store under the previous owner was really underutilized. They didn't sell very many cars nor service very many cars. Since we've purchased the store, business has increased.

Ms. Leo: And so what would the additional parking be for?

Mr. Mastellone: So these additional parking would be for display of new cars, used cars, customer parking, as well as employee parking.

Ms. Leo: And from a customer perspective, is it important to have those additional cars on site?

Mr. Mastellone: Absolutely.

Ms. Leo: And why is that?

Mr. Mastellone: Well, you don't usually buy what you can't see.

Ms. Leo: And you heard what I said earlier, that the parking Lot 5 would be tied to the existing building on Lot 6 and you agree to that?

Mr. Mastellone: Absolutely.

Ms. Leo: And then what about the expansion to the existing building? What's that for?

Mr. Mastellone: We would be adding six service bays on the rear of the building to handle what is an increased demand from the public for service of their cars.

Ms. Leo: That's really all I had from Mr. Mastellone. Unless the Board and professionals have any questions.

Mr. Weiss: No, I do. I have a question. So Lot 5 will be where you will be parking? And I know you said for display. So do I assume that what's used for parking will go towards the back and more display to the front.

Mr. Mastellone: Yes, sir.

Mr. Weiss: Makes sense. Because I didn't think you'd be displaying way in the back.

Mr. Mastellone: You can. I just don't know that it's very successful.

Mr. Weiss: Probably not, but it makes sense. You'll remove what's currently parked in the front for inventory or whatever you use it for, moving back in the front of your display. And new cars...whatever you do.

Mr. Mastellone: Unfortunately the store has changed hands several times because nobody was willing to make the commitment of buying additional space to expand the business.

Mr. Weiss: Okay. Anybody else have any questions for Phil? Seems pretty straightforward. Chuck?

Mr. McGroarty: I have none. Thank you.

Mr. Weiss: Ed?

Mr. Buzak: And I don't know if Mr. Mastellone is going to be...you said you had three witnesses...Mr. McDonough, and who was the third?

Ms. Leo: Our engineer.

Mr. Buzak: Maybe it will be directed to him. Related to the new building for which your amended site plan approval which is to...if I understand it correctly...to allow the parking to take...to be placed in the area where the building would otherwise be located as well. Is that correct?

Mr. Mastellone: So if we're talking about the new lot?

Mr. Buzak: That's correct.

Mr. Mastellone: That would be correct. We'd be looking to use that as parking. And if business continues to grow, and I certainly hope it does. We would then be coming back to you and saying, hey, look, we want to build a separate service and parts facility on the other lot.

Mr. Buzak: Well, that's why I wanted to clarify the proposal now...and this is to anyone who's here and if we need to swear someone in we can do that...is the proposal now effectively to abandon that construction of that building in replacement place this parking lot there? Or is it to maintain the ability to construct that building for which you have approval? At some point in the future and temporarily allow the pad for that building...for lack of a better term...to be utilized in parking as well as the parking that would have been associated with that building?

Ms. Leo: Back almost a year ago now, I dealt with Ms. Kimson in your office and we were prepared to come and then when it was discovered, we would need to use variance due to the fact that with a standalone parking. And at that time and according to the planner, what we...that's why we're offering a five year timeframe for this temporary parking use, because we absolutely want to maintain that previous approval for the building.

Mr. Buzak: Okay. I missed the five years. Was that said? If it was, I apologize.

Mr. McGroarty: That was upfront.

Inaudible

Mr. Buzak: Okay, I apologize.

Ms. Leo: Thank you.

Mr. Mastellone: Just to expand for...just to explain it to you. We certainly hope that business is going to continue to grow for us. And we had to make a decision based on current business situations in the auto industry and make a decision. Do we proceed with this building or do we add on? And we came to a conclusion internally. It was best for us at this point to add on to the building. Certainly hoping that in a year or two years that we're coming back and saying, hey, we're going to be building that building in addition, and that'll be great. And I think everybody would probably be happy with that.

Mr. Buzak: Would the idea be for that new building to be a supplement to the existing Subaru building or to be perhaps a different dealership or for the existing Subaru to be a different dealership and this Subaru moving to a new site?

Mr. Mastellone: We're trying to keep track of all the different places you're going with that. So, number one, I think initially we have approval for another dealership in its entirety. That's not what our interest is at this point. So if service business, parts business for Subaru continues to grow, we would then move service and parts completely to the new site, next door. And then we would probably just expand the sales part showroom and into some of that service area.

Mr. McGroarty: But if I may, for now...tell me if I'm wrong...that tonight's purposes, you're sticking with the approved second dealership building. If in the future you wish to come in for that, is it as a building for the maintenance of the vehicles and stuff, there may be a need for variance...another variance...or perhaps your...McDonough will address that this evening. Or at some point, as we've talked about in the past, maybe even have the potential to merge lots and all that goes away. And I think for the...to your questions, Mr. Buzak, earlier. I think they are proceeding on the basis that they've got that approval for the second dealership. They're not surrendering that tonight. They're asking for this 5 year parking arrangement. Am I right?

Mr. Mastellone: That is correct.

Ms. Leo: It's almost like a phase in. Right? This is phase one, would be the temporary parking and in Phase 2 would revert to this turn 2015 Resolution. If we do anything different, obviously will have to come back.

Mr. McGroarty: Right.

Mr. Buzak: And if in 5 years you're not ready to build the new building of your Phase 2, what happens with this?

Ms. Leo: I guess we'd have to put on our proofs to say whether we'd want an extension from it, whether we go back to what we have got approved in 2015 or if he wants to change. But for now, we're sticking with the 2015 and then a five year for this parking to help that the dealership.

Mr. Buzak: So theoretically with a 5 year variance, this one, the variance would evaporate or expire after five years. And unless you did something...be it another application a building that you already have the approval for, you would not be able to use this property for the purposes for which you're seeking approval tonight.

Ms. Leo: It kind of made sense for me to go to that 3 year and 2 year end under MLUL. That's how I got to the five years, so, yes.

Mr. Buzak: Thank you.

Mr. Weiss: I don't think there's any other questions for Phil. Thank you. Oh, I'm sorry, Catherine?

Ms. Natafalusy: Did you not say you spoke to Valerie last year? What took us so long to get this application before the Board? Because I've been seeing those cars parked on that lot for well over a year.

Ms. Leo: Lots of things, changes, proposed changes, what we were going to do with the property. The engineer change.

Ms. Natafalusy: But ultimately you just started using the property with no approvals. I don't know. I'm just asking.

Mr. McGroarty: No official approvals. The town was aware the parking was there.

Ms. Natafalusy: Okay.

Mr. McGroarty: And we...because the site had been filed...we did...here was an agreement that the park could stay there on the condition that the site plan had been filed. And it was. And then there were the hiccups along the way.

Ms. Natafalusy: Okay, thank you.

Mr. Weiss: Dave?

Mr. Scapicchio: How many total parking spaces do you have?

Mr. Mastellone: Currently, where the store is now?

Ms. Leo: If you don't know we can have the engineer...maybe it'll be the better...I think we'll have him testify to that.

Mr. Mastellone: I can answer most things, which again, I'm sorry.

Inaudible

Mr. Buzak: Is this going to remain a gravel parking area?

Mr. Mastellone: No, sir. Curbing, paving, drainage. Just to shed a little bit of light. We requested from the town and you so graciously, Mr. McGroarty... emergency access to that property, which is ours. We had entered into an agreement with someone else in the town for parking and found out that they didn't have authorization to let us park there. So we really got ourselves into a jam. We thought we had parking...supplemental parking and found out we didn't.

And I'm sure many of you have driven past the building as we took over. It almost looked like there was a spot where people were evacuating cars during the flood. We just had absolutely no parking. So with conversations with the town and that is kind of how we're here today. So it was really a hardship for us. And to be honest with you, I came hat in hand to Chuck and explained to him the situation. And you guys helped us out and we are forever in your debt. We thank you.

Mr. Weiss: Anybody else? Okay, does anybody from the public have any questions for Phil based on the testimony that he gave this evening? And I see none. I'll close it to the public. Phil, thank you so much for your input.

Mr. Mastellone: Thank you so much.

John Manilio was sworn in for the record

Mr. Buzak: Please state your name and business address, spelling your last name.

Mr. Manilio: John Manilio MANILIO, RedCom Design and Construction, 433 North Avenue East, Westfield, New Jersey.

Mr. Buzak: Thank you, sir. You may be seated.

Mr. Manilio: I'm actually going to probably stand up...

Ms. Leo: We will qualify you before if that's okay.

Mr. Weiss: Now, John you have been here before?

Mr. Manilio: I've been here several times...I think recently with the Chevy Dealership next door.

Mr. Weiss: I think we've seen John's work. If anybody has...inaudible. If anybody has any questions...Mike any questions for our engineer?

Mr. Vreeland: Licenses are still valid?

Mr. Manilio: Still valid.

Mr. Vreeland: That's it.

Mr. Weiss: I think we can dispense with any kind of qualification. Joe, welcome back. Nice to see you.

Mr. Manilio: Thank you. Thank you. So I just handed out smaller exhibits of what we are presenting. Not sure what you want me to...inaudible.

Mr. Buzak: Are these the same that you are going to be showing on the boards.

Mr. Manilio: Just reduced size.

Mr. Buzak: Alright. So why don't mark the first on A-1 with today's date, Sheet 1.

Mr. Manilio: So this is entitled Route 46 Subaru aerial map April 18, 2019, exhibit showing the property in the center Lot 6 and Lot 5. Lot 6 houses the current Subaru dealership with residential to the north and commercial surrounds to the west, east and south. Lot 6 is approximately 2.85 acres and was approved by the Board in 2005 and built up not too long after in 2006-2007. This is a 13,000 square foot building plus or minus. The dealership service drive and a service center and currently has 132 parking spaces. And there's also an existing septic system and a storm water management basin along Route 46. To the right of Lot 6 or to the east is Lot 5, which is a little under 3 1/2 and was part of an application in front of this Board. And I believe I testified for that as well ranging from 2010 all the way to 2015. It included a Highlands Preservation Area approval that we were granted. Then we came back to the Board...I believe in 2015 to amend the site plans to coincide with the Highlands approvals. That was for a 13,000 square foot automotive dealership as well with 153 parking spaces. Its own septic system, its own storm water management system. And also there were many variances that were granted for that as well. Inaudible...walls, number of signs, tree replacement requirements, parking stall sizes, landscaping within the parking area, buffering for loading the parking areas, and then also joining Lot 6, which is currently developed right now. We asked for a variance for impervious coverage, so we had impervious coverage of 61.4 percent where 60 percent was required. I'm going to go to the next page.

Mr. Weiss: Before you jump in. Before you do that. Nothing to do with your plan. It looks like something is marked wrong. Going a little more to the west, you have a little note that says Harris Lane. It's on the south side of 46. It's actually other side. I don't know if it matters, but you know me. I like to be accurate. I know the application has nothing to do with it. It's just not technically right. Any problem with that at all, Mike or Chuck?

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

Mr. Weiss: I don't necessarily. It doesn't have any impact and it threw me off at first which is the only reason I even commented on it.

Mr. McGroarty: This is kind of an old aerial because I think it still shows the building next to the Easy Storage. But if you're at the mercy of the aerals. That's a vacant lot now.

Mr. Nelsen: If I recall correctly, back in 15...quite a few folks from Harris Lane were at that meeting.

Mr. McGroarty: For the other one. Not this one.

Mr. Nelsen: Right, I realize that.

Mr. McGroarty: For the Kia.

Mr. Nelsen: I'm just saying being this labeled like that would have any effect on that.

Mr. McGroarty: Then the notices were done properly.

Mr. Nelsen: Okay.

Mr. Weiss: Okay. That's all. We're going to go to a A-2?

Mr. Manilio: A-2 which is entitled Debeck Associates LLC site plan dated June 22nd, 2009. Last revised February 4th, 2015. So this is the site layout of what was approved back in 2015. This is the final approval for Lot 5. It shows the building...inaudible...just show the layout. So you see what was previously approved. And I'm not going to stay too long on this. The next one hopefully...a colored rendition of what we're proposing. We will call A-3.

Mr. Weiss: A-3 is called the site plan rendering?

Mr. Manilio: Yes, Route 46 Subaru site plan rendering with a date of April 18th, 2019. Which is a color rendering of what we're proposing for the site, both Lots 5 and 6. Let's go through the changes real quick. So for Lot 5, which was the previous approval in 2015, this shows the plan without the building. So the temporary parking for the next five years at most. Essentially the same exact layout as far as curved lines and pavement. We actually did take some liberties and kind of pulled some...inaudible...back from the residential. After analyzing it, we had a lot of large walls in the back and it just didn't make sense. There was some more parking back here for four more parking spaces to building 20 foot walls didn't make sense. So we kind of lost four parking spaces here, kind of pulled everything back a little bit, but essentially it's the same exact layout as far as curbing and pavement, with the exception of the building is not shown in the middle. So for Phase 1, without the building, we have 253 spaces. Once the building is constructed, it will go down to 145 spaces. I believe the original approval was very similar to that. I think it was 153 spaces total. Lot 6 we're also proposing some improvement as well. To the north of the exiting building, we are proposing a 2,052 square foot building addition, which would service six service bays. We also have to push the driveway further north a little bit to allow durability around the building and to compensate for the loss of parking spaces. We also extended the parking to an east a little bit as well. So after doing all the improvements, we're proposing to lose one parking space. So from 132 spaces to 131 spaces on Lot 6. But we will be gaining spaces on Lot 5. Two more exhibits. The next one is called Route 46 Subaru Phase 2 plan with a date of February 8th, 2018.

Mr. Weiss: And that's A-4.

Mr. Manilio: A-4. And this shows what that Phase 2 will look like what the building that was previously approved in the center. So you guys have an idea of what was preapproved same exact building again. This application right now is the same exact rules from 2015 as far as the building. Inaudible. I won't go into too much detail. But Subaru franchise did have a part of that delay last year. There are some talks about what to do with this property, but the outcome was that we continue with what we submitted in January last year and prepare for construction of six service bay additions. And in the next few years, if business is great, there might be another building that goes on to the other lot. As far as variances and design waivers, we are asking for some relief, specifically for Lot 6. We are asking for an impervious coverage variance of 63.7 percent where 60 percent is allowed. In the previous approvals in 2015 we were granted a variance for 61.4 percent. Comparing the current plan for a Lot 6 versus what was previously approved in 2015, the impervious coverage went up by about 3,150 square feet. Nothing major, but it did go up a little bit, we did do some improvements. The basin is sized for the extra impervious coverage. All we had to do was modify the structure to allow less water to go out to meet the...inaudible...which worked.

Maximum wall height. So in the previous application from 2015, we were granted approval for wall heights...I believe up to 30 feet back here on Lot 5. There are no changes to this lot. If anything, some of the walls got a little shorter on lot 5. But there is a new wall that we're proposing here on Lot 6. So to not encroach into the landscape buffer or to disturb more critical slopes on Lot 6 and plus with the Highlands Preservation Area as far as the amount of disturbance on the site, we chose to put a retaining wall here which varies from zero feet all the way up to 6 ½ feet. Ordinance allows walls to be up to 6 feet. So we are asking for a variance a very minor...inaudible...over half a foot. Additionally, walls and a roof over four feet should be terraced 10 feet apart. We're not proposing terraced. Again, the reason for that, to terrace the retaining walls it would go towards the hillside, disturb more steep slopes, disturb the existing vegetation buffer along the residential and also decrease the...inaudible...be a small issue with the Highlands Areas as well. We don't think it's an issue since it's behind the building. It's not very visible from Route 46. So we thought that relief is warranted on the site. Tree replacement...

Mr. Buzak: Mr. Manilio, let me stop you for a second, because I just want to get clear here, and I'd like you to be clear in your testimony as to the variances and which lots they are located on because originally I was under the impression they were all on Lot 6? But, I'm sorry, I'm not fine if that's not the case.

Mr. Manilio: That's not the case.

Mr. Buzak: Okay, so let's be precise. The first variance with regards to coverage...

Mr. Manilio: Is for Lot 6.

Mr. Buzak: Lot 6. And that's for Lot 6? Which is where the existing...

Mr. Manilio: Facility is.

Mr. Buzak: Facility.

Mr. Manilio: So we're asking for a variance of 63.7 percent on impervious where 60 percent is allowed.

Mr. Buzak: And the retaining wall height, you said 6 ½ feet?

Mr. Manilio: That's what I...my...yes 6 ½ feet...the height of the wall where 6 feet is allowed.

Mr. Buzak: I thought the Engineer's Report from earlier...inaudible...had 7 foot walls.

Mr. Manilio: I believe it did say 7 feet. I was looking at it today and...inaudible...saw 6 ½, but if the Board want to grant the variance for something...

Mr. Buzak: Well, no. We need to know what it is. Is it 6 ½ feet? Is it 7 feet? Is it 12 feet?

Mr. Manilio: Its 6 ½ feet.

Mr. Buzak: We need to know what it is so that...you know...this is not...and the other thing is we don't need to rush through this. We need to get the testimony clear.

Mr. Manilio: I understand.

Mr. Buzak: Okay. Don't think you're being rushed by the Board and if you finish in 10 minutes that you get the variances and you get the approvals. This is not a speed activity. Okay. So now on Lot...again on Lot 6, we're talking about a retaining wall height of 6 1/2 feet versus 6 feet that's required.

Mr. Manilio: Yes.

Mr. Buzak: And no terracing of the wall.

Mr. Manilio: That's correct. Yep.

Mr. Buzak: And what's the length of that wall?

Mr. Manilio: I don't have a...get a scale real quick. I don't have...say approximately 160 feet? But the whole wall is not 6 1/2 feet tall. It varies.

Mr. Buzak: No place over 6 1/2 feet?

Mr. Manilio: Correct.

Mr. Buzak: Correct. And the reason for that would...the reason for this new request is based upon the addition that is being proposed in the rear of that existing facility. Is that correct?

Mr. Manilio: That is correct.

Mr. Weiss: Brian, you have a question.

Mr. Schaechter: Yes, the 6 1/2 feet. Is there any reason why we can't bring it to 6? Just making conforming. Then we get rid of a variance. Is that extra 6 inches, really going to change the functionality of that wall?

Mr. Manilio: Probably not...inaudible....on the driveway.

Mr. Schaechter: Yes. I'd probably say just eliminate the variance. It's not going to change anything that's drastic.

Mr. Manilio: No. We're fine with that.

Mr. McGroarty: You would change the slope on the driveway as a result.

Mr. Manilio: Right. The driveway would get a little steeper.

Mr. McGroarty: I defer to the engineers to why. But if that's the case, I personally think you're better off at the higher wall than changing slope on the driveway.

Mr. Vreeland: But I mean, what is your proposed slope on the driveway now?

Mr. Manilio: It's actually relatively safe...inaudible...more than 5 percent, 6 ½ percent?

Mr. Vreeland: That's a pretty good cross slope. On a roadway, you are talking typically 2 to 4 percent. And it's already...you know...exceeds the cross slope...on the roadway. I would agree with Chuck on this that...you know...what appears to be a...inaudible...variance is probably a better situation than increasing the cross slope. Good question.

Mr. Nelsen: Is it 1 variance or 2, the fact that you are not terracing it. Is that a separate variance?

Mr. Vreeland: I believe that's a second variance.

Mr. Weiss: Anybody else? Go ahead, John.

Mr. Manilio: The next one I'm not actually too sure if it's for the whole site. The tree replacement, which is no different than what was previously granted, but it was listed as a variance. So we are seeking the variance under 168 trees are required to be replanted where 75 trees are proposed. It's exactly the same as the last application in 2015. I believe the applicant at that time agreed to pay a payment in lieu of which we are fine with as well.

Mr. Weiss: Do know how much that payment was?

Inaudible

Mr. Manilio: Move on to design waivers.

Mr. Weiss: Before you go on, John.

Mr. Buzak: Before you go on with regard, I'm sorry, with regard to the tree replacement, I saw I believe in the Planner's Report that in addition to the 75 trees, there are going to be 207 shrubs that will be planted.

Mr. Manilio: I'll take Mr. McGroarty's word for it. Yes.

Mr. Buzak: Okay. Now, is it fair to say that these plantings that we're talking about, tree replacement and shrubbery landscaping, that will be done as part of the construction of the improvements for this plan. These are not being deferred somewhere in the future, five years from now.

Mr. Manilio: That is correct. So I just looked at the plans. All these plantings are required by Highlands and that's planted along the perimeter of the parking area.

Mr. Weiss: Anything else?

Mr. Buzak: No.

Mr. Weiss: Okay. Good.

Mr. Manilio: Design waivers...we are asking for a design waiver on Lot 6 for site disturbance. We are disturbing steep slopes on the northeast corner of the site. Again, pass for relief on the retaining wall so we would disturb less slope. And those slopes there are manmade and regenerated when this building was constructed back in 2006/2007.

Mr. Buzak: And what's it? What's the percentage disturbance...is it...here's no disturbance of critical slope under the ordinance, is that correct?

Mr. Manilio: That is correct. So for Lot 6, we are proposing 1 square footage or percentage...

Mr. Buzak: If you have both, that's fine if you have only one...whichever one is fine.

Mr. Manilio: So far in the critical area for Lot 6, we are proposing 1,200 square feet of disturbance.

Mr. Buzak: Now was that part of the original proposal or is that being caused by the addition that is part of tonight's application?

Mr. Manilio: It's a good question. It's part of the addition. So by putting the addition, the driveway gets pushed back a little bit.

Mr. Buzak: Thank you.

Mr. Manilio: Next, design waivers for parking stall size. This is for Lot 6 as well since we were granted approval from Lot 5. Originally for 8 ½ by 18 stalls for inventory. We are proposing some stalls in the northwest corner that are 8 ½ by 18 as well. Where the ordinance requires 10 by 18 or 9 by 20.

Mr. Buzak: And how many spaces, sir?

Mr. Manilio: I believe 16...13.

Mr. Buzak: And that's on Lot...

Mr. Manilio: 6.

Mr. Buzak: 6.

Mr. Manilio: The next two kind of go hand in hand, but I'll break them up loading and parking buffer. We were granted relief on that design waiver in 2015 for Lot 5. We're also asking for that as well since we're increasing the parking to the east and...inaudible...also asking for relief

on the buffer from Route 46 and there's an existing buffer along the north side adjacent to the residential.

Mr. Buzak: I'm sorry, sir. Could you...I didn't hear what you said because you were facing that...

Mr. Manilio: I apologize.

Mr. Buzak: That's okay.

Mr. Manilio: So we're adding new parking to the east of the existing parking lot and we're asking for relief or a design waiver on the buffer along Route 46 side and to the north, which has an existing buffer that was previously planned.

Mr. Buzak: So you'll provide no buffer. Is that...

Mr. Manilio: No new buffer. Correct.

Mr. Buzak: I'm sorry.

Mr. Manilio: No new buffer. And last as the parking lot landscaping, the requirement for planting for every...for parking spaces. We're not proposing any new landscaping on Lot 6. I believe there are a couple of trees to the northeast portion of it, but it's not adjacent to the parking itself.

Mr. Weiss: John, is there any proposed lighting for the parking lot?

Mr. Manilio: For Lot 6 or 5?

Mr. Weiss: Lot 6...I'm sorry...Lot 5.

Mr. Manilio: Lot 5, yes. There is lighting proposed. I believe that's Page 7 of the site plans...sorry, Page 6.

Mr. Weiss: Anything else? I have a question. I'm going to take you A-3 if you could. Now we have a proposed addition of 2,000 square feet.

Mr. Manilio: Correct.

Mr. Weiss: We'll call that the north side. And it's that side of the property where it sounds like we're having slope issues, wall issues. Has there ever been a thought to take that addition instead of putting on the north side, putting it on the east northeastern side of the building? Looks like a natural slope can pump out right there.

Mr. Manilio: Yes, we did look at that. But the outcome was that you would disturb more steep slope on the right side to get the driveway around the building. And just from a flow standpoint. This is the surface drive through and the cars that come out this way that would have to go around that bump out for the addition.

Mr. Weiss: Is it a bump out now?

Mr. Manilio: Here? Yes, it's an open canopy...inaudible.

Mr. Weiss: Okay. So that makes sense. And it would cause more problems with other slopes then?

Mr. Manilio: Correct.

Mr. Weiss: Okay. Catherine?

Ms. Natafalusy: Just one question. Going back to Lot 5 for the parking. You said that the parking spaces are going to be 8 ½ by...

Mr. Manilio: 18.

Ms. Natafalusy: 18. What's the reason for that? What's the reason?

Mr. Manilio: For the 8 ½ by 18?

Ms. Natafalusy: Yes, rather than what the ordinance...

Mr. Manilio: So typically for car dealership...8 ½ by 18 is actually a big size. Usually we propose 8 by 18 for inventory spaces. It's not open to the public and it's really meant to store cars. The industry average is 9 by 18 typically for retail users or office use or anything...the public...and the reason for that is to be comfortable to get into your car and have your car. Again, this is not really open for public to drive in or drive out of the parking spaces. As the work proposing is to maximize what we can with the impervious area that we have. So 8 ½ by 18 is what's proposed. A majority of the front row is still being proposed to be 9 by 18.

Ms. Natafalusy: But did he not say...the owner not say, that he was going to have employee parking on this lot as well?

Mr. Manilio: I don't recall.

Ms. Natafalusy: That's what he testified to. So will those spaces be 8 ½ as well? Those people have to get in and out of their cars.

Mr. Manilio: We are proposing 8 ½ by 18, yes. I believe the ordinance does allow reduction in apartment stall sizes to 8 x 16 for 10 percent...inaudible.

Ms. Natafalusy: Does this meet that standard?

Mr. Manilio: No, it doesn't.

Mr. Weiss: Does that answer your question, Catherine?

Ms. Natafalusy: Yes.

Mr. Buzak: Can I follow up?

Mr. Weiss: Sure, go ahead.

Mr. Buzak: If I understand correctly where we're going...it was a 253 three parking spaces that will be placed on Lot 5.

Mr. Manilio: Correct.

Mr. Buzak: Can you tell me the breakdown of those space sizes? How many are 9 x 18 and where they're located. How many are 8 ½ by 18? Because I think your testimony...if I understood it. Let me ask this question first. I wrote down that you're asking for 13...a variance to allow for 13 8 1/2 by 18 for parking spaces on Lot 6?

Mr. Manilio: Correct.

Mr. McGroarty: It will be an exception. Not a variance.

Mr. Buzak: Yes. I'm sorry. I said...I was mistaken. That's correct.

Mr. Manilio: Right. So for Lot 5 the previous approval did grant 8 ½ by 18 for inventory spaces as well.

Mr. Buzak: Right. But now we're going to have 100 more spaces there or so...roughly. So what I'm asking is...and if you want to break it down this way, this may be easier...

Inaudible

Mr. Manilio: I can break down the number for you. I have it.

Mr. Buzak: Okay.

Mr. Manilio: So it's 30 spaces 9 by 18...

Mr. Buzak: Alright, slow down.

Mr. Manilio: 30 spaces 9 by 18. Then the remaining 223 would be 8 ½ by 18.

Mr. McGroarty: All lots? Lot five or six?

Mr. Manilio: That's for Lot 5.

Mr. McGroarty: Lot 5...the new lot...parking only lot for now.

Mr. Manilio: And for Lot 6, only 16...13 8 ½ by 18. The rest would be conforming 9 by 18...

Mr. Mastellone: and that scenario would only be for that situation....we had a temporary parking. If a building was built, we wouldn't.

Mr. Manilio: If the building is built we are going to resort back to what was the 2015 approval which I believe was...and we do have that planned. I believe around the building are 9 by 18.

Mr. Weiss: Where on that map...before you switch it... is employee parking?

Inaudible

Mr. Manilio: The applicant is saying...this temporary lot...which I'm assuming is right here. Phil? Right in this area?

Mr. McGroarty: You're pointing to the northerly rear portion...

Mr. Manilio: Northerly side of Lot 5.

Mr. Schaechter: Yes. I don't see any spots there. I see a driveway with arrows...

Mr. Manilio: Not in the back row.

Mr. Schaechter: Yes, but you have triple...you have...

Mr. McGroarty: Staggered parking.

Mr. Schaechter: Yes, staggered parking. That's for inventory. That's not for employees.

Mr. Manilio: Maybe Mr. Mastellone can expand how the employees park.

Mr. Mastellone: We have cars that are stored either service cars that are not running, things of that nature. That's normally where we park in the middle. So it's just a way to get the extra spots. Yes, employees can use the other spots without the company having to move.

Mr. Schaechter: Until you move one of the cars that's either inventory or service.

Mr. Mastellone: Inventory...all that kind of cars...those are all up in the front part of the lots, both of them in the front. So in the back here is really primarily storage. But yes, they would have to be moved.

Mr. Schaechter: Someone's going up to move their car in order to get a car that has either broken down or in for a longer term service.

Mr. Mastellone: It's not something that occurs a lot.

Mr. Schaechter: All the cars...the cars aren't making money for you when they are parked in your lot and they are serviced...only making money for you when they are in the bay getting fixed. So you can't store the car there indefinitely?

Mr. Mastellone: Not indefinitely, but you do, unfortunately, store a bunch of cars there for a fairly long term. You've got cars that are trade-ins that come in. You don't have payoffs yet. You have vehicles that are leased turn-ins that you can wait up to a month to 40 days to be picked up. So there's a lot of dead parking spaces, unfortunately. So, yeah, I'd like to have none, but there is.

Mr. Schaechter: You could do that by just designing...inaudible.

Mr. Manilio: And could sit with the applicant and we could strike out or designate areas for...where they are single, stacked, or double stacked that you could use for employees or...

Ms. Natafalusy: That's what I was going to ask. Is there any way you can revise this to show employee parking at least so now driving around trying to find an empty space in the morning.

Mr. Manilio: Yes, we can work together and work with your professionals.

Mr. Weiss: Go ahead, Ed.

Mr. Buzak: I'm a little confused, but I'm not a car dealer, so...so let me ask a question here. Why would employees be parking where your inventory is being parked on this other lot which is really there...to...as I understand it...to essentially park the inventory...of vehicles that you need. You have the stacked parking there...it's not in proximity at all to the building. And I assume that the employees are walking up and down the inventory all the time. That's typically in the in the building either is providing service or providing sales or whatever else. So it just strikes me as odd that employee parking would be where inventory is. Other than people coming in to get their cars serviced would be parking for those vehicles. I'm missing the point here, but I'm not a dealer.

Mr. Manilio: That's more of an operational question. But from my experience from doing car dealership in the past 10 years of my life, usually employees want to keep them...or the employees...like the service employees, you want to keep them far away from the customers and far away from building. So closest to the building is where you want to keep the majority of your inventory...the cars you want to sell, because if you're in a showroom and you watch your car, you want to walk them out here. You really don't want to walk far, but if you have to...you could walk them far. The thing it means is its good for the employees to walk to the far reaches of the parking lot rather than the customer.

Ms. Natafalusy: Where do the employees park now?

Mr. Manilio: I'm not too sure.

Mr. Mastellone: On the new lot. Back in this area here.

Ms. Natafalusy: Okay, so let's go back before you started parking there and when you purchased that building, where were the employees parking then?

Mr. Mastellone: The majority were parking here. But there really was no space. Hence, we got the space across the street so we thought...but that's kind of...the problem.

Mr. Manilio: I think to ease some of your concerns with employee parking, I'm just looking at right now and I come up with something very simple. Instead of having the driveway all the way to the back...I can put a row of parking kind of facing...I guess north south. And then move that aisle further down. So then you have a single row of parking in the back row for employees. So I reduced the parking spots on that lot a little bit. But it would take care of some of the concerns that you guys have. If you could picture...

Ms. Natafalusy: Are you talking about where the two arrows...

Mr. Manilio: Right, so the parking spaces would go this way. And then the isle would move down...you know...18 feet or 20 feet

Ms. Leo: So perpendicular to the highway.

Mr. Manilio: Correct. And we can make that condition of approval in the plan...the number of parking spaces.

Mr. Buzak: Well, I like it. I like having a little bit more precision in terms of doing that because...you know...I was trying to get the count on how many parking spaces we're going to have 9 by 18, how many parking spaces are we going to have 8 ½ by 18. If we're now going to put this employee parking on the new lot...Lot 5, what would the count be and what would the size of those spaces be? Is that where the 30...

Mr. Manilio: So those spaces will be 9 by 18. So you would increase the number of parking spaces from the 32. I did a quick calculation to tell you how many we could possibly get. So we'd get approximately 19 spaces. They are traditionally 9 by 18, so you'll have 49. In doing so, you lose...

Mr. Buzak: And then how many spaces would we lose in 223? I assume it would be more than 19.

Mr. Manilio: It's actually 18. 18 spaces.

Ms. Leo: So 205 at 8 ½ by...

Mr. Manilio: You would lose 1...you actually gain 1 spot. Right, so this 25 foot aisle can move down 18 feet. These spaces are 8 ½ so I have to lose 3 of them. So 3, 6, 9, 18 spaces we'd lose. So pretty much going to be the same amount. If you want to be safe and just say 253 spaces. Of the 253, 49 would be 9 x 18.

Mr. Ouimet: At your busiest time, how many employees are on the site?

Mr. Mastellone: Probably 35.

Mr. Ouimet: 35?

Mr. Mastellone: There are some managers and there's some people that have demos. Those vehicles normally get parked up here in the test drive area, some in the front, some on the side. So if

you drive...inaudible...that is parked in front. So it's technicians, parts people and lot attendants, things of that nature.

Inaudible

Mr. Vreeland: And there's adequate circulation for car carriers?

Mr. Manilio: So I believe car carriers on Lot 5 are part of the approvals that there were no car carriers that go on Lot 5. But on Lot 6, yes.

Mr. Vreeland: And I also noticed on the sediment control plan, you had a second tracking pad coming out to 46 and one coming out to Lot 6. Is that right? Does that create any issues with the D.O.T. or do you need any kind of approvals for that?

Mr. Manilio: I think we had a second one on there just in case we wanted to construct it that way. It looks like they did construct the temporary gravel parking right now. Everything came off of the lot. We have no issues taking off to Route 46...temporary gravel.

Mr. Weiss: Chuck, do you have anything else?

Mr. McGroarty: Well, I do. Not about parking. John, I just want to make sure we...that I have the information correct and that if I do that you agree or the applicant will...as Ms. Leo said in the beginning with Highland's. This is...the two lots are in a Highland's Redevelopment Area.

Mr. Manilio: Correct.

Mr. McGroarty: So not only are they...so that obviously works to the advantage of this application, but this was the designated redevelopment area. And Page 3 of my report starting at the bottom of Page 3 and then it goes on to Page 4. And beyond that, a little bit to the top 5 for comments that...and as I indicated here...that reflects some of the back and forth you had with Highland's staff. And I have them in there. So I don't think we have to go through them all. Because a lot of that has to go with low impact developed storm water techniques and stuff. Stuff that Mike would review. Are you going to incorporate...inaudible...into your plans? If you...well, I guess the first question is, have you done it already? And if not, will you be doing it?

Mr. Manilio: Yes. So we did incorporate low impact development techniques with the original application back in 2015 when we got approvals. It was a series of swales along the frontage.

Mr. McGroarty: So the plans reflect that already?

Mr. Manilio: Right. So what we believe that we satisfied. But if Highland's comes back and they want more of the techniques we're really...part of the condition of this approval is to get Highland's Approval so....we are at the mercy of Highland's at that point.

Mr. McGroarty: Well, that's the other thing then. And if this is approved tonight, then they indicated in here the Board...the Township would have to initiate that application. So that would have to be a condition of any approval that you would give to us for review and whatever

information we need to...we're essentially just being the messenger. We'll pass it. You'll be subject to the governing body authorizing it. But it will be passed along to the Highlands Council. And for the Board's information, it's to modify the approved Highlands Redevelopment Plan for the very minor changes. At least that's what Highland's sees them. And I don't disagree...with the relatively minor changes to Lot 6, which is the addition to the building. Am I correct? That's how I understand it.

Mr. Manilio: That is correct. And to...inaudible...for the additional disturbance on Lot 6 we are reducing the disturbance on Lot 5.

Mr. McGroarty: Okay. And that's essential that if the board would approve this two phase proposal that you have, this change...because it affects Lot 6 and you're going to be moving ahead with that building addition if you've got your...you'll need to do that in a very timely way to get that information to us and then head down to Highland's. Okay. Thank you, Mr. Chair.

Mr. Weiss: Ok. And so, John, are you done?

Mr. Manilio: Yes.

Mr. Weiss: So I know we have a report, Mike, that looks like it was prepared by Gene back in March. Can you review that with us to make sure that all the points in that report are being addressed?

Mr. Manilio: Yes, sure.

Mr. Buzak: Before we do that, Mr. Chairman. Is Mr. McDonough going to offer the supporting testimony for variances and waiver that we are talking about?

Ms. Leo: Yes, he will.

Mr. Manilio: All right, so on the March 28th report, we're going to jump to Page 3 Comment B. Don't know if you want to go line by line or just...

Mr. Weiss: No, you can do summary.

Mr. Manilio: So the B and C are mostly statement of facts and we'll comply with. D with the storm water, we've got some comments regarding the calculations for Lots 6 to show groundwater recharge and water quality. We have no issues showing how that complies.

Mr. Weiss: That was...go back. What was that?

Mr. Manilio: That's D-1 on Page 4. D-2 is a statement of fact. Page 5, E-1 is the variance that we requested for the wall height. E-2 testimony was provided regarding the disturbance of those critical slopes. I believe F-1 and F-2 require or are asking questions regarding capacity of existing septic. We believe there's existing capacity in the septic system, but will go through the Board of Health and make sure or verify that, make any modifications. It may be for Lot 6. And then for Lot 5. How the future utility infrastructure be...inaudible...to today. Also ideas that we would most likely put the utilities in when we build the parking lot. So they will be ready to go for the building. If not, we will at least plan for conduits or some type of passageway for that.

Mr. Buzak: I'm sorry.

Mr. Manilio: Either that if we don't build the actual utilities, we'll put conduits or some type of passageway to put the utilities in the future.

Mr. Vreeland: Would you build the...I'm assuming with the exception of the septic system...

Mr. Manilio: Correct. We'll probably put the piping in and then just not built the septic system at that point.

Mr. Vreeland: That's located beyond the limits of the parking lot anyway.

Mr. Manilio: Yes. G-1 we have no issues complying with some of the trees to be replaced. G-2 is a statement of fact regarding the \$10,000 contribution. Page 6, I believe...

Mr. Buzak: Excuse me? Do you know when that will be made? I assume it has not been made as yet.

Mr. Manilio: We could verify. I'm not too sure if that payment has to be made with the last applicant or not, but that something we can check.

Mr. Buzak: Okay. And if it has not been paid when will it be paid?

Mr. Manilio: So I leave it up to the town, but if it's done prior to a CO on the parking lot...

Mr. McGroarty: There's no CO for a parking lot.

Mr. Manilio: Or final sign...I don't know what sign off you would give to let them park.

Mr. Weiss: Prior to a Developer's Agreement?

Mr. McGroarty: Well there's a Developer's Agreement but there is no CO for a parking lot.

Mr. Weiss: So maybe the payment would be made before the Developer's Agreement get entered in to?

Mr. McGroarty: Entered into or some timetable within that. I mean...however you want to do that. It's really...the Board can recommend that the governing body can decide in the Developer's Agreement.

Mr. Buzak: Well, I guess I just don't want to leave it open.

Mr. McGroarty: Right.

Mr. Buzak: Because it's out there and when is it going to be paid and nobody knows.

Mr. McGroarty: Right. Right. Good point.

Inaudible

Mr. McGroarty: So it could be at the time of the Developers Agreement. It could be within 30 days as a...I mean there will be Performance Bonds...

Mr. Vreeland: Prior to site clearing, maybe?

Mr. McGroarty: Site's cleared.

Mr. Manilio: Prior to sign off of the site plans.

Mr. McGroarty: No, don't do that, because we are going to have to sign off on the site. But it could be prior to the final inspection of the...again...if Lot 5 is improved for parking only at this time, there will be a sign off. There'll be inspections and sign off with the paving, the drainage, the lighting. So maybe as a condition of any final approval of those things. It's not...it won't be a CO, but it will be a sign off by Mike.

Mr. Vreeland: By our office.

Mr. McGroarty: By your office.

Mr. Weiss: Okay, you were on Page 6, number 3.

Mr. Manilio: On 6, 3...also there's a question regarding the buffer planting along Lot 6 when we built a retaining wall. So the retaining wall is about 6 feet away from the vegetation buffer and the wall is only about 6...6 1/2 feet tall. So we think there's enough room to build a retaining wall without disturbing the vegetation, but we're fine with the condition as well. If there's any damaged trees then we would replace them.

Mr. Weiss: Okay.

Mr. Manilio: Lighting, we will revise the plans to show the existing lighting along the frontage of Lot 6. We didn't show the existing lights or the existing light levels. We just showed along the rear. We're revising the lighting, so we're fine with that. Same thing with showing the average per foot candle of .5 foot candles across the entire site. We will have to verify that, that the existing site is .5, we're not proposing any changes to the existing site.

Mr. Buzak: What number are you on...footnote?

Mr. Manilio: H-3. So requesting that we show that their average foot candle is .5 foot candles across the entire site. We verify that for the new lot, which is Lot 5. And for the portion of the lot, on Lot 6 that we are developing.

Mr. Buzak: Okay, so there will be no exception requested for that. You are going to be complying.

Mr. Manilio: So my only concern is we haven't looked at the front of Lot 5, which is existing. So what we're stating is that all new lighting and areas of development will conform with the .5 foot candles.

Mr. McGroarty: Mr. Chairman, if I may.

Mr. Weiss: Go ahead.

Mr. McGroarty: Just for lighting, I actually forgot I had in my review comments on lighting, your plan Sheet 6 had a note. Note 3, which talked about all the lighting being placed on a timer and turned off within one hour of closing with the exception of security lighting. So my question in the report was, you need to clarify for us what will be the security lighting?

Mr. Manilio: Right. So we'll depict that on the plan. Typically for a car dealership, we reduce the lighting to about 30 to 40 percent are illuminated at night.

Mr. McGroarty: So you'll identify those.

Mr. Manilio: We will identify them on the plans. Yes.

Mr. McGroarty: Do we know what closing time is?

Mr. Mastellone: 9 pm.

Mr. McGroarty: 9 pm.

Mr. Schaechter: Monday through Saturday?

Mr. Mastellone: Yes, sir. I think on Saturday we close at 7.

Mr. McGroarty: 9 is the latest then? Okay.

Mr. Mastellone: Yes.

Mr. Manilio: H4 will comply. We'll show the overlay of the proposed building with the lighting. And the rest of the items are items that will comply with the outside approvals.

Mr. Vreeland: Prior to coming to the hearing tonight, I had reviewed Gene's report and I actually had highlighted the open items that I thought need to be addressed by the applicant and we pretty much went through all the items that I had highlighted.

Mr. Weiss: Perfect. Well, thanks for that review, Mike.

Mr. McGroarty: Mr. Chair, one last thing. John? Just a housekeeping matter. You'll modify your plans, refer to the current ordinance, Chapter 550.

Mr. Manilio: Yes.

Mr. McGroarty: In all your plans.

Inaudible

Mr. Weiss: Okay. Does anybody else have questions for John on the testimony he gave? Mike, you're good?

Mr. Vreeland: Yes.

Mr. Weiss: Ed? Chuck?

Mr. McGroarty: I am. Thank you.

Mr. Weiss: Okay, so let me then open it to the public. If anybody from the public has any questions for the engineer based on the testimony he delivered. And I see none. So I'm going to close it to the public. John, thank you very much.

Mr. Manilio: Thank you.

Mr. Weiss: Ursula, I guess you'll bring up your...

Ms. Leo: Our cleanup crew and our Planner, Mr. McDonough. Yes.

John McDonough is sworn in for the record.

Mr. Buzak: Please state your name and business address for the record, spelling your last name.

Mr. McDonough: Hi, everyone. My name is John McDonough, McDONOUGH. I'm the Project Planner.

Mr. Buzak: Could you give us your business address for the record?

Mr. McDonough: My business address is 101 Gilbralter Drive in Morris Plains, New Jersey.

Mr. Buzak: Thank you, sir.

Mr. Weiss: Ursula, we can do the same thing. We've seen John multiple times. I do believe that John has been in front of us recently, I believe. If you ask the same question, licenses are all updated and up-to-date. Chuck, any questions for John?

Mr. McGroarty: No, none.

Mr. Weiss: None that would be appropriate for the hearing. Is that what I'm hearing?

Mr. McGroarty: Exactly. John is obviously a very qualified planner.

Mr. Weiss: Welcome back. John

Mr. Manilio: Thank you. Good to be here.

Ms. Leo: We're up to A-5.

Mr. McDonough: Okay. So for the record...want me to take it away? A-5 helps the Board with orientation and establishes a foundation for the planning conclusions that I've rendered here in connection with the D-1 use variance to allow an accessory use without a principal use on a lot which is not allowed here in Mount Olive and typically not allowed in zoning ordinances.

Mr. Weiss: John, before you get rolling. I just want to confirm A-4 led us to A-5, which was the last sheet on the plan previously...inaudible...But did we...this is the 5 Sheet plan that we got from the engineer.

Inaudible

Mr. Weiss: We did not mark it and we're not going to mark it. We never referenced it. So, therefore, A-5 would be the next one. It would be the first one of your sheet.

Mr. McDonough: And so for the record A-5 is actually a 7 part exhibit. I don't know if we want to refer to the sheets as A-5-1, A-5-2. However...

Mr. Buzak: Why don't we do it that way. Dash one, dash two, etc.

Mr. McDonough: Okay. So on the first page of A-5-1, we see the subject property outlined in yellow. Looking at two lots here, the lot to the left or to the west, Block 8200, Lot 6 and to the right Block 8200, Lot 5, the new parking lot, if you will. The primary aspect of the application before you pertains to Lot 5. But there are modifications to Lot 6 as well. Flipping over to the second page, this would be A-5-2. We're looking at the physical characteristic of the property. You can see right off the bat that this is a dated photograph because it shows the condition of Lot 5 as being undeveloped. And we know now that it has been cleared and it has been paved over with gravel and is used for storage of vehicles in connection with that 2015 approval. We're here to sort of ratify that use and to extend it for five years from now, I'll say from the date of approval or adoption of the resolution. Again, with a cap on it before that use variance would evaporate. In terms of the numbers here over on Lot 6 to the left, we're looking at 2.8 acres, which is developed with a Subaru dealership. It's got a building on it that's 11,413 square feet that was approved back in 2005. There was a second approval or an amended approval back in 2010 associated with that particular building. Lot 5 to the right is 3.4 acres. We're calling it vacant land or paved land associated with that to use for parking. The approval is for what is a 17,000 square foot building at 13,000 square foot footprint with a 4,000 square foot mezzanine that would get you to that 17,000 square foot building. Importantly, there's no intent as part of this application to abandon that prior approval and to continue to vest that right to put that building on Lot 5. This is really just here for a temporary five year use. I think we all know that a use variance generally runs with the land, but if it is self-imposed by an applicant that can put a cap on that particular use, flipping over to the third page, just the color coding to show the GIS land use characteristic. The site as we know, fronts on Route 46, which gives it the appeal for the use that's before you. Excellent accessibility and connectivity to the regional highway network along this main corridor in your community, predominantly non-residential or red as you see with green being buffering and vegetation and then the gold color, the yellow color are residential uses. Importantly, there is an excellent buffering system. In fact, as good

a buffering system as I seen, I actually was taking photographs of it tonight to use on other applications in terms of how nice that separation is between this particular site and the homes that are on Noa Court. So there is some kudos out to the Board for that buffer that was imposed there. It has grown up very nicely and I was happy to hear that it's not being lost or impacted as part of the improvements that are being proposed this evening. Fourth page shows, the reason why we're here. We're in the C-2 zone district where I'll say the use is permitted...the principal use is permitted...as an auto dealership. In fact, I think the C-2 zone is the only zone in town where the auto dealership is permitted. I don't know that I see that for your C-1 district. But again, this is the targeted area for this particular land use. The only reason the applicant is here for a use variance is the accessory parking lot that has no principal use on the same lot. Page number 5 or A-5-5 which show the physical condition of the property as it looked yesterday. This is what you would see if you were on the site yesterday. This shows a picture of the front of the dealership on Lot 6. And basically what you see is what you'll get as part of this application. The applicant has done a nice job of keeping it up and giving it a nice, fresh, clean look, neat appearance and good roadside appearance from Route 46.

Mr. Buzak: That includes all of that...what is the structure that looks like a...either a...garage or some structure on the left hand side of that photo behind the two white vehicles?

Mr. McDonough: I think that would accentuate why this...needs that addition off the rear. I think that this is some sort of a temporary structure where materials are being stored...

Mr. McGroarty: I can tell you what it is. I gave a zoning permit for it. It is a temporary structure just to wash vehicles and the reason why they do that there is so they are not driving water out on to the aisle in the back causing ice.

Mr. Buzak: Thank you, Mr. McGroarty.

Mr. McGroarty: You're welcome.

Mr. Buzak: I think Mr. Weiss had indicated that you were already sworn and you are under oath. As you have been.

Mr. McGroarty: Oh, okay. I did issue a zoning permit to Phil for that one.

Mr. Schaechter: That's really great except when you go to Page 6. You have someone washing a car in the middle of the driveway.

Mr. McDonough: Well, I would...that's not actually washing the car. He's actually drying it off there. He's taking it out and he's drying it. The hose is actually going...

Mr. Schaechter: He's got a hose and a bucket.

Mr. McDonough: ...into the tent.

Mr. Schaechter: You want to go back on that? I mean, you're testifying. Not me. But, there's a hose and a bucket. So, I would say...they are washing the cars there. And the big puddle of water with the soap.

Mr. McDonough: Well, again, there is a...

Inaudible

Mr. McDonough: There is a tent to the left of that. Well that's all I can say. Again, the main purpose of this is to show where the physical addition of the building is going to be off the back. And that buffering system that I really like in the back of the property, not only with the vegetation but the nice vertical grade as well that we see at the back of the property. So there will be a vertical separation and horizontal separation from the neighboring layers.

Ms. Natafalusy: Can we just go back to Page 6?

Mr. McDonough: Yes.

Ms. Natafalusy: What's the trailer...parked for?

Mr. McGroarty: The container, you mean?

Ms. Natafalusy: The container.

Mr. McDonough: That I don't know.

Inaudible

Mr. McGroarty: That I did not give a zoning permit for.

Ms. Natafalusy: And the little structure next to it too.

Mr. McGroarty: Well, I think the applicant should...

Mr. Schaechter: He left the room.

Inaudible

Mr. Buzak: Can I just get this straight? As we are looking at A-5-6, now are we looking at the back of the building...the gray with the sign there...

Mr. McDonough: That is correct...inaudible...at the board...north would be to the left. And from this particular vantage point, the building extension would go to towards your left.

Mr. Buzak: Toward the left?

Mr. McDonough: So Route 46 would be to your right. From this vantage point and the addition would be extending to your left, not towards you, not away from you, but off the left of the building. Yes. It's filling that void where you see pavement to the left.

Mr. Nelsen: And then you lose those parking spaces?

Mr. McDonough: Yes, I believe on the plan those spaces were coming out.

Mr. Weiss: Are we going to be able to get some answers as to what...what's with the container?

Mr. McDonough: I think we can get an answer...certainly if there is something back there that's not supposed to be there, we will either get a permit or it'll go.

Mr. McGroarty: Well, I can tell you right now, you're not getting a permit for the container...not from my office anyway.

Mr. McDonough: Right.

Mr. McGroarty: That's not an accepted accessory structure. So.

Mr. McDonough: It'll have to be cleaned up as part of the application. That's probably the reason why we're internalizing the operation here as well in the back.

Mr. Schaechter: So, Chuck. The tent that's in...or the structure that's to the left on 5, is a different structure that...what's to the...what's behind the container. They actually have 2 different structures.

Mr. McGroarty: It would seem so. Yeah. The white one is the one I gave them the zoning permit for. I don't know what the other one is. Unless it's the same one, at a different angle. I don't know.

Inaudible

Mr. McGroarty: Doesn't look the same. The applicant is here tonight. He should address it.

Mr. Weiss: I have some notes. We're going to make sure we address that. But John, let's continue.

Mr. McDonough: I think the stipulation will be anything that is not lawfully existing would either have to get a permit or be removed as part of the application. We can drill down on what that is.

Ms. Natafalusy: The structure to wash the vehicles doesn't show up on the site plan.

Ms. Leo: It's temporary. It'll be gone as a condition of this approval. The white? Yes. I think Chuck said it was a temporary...permit, I believe.

Mr. McGroarty: Yeah, that was my understanding that it would be.

Ms. Natafalusy: Okay.

Mr. McGroarty: But it will be good to have Phil come back and clarify on the record.

Mr. Weiss: Okay, so John...

Mr. McDonough: And then the final page is a A-5-7 is simply to show what's happening on that adjacent lot on Lot 5 presently with the grading and the storage of the vehicles. Again, that's a gravel condition. The applicant is proposing to actually pave that over with asphalt and to stripe it in accordance with what's been discussed this evening.

Mr. Buzak: And what is the advantage point from which this photograph is taken?

Mr. McDonough: So this the photographer is standing on the access driveway. Route 46 would be to the right from this vantage point and this would be looking to the...I'll say...get on my bearings here...this will be looking to the east. Yes, to the east. The homes would be on the other side of the bridge, on the other side of the tree line. So with that foundation, again, this is in the C-2 commercial district, we're not here for use variance for the dealership. We're here for the use variance for the accessory parking lot without a principal use on Lot 5. Running this through the four parts of the statutory Medici Test for D-1 use relief. I find that all four parts pass the first part. The aspect of particular suitability is met because accessory parking lot will be adjacent to the use that it is going to serve. One of the things that I brought out right at the outset was that this can't be leased out to a third party, that it has to be hooked to that dealership. That can certainly be a condition of approval. And I was happy to hear that the applicant would stipulate to that as well. So I think that's a strong nexus in terms of the site's suitability for this particular land use. Second part of Medici points to the special reasons of promotion of the general welfare and the other core purposes of the land use law. You've heard through the applicant that this is going to enhance the existing business in two ways. Number one, it is going to enhance the service component. With that addition off the rear and it is going to enhance the sales component with the additional inventory. Like any business, this is product. This puts product on the shelf and it's important to the viability of the business to have the product on the lot, which is what the proposal is. This is going to promote efficient land use. This is going to promote a variety of land use in appropriate locations. And it is going to promote aesthetics with...I'll say...the finishing of the site with the additional landscaping. The 75 trees. The 207 shrubs. And again, the paving and the putting of a nice clean edge on what is now an unfinished parking lot. All of the above promote core purposes of the land use law, especially Purpose A, promotion of general welfare. Purpose M the efficient use of land. Purpose G the provision for a variety of land uses. And Purpose M...I'm sorry... and Purpose I the promotion of aesthetics and a desirable visual environment. Third part of the Medici Test focuses on the impact from a planning standpoint, no substantial detriment to the public the surrounding properties. Again, relief is mitigated by two key stipulations and conditions that the Board can impose the durational limit that this will have a sunset provision after 5 years at which the applicant either has to eliminate the use, come back for an extension, or come back with the building that it intends to build here. So there is a timetable on this. And then also, as I just said, the operational limit that there'll be no leasing to a third party, that any use of this accessory lot can only serve the principal use on Lot 6. And then finally, in terms of the impact on the zone plan and the ordinance, certainly going to promote the Master Plan goal for a viable business base along Route 46, business retention being as important as business attraction. But importantly, the degree of departure from the zone scheme is actually not substantial here. This physical build out could manifest here as an accessory parking lot if that lot line were not there. And that was one of the fundamental questions I asked as well was why not just evaporate the lot line and merge the lot line? There are technical problems with that, which I'm not sure if our engineer testified to. And I'm not going to try to

testify to that. But there are problems from a Highlands standpoint, and I think from a physical planning standpoint in terms of merging these two particular lots that present an encumbrance and a practical difficulty in terms of actually making this an accessory use to the principal use on Lot 6. So with that said, I believe the four parts of Medici are met here. Site suitability, special reasons, public impact and zone plan impact. With respect to the justifications for the bulk relief and the three bulk variances that are before the board, again, pertaining to the light coverage at 63.9 percent versus 60 percent is consistent with the Highlands Redevelopment Plan and this is going to be a slight modification to what has already been approved. But the net is going to be 63.9 percent. The retaining wall, I believe, has been aired out to a pragmatic or practical extent that that additional half a foot will provide a safety benefit of a flatter landing area or pavement area around the building. We're getting close to meeting a steep threshold at that 5.6 percent or 6 percent cross slope presently so going another half a foot to conform would actually make that even steeper. And we think this is just a better zoning alternative. And then finally, the tree replacement to provide 75 trees versus the 168 required is mitigated by the inclusion of 207 shrubs, which will provide a biomass on the property that is essentially the equivalent of the loss of the trees, plus the contribution of the tree fund the \$10,000, approximately \$100 per tree for the shortage, which will also mitigate the impact of that shortage of trees. All said all three bulk variances are justified under the Flexible C Balancing Test whereby the benefits of the application as a whole would substantially outweigh the detriments. And in terms of the benefits all of those use benefits that I just cited would carry forth and carry down to the bulk relief as well. Finally, with respect to the design relief and those four deviations from your design standards that the engineer elaborated on, meet the lower standard of Section 51 under the land use law. The applicant doesn't have to show the balancing here and the betterments outweigh the negatives. Simply has to meet a standard of reasonableness and impracticality in that regard, the relief for the parking stall dimensions. I believe the number that we've actually ended up here are 204 spaces as I see it on Lot 5 would be undersized here and they would be delegated for non-employee, non-customers spaces or in other words, inventory spaces, is certainly reasonable in consideration of the prior approval for this site and also reasonable and consistent with the industry standard for closer and smaller spaces for inventory vehicles. The buffer relaxation is reasonable. Again, along Route 46, given the nature of the land use and the fact that these are the store front windows, if you will, to see the product, lack of a buffer along Route 46 enables the product to be seen from the road side. And then finally, the relief related to the parking lot landscaping is reasonable. To the extent that it is temporary in nature, that relief will go away when the site is ultimately built out in accordance with the future land use plan here. And there is a future site plan in effect as well. From an impracticality standpoint, strict or literal enforcement of the ordinance in this regard and in this particular instance would serve from a planning standpoint, no practical purpose. I think I failed to mention that there is environmental relief as well for the 1,200 square feet of steep slope disturbance, which also meet a standard of reasonableness here to the extent that those are manmade slopes that were created by the cutting of the parking lot into the landform, previously disturbed, not disturbing raw land or slopes that not have already been manmade or altered. All said, I believe the statutory standard of relief for the statutory burden of this applicant is met here with the reasonable limitations put forth. A project will not cause substantial detriment to the site, to the area, or to the intended purpose of the zone plan. And in that regard, approval is warranted.

Ms. Leo: Thank you.

Mr. Weiss: Thank you. Does anybody on the Planning Board have any questions for Mr. McDonough? I think we're good here. Right? Okay.

Mr. Buzak: Working backwards from the most recent testimony. The standard for the design exception is of Section 61...51 as you said, are reasonableness and impracticality. And you told me why it's practical to have 205 undersized lots, but you didn't tell me why it's impractical to not have them.

Mr. McDonough: Well...

Mr. Buzak: And that's the standard. It's not that it's practical to have them. Instead it's impractical to comply with the requirements. So could you explain to me why it's impractical for you to comply with that requirement? Because you certainly have the room to...have larger spaces.

Mr. McDonough: Sure. I sort of threw a blanket statement in there at the very end that went towards that standard of impracticality. But the word impracticality means that strict or literal enforcement would really serve no practical planning purpose. To have greater spacing between inventory vehicles that people are not necessarily getting in and out other than the employees on an occasional basis to shunt the vehicles across the property. Again, I believe serves no practical planning purpose, so it's impractical to impose that condition on this particular applicant here. It's something that is common and consistently seen in the industry just to stack these inventory vehicles closer together. And again, it gets product...I'll use the phrase....product on the shelf.

Mr. Buzak: The landscaping exception I thought was an exception with regards to the requirement that there be...inaudible...1 tree for every 20 parking spaces? Is that what...

Mr. McDonough: That's correct.

Mr. Buzak: And you're seeking relief from that to not provide that?

Mr. McDonough: Correct.

Mr. Buzak: So it's...So what's the...what's the...again...the impracticality or the hardship that would be worked on the applicant if that standard were imposed with regard to the current...not the current...proposed use of that lot...6?

Mr. McDonough: Lot 5.

Mr. Buzak: Lot 5.

Mr. McDonough: So the way of keeping this right in front...so again, it's specific to this particular land use. We commonly see this with the dealers. Trees have a negative impact on inventory to the extent that they can cause damage, scratches or impede the visibility of the product with which the applicant is looking to sell. So the breakup of this particular parking lot, again, on a temporary basis and the negative impact that it could have on the inventory that's being stored there, I think would create an impracticality in practicality. And in that regard, imposing trees on an inventory parking lot for an auto dealership serves no practical planning purpose.

Mr. Buzak: With regard to the use variance, in terms of the special reasons you spoke about the fact that granting...now we're told that the use variance...to allow this parking lot or this

parking lot to exist on a lot. You talked about the efficiency of land use and the aesthetics and those are conclusion statements. Can you explain how this is efficiently be utilized?

Mr. McDonough: Well, I believe this is an efficient form of land use by virtue of the fact that the two sites are side by side. It is not a typical in the industry today to see dealerships storing inventory on a...I'll call it remote parcels again to maintain that product, get that product off of the delivery vehicles. Here we happen to have a lot that's right next door. So there is certainly an efficiency in terms of proximity to the existing facility. So in that regard, I think that drills down on the suitability and then the special reason towards efficient land use. With respect to aesthetic and the overall public benefit here, again, part of this application is to ratify what the applicant has been doing, which is a partial build out. The applicant clearly seeks some form of temporary approval from the Board to finish this parking lot off in its condition without the building. And in so doing, it will provide a nice clean pavement. It will provide a nice clean edge. And it will also stipulate to provide...I believe it's over 300 total plantings on the property. So give the property a nice, clean, soft edge. And certainly improve the appearance over that which presently exists.

Mr. Buzak: Well, which presently is as a result of the lot being cleared and the vehicle there in place there now. What was there before was a wooded one.

Mr. McDonough: Understood.

Mr. Buzak: And I you know, the reason I raise that is, Mr. McDonough, as Mr. McGroarty and others pointed out here...you know...the use was already... was put there. The approvals were not in place. And now as part of the justification for it's...it's they were going to make it better. Well, that's sort of self-created. Had you not done that, it would look good the way it was. So I want to get around the self-creation issues as being a justification for granting a use variance. Because if we do that, then what's going to happen is we're going to encourage people to violate the law and then beg forgiveness. Come in here and say, okay, we need approvals for this. And say, we want to because look what's there. And now we're going to improve that. So I want to get around that. So we don't create a precedent here.

Mr. McDonough: Maybe the best bet then is to drop Purpose altogether. The promotion of a desirable visual environment, since it's not the core reliance really focusing on Purpose A the promotion of the general welfare and Purpose G the provision for a variety of uses in appropriate locations.

Mr. Schaechter: Can we make it a condition that at the end of the five years should we grant this, that they have a few options. Either put a building up or return this parcel back to its natural state. My fear is and the applicants has gone back to us and said well you approved this in 2015 and...you know...this is what...this could be an ongoing thing. None of us could be here in 2025 and it's going to be referenced...well you gave approval to use this as a parking lot and pave it out and put lights in and make it all nice and beautiful in 2020. And it was five years. But...you know...the economy hasn't turned around. And...you know...there are a million stories we can go with this and this could go on for perpetuity. Every five years they come back and we've got...we basically have a parking lot being built. And they've gone around the channels to do it. So can we make that a condition that in five years, it either gets turned back to its natural state or a building gets built?

Mr. McGroarty: Can I weigh in on it?

Mr. Schaechter: Sure.

Mr. McGroarty: I think this site is a little different than typical because it is in the Highlands Redevelopment...because it is a Highlands Redevelopment Area. It's only two part...the Highlands Redevelopment Boundary goes across the highway to incorporate Easy Storage. But that was done just for the purposes of getting the impervious threshold to Highlands. I think it's different here because it's within a Highlands Redevelopment Zone. The purpose of having that Highlands Redevelopment designation is to provide more flexibility. That was built into the Highland Statute because otherwise it's very restrictive. As the engineer said earlier, actually we've had conversations about merging the properties and if there's some legal obstacle to doing that, that's another question. But I'm not sure. Initially, I thought Highland's would have a difficulty with allowing a merger, but I don't think so, especially because it's the...Highlands boundary... the redevelopment boundary does not recognize the lot boundary. It just incorporates all the land area. It's in my report. It's maybe not easy to see. But you can see the boundary...it's on one of the pictures that I have here...one of the photos on Page 3. So the point being, except for the lot boundary between 5 and 6, which exists obviously on its legal boundary and it exists on paper. But to the naked eye you wouldn't it's...if this is designed properly, you won't know it's a separate lot. And one other thing I think that really argues in its favor is just one access to the highway, one point of access not two. So I think if it's...if it remains a parking lot there after 5 years, there's probably some...but I don't know. I mean, the plantings that are going in now...are going...the plantings required will be going in. Now, I just I'm not sure that it would be the same as in some other location in town of someone just creating a separate parking lot.

Mr. Schaechter: So instead of the applicant coming back in 5 years to re-up their temporary position on this...inaudible...make it a condition that in 5 years they either merge the two lot, if it is possible. You know...that's the...inaudible...you merge the two lots, you make it a...you know...part of the existing dealership. It goes on for 5 years temporary or it gets turned back.

Mr. McGroarty: And if they merge the two lots, it may trigger a coverage variance again because now it's just one parcel. It may not because they've just doubled the size of the land area as well. I don't know. But that in the scheme of things is probably relatively insignificant in terms....again, the Highlands...the purpose of the Highlands Redevelopment designation is to allow a maximizing of impervious coverage and development within their boundary. And it sort of allows that to occur separate and apart from local zoning. It doesn't mean you have to abide by that. You can impose your local zoning as well. But it gives the flexibility to say that in this redevelopment area there's an outside boundary drawn within which you can develop more intensively than you would otherwise be able to.

Mr. Schaechter: And I'm fine with that. I just wanted to see this as this temporary lot either become a permanent lot or it gets turned back. I mean...we just can't have these things go on in perpetuity because in 5 years...I mean...we had a perfect example of...you know...a developer went 30 years without developing something. It's just that we get folks in front of us year after year.

Mr. McGroarty: No, I. No, I understand.

Mr. Schaechter: I'm okay with it...inaudible...temporary for 5 years. At the end of 5 years, they have to remedy it. It either becomes part of the other lot or they put a building on or it gets turned back.

Mr. McGroarty: Well, again, from...putting it back to...

Mr. Schaechter: ...I'm just asking whether we can make that a condition and whether they will agree to that or not.

Mr. McGroarty: Well, again, you could...just playing it out...if you were...even if it were possible. Well, it's possible. Everything is possible with enough money. But if in 5 years, all the asphalt is ripped out and trees are planted to restore it to a forested condition which will take effect in 20, 25 years hence, that's possible. But I want to again say and I'm not being...I don't mean to sound sarcastic...I'm not being sarcastic. That would actually contradict the whole idea of having this designed as a Highland's Redevelopment Area. Bear in mind, the Township of Mount Olive has fully endorsed it, otherwise it wouldn't have been allowed.

Mr. Schaechter: Right. And we gave approval for a building there.

Mr. McGroarty: Two separate things. Two separate things.

Mr. Schaechter: We did. Right.

Mr. McGroarty: There's a Highland's that you gave site plan approval...well the Highlands Redevelopment Plan came first, which allowed for this to be developed in the first place. No question about it. Without that Highland's Redevelopment designation, Lot 6 would never have gotten site plan approval. So I see your point. I just I don't know if those are the only two choices. I guess what I'm thinking. If in 5 years they're not ready to build a separate building for a dealership, perhaps they want to build a building as a maintenance facility for the cars.

Mr. Schaechter: It's a building.

Mr. McGroarty: Right. Okay.

Mr. Weiss: As it stands right now, no matter what or how soon they get an approval, this applicant has to come in front of us in 5 years. Is that accurate?

Mr. McGroarty: If you approve it the way it's proposed.

Mr. Weiss: So the way it's proposed. And if it goes through, we'll see this applicant again in 5 years. And so I kind of like what you're saying. But doesn't that also give the flexibility for Planning Board in 5 years to say...you know what...you've had 5 years. Now the Planning Board at that point says, sure, we'll give you another 15 years like you referenced. It's up to the discretion of the Planning Board. If you and I are so fortunate to still be here, I think you and I would handle it slightly different. But I think the fact that this applicant has to come back to this Planning Board to discuss the options that are in place at that time kind of gives that control to the Planning Board still.

Mr. Schaechter: I just think that we need to put some guidance in there for the Planning Board of 2025 and not have it go as an open book because then it's not a temporary parking lot.

Mr. Weiss: I don't know if it's our place to advise the future Planning Board. I think we're just making a decision based on the world as we see it today. We're kind of putting a time stamp on it. In 5 years, someone else is going to have to make a determination as to what's best for the applicant and for the town. I would agree with you. I think if I'm sitting here with you in 5 years...

Mr. Schaechter: We're both doing something wrong.

Laughter

Mr. Weiss: I would agree with you and would say, Mr. Applicant, it's been 5 years. Make a decision. Because I'm not willing...again, I'm making it up...in 5 years, I'm not willing to extend this. And that's the prerogative that the Planning Board has in 5 years. To ask the Planning Board to put it a condition now based on something that may be happening is the only reason I'm disagreeing with you.

Mr. Schaechter: But again, the problem is in 5 years, if they should not approve it, then it's just an empty lot...an empty parking lot sitting on Route 46...

Mr. McGroarty: But it's a...the other condition, of course, would be that it not be leased out to any other party or used by any other party. So it's really related only to Subaru or to whatever dealership is on Lot 5, whatever the lot...I can never remember the two...

Mr. Weiss: Lot 6 is the existing...

Mr. McGroarty: For some reason...I don't know why I got that mixed up...

Mr. Weiss: No problem, Chuck. I got it.

Mr. McGroarty: Yes. So I think it's not going... it's not a freestanding used car lot. It cannot be that. It cannot...it will always have to be...you know...an extension of the existing dealership there. And if the lots again, if they merge them, if it turns out that they can be merged and they are merged in a year, two or three, they may not even need to come back. They may...they may not.

Ms. Natafalusy: If they merge it, they lose their site plan approval...inaudible.

Mr. McGroarty: They might. But, not necessarily because a C-2 Zone doesn't exclude more than one building if it's done as a comprehensive site plan. So, that would give them the opportunity to come back and say it is in effect a comprehensive site plan.

Mr. Buzak: But they have to come back to get that....

Mr. McGroarty: I think they should. Yes, I would. I'm throwing a lot of different possibilities out here. I think if any kind of change from what we're talking about tonight, I think a return to the

Board in a public hearing is the best way to handle it. And they may...like I said...there may even be lot variances or something.

Mr. Buzak: Just...if I might...as the conversations been going, when we talk about tying it to the existing use on Lot 6. First of all, is it true that the lots are in common ownership as opposed to separate ownership...

Ms. Leo: They are held in different ownership.

Mr. Buzak: I'm sorry.

Ms. Leo: Different ownership, different LLCs.

Mr. Buzak: Okay, so we have two different owners...

Ms. Leo: But we will agree as a condition of approval that the use on Lot 5 will be tied to the use on Lot 6. We will agree to that as a condition.

Mr. Buzak: And I guess getting to that point, when we say tied to it, that's a pretty broad term. And I'm wondering if we need to be more precise. In other words if we would say that it's to be utilized to...park new vehicles...new inventory vehicles on that site for the dealership. Whatever the dealership may be and it's got to be a dealership...a new car dealership on Lot 6. Now we've circumscribed the use of that. And I don't know if there are other things to do with that. But just the term...because as I try to write the Resolution and I start thinking about it it's well tied to...what do we say? It's not even...it's not a common ownership. So...you know...we have that issue. If you have a service area as being proposed, potentially...service facility on that lot and dealership remains on the existing lot or for a...inaudible. Is that still within the parameters that we're talking about? And I just...sort of like when we talked about Amazon earlier. You know...what can we do and what's minor, what's major. What do we mean when we say tied in? When we use that term...

Ms. Leo: Shall be a parking lot...accessory to the use on Lot 6?

Mr. Buzak: And we need to tie it to the dealership to that use. So I guess I'm trying to do is narrow the use variance to be very precise as to what this is. So that there's no question later on as to what you can do on that lot.

Mr. McGroarty: Right. So the parking on Lot 5 has to be inventory belonging to the dealership on Lot 6. Any employee parking on Lot 5 is limited to only those employees associated with the dealership on Lot 6. I don't know what else... So it's the inventory and employee parking. I don't know there would be...and that is the limit of what can be used for those spaces. On Lot 5 based on this approval so it can't be converted to some other use. Not without coming back in and seeking relief.

Mr. Buzak: Right. That's good.

Ms. Leo: The customer...

Mr. Buzak: The only thing I was thinking you might add...

Mr. McGroarty: I mean and any customer parking would be associated only with the dealership. There's probably going to nobody parking there and walking somewhere else anyway...inaudible. Right? So there's inventory, employees, customer parking. I don't think there is any customer parking lot.

Mr. Buzak: I think you want customer parking closer to the showroom area.

Mr. McGroarty: That's their argument for the smaller spaces on Lot 5. But if there is any customer parked over there, any one parking on Lot 5, whether it's short term or for an extended period of time such as inventory, all have to belong and relate directly to the dealership on Lot 6, whether it's Subaru, Subaru today or something else in the future.

Mr. Buzak: If there were a used car...a Subaru used car dealership...dealership may be the wrong word...a used car lot. Would that be permitted?

Mr. McGroarty: I would say no. Because I think that that's a separate...it would be a separate operation...unless there's testimony here that I haven't heard. But I can tell you, separate from the dealerships, the new dealership dealers can get pre-owned vehicles. You know...every dealer that exists probably has pre-owned vehicles on it. But what a used car lot such as Trade Zone Auto down at the bottom of Route 46, that's different.

Mr. Buzak: How about a used car? As you said, it's pre-owned vehicles of Subaru.

Mr. McGroarty: Well they tend to mix. I think maybe the experts here can testify to it, but I think my experience is they tend to mix that into their inventory. So you have new vehicles, you have pre-owned vehicles.

Mr. Buzak: How about trade-ins.

Mr. Weiss: We're dealing with car sales.

Mr. Buzak: Right.

Mr. McGroarty: And again, there's those, you know, on the bottom of 46, this Trade Zone Auto, it's a used car dealership. And that's what they call themselves. If they are in the industry, they still do that.

Mr. Buzak: Everything is pre-owned.

Mr. McGroarty: I don't think we want to get into those kind of distinctions because then we'd have to be sort of traipsing through the parking lot.

Mr. Buzak: Right. Right. Right.

Mr. Weiss: Here is the potential problem, Chuck. If you would be so kind, give me another example of what could go into this.

Mr. McGroarty: So in the C-2 zone, you can have office retail use, retail sales of goods and services...

Mr. Weiss: So let's assume somebody comes to Phil, offers him so much money. He says I'm done and they put up a retail center.

Mr. McGroarty: Well, they'd have to come back here.

Ms. Natafalusy: ...changing use.

Mr. McGroarty: ...anything changing the use.

Mr. Weiss: So that answers that question.

Mr. McGroarty: Yes. Anything different from what is. Anything they want to do within the C-2 zone still needs site plan approval. No question.

Mr. Weiss: Ok, so then that eliminates that fear.

Mr. Manilio: The applicant will stipulate to that, Mr. Chairman.

Mr. Weiss: It's an auto dealership, whatever the precise word is. I think you probably have better guidance now.

Mr. Buzak: I think the general condition for agreeing upon it's kind of the nature of the language that is important to misrepresent.

Mr. McGroarty: Oh, there is one other thing. If I recall correctly and I'm not sure I have it right, but I seem to recall this getting approval for a second freestanding sign when it came in back in 2015. If that's the case, you don't really need a second freestanding sign. I don't believe you don't anyway right now for ancillary parking. And that I think would maybe alleviate some fears that would suddenly become something else because it'd be a new sign up there advertising used vehicles or whatever. So when that site plan approval was granted in 2015, I'm pretty sure it was the second freestanding sign which was going to be almost adjacent to the Subaru sign. There is one that shows?

Ms. Natafalusy: There's a sign over here right by the driveway.

Mr. McGroarty: On the current plans? What I'm getting at...if my recollection is correct...then there shouldn't be? I don't think there's been any request for a new sign there and there really seems to be no reason for.

Mr. Manilio: I don't believe we showed the second sign on the plans. But you are correct. They did get approved for two signs and if remember correctly, part of discussion then was to combine the two signs with a plan that kind of tied up together. I don't remember if anyone was at the Board Meeting, but that was the discussion. Since we are effectively still asking for the same for approvals to still be in place for five years if they can build the dealership, I think it's prudent to keep

the same variance with the signage. That's just my thought. We're not going to build it because of the parking lot idea about the site.

Mr. McGroarty: That's a good point. Just the sign, you're not giving up the rights to what you had approval for that sign, but that sign only gets triggered at the time you feel when you do the building.

Mr. Manilio: Correct.

Mr. McGroarty: So there's not going to be a sign for this ancillary parking lot.

Mr. Mastellone: With any new car dealership. Not only is there a sign for, let's say the Subaru, there is also a sign for service or a sign that says Subaru certified pre-owned cars. We'd like to have the right to be able to put that sign up. The property was not inexpensive and we would like to keep that and be able to put that sign up as we develop the property.

Mr. Weiss: But right now, you're not developing property Lot 5 as a parking lot.

Mr. Mastellone: What we're going to develop in that, we're going to put curbs and drainage and blacktop and all that in. And we'd like to be able to put a sign.

Mr. Weiss: For a parking lot?

Mr. Mastellone: Perhaps. Subaru, any manufacturer has a various amounts of signs and we'd like to be able to put up a sign that said Subaru pre-owned vehicles.

Mr. Weiss: So on your existing Lot 6. Wouldn't that be the appropriate place for these signs to go?

Mr. Mastellone: The front of the lot...the whole front of a lot it's all really retention base? It really is in that area.

Mr. Weiss: Well, it almost sounds like a contradiction because you've made it very clear that like Lot 5 is going to be for storage of vehicles. Why do you want to advertise to the consumer. This is like you're almost directing people to this lot. We've all agreed there's no people going. I agree with you that when you're in full operation, that becomes part of your facility. I think you come back to us and tell us about the sign. Part of what we spoke about today was no traffic, no consumer, there's no parking, there's no access to the public. So why would you want a sign back there?

Mr. Mastellone: Well, first of all, there is access to the public. The same access we have, which is through our property.

Mr. Weiss: One minute you're not going to encourage folks to go back. Are you?

Mr. Mastellone: If you want to see a car dealership parking lot busy. Check it out when the dealership is closed. Sundays, nights, people are on parking lots looking at cars when there's no

salespeople there. I don't blame them necessarily, but the public is invited to go on to a car dealership. It's quasi public.

Ms. Natafalusy: Where would you be looking to put the sign. It's not on the plans.

Mr. Mastellone: Somewhere in the front, somewhere on that particular lot. We just built a new store down in Robbinsville. We have both a Jeep Pylon sign and a Chrysler Dodge Ram sign because they kind of want some separation. So there are a great deal of signs and we'd like to preserve our right to put up a sign to advertise our business. I mean, this was a pretty significant outlay by us. Certainly it would have to be in keeping with zoning, but we would want to have the option to put up the sign and we would like that option to be at any time of our choosing.

Mr. Buzak: What was this? I'm sorry, where was the sign supposed to go?

Ms. Leo: On Lot 6.

Mr. Buzak: I'm sorry.

Ms. Leo: On Lot 6 for both properties.

Mr. McGroarty: Well, it was a sign for Subaru as I remember.

Mr. Buzak: Because I see Sheet A-2 to which is...

Mr. Manilio: ... it is actually two signs, one for Subaru. And at that time, a Kia dealership. Inaudible...and there were a lot of discussions back then. Why we couldn't put them on one sign. And we couldn't because of the two franchises wouldn't allow it. The idea is that we would put a planter that would kind of unify the two signs and take a look at one sign, but would still be two sign.

Mr. McGroarty: So on Sheet 3 of Exhibit A-2 where it talks about a proposed freestanding sign. That's what you were talking about, John, earlier landscape features, including the existing and new signs. So it would all go in that one landscape isle.

Mr. Manilio: Correct. That planter.

Mr. McGroarty: That planter. The only thing that, again, I don't have the resolution in front of me, but I'm pretty sure you needed a variance for that second freestanding sign and the basis was you had a separate dealership on Lot 5. And that's not the circumstance right now. So that the basis for the variance changes somewhat, doesn't it? I'm not saying it's invalid, but you're no longer asking for a sign for a separate dealership. Is that correct?

Mr. Buzak: I'm not sure, Chuck. That the designation on what we marked as A-2 is the second sign because the A-2...inaudible.

Mr. McGroarty: It says...

Mr. Buzak: It says proposed freestanding sign...inaudible...to reach and use our existing new site design as we are.

Mr. McGroarty: Right...new sign.

Mr. Buzak: That's the approval. And you're saying they shouldn't be able to activate or implement that second sign on Lot 6...Lot 5 is different use...a dealership or whatever.

Mr. McGroarty: I'm not...right now I'm just questioning. I'm not saying they shouldn't do it. I'm just saying. I'm pretty sure, because I remember the conversation to some extent. They needed a variance for that second sign and that at the time it was a separate...it was going to be a separate dealership. And so the logic was, well, we've got a sign for Lot 6 and there's going to be a different dealership on Lot 5 and they would want their own sign. This is the best place to put both of them. And I think that was the basis for the variance. So if there's going to be more than one freestanding sign, it would need a variance. They got a variance and the basis of that variance was two dealerships.

Mr. Buzak: Right. Right. As a single access...

Mr. McGroarty: Correct. Right now, we don't have two dealerships. So I don't know the basis for that variance carries over today. Not saying it goes away. But I don't know if they get to activate it.

Mr. Buzak: That's one of the things. You know, the context is based upon testimony against...inaudible...right? It's probably not as particularly as it may be.

Mr. McGroarty: It may be. I just don't have the Resolution with me.

Mr. Weiss: Do you have any input for us as far as how you feel about this?

Ms. Leo: Sure, I'll take a shot. So the applicant...owns two separate lots, I perfectly understand the issue about the building. But if the applicant can retain its right to construct a sign in compliance with all of the township requirements, the Resolution language provided for the separate entrance since there were no separate entrances. We didn't want to create a safety hazard. A question as to whether there's two uses. He just wants to maintain his right to have a sign in accordance with township standards.

Mr. McGroarty: But that's the thing. It wouldn't be in accordance with township standards. It would be in accordance with the variance relief that was granted.

Ms. Leo: Agreed if there's a building, but as the lot stands there today, a stand alone lot has a right to have one freestanding sign of however many square feet.

Mr. McGroarty: As an accessory use to the principal use. There was no principal use. You're getting a d variance tonight. You're asking for a d variance for parking. There's no principal use on this lot. Unless the Board grants the variance for the parking as I don't know if they declared a principal use, but they...no, someone can't just come in...even though the ordinance allows for a freestanding sign there has to be a principal use there because the sign is an accessory.

Mr. Weiss: I have an opinion in that you're coming in front of us asking for a variance to construct a parking lot when there's no principal structure, no primary structure. This Planning Board seems to be pretty much on board and looking to grant it. And now at this hour you can tell what I want to sign for too. My suggestion is let's drop the sign. No one's asking you to give up the right to put up a sign when you have a business. And so I don't disagree that there will be people driving in off hours. But we've come to some compromise and I think granting a parking lot when there's no principle structure.

Mr. Mastellone: The whole front area of the park. If this was just about having the parking lot, we could have bought a piece of property off of Route 46 somewhere else, gotten approval, paved it, fenced it and made it a storage lot. Since we purchased the property on Route 46. The idea was to give us a greater presence on Route 46. So I'm sure everybody on the board is aware that Chevy Dealer has recently sold Buick Cadillac down the street and Hyundai's store is also for sale. We are in the car business not having a tremendous time, and I'm sure nobody here is going to cry any tears for us consider all the poor car dealers. But I've got to be honest and say this. We employ a lot of people. We bring business to the town. And I'm asking that anything that would help us market our product market, our dealership, as long as it is within the confines of what the town would allow as far as variances, heights, things of that nature. I just want to be able to market my business and market it to the best degree within the confines of what the town feels is fair and right. That's all I want to say.

Mr. McGroarty: If you were thinking about allowing you know that. Well, I'm trying to think as we're doing this. But if needed, if Mr. McDonough, putting him on the spot, had to give testimony tonight to explain why the variance for that second sign is still applicable, even if there's not a dealership there. But perhaps if you were to allow it again, it just like the use of the spaces themselves, the sign cannot indicate anything other than the principal use, which is on which is the dealership. And I say it can't indicate anything. I don't know what. I don't know what the wording on the sign would say. That gets tricky. I don't want to get into controlling the message.

Mr. Mastellone: But I think I could give you an idea of what something we'd like to put up would be something saying, perhaps a sign that said certified Subaru pre-owned vehicles. So come on it's a Subaru dealer. Everybody knows

Inaudible

Mr. McGroarty: Let me answer that, because I think you might be able to, but they may have to come back because that pylon sign, we have to make sure it's I'm not sure you can add to the base of it without interfering with, sight triangles and such.

Mr. Mastellone: Also, Subaru maintains how a sign looks. They'll give you a choice that could look like this, this, this or this. That's it. You can't say well, I'd want to put a certified pre-owned sign underneath the Subaru oval. They won't accept that.

Mr. McGroarty: I mean, the second sign was the subject of some conversation back in 2015. There was a design for it, which would have to be if the Board approved, it would have to be on your plan, John, today, again. And if it conforms with the design that the Board at that time felt was comfortable with. There'll be two signs. It'll be on a landscape island. And as long as that sign

doesn't advertise something which is contrary to the conditions that you would oppose on the vacant lot. Right now, whatever which one it is, then maybe it's not a problem. But, you know, I wanted to make sure that we're clear about that.

Ms. Natafalusy: It would have to go on the existing.

Mr. McGroarty: No, it would be the second. One possibility would be, you would say tonight, we'll allow you to build the second freestanding sign that you got approvals for in 2015. Both sides would then be incorporated into this little landscaped island. And it would have to match whatever those dimensions were of that freestanding sign. So as to create two freestanding signs, we'll be in close proximity.

Ms. Natafalusy: That's what I meant. As opposed to someplace else.

Mr. McGroarty: Yes. Well, that's what was approved. Now, in terms of the message, you would have to be, there have to be...

Mr. Mastellone: We'd be more than happy, if you don't mind, we'd be more than happy to stipulate that the sign would conform with the dealership use. In other words, Subaru say certified pre-owned, something of that nature. We don't want to send any other message. We didn't buy this property and the dealership to put any other message through other than Subaru.

Mr. Schaechter: I think what Chuck is saying is that you would have to go where the existing sign is...in the area.

Mr. Mastellone: As long as we could get it a little distance so they both could be visible.

Mr. Schaechter: ...that's what you got approval for...

Mr. McGroarty: John, I think you were the engineer at the time.

Mr. Manilio: Yes, I was.

Mr. McGroarty: So if it's not visible, John is the one to argue with. But they presented it as such that they would not interfere with each other, both would be visible east and west on Route 46.

Mr. Mastellone: John's always very pleasant. He doesn't argue with anybody.

Mr. Weiss: Well, then we've got to make sure that we don't see a sign that says Bob's Detailing. It's kind of an extension of your business.

Mr. Mastellone: You're not even going to see one that says Phil's Detailing. I'll stipulate that for you. That's not what's going to happen.

Mr. Weiss: That's really the concern because it's the same use. It's going to be the same. So, you know, we can split hairs.

Mr. Schaechter: And we're just to make note of that in five years. Should the building go, nothing is going to change.

Mr. Mastellone: Whatever will be a companion use. The sign on the new lot would have to be the companion use of the other lot. We intend on being here. So please come in and buy cars, Subaru's. They are great cars.

Mr. Weiss: So we've got the open issue. Is the Planning Board okay with giving the approval to let the applicant put up a sign that was previously approved?

Ms. Mott: Can it be based on being reviewed by the office? Because I hate not seeing it, the permit and everything because hate not seeing it and then end up being put up in front of the lot.

Mr. McGroarty: Well one way we could do it and mindful of...mindful of the fact that we don't get into regulating content is that they would certainly need...the plans would have to be modified to show it. You could add a condition that zoning permit would be required for that second sign. And if part of the zoning permit is going to ask what is that sign? What is the message on that sign? And if there was some concern on my part that it didn't reflect what the testimony that we heard tonight, I would deny the zoning permit. And then they could appeal it or do whatever. Maybe that's the way to do it. I don't want to be in the business of saying...you know...I don't like the wording of something. But if it comes...

Ms. Mott: I'm more concerned about the location.

Mr. McGroarty: Well the location...without question. If you approve, if you say we'll accept the 2015 approval for that second sign, then it has to be adjacent to the existing sign in that landscape island as was shown on the site plan.

Mr. Weiss: That works for me because certainly if it has to come back and it says Phil's Detailing that would be the right to reject it.

Mr. McGroarty: I would deny that.

Ms. Leo: That's fine with us.

Mr. Weiss: I think that makes sense.

Mr. Mastellone: If it says Phil's Detailing, that means things are bad and you won't be seeing us much longer. We'll make sure that you like the sign. We will make sure we submit it. We will make sure it's approved. We will work with you with that. I have no issue with that.

Mr. Weiss: Okay. I think Chuck's recommendation kind of gives us the security that we know where it's going and we're in agreement what it's going to be said. We have the ability to at least make sure that the assignment you're proposing is what you said that you would do. I think that's fair.

Mr. Mastellone: Thank you.

Mr. Weiss: So the condition will be instead of no new sign, the condition would simply say zoning permit required for the second sign.

Inaudible

Mr. Buzak: ...because I sit there trying to figure out, okay, what can we really want to do? And I'm not looking for sympathy, I'm just saying that the decision needs to be articulated here. We know what we want to say but how do you say it?

Mr. McGroarty: Say the decision with regard to the limits that would be placed on the new sign.

Mr. Buzak: Yes. Because I think we have...it's going to be the 25th year. So we know the 2015 approval applies the difficulty or challenges that approval was granted in the context of an application that was before us, testimony that was before us to all the reasons that we talked about. But now we're saying, well, we're going to use that. But the context is changed and the context that it would use now being considered makes it difficult to tie it to what it was originally tied to, which was the use on Lot 5.

Mr. McGroarty: Right.

Mr. Buzak: Because you're not going to say any parking inventory here, you want to now use this sign for a message that relates to the use on that Lot 6, which was not the original intent. It was for something else. So now we get to use on Lot 6 and the use of Lot 6 is a new car dealer. And we're trying to now limit that because we already have the Subaru's sign...inaudible...so what is it going to say? And perhaps maybe that's the issue. If the applicant...Mr. Mastellone...

Mr. Mastellone: Phil is good.

Mr. Buzak: Okay. Tell us what that sign is going to say and we'll put it in the Resolution if the Board is agreeable to it as opposed to...well, maybe say this. I'm not being sarcastic. They're all saying this makes you say that. What do you want it to say?

Mr. Mastellone: I think the sign. I think what the sign will say is Subaru certified pre-owned something. And then it's I don't know what their exact language is. The only thing they talked about in our advertisement is love.

Inaudible

Ms. Natafalusy: So this parking lot is really going to be a used car lot?

Mr. McGroarty: Inventory.

Ms. Natafalusy: Inventory. I just thought it was going to be mostly inventory.

Mr. Mastellone: Yes. I mean, to be honest...with the economy of economies of scale...

I mean...you would never do that with a lot right on Route 46. So that would be something that maybe...you know...you'd have two to three blocks away. So it's new car display and used car display. It's also employee parking in the back. And it certainly will be service parking...you know...somebody who's having your car serviced. The car is done, the car can be put in the back. The lot that currently surrounds the dealership is really very small. And there's a very large retention basin and in front of the property, that really takes a lot of great space away. So it was necessary to buy the other lot. And part of the reason I think the other owners failed was because of that, there wasn't enough room.

Ms. Natafalusy: So ultimately, if this succeeds you are never probably going to build the building. Or you are going to have to find some place else to park when the building is built.

Mr. Mastellone: If it comes to the point that we do build the service and parts building, I would say that there's probably a really good chance that we would have to buy another piece of property and then it would probably be a new car inventory in that location.

Ms. Leo: Which is common in the car industry.

Mr. Mastellone: Not only is it common. I mean, that's one of the biggest issues that there is off site parking. There's no parking. But when everybody wants to buy a car, they don't want to hear they've got to order. They want to come to the dealership and they want to hear you got it. So it makes it very tough. The public wants the car. I get it. I want to sell it, but I got to find room to park it.

Inaudible

Mr. Weiss: I think you have the direction.

Mr. Buzak: This is fine. I'm much more comfortable. Thank you.

Mr. Weiss: Dan, anything else?

Mr. Nelsen: We were hoping the applicant come back and answer questions about the container, the car wash area in the back.

Mr. Weiss: Thank you for reminding me.

Inaudible

Mr. Weiss: Before we do that. We have no more questions for Mr. McDonough, so let me open it to the public. Does anyone who might have a question for the testimony delivered this evening by Mr. McDonough. I see none. I'll close it to the public. Thank you very much. Now, coming back to Phil, because we got some questions for him.

Ms. Leo: I'll ask them. I'm sure you'll have followup. But while you were out, Mr. McDonough's report, exhibit A-5 / 6 shows a copy view of the rear of the Subaru dealership on Lot 6. You see that diagram?

Mr. Mastellone: I do.

Ms. Leo: And it shows in there a Red Sea land container dumpster and white temporary structures. Is that correct?

Mr. Mastellone: It does.

Ms. Leo: And you also obtained from Mr. McGroarty a temporary permit for a structure for car washing.

Mr. Mastellone: I did.

Ms. Leo: And that temporary permit that you obtained for the car wash, will that lapse if and when you obtain approval for an addition?

Mr. Mastellone: Well, we would bring the carwash in to the addition.

Ms. Leo: And you also agree that these other two structures, this Red Sea land container and the white temporary structure will be removed.

Mr. Mastellone: It would. We would be able to take the tools that are in the red container and distribute them throughout the shop, which is really very small right now,

Ms. Leo: So that's what's in the red container?

Mr. Mastellone: Yes, tools.

Ms. Leo: And what about the white building?

Mr. Mastellone: And the other are just some supplies. It's just a small building, small store.

Ms. Leo: Exemplifying the reason you need the addition.

Mr. Mastellone: Correct.

Ms. Leo: And you understand the need to be removed.

Mr. Mastellone: I do.

Ms. Leo: Okay.

Mr. Weiss: I don't have any questions, does anybody else?

Mr. Buzak: Chuck, would you say that the container is not a permanent accessory structure?

Mr. McGroarty: I would. I have taken the position that it's not. And I've been dealing with the containers in various places in town with businesses and residential. I'm dealing with them up in

the ITC south right now. So it's my position. It's not a typical accessory structure. If it's here temporary, I wasn't aware.

Mr. Weiss: The applicant has agreed to remove it.

Mr. Buzak: The applicant has agreed to remove it when the Subaru approval and when the addition is being built.

Mr. Weiss: I'm thinking approval, which could happen in the next two to three minutes.

Mr. Buzak: ...construction four to five years.

Ms. Leo: He will agree to remove it immediately.

Mr. Mastellone: Mr. Buzak, let me answer a question...inaudible...if you want to know what my intentions are. I understand that. We would start construction on the addition in the spring as well as the parking lot. So this isn't going to be a year, two years, three years, five years. We're going to start on that immediately as soon as the weather permits, which the way it's been going maybe this coming week.

Inaudible

Mr. Buzak: Assuming you get the approval from the Board, what's the estimated completion time before the addition to the existing facility, which will eliminate these questionable structures? And your engineer is ready to get up.

Mr. Manilio: Yes. I just want to clarify when we could begin construction or how long the constructions will take.

Mr. Buzak: What I'm looking for is a date by which that container has to be out of there as opposed to a function. I want to date. Is it June? Is it September? And that's it. If it's done by then, that's great. If it's not done by then, you would have to take it off the site and figure out what to do.

Mr. Mastellone: We have to tie that up.

Inaudible

Mr. Weiss: Could we get away with saying something like upon commencement of construction?

Mr. McGroarty: I like where Ed was going, though. Do you have any answer? Do you know?

Mr. Manilio: I wish I could answer that, but it really has to depend on where we get plans to town and submission for Highland's approvals. I wish I could predict how long that's going to take.

Mr. Buzak: Well, here's the difference. And I think Chuck is going through it as I'm inferring from what he is saying. These things are out there from somebody's standpoint, and that's what everybody has a different reason. They're not just there because there is something in their domain. And I think the Zoning Office is trying to strike a balance of, well, how do you deal with these, trying to recognize these are Mount Olive residents and businesses and so forth, and they contribute to the community and all that. But that doesn't give people the ability...inaudible... going to have chaos. And I don't want to overemphasize, but that's what's going to happen. Chuck is saying they're doing this and they're supposed to be doing that. So the first thing is...I think... inferring from what Mike said. Do we allow it at all? I mean, you know, because now it's before us. Chuck has been struggling with this apparently internally and nothing before the Board. But now we have this before the Board. There is a variance request for it. And what do we do as a Board? Well all right. That's okay. You better get this done and then everybody else keep doing the same thing. I don't know.

Mr. McGroarty: Number 1, I don't want to issue a violation of a summons because that's...I mean...if there's another way to resolve it, and I try to do this everywhere I can, because it's better for all concerned. I would say let's set a date. If it's their building, is it ready. Find some alternative for it. And I mean, it's been there this long. I haven't...frankly, I didn't know it was there. Last time I was out there was when we went out, did look at the tank was probably a year ago.

Mr. Mastellone: I don't think it's that long ago. I thought it was summer.

Mr. Manilio: So I think something like 6 months is fair. So it puts us somewhere around September.

Mr. McGroarty: Yes. We can live with that. I can live with that.

Mr. Weiss: September?

Mr. McGroarty: Because I can tell you what's going to happen. I gave a summons...not that I want to...but if I gave Phil a summons, he or whomever will appear with me at some point in front of the judge in Municipal Court and they'll say, Judge, Your Honor, look...you know...in two months time I'm going to have this thing done anyway. So...this is not one of the situations...and I've got quite a few...that need to be in front of the judge in my opinion. I think we can handle it separately. So I think six months, if you can't get it done in six months, find another alternative, maybe...

Mr. Weiss: August 31?

Inaudible

Mr. Schaechter: The one that's not approved.

Mr. Buzak: Which one is that.

Mr. Weiss: The one behind the red container.

Mr. McGroarty: And I'll tell you what I'll do...what I would suggest...that we put some language in the Resolution that...you know...as the date approaches if they have made good faith effort to proceed. And it's again, the town has to submit the request to Highlands for an amendment to the Redevelopment Plan, which from what I understand, the Highlands staff feels they can do without bringing it to the Highlands Council, etc. So if a good faith effort is being made and it needs some additional time, if the Board is okay, let me make that call and we'll go from there.

Mr. Weiss: Okay. Do we have any other open issues? I don't think we do.

Ms. Leo: Thank you.

Mr. Weiss: Let me open it to the public. If anybody from the public has any questions or comments based on the testimony delivered this evening, now would be a great time to hear your opinion. And there's no one from the public. So I will close to the public. If you'd like to make a closing comment, I'll give you the floor.

Ms. Leo: Thank you. Well, briefly, as we started out it was to use variance, the bulk variance, site waivers or exceptions, and then amended preliminary and final site plan we're seeking tonight. I think Mr. Buzak has gotten all the conditions. The two main ones being there would be a five year approval and it will be connected to the existing...I'm not going to say tied...existing automobile use. So for all those reasons for the testimony provided by Mr. McDonough and our engineer, we request that approval. Thank you.

Mr. Weiss: Okay. Thank you for that. So let's try to review some of the conditions. And I know you've been writing here. Looks like you have even run out of ink with one pen. But what I'll do is I'll make some comments and just make some notes with some conditions that were discussed. Look, let's compare them out. Make sure we're all in agreement. And this condition will appear in the Resolution. The first condition that I come up with, in my notes was that we are going to determine I think we might have done that...plan needs to be changed to determine parking for the employees.

Ms. Leo: We will agree to that. That north west...we'll revise the plans, as indicated.

Mr. Weiss: The plans need to be revised to account for the employee parking. Condition...I've had a note that this might not be a condition...Chuck, you could help me with this one. The township needs to make the proposal to the Highlands to modify the changes to Lot 6 noting the additional disturbance on Lot 6 is there but it's reducing the disturbance on Lot 5.

Mr. Buzak: I think the applicant needs to provide information. Is that right, Chuck?

Mr. McGroarty: That's correct.

Mr. Buzak: What's the time period on that? Do we know how long it would take to get the information that would be necessary for the township to make the application to Highland's.

Mr. McGroarty: I believe we have everything ready. But I would say within 30 days from resolution.

Mr. Weiss: Okay, so we'll add that within 30 days of the Resolution, signing of the Resolution. I have a condition that the Board of Health is to approve sewers and utilities.

Mr. Buzak: Do we have Health approval for this use? I know that we needed Board of Health approval for the septic system.

Mr. Weiss: It was on the Engineer's Report.

Inaudible

Mr. Weiss: It was under the Engineer's Report comment F number 3. We had a condition that the contribution to the tree bank is to be made...and again it's kind of sketchy...but during the developers agreement and signed off by Van Cleef.

Mr. McGroarty: I would say that the contribution would be required prior to any final sign off on the improvements for Lot 5...for any improvements on Lot 5.

Mr. Weiss: That's why I just want to make sure we address it. Condition regarding lighting, we're going to pick the areas covered by security lighting. I don't know, maybe it is a condition. Closing time is 9:00 p.m. Chuck, you made a comment that the plan should be modified to reflect the ordinance?

Mr. McGroarty: Yeah, that might...what I think it is simple if the applicant agrees and I don't see why they would object to the corrections that I have shown on Page 8 in my report. Chapter 550 references and such will comply with both reports.

Mr. Weiss: Condition the container as we just discussed, plus the structure, the tent structure next to it in the rear of the building as shown on a A5-6, must be removed by August 31, 2020. Condition that Lot 5 must be tied to the operation of Lot 6. And I think we got bigger language.

Mr. Buzak: Yes. Yes.

Mr. Weiss: I don't know if this is condition. But we did talk about the approval expiring in five years. And final condition that I show is that a zoning permit is required for the second sign, and that sign would promote something to the effect of Subaru's certified pre-owned something to that effect to be reviewed and designed for the process. And that's what we talked about.

Ms. Mott: Howie, on the parking spaces, can we break it down 9 by 18 and the rest are 8 1/2 by 18 for the employees. Should we add that detail?

Mr. Buzak: Yes, I will put that in when I refer to the scope of the variance being granted.

Mr. Weiss: And the calculation.

Mr. McGroarty: In the other there was a condition...or let's make a condition as a testimony that if the landscaping behind retaining wall is damaged, that'll be replaced Lot 6.

Mr. Weiss: So if you have any others, Mr. Buzak?

Mr. Buzak: Construction access, driveway...inaudible

Mr. Weiss: Ursula, did you get that? Construction access?

Ms. Leo: Thank you.

Mr. McGroarty: I don't know where you are with soil conservation.

Mr. Manilio: I believe we have certification.

Mr. McGroarty: We just want to make sure.

Inaudible

Mr. Weiss: So I think we have all the conditions noted. We've spoken about them, and I've written them down. And so with those conditions that a comment is noted and discussed, I'd like someone to please move this with those conditions.

Mr. Nelsen: I will make a motion to approve PB 19-01 Subaru.

Mr. Ouimet: Second.

Mr. Weiss: Thank you, Dan. Thank you, Joe. Any comments? Seeing none, Mary, roll call.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	Dan Nelsen	Yes
	Joseph Ouimet	Yes
	Howie Weiss	Yes

Mr. Weiss: And I think the promotion of business in Mount Olive is extremely key. The Planning Board has been very, very friendly to businesses and they're trying to make sure that we become we remain a business friendly community. This is a little bit out of the ordinary because we created something that we don't normally create. So perhaps the diligence that the Planning Board went through to make sure that we are all on the same page. Phil, I wish you continued success and I hope that you have been discussing this with...you can maybe look to purchasing more property down into that business...

Mr. Mastellone: Or maybe some more stores.

Mr. Weiss: That's what we're all here for. So we wish you a lot of luck. Of course, you know the process.

Mr. Mastellone: I just want to say this. And I really, truly appreciate all of you. Thank you for your time and your patience. I just want to let you know that Chuck has been instrumental and has made some very difficult situations, very simple for me. And I just want him to be recognized. Thank you, Chuck. Thank you, Bill. Thank you very much. And have a great evening.

Mr. Weiss: With that being said and this application being approved, it's getting late. I think what I want to do is carry the conversation... inaudible... With that being said, there is nothing else on the agenda. So please make a motion to adjourn.

Mr. Scapicchio: I'll make the motion.

Ms. Mott: Second.

Mr. McGroarty: Excuse me, Howie, just one second. We have plans for the Folding Box Site for next week. If you could take them and review. Thank you.

Adjourn

Motion to adjourn made at 10:19 pm.

Signature

Planning Board Meeting Date Approved